

Standards Committee

17 December 2019

Review of Member Code of Conduct / Code of Practice for Members and Officers dealing with Planning Matters

Ordinary Decision



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

None

Purpose of the Report

- 1 To consider proposed changes to the Member Code of Conduct and the Code of Practice for Members and Officers dealing with Planning Matters.

Executive summary

- 2 This report considers a proposed change to provisions in the Member Code of Conduct on 'other relevant interests', which would allow Members with such an interest to speak but not vote on the relevant item of business.
- 3 If the proposed change is approved, there would be consequent changes to the Code of Practice for Members and Officers dealing with Planning Matters.

Recommendation(s)

- 4 The Standards Committee is recommended to:
 - (a) Consider the proposed changes to the Member Code of Conduct and Code of Practice for Members and Officers dealing with Planning Matters; and
 - (b) Recommend the proposed changes to Constitution Working Group for consideration.

Background

- 5 The Localism Act 2011 introduced new arrangements for the declaration of Members Interests. The Act introduced 'Disclosable Pecuniary Interests (DPIs), which are defined by legislation and must be declared by law. Failure to declare a DPI may constitute a criminal offence.
- 6 The interests regime introduced under the Localism Act removed the requirement for Members to declare personal and / or prejudicial interests. However, many authorities including Durham County Council, included a requirement to declare other relevant interests within their Member Codes of Conduct. Unlike with DPI's, there is no legal requirement to declare other relevant interests but failure to do so may amount to a breach of the Member Code of Conduct.

Other Relevant Interests

- 7 Paragraph 9 of the Council's Member Code of Conduct provides that: Members may have an other relevant interest (which is not a disclosable pecuniary interest) in any matter to be considered or being considered at the meeting where:
 - (a) a decision in relation to that matter might reasonably be regarded as affecting the wellbeing or financial standing of them or a member of their family or a person with whom they have a close association or an organisation or body under paragraph 5.1(b), 5.1(c) or 5.1(d) above to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the authorities administrative area; and
 - (b) the interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.
- 8 Paragraph 9.2 of the Code goes on to state that where a Member has an other relevant interest, they must declare it either at or before consideration of the item of business or as soon as the interest becomes apparent. The Member must not participate in any discussion or further discussion of an item or in any vote taken on that item and must leave the room whilst the discussion and voting takes place.
- 9 There are corresponding provisions at paragraphs 3.1 and 3.2 of the Code of Practice for Members and Officers dealing with planning matters.

- 10 The provisions which prevent Members from speaking on matters where they have another relevant interest are quite strict. Other authorities allow Members with such interest to speak but withdraw prior to the vote. Others do not have provisions relating of other relevant interests at all.
- 11 There have been a few instances recently at planning committee where Members have been precluded from speaking on matters which relate to their ward because they have an other relevant interests and the other ward councillors have not been able to attend to represent residents' views. This has caused concern at the ability of ward councillors to fulfil their duties. Since other relevant interests are provided for under the Member Code of Conduct rather than by legislation, there is no reason in law why members cannot speak on an item where they have a relevant interest but withdraw before the vote is taken. This approach is adopted in other local authorities where other relevant interest provisions have been retained.
- 12 Members are therefore invited to consider whether to amend the Code to enable Members with an other relevant interest to speak on a matter and withdraw for the vote.
- 13 If Members are minded to amend the rules, Council will be required to approve the amendments to the Member Code of Conduct and consequently amends to the Code of Practice for Members and Officers dealing with planning matters.

Conclusion

- 14 There is no legal requirement for Members to declare other relevant interests. Therefore, changes can be made with Council approval.

Appendix 1: Implications

Legal Implications

Section 28 of the Localism Act 2011 requires that the Council adopts a Code of Conduct, which is consistent with the Nolan Principles in public life. The Code must also include the provisions, which the authority considers appropriate in relation to the registration and disclosure of pecuniary interests (DPIs) and the interests other than pecuniary interests.

Finance

There are no financial implications arising out of the report.

Consultation

The proposed changes will also be considered by the Chairs and Vice Chairs of Planning Committee and the Constitution Working Group prior to being presented by full council.

Equality and Diversity / Public Sector Equality Duty

There are no equality and diversity implications arising out of the report.

Climate Change

There are no climate change implications arising out of the report.

Human Rights

There are no Human Rights implications arising out of the report. However, being able to represent the views of residents is an important element of local democracy.

Crime and Disorder

There are no Crime and Disorder implications arising out of the report.

Staffing

There are no staffing implications.

Accommodation

There are no accommodation implications

Risk

There is a limited risk that by amending the requirements in relation to other relevant interests, Members will not understand their obligations or fail to

declare interests appropriately. It is considered that this risk is no greater than the risk that exists under the present arrangements. The changes and the impact of changes will be communicated to Members and covered in future Code of Conduct training. Officers will continue to provide Members with advice on a case by case basis as required.

Procurement

There are no procurement implications.