

## **CIRCULAR TO ELECTED MEMBERS AND CHIEF EXECUTIVE OFFICERS**

### **ELECTED MEMBERS' CONFLICT OF INTEREST**

The conflict of interest provisions support the objective of transparency in local government decision-making. I have become aware that there is some confusion regarding the practical effect of these provisions following the changes that were introduced in the Local Government Act 1999. This circular draws attention to the statutory constraints on participation in Council by an elected member in the circumstance of that member having a conflict of interest.

A member's disclosure of interest must include full details of the interest, and the details must be recorded in the minutes. (Section 74(2) & (3))

An interest in a matter that must be disclosed applies to an interest of either the member or a person with whom the member is closely associated. A close associate of the member includes a partner, employer or relative. (Section 73)

A relative is defined in section 4 of the Act as

- (a) the spouse or
- (b) a parent or remoter lineal ancestor or
- (c) a son, daughter or remoter descendant or
- (d) a brother or sister

and includes a child over 18. Note that under the 1934 Act, only a spouse or child was defined as a close associate.

A member with an interest in a matter **must not** take part in the discussion, propose or second a motion, be in the room where the matter is being discussed or vote on that matter. (Section 74(4))

A qualification intended to enable councils to make use of the expertise of a member with an interest was included in the 1999 Act. This provides a limited exception to part of Section 74 (4) so that a member who has disclosed an interest may attend **during proceedings** of the council on the relevant matter in order to **ask or answer questions**.

However a member may only attend **if the council moves a resolution to give permission for attendance and the member withdraws from the room immediately after asking or answering the questions**. The other conditions for attendance are that the meeting is open to the public, and the member does **not** in any other way take part in any debate or vote on the matter. Permission of council requires a formal council resolution recorded in the council minutes. (Qualification 2 to section 74(4))

This qualification is **not** intended to allow an interested member to make representations personally on a development application or any other matter. The Crown Solicitor has recently advised that the qualification allows the member 'to ask or answer questions', **not** to make representations.

**HON DOROTHY KOTZ MP**  
**MINISTER FOR LOCAL GOVERNMENT**  
**MINISTER FOR ABORIGINAL AFFAIRS**

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