

# MUNICIPAL YEAR 2014/2015 - REPORT NO. 202

**Councillor Conduct Committee  
(CCC) – 24 March 2015**

**REPORT OF:**

Director of Finance Resources &  
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<b>Agenda - Part: 1</b>	<b>Item: 6</b>
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<b>Subject: Code of Conduct for Members – declaration and registration of disclosable pecuniary, other pecuniary and non-pecuniary interests</b>
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<b>Wards: All</b>
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<b>Cabinet Member consulted: N/A</b>
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## **1. EXECUTIVE SUMMARY**

- 1.1 This report outlines the Council's current position regarding the declaration and registration of member's disclosable pecuniary, other pecuniary and non-pecuniary interests as per the Localism Act 2011 (the Act) and the Code of Conduct for Members (the Code).
- 1.2 The report details options available if members chose to recommend an amendment to the Code regarding the declaration and registration of disclosable pecuniary, other pecuniary and non-pecuniary interests.

## **2. RECOMMENDATIONS**

- 2.1 That Councillor Conduct Committee (CCC) considers/provides views and recommends to Members and Democratic Services Group (MDSG) and Full Council one of two options, either:
  - 2.2 The requirements of the Code be amended to only reflect those disclosable pecuniary and/or other pecuniary and non-pecuniary interests to be declared and registered as per the Act.
- OR**
- 2.3 The Code remain in its current format requiring an enhanced disclosure of interests as to those required by the Act.

### 3. BACKGROUND

3.1 The Act introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members. It introduced:

- A requirement to register pecuniary and other interests.
- The creation of a new criminal offence of failing to register relevant interests.

3.2 Section 28(2) of the Act provides that a local authority in England must ensure that its Code of Conduct includes appropriate provisions for registering, and disclosing:

- (a) *pecuniary interests, and*
- (b) *interests other than pecuniary interests*

3.3 Section 29(2) of the Act provides:

*(2) Subject to the provisions of this Chapter, it is for a relevant authority to determine what is to be entered in the authority's register*

Subsequently in relation to other pecuniary and non-pecuniary interests Members are required as per the Code to register any interest that would qualify as grounds for bias in application to quash a decision of the Authority.

3.4 Section 30(1) and (3) of the Act provides:

*(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member ("M") of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.*

And

*(3) For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either—*

- (a) it is an interest of M's, or .*
- (b) it is an interest of— .*

- (i) M's spouse or civil partner,*
- (ii) a person with whom M is living as husband and wife, or .*
- (iii) a person with whom M is living as if they were civil partners,*

3.5 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) (the Regulations) and our Constitution specifies which disclosable pecuniary interests members must declare and register.

3.6 Further to recommendation by the Standards Committee (5 March 2012) and MDSG(6 March 2012), Full Council agreed on 28 March 2012 that Chapter 5.1 of our Constitution, Codes of Conduct for Members at paragraph 22 should read:

*“You must comply with the requirements of the law and the Council in registering your interests in the Register of Members’ Interests. These are explained on the following pages. These interests extend to those of **your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.**”*

3.7 This was agreed in the spirit of the general principles of conduct underpinning the Code being:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership
- Respect for Others
- Duty to Uphold the Law
- Stewardship

3.8 It is noted that these principles include the seven principles of public life, and particular weight should be afforded to the principle of integrity which government guidance describes as:

*‘Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.’*

3.9 In relation to DPI only, the requirements of the Code go beyond those of the Act; as the Code states that interests that should be declared and registered by members **extend to those of family members and persons with whom you have a close association or personal relationship.** With regards to other pecuniary and non-pecuniary interests the Act allows for the Authority to decide what interests should be registered.

3.10 Our Code requires that members register all disclosable pecuniary, other pecuniary and non-pecuniary interests of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship. This requirement was reviewed and agreed by CCC on 2 May 2013.

3.11 At CCC on 3 December 2014 it was reported that an issue had been raised by a member that there could be some confusion in practice with regards to the disclosure of interests. It is noted that neither, "close association" or "personal relationship" are defined terms, however examples such as, a close friend, business partner/associate or ex-spouse have previously been provided to CCC by the Monitoring Officer on 2 May 2013. Members are encouraged to use their judgement with respect to this and ask themselves:

'Would a member of the public, with the knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?'

If the answer to this question is "yes", then you should declare that interest"

3.12 Members can also seek advice from the Monitoring Officer if further guidance is required.

3.13 It is a criminal offence if you fail to declare and/or register disclosable pecuniary interests as per the Act.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

There are no other options.

#### **5. REASONS FOR RECOMMENDATIONS**

To make a recommendation to MDSG and Full Council to amend the Code as to meet the minimum requirements of the Act; this will align the Code with the Act however, will result in a lower level of disclosure to that already agreed by Full Council. (This recommendation can either extend to disclosable pecuniary interest only, or all interests).

**OR**

To keep the Code in its current format providing continuity of Members disclosures and, to provide an enhanced level of transparency.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

There is no obvious financial implication of the review of members' code of conduct as contained in this report.

## **6.2 Legal Implications**

Under the Act the Council is required to ensure that its Code of Conduct includes appropriate provisions for registering, and disclosing of pecuniary interests, and interests other than pecuniary interests.

The Act does not limit what may be included in a relevant authority's Code of Conduct, but nothing in a relevant authority's Code of Conduct prejudices the operation of the Act.

The Code must at a minimum reflect the requirements of the Act.

## **6.3 Property Implications**

None.

## **7. KEY RISKS**

Amending the Code could cause a reputational risk to the Council as it could be construed that Members do not want to disclose interests that would have previously been subject to disclosure.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All/Growth and Sustainability/Strong Communities**

A strong ethical approach by the Council and the promotion of good conduct on the part of members will have a positive effect on their representational role and a consequential impact on communities.

## **9. EQUALITIES IMPACT IMPLICATIONS**

The proposals within this report will help to ensure fair, equal and consistent treatment of complaints against councillors for all parties concerned.

An equality impact assessment is not required for this report.

## **PERFORMANCE MANAGEMENT IMPLICATIONS**

Not applicable.

## **10. HEALTH AND SAFETY IMPLICATIONS**

Not applicable.

## **11. HUMAN RESOURCES IMPLICATIONS**

Not applicable.

## **12. PUBLIC HEALTH IMPLICATIONS**

Not applicable.

### **Background Papers**

None.