

Disclosable Pecuniary Interests

1. Aim

- 1.1 To advise Members of the requirement of the legislation in relation to Disclosable Pecuniary Interests (DPIs).
- 1.2 To establish a working group to review guidance and training given to Councillors in relation to Disclosable Pecuniary Interests and their registration and declaration.

2. Summary

- 2.1 This report is to make Standards Committee aware of the legal regime for the declaration and registration of DPIs.

3. Recommendations

That:

- 3.1 Standards Committee note the report;
and
- 3.2 Establish a Working Party to review the current registration system, and the guidance and training given to Councillors in respect of the same.

4. Report Detail - Know

- 4.1 Under Sections 30(3) and 235(2) of the Localism Act 2011, Councillors are required to register their Disclosable Pecuniary Interests in the Register maintained by the Monitoring Officer of this Council. The Act also requires for a copy of the completed form to be published online by the Council.
- 4.2 A councillor is not under a legal obligation to keep the register up to date. However, if a Councillor is at a meeting that is considering something in which they have a disclosable pecuniary interest, and that interest is not registered, they must register the interest within 28 days of the meeting. The same rule applies if a Councillor is making a decision acting alone. A Councillor must also update their entries in the register if they are re-elected.
- 4.3 A 'disclosable pecuniary interest' is an interest the member or co-opted member or their partner (which means spouse or civil partner, a person with whom the member is living as husband or wife, or a person with whom the member is living as if they are civil partners) within the following descriptions:

- Employment, office, trade, profession or vacation;
- Sponsorship;
- Contracts that are made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority;
- Land **within the area** of the relevant authority;
- Licenses to occupy land in the area of the relevant authority for a month or Longer;
- Corporate tenancies where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest;
- Securities - Any beneficial interest in securities of a body where: that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either: the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
- Other interests - You have a personal interest which is likely to affect: membership of, or in a position of general control, a trustee of, or participate in the management of a body directed to charitable purposes.

4.4 If a Councillor is present at a meeting of their council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and they have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, they must not:

- participate in any discussion of the business at the meeting, or if they become aware that they have a disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public. In certain circumstances a Councillor can request a dispensation from these prohibitions. Where the council's or authority's standing orders require this, a councillor must leave the room. Even where there are no such standing orders, a councillor must leave the room if they consider their continued presence is incompatible with the council's code of conduct or the Seven Principles of Public Life.

4.5 The rules allow a council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that

business. These circumstances are where the council or authority considers that:

- Without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- Without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- The granting of the dispensation is in the interests of people living in the council's or authority's area,
- Without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- It is otherwise appropriate to grant a dispensation.

4.6 In 2019 the Government has introduced to the rules applying to local government elections and which are now in force. Following a commission by the Prime Minister, the Parliamentary Committee on Standards in Public Life published last year its 'Review of Intimidation in Public Life'. In that review, the Committee recommended that: Government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. The Government wishes to avoid capable individuals being deterred from standing for office because they believe the process risks their safety or makes them vulnerable to abusive activity and accepted this recommendation in its response to the Committee's report. Accordingly, Parliament has now amended the rules that apply to local government, parish council, and local and combined authority mayor elections, removing the requirement that each candidate's home address must be published during the election process and be included on the ballot paper. The requirement for each candidate's qualifying address to be published during that process has also been removed and Returning Officers and other electoral administrators should take care to avoid disclosing such addresses during an election count. The changes made mean that now all candidates in local government elections in England will be able to request that their home address is not made public. Candidates will have a choice – they can continue to include a home address if they wish to highlight their local connection to their ward. In addition, candidates will in future provide their 'qualifying address' address separately.

4.7 The Committee also recommended that local authority Monitoring Officers should ensure that Councillors required to declare pecuniary interests are aware of the sensitive interest provisions in the Localism Act 2011. Guidance for councillors on the sensitive interest provisions in the Localism Act 2011 and declaring of personal interests can be found in the Department's document "Openness and transparency on personal interests: a Guide for Councillors". An interest is classed as sensitive where the member and the monitoring officer, who is responsible for the register of members' interests, consider that

disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation. In these cases, other than stating that the member has an interest, the details are withheld. The Government would encourage monitoring officers to look sympathetically at such requests where there are legitimate concerns of abuse or intimidation.

- 4.8 It is a criminal offence if, without a reasonable excuse, a councillor fails to tell the monitoring officer about a disclosable pecuniary interests, either for inclusion on the register if they are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;
- that will be or is being considered at a meeting where the councillor is present, or
 - on which they are acting alone.
- 4.9 It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of the authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which they have a disclosable pecuniary interest. If a councillor is found guilty of such a criminal offence, they can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

5. Financial information

- 5.1. None arising.

6. Legal implications

- 6.1 The legal requirements for the maintaining of a register for DPIs and the disclosure of the same are set out in the paragraphs above.

7. Decide

- 7.1 The committee is asked to establish a working group as set out in the recommendations.

8. Respond

- 8.1. The Monitoring Officer in conjunction with the Standards Committee will review the guidance and training given to councillors in relation to disclosable pecuniary interests.

9. Review

- 9.1 It is recommended that the committee continues to monitor the registration and disclosure of disclosable pecuniary interests.

Author: Anthony Cox, Director of Governance

Email: Anthony.Cox@walsall.gov.uk

Tel: 01922 654822