

Meeting:	Coast to Capital Board Meeting no. 39
Date:	19 April 2018
Report Title:	Declarations, Disclosures and Conflicts of Interest
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Item No:	2
Part:	A

Recommendation:

The Board is invited to note the attached guidance on dealing with interests and conflicts in LEP business, prior to a short presentation by the Director of Law and Assurance of West Sussex County Council at the Board meeting.

Background

1. The latest guidance from Government on LEP governance requires all Board members to complete a conflicts document which is published in order to give confidence in the operation of the organisation.
2. All Board members have completed this document and copies are published on our website.
3. At the start of the 2018/19 financial year, it is timely to receive guidance from our Accountable Body as to the best way of dealing with interests and conflicts in the course of LEP business. There will be a short presentation at the Board to ensure that latest best practice is fully understood.

Coast to Capital Local Enterprise Partnership

Dealing with interests and conflict in LEP business

1. Purpose and context

The LEP exists to discharge a set of responsibilities delegated to it by the Government. Its mix of business, skills and local democratic membership provides a source of authority, expertise, knowledge and accountability to the community it serves. It is responsible for the allocation of public money and the delivery of beneficial outcomes for which that money is provided.

Given the power to apply public funds and the responsibility to account for them to the Government, its community and local stakeholders, the LEP must act with the same levels of integrity transparency and scrutiny as any public body.

2. Sources of Rules and Guidance

The Ministry of Housing Communities and Local Government (MHCLG) has issued Best Practice Guidance and model instruments of governance following the Mary Ney review of LEP Governance in October 2017. This guidance provides a simple approach to managing the interests of LEP Directors and officers. This is based on the local government legal framework for member conduct and interest which derives from the **Localism Act 2011**. That legislation also provides a standard form of Code of Conduct. Interests are defined as either pecuniary or non-pecuniary (i.e. either the member or associate has a financial interest or they have an interest that may suggest bias or favourable treatment.

Pecuniary interests are defined and non-pecuniary interests are defined by exception by reference to the **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**. (see references below)

Otherwise the LEP should manage its own governance so as to achieve effective and efficient business in accordance with the MHCLG Best Practice Guidance.

3. Dealing with Interests – a practical guide

What are interests? Pecuniary or non-pecuniary

Pecuniary – refer to the list (see definitions below)

Non-pecuniary – all other relationships, employment, directorships, memberships, associations and ties which, if known, would lead a reasonable third party to think your judgment could be affected in relation to the LEP business in hand.

Other benefits (gifts and hospitality) should be registered. These may, if significant or regular, give rise to a non-pecuniary interest.

Whose interests?

- You, your spouse or partner (see definition).
- Any close family relative - children, parents, siblings
- Any person with whom you have a close personal relationship (friend/no)
- The financial or other interests of an organisation of which you are a member

What is the purpose of publicising them?

To give transparency to LEP member interests individually and collectively. It does not mean they will give rise to conflict with LEP business or need to be declared at meetings where not relevant.

Business can be conducted with all aware of the potential for conflicts to arise and able to work within the agreed procedures to manage conflicting interests.

Who is responsible for the declarations?

The individual with the interest is solely responsible. Each member should be able to seek advice from an officer about the relevance of an interest and the actions to take as a consequence. The member may also seek the views of others about the significance of an interest and the risk of perceived bias.

Where an interest is obvious and not declared another member may choose to remind the person – usually best dealt with privately, but cannot direct.

How to choose what to declare

Is it relevant to the LEP business?

Would it be seen by a reasonable third person as likely to affect your judgment about the business in hand or decisions relating to it and the overall public interest? What would that third person then expect you to do?

The consequences of declarations - conflict and proportionality

Once declared the member should consider any other action to take

- To take no part in the discussion
- To abstain from the vote or elect not to vote

These options should be considered against the level of conflict and risk of perception of bias balanced against the expectation that the member remain involved in decisions for which they have been appointed to the LEP. It may be enough to have declared the interest if satisfied that there would be no perceived bias or risk of effect upon judgment - a view which must be reasonably and responsibly held. The action must be proportionate to the significance of any conflict and the risks associated with it.

How to manage concerns over non-declarations

It is usually the Chair's responsibility to draw attention to potential conflicts and to manage the business of the meeting accordingly. Officers should be able to guide the member and the Chair about the options available. The rules or orders

for managing business should allow for business to proceed without undue risk of challenge or damage to the LEP's reputation whilst enabling a member to participate and discharge their representative role as far as is reasonable.

Dispensations

In order to ensure effectiveness of LEP business and fairness of representation there should be arrangements to seek, in advance of a meeting, a dispensation from any restrictions related to a conflict of interest –

- To allow the member to speak (and then to stay or leave)
- To allow the member just to be present
- To allow the member to speak stay and vote

These should be considered in advance, reasons given and made known to other members as part of the interest declaration process.

Risks and consequences of conflicts of interests

- Challenge to the validity of a decision if infected by bias
- Damaging publicity or harm to reputation if a breach of rules is made known
- Risks to relations with Government and Partners if conflicts of interest are ignored or members routinely or on significant matters participate in decisions affected by a risk of bias.

Enforcement and breach

A failure to comply with the rules is a breach of the Code of Conduct and should be referred for investigation and possible sanction.

The body represented by the member should be notified of the outcome of the breach investigation.

Other partners should be advised of the outcome and the Board may choose to give wider publicity to the breach and its treatment in order to maintain integrity.

Principles

- All members should be familiar with the principles in the Code of Conduct and the personal responsibilities arising.
- All members should be open about their interests and willing to seek and take advice about possible bias.
- All members should be able to exercise sound judgment about their interests
- All members should be treated equally and fairly in relation to the management of their interests
- All members should be treated fairly in relation to their requests for dispensation and to have their voice heard on a matter of interest to those they represent.

REFERENCES

A. The LEP Code of Conduct

The Code of Conduct should serve as the first reference point for the management of non-LEP interests

(a) Nolan Principles

Board Directors agree to act in accordance with the 'Seven Principles of Public Life', known as the Nolan Principles:

1. Selflessness - *Holders of public office should act solely in the public interest.*

2. Integrity - *Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.*

3. Objectivity - *Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.*

4. Accountability - *Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.*

5. Openness - *Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.*

6. Honesty - *Holders of public office should be truthful.*

7. Leadership - *Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.*

Code of Conduct Rules

Otherwise the LEP Code of Conduct prescribes the actions expected of all members in relation to declarations of interest. Note the items in bold.

(b) Conduct

Accordingly, when acting in your capacity as a Board Member of Coast to Capital Local Enterprise Partnership:

- *You must act in a manner consistent with your LEP's equality and diversity strategy and treat your fellow Board Members, members of staff and others you come into contact with when working in their role with respect and courtesy at all times.*
- ***You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.***
- ***You must not place yourself under a financial or other obligation to outside individuals or organisations that might be reasonably regarded to influence you in the performance of your official duties.***

- **When carrying out your LEP duties you must make all choices, such as making appointments, awarding contracts or recommending individuals for rewards or benefits, based on evidence.**
- You are accountable for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your position. **You must be as open as possible about both your decisions and actions and the decisions and actions of the LEP.** In addition, you should be prepared to give reasons for those decisions and actions.
- **You must declare any private interests, including membership of any Trade Union, political party or local authority that relates to your LEP duties. Furthermore, you must take steps to resolve any conflicts arising in a way that protects the public interest. This includes registering and declaring interests in a manner conforming with the procedures set out in the Coast to Capital Conflicts of Interest Policy.**
- You must, when using or authorising the use by others of the resources of your LEP, ensure that such resources are not used improperly for political or personal purposes (including party political purposes).
- You must promote and support high standards of conduct when serving in your LEP post, in particular as characterised by the above requirements, by leadership and example.

B. Definitions

a) Defined list of Pecuniary interests:

Schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

b) The scope of disclosable interests – whose interests are covered?

Interests should be declared when it arises due to a member's personal relationships – (**Localism Act 2011**). A **pecuniary interest** is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either—

- (a) it is an interest of M's, or
- (b) it is an interest of—
 - (i) M's spouse or civil partner,
 - (ii) a person with whom M is living as husband and wife, or
 - (iii) a person with whom M is living as if they were civil partners,

and M is aware that that other person has the interest.

c) Sensitive Information - requests for personal information about interests to be withheld from publication

Sensitive Interests – where a

- a) member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
- (b) 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.

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