

## Wiltshire Council

### Standards Committee

10 July 2013

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#### **Code of Conduct - Registration and Disclosure of Additional Interests**

##### **Purpose**

1. To ask the Standards Committee to consider whether the Council's Code of Conduct should be amended to require the declaration and registration of any additional pecuniary and non-pecuniary interests over and above the statutory disclosable pecuniary interests, having regard to the outcome of a consultation with parish, town and city councils on this subject.

##### **Background**

2. At its meeting on 26 June 2012 the Council adopted a Code of Conduct which complies with the statutory requirements, but the Council also resolved to ask the Standards Committee to develop proposals, in consultation with parish, town and city councils, on any additional pecuniary and non-pecuniary interests that should be declared and registered under the Code of Conduct, on the question of withdrawal from meetings, and to bring these back to Council for consideration at the earliest opportunity.
3. At its meeting on 13 November 2012 Council adopted the following recommendation made by the Standards Committee at its meeting on 24 October 2012.

*To adopt the following as an interim position, pending consultation with parish, town and city councils, and to report back to the Council at its meeting in February 2013 on the outcome of the consultation and any final recommendations for adoption by the Council.*

*To amend Wiltshire Council's Code of Conduct to require Councillors to:*

*a. register details of any interest in the following:*

- *any body of which the councillor is a member or in a position of general control or management and to which the councillor is appointed or nominated by the Council;*
- *any body exercising functions of a public nature of which the councillor is a member or in a position of general control or management;*
- *any body directed to charitable purposes of which the councillor is a member or in a position of general control or management;*
- *any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the councillor is a member or in a position of general control or management;*

- b. *declare the existence and nature of any such interest at any meeting of the Council where business relating to the interest is being conducted.*

*Having declared such interest Councillors may then speak and vote on the matter, unless the Councillor decides this would not be appropriate due to other special circumstances.*

4. A draft code of conduct reflecting this position was considered by the Constitution Focus Group at its meeting on 24 January 2013. It was resolved:
- (1) To ask the Solicitor to the Council and Monitoring Officer to make the proposed amendments to the code of conduct in relation to the registration and declaration of additional interests without the inclusion of appendices 3 (which listed the statutory disclosable pecuniary interests) and 4 (which set out the other additional interests to be registered) and include the appendices as part of a separate guidance document.
  - (2) To ask the Standards Committee to consider the amended code of conduct along with the result of the consultation with parish, town and city councils on additional interests with any recommendations from the Standards Committee being considered by Council.
5. The Focus Group was clear that any final decision on proposed changes to the code of conduct should be reserved to the new Council. This approach was supported by Group Leaders.
6. Parish, town and city councils have been consulted on the proposed changes to the code of conduct and their responses are summarised below.

### **Main Considerations**

7. A copy of the consultation letter that was sent to parish, town and city councils in December 2012 is attached at Appendix A. Council clerks were advised subsequently that the consultation period had been extended in view of the decision to defer making a decision on the matter until after the May elections.
8. The Council received 97 responses from among the 253 parish, town and city councils in Wiltshire. In summary, from the information received:
- a. 61 councils have adopted Wiltshire Council's Code of Conduct.
- Of these:
- 17 councils indicated that they are in favour of including the additional specified interests within their adopted Codes. 3 of these stated that their members already declare such interests on a voluntary basis.
  - 38 Councils indicated they are not in favour of including the additional specified interests. 1 of these stated that their members do this voluntarily anyway.

- b. 18 councils have adopted the National Association of Local Councils (NALC) Code of Conduct. It should be noted that the NALC Code of Conduct already requires councillors to declare and register additional interests of a similar nature to those proposed in the consultation and it imposes restrictions on participating and voting where such interests relate to matters being considered. There was a strong suggestion that some council's who have adopted the NALC Code were not fully aware of the restrictions and obligations contained within it.
  - c. 4 council's have adopted the DCLG draft illustrative text code of conduct, which is essentially the same as Wiltshire Council's Code..
  - d. 4 councils have adopted some other form of code.
  - e. 10 councils did not state which Code had been adopted.
9. A summary table of the results is included as Appendix B.
10. Comments received as part of the consultation are included at Appendix C. The Committee will wish to have careful regard to these comments, bearing in mind particularly that a significant majority of these councils (and, it is understood, of all councils in Wiltshire) have adopted Wiltshire Council's existing Code of Conduct.
12. The proposed amendments help to provide clarity in setting out the type of interests that should be declared and registered over and above the statutory disclosable pecuniary interests and serve to promote the interests of openness and transparency. The proposals do not seek to restrict or inhibit councillors in fulfilling their democratic role and responsibilities and provide that, having declared such interests, councillors may speak and vote on the matter, unless they decide that this would not be appropriate due to their own particular circumstances.
13. It should be noted that if these changes are adopted a failure to comply with the requirement to register or declare such an interest would amount to a breach of the code of conduct. However, unlike breach of the requirements relating to disclosable pecuniary interests, it would not amount to a breach of the criminal law.
14. It should be borne in mind that the Code already includes an obligation, over and above the requirements in relation to disclosable pecuniary interests, to declare any private interests, both pecuniary and non-pecuniary, that relate to a councillor's public duties, and to take steps to resolve any conflicts arising in a way that protects the public interest .... see paragraph 6 of the Code. The proposed changes do not seek to limit this obligation in any way.
15. It is evident that many councillors, as a matter of good practice, already register additional interests of the kind proposed in their register of interests and routinely declare these when relevant business is being considered. An alternative approach may, therefore, be to promote and encourage this practice on a voluntary basis through appropriate guidance, training and support instead of making it a specific requirement of the Code. The position

could then be kept under review to determine whether firmer arrangements were necessary.

16. There would seem to be no compelling case for a general requirement in standing orders for councillors with a disclosable pecuniary interest, or indeed any other interest, to withdraw from a meeting when relevant business is being considered. Councillors may, however, conclude that this would be appropriate in particular circumstances.
17. Mention is made in one of the responses received on whether it would be appropriate for the Code to be more specific about the level of any gifts and hospitality which should have to be declared. Under the former Code of Conduct gifts and hospitality with a value exceeding £ 25 had to be registered and declared. The current NALC Code requires registration and declaration of any gifts or hospitality worth more than an estimated value of £ 50 which the member has received by virtue of his or her office.
18. Wiltshire Council's Code provides (at paragraph 2) ' You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.' This may be considered to cover the issue sufficiently without the need to include any particular amount. The Committee's views on this issue are also sought.
19. If the Committee is minded to agree the proposed changes to the existing code the proposed wording is set out in Appendix D to the Minutes of the Constitution Focus Group under item no. 8 above.
20. The DCLG has issued revised guidance in March 2013 on 'Openness and transparency on personal interests'. This provides a useful summary of the requirements. A copy is attached at appendix D to this report.

### **Financial Implications**

21. Adoption of the proposed changes could result in more complaints falling to be dealt with under the code of conduct and potentially more costs, although these are unlikely to be significant given that these would be processed within existing resources.

### **Legal Implications and Risks**

22. The Council has a power under the Localism Act 2011 to include a requirement for registration and disclosure of such additional pecuniary and non-pecuniary interests as it considers appropriate, but is under no duty to make such provision.
23. There may be a risk of damaging local democracy if a significant proportion of councillors were to decide to leave office on the grounds that the requirements on disclosure and registration of interests are unduly onerous and disproportionate. This is considered to be a relatively low risk given the nature of the proposals involved and should be balanced against the public interest in openness and transparency.

## **Environmental Implications**

23. None.

## **Proposal**

24. The Standards Committee is, therefore, asked to consider the proposed changes to the Code of Conduct, having regard to the responses from the parish, town and city councils, and recommend Council to proceed as the Committee considers appropriate.

**Ian Gibbons**

**Solicitor to the Council and Monitoring Officer**

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Unpublished reports relied upon in the production of this report: None

Appendix A - Consultation letter to parish, town and city councils - December 2012

Appendix B - Summary table of results of consultation

Appendix C - Comments received from consultees

Appendix D - DCLG Guidance 'Openness and transparency on personal interests' A guide for councillors