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respect integrity humility equality care towards all

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**Anker Moor Primary Academy**

# **Disclosure of Pecuniary Interests**

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# **The Disclosure of Pecuniary Interests and Maintaining a Register**

## **Notes of Guidance for Governors, Headteachers and other members of staff**

### **1 Introduction**

- 1.1 It is generally accepted by society that we are entitled to expect the highest standards of conduct from individuals involved in the spending of public money. The delegation of budgets to schools makes it essential for Governing Bodies to demonstrate that Governors and staff themselves do not derive any personal benefit from the decisions they make as representatives of the school or Governing Body.
- 1.2 The purpose of this document is to protect you and to set out the obligations of Governors, Headteachers and other members of staff in respect of personal or private interests. The objective of these guidance notes is to help maintain the integrity of the decision making process in your school when matters concerning money or the school's finances need to be discussed or resolved.
- 1.3 Paragraphs 15 to 18 at the back of this booklet set out some further guidance and suggestions for Headteachers and Governing Bodies on ways of recording and maintaining a register of pecuniary interests. A pro-formal declaration form is shown as Appendix 1.

### **2. Is there any legal obligation to declare pecuniary interests?**

- 2.1 Yes - the responsibilities on Governors to declare Pecuniary Interests have recently been reaffirmed by the Government. The Education (School Government) (Amendment) Regulations 1996 remove a Governing Body's discretion to permit a Governor who has an interest in any matter under discussion to stay and listen or take part in the discussion even if he or she previously declared an interest.
- 2.2 The guidance on pecuniary interest applies to Governors and staff. Some staff will, of course, be Governors and as such will be subject to the same conditions as other Governors. Nevertheless, all staff are required under Section 117 of the Local Government Act 1972 to declare any pecuniary interest they may have in any contract with which the school may be concerned. Indeed failure by any member of staff to declare such interests of which she/he is aware means that the member of staff could be guilty of a criminal offence.

### **3. Are there any other obligations?**

- 3.1 A register of pecuniary interests must be maintained. This is regarded as a basic requirement of the financial management of schools by the Audit Commission and the Office for Standards in Education (Ofsted) in their publication "Keeping Your Balance". The Financial Management section of the Staffordshire's "Developing Schools" manual and the recently

revised Financial Regulations for Schools also embrace this aspect of financial propriety. These notes reflect current professional opinion on best practice.

- 3.2 It is important to remember that the declaration of a pecuniary interest does not prevent a spending decision from being made. The critical issue is that spending decisions are made impartially and on the basis of sound financial judgement. The Governing Body should be able to demonstrate the reasoning behind spending decisions, particularly where declared interests exist or where choices other than those which apparently represent the best value for money are made.

#### **4. Who needs to declare a pecuniary interest?**

- 4.1 All Governors (including staff who are Governors) must declare any relevant pecuniary interests and these must be entered in the register.
- 4.2 All staff are under a similar obligation to declare relevant pecuniary interests, even if they hold no specific financial responsibilities, and these too should be included in the register.

#### **5. What are Pecuniary Interests?**

- 5.1 There is not comprehensive definition of the term 'pecuniary interest'. However, it can be taken to be a direct or indirect interest that affects your financial resources. It can relate to a financial **loss** as well as a **gain**.
- 5.2 Governors and members of staff are also required to disclose any pecuniary interests of their **partner** and their **immediate family** (with whom they have a close or established relationship) in any item of business that is being discussed by any meeting of the governing body.
- 5.3 **It is important to understand that for a pecuniary interest to be relevant it should relate to goods or services which might be acquired by the school. If Governors or members of staff have pecuniary interests in businesses or companies that would not provide goods or services to the school then they would not need to be declared.**
- 5.4 The questions and examples in the sections below do not constitute an exhaustive list of the types of interest which should be declared. They are offered to assist in the understanding of the requirements of the regulations. It is a matter for each individual to consider his or her own position and to act accordingly.

**6. If the answer is yes to any of the following questions then there is a direct pecuniary interest and it must be declared.**

6.1 Is the Governing Body considering contracting with the business that you, your partner or immediate family own or are a partner in?



e.g. Mrs. G. Jones, a School Governor, owns "Comfy Coach" a local transport operation which offers to provide transport for school educational visits etc., financed through the school budget.

This would be a pecuniary interest and Mrs. Jones should declare it.

6.2 Is the Governing Body considering paying you, your partner, or your immediate family for goods or services in cash or in kind?



e.g. Mrs. E. Jobson, the Headteacher is married to a self-employed painter and decorator who is approached to paint part of the school, the cost of which will be met by the school budget.

This is a pecuniary interest and should be declared by Mrs. E. Jobson.

6.3 Will the matter that the Governing Body is discussing affect the value of you, your partner's or your immediate family's assets, e.g. will the value of your property be affected by proposals concerning the school's land or buildings or the school's work or environment?



e.g. The Governing Body is asked to consider entering into a letting arrangement which would allow Mr. Pipe, the husband of a school governor, to provide judo classes to fee paying adults in the school hall.

Mrs. Pipe should declare this as a pecuniary interest.

6.4 Are you employed by a person or company that has a direct pecuniary interest?



e.g. Mrs. Johnson, a school governor, works as a sales representative for Lab UK Ltd., a company which sells science equipment and materials to schools etc.

Mrs. Johnson should declare this as a pecuniary interest.

**Note:** If a School Governor worked as a shop assistant for Marks and Spencer then this would not be regarded as a pecuniary interest.

6.5 Does the contract or matter under discussion relate to either an appointment or termination or conditions of employment at the school of yourself, your partner or your immediate family?



e.g. Mrs. Simpson, a Governor and Chairman of the Staffing Committee, has a daughter who is already employed at the school as a teacher.

Mrs. Simpson should declare the matter as a pecuniary interest.

**Note:** The requirement to disclose pecuniary interest and take no part in subsequent discussions shall not inhibit an individual's right to apply, appeal or make representations to governing Bodies or any Governor Committees which are set up to deal with staffing issues. The critical factor is that the individual cannot take part in the decision making process.

## 7 If the answer is yes to either of the following questions there is an indirect pecuniary interest and it must be declared.

7.1 Do you own shares with a face value of £5,000 or exceeding 1% of the face value of the issued share capital of the company which is likely to supply goods or services to the school?



e.g. Mr. Wise, a School Governor, holds a substantial number of shares in Computerworld which supplies computer equipment and services to schools.

This would be an indirect pecuniary interest and should be declared by Mr. Wise.

7.2 Whilst you may not have a direct pecuniary interest in a contract or issue, are you a business partner of a person who, or in a firm which, has a direct pecuniary interest?



e.g. Mrs. Finch, a School Governor, is a partner with Mr. Robins in a storage business. However, Mr. Robins is also a partner with another individual, a Mr. Crow, who together run an office supplies business which supplies furniture and office equipment to schools.

Mrs. Finch should declare this as her business partner holds a direct pecuniary interest.

7.3 The requirement to include pecuniary interests of partners and immediate family is important. However, it may not be possible to determine precisely the level of pecuniary interest, e.g. where shareholdings are involved. In such cases Governors and Staff are simply required to enter those instances of pecuniary interest which fall into the categories and conditions listed in this guidance to the best of their knowledge at the time. It is not necessary to state any financial value, even if exact details are known.

7.4 The school is not forbidden from buying goods and services from any body, company or organisation in which you have an interest, but your interest should **always** be disclosed in accordance with the paragraphs above.

## 8. Interests that do not have to be declared

8.1 Some matters are not considered as creating of themselves a pecuniary interest and therefore do not have to be declared as such. Some examples are as follows:

- that you are also a Councillor on a local authority;
- that you are also a rate payer or Council Tax payer in the area of the school;
- that you are also a member of the school staff, having an interest that is no greater than that of the generality of staff in a matter;
  - e.g. A Governor who is also a PE teacher at the school may take part in governing body discussions about PE in the curriculum and the purchasing of PE Equipment if he or she has no pecuniary interest.
- that you have an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the governing body, individual governors or members of staff;
  - e.g. A Governor who works as a Personnel Officer for British Telecom does not have to declare a pecuniary interest because the school rents a BT telephone.
- that an individual owns shareholdings in a relevant company with a face value that does not exceed the lesser of £5000 or one-hundredth (1%) of the face value of the issued share capital of that company or body, whichever is the lesser;
  - e.g. A Governor who owns shares with a face value of £2,000 in a company whose total issued share capital is £200,000 must declare an interest because they own 1% of the shares.

However if the shareholding was limited to a face value of £1999 in the same company then a declaration would not be necessary.

**Given the fact that the actual value of shareholdings does not need to be disclosed both staff and governors are advised to declare any relevant shareholding however small.**

## 9. The Individuals' Duty

- 9.1 The responsibility for deciding whether you have an interest in a matter of governing body business rests with you personally. The requirement on disclosure is not an attempt to invade your privacy. It allows you to be open about your position with regard to possible or particular situations and therefore avoid allegations of impropriety.
- 9.2 All Governors and staff are advised to think carefully and decide whether a particular aspect could be classified as pecuniary interest. The final decision rests with the individual. You may, however, consult the County Clerk and Chief Executive if you require further guidance on whether a particular set of circumstances gives rise to an interest. If you are in any doubt about whether your interest in a matter should be declared, then it is usually best to declare it. Looking at the matter in the way that others might see it will often help you decide.
- 9.3 If you have an interest in a matter that is before the Governing Body, you must declare it and withdraw from the meeting for that item without taking **any part** in the debate or in making the decision.

## 10. When and how should an interest be declared?

- 10.1 Governors should declare pecuniary interests as soon as possible. New governors should make their declarations either before or during their first meeting. For Governors already "in office" it is suggested that a declaration be made as soon as possible during the Autumn Term, possibly at the first meeting. Governing Bodies are advised to review declarations at not less than annual intervals.
- 10.2 Staff should make a declaration to the Headteacher or the individual nominated to maintain the register as soon as they become aware of a potential pecuniary interest. In many cases it is anticipated that staff will not be aware of this requirement and Headteachers may need to remind staff of their obligations.
- 10.3 Where a Governor has not previously declared a pecuniary interest but during the course of a meeting suspects that he or she may in fact, have a pecuniary interest then it should be declared verbally at the meeting. The Governor should then leave the room and take no further part in the item under discussion. If you fail to observe this standard of conduct, the Local Government Ombudsman may find the school guilty of maladministration and name the transgressing Governor in its findings.
- 10.4 Where new pecuniary interests arise or existing declarations change during the year then Governors or staff must contact the individual responsible for maintaining the register to make the necessary amendments to the register.
- 10.5 All declarations need to be recorded to enable a register to be maintained. Individuals must make sure they provide written details of relevant pecuniary interests to the individual nominated to maintain the register. The format of declarations is a matter for each school to

determine. The level of detail which needs to be disclosed must be sufficient to satisfy general public opinion on impartiality and correctness. Care must be taken to ensure that declarations are not unnecessarily intrusive. A suggested format and level of detail is shown in the attached appendix.

## **11. What about confidentiality?**

- 11.1 The declaration of a pecuniary interest is in itself a "public" statement and governing bodies are required to make the register available for audit or public inspection.
- 11.2 The Authority's model register does have a limit on the level of information required to minimise the intrusion into personal matters.

## **12. What about Non Compliance?**

- 12.1 Governing bodies must adhere to the requirements of the Financial Regulations. Any failure to complete a return, or declare a pecuniary interest would be in breach of the Regulations. However, if a Governor or member of staff believes that there may be an undeclared pecuniary interest they are advised to notify the County Clerk and Chief Executive's Department to discuss the issue.

## **13. How will the declaration of pecuniary interests affect ordering etc?**

- 13.1 The presence of declared pecuniary interests does not in itself prevent a particular course of spending being taken. The critical issue is that the decisions are taken in the "open" and on the basis of sound financial and professional judgement and in the knowledge of any pecuniary interest of a governor or member of staff in the matter in question.

## **14. Practical solutions where declared pecuniary interests exist.**

- 14.1 On a day to day basis, the majority of spending decisions will be taken by the Headteacher or other staff in school. The Governing Body would not be consulted. This could pose a problem for the Headteacher if orders are placed with a business in which Governors or staff have declared a "pecuniary interest".

- 14.2 Governing bodies may, in the full knowledge of a declared pecuniary interest of a governor or member of staff, resolve at a Governors' meeting to authorise a financial limit of, say, £500 as being the maximum permitted value of transactions in any one year with the named business in whom that interest has been declared. If the school wishes to spend more than £500 in any one year it should only do so after further approval by the Governing Body and such a decision should be recorded in the minutes of the meeting. Obviously, in neither case should the Governor or member of staff be present during that part of the meeting at which the Governing Body takes those decisions.
- 14.3 This financial limit and requirement should not affect any other limits which have been set by the Governing Body on any individual's ability to incur expenditure against the school budget without obtaining prior approval from the Governing Body. The £500 limit applies to "Pecuniary Interest" only.
- 14.4 Similarly this requirement does not affect the need for schools to demonstrate that they have taken reasonable steps to ensure value for money. Governing Bodies should record their reasons for accepting quotations and tenders for work in excess of £2,000 and £10,000 respectively where the quotation or tender is not the lowest.

## 15. Who should maintain the register?

- 15.1 The Governing Body should nominate an individual to maintain the register. In most cases this would be the Headteacher (or the individual nominated by the Governing Body to ensure compliance with the Financial Regulations which were included on the Governors Summer Term 1996 Agenda).
- 15.2 Each governing body should arrange for a **Register** to be held at the school for the purpose of keeping a record of the pecuniary interests of each member of the Governing Body. It is recommended that this Register is kept by the Headteacher in a loose-leaf binder.
- 15.3 The Register must be open to public inspection and audit, free of charge, at reasonable times e.g. school office hours.
- 15.4 The Governing Body should make arrangements for the Register to be kept up to date. It is suggested that this should be done at least annually by asking each Governor and employee to complete and return a form such as the one in the Appendix attached. **You should, however, note that it is the responsibility of the individual to ensure their entries in the register are up to date and accurate.**

## **16. How should the register be maintained?**

- 16.1 It is recommended that each Governor and employee be issued with a pro forma declaration (shown as Appendix 1) and be required to complete details of pecuniary interests and return it to the individual nominated to maintain the register. All Governors and employees who receive a form would be required to return a completed form even if they have no declared pecuniary interests in which case a NIL return can be issued.
- 16.2 The nominated person should ensure that all employees are aware of their obligations.
- 16.3 This system enables Governing Bodies to maintain a comprehensive set of returns thus ensuring that registers can be constantly kept up to date.

## **17. What about changes or mistakes etc?**

- 17.1 if a Governor discovers that he or she may have a relevant pecuniary interest which has not been declared then the advice is to notify the nominated individual without delay to make the necessary alterations to the return. If a Governor ceases to hold a declared interest then this should be deleted. It is recommended that all amendments to returns be certified by the individual Governor or member of staff as appropriate.

## 18. Completing the return

18.1 Each Governor or member of staff should record each relevant pecuniary interest on a separate line. The first column would include the name of the company or body. The second would be the nature of the company's business and the third column should contain details as to:-

- a) Whose pecuniary interest is it? i.e. Governor, member of staff or their immediate family. If the interest is held by a member of the immediate family, the name and relationship to the Governor or member of staff should be entered.
- b) The nature of the interest i.e. is it partner/owner of a company, director, employee etc., shareholder holding shares with a face value of £5,000 or 1% of the company's share capital? It is not necessary to disclose the precise value of any shareholding.

18.2 So, for example, a Headteacher who is married and holds shares in BT and British Gas with a face value in excess of £5,000, has a daughter living at home who works for Computerworld as a sales manager, a son living at home who works for Sainsbury's as a cashier, and a husband who is a partner in Comfy Coach Travel would make the following entries on the Register.

<b>Name of Company</b>	<b>Nature of Interest</b>	<b>Nature of your/partner/family interest</b>
British Telecom	Shareholder	Self
British Gas	Shareholder	Self
Computerworld	Employee	Daughter
Comfy Coach	Partner	Husband

N.B. Son's employment at Sainsbury's not deemed to be a pecuniary interest therefore omitted.



