

## **Appendix 7 to Circular LG 2 / 2015**

### **Notes on Part 15 of Local Government Act 2001 for Non-Councillor Members of Local Authority Committees, etc.**

These notes have been prepared for the assistance of non-councillor members of local authority committees, joint committees, or joint bodies in relation to the provisions of Part 15 of the Local Government Act 2001 which are relevant to them and in particular relate to the disclosure of interests at meetings of such committees.

**Part 1**        Summary of the relevant provisions of Part 15

**Part 2**        Disclosure requirements at meetings

**Part 3**        Code of Conduct for Councillors

In these notes:

“the Act” means the Local Government Act 2001 (No. 37 of 2001) as amended and references to sections are references to sections of that Act;

“Part 15 Regulations 2015” means the Local Government Act 2001 (Part 15) Regulations 2015 (SI No. 29 of 2015) which replace the Local Government Act 2001 (Part 15) Regulations 2004 (SI No. 770 of 2004).

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**These notes are for assistance only. They do not purport to be a legal interpretation of the Act or the Part 15 Regulations 2015 which should be consulted.**

**January 2015**

**PART 1**  
**Local Government Act 2001 – Part 15**  
**Non-Councillor Members of Local Authority Committees, etc. – Main**  
**Provisions**

**Section 168**

It is your duty to maintain proper standards of integrity, conduct and concern for the public interest.

**Section 169**

Separate codes of conduct (one for councillors and one for employees) were issued by the Minister in 2004 following consultation with the Minister for Finance and the Standards in Public Office Commission. The Code of Conduct for Councillors includes provisions regarding non-councillor members of local authority committees. See Part 3 of these notes.

**Section 170**

You are prohibited from seeking, exacting or accepting a fee, reward or favour for anything done or not done by virtue of your membership.

**Section 177(4)**

You are prohibited from influencing or seeking to influence a decision of the local authority in respect of any matter in which you have “actual knowledge” that you or a connected person has a pecuniary or other beneficial interest.

**Section 177**

If such a matter arises at a meeting of your committee or body you must disclose the interest, withdraw and take no part in the proceedings. If you have “actual knowledge” that such a matter will arise at a meeting at which you will not be present, you must make a disclosure in writing to the Ethics Registrar in advance of the meeting.

## PART 2

### **Disclosure of interests at meetings of committees, etc. by non-councillor members**

#### **1. Who must disclose interests at meetings of a committee, etc.? (Section 177)**

Any member of a committee, joint committee or joint body of a local authority is required to disclose pecuniary or other beneficial interests at a meeting of such authority, committee or body. This includes non-councillor members.

#### **2. What interests do I need to disclose at a meeting? (Section 177)**

You must disclose any “pecuniary or other beneficial interest” that you have “actual knowledge” of, that you or that a connected person has in, or which is material to any matter proposed or otherwise arises at a meeting of the committee or other body either as a result of any of its functions or as regards the performance of any of its functions.

#### **3. What is a pecuniary or other beneficial interest? (Section 176)**

The Act provides that a “beneficial interest” includes an interest in respect of which -

- a) you or a connected person, or any nominee of yours or of a connected person, is a member of a company or any other body which has a beneficial interest in, or which is material to, any such matter,
- (b) you or a connected person is in a partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, any such matter,
- (c) you or a connected person is a party to any arrangement or agreement (whether or not enforceable) concerning land which relates to any such matter,
- (d) you or a connected person in the capacity as a trustee or as a beneficiary of a trust has a beneficial interest in, or which is material to, any such matter,
- (e) you or a connected person is acting with another person to secure or exercise control of a company which has a beneficial interest in, or which is material to any such matter.

For the purposes of section 176 a “beneficial interest” is also deemed to include a “declarable interest” within the meaning of section 175 in, or which is material to the matter. These declarable interests cover such matters as land ownership, business of dealing in land, etc.

**4. What is a connected person? (Section 166)**

Your obligation to disclose interests also relates to interests that you have “actual knowledge” of, of a “connected person”. A “connected person” means a means a brother, sister, parent or spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the person or a child of the person or of the spouse. A spouse includes a person with whom you are co-habiting.

**5. What must I do if I or a connected person, has a ‘pecuniary or other beneficial’ interest? (Section 177)**

You must disclose the nature of your interest or the fact of a connected person’s interest at the meeting before discussion or consideration of the matter begins. You must then withdraw fully from the meeting for so long as that matter is being discussed or considered. The Act provides that you shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

**6. What happens to disclosures made at meetings? (Section 177(3))**

The minutes of the meeting must refer to disclosure(s) made and withdrawal(s) from the meeting. The public register will also record disclosures.

**7. When do I not have to disclose an interest at a meeting?**

You do not have to disclose an interest where

- (a) your or a connected person’s interest is so remote or insignificant that it could not reasonably be regarded as influencing a person in considering or discussing, or in voting on, any question with respect to the matter or in performing any function in relation to that matter [section 176(3)(a)].

- (b) where your interest or a connected person's interest is as a result of being a ratepayer or a local authority tenant, service charge payer, etc. and in common with other ratepayers/tenants/payees [section 176(3)(b) and (c) and regulation. 8, Part 15 Regulations.]
- (c) in circumstances relating to consideration or performance of functions relating to remuneration, allowances or other payments (regulation. 8, Part 15 Regulations).
- (d) where your or your nominee or a connected person's interest in land or an interest relating to land or any business of dealing in or of developing land arises solely through a small shareholding in a company etc. (section 167(3))

**8. If I know that I, or a connected person, has an interest in a future meeting at which I know I will not be present what must I do? (Section 177(2))**

You must disclose this interest in writing to the Ethics Registrar in advance of the meeting.

**9. Prohibition on seeking to influence a decision where you or a connected person has a pecuniary or other beneficial interest (Section 177(4))**

Section 177(4) provides as follows : “A member of a local authority or of any committee, joint committee or joint body of a local authority shall neither influence nor seek to influence a decision of the authority in respect of any matter which he or she has “actual knowledge” that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.”

**10. Code of Conduct**

Your attention is also drawn to the Code of Conduct for Councillors and in particular the provisions of section 10.2 of the Code concerning non – councillor members of local authorities (See Part 3 to these Notes also).

### **Part 3**

## **Code of Conduct for Councillors**

The Minister issued separate national Codes of Conduct for councillors and employees under section 169 of the Local Government Act 2001 in 2004. A revised Codes of Conduct for Employees was issued in 2007. These codes of conduct complete the comprehensive ethics framework for the local government service which was introduced in January 2003. These codes represent a standard against which the conduct of all those involved in local government can be judged in the performance of their duties. They are intended to inform the public of the standards of behaviour that they have a right to expect and so help to maintain and enhance public trust and confidence. They add to and supplement the specific requirements under the Act and form an integral part of the public ethics framework.

Section 10.2 of the Code of Conduct for Councillors refers to non-councillor members of committees of local authorities. It provides that in carrying out your role as a non-councillor member that you should abide by the principles set out in the code. In particular the code provides that you should avoid any conflict of interest and are subject to the disclosure requirements of the Act and of the code.