

Report for: Standards Committee - 4 March 2019

Title: Register of Interests – Disclosable Pecuniary interest in Land

Report

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Ward(s) affected: N/A

Report for Key/

Non Key Decision: Non-Key

1. Describe the issue under consideration

This report responds to and takes forward discussion from the previous Committee meeting on the declaration of home addresses on Members' Register of Interests form.

2. Cabinet Member Introduction

N/A.

3. Recommendations

3.1 To note the report.

4. Reasons for decision

4.1 To respond to a request from the Chair of Standards and Committee members to explore consideration of the requirement to divulge a Councillor's home address on the Councillor Register of Interest form published on the Council's website and consider the risks around this option as well as provide information on how other boroughs take this requirement forward.

5. Alternative options considered

Not applicable

6. Background information

6.1 The model Code of Conduct was issued by the Secretary of State under section 50 of the Local Government Act 2000 in 2007, regarding the conduct which is expected of members and co-opted members of an authority. The Localism Act in 2011 also brought in changes to the Standards regime and provided further guidance on the declaration of interests, including introducing pecuniary and non-pecuniary interests to further help with separating out the business interests of members and co-opted members.

6.2 The Council have continued to adopt a code of conduct for Councillors and this is set out in part 5 of the Constitution. The code is based on the 7 Nolan principles of selflessness; integrity; objectivity; accountability; openness; honesty and

leadership; and is essential in promoting confidence in the authority for decision making and ensuring that the interests of the whole borough are at the forefront of decision making.

- 6.3 The code of conduct sets out how the business of the authority should be conducted and sets out the responsibility of members acting on behalf of the local authority. It provides a list of general obligations and the definition of personal interests, prejudicial interests, pecuniary interests and those interests which are disclosable and non-disclosable.
- 6.4 There is a need for members to register their interests within 28 days of taking public office. This register is needed so that the public, authority staff, and fellow members know which Councillor's interest might give rise to a conflict of interest. Members must also advise of any change to their register of interests within 28 days. The Localism Act further prescribes, at section 29 (5b), that the member's register of interest is published on the Council's website.
- 6.5 The model Code of Conduct for Members in 2007 provided a list of interests that must be disclosed. This included any Land and property in the authority's area in which a member has a beneficial interest (or a licence to occupy for more than 28 days) including but not limited to, the Land and house that the member may live in and any allotments a member owns or uses. This is also adopted in the Council's Constitution and land is listed as a disclosable pecuniary interest.
- 6.6 It has been the continuing advice of the Monitoring Officer to advise members to register their home address on the declaration of interest form in order to meet this requirement.
- 6.7 The mechanism for withholding an interest from the register (to include redactions) is contained within section 32 of the Localism Act, which deals with 'Sensitive Interests'. This provision is designed to cover situations where the nature of the interest is such that the member or co-opted member, and the authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation. This is also replicated in the Council Constitution at part 5, section 8.1.
- 6.8 The operation of section 32 requires some evidence in relation to the member whose interests are under consideration. That is, there would need to be some material on which to form a rational view as to whether disclosure could lead to the relevant individuals being subjected to violence or intimidation.
- 6.9 The Monitoring Officer has indicated that he is willing to consider individual representations from Councillors that their land interest should be withheld due to actual or potential risk of violence or intimidation, and will make a decision based on the information and evidence provided. However, taking forward a blanket policy of excluding home addresses would not conform to the Council Constitution nor legislation.

- 6.10 The attached appendix provides information on desktop research completed on London Boroughs councillor's register of interests and this demonstrates a mixed practice of conformity. There are two councils which seem to exclude the addresses of the councillors completely from the register of interests and provide the reason of it being a sensitive interest. When considering their Constitutions, they apply the same list of disclosable pecuniary interests and provide the same criteria for sensitive interest as listed in the Haringey Constitution and Localism Act 2011. It seems unlikely that all the councillors have been subjected to violence or intimidation and there is more likely to be inconsistent use of this rule.
- 6.11 Legal Services have advised that legislation removing the requirement for candidates to have their home address published on the ballot paper and statement of persons has now been made and will apply for all principal area and parish Council elections held in England on or after 2 May 2019.
- 6.12 Specific provision is made about the inspection of the home address form. It may only be inspected by a person standing nominated as a candidate in the same electoral area as the candidate in question, or their agent/prosper/seconded.
- 6.13 There is currently no change in the legislation identified as yet relating to Councillor addresses on register of interest forms and this is likely to be related to the nature of a Councillor's position of local power and financial elements in their role as decision maker.
- 6.14 Consideration was also given to MP's register of interest and this does not include home addresses but other property interests are included.

7. Contribution to strategic outcomes

Members of the Council are directly responsible for the setting and oversight of all strategic priorities.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

There are no financial implications arising from this noting report.

Legal

Legal implications are contained within the body of this report.

Equality

9. Use of Appendices

Desktop research on register of interest's appendix 1

10. Local Government (Access to Information) Act 1985
N/A

