

To: **Members of the Standards Committee**

**Councillors S Bland, C Fitzsimmons,
B Maher, T McCarthy and J Walker**

**(Invitations extended to Mr A Mackie, Mr M Organ and
Mr W Ravenscroft as Independent Persons)**

Professor Steven
Broomhead
Interim Chief Executive

Town Hall
Sankey Street
Warrington
WA1 1UH

3 April 2013

Standards Committee
Thursday 11th April 2013 at 6.30pm
Room 2, Town Hall, Warrington

Agenda prepared by Louise Murtagh, Democratic Services Officer – Telephone
(01925) 442111 E-mail lmurtagh@warrington.gov.uk

AGENDA

Part 1

Items open to members of the public (including the press) subject to any statutory right of exclusion.

- | | Page
Number |
|--|------------------------|
| 1. <u>Apologies for Absence</u> | |
| To record any apologies for absence received | |
| 2. <u>Code of Conduct – Declaration of Interests</u> | |
| Members are reminded of their responsibility to declare any personal or prejudicial interest they have in any item of business on the agenda no later than when the item is reached. | |
| 3. <u>Minutes</u> | 1 |
| To confirm the Minutes of the meeting of the Committee held on 25 th February 2013 as a correct record. | |
| 4. <u>Members Code of Conduct Complaints</u> | |
| Verbal update of the Solicitor to the Council | |
| 5. <u>Openness & Transparency on Personal Interest – A Guide For Councillors</u> | |

Report of the Solicitor to the Council

6. **Appointment of Independent and Parish Council
Representatives to the Standards Committee**

Discussion to explore process

Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington.



STANDARDS COMMITTEE

25 FEBRUARY 2013

Present: S Bland, C Fitzsimmons, B Maher, T McCarthy and J Walker
Also Present: Mr M Organ

ST11 Apologies for Absence

Apologies for absence were received from Mr A Mackie and Mr B Ravenscroft

ST12 Code of Conduct

There were no declarations of interest made

ST13 Minutes

The Minutes of the meeting held on 10 January 2013 were agreed as a correct record and signed by the Chair.

ST14 Granting of Dispensations to Councillors

The Committee considered the report of the Solicitor to the Council that advised member that at the Council meeting of Monday, 4 March 2013, consideration of the Budget 2013/14 report was to be held. Councillors living in the borough and paying Council Tax were likely to be affected financially by the decision to set the budget and therefore the level of Council Tax.

The Localism Act prevented Members from participating in any business of the Council where they had a Disclosable Pecuniary Interest unless they had sought a dispensation under Section 33 of the Act.

Councillors had been made aware of this issue by email on 3 January 2013 and again on 17 & 22 January 2013. Additionally, Members had also received telephone calls advising of the report being considered at the Council meeting of 4 March 2013. At its earlier meeting of 10 January 2013 this committee had granted dispensations to 30 Councillors who had submitted such requests.

Decision – That the Committee

1. Granted dispensations to the additional 26 Councillors as listed in respect of the Budget 2013/2014 report being considered at the full Council meeting of 4 March 2013

1.	J GUTHRIE	14.	H J MUNDRY
2.	G WELBORN	15.	S ROBERTS
3.	W JOHNSON	16.	P WRIGHT
4.	S P WRIGHT	17.	P NELSON
5.	J DAVIDSON	18.	K BENNETT

**Agenda Item 3
(Minutes)**

6.	F RASHID	19.	A DIRIR
7.	B LINES-ROWLANDS	20.	L DIRIR
8.	P CAREY	21.	J RICHARDS
9.	C E JORDAN	22.	G FRIEND
10.	T M WOOD	23.	K SIMCOCK
11.	G SETTLE	24.	L LADBURY
12.	T L HOYLE	25.	T HIGGINS
13.	J KERR-BROWN	26.	P BRETHERTON

2. Delegated power to the Monitoring Officer, in consultation with the Chair, to grant the remaining Councillor dispensation upon receipt of such.

Dated.....

Signed.....

STANDARDS COMPLAINTS STATUS AT 11TH APRIL 2013

Sequential number of complaints	Borough or Parish	Nature of Complaint	Comments
1.	Parish	Failure by subject to answer or address a formal complaint raised by complainant on 5 th March 2012 Interaction with tenderers and contractors	Complaint withdrawn following meeting 7/1/13.
2.	Parish	Subject used her influence at Committee of the parish Council to gain advantage for a business run by her.	All parties informed that the complaint is on hold pending the resolution of Employment Tribunal proceedings
3.	Borough	Use of inappropriate language towards member of the public.	MO email requesting contact from the complainant. No apparent response. Further email sent and no further response. Response requested by 21/2/13. Independent persons agreed not to investigate further in light of lack of response from complainant.

4.	Borough	Subject had revealed the complainant's address via a Warrington Guardian public forum website. The complainant was also dissatisfied that the MO has determined that there is no complaint capable of being misconduct under the Code.	MO determined that there is no misconduct under the Code. Decision explained to the complainant and that the decision will be reported to April Standards committee meeting as part of the monitoring of complaints. Decision supported by Independent Persons.
5.	Borough	Comment made to the press which was subsequently published. Language and tone of comment highly critical of an Officer.	Informal resolution successful. Written apology from the complainant. Apology accepted by the Officers concerned.
6.	Parish	Publication in the press of parish council budget proposals that had been discussed at a private meeting of parish councillors	Informal resolution suggested and supported by the Independent Persons. The Parish Council be asked to arrange training for the member concerned and to be clear about the status of future meetings. Now resolved.

7.	Borough	Reference at full Council meeting by to the people of south Warrington as being 'born with a silver spoon in their mouths'. Reference at the same meeting by to the people of south Warrington as 'working class heroes'.	Complaint rejected as being part of political debate and does not reveal a prima facie breach of the Code. independent Persons view is that the complaint is not worthy of investigation and part of the cut and thrust of political debate
8.	Parish	<ol style="list-style-type: none"> 1. Released confidential information 2. Circulated prejudicial information with no right of reply for members. 3. Failed to declare an interest 4. Involved in decision making despite a pecuniary interest. 	Need for further detail to understand the complaint. Letter to be sent to 'lead' complainant seeking clarification of the allegations. MO meeting complainants.
9.	Borough	Conduct of meeting Traffic Committee 5 th March 2013 and a speed limit order relating to Chapelford	Views of Independent Persons required.
10.	Borough	Failure to treat others with respect by use of inappropriate language at council meeting on 25 th March 2013	Views of Independent Persons required.

WARRINGTON BOROUGH COUNCIL

STANDARDS COMMITTEE – 11 APRIL 2013

Report of the: Solicitor to the Council
Report Author: Louise Murtagh, Democratic Services Officer
Contact Details: **Email Address:** lmurtagh@warrington.gov.uk **Telephone:** 01925 442111

Ward Members: All

TITLE OF REPORT: OPENNESS & TRANSPARENCY ON PERSONAL INTEREST – A GUIDE FOR COUNCILLORS

1. PURPOSE

- 1.1 The Department for Communities and Local Government has issued a guide on personal interests which provides basic practical information on openness and transparency in relation to personal interests. It is designed to support local councillors, including parish councillors, in the new standards arrangements introduced under the Localism Act 2011.
- 1.2 The guide is attached for consideration by the members of the Standards Committee.

2. CONFIDENTIAL OR EXEMPT

- 2.1 This report is not confidential or exempt.

3. CONSULTATION

- 3.1 No consultation has been undertaken upon this matter because the decision is, by virtue of statute, a matter entirely one for the Standards Committee.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications arising from this report.

5. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

- 5.1 There are no immediately apparent equality issues arising from this report.

Agenda Item 5
(Openness & Transparency on Personal Interest)

6. RISK ASSESSMENT

- 6.1 It is a criminal offence if, without a reasonable excuse, if an elected member fails to communicate to the monitoring officer disclosable pecuniary interests.
- 6.2 It is 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.
- 6.3 It is a criminal offence to continue working on a matter which can be discharged by a single member and in which an elected member has a disclosable pecuniary interest.
- 6.4 If found guilty of the above criminal offences, fines up to £5,000 and disqualification from holding office as a councillor for up to five years may be incurred.
- 6.5 Members will need to be aware of the above risks in their consideration of code of conduct matters. The risk will be mitigated by appropriate training and communication of the code and its implications.

7. REASON FOR RECOMMENDATION

- 7.1 To enable the Standards Committee to understand and carry out its obligation in being open and transparent on matters of personal interest.

8. RECOMMENDATION

- 8.1 To consider the Department for Communities and Local Government guide on personal interests.

9. BACKGROUND PAPERS

- 9.1 None other than as identified in this report.

Contacts for Background Papers:

Name	E-mail	Telephone
Louise Murtagh	lmurtagh@warrington.gov.uk	01925 442111



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that '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.**'⁴

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which 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.

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which 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.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your 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 your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your 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 you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your 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.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you 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 you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your 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 you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.