

**To: Standards Committee**

**Date: 18th December 2015**

**Report of: Head of Law and Governance**

**Title of Report: Review of Code and explanatory guide in respect of avoiding bias**

# Summary and Recommendations

**Purpose of report**: To update the Committee on a review of the Code by the

Oxfordshire Monitoring Officers group and to present a joint guide on avoiding bias in decision making

**Recommendation(s):** That the report be noted.

Appendix 1 Bias in decision making. How to recognise and avoid it – a simple guide for Councils in Oxfordshire.

**Introduction**

1. The Code of Conduct for Members was adopted by the Authority in 2012. The Code was drafted by the Monitoring Officers for the Principal Councils in Oxfordshire (‘the County MO’s’) and has been adopted by all of the Principal Councils and the vast majority of Parish Councils in the County. There is a great deal of merit in having a common Code.

**Review of Code**

1. The County MO’s keep the Code under review and have recently considered whether any changes should be recommended to be made to it. The key issue under consideration was whether the Code should be revised to include a requirement to declare non-pecuniary interests.
2. The County MO’s concluded not to recommend such a change. Although the Localism Act 2011 gave a discretion to Authorities to include a requirement to disclose non-pecuniary interests, it did not define those interests as it did for pecuniary interests and neither did it provide any particular sanctions for non-declaration (beyond those limited sanctions available to the Committee for breaches of the Code). Non-declarations of pecuniary interests, however, is a criminal offence.
3. It was felt, therefore, that to introduce a requirement to register and declare non-pecuniary interests would be to extend the reach of the Code in circumstances where the sanctions for breach are limited. There is, of course, nothing to prevent Members who wish to register and disclose such interests from doing so. The Register of Interests form has been amended to provide a dedicated space within which such interests may be disclosed and Members may declare such interests at meetings. It is important to recognise, however, that Parliament has reserved criminal liability to a small number of defined pecuniary interests in a deliberate move away from a mandatory national Code backed up by effective local sanctions.
4. The County MO’s recognised that there was considerable overlap between non-pecuniary interests (or ‘personal interests’ as they were called under the previous code) and the common law rules on bias. Consequently, a simple guide on the topic has been drafted for all Councillors in Oxfordshire. The County MO’s agreed to distribute the guide to Councillors and will review the Code again next year.
5. The guide will be sent to all Councillors and I will use it as part of the training on ‘conduct’ which will be compulsory for all Members of Council following the local elections in May 2016.

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**List of background papers:** None