

# Guidance For Members on the Registration and Disclosure of Interests

## Background

The Localism Act 2011 has introduced some major changes to the standards regime. Set out below is a series of questions that will help your understanding of the new regime, particularly the requirements relating to the registration and disclosure of interests.

Some key dates are set out below:

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|---------------------|--|
| <b>19 May 2012</b>  | Council establishes a Standards Committee with responsibility to promote and maintain high standards of conduct.   |
| <b>1 July 2012</b>  | Old Style Standards Committee abolished & new arrangements in relation to the management of complaints made against Councillors & registration & disclosure of interests came in to force. |
| <b>19 July 2012</b> | Council considered and adopted the new Code of Conduct including registration of interests.  |

## REGISTRATION OF INTERESTS

### 1 What are the new interests called?

The Localism Act has introduced new interests called Disclosable Pecuniary Interests ("DPIs")

### 2 What is a DPI?

A DPI is a defined interest that **must** be registered. The Regulations define what a DPI is. Details of what a DPI is are attached.

### 3 What is the consequence of not registering a DPI

It is a criminal offence not to register a DPI. If found guilty of an offence, a member is liable to a fine on summary conviction not exceeding level 5 on the Standard scale, this is currently £5,000. In addition the court may also disqualify a member. Prosecutions can only be instituted by or on behalf of the Director of Public Prosecutions

### 4 If I have a DPI can I take part in the item of business at a meeting?

**NO** - Members with a DPI can not participate in authority business, unless they have obtained a Dispensation. If found guilty of an offence, a member is liable to a fine on summary conviction not exceeding level 5 on the Standard scale, this is currently £5,000. In addition the court may also disqualify a member. Prosecutions can only be instituted by or on behalf of the Director of Public Prosecutions.

### 5 When completing the Register of Interests, do I need to consider the interests of any other person?

**YES**, the Regulations require the Member to register details of DPIs where the pecuniary interest is *yours, your spouse's or civil partner's, or is the pecuniary interest of somebody*

*with whom you are living with as a husband or wife, or as if you were civil partners.* This requirement is significantly wider than the previous requirements.

## **6 Is the Register publicly available?**

Yes, the Monitoring Officer is required to maintain a register of interests, which must be both available for public inspection and available on the Council's website.

## **7 When do I need to complete a Register of Interests?**

You must register all DPIs within 28 days of becoming a member, or within 28 days of the date of receipt of the Form. Failure to register is a criminal offence, but would not prevent the member from acting as a member. The Council's adopted Code requires the registration of other interests, the failure to register these would not be a criminal offence, but would amount to a failure to comply with the Code of Conduct.

## **8 Do I need to keep my register up to date?**

In order to protect members from potential criminal proceedings, the Council's Code requires each member to register DPIs and other within 28 days of the adoption of the new register and to register any changes to their interests, within 28 days of any changes occurring. Failure to do so is therefore not a criminal offence but could be a breach of the Code.

## **DISCLOSURE OF INTERESTS AND WITHDRAWALS FROM MEETINGS**

### **9 When do I have to disclose the existence of a DPI?**

The duty to disclose **and** withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, and the Member is aware that they have a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

### **10 What must I disclose?**

The Council's Code requires you to disclose the interest to the meeting (i.e. declare the existence and nature of the interest). This is the same arrangements that we operated under the previous arrangements.

### **11 Can I speak and or take part in the debate and vote on an item**

**NO** the Act removes the rights of a member with a DPI to make representations as a member of the public. You can no longer speak after you have disclosed the interest but before you leave the room.

### **12 What do I do if I have a DPI that is not registered?**

If at a meeting you realise that you do have a DPI that you have not registered, you **must** disclose the existence and nature of the DPI. In accordance with the Council's Code you **must not** participate in any discussion and vote on the item of business, you **must** withdraw immediately prior the commencement of the item and you **must** then notify it to the Monitoring Officer within the next 28 days, so that it can be added to your register of interests.

## **OTHER INTERESTS THAT MUST BE DISCLOSED AND REGISTERED**

The Council's Code of Conduct makes provision for the disclosure for interests other than DPIs. Failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence. They are very similar to the previous requirements to declare prejudicial interests and relate to the interests of persons or bodies with whom you have a close association.

### **13 What other interests do I need to disclose?**

You must register and disclose any "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of the Council where –

- 13.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
- 13.2 It relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association

(and that interest is not a disclosable pecuniary interest).

### **14 Who do I include as a member of my family?**

You should adopt a very wide meaning to member of your family, it includes a spouse partner, civil partner, or someone you live with as a partner, a parent, parent in law, son, daughter, step child, the child of a partner, brother sister, of you or your partner, grandparent, grandchild, aunt, uncle, nephew or niece and their respective partners.

### **15 What is the test for "someone with whom I have a close association?"**

This will be the same test that was applied to prejudicial interests, i.e. someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone that a reasonable member of the public might think you would be prepared to favour or disadvantage. This includes friends, colleagues, business associated or someone you know through general social contacts.

### **16 Can I speak and or take part in the debate and vote on an item**

The Council's Code requires you to consider whether your participation in the consideration of the item of business would be reasonable, particularly if the interest may give rise to a perception of a conflict of interests in that item of business. It is anticipated that you would almost always decide not to speak, take part in the debate or vote and would leave the room immediately after making the declaration; you would have no right to speak on the item before you leave the room.

## **GIFTS and HOSPITALITY**

### **17 DO I still need to register any gifts and hospitality I receive?**

YES, the Council's Code requires you to register gifts, benefits or hospitality which exceed the value of £50.00 that you receive in your capacity as a member. On the receipt of any

gift, benefit or hospitality exceeding £50 in value you must notify the Monitoring Officer in writing of its nature and value. This will be shown on your register of interests.

## **SENSITIVE INTERESTS**

### **18 If I am genuinely concerned about my safety can certain details be withheld from my register of Interest?**

YES if you are genuinely concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to you or a person connected with you being subject to violence or intimidation, you may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

## **DISPENSATIONS**

### **19 When can I request a dispensation?**

You can apply to the Monitoring Officer for a dispensation when:

- (i) so many members of the decision-making body have DPis in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;
- (ii) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.;
- (iii) the authority considers that the dispensation is in the interests of persons living in the authority's area;
- (iv) the authority considers that it is otherwise appropriate to grant a dispensation.

The Monitoring Officer will determine whether a dispensation will be granted in respect of (i) above, all other requests will be referred to a meeting of the Standards Committee to determine

### **20 How long can a dispensation last?**

The Council is able to grant dispensation for a specified period of time not exceeding 4 years.

## **21 GENERAL**

If you have any queries concerning the above, please contact Vernon Hitchman, Monitoring Officer, tel: (01225) 395171 or [Vernon\\_Hitchman@bathnes.gov.uk](mailto:Vernon_Hitchman@bathnes.gov.uk). or the legal officer who supports the meeting at which the issue arises or to which it relates.