

SURREY COUNTY COUNCIL AUDIT REPORT

**Review of
Elected Members' register of interests & related party
disclosures
2011- 2012**

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Glossary:

IAS **International Accounting Standard**

Audit opinions:

Effective	Controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.
Some Improvement Needed	A few specific control weaknesses were noted; generally however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.
Major Improvement Needed	Numerous specific control weaknesses were noted. Controls evaluated are unlikely to provide reasonable assurance that risks are being managed and objectives should be met.
Unsatisfactory	Controls evaluated are not adequate, appropriate, or effective to provide reasonable assurance that risks are being managed and objectives should be met.

1. INTRODUCTION

- 1.1 Under the Members' Code of Conduct there is a formal requirement placed on elected members to:
 - Declare relevant personal interests when attending meetings of the council; and
 - Register personal interests in a formal written record that is accessible to the public.
- 1.2 The Register of personal interests ("the Register") is required to be completed within 28 days of election, and amended thereafter as new disclosures become relevant or old disclosures need to be changed. Within Surrey County Council the Register is maintained in Democratic Services. At the time of audit, the public cannot access the Register electronically through the council's website, although it can be inspected in hard copy at County Hall on request.
- 1.3 On an annual basis Members are also required to complete a return stating 'Related Party Disclosures': this is in accordance with IAS24, in which the council is required to disclose material transactions with related parties in the audited Statement of Accounts. Such declarations cover not only the member but also close members of their family, and might be made where either holds a senior position of control or influence in an organisation that the council has dealings with.
- 1.4 There is a separate process to gather information for related party disclosures, which is managed through the Financial Reporting Team in the Change & Efficiency Directorate.
- 1.5 In a recent development the Localism Bill, which gained Royal Assent on 15 November 2011, is set to abolish the current Standards Board regime and the member's model code of conduct. It will introduce instead 'local accountability'. and make it a criminal offence to deliberately withhold or misrepresent a personal interest.
- 1.6 An audit of this area was undertaken in accordance with the Terms of Reference appended at Annex A.

2. WORK UNDERTAKEN

- 2.1 In forming an opinion on this area, the following work has been undertaken:
 - A review of the systems in place to collect, collate and record personal interests and related party disclosures both in Democratic Services and in Corporate Finance;
 - A review of the entries made by elected members of the County Council for transparency and clarity;
 - A review of entries made by elected members compared to information gathered from other sources (for example, Directorship details obtained via www.192.com) for completeness testing;
 - A review of entries for 'twin-hatted' members to ensure consistency between registers maintained by Borough and District Councils, and that of the County Council; and
 - A review of a sample of Committee minutes for calendar year 2011/12 to assess the appropriateness of verbal disclosures made by members.

3. MANAGEMENT SUMMARY

- 3.1 There exists evidence to show that entries to the Register were not always as transparent as the Auditor would have expected. This included both the use of unexplained acronyms and unclear declarations being made (e.g. a business is recorded in the register but not in a way that clearly identifies the nature of the interest, or if any relationship to council business exists).
- 3.2 The audit also identified a number of examples where online information detailing directorships held by elected members did not agree to individual declarations made by those members. There were associated issues of how robustly directorships held by family members were being recorded for the purpose of the related party disclosures. Whilst no evidence of any wilful misrepresentation has been identified, the lack of any inherent process to monitor or check declarations means that the system effectively operates entirely on trust and the basis that members will always understand when and how to make appropriate disclosures.
- 3.3 The audit identified minor inconsistencies in declarations between Registers held in different authorities for twin-hatted members, including one example of an interest being deemed beneficial on one Register but not another, and examples where interests recorded in one Register were not recorded on another. At least one example was noted where the member had failed to correctly record their elected position on two councils in one of the two Registers they had completed (the county council register was correct).
- 3.4 On an administrative basis the fact that two processes are in place in Finance and Democratic Services to collect two sets of interests – albeit used for different purposes – did seem potentially duplicitous, and in at least one Borough Council visited this had been streamlined to a single process.
- 3.5 The audit also found that on a number of occasions staff in Democratic Services had amended particular members' records, particularly in respect of the receipt of free tickets for the Surrey County Show. Such amendment is presumably on the behest of the member, although not in all cases could email or other evidence be found to support this. In addition the format of the Register does not require members to actually sign it, or to initial changes. This is a weakness in process as there is no clear trail of authorisation for amendments to the hard copy of the Register.
- 3.6 On occasion, members have provided an update to their details by writing "none" or "not applicable" in boxes on a fresh copy of the Register. The Auditor presumes they intend to signify no change from the previous year, on the basis that interests are in fact still ongoing, yet if viewed in isolation by a member of the public this new record would imply the member has no interests to register at all, which is misleading.
- 3.7 Taken as a whole the present arrangements do satisfy the minimum legal requirements, although improvements to the various processes can be made and a number of inconsistencies and apparent mistakes have been identified within the Register. For this reason the overall opinion given is one of **Some Improvement Needed** - a few specific control weaknesses were noted; generally however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.

4. FINDINGS AND RECOMMENDATIONS

- 4.1 The findings detailed below are categorised into sections reflecting the management summary for ease of reference.

Transparency issues

Use of acronyms, abbreviations or initials

- 4.2 The document “Notes to the Register of Interests” is produced by Democratic Services as a guide to members in completing their returns. It details section by section guidance notes for completion, and it makes two important points:
- “Do not use abbreviations, initials or acronyms”; and
 - “You are in breach of the Code if an interest is not registered with sufficient clarity”
- 4.3 This is important, as the acid test for the usefulness of the Register is to allow a member of the public a clear and unbiased assessment of an elected member’s interest(s) for the purpose of good governance and organisational accountability.
- 4.4 The audit has identified many occasions where acronyms or initials have been used by members within their declarations, which have gone apparently unchallenged by Democratic Services. In reviewing the entire Register in November 2011 a total of 14 members were found to be using acronyms, initials or abbreviations (without subsequent explanation) in their returns, 17.5% of the total.
- 4.5 The Auditor has concluded that these occasions fall into two categories: the majority being acronyms in common usage and likely to be familiar to the public (for example, RSPCA, RNLI, CAB etc), but also ones that are unusual and therefore require more detailed explanation (including UGLE and GATCOM - being the United Grand Lodge of England, and Gatwick Airport Consultative Committee).
- 4.6 In any event, the Notes to the Register require members to avoid the use of any such abbreviations in the public interest, and Democratic Services should ensure subsequent returns are fully explained.

Unclear declarations

- 4.7 The audit identified one member who had made the declaration “charity #281942” under Section 2 of the Register (“any body (aa) exercising functions of a public nature, (bb) directed to charitable purposes, or (cc) one of whose principal purposes includes the influence of public opinion or policy). It is a wholly opaque declaration, and does not serve to identify to anyone the nature of the organisation concerned: in this case, a Masonic body called “The Grand Charity” whose purpose is to “respond to any charitable need while continuing to help individual Freemasons and their dependents”.
- 4.8 A further issue about Section 2 of the Register is that it actually asks three questions of members, as detailed in paragraph 4.7, but only provides one box for the answer. As a result, it is common to see a host of interests being declared with no context as to which of the categories it falls into. Some members have manually segregated their response into three clear sections, but the majority have not.
- 4.9 One recurrent issue identified was where declarations met the legal minimum requirement but not necessarily the spirit of the guidance. This was particularly the case where in Section 3 of the Register where employment interests are recorded, but in such a way that the nature of the interest was not clearly identified.
- 4.10 For Section 3 declarations, members should, “include all employments, whether full or part-time, identifying the nature of each employment by use of job title or trade, occupation or profession”. The Auditor has identified 12 cases (15%) of returns where the detail in Section 3 is insufficient to comprehend the nature of employment held. Most typically, a business name or address is given with no further details to set it in context.

Risk

- 4.11 Declarations that are unclear and fail to follow the prescribed Guidance serve the public poorly at best, and may be seen to be deliberately withholding information at worst.

Recommendations

- 4.12 Members should be reminded of the Guidance requiring them not to use acronyms and abbreviations, and Democratic Services should appropriately challenge any returns made using such.
- 4.13 It is recommended that the Register design be revised to allow for distinct areas for answers to multiple questions within one same Section of the return.
- 4.14 Where member responses are insufficiently detailed when reviewed against the guidance, as identified for Section 3 responses, then Democratic Services should ask for more detailed answers for transparency.

Directorships

Register of Interests

- 4.15 Section 4 of the Register allows for members to record the name of an employing organisation and, as stated in the Guidance, "If you are a director, give the name of the body or company appointing you. Include for all directorships". Information is provided for this part of the return by members and is not subject to any validation from elsewhere in the council.
- 4.16 As part of the audit fieldwork a comparison was undertaken between directorships recorded through the online business directory www.192.com and those declared in the Register for all members. There were 18 instances where the online database identified a member as being a director of a company where no such interest appears in the Register. At this time the reason(s) behind this discrepancy are not known, although timing differences may be a factor. The Auditor has provided the Head of Legal and Democratic Services with a detailed list of the differences for further investigation.

Related party disclosures

- 4.17 The issue of directorships is also relevant to the IAS24 return for related party disclosure. Part of this annual requirement is for a declaration to be made for 'close family' under the definition, "If a close member of your family holds a senior position in an organisation the council has dealings with, then that too could be considered a related party, if it can be reasonably expected that you too would be able to influence, or be influenced by, that individual."
- 4.18 The current process is for the accountant in charge of obtaining these returns to take the existing member interests from the Register maintained in Democratic Services, transfer them onto another form and issue this new sheet to each member asking them to amend it as necessary for their own interests, and to add any other details relating to family members. For the financial year ending 31 March 2011, 18 members added new details, with a handful being to record familial interests rather than changes to personal interests.
- 4.19 The search via 192.com also identifies persons living at a same address who hold directorships. This report shows that there are significant numbers of members who have spouses who hold directorships, and that many of these are undeclared. The reason for this could simply be that the spouse's company does no work connected to Surrey County Council business, hence there is simply no interest to declare (at least, at this time). The onus is upon members to know when it is appropriate to make a declaration and to make it verbally or in a written manner as appropriate.

Risk

4.20 Failure to fully declare all appropriate directorships either on the Register, in the related party disclosure return or verbally at a meeting may be in breach of the Code of Conduct.

Recommendation

4.21 The Head of Legal and Democratic Services should review the results of the comparison of directorships declared through the Register to information online to determine the appropriate course of action in relation to each member affected.

Discrepancies in information

Between the Register and the related party disclosure returns

4.22 Having reviewed the two forms used for the Register and for related party disclosures it is apparent that discrepancies exist between them. This is exacerbated by timing differences: the related party disclosure return is updated annually, whilst the Register maintained in Democratic Services is revisited on an ad hoc basis only when members need to make a change based on an original declaration following their election.

4.23 Many examples were found during the audit where although a member had deleted or changed an interest on their related parties disclosure form, this same interest still appears as a current one on the Register. From 25 amendments made to related party disclosure returns for the 2010/11 year, only 5 had also been updated and amended correctly on the Register by the member concerned. Therefore the remaining 20 members have incorrect details still showing in their Register entry.

Between SCC and other local authority Registers

4.24 Twin-hatted members – those sitting as a Surrey County Councillor and as a local district or borough council councillor - are required to complete a register of interests for both authorities in which they sit. These Registers may not always be exactly the same – for example, details of gifts or hospitality received in the role of borough councillor would only need to be declared in that the one relevant Register – but for the most part information should be consistent between the two sources.

4.25 At the time of audit there were 34 twin-hatted members. A range of small discrepancies were identified between the records reviewed, including:

- Members declaring membership of, or influence in, a body in one Register that is not also recorded in the other;
- Members completing the Registers in different ways using the same information (for example, information listed as a beneficial interest in a borough council Register is explicitly recorded as 'non-beneficial' in the county council's Register);
- One member who had not declared membership of Surrey County Council in their borough council Register; and
- One member who declares a beneficial interest in land in their borough council Register in May 2011 but whose county council register remains unamended for this interest since being completed in June 2009.

4.26 There is no evidence that discrepancies are intentional or wilful, and most likely occur because of timing differences in interests arising or ceasing and members simply failing to update their entries appropriately. However, it brings into focus that any Register is only as accurate as the information it contains and in the absence of compliance with the guidance, or any formal monitoring or verification of the consistency or veracity of the data, there is a risk that interests will be incorrectly recorded.

Risk

- 4.27 Discrepancies in data between Registers may give incorrect or conflicting information to the public, undermining the integrity of the process and leading to concerns about transparency and accountability.

Recommendations

- 4.28 Members should be reminded of the need to ensure all of their interests are kept up to date in the Register of Interests as and when they change.
- 4.29 Given the accessibility to data is straightforward, and in some case published online, it is proposed that Democratic Services officers might periodically check the information for the twin-hatted members to corresponding borough and district council registers for consistency, and challenge any discrepancies.
- 4.30 It is also proposed that consideration be given to maintaining one single electronic Register of interests on a shared drive accessible to Democratic Services and the officer responsible for related party disclosures. This could include all details of personal and related party interests, and allow for one single record to be kept up to date.

Administrative issues

- 4.31 One notable absence on the majority of members' declarations is evidence of their signature to authorise the form, or any changes therein: The current template used by Democratic Services only asks for a date, although some members do also sign their return. This leads to the situation that a return is often effectively unauthorised by members. The evidence from other authorities visited is that signatures are widely obtained elsewhere as a requirement.
- 4.32 A second issue noted in the audit is that Democratic Services officers have routinely added to members' declarations, particularly in respect of the receipt of gifts and hospitalities (for example, in respect of the annual receipt of Surrey County Show tickets). The problem here is that email evidence is not always kept on file to justify the amendment was authorised by a member, and the officer(s) making the entry do not sign or date their amendment to allow for a clear audit trail.
- 4.33 Evidence has also been found that some members have updated their Register details by entering phrases such as "none" or "not applicable" in the various sections. The intention seems to be to indicate no change from a previous return, but taken in isolation this appears to be making a nil declaration and is therefore misleading to anyone viewing the details. Similarly, some members are following the practice of leaving boxes blank rather than writing a positive affirmation that they have nothing to declare in this area. An incomplete box could be a result of inadvertently missing out a section as much as having nothing to declare, and is therefore not recommended.

Risk

- 4.34 Register entries that are not formally authorised by members, and which may be amended by officers, may be disputed as an accurate record of what was intended to be declared if challenged.

Recommendations

- 4.35 The existing template should be amended to ensure that members formally sign their declaration to authorise its content.
- 4.36 If entries to a member's declaration are made by Democratic Services officers then they must ensure that in every case an email from the member exists to approve the change, and that they and the member subsequently initials the amendment to authorise it.

- 4.37 Sections of the Register should not be left blank, but be completed with an affirmation that the member has nothing to declare for that particular area.
- 4.38 The use of “not applicable”, “none” and such phrases should not be used to indicate no change from prior declarations. The interest(s) should be detailed in full in each return completed.

Verbal declarations of interest at council meetings

- 4.39 Paragraph 9(1) of the Members’ Code of Conduct states, “Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent”.
- 4.40 As part of the audit a review of various committee minutes was made for calendar year 2011 to assess the level of verbal disclosures made by members. The committees and meetings reviewed were:
- Adult Social Care Select
 - Audit and Governance Committee
 - Cabinet
 - Children and Families Select
 - Education Select
 - Elmbridge Local Committee
 - Epsom & Ewell Local Committee
 - Guildford Local Committee
 - Mole Valley Local Committee
 - Standards Committee
- 4.41 In conclusion, the expected disclosures were made by officers who had made declarations in the written Register and – on specific occasions – members withdrew from discussions when appropriate to do so.
- 4.42 The auditor did note one apparent anomaly in the minutes of the Education Select Committee for 20 May 2011. In this meeting 6 members made a general declaration of interest for all of the agenda items on the basis that they were school governors. However, this generic declaration has not been made at subsequent meetings despite similar agenda items being discussed.

Member/Officer Protocol

- 4.43 In the current version of the Member/Officer Protocol there is no specific guidance offered to officers on what they should do in circumstances where they feel that a member may have deliberately or inadvertently failed to declare a relevant interest in a meeting.
- 4.44 The matter is a sensitive one and may also subject to time-pressures, as any guidance would need to be practical enough to effect during a meeting as opposed, for example, to a recommendation to consult an officer such as the Monitoring Officer who may not be immediately on hand.

Recommendation

4.45 The Member/Officer Protocol should be revised to offer practical guidance to officers should concerns arise in respect of whether a member interest has been appropriately declared at a council meeting.

5. ACKNOWLEDGEMENT

5.1 The Auditor would like to thank all of the staff who assisted during the completion of this audit.

TERMS OF REFERENCE

BACKGROUND

Under the Members' Code of Conduct there is a formal requirement placed on elected members to:

- Declare relevant personal interests when attending meetings of the council; and
- Register personal interests in a formal written record that is accessible to the public.

The Register of personal interests ("the Register") is required to be completed within 28 days of election, and amended thereafter as new disclosures become relevant or old disclosures need to be changed. Within Surrey County Council the Register is maintained in Democratic Services. At the time of audit, the public cannot access the Register electronically through the council's website, although can be inspected in hard copy at County Hall on request.

On an annual basis Members are also required to complete a return stating 'Related Party Disclosures': this is in accordance with IAS24, in which the council is required to disclose material transactions with related parties in the audited Statement of Accounts. Such declarations cover not only the member but also close members of their family, and might be made where either holds a senior position of control or influence in an organisation that the council has dealings with.

There is a separate process to gather information for related party disclosures, which is managed through the Financial Reporting Team in the Change & Efficiency Directorate.

PURPOSE OF THE AUDIT

To provide assurance to Surrey County Council that the systems in place for the recording of both members' interests and related party disclosures are robust and operating as expected.

WORK TO BE UNDERTAKEN

To obtain the necessary level of assurance the following review has been undertaken:

- A review of the systems in place to collect, collate and record personal interests and related party disclosures both in Democratic Services and in Corporate Finance;
- A review of the entries made by elected members of the County Council for transparency and clarity;
- A review of entries made by elected members compared to information gathered from other sources for completeness testing;
- A review of entries for 'twin-hatted' members to ensure consistency between registers maintained by Borough and District Councils, and that of the County Council; and
- A review of a sample of Committee minutes for calendar year 2011/12 to assess the appropriateness of verbal disclosures made by members.

OUTCOMES

The findings of this review will form a report to Surrey County Council management, with an overall audit opinion on the effectiveness of systems in place and recommendations for improvement if required. Subject to the availability of resources, and the agreement of the auditee, the audit will also seek to obtain an overview of arrangements in place for:

- Data quality and security;

- Equality and diversity;
- Value for Money;
- Business continuity, and
- Risk management.

The outcome of any work undertaken will be used to inform our future audit planning processes and also contribute to an overall opinion on the adequacy of arrangements across the Council in these areas.

REPORTING ARRANGEMENTS

Auditor:	David John
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