

EAST AYRSHIRE COUNCIL

GOVERNANCE AND SCRUTINY COMMITTEE – 11 MARCH 2011

RELATED PARTY DISCLOSURES

Report by the Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 To advise members of the accounting and disclosure requirements associated with related party transactions, and to recommend changes to the current practice to augment our governance arrangements.

2. BACKGROUND

- 2.1 Financial Reporting Standard (FRS) 8 was issued in October 1995, and was subsequently adopted by CIPFA/LASAAC in the 1998 Statement of Recommended Practice (SORP). This standard relates specifically to the disclosure of related party transactions. The guidance was applicable to the 1998/99 statement of accounts, and future years' SORPs continued to include guidance on related party disclosures. This Council has included a disclosure note to the statement of accounts in this respect each year.
- 2.2 A Local Authority Accounting Panel bulletin (LAAP 37) was issued with guidance on related party disclosures, and it is this guidance note that is currently followed in preparing the final accounts of the authority.
- 2.3 FRS8, and therefore LAAP 37, is designed to ensure that the financial statements contain the disclosures necessary to draw attention to the possibility that the reported financial position and results may have been affected by the existence of related parties and by material transactions with them. The disclosure information is intended to permit users to judge the extent of any effect.
- 2.4 A related party transaction is defined as “the transfer of assets or liabilities or the performance of services by, to or for a related party irrespective of whether a charge is made”. Examples of such a transaction include:
- Purchase, sale, lease, rental or hire of assets between related parties;
 - The provision of a guarantee to a third party in relation to a liability or obligation of a related party;
 - The provision of services to a related party;
 - Transactions with individuals who are related parties of an authority, except those applicable to other members of the community (e.g. council tax or housing rent).
- 2.5 The approach we have previously taken has involved the disclosure of “material transactions, bodies or individuals that have the potential to control or influence the Council, or to be controlled or influenced by the Council that have not been disclosed elsewhere in the accounts.” The disclosure note has previously detailed grants received by the Council (e.g. housing benefit subsidy, Fairer Scotland Fund

grants and general capital grant) and grants made to Visions and Kilmarnock Leisure Centre Trust. We also list the amounts paid to the joint boards (e.g. Police, Fire, SPT, AVJB, Scotland Excel).

- 2.6 There is a view that related parties should also include elected members and chief officers of the Council. Where an individual is identified as a related party, the following are also presumed to be related parties:
- Members of the close family, or same household;
 - Partnerships, companies, trusts or other entities in which the individual, or a member of their close family or the same household, has a controlling interest.

3. CURRENT POSITION

- 3.1 As part of the annual closure of accounts, an exercise is undertaken whereby all chief officers are required to complete a “declaration of related party transactions by Council Chief Officers”. This is a simple form where confirmation is sought that no related party transactions have been entered into. Should the officer believe they have entered into such a transaction then they should disclose the details of it, and, subject to the event being material, it would then be disclosed in the relevant note to the accounts.
- 3.2 As outlined in section 2.5 the only disclosures this Council has previously made is in relation to grant and precept transactions. The annual chief officer declarations have not identified any transactions that require formal disclosure in the statement of accounts.
- 3.3 Elected members have not previously been asked the same question regarding related party transactions. They do however, have to comply with “The Councillors’ Code of Conduct” as defined in the Ethical Standards in Public Life etc. (Scotland) Act 2000. The Code was updated in December 2010, and continues to require all members to register their interests in a number of key areas (including remuneration, gifts and hospitality, contracts, related undertakings and non-financial interests).
- 3.4 It would be expected that any related parties would have previously been identified in the register of interests. However, there is no disclosure in the register of specific transactions that may have occurred during the year.
- 3.5 The external auditor in his ISA260 letter to the Governance and Scrutiny Committee (24 September 2010), stated that a variety of approaches were taken across the UK in relation to related parties disclosure in the notes to the accounts. It has been this council’s practice to disclose the value of transactions with other government bodies only. It is the auditor’s view however, that the disclosure could go further and provide assurance about any related party with which decision makers within the Council have concluded (or caused to be concluded). Decision makers, in his view, include elected members and all chief officers; and as an exemplar of good governance and best practice, a positive statement of assurance should be included.
- 3.6 By carrying out the annual chief officer declaration, we are currently assuring

ourselves that all appropriate transactions are being disclosed to corporate finance. If there was a material event then it would be disclosed in the appropriate note to the accounts. Given that no disclosures have been made up to now, there has been no mention in the statement of accounts of the annual declaration and assurance process.

- 3.7 The procedural gap at the moment, which has been commented on by the auditor, is a similar declaration being requested from elected members on related party transactions.

4. PROPOSALS

- 4.1 The current chief officer declaration on related party transactions is an established part of the annual accounts closedown. This should continue.
- 4.2 To gain full assurance that related party transactions have not occurred (or are disclosed where they have), will require elected members to complete a similar disclosure process. This will involve the completion of a template to indicate whether related party transaction has occurred, and if so to provide details. Full guidance notes will also be issued to explain the requirements.
- 4.3 Clearly if any related party transactions have occurred then these will be reviewed for materiality and where appropriate disclosed in a note to the accounts. A statement will also be included at the relevant note within the accounts, confirming that an assurance exercise had been undertaken and all relevant transactions identified. Should there be no transactions disclosed, then the wording of the note should reflect this.

5. FINANCIAL / LEGAL / POLICY IMPLICATIONS

- 5.1 There are no direct financial, legal or policy implications arising from this report. The external auditor has previously commented on our approach to this area, and these proposals will strengthen our current arrangements.

6. CONSULTATION

- 6.1 The external auditor has been consulted on these proposals and agrees that the enhanced declaration and disclosure process will strengthen our current governance arrangements.

7. RECOMMENDATIONS

- 7.1 It is recommended that Governance and Scrutiny Committee;
- (i) Agree to expand the annual related parties assurance exercise to elected members, with appropriate support and guidance being offered;
 - (ii) otherwise notes the contents of the report.

Alex McPhee
Executive Director of Finance and Corporate Support
25 February 2011
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LIST OF BACKGROUND PAPERS

East Ayrshire Council - Report to those charged with governance on the 2009/10 Audit (Audit Scotland, September 2010)

2009/2010 Audited Statement of Accounts (East Ayrshire Council, September 2010)

Code of Practice on Local Authority Accounting in the United Kingdom 2009 (CIPFA / LASAAC)

Code of Practice on Local Authority Accounting in the United Kingdom 2010/11 (CIPFA / LASAAC)

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