

MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	GRANT OF DISPENSATION UNDER THE LOCALISM ACT 2011
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To delegate the power to grant dispensations in respect of participation in decision making where a member has a disclosable pecuniary interest and to amend the Council's Procedure Rules to exclude a member with such an interest from the meeting.

Recommendations

THAT: on the recommendation of the Audit and Governance Committee, which met on 21 September and subject to any amendments made at that meeting Council adopts the following recommendations:

- (a) the power to grant dispensations under Section 33 (2)(b)(d) and (e) Localism Act 2011 or any subsequent amendment be delegated to Audit and Governance Committee; and**
- (b) the power to grant dispensations under Section 33 (2)(a) and (c) Localism Act 2011 or any subsequent amendment be delegated to the Monitoring Officer with a right of appeal to Audit and Governance Committee; and**
- (c) Council Procedure Rules be amended by the addition of:**

“4.1.25 Exclusion of Members with Disclosable Pecuniary Interests

Where a member is prevented by virtue of a disclosable pecuniary interest from participating in a meeting, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted”

and the insertion of the words “clause 4.1.25” in clauses 4.1.2.1 and 4.1.22.1

Key Points Summary

- The Localism Act 2011 introduced a system of disclosable pecuniary interests. This has consequences for member participation in decision making. Dispensations can be granted and this report recommends appropriate delegations to the Monitoring Officer and Audit and Governance Committee for this power.
- Standing Orders may provide for the exclusion of members from meetings where they are prevented from participating by virtue of a disclosable pecuniary interest

Alternative Options

1. Dispensations could be granted solely to Audit and Governance Committee or the power could be exercised solely by Council. Either would be more cumbersome to administer and would create delay.

Introduction and Background

2. The Localism Act 2011 required members to notify the Monitoring Officer of any disclosable interests, which are then entered in a register. Disclosable interests are defined in the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012. All members have recently submitted their completed forms to the Monitoring Officer.
3. Where a member is aware that he has a disclosable pecuniary interest (DPI) in any matter to be considered at a meeting, he must disclose the interest to the meeting. If the interest is not entered in the register (or is subject to a pending notification) the member must notify the Monitoring Officer within twenty eight days from the date of disclosure.
4. The consequences of being aware as above are that the member may not participate in the discussion and may not vote. Where the function is being discharged by a member acting alone, that member may take no further steps, save to enable the matter to be handled by another member.

Key Considerations

5. The Localism Act 2011 further provides for the granting of dispensations. This power can be delegated by Council to a committee and/or an officer.
6. Dispensations are granted on written application on grounds which are summarised as follows:-
 - (a) So many members have DPIs that it would impede the transaction of the business were a dispensation not to be granted
 - (b) Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter
 - (c) Without the dispensation, every member of Cabinet would be prohibited from participating
 - (d) The grant of the dispensation would be in the interests of the inhabitants of the authority's area
 - (e) It is otherwise appropriate to grant the dispensation
7. In (a) and (c) above the existence of grounds is purely factual whereas (b) (d) and (e) above

require political judgement. It is suggested that (b) (d) and (e) be delegated to Audit and Governance Committee but that (a) and (c) are delegated to the Monitoring Officer. Delegation to an officer avoids the need to give five clear days' notice and convene a member meeting to grant the dispensation. The delegation to the Monitoring Office could be subject to a right of appeal to the Audit and Governance Committee.

8. Although the Council under its new arrangements will consider complaints about the conduct of members of parish councils, those councils will be responsible for the grant of their own dispensations.
9. The Localism Act 2011 also allows the Council to make standing orders to provide for the exclusion of members who are prevented from participating by virtue of a disclosable pecuniary interest. The recommendations in this report include such provisions.

Community Impact

10. Ethical and transparent governance is an important element of the Council's corporate governance arrangements and affects its standing within the community. Dispensations balance conflicts of interest with the need for the expeditious dispatch of the Council's business.

Equality and Human Rights

11. These proposals do not engage the obligations imposed by the Equalities Act 2010

Financial Implications

12. None

Legal Implications

13. These are explained in the report.

Risk Management

14. If an effective scheme for granting dispensations is not introduced, then decision making could be impaired.

Consultees

15. None

Appendices

16. None

Background Papers

None identified