

NAME OF COMMITTEE	Corporate Performance & Resources Scrutiny Panel
DATE	19 February 2015
REPORT TITLE	The Code of Conduct and appointments to outside bodies
Report of	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To consider a report on the Code of Conduct implications for Members serving on outside bodies.

Financial implications:

There are no financial implications to this report.

RECOMMENDATION:

That the Panel notes the report.

Officer contact:

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1. BACKGROUND

1.1 As requested at the 20 November 2014 Corporate Performance & Resources Scrutiny Panel, this report considers the Code of Conduct implications for Members serving on outside bodies.

1.2 The Localism Act 2011 introduced Disclosable Pecuniary Interests, Registers of Interests, requirement for a local code of conduct and new rules on dispensations as part of the new standards arrangements.

2. MEMBERS IN RECEIPT OF ALLOWANCES FROM OTHER LOCAL AUTHORITIES

- 2.1 The 2012 Regulations define one of the potential Disclosable Pecuniary Interests (DPI) as one which includes 'any employment, office, trade, profession or vocation carried on for profit or gain'. This definition includes situations where councillors are members of outside bodies and receive payment for that role (see below) but it can also potentially include councillors who are also members of another authority and receive an allowance for that role, for example the County Council.
- 2.2 It was clearly not the intention to prevent members from participating in different levels of local government, and the rules in the Localism Act are not written in the clearest way and there as yet are no decided cases on this particular matter. In order to protect Members, at its meeting on 20 November 2014, the Corporate Performance & Resources Scrutiny Panel granted a general dispensation to enable members to speak and vote on matters where they are members of another local authority and in receipt of an allowance.
- 2.3 Clearly the general dispensation will not cover circumstances where Members have an interest for other reasons, and Members will still need to declare specific interests where they arise. Members will also need to be mindful of the rules of bias/perceived bias and predetermination in relation to specific matters and advice should always be sought from the Monitoring Officer (see below).
- 2.4 A separate report on the renewal of existing dispensations is included on this agenda.

3. MEMBERS SERVING ON OUTSIDE BODIES

- 3.1 Under the current Code of Members' Conduct, membership of other bodies (without remuneration) is a personal interest which should be listed in Part 2 of the Register of Interests. The interest must also be declared at the beginning of meetings (or as soon as the interest becomes apparent) but the Member can take part in the debate and vote.
- 3.2 Any appointment to an outside body with remuneration must be listed as a Disclosable Pecuniary Interest in Part 1 of the Register under 'Employment, Office, Trade Profession or Vocation'. A DPI must also be declared at the beginning of the meeting at which the matter is discussed (or as soon as the matter becomes apparent) and the member must leave the meeting room and not participate or vote on the matter.
- 3.3 A DPI arises where the member is in receipt of payment and:
- the member belongs to the body in a private capacity
 - the member is appointed directly by the Council

- the appointment follows a recommendation for nomination by the Council to an outside body

3.4 It is not considered that reclaiming expenses (e.g. travelling to outside body meetings) is classed as 'remuneration' and will not therefore be classed as a DPI.

3.5 This has implications with regards to taking part in decisions at the Council relating to the outside body for which the member holds any paid office. The Member must declare a DPI and leave the room for that item. Failure to do so will leave councillors exposed to complaints that they have broken the Code of Conduct and it is also potentially a criminal offence under the Localism Act.

4. PREDISPOSITION, BIAS AND PREDETERMINATION

4.1 Whilst not part of the Code of Conduct, bias and predetermination are frequently linked to questions of interests and whether a member can make a judgement in the public interest.

4.2 Bias and predetermination make a Council's decision challengeable with wider implication for the Council.

4.3 Predisposition is a legally acceptable position and is where a member is predisposed to a particular view but has not made up his/her mind on the matter. The member may still participate in the debate and vote.

4.4 Bias (or presumed bias) is where a member has actual bias towards a particular outcome (or might reasonably be presumed to be biased to a particular view).

4.5 Predetermination is where a member has made up his or her mind in advance and has closed his or her mind to other outcomes. Where predetermination and bias exist, the Member should not participate or vote on a matter.

4.6 In relation to outside bodies, the general principle is that a member should not participate in Council decision-making where his/her outside interests are such that s/he allows those outside interests unfairly to influence his/her decision. A member should not, when participating on one authority, allow his/her decision to be determined by the interests of the other authority; the matter must be decided on the broader public interest.

5. LEGAL IMPLICATIONS

5.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests, a requirement for a local code, Registers of interests and new rules on dispensations.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications to this report.

7. RISK MANAGEMENT

7.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

8. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	The Localism Act 2011 Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Considerations of equality and human rights:	Not applicable
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Not applicable
Background papers:	CP&R Scrutiny Committee 20 November 2014

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Understanding when relevant interests need to be declared	Failure to declare a relevant interest	4	2	8	↔	Ensuring that Members understand what interests should be declared and the appropriate point to do so	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔