

STANDARDS COMMITTEE

Requests for Dispensations 11th October 2012

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider requests for dispensations under section 33 of the Localism Act 2011, to enable all councillors to participate and vote on matters relating to the setting of the council tax, and housing matters..

This report is public

RECOMMENDATIONS

- (1) To grant the requests for dispensations as set out in the report, with the dispensations being effective until the next Council elections in 2015**
- (2) To delegate authority to the Monitoring Officer to grant dispensations in similar terms on the written request of any other councillors following the meeting.**

1.0 Introduction

- 1.1 Section 31(4) of the Localism Act provides that a member who has a disclosable pecuniary interest in any matter to be considered at a meeting may not participate in any discussion, or vote on the matter. However, by virtue of section 33, an authority may, on a written request by a member, grant a dispensation relieving the member from either or both of the restrictions in Section 31(4).
- 1.2 Section 33(2) provides that a dispensation may be granted where the authority:
 - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation
- 1.3 The granting of dispensations falls within the terms of reference of the

Standards Committee. The Localism Act 2011 specifically provides that Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation. Dispensations may be granted for a period of up to four years.

- 1.4 Under the previous Code of Conduct, there was specific provision that members would not have a prejudicial interest where an item of business related to a number of functions of the Council, including setting the council tax, and housing matters (where the member was a tenant of the Council and the item did not relate to the member's particular tenancy or lease).
- 1.5 Under the Localism Act 2011, members' interests in land and property are disclosable pecuniary interests. As property interests give rise to a council tax liability, it is likely that when the council tax is being set, the majority of members will have a disclosable pecuniary interest. On that basis, to ensure that Council is able to make the necessary decisions, and that members do not inadvertently breach the statutory requirements, the Monitoring Officer invited all councillors whose property interests make them liable to council tax to apply for a dispensation to enable them to participate and vote on matters relating to the setting of the council tax.
- 1.6 Applications have been received from Councillors Bevan, Brookes, Budden, Burns, Charles, Gardner, Greenall, Hall, Harrison, Jackson, Johnson, Knight, Mace, Parkinson, Redfern, Rollins, Scott, D. Smith, Sowden, Sykes, Whitaker and Williamson. Any applications received after preparation of this report will be reported at the meeting.
- 1.7 The Committee may consider that, if dispensations are not granted, to allow both participation and voting, the number of members prohibited from participating in the business of setting the council tax would be so great as to impede the transaction of the business. Further, given that the interests of members are no different from the interests of any other council tax payers, the Committee may consider it in any event appropriate to grant the dispensations.
- 1.8 Likewise any members who are Council tenants or leaseholders, were invited to apply for a dispensation to enable them to participate and vote in respect of matters relating to the housing functions of the Council, except any decision that relates specifically to the individual member's tenancy or lease.
- 1.9 An application has been received from Councillor Harrison.
- 1.10 Given that the interests of members who are council tenants are no different from the interests of other council housing tenants, the Committee may consider it appropriate to grant the dispensation.

2.0 Proposal Details

- 2.1 The Committee is therefore recommended to grant the dispensations as requested. This would replicate the position under the previous Code of Conduct, prior to the Localism Act 2011.
- 2.2 If dispensations are to be granted, it would seem appropriate for them to take effect until the next council elections in 2015.
- 2.3 The Committee may also wish to consider delegating authority to the Monitoring Officer to grant dispensations in similar terms in the event of written requests being received from other councillors after the meeting.

3.0 Details of Consultation

- 3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options open to the Committee are to approve or not to approve the requests for dispensations. The grounds for granting dispensations are set out above

5.0 Conclusion

5.1 The Committee is recommended to grant the dispensations.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

LEGAL IMPLICATIONS

The legal implications are set out in the report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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