

## **GUIDANCE NOTES FOR MEMBERS ON RELATED PARTY TRANSACTIONS**

### **BACKGROUND**

Local authorities are required to show 'related party transactions' as a disclosure note within their annual statement of accounts.

The Governance and Audit Committee in order to support high standards of corporate governance, has agreed that all Council Members should declare what are termed 'related party transactions' with the Council. Council Members are, therefore, being asked to sign a declaration so that the Council can comply with this requirement.

### **WHAT YOU NEED TO DO**

Read the guidance below and then complete the declaration that is attached to this letter and return it to Alan Nash, Chief Officer: Financial Services in Easthampstead House. If you require any advice or have any doubts about whether a transaction falls within the scope of a 'related party transaction', please contact either Alan Nash on 01344 352180 or Alex Jack, Borough Solicitor on 01344 355679.

### **WHY HAS THIS BEEN INTRODUCED?**

The declaration you are asked to make ensures the fair presentation of the Council's published accounts. The disclosure of related party transactions in the annual accounts has been introduced nationally to make the accounts more transparent and increase public confidence in local government. Directors and senior managers are also being asked to make similar declarations.

### **WHAT IS A 'RELATED PARTY'?**

The main consideration in determining whether or not a person or an organisation is a related party is the degree of control or influence exerted by one party over the other. This can arise where: -

- one party has direct or indirect control of the other party;
- one party has influence over the financial and operational policies of the other party; or
- the parties are subject to common control or influence from the same source.

The objective is to identify any transactions which may have taken place as a result of the control or influence exercised by one party over another. The concern is such transactions may not be, or may not be perceived to be, in the best interests of the Council.

### **ARE FAMILY, HOUSEHOLD AND BUSINESS INTERESTS OF MEMBERS AFFECTED?**

Yes. When considering who is a related party, regard is also taken of transactions between the Council and close family members. Who is a close family member is ultimately a matter of judgement for each Council Member, but would usually include any spouse or partner, child, grandchild, parent or grandparent.

In addition, if any individuals are associated with partnerships, companies, trusts or any entities in which they, or a member of their close family, have a major interest, transactions with that organisation should also be disclosed.

Related party disclosure requirements may apply when any payment or benefit arises under circumstances for which there is a statutory scheme or for which the Council has established eligibility criteria which apply to the public at large, e.g.

- housing renovation grants;
- planning consents; or
- provision of care services

### **EXAMPLES OF BUSINESS INTERESTS**

Examples of interests that might give rise to relevant transactions are:-

- You own a company or have a major shareholding in a company that contracts with the Council. No specific limit has been given for what constitutes a major shareholding but, as a broad guideline, more than 20% of the total should be taken as coming within the scope of these requirements.
- Your close relative or member of your household owns a company or has a major shareholding in a company that contracts or does business with the Council.
- You hold a position of influence within a voluntary organisation (in a personal capacity and not as a representative nominated by the Council) that receives grants from or provides services for the Council.
- You, a close relative, or member of your household are in receipt of income from an organisation that relies upon funding from the Council, e.g. a voluntary group.

### **EXAMPLES OF RELEVANT TRANSACTIONS**

The transactions that need to be considered for disclosure include such items as:-

- The purchase, hire, rent or sale of assets from or to the Council, e.g. land transactions, equipment supplies etc.
- The supply of services to the Council, e.g. printing, building contracts, consultancy services etc.
- Payments, loans or other benefits received from the Council of an exceptional nature and not covered by normal contracts of employment.

In addition, non-financial transactions need to be included, such as:-

- The provision of a guarantee by the Council to you or to a related party, e.g. a loan guarantee to a sports club in which the Member holds a position of influence.
- The reduction or waiving of a charge for services by the Council to you or to a related party, e.g. free use of facilities for particular individuals or groups associated with a councillor and/or their close family members.

### **ARE THERE ANY EXCEPTIONS?**

Yes: where transactions are common to all individuals, they need not be declared. For example, there is no need to declare council tax, rent or housing benefits which are transactions that would occur regardless of the individual's relationship with the authority.

**IS WHAT I DECLARE LIKELY TO BE DISCLOSED IN THE COUNCIL'S ACCOUNTS?**

Generally, it must be assumed yes, though disclosure will not be required in the accounts when the dealings between the Council and related party are judged to be immaterial. However, in assessing the materiality, that assessment will not only take account of its significance to the authority, but also in relation to the related party. If any disclosure is necessary it will be in general terms and will not name individuals. Any proposed disclosure will be discussed with the relevant Member before it is published.

**WHAT FORM DOES THE DECLARATION TAKE?**

Each year, you will be asked to sign a form of declaration. The form of declaration is attached. If you have related party transactions to disclose, the form asks for brief details of the transactions and the sums involved.

**WHEN DO I HAVE TO SIGN BY?**

By 30 April 2010, for transactions relating to the financial year 1 April 2009 to 31 March 2010.

**FINALLY....**

This is an important part of being seen to maintain high standards of ethical behaviour and we would like to thank you for your assistance in achieving this objective.

Chris Herbert  
Borough Treasurer

Alex Jack  
Borough Solicitor