

For General Release

REPORT TO:	ETHICS COMMITTEE 20 NOVEMBER 2013
AGENDA ITEM NO:	6
SUBJECT:	DCLG NON-STATUTORY GUIDE: OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS – A GUIDE FOR COUNCILLORS (SEPTEMBER 2013)
LEAD OFFICER:	COUNCIL SOLICITOR, DIRECTOR OF DEMOCRATIC AND LEGAL SERVICES & MONITORING OFFICER
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Council has determined that the Ethics Committee shall be responsible for receiving reports from the Monitoring Officer on matters of probity and ethics for consideration.	
FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1. RECOMMENDATIONS

The Committee is asked to:

- 1.1 Consider the contents of the report and attachment and agrees not to recommend any changes to the Members' Code of Conduct to the Council.

2. EXECUTIVE SUMMARY

- 2.1 Following statutory amendments to the ethics regime, full Council adopted a Code of Conduct and DCLG thereafter produced a non-statutory guide for Members giving "basic practical information about how to be open and transparent about...personal interests" which is entitled Openness and transparency on personal interests – a guide for councillors, March 2013. DCLG have subsequently produced a further non-statutory guide for Members entitled "Openness and transparency on personal interests – a guide for councillors – September 2013". A copy of the guide is attached at Appendix 1.

3. DETAIL

- 3.1 The guide is non- statutory and is not guidance issued by the Secretary of State under a specific power within the Localism Act 2011. It contains a disclaimer that it should not be taken as providing any definitive interpretation of the statutory requirements and that Members should seek their own legal advice.
- 3.2 The guide is divided into a number of questions and answers. Whilst some sections simply restate the legislative requirements, other responses constitute an interpretation by DCLG of the legislative provisions which import additional or different requirements from those specified in the statute or regulations which govern this area.
- 3.3 There have been no legislative changes between when the guide was initially issued in March 2013 and the issuing of the September 2013 version however there are two specific additions to the “new guide”.
- 3.4 Firstly the penultimate paragraph has been added to page 2 of the guide which reads as follows:
- “As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.”*
- 3.5 The second addition appears at paragraph 3 of page 3 where the following has been added to the first sentence: *“or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union.”*
- 3.6 In the first instance, the legislation does not require compliance by Members with the “Seven Principles of Public Life” but rather that in adopting any Code of Conduct, each Local Authority is to ensure that its code is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It does not require that any Local Authority adopt the descriptions attributed to such principles by the Committee for Standards in Public Life.
- 3.7 Secondly, even if the legislation required Members to abide by the “Seven Principles of Public life” as opposed to requiring that the Code adopted by the Council is consistent with the principles set out in the Act, it does not follow, logically or in law, that this amounts to a requirement to declare Trade Union Membership. Trade Union membership was expressly included as part of the old Standards regime and expressly excluded as part of the new regime unless the Council in adopting its Code of Conduct specifically required this of its Members, which Croydon did not.
- 3.8 It is not clear why the guide has singled out only Trade Union Membership for special treatment despite there being numerous groups, including lobbying groups, which are not referenced in the guide and not required to be declared

by the applicable legislation . Unless the trade union membership falls within the ambit of sponsorship – in other words that there has been a payment or provision of financial benefit made or provided to the Member within the relevant period in respect of their duties as a Member or towards that Member's election expenses by an external body (which would include a trade union) - there is no statutory basis for this requirement to declare trade union membership, either within the Localism Act or within The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. It is the latter legislation which specifies which interests Members are obliged to disclose. An extract from the regulations is appended to the guide which forms part of Appendix A to this report.

3.9 Members are invited to consider whether the ethics committee should request that the Monitoring Officer offer guidance to Members in light of the nature of the guide which has been prepared by DCLG by circulating this report.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1 There are no direct financial or other implications arising from this report.

CONTACT OFFICERS:

Julie Belvir, Council Solicitor, Director of Democratic and Legal Services and Monitoring Officer (ext 64985)

BACKGROUND DOCUMENTS:

None