



SHEFFIELD CITY COUNCIL Report to Council

Report of: Deputy Chief Executive

Date: 4th July 2012

Subject: New Standards Framework

Author of Report: Lee Adams, Monitoring Officer

Summary:

The law relating to Standards and Members' conduct was changed by the Localism Act 2011. From 1st of July 2012, the Act requires that each Local Authority have a Members' Code of Conduct and appoint at least one Independent Person as defined by the Act. The Authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Standards Board for England and the statutory penalties for breaching the Code of Conduct have been abolished by the Localism Act. There is a duty to have a process to deal with complaints but no prescribed process. There is no requirement that a Standards Committee be established to deal with complaints but it is recommended by this report that a Standards Committee be established as a Committee of full Council. The Act also abolishes Personal and Prejudicial Interests and introduces Disclosable Pecuniary Interests (DPIs). An authority must adopt within its Code of Members' Conduct a method of dealing with non pecuniary interests.

Recommendations:

That the Council:-

- (1) Adopts the Code of Conduct set out at Appendix 1 of this report.
- (2) Adopts the procedure for investigating complaints and the sanctions as set out at Appendix 2 of this report.
- (3) Establishes a Standards Committee in accordance with the amended Article 9 in Part 2 and the terms of reference in Part 3 of the Constitution, as set out in Appendices 3 and 4 of this report, and agrees to disapply proportionality to the Committee as set out at paragraph 3.3.2 of the report.
- (4) Note the Guidance on Disclosable Pecuniary Interests circulated by the Monitoring Officer set out at Appendix 5.

- (5) Delegates to the Monitoring Officer the power to make such amendments to the Code of Conduct and the procedure for investigating complaints as are required by guidance and regulation when they are issued by the Government and direct that any amended document be circulated to all members forthwith.
- (6) That an Independent Person be appointed in compliance with the Localism Act.
- (7) Approves the revised Monitoring Officer Protocol as set out in Appendix 6 of the report and that the Constitution be amended accordingly.

Background Papers: Constitution of Sheffield City Council

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial implications
NO
Legal implications
YES – Cleared by Lynne Bird
Equality of Opportunity implications
NO
Tackling Health Inequalities implications
NO
Human Rights implications
NO
Environmental and Sustainability implications
NO
Economic impact
NO
Community Safety implications
NO
Human Resources implications
NO
Property implications
NO
Area(s) affected
None
Relevant Scrutiny Committee if decision called in
N/A
Is the item a matter which is reserved for approval by the City Council?
Yes
Press release
NO

New Standards Framework

1. Introduction

- 1.1 The Localism Act 2011 abolishes the pre existing Standards Regime and introduces new provisions. From the 1st of July 2012 mandatory provisions in relation to Members' conduct are abolished and replaced by a duty to adopt a Code of Conduct. Prejudicial and Personal Interests are abolished and replaced by Disclosable Pecuniary Interests (DPIs) and a requirement to adopt procedures to deal with other personal interests.

The Authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

The statutory penalties for breach of the Code have been abolished and breaches be dealt with by existing powers and by agreement of the Members of the Council. The Act introduces criminal offences in relation to DPIs.

This report sets out a Code of Conduct and a procedure for investigating complaints and sanctions to be applied for consideration by Full Council.

2. Changes Introduced by the Localism Act

- 2.1 In summary the main provisions relating to standards are:-

1. to abolish Standards Board for England from January 2012
2. to remove the First-tier Tribunal's (Local Government Standards in England) jurisdiction over member conduct
3. the authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members
4. to remove the national Code of Conduct but imposes a duty to adopt a code which upholds specified principles and contain provisions relating to declarations of interest
5. breach of the code or pre determination does not invalidate any decision made by the Council
6. to allow councils to choose how complaints are investigated
7. remove existing sanctions for breach of the Code
8. to introduce a new role of independent person
9. impose a duty to have in place procedures to receive and deal with a complaint
10. to create a criminal offence relating to failure to register or declare DPIs

2.2 Independent Person

- 2.2.1 The Council must appoint at least one Independent Person who cannot be one of the current independent members of the Standards Committee. The Independent Person must be consulted before the authority makes a finding as to whether a member has failed to comply with the Code or decides on action to be taken in respect of a member. They may be

consulted by the authority in respect of a standards complaint at any other stage. It is proposed that Sheffield City Council jointly appoint a panel of Independent persons with Barnsley and the South Yorkshire Joint Secretariat to cover holidays and conflict of interests.

3. Changes Required to Comply with the Act

3.1 Code of Conduct

3.1.1 There is no set format for a Code of Conduct. However, the new Code of Conduct has to give effect to seven principles which correspond broadly with Paragraphs 3 to 7 of the current Code of Conduct. They are:-

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

The Council may add other relevant issues.

It is proposed that a simplified version of the current code with the addition of updated provisions relating to equalities be adopted. A draft code is attached at appendix 1.

3.1.2 The Code should contain details of the registration and disclosure of interests other than DPs – effectively, replacing the current personal interest's provisions. The Act requires that the Code contains "appropriate" provisions for this purpose; the code recommended for adoption by Council contains provisions very similar to the original Personal interests. The term Personal Interests has been retained but there are some differences to the previous definition under old legislation. Prejudicial Interests no longer exist and have been replaced by DPs. The provisions for DPs are included in the Members' Code of Conduct so breach of the provisions will constitute breach of the Code.

3.2 Investigating a Complaint

3.2.1 There is a duty to have a procedure to deal with breach of the Code but there is currently no guidance on what it should contain. A suggested procedure is set out at appendix 2. It is recommended the procedure be more flexible than the pre existing statutory scheme, able to deal with issues quicker and be less resource intensive.

3.2.2 It is recommended that the Monitoring Officer, in consultation with the Independent Person take steps to mediate and resolve issues and that only the more serious matters are referred to the Standards Committee. In some cases the matter can be heard on the basis of written information supplied to the Monitoring Officer and, in others, an investigation by an officer may be required.

- 3.2.3 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for resolution, avoiding the necessity of a hearing. Sometimes the investigation report can cause a Member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it would only be appropriate for the Monitoring Officer to agree a resolution after consultation with the Independent Person where a breach is found.
- 3.2.4 In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, the Standards Committee can determine whether the Member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result. It is possible for determinations to take place after a full oral hearing or upon written submissions. Sanctions are no longer statutory and disqualification for breach of the Code is no longer possible although a Member may be suspended by a court if they breach the provisions relating to DPLs.

3.3 Standards Committee

- 3.3.1 In line with the Local Government Act 2000, the Council has established a Standards Committee comprising 5 elected Members (one of which should be the Cabinet Member whose remit includes ethical standards in the Council), 4 Independent Lay Members and 3 Parish Councillor representatives, to recommend the adoption of a Code of Conduct for Members and to provide advice and training in relation to ethical standards and in addition to consider any allegation of misconduct. The political balance rules do not apply to the Standards Committee.
- 3.3.2 The Localism Act repealed section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee described in 3.3.1. So there is no requirement for a Standards Committee. However, it is recommended that a Standards Committee is retained. It will be a Committee of Council, without the unique features which were conferred by the previous legislation. Following discussion with the Corporate Members' Governance Group, it is proposed that the Committee should comprise not more than 8 Members of the City Council with proportionality disappplied (5 Labour and 3 Liberal Democrat members, (with one member from each group to be present at each meeting)).
- 3.3.3 The current members, who are not members of the Council, will be invited to remain as non-voting co-opted members (the 4 existing Independent Members of the Standards Committee and 1 representative of the three Parish/Town Councils). This to maintain the expertise they have acquired in relation to Standards issues. Revisions to Article 9 in Part 2 and the terms of reference for the Committee in Part 3 of the Constitution to reflect the changes are contained at appendices 3 and 4 of the report.
- 3.3.4 The Act does not give the Council or its Standards Committee any powers to impose sanctions, such as suspension, requirements for training or an

apology from a Member. So, where a failure to comply with the Code of Conduct is found, the range of actions which the Authority can take in respect of the Member is limited and the Council is free to adopt the sanctions it wishes to apply some of which will rely on voluntary compliance by elected members. It is recommended that Council agree that the following sanctions, as set out in the procedure for investigation, be adopted:-

- Recommending to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow responsibilities.
- Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- Instructing the Monitoring Officer to arrange training for the member.
- That policies/procedures are amended.
- That a briefing/information note be issued.
- Recommending that an apology be given.
- That the Member is censured in writing and a copy of the letter to be published on the Council's website.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. LEGAL IMPLICATIONS

The legal implications are set out in the body of this report.

6. RECOMMENDATIONS

That the Council:-

1. Adopts the Code of Conduct set out at Appendix 1 of this report.
2. Adopts the procedure for investigating complaints and the sanctions as set out at Appendix 2 of this report.
3. Establishes a Standards Committee in accordance with the amended Article 9 in Part 2 and the terms of reference in Part 3 of the Constitution, as set out in Appendices 3 and 4 of this report, and agrees to disapply proportionality to the Committee as set out at paragraph 3.3.2 of the report.

4. Notes the Guidance on Disclosable Pecuniary Interests circulated by the Monitoring Officer set out at Appendix 5.
5. Delegates to the Monitoring Officer the power to make such amendments to the Code of Conduct and the procedure for investigating complaints as are required by guidance and regulation when they are issued by the Government and direct that any amended document be circulated to all members forthwith.
6. That an Independent Person be appointed in compliance with the Localism Act.
7. Approves the revised Monitoring Officer Protocol as set out in appendix 6 of the report and that the Constitution be amended accordingly.

Lee Adams
Deputy Chief Executive

SHEFFIELD CITY COUNCIL – MEMBERS’ CODE OF CONDUCT

Introduction

This Code applies to members of this authority when you act in your role as a Member and it is your responsibility to comply with the provisions of this Code. Members include all Elected Members and co opted members.

The Code sets out the standards which are required of all members of the authority in carrying out their duties, and in their relationships with the Council and its officers.

Members are a representative of this authority and the public will view you as such, therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is based upon the following principles of public life which each should comply with:

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

This Code does not cover matters under the Localism Act 2011 where criminal sanctions will apply.

General Obligations

1. When acting in your role as a member of the authority you:
 - 1.1 Must treat others with respect.
 - 1.2 Must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members.
 - 1.3 Must not bully or intimidate any person
 - 1.4 Must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
 - (i) You have the consent of a person authorised to give it;
 - (ii) You are required by law to do so;
 - (iii) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) The disclosure is -
 - (a) reasonable and in the public interest;
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted the Monitoring Officer prior to its release.
 - 1.5 Must not prevent another person from gaining access to information to which that person is entitled by law.
 - 1.6 Must not conduct yourself in a manner which would reasonably be regarded as bringing your authority into disrepute.
 - 1.7 Must not use your position to improperly confer or secure an advantage or disadvantage to yourself or any other person.
 - 1.8 Must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.
2. When using or authorising the use by others of the resources of the authority you:-
 - 2.1 Must act in accordance with the authority's reasonable requirements including the requirements of the authority's ICT policy and the policies

listed at appendix A, copies of which have been provided to you and which you are deemed to have read;

- 2.2 Must make sure that such resources are not used improperly for political purposes (including party political purposes); and
- 2.3 Must have regard to any applicable Code of Publicity and take into account the guidance issued to Members on the use of social media.

Bias

3. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you are not prohibited from participating in a decision in your political role as member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
4. When making a decision, you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.
5. Members must comply with the Protocol for Member/Officer Relations and respect the impartiality and integrity of the authority's statutory officers and its other employees.

Equalities

6. Members must ensure that they adhere to all related legal requirements, such as the Race Relations Act, Sex Discrimination Act, Disability Discrimination Act and the Human Rights Act.
7. Members must promote equality and inclusion by providing an environment free from harassment, discrimination, and victimisation and bullying and by treating people with respect, regardless of their age, disability, gender, race, religion/ belief, sexual orientation or marriage/ civil partnership status.
8. Members must act in accordance with the Council's Equality Policy and Single Equality Scheme and the Council's Harassment, Discrimination, Victimisation and Bullying Policy.
9. Members must have regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 to:
 - Eliminate discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations.

LIST OF POLICIES

- **Sheffield City Council Electronic Communications Policy**
- **Members' ICT Usage Policy**

PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS

Complaints

- 1 Allegations of breaches of the Code of Conduct should be made in writing to the Monitoring Officer (MO) by any Elected Member, Officer, and partner of the Council or resident of Sheffield.
- 2 The MO will decide if this allegation is a potential breach of the code. If the matter complained of does not constitute a potential breach of the code the MO will inform the complainant.
- 3 If the MO believes there may be a potential breach of the Code they may take the following actions in consultation with the Independent Person without determining if an actual breach has taken place:-
 - Take such steps as they think appropriate to prevent a future breach of the Code including training, guidance, introducing or amending policies/protocols.
 - Ask the Whips to address the issue raised within their political parties or with an individual Member.
 - Mediate between the parties involved to resolve the issues.
 - Obtain further information from the complainant or other relevant individual/body.
- 4 The MO, after taking the above steps as appropriate, will decide, in consultation with the Independent Person, if the matter should be investigated.
- 5 The MO will take into account when deciding if the matter should be investigated :-
 - The seriousness of the allegation.
 - The effectiveness of the remedies available.
 - If a significant amount of time has elapsed since the events which are the subject of the complaint.
 - The benefits of an independent consideration of the allegation.
 - If the allegation relates to a cultural or recurring issue relating to standards within the Council.

- If the matter should be dealt with by some other method, e.g. police investigation.
 - If complaints have been made about the Member relating to similar issues in the past.
 - The impact on the complainant or reputation to the Council caused by the conduct.
 - If the complaint appears to be trivial or vexatious or is part of a series of complaints from the complainant.
 - The conduct occurred during political debate or could be regarded as a political expression of views or opinion
- 6 It is expected that only a minority of potential breaches will be referred to the Standard Committee.

Procedure for Investigations

7. If the matter is to be investigated, the complainant and subject of the complaint will be informed by the MO. The Elected Member will be given full details of the allegation and have 14 days to submit a response, witness statements and any relevant information. The Member will be asked to express a preference for a written or oral hearing should the matter be referred to the Standards Committee.
8. The MO will supply the complainant with copies of any documents produced in accordance with paragraph 3 or 7 above. The complainant may provide a written response and further evidence if they choose to do so. They must respond within 14 days of receipt of the information. The MO or Independent Person may advise and assist either party with the written information to be supplied.
9. The Independent Person and the MO will consider the complaint and responses to decide if any further information should be obtained by the MO or if an internal or independent investigation is required on all or any aspect of the complaint.
10. The MO in consultation with the Independent Person shall decide when the investigation process set out in 7 to 9 above is complete and if evidence of a breach is found. If no evidence is found no further action will be taken and the MO will inform the complainant.
11. Where the investigation finds evidence of failure to comply with the Code of Conduct, the MO, in consultation with the Independent Person, may attempt a local resolution, avoiding the necessity of a hearing by identifying other appropriate remedial action. It would only be appropriate for the MO to agree a local resolution after consultation with the Independent Person and subject to a summary report for information being submitted to the Standards Committee.

Standards Committee

12. If evidence of a breach is found on investigation and the matter cannot be resolved, the MO will refer the matter to the Standards Committee. The Standards Committee will meet to consider the allegation and make clear findings as to the facts on the matter and whether, in its opinion, a breach of the Code of Conduct has occurred. This decision will be made upon the papers submitted if the Member agrees. If the member does not agree to a paper consideration he/she will be asked to attend the Standards Committee to give oral representations and present their evidence. The Member may, with the consent of the Committee obtained prior to the meeting, present witnesses.
The Standards Committee will give reasons for its decision. The Committee will meet in public unless the Chair decides all or some of the meeting should be held in private subject to the Access to Information requirements. The MO will attend the meeting and can provide advice to the Committee.
13. The Committee shall decide if a breach of the Code has taken place and what sanction, if any, it should recommend.
14. The MO will inform the complainant and the Member of the outcome in writing within 7 days.
15. The findings and decision of the Standards Committee will be publicly available on the Council's website and copies will be supplied to the MO, Chief Executive and Member concerned, Leaders of the political party concerned, the Whips and the complainant.

Remedies

16. If the Standards Committee finds a breach of the Code has occurred they may make one of the following recommendations and may specify to whom they wish them to be directed: Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow Portfolio responsibilities
17. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
18. Instructing the Monitoring Officer to arrange training for the member;
19. That policies/procedures are amended;
20. That a briefing/information note be issued;
21. That an apology be given;
22. That the member is censured in writing and a copy of the letter is published on the Council's website.

Appeals

23. It is not intended that an Appeal procedure would be used as a matter of course. If, however, the Standards Committee Chair and MO agree that the nature of the decision may have a significant impact on the member against whom findings are made or has important implications for the Council as a whole, they may allow an appeal to the Standards Committee of another authority with whom a reciprocal agreement exists. If no suitable Committee is available the appeal will be dealt with by the Chief Executive.

Reports

24. A bi-annual report will be presented to Members of the Standards Committee on the complaints received and how they were dealt with. An annual report will be prepared for Council in relation to all Standards Complaints.

Article 9 - The Standards Committee

9.01 Standards Committee

The Council (in this Article 'the City Council') will establish a Standards Committee to determine complaints under the Code of Members Conduct referred to it by the Monitoring Officer and promote high standards of Councillor Conduct.

9.02 Composition

- (a) **Committee Membership.** The Standards Committee will comprise not more than eight Members of the City Council with proportionality disapplied (5 Labour and 3 Liberal Democrat members, with one Member from each Party to be present at each meeting) and, on an interim basis until guidance is issued by the Government, the membership will also include up to 5 non-voting co-opted members (the 4 existing Independent Members of the Standards Committee and 1 representative of the three Parish/Town Councils);
- (b) **Chair and Deputy Chair.** The Chair and Deputy Chair of the Committee and of its Sub-Committees shall be appointed by the Committee or Sub Committee.
- (c) **Quorum.** The quorum for meetings of the Committee and any of its Sub-Committees shall be three and must include representatives of two political parties

9.03 Sub Committees

9.04 Role and Functions

The Standards Committee and its Sub-Committees will have the terms of reference set out in Part 3 of this Constitution. The Committee will exercise the following role and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, Co opted Members;
- (b) advising the Council on the adoption or revision of the Councillors' Code of Conduct and Protocols relating to Councillor and Officer behaviour;
- (c) discharging, the functions of hearing complaints against Councillors concerning the Councillors' Code of Conduct referred by the Monitoring Officer;
- (d) the exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.

STANDARDS COMMITTEE

Terms of Reference

- (a) Promoting and maintaining high standards of conduct by Councillors, Co-opted Members Representatives on Committees and Sub-Committees.
- (b) Assisting Councillors, Co-opted Members and Representatives to observe the Councillors' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Councillors' Code of Conduct and Protocols relating to Councillor and Officer behaviour.
- (d) Monitoring the operation of the Councillors' Code of Conduct.
- (e) Advising, training or arranging to train Councillors, Co-opted Members and Representatives on matters relating to the Members' Code of Conduct.
- (f) Discharging the functions of, hearing complaints against Councillors concerning the Members' Code of Conduct referred to them by the monitoring Officer.
- (g) The exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.
- (h) Advising the Council on the adoption and revision of its Whistle-blowing Policy and monitoring the operation of that Policy.
- (i) Monitoring and reviewing procedures relating to gifts, hospitality and personal interests, for Councillors and officers.
- (j) Monitoring the Council's response to complaints to the Ombudsman.
- (k) Undertaking such other functions as the Council may delegate to the Committee.

DECLARATIONS OF INTERESTS

From the 1st of July the way interests need to be registered and declared will change. It is important that you enter your interests on a new Register of Interests as failure to do so without reasonable cause will be a **criminal offence**.

The existing Standards regime is abolished from the 1st of July by the Localism Act. Prejudicial and Personal Interests will no longer exist and have been replaced by **Disclosable Pecuniary Interests (DPI)**. The way interests are declared has also changed.

What is a DPI?

The interests members must register are set out below they include the interests of you and your spouse/partner:-

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or financial benefit in respect of any expenses incurred in carrying out duties as a member, or towards the election expenses.

This includes any payment or financial benefit from a trade union

This does not include hospitality payments e.g. going to a football match.

Contracts

Any contract which is made between the member (or a body in which the relevant person has a beneficial interest) and the Council under which goods or services are to be provided or an existing contract delivering goods and services.

Land

Any beneficial interest in land which is within the area of the Council.

Licences (property)

Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

Tenancies held by Companies in which the member has a beneficial interest

Any tenancy where the landlord is the Council; and

Securities (shares, debentures etc) Any beneficial interest in securities of a body where —

(a) that body has a place of business or land in the area of Council and

(b)

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body

There are more detailed rules if the shares held by a company are divided into more than one class.

What is different about the interests?

1. “Employment” applies only to employment or a business carried on for profit or gain, so excludes unpaid work for public, voluntary and charitable bodies.
2. “Contracts” does not apply to a beneficial interest of a family member other than spouse.
3. “Beneficial interest” includes directors, but not employees who may benefit e.g. a performance bonus from the existence of the contract.

What is different?

1. Where a member has a DPI, it is a criminal offence to fail to register that interest within 28 days of being elected, fail to declare an unregistered interest at a meeting and to participate in a relevant item of business.
2. Registration of interests is required for the member and their spouse or partner. The old requirement was for interests of the member only.
3. DPIs have a broader definition than the existing prejudicial interest. It is a DPI even if there is no likelihood that it might prejudice the member’s perception of the public interest. This means that a decision which has only a minimal impact on a member’s property or employer can trigger a criminal offence if it is not registered.
4. DPIs do not include matters likely to affect the wellbeing or financial standing of the member, or his/her family or friends.
5. There are no legal requirements in relation to registration other than registration within 28 days of being elected but the draft Members’

Code of Conduct will require that interests are updated at least annually.

What stays the same?

1. The Monitoring Officer keeps the register and any changes should be notified to Democratic Services.
2. In exceptional circumstances a dispensations can be granted to participate in relevant business even if a member has a DPI. 3. The Council will adopt its own rules for declaring interests which are not DPIs in the Members' Code of Conduct. Failure to comply with the Code is not a criminal offence.
4. Gifts and Hospitality have not been included as a DPI and will be dealt with under the Members' Code of Conduct.
5. Similar provisions to the old scheme exist for not disclosing the details of sensitive interests publically when it could be harmful.

How do DPIs affect a Member's ability to make decisions and participate in meetings?

- If a member has a DPI in any matter to be considered, or being considered, at the meeting they can not participate further in any discussion of the matter at the meeting, or participate in any vote.
- If the DPI is not registered they must declare it to the meeting and notify the Monitoring Officer within 28 days.
- A member of the Cabinet can not make an ICM decision if he/she has a DPI in that decision.
- The Members' Code of Conduct may make provision for the member to leave the room when they have a DPI.

Offences

A member if found guilty of an offence can be barred from holding office for up to five years and be fined up to £ 5000.

A member commits an offence if, without reasonable excuse, they —

1. fail to notify the Monitoring Officer of any relevant DPIs within 28 days of taking up office, fail to disclose an unregistered interest at a meeting or fail to notify the Monitoring Officer when they have made such a disclosure at a meeting.
2. participate in any discussion or votes when they have a DPI.

3. are an executive member and make a decision in which they have a DPI.
4. provide information that is false or misleading in relation to a DPI and is aware:
 - (a) that the information is false or misleading, or
 - (b) is reckless as to whether the information is true and not misleading.

A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions and not the Council or an individual.

What about Interests which are not DPIs

The Act requires that provision is made for interests which are not DPIs. It is intended that we make provision in the new Members' Code of Conduct for dealing with "personal interests" in decision making and meetings. This will apply to interests relating to the member's family and friends, and bodies such as employers and companies, to ensure that members still disclose such interests even where they do not preclude the member from participating in the decision-making process. Non-compliance with these provisions may breach the Members' Code of Conduct but will not amount to a criminal offence.

There is no legal requirement to register gifts and hospitality but the Code will require registration of a value over £50.

The following provisions will be in the Code for Consideration by full Council on the 4th of July

Other Interests

- 1.1 In addition to the requirements relating to DPIs, if you attend a meeting at which any item of business is to be considered and you are aware that you have a personal interest in the matter which does not amount to a DPI you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 1.2 You have a personal interest where –
 - 1.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation 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

- 1.2.2 it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association

Gifts and Hospitality

- 2.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.
- 2.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 2.3 This duty to notify the Monitoring Officer does not apply where the gift is accepted on behalf of the Council and does not apply to the role of Lord Mayor.

Disclosable Pecuniary Interests

You must -

- 1.1 comply with the statutory requirements to register, disclose and withdraw (to include leaving the room) from participating in respect of any matter in which you have a DPI.
- 1.2 ensure that your register of interests is kept up to date at least annually.
- 1.3 make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 1.4 “Meeting” means any meeting organised by or on behalf of the authority, including –
 - 1.4.1 any meeting of the Council, or a Committee or Sub-Committee of Council;
 - 1.4.2 any meeting of the Cabinet and any Committee of the Cabinet;
 - 1.4.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet.

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