

Bath & North East Somerset Council

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| MEETING | Standards Committee | |
| MEETING | 6 February 2014 | |
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| TITLE: | DCLG Non-Statutory Guide – Openness and transparency on personal interests – September 2013 | |
| WARD: | All | |
| AN OPEN PUBLIC ITEM | | |
| List of attachments to this report: Appendix 1 - DCLG Non-statutory Guide | | |

1 THE ISSUE

- 1.1 To consider the guide issued by the DCLG and decide whether to recommend any changes to the Members Code of Conduct.

2 RECOMMENDATION

- 2.1 That the Committee consider this report and agree not to recommend any changes to the Members Code of Conduct.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 None.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Localism Act 2011 requires the Council to adopt a Code of Conduct for members of the Council.

5 THE REPORT

- 5.1 The guide is non-statutory and is not guidance issued by the Secretary of State under a specific power within the Localism Act 2011. It contains a disclaimer that it should not be taken as providing any definitive interpretation of the statutory requirements and that Members should seek their own legal advice.

- 5.2 There have been no legislative changes between when the guide was initially issued in March 2013 and the issuing of the September 2013 version however there are two specific additions to the “new guide”.

- 5.3 Firstly the penultimate paragraph has been added to page 2 of the guide which reads as follows:

“As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.”

- 5.4 The second addition appears at paragraph 3 of page 3 where the following has been added to the first sentence: *“or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union.”*
- 5.5 The legislation does not require compliance by Members with the “Seven Principles of Public Life” but rather that in adopting any Code of Conduct, each Local Authority is to ensure that its code is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It does not require that any Local Authority adopt the descriptions attributed to such principles by the Committee for Standards in Public Life.
- 5.6 Even if the legislation required Members to abide by the “Seven Principles of Public Life” as opposed to requiring that the Code adopted by the Council is consistent with the principles set out in the Act, it does not follow, logically or in law, that this amounts to a requirement to declare Trade Union Membership. Trade Union membership was expressly included as part of the old Standards regime and expressly excluded as part of the new regime unless the Council in adopting its Code of Conduct specifically required this of its Members, which the Council did not.
- 5.7 It is not clear why the guide has singled out only Trade Union Membership for special treatment. Unless the trade union membership falls within the ambit of sponsorship – in other words that there has been a payment or provision of financial benefit made or provided to the Member within the relevant period in respect of their duties as a Member or towards that Member’s election expenses by an external body (which would include a trade union) – there is no statutory basis for this requirement to declare trade union membership, either within the Localism Act or within the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. It is the latter legislation which specifies which interests Members are obliged to disclose. An extract from the regulations is appended to the guide which forms part of Appendix A to this report.

6 RATIONALE

- 6.1 See section 5 of this report.

7 OTHER OPTIONS CONSIDERED

- 7.1 None.

8 CONSULTATION

- 8.1 None.

9 RISK MANAGEMENT

- 9.1 Not applicable.

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| Contact person | <i>Vernon Hitchman, Monitoring Officer – 01225 395171</i> |
| Background papers | <i>List here any background papers not included with this report, and where/how they are available for inspection.</i> |
| Please contact the report author if you need to access this report in an alternative format | |