

Code of Conduct and Disclosable Pecuniary Interests

The Localism Act 2011* altered the Code of Conduct for local authority members, including members of local councils. This guidance sheet details the significance of the new code and requirements placed upon local councillors. Whilst the Code of Conduct is also relevant to Principal Authority councillors; for the purposes of this guidance reference will be to Parish and Town (local) councillors. Reference to the Localism Act will be to "the Act".

The core reason behind the Code of Conduct is to ensure that members are putting the public interest before their own and making independent and objective decisions that are not likely to benefit them above any one else in the parish.

If a member of the public or a member of the same, or another authority believes that a councillor has breached the Code of Conduct they can make a complaint to the Standards Committee of their principal authority through the authority's Monitoring Officer (who is usually the council's legal officer).

The Code of Conduct for local authority members was first introduced some years ago and has had several different versions over the years. The Localism Act 2011 provided the most recent changes. This act abolished the Standards Board for England and the existing Code of Conduct regime and the centralised, bureaucratic approach along with it. The new system creates a localised structure, allowing local councils to determine their own rules, as long as they meet the criteria laid out in the Act.

There are several ways in which a local council may have adopted a Code of Conduct. This could include using an available model (for example from the National Association of Local Councils (NALC), Local Government Association (LGA) or Department of Communities and Local Government), by using the one provided by the Monitoring Officer of their Principal Authority, or by devising their own (as long as it meets the requirements of the Act).

Whichever of the above approaches is taken, the new legislation requires a local council to base its Code of Conduct on the established Seven Principles of Public Life which were originated by what was known as the Nolan Committee, a committee of government. There is now the Committee on Standards in Public Life which is an independent public body which advises government on ethical standards across the whole of public life in the UK.

The seven principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Looking Further

*Full legislation can be found in Chapter 7 of the Localism Act 2011.

In addition, the Code of Conduct must include provisions for the registration and disclosure of pecuniary (financial) and other private interests.

Interests

The Borough, District or Unitary Authority Monitoring Officer (whichever is appropriate for the area in which the parish lies), is responsible for establishing and maintaining a Register of Interests.

Disclosable pecuniary interests*, the criteria of which are set in legislation, and personal interests are entered into this register.

When it comes to disclosable pecuniary interests, 28 is a key number of days. If a disclosable pecuniary interest arises which is not recorded in the register it must be disclosed to the meeting and registered within 28 days. In addition, when a member is first elected or co-opted to the council they must register their disclosable pecuniary interests within 28 days.

Under the 2011 Act, if a member is aware that s/he has a disclosable pecuniary interest in a matter being discussed at a meeting, s/he is prohibited from both participating in the debate and voting; unless a **dispensation** has been obtained. A local council's **Standing Orders** may require the member to withdraw from the room while discussion and voting takes place. It may also be that with regards to the Seven Principles of Public Life, it would be prudent for the member to do so.

Where there are disclosable pecuniary interests deemed to be of a sensitive nature, they may be excluded from a public register and the member may declare the interest, but not its detail.

Under section 34 of the Act; without a dispensation, a member's participation and voting on a matter which s/he has a disclosable pecuniary interest is deemed a criminal offence.

There may be other private (non disclosable interests) determined by the requirements of the specific Code of Conduct adopted by the local council. These interests may appear in the council's Standing Orders. Failure to declare these interests does not constitute a criminal offence.

The register of interests must be made available by the Monitoring Officer for inspection at reasonable hours somewhere within the area. The principal authority must publish the register on their website and if a parish council has a website it must do the same.

Looking Further

*Disclosable Pecuniary Interests are defined in the Schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. They include things like (but by no means exclusively) employment, interest in land and property, contracts and tenancies.

Standing Orders are covered in guidance sheet 4 on meetings and procedures.

Dispensations

Section 33 of the Act allows a local council to grant a dispensation to allow a councillor to participate in and vote on a matter even where that councillor has a disclosable pecuniary interest.

The decision to grant dispensations is taken by either the full council, a committee or authority may be delegated to the clerk.

Dispensations may be granted for a number of different reasons. These include things like, without a dispensation there would not be a sufficient number of councillors to transact the business. This may be where all or most members are affected by the issue. The full list can be found in section 33 of the Act.

Dispensations may be granted:

- *for one or more meetings of the authority, or*
- *for a period not exceeding four years*

The dispensation must specify the period for which it has effect.

Making a Complaint and Outcomes

If it is believed that a member of a local council has breached *their council's* Code of Conduct, the first thing to do is to check the process at the relevant principal authority. This is usually detailed on the authority's website or available from the authority itself. The principal authority has responsibility for dealing with complaints and this can be through a committee or officers. It must also appoint an "independent person" whose views may be sought. Section 28 of the Act details the criteria for the independent person.

Although the principal authority has responsibility for dealing with complaints, it cannot take action if a breach of the code of conduct is concluded. The action is limited to censure and recommendations to the local council regarding a course of action. These recommendations could include that the local council seeks training for the member or requests an apology.

Under s.34 of the Act, failure to register a disclosable pecuniary interest within 28 days, the deliberate false registration of interests or participating and voting on a matter which s/he has a disclosable pecuniary interest and for which no dispensation has been granted is deemed a criminal offence. This offence may potentially carry a fine of £5000 and result in disqualification for up to five years.