

Disclosable Pecuniary Interests – Change to the Code of Conduct

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Purpose of the Report

To advise members of and seek their approval to a slight change to the code of conduct which will apply to all members post the District Council Election held on 7th May 2015.

Public Interest

The public expect a certain standard of behaviour from those it elects to represent them. That standard should be documented and members (councillors) judged against it. On the 19th July 2012 the Council adopted a new code of conduct. Certain provisions did not technically apply at that time and so weren't included within the code. As these provisions will automatically apply to all members elected on 7th May 2015 now is the time to revise the code to include them to avoid any confusion.

Recommendation

That the revised code of conduct attached to this report as Appendix A be formally adopted by this Council to be the code of conduct which shall apply to all members elected to the District Council at the District Council Elections held on 7th May 2015 and to all members elected or co-opted thereafter.

The Code of Conduct

Members will no doubt recall that the Council adopted a new code of conduct at its meeting in July 2012 and agreed a slight revision to it in May 2014. Whilst the Council has a discretion as to what it includes within its Code of Conduct providing it reflects the seven principles of public life, regulations, made under the Localism Act 2011 ("the Act") require both the registration and disclosure of "Disclosable Pecuniary Interests" (DPI).

The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. As members will be aware their register of interests are already published on the Council's website.

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify what amounts to a DPI and this information is already set out in full in our Code. The Act extended the requirement for registration to cover not just the member's own interests, **but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity i.e. as their spouse or civil partner.** However the requirement to register a DPI, other than the member's own DPI, only applied from the date a member was elected or co-opted. As the Regulations came into force in July 2012, they could only apply to those members who actually were elected or co-opted after that date.

Accordingly this means that this provision will now apply as a matter of law to all members, existing and new, who are elected in the May 2015 elections and they will be

required to register both their own DPI and those of their spouse/civil partner or equivalent. However clearly members can only register a DPI of which they are aware. Whilst members will hopefully be aware of their own DPI, they may not be aware of any others and they are not required to interrogate their "other half" in order to find out what DPI they may have. The spouse/partner is under absolutely no legal obligation to disclose any of their own DPI to the member in any event. Hopefully none of this will be the cause of any matrimonial discord!

The change to the Code being proposed is simply to acknowledge that the provisions in relation to DPI of a spouse or civil partner will be effective and are included as part of the "new" code.

Registration on election or co-option

As from May 2015 each elected or co-opted member must register all DPI (including those DPI of the member's spouse or civil partner etc.) within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member. The form of the Register will be such as not to distinguish the DPI of the member from those of his/her spouse/civil partner.

As in previous years the Monitoring Officer will be reviewing all register of interest forms received from SSDC members to check for any obvious omissions or anomalies before they are made available for public inspection so as to hopefully lessen the risk of any inadvertent breaches occurring whether in relation to the criminal law or the code of conduct. Whilst this does have a resource implication it is important that this is done as there are potential criminal sanctions for any breaches in relation to DPI.

Disclosure of Interests and Withdrawal from Meetings

Members will recall that the duty to disclose and not participate in the discussion or vote arises whenever a member attends any meeting of Council, a committee or sub-committee, or of District Executive or a District Executive sub committee, and is aware that he/she has a DPI in any matter being considered at the meeting. This includes any DPI i.e. of the member or of the spouse/civil partner.

- Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest).
- If a member does make a disclosure of a DPI at a meeting, if it is not already on the register, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can be added.
- If a member has a DPI in any matter, he/she must not participate in any discussion of the matter at the meeting (this will preclude making any representations although members who have a prejudicial interest - which is not also a DPI - will still be entitled to make representations; or participate in any vote on the matter),

unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

A member with a DPI is required to withdraw from the meeting room and this is covered by Standing Orders as well as being in the Code. Whilst a failure to comply with the obligation to withdraw would not be a criminal offence it would amount to a breach of the Code of Conduct and the meeting could also vote to exclude the member.

Background Papers

Localism Act 2011; The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012; Reports to Council 19th July 2012 and 15th May 2014.