

# REPORT FOR:       **STANDARDS COMMITTEE**

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**Date of Meeting:**       4 December 2012

**Subject:**                Disclosable Pecuniary Interests –  
  dispensations

**Responsible Officer:**   Hugh Peart, Director of Legal and  
  Governance Services

**Exempt:**                 No

**Enclosures:**            None

## **Section 1 – Summary and Recommendations**

This report recommends a general dispensation to be granted to all Members on matters that may affect so many Councillors that the Council or Committee would be impeded if the dispensation were not granted. It also deals with the possibility of allowing members a dispensation to stay and speak at a meeting where the member has a DPI. It also recommends delegating the power to grant dispensations in the future to the Monitoring Officer.

### **Recommendations:**

The Committee is requested to:

1. Grant the requests for dispensations to speak and vote on specified matters as set out in the report, with the dispensations being effective until the next Council elections.
2. Delegate authority to the Monitoring Officer to grant dispensations in similar terms on the written request of any other councillors following the meeting.
3. Delegate authority to the Monitoring Officer to make changes to the Code of Conduct to reflect these decisions.

## **Section 2 – Report**

### **1. Background**

2.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules on dispensations as part of the new conduct arrangements.

2.2 It is a criminal offence for Members to fail to register a Disclosable Pecuniary Interest or to speak and/or vote where they have a Disclosable Pecuniary Interest unless they have obtained a dispensation.

2.3 Council has delegated power to the Standards Committee to grant dispensations.

### **3. General Dispensation to speak and vote on specified matters**

3.1 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).

3.2 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 areas,
- (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.

3.3 Under the previous regime, the the model code of conduct specifically stated that members would not have a prejudicial interest in circumstances that potentially affected the majority of Councillors, such as council tax setting.

3.4 There are no similar provisions under the Localism Act and Members are therefore at risk of committing a criminal offence if they participate in matters in which they have a Disclosable Pecuniary Interest and no dispensation has been granted. If the majority of Members had an interest in these matters then it would impede the business of the Council.

3.5 Council has delegated to the Standards Committee powers to grant dispensations to Councillors or co-opted members in accordance with section 33 of the Localism Act 2011 allowing Councillors or co-opted members to take part in debate and vote on any item in which they have a Disclosable Pecuniary Interest.

3.6 In order to protect Members it is recommended that a General Dispensation is granted to all Members to speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:

3.6.1 Housing: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease;

3.6.2 Housing Benefit: where the Councillor (or spouse or partner) receives housing benefit;

3.6.3 An allowance, travelling expense, payment or indemnity for Councillors;

3.6.4 Setting the Council Tax or a Precept; and

3.6.5 Decisions in relation to Council Tax Benefit.

3.7 Members' allowances are included in this general dispensation for the avoidance of doubt and for completeness even though the Monitoring Officer has given advice that they are not a Disclosable Pecuniary Interests.

3.8 It is recommended that the general dispensation applies until the next election.

#### **4 General dispensation to stay and speak on any matter**

4.1 Relevant provisions of the Localism Act are set out at paragraphs 3.1 and 3.2 above. In addition, s.31(10) allows a local authority to adopt a Standing Order to provide for a member who is not permitted to participate in a discussion and vote, to be excluded from a meeting during consideration of the relevant matter.

4.2 At Council on 5 July 2012 it was agreed as follows:

'the Monitoring Officer be instructed upon receipt of the regulations on members' interests to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest, except where he/she is permitted to remain as a result of the grant of a dispensation'.

4.3 The Standing Order was agreed under the urgent action procedure and reported to Council on 8 November 2012.

4.4 The Standing Order is reflected in the Council's Code of Conduct for members which states that a member who has a DPI must not participate in any discussion or vote and must leave the room in which the meeting is being held, subject to any dispensation.

4.5 In August 2012, the Department for Communities and Local Government (DCLG) published non-statutory guidance – 'Openness and Transparency on Personal Interests: A guide for Councillors'. This summarises the provisions of the Localism Act on DPIs and states that the restrictions on participation include 'any form of participation, including as a member of the public'.

4.6 If members of this committee are minded to allow members with DPIs to participate in a meeting in the same way as members of the public, the safest course would be to grant a general dispensation to allow this. As this would be a generally applicable dispensation, the only suitable grounds under the Localism Act would be those set out in 3.2 (c) or (e) above.

## **5 Delegation of dispensations**

5.1 At the Council meeting on 5 July 2012, it was agreed that the granting of dispensations be delegated to the Standards Committee.

5.2 It is now recommended that the granting of dispensations outlined in this report requested after this meeting be delegated to the Monitoring Officer.

## **Legal implications**

The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations.

The Council has delegated power to the Standards Committee to grant dispensations.

## **Financial Implications**

There are no financial implications.

## **Risk Management Implications**

There are no risk management implications.

## **Equalities implications**

Was an Equality Impact Assessment carried out? /No (delete as appropriate)

This is not relevant to this report.

## **Corporate Priorities**

United and involved communities: A Council that listens and leads.

### Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 22/11/12		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 26/11/12		

### Section 4 - Contact Details and Background Papers

**Contact:** Caroline Eccles, Senior Assistant Lawyer – Employment and Governance, 0208 424 7580.

Background Papers:

Openness and Transparency on Personal Interests: A guide for Councillors

<http://www.communities.gov.uk/documents/localgovernment/pdf/2193362.pdf>

If appropriate, does the report include the following considerations?

1.	Consultation	NO
2.	Corporate Priorities	YES