



Northumberland

County Council

FULL COUNCIL

DATE: 6TH JULY 2022

Registering Interests – Membership of Organisations
Report of interim Director of Governance/Monitoring Officer
Cabinet Member: Leader of the Council

Purpose of report

At the meeting of the Council on 4th of May 2022, the Leader of the Council requested advice on the requirement to register membership of the Freemasons and similar organisations.

This report sets out the legal position and suggests options for members consideration.

Recommendation

Council to resolve

- 1. To suspend Council procedure rule 14.2 of the Council's Constitution for the reasons set out in paragraph 11 of this report and/or other reasons specified by members**
- 2. Alternatively, to refer the matter to the Councils Standards Committee for further consideration**

If members are minded to agree recommendation one above

- 3. To adopt the revised wording as attached at Appendix 1 to be included in for the Members Code of Conduct**

Link to Corporate Plan

This report is relevant to the "How" priority included in the draft NCC Corporate Plan 2021-2024 which states "We want to be efficient, open and work for everyone".

Key issues

- The Member's Code of Conduct has been revised and adopted at a meeting of Full Council on the 4th of May 2022
- The Code of Conduct includes requirements to declare Disclosable Pecuniary Interest and Other Registerable Interests in accordance with the statutory requirements under the Localism act 2011. However, it is open to the Council to make provision for other matters to be declared on the register, or at meetings.
- Following debate on the matter at Full Council on the 4th of May 2022, the Leader requested a report to be prepared to consider whether membership of other organisations, not included within the requirements of the Code of Conduct, to be declared and registered.
- Particular focus was membership of the Freemasons. This report sets out the legal position which is that it is unlawful to single out the Freemasons as an organisation, as this has been held to be contrary to Article 11 (Freedom of Association) and Article 14 (Prohibition of Discrimination) of the European Convention on Human Rights.
- However, if the Council is minded to amend the current Code of Conduct it is permissible to require the declaration of membership of any similar membership organisation, such as Round Table, Forrester's, Gold Clubs, The Lions, Women's Institute, National Trust etc.
- In any event, it appears that membership of the Freemasons also carries with it membership of the Grand Charity of the United Grand Lodge of England, also known as the Masonic Charitable Foundation – and the Code can be clarified to ensure that membership of any Charitable Trust is also registerable interest.
- A related issue is whether acceptance of any charitable grant by the Freemasons (or rather the Masonic Charitable Foundation) creates any interest in members to declare at a meeting of the County Council. In most cases it does not. But as with all cases, it is for members to determine whether the size of the grant or the issue or question before the Council has a proximity that may create the appearance of bias. For example, members would not need to declare that an organisation had received a grant of a few thousand pounds in relation to any application. However, if the issue was a planning application or licensing matter, and the grant was substantial, it may be necessary to review this on an individual basis with the Monitoring Officer.

Background

1. Following recommendations from the report of the Committee for Standards in Public Life (CSPL) on Ethical Standards in Local Government published on 30

January 2019, the Local Government Association produced a revised Model Code of Conduct, which was published on 23 December 2020

2. Following consideration of the LGA Model Code of Conduct by the Standards Committee on the 10th of February 2022 and the Constitution Working Group on the 18th of March 2022 a report was prepared for the Full Council meeting on the 4th of May 2022. At that meeting the LGA model Code of Conduct was adopted subject to specified amendments.
3. The report prepared for the Council meeting on the 4th of May 2022 set out the resolution of the Constitution Working Group which was as follows:

RESOLVED by a majority vote that Full Council be recommended to accept the Code of Conduct appended to the report subject to legal advice and the opinion of the LGA being sought about the inclusion of membership of masonic lodges, the masons and other organisations

4. The legal advice provided to the Council meeting was that under the proposed member's code of conduct membership of organisations such as masonic lodges would only need to be declared on a member's declaration of interests form if they were a body which has charitable purposes. Whether this is the case may depend on the functions and activities of the body in question. The LGA confirmed in writing that they agreed with this advice.
5. During the debate of this item at the Council meeting an amendment was proposed to the proposal to adopt the code. The effect of this amendment was that the proposed code of conduct be amended so that membership of masonic lodges had to be declared on the member's register of interest form regardless of whether that lodge had charitable purposes. This amendment was defeated and the original proposal to adopt the members' code of conduct attached to the report before members was approved.
6. During the debate of this matter the Leader proposed that a further report be brought back to Full Council to further explore the legality of including not only masonic lodges but other similar organisations within the member's code of conduct.
7. With regards to any decision that members may make, Procedure Rule 14.2 is of relevance. This states:

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least nine members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
8. As an amendment motion to require membership of masonic lodges to be disclosed in a member's Register of Interests has been heard by Council at the

previous meeting of full Council, a similar motion could not now ordinarily be heard (subject to the signing by nine members).

9. As this issue relates to matters ordinarily within the terms of reference of the Standards Committee, members may wish to consider if there are any matters which need to be referred for further consideration by that Committee.
10. Alternatively, members can consider whether to adopt the revised wording for the Members Code of Conduct as adopted by full Council as attached as appendix 1.
11. In order to do this, members would need to suspend Standing Orders at Procedure Rule 14.2 to enable the point to be debated again. Members would need to give reasons for proposing such a motion. A reason could be that the previous amendment related solely to membership of the Freemasons and did not have the benefit of the information and advice set out in this report.

Current Practice and Guidance

12. The position relating to the declaration of membership of a masonic lodge is that it is disclosable if that lodge has charitable purposes. Enquires have established that all freemasons who are under the United Grand Lodge of England (UGLE) are automatically members of the Masonic Charitable Foundation (also known as the Grand Charity). Individual lodges may also have charitable status, as does the Provincial Grand Lodge of Northumberland. This means that all members of a UGLE Lodge would have to declare their membership under this heading.
13. In the following passages the government guidance: Openness and Transparency on Personal Interests (20th September 2013) makes it clear that Councillors can ask for interests which are not otherwise required to be registered to be so registered:

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register. As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires.

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. 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.

Your registration of personal interests should be guided by this duty, and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register

Case Law and Human Rights

14. The only known caselaw on these issues is an Italian case involving Freemasons and declarations of interest that went before the European Court of Human Rights: *Grande Oriente D'Italia di Palazzo Giustiniani v Italy* (No. 2) (Application No. 26740/02).
15. This case involved a challenge to an Italian regional law which introduced rules for nominations to public offices and required candidates for such posts to declare whether they were a member of a Masonic or secret association. The absence of a declaration constituted a ground for refusing appointment. The Court observed that the provision in question distinguished between secret and Masonic associations, where membership of which had to be declared, and all other associations.
16. The Court determined that there was a difference of treatment between the members of the applicant association and the members of any other non-secret association with no objective and reasonable justification. There had therefore been a violation of the convention in that forcing official declarations breached Italian Masons rights to free association and was discriminatory.
17. Although the facts are not directly analogous to the issues set out in the report there would be a risk that introducing a requirement solely relating to masonic lodges would be unlawful, but that such a requirement relating to all fraternal or sororal associations would not, provided there were sound reasons for doing so.
18. There are examples of the effect of this ECHR case. It was once a requirement that members of the judiciary had to declare masonic membership. However, this was then reversed following the ECHR case.
19. Bearing in mind the judgement from the above case the Council could not require registration of membership of a masonic lodge but would need to include all fraternal or sororal organisations. This approach has been followed by the City of London Corporation who have included the following wording in their list of organisations that need to be registered:

7. In any event you are required to disclose your membership of any:

(a) Management board or similar organ of any charity or body directed to a charitable purpose (e.g. a trustee or director) but excluding any charity or other such body administered by the Corporation

(b) Club or Society active in the City of London or which relates to any functions of the Corporation

(c) Fraternal or Sororal Societies

(d) Livery Company, City Company without Livery, Guild or Company seeking Livery

(e) Political Party

(f) Organisation, one of whose principal purposes includes the influence of public opinion or policy, and which is likely to seek to affect the policy of the Corporation or which may have an impact on its services or stakeholders

(g) Professional Association (h) Trade Association (i) Trade Union (j) Management board or similar organ of any organisation not falling within paragraph 3 or sub-paragraphs (a)-(i) above.

Conclusions

20. As currently worded the Code of Conduct does require membership of a charitable trust to be declared. However, members expressed a wish for greater clarity and transparency in relation to freemasons.

21. It would be unlawful to require a specific declaration of Masonic Lodges alone, so if the Council is minded to adopt a revision to the code, it should follow the practice set out above and require declaration of membership of a fraternal or sororal organisation.

22. Members will note that with 'Other Registerable Interests' as opposed to a Disclosable Pecuniary Interest, as defined by statute, there is no automatic disqualification from participating in a debate or vote at the Council, but members should consider issues of actual or perceived bias and seek individual advice from the Monitoring Officer if required.

Implications

Policy	The report considers possible changes to the Code of Conduct for Elected Members
Finance and value for money	N/A
Legal	These are set out in the report.
Procurement	N/A

Human Resources	N/A
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	The issues set out in this report have been considered having regards to the provisions of the Equality Act 2010 and the Judgement of the European Court of Human Rights
Risk Assessment	N/A
Crime & Disorder	N/A
Customer Consideration	Issues around openness and transparency have been considered in the public interest context
Carbon reduction	N/A
Health and Wellbeing	N/A
Wards	N/A

Background papers:

The Code of Conduct for Elected Members

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

	Full Name of Officer
Monitoring Officer/Legal	Suki Binjal
Service Director Finance and Deputy Section 151 Officer	Alison Elsdon
Relevant Executive Director	N/A
Deputy Chief Executive/Executive Director	Rob Murfin
Portfolio Holder(s)	Cllr Richard Wearmouth

Author and Contact Details

Neil Masson

Senior Manager
Legal Services
01670 623314
Neil.masson@northumberland.gov.uk