

Disclosable Pecuniary Interests (DPI) – Protocol with Police

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Purpose of the Report

To seek the approval of members to a proposed Protocol with the Police setting out the process to be followed, role and responsibilities for dealing with complaints which suggests that a member may be in breach of the legislation relating to DPI.

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. There should be the ability to make complaint about a member and that complaint be considered in accordance with a defined process. Some complaints may relate to DPI any breach of which is a matter for the Police. As the complaints would usually come to the Monitoring Officer in the first instance, it is important that they are handled in accordance with an agreed process to ensure that any subsequent investigation is not prejudiced or compromised.

Recommendation

That the Committee agrees the Police Protocol attached to this report as Appendix 1 with immediate effect and notify the Avon & Somerset Constabulary accordingly.

Report

As some members may recall, this Council adopted a new Code of Conduct at its meeting held on 19th July 2012.

Whilst the Council had discretion as to what it included within its new Code of Conduct, Sections 30 and 31 Localism Act 2011 introduced the concept of Disclosable Pecuniary Interests and required both the registration and disclosure of DPI. Under the 2011 Act, disclosable pecuniary interests are such interests as may be specified in regulations made by the Secretary of State. The relevant regulations (The Relevant Authorities [Disclosable Pecuniary Interest] Regulations 2012) came into force in July 2012. The interests covered by these regulations are set out in detail in this Council's Code of Conduct and are included for information at Appendix 2.

The 2011 Act requires that members with a DPI notify the Monitoring Officer of that interest within 28 days of taking office and thereafter notify the Monitoring Officer of any relevant changes to the notification. The 2011 Act also prohibits members with a DPI from participating in authority business at any formal meeting. Although the 2011 Act does not define what is meant by "participation", it would appear to preclude making any representations and participate in any vote on the matter unless the member has obtained a dispensation allowing him/her to speak and/or vote. As members may be aware some

categories of dispensation can be granted by the Monitoring Officer and others require the approval of this committee. The 2011 Act extended the previously existing requirement for notification/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 for civil partner.

Any failure to comply with the requirements in relation to DPI becomes a criminal offence, rather than a breach of the Code. This is a very important distinction as the consequences for any breach are far more significant.

Consequently the Monitoring Officer reviews all register of interest forms received from both SSDC members and members of town and parish councils 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 particularly in relation to the criminal law but also in relation to 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. Section 34 of the Localism Act 2011 provides that where a member fails, without reasonable excuse, to register or declare disclosable pecuniary interests or takes part in council business at meetings without having been granted a dispensation commits a criminal offence. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

As mentioned above the responsibility for dealing with any complaints which relate to DPI rests with the Police. This Council is not responsible for either investigating or prosecuting any breach. However as most complaints about members usually end up on the Monitoring Officer's desk in the first instance and as it is important that they are handled consistently and in a way which meets with the approval of the investigating authority, it was felt appropriate to agree a protocol with the Police to cover these points. The attached protocol (Appendix 1) broadly follows the version which has already been agreed between and adopted by the county council and the Police (Appendix 3). It is believed that some of the other district councils have agreed something similar. Whilst the Monitoring Officer has provided advice on whether there has been a breach of DPI to members of the public, he has not been made aware that there are any investigations ongoing or being considered at this present time. Notwithstanding the current position it is still felt appropriate to get this protocol agreed at this time.

Financial Implications

There are no financial implications at this stage that cannot be met by existing budgets.

Other Implications

There are no other adverse implications from agreeing the recommendation to adopt this protocol.

Background Papers: *Localism Act 2011*
