

Guidance Notes for Members and Chief Officers on the requirement to declare Related Party Transactions

Introduction

The requirement for Members and Chief Officers (the Chief Executive and Directors) and Office Holders (the Monitoring Officer and Chief Finance Officer) to declare Related Party Transactions is fundamental to the presentation of the Councils published accounts. It is considered that the belief in the truth and fairness of the accounts can only be understood if the reader has knowledge of the related parties which the Council does business with.

The Council should be open and disclose transactions with such related parties to ensure that stakeholders are aware when related party transactions are taking place and of the values of such transactions. There is now a statutory requirement to complete a declaration of Related Party Transactions annually.

What you need to do

Read the guidance below, amend if necessary and sign the declaration that is provided.

If you feel unable to complete the declaration and have any doubts at all over whether a transaction falls within the scope of the definitions set out below, please contact Tina Stankley, Finance Manager, or in her absence, John Bell, Principal Accountant.

What is a 'related party'?

The principal issue in determining whether or not a person or an organisation is a related party is the possible degree of control that could be exerted by one party over the other. This can arise during a financial period where:

- one party potentially has direct or indirect control of the other party;
- one party could influence the financial and operational policies of the other party;
or
- the parties are subject to common control or influence from the same source.

Put simply, the objective is to identify any transactions, which may have taken place as a result of the control or influence exercised by one party over another. The concern is that such transactions may not be, or may not be perceived to be, in the best interests of the Council.

Who are the related parties of a local authority?

The Accounting Code of Practice identified the main related parties for a local authority. Of particular relevance to these notes is the inclusion of Members and Chief Officers of the Council. Other related parties include:

- Central Government
- local authorities and other bodies either precepting or levying demands on council tax; (Parish and Town Councils, Essex County Council, Essex Fire Authority and Essex Police Authority)
- any subsidiary and associated companies;
- any joint ventures and joint venture parties; and

- its pension fund

Are family, household and business interests affected?

Yes. When considering who is a related party, regard is also taken of transactions involving members of the close family or same household of any individual listed.

In addition, if any individuals are associated with partnerships, companies, trusts or any entities in which they, or a member of their close family or the same household, have a major interest, transactions between the Council and that organisation should also be disclosed.

Examples of qualifying interests

Examples of qualifying interests that might give rise to relevant transactions are:

- You own a company or have a major shareholding in a company that contracts with the Council.
- Your close relative or member of your household owns a company or has a major shareholding in a company that contracts with the Council.
- You hold a position of influence within a voluntary organisation that receives grants from or provides services for the Council.
- You, a close relative, or member of your household is in receipt of income from an organisation that relies upon funding from the Council e.g. a voluntary group.

No specific limit has been given for what constitutes a major shareholding but as a broad guideline, more than 20% of the total should be taken as coming within the scope of these requirements.

Examples of relevant transactions

- Payments under contract for the purchase or sale of assets e.g. land transactions or equipment supplied to the Council.
- Payments under contract for the supply of services to the Council, e.g. printing or building contracts or the management of Council services
- Payments or loans to Chief Officers and Office Holders of an exceptional nature not covered by contracts of employment.

The requirement also extends to other transactions, of which some examples are;

- The provision of a guarantee in relation to a liability or obligation of a related party, e.g. a loan guarantee to a sports club in which a Member, Chief Officer or Office holder holds a position of influence
- The reduction or waiving of a charge for services, e.g. free use of facilities for particular individuals or groups in which a Member, Chief Officer or Office Holder holds a position of influence.

Are there any exceptions?

Yes. Where transactions are common to all individuals, they need not be declared. For example, there is no need to declare payments **of council tax, rent or housing benefit**, which are transactions that would occur regardless of whether the individual was a related party to the authority.

This principle can be applied to cover any payment or benefit which arises under a circumstance for which there is a statutory scheme or for which the Council has established eligibility criteria, e.g.

- housing renovation grants; or
- planning consents;

Is what I declare likely to be disclosed in the Council's accounts?

Generally, it must be assumed yes, though disclosure will not be required in the accounts when the dealings between the Council and related party are judged to be immaterial. However, in assessing the materiality, the Chief Finance Officer has to make that assessment not only in terms of the significance to the Council but also in relation to the related party. Consequently, a figure, whilst not being material to the Council's balance sheet, would be disclosed on the basis of its materiality to the finances of the individual concerned. If any disclosure becomes likely, a draft of the proposed disclosure note will be provided to the individual for comments prior to publication.

What form will the declaration take?

Each year you will be asked to sign a form of declaration, which will be kept by the Chief Finance Officer. If you have related party transactions to disclose, the form asks for brief details of the transaction and the sums involved.

When do I have to sign by?

By 23rd April 2019 in relation to transactions during the financial year 1st April 2018 to 31st March 2019.

