

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
<b>STANDARDS COMMITTEE</b>	<b>4 FEBRUARY 2013</b>

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
<b>REQUEST FOR DISPENSATIONS</b>	<b>Not Applicable</b>	<b>DAVID WHELAN / KAY LOVELADY</b>	<b>5</b>

## **SUMMARY AND LINK TO CORPORATE PRIORITIES**

The report relates to the possible granting of dispensation to relevant members in accordance with the Localism Act 2011 and the Council's Code of Conduct.

## **RECOMMENDATIONS**

1. That the Standards Committee considers whether to grant dispensations to enable relevant members to take part and vote on any decisions relating to :
  - a. setting council tax under the Local Government Finance Act 1992;
  - b. any allowance, payment or indemnity given to members; and
  - c. any ceremonial honour given to members.

## **DETAILS AND REASONING**

Members are aware that the Localism Act 2011 required the introduction of new standards arrangements and resulted in this Council adopting a new Code of Conduct. The Code includes the power to allow the Standards Committee to grant dispensations to enable members to participate and vote on matters in which a member has a disclosable pecuniary interest. Additionally Section E gives general dispensation/permission for members to participate and vote in the three areas mentioned above even if they have a disclosable pecuniary interest. Similar provisions were adopted by many other councils and it was initially considered to be sufficient to protect members in these circumstances from breaching the legislation.

It has recently come to the attention of officers that some organisations (for example the Society of Local Council Clerks) are of the opinion that the general dispensation provisions are not sufficient and that not only may the validity of any affected decision be challenged but also a member could be found in breach of the legislation. The reason for the element of doubt is that Section 33 Localism Act 2011 states:

“(1) A relevant authority may, *on written request* made to the proper officer of the authority by a member...of the authority, grant a dispensation relieving the member...from either or both of the restrictions in Section 31(4) (duty not to participate and vote on any matter where a member has a disclosable pecuniary interest) in cases described in the dispensation.”

It is argued therefore that each member must make a written request for any dispensation and that such a request must be determined (in the case of this Council) by the Standards Committee. General provisions in the Code would therefore not be sufficient. Although officers do not fully agree with this opinion it is considered prudent to do everything possible to protect both the Council and its members. Members have therefore been asked to sign a request for dispensation to cover the above areas and Standards Committee are asked to consider the same. Dispensations can last for any period up to four years and in this case the request is for a period up until the next local authority election in 2015 or until the applicant stops being a member whichever is the shortest.

In the next few weeks there will be a need for Cabinet and Council to debate budget and Council Tax setting for the next financial year. It could be argued that members living or having property within the borough would have a disclosable pecuniary interest. On this basis they would not be able to take part or vote in any such discussions.

The Localism Act states that dispensations can only be granted if, after having had regard to all the relevant circumstances the Committee:

- a. consider that without the dispensation the number of persons prohibited from participating in any matter would be so great a proportion that it would prevent the matter from being properly determined;
- b. considers that without the dispensation the representation of different political groups considering a matter would be so upset as to alter the likely outcome of any vote relating to that matter;
- c. considers granting the dispensation in the interest of persons living within the authority's area;
- d. considers that each member of the Cabinet would be prohibited from participating in any particular business to be considered by Cabinet; or
- e. considers that it is otherwise appropriate to grant a dispensation.

Only the Standards Committee can grant the dispensation applied for – it is a matter of discretion for them. Standards Committee will need to balance the public interest in preventing members with disclosable pecuniary interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. Indeed there is a real risk that without dispensations being granted for these issues the Council would not be quorate. Such dispensation may only be granted to those members who have specifically applied for it.

The members of Standards Committee will be provided at the committee meeting with details of precisely which councillors have indeed applied for such dispensation.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

<b>FINANCIAL</b>	None.
<b>LEGAL</b>	The decision whether to grant dispensation is entirely a matter for this committee.
<b>RISK</b>	The Council must always ensure that it acts in a transparent fashion in order to avoid any possible reputational damage.

<b><i>THE IMPACT ON EQUALITY</i></b>	It is not considered that there is any impact on equality.
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<b><i>OTHER (see below)</i></b>	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

**BACKGROUND DOCUMENTS**

The Council's Code of Conduct.