

## **OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS**

### **Governance Committee – 29 January 2014**

Report of	Monitoring Officer
Status:	For consideration and decision
Also considered by:	Standards Committee – 16 January 2014 Council – 18 February 2013
Key Decision	No

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**This report supports the Key Aim of** effective management of Council resources

**Contact Officer(s)** Mrs Christine Nuttall – Chief Officer Legal and Governance

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#### **Recommendation to the Standards Committee:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
- (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”; and

#### **Recommendation to the Governance Committee:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
- (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”; and

#### **Recommendation to Full Council:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
  - (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”.
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**Reason for recommendation:** To keep the Council’s Code of Conduct (the Code) under review and to ensure that Members of the Council receive up to date guidance on the Code of Conduct.

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## **Introduction and Background**

- 1 Following the introduction of the Localism Act 2011 and subordinate legislation extensive changes were made to the Standards regime. The changes were brought in to achieve high standards of conduct and to put in place an appropriate regime. Under the new regime Councils were obliged to adopt a Code of Conduct for their Members and Co-opted Members in order to promote and maintain high standards of conduct. These included provisions relating to the registration and disclosure of interests and authorities were no longer required to adopt codes based on a national model. Most authorities chose to adopt codes which reflected models suggested by various recognised organisations. Sevenoaks District Council chose the text published by the Department for Communities and Local Government (DCLG).
- 2 The DCLG has published revised guidance on Personal Interests, with respect to membership of a Trades Union. The covering letter from DCLG and the Guidance to which it relates concludes that it is a legal requirement that such membership should be ‘registered and declared’. The covering letter from DCLG and the changes that would need to be incorporated into our Code of Conduct are shown in red within the DCLG Illustrative Text as set out at Appendix A.
- 3 When it comes to registering and declaring pecuniary and non-pecuniary interests the illustrative text from the DCLG takes the view that membership of a Trade Union is a Non-Pecuniary interest and is not prescribed as a Disclosable Pecuniary Interest. Therefore there is no enforceable criminal legal power to back compliance with this requirement.
- 4 However, the revised guidance as set out at Appendix B explains that any payment or financial benefit from a trade union is a Disclosable Pecuniary Interest. Therefore non disclosure could result in a criminal sanction. The Council’s Notification of Disclosable Pecuniary Interests Form does require under Part B Sponsorship disclosure of “Any payment or provision of any other financial benefit (other than from Sevenoaks District Council) ... in respect of any expenses incurred by you in carrying out duties as a member, or towards the election expenses of yourself. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992”.

## **Registering Membership of a Trade Union**

- 5 It has always been the position of this Council and the Standards Committee that openness and transparency are key to maintaining public confidence in the office of Councillor. With that in mind, when the Council adopted its new Code of Conduct, it continued to be a requirement of the Code that all Members give notification of Non Pecuniary Interests that include “Bodies whose principle purpose include the influence of public opinion or policy of which you are a member or in a position of general control or management (including any political

party or trade union)". In conclusion, the Council's policy position on transparency with respect to Trades Union membership is consistent with the DCLG position.

### **Is a Dispensation necessary to take part in Setting Council Tax or a Precept**

- 6 The position on this has been made clear in the revised guidance which confirms DCLG's view that a dispensation is not required to take part in the business of setting council tax or a precept, simply by virtue of being a homeowner or tenant within the Authority's area. The Committee is asked to note this clarification as this was a matter under discussion at the last meeting of the Standards Committee.

### **Key Implications**

#### Financial

None.

#### Legal Implications and Risk Assessment Statement.

Under section 28(2) of the Localism Act 2011, "A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure of-

- (a) pecuniary interests, and
- (b) interests other than pecuniary interests".

Accordingly, Members and Co-opted Members must notify the Monitoring Officer of any interests that the Council has decided should be included in the register.

#### Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	This report provides insight into the high ethical standards applied across all levels of the authority.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

## **Conclusions**

The Committee is asked to consider whether the DCLG amendments as set out in red within their illustrative text within Appendix A to this report should be recommended to the Governance Committee for adoption by Council.

## **Appendices**

Appendix A – Letter from DCLG dated 20<sup>th</sup> September 2013 with illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity with amendments shown in red for possible incorporation in the Members' Code of Conduct.

Appendix B – DCLG's "Openness and transparency on personal interests A guide for councillors"

## **Background Papers:**

[The Council's Constitution in particular Appendix O "Notification of Disclosable Pecuniary Interests \(Sevenoaks District Council\)" and Appendix Q "Sevenoaks District Council Members' Code of Conduct"](#).

[The Localism Act 2011](#)

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**