

**BRIEFING NOTE FOR MEMBERS
JUNE 2012**

LOCALISM ACT 2011 – DISCLOSABLE PECUNIARY INTERESTS

This note explains the provisions (sections 29-34) of the Localism Act 2011 (“the Act”) relating to disclosable pecuniary interests and outlines details of the disclosable pecuniary interests regulations which have now been published.

The Act’s provisions are enforced by criminal sanction.

It is intended that these provisions and the disclosable pecuniary interests regulations will come into force on 1 July.

1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any ‘disclosable pecuniary interests’.

A ‘disclosable pecuniary interest’ is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions specified in the regulations:-

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed ; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) 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.

These descriptions of the interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act (in practice this is the Member or person referred to as “you” in this note);

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act (a notification to the Monitoring Officer of any disclosable pecuniary interests which the member giving the notice has at the time the notification is given);

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (M’s spouse or civil partner etc);

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

2. Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests which the Monitoring Officer maintains.

A copy of the register will be available for public inspection (as it currently is under the present code) and will be published on the Council’s website (again, as it is currently).

3. Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest (or any other registerable interest under the Code of Conduct) could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a (disclosable pecuniary) interest, the details of which are withheld under Section 32(2) of the Act.

4. Non participation in case of a disclosable pecuniary interest

If you are present at a meeting of the Council, the Cabinet or any committee of the Cabinet or Council, sub-committee, joint committee or joint sub-committee of the Council, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- (i) you may not participate in any discussion of the matter at the meeting;
- (ii) you may not participate in any vote taken on the matter at the meeting;
- (iii) if the interest is not registered, you must disclose the interest to the meeting; and
- (iv) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, Procedure Rules will require you to leave the room where the meeting is held while any discussion or voting takes place.

5. Dispensations

The Council (through the Monitoring Officer and/or Standards Panel) may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

6. Offences

It is a criminal offence:-

- to fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;
- to fail to disclose a disclosable pecuniary interest at a meeting if it is not already on the register of interests;
- to fail to notify the Monitoring Officer within 28 days, of a disclosable pecuniary interest that is not on the register and which you have disclosed to a meeting;
- to participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest (and where you have not been granted an appropriate dispensation);
- as an executive cabinet member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, to fail to notify the Monitoring Officer within 28 days of the interest arising.
- knowing or recklessly to provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such an interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 (£5,000) on the standard scale and disqualification from being a councillor for up to 5 years.