



<b>REPORT OF:</b>	<b>MONITORING OFFICER</b>
<b>TO:</b>	<b>STANDARDS COMMITTEE</b>
<b>ON:</b>	<b>17<sup>th</sup> March 2016</b>

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**SUBJECT: Dual Hatted Members**

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### **1. PURPOSE OF THE REPORT**

To outline the issues relating to dual hatted members.

### **2. RECOMMENDATIONS**

The Standards Committee is requested to:

- 1] Note the contents of the report.
- 2] Consider whether refresher guidance or training should be provided to members and instruct the Monitoring Officer accordingly.

### **3. BACKGROUND**

Dual-hatted members are Councillors who serve on two or more authorities, for example, a Member who is both a Borough and Parish Councillor.

Members will not always have an interest or be conflicted in other ways because of their membership of another authority/body e.g. if they have considered the matter at a meeting of the other authority/body.

Although they will not automatically have an interest or be conflicted (through predetermination or bias) in an item under discussion at Borough Council level, they should always consider whether they have an interest which affects them to a greater extent than Council Tax payers etc.

Dual-hatted members need to be mindful of the implications of predetermination. Members, who choose to speak and vote at as Parish and Borough Council must not give the appearance of being bound only by the views of the parish. They will need to make clear that they will be prepared to reconsider the matter at the Borough Council meeting, taking into account all relevant evidence and representations made at that meeting. They must not give the impression that their mind is closed and their decision already made.

## 4. RATIONALE

### Prejudicial Interest

Membership of another authority/body gives rise to a prejudicial interest if *all* of the following conditions are met:

- a) the matter being discussed, affects the other authority's/body's financial position;  
and
- b) the member's interest affects them to a greater extent than Council Tax payers etc. and
- c) a reasonable member of the public with knowledge of the relevant facts, would believe that the member's ability to judge the public interest would be impaired.

It should be noted that a regulatory application, including a matter of consent or approval, licence, permission or registration made by the other authority/body, is considered to have an impact upon the financial interests of that authority/body. For example the Parish Council seeking planning permission to extend one of its own buildings will mean a member of the Parish who is a member of the BwD Planning Committee must declare and withdraw. Membership of another authority/body gives rise to a disclosable pecuniary interest where for example, the member is employed by the other authority as a parish clerk.

Members can only participate in the discussion and vote on an item in which they have a prejudicial or disclosable pecuniary interest if they have been granted a dispensation to speak or to speak and vote. Otherwise, you must withdraw from the meeting room during the debate and not vote on the item. Members must declare at the beginning of the meeting, or as soon as they become aware of the interest, the existence and nature of the interest and how the business under consideration relates to their membership of the other authority/body.

Members should consider whether membership of another authority/body raises other conflicts. Although they may not have a prejudicial or disclosable pecuniary interest, they may be conflicted because of actual or perceived predetermination or bias.

Members can represent their constituents if they have a prejudicial or disclosable pecuniary interest or if they are conflicted in other ways by:

- making written representations - these should be addressed to officers
- arranging for another Member to represent the views of their constituents.

### Code of Conduct

If a member is on more than one authority or if they represent Blackburn with Darwen Council ['BWDC'] on another authority they must abide by the code of conduct that applies to the authority whose business they are carrying out at the time. For instance, if a member is a Darwen Town Councillor and also a Blackburn With Darwen Councillor,

they would be bound by BWDC's code of conduct when carrying out BWDC business, if it was different. [In reality they have currently adopted the same code as BWDC, as have the majority of our parish councils].

A member may, for example, consider the same issue at more than one tier of local government including speaking and voting in both tiers so long as certain conditions are satisfied. Thus at Parish Council it should be made clear that as a member of the BWDC, you must reconsider the matter afresh taking into account all relevant evidence and representations made at the BWDC meeting and declare a personal (but not prejudicial) interest arising from your membership of the Parish Council . It should also be made clear that the Parish Council views on the matter does not bind you personally and that you will consider the matter afresh.

### Dispensation

Whilst a dispensation can be applied for in certain matters, for example, to speak and vote on issues relating to Council Tax and Members' allowances, members should not sit on decision-making bodies such as planning and licensing committees when they decide applications from another authority on which they also serve. The same situation would apply where there is a contract between the two authorities, for example, in the case of a lease of premises by BWDC to a Parish. Similarly, if a member is a governor of a school and a decision comes before the Council as to whether or not to close that school, it is recommend that a dispensation should not be utilised and a prejudicial interest be declared.

If a member serves on more than one authority they need to register their interests for each authority.

## **5. POLICY IMPLICATIONS**

The Code of Conduct for Members is included in the Constitution and provides the framework for the standards required and actions to be taken when declaring any members interests.

## **6. FINANCIAL IMPLICATIONS**

None.

## **7. LEGAL IMPLICATIONS**

It is a criminal offence if, without a reasonable excuse, a member fails to tell the Monitoring Officer about his/her disclosable pecuniary interests, either for inclusion on the register if a newly elected, co-opted or appointed member, or to update the register if re-elected or re-appointed, or when he/she becomes aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter, that will be or is being considered at a meeting where he/she is present, or on which he/she is acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business

involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which a member has a disclosable pecuniary interest. A member found guilty of such a criminal offence, could be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

## **8. RESOURCE IMPLICATIONS**

None.

## **9. EQUALITY IMPLICATIONS**

None.

## **10. CONSULTATIONS**

Not applicable.

### **Chief Officer/Member**

Contact Officer: Sian Roxborough, Head of Legal Services  
Date: 9<sup>th</sup> March 2016  
Background Papers: Council Constitution as published.  
Council Report: - The Localism Act 2011- Code of Conduct for Members.  
Guidance: Department for Communities and Local Government (DCLG) -  
"Openness and transparency on personal interests".