

For General Release

REPORT TO:	ETHICS COMMITTEE 22 NOVEMBER 2012
AGENDA ITEM NO:	11
SUBJECT:	DISPENSATIONS FOR MEMBERS
LEAD OFFICER:	COUNCIL SOLICITOR, DIRECTOR OF DEMOCRATIC AND LEGAL SERVICES & MONITORING OFFICER
CABINET MEMBER:	N/A
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Council has determined that the Ethics Committee shall consider dispensations for Members under the new ethics regime.	
FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1. RECOMMENDATIONS

The Committee is asked to:

- 1.1 Consider and comment on the proposed general dispensations which are proposed to be given to all Members of the Council pursuant to the Councils dispensation procedure.

2. EXECUTIVE SUMMARY

- 2.1 Following statutory amendments to the ethics regime, full Council adopted a new Code of Conduct and delegated to the Monitoring Officer and the Ethics Committee the power to consider dispensations under the new ethics regime.

3. DETAIL

- 3.1 Under Section 31 of the Localism Act 2011 ("the Act"), a Member or co-opted Member who has a disclosable pecuniary interest (DPI) in a matter to be considered or being considered at a meeting of the authority at which that Member or co-opted Member is present and the DPI is one which the Member or co-opted Member is aware of, the Member or co-opted Member may not participate or participate further in any discussion or vote on the matter at the meeting unless he/she has first obtained a dispensation in accordance with the Council's dispensation procedure.
- 3.2 There are 5 circumstances in respect of which a dispensation may be granted, namely:

- That so many members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would “impede the transaction of the business”
 - That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. ;
 - That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
 - That, without a dispensation, no member of the Cabinet would be able to participate on this matter or
 - That the authority considers that it is otherwise appropriate to grant a dispensation.
- 3.3 The Council has determined that in respect of grounds 1 and 4 above, which involve a quantitative assessment of whether the requirements are met, it is appropriate to delegate dispensations on these grounds to the Monitoring Officer for determination. The Monitoring Officer is permitted, but not required, to consult with the Ethics Committee prior to determining an application for dispensation on grounds 1 or 4.
- 3.4 In respect of grounds 2, 3 and 5 above, assessment of these grounds involve a qualitative judgement and are less objective and Council has therefore considered it appropriate that the discretion to grant dispensations on these grounds is delegated to the Ethics Committee, after consultation with the Independent Person.
- 3.5 Under the previous Code of Conduct, provision was made that where a Members’ interest fell within a specific category of decision, it was not to be regarded as a personal and prejudicial interest. This was the case where the interest related to the functions of the Members’ authority in respect of—
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

- 3.6 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the Regulations”) set out those interests which are regarded as being DPIs under the new ethics regime. The new regime does not provide for any exceptions from this save where a dispensation is granted.
- 3.7 The categories of DPI can be summarised as follows:
- Any employment, office, trade, profession or vocation carried on for profit or gain
 - Sponsorships
 - Contracts between the Member or their Spouse/Partner (or a body in which either of them has a beneficial interest) and the relevant authority for the provision of goods or services or works executed which contract has not been fully discharged
 - Any beneficial interest in land within the area of the authority
 - Any license to occupy land in the area of the authority for a month or more
 - Any corporate tenancy between the authority and a body in which the Member or their Spouse/Partner has a beneficial interest
 - Securities
- 3.8 It is proposed that the Monitoring Officer, under the provisions of ground 1 of the dispensations criteria, consider granting a dispensation to all Members in respect of a DPI which falls within the categories (iv) and (vi) set out in 3.5 above, on the basis that so many members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would “impede the transaction of the business”.
- 3.9 The reason a blanket dispensation is being proposed for those two categories is that the decisions relate to Member’s office as a Councillor and impact on all Members and if Members were prevented from participating in decisions on these items due to DPI’s the transaction of the business of the Council would be impeded.
- 3.10 Dispensations may not be granted for periods in excess of four years and it is not recommended that a dispensation be granted for a period which exceeds beyond a Members’ term of office. Accordingly, it is proposed to grant the general dispensation referred to above for a period up to the end of the current Members’ term of office in 2014.
- 3.11 Members are asked to consider and comment on the proposal so that this may be taken into account by the Monitoring officer in considering whether it is appropriate to grant a dispensation to all Members on those grounds for the period of time suggested.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There are no direct financial implications arising from this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal consequences arising from the contents of this report beyond those set out in the body of the report.

CONTACT OFFICERS:

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BACKGROUND DOCUMENTS:

None