

THE RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS) REGULATIONS 2012

S.30 (3) of the Localism Act 2011 (“the 2011 Act”) confirms that disclosable pecuniary interests (DPIs) are interests of a member (including a co-opted member) as defined by regulations made by the Secretary of State and they are the interests of the member or the interests of the member’s spouse or civil partner or the interests of the person with whom the member lives as if they were a spouse or civil partner.

The Schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the 2012 Regulations”) defines the DPIs which a member or co-opted member has obligations in the 2011 Act to register and disclose.

It is NALC’s view that the 2012 Regulations are hard to follow and open to different interpretations. NALC has interpreted them to mean that DPIs described in the 2012 Regulations and arising from employment, sponsorship, land, licences and securities apply to the member alone and the other DPIs apply to both the member and the member’s spouse or civil partner or the person with whom he/she lives as if they were a spouse or civil partner. Another legal interpretation is that all interests in the 2012 Regulations apply to a member and that member’s spouse or civil partner.

The Department for Communities and Local Government (“DCLG”) has this month issued a non statutory guide for councillors on the openness and transparency on personal interests. The guide can be accessed via <http://www.communities.gov.uk/publications/localgovernment/personalinterestsguide>.

DCLG’s interpretation of the 2012 Regulations, as confirmed in the annex to the guide, is that all of the interests listed in the Schedule, apart from sponsorship, apply to the member and the member’s spouse or civil partner. The table below follows this interpretation.

DCLG’s guide confirms that for registration purposes, an interest of a member’s spouse or civil partner or the person with whom the member lives as if they were a spouse or civil partner which is listed in the table below is the member’s DPI so the member’s partner’s name does not need to appear in the register. The guide also confirms that there is no legal requirement for members’ signatures to be published online.

NALC recommends that members should follow DCLG’s interpretation of the 2012 Regulations in order to minimise the risk of a successful prosecution pursuant to s.34 of the 2011 Act.

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain undertaken by (i) the member, or (ii) the member's spouse or civil partner or (iii) a person with whom the member is living as spouse/ civil partner.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the member's authority) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.</p> <p>"Relevant period" means the period of 12 months ending with the day on which the member of an authority gives a notification to the monitoring officer for the purposes of section 30(1) of the 2011 Act.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between (i) the member, or (ii) the member's spouse or civil partner or (iii) a person with whom the member is living as spouse/ civil partner, (or a body in which any of these persons has a beneficial interest) and the member's authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> <p>"Body in which any of these persons has a beneficial interest" means a firm in which they are a partner or a body corporate of which they are a director (including a member of the managing committee of an industrial and provident society), or in the securities* of which they have a beneficial interest.</p>
Land	<p>Any beneficial interest in land held by (i) the member, or (ii) by the member's spouse or civil partner or (iii) by a person with whom the member is living as spouse/ civil partner authority which is within the area of the member's authority.</p> <p>Land excludes an easement, servitude, interest or right in or over land which does not carry with it a right for (i) the member or (ii) the member's spouse or civil partner or (iii) a person with whom the member is living as spouse/ civil partner (alone or jointly with another) to occupy the land or to receive income.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the authority held by (i) the member, or (ii) by the member's spouse or civil partner or (iii) by a person with whom the member is living as spouse/ civil partner for a month or longer.

Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the member's authority; and (b) the tenant is a body in which (i) the member, or (ii) the member's spouse or civil partner, or (iii) a person with whom the member is living as spouse/ civil partner and has a beneficial interest (defined above).
Securities	<p>Any beneficial interest of (i) the member, or (ii) the member's spouse or civil partner or (iii) a person with whom the member is living as spouse/ civil partner in securities* of a body where—</p> <p>(a) that body (to the member's knowledge) has a place of business or land in the area of the member's authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which (i) the member, or (ii) the member's spouse or civil partner, or (iii) a person with whom the member is living as spouse/ civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <p>*"Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.</p>

Legal Topic Note 80 "Members' conduct and the registration and disclosure of their interests (England)" also contains guidance about the obligations of members and co-opted members in respect of the disclosure of DPIs and other interests specified in a council's code of conduct.

This briefing was issued by Jane Moore, Solicitor

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