

DISPENSATIONS

Submitted by: **Head of Central Services and Monitoring Officer**

Ward(s) affected: **All**

Purpose of the Report

To enable the Committee to determine the grant of a number of dispensations to allow the Council to operate effectively.

Recommendation

That dispensations be granted for a period terminating with the next elections for each Member granted a dispensation.

Reasons

To promote and maintain high standards of conduct and to comply with the Localism Act 2011.

1. Background

1.1 As Members of this Committee are aware, the Council at its meeting on 12 July 2012 adopted a new Code of Conduct for Members with effect from 1 July 2012. This was required by the provisions of the Localism Act 2011. In the main the content of the new Code of Conduct is a matter for the Borough Council. However, there is a requirement in the legislation to include provisions relating to the new category of Disclosable Pecuniary Interests (DPIs). These appear in Section 3 and the Appendix of the new Code and set out the categories of the DPIs prescribed by legislation, namely:

- Employment, office, trade, profession or vocation
- Sponsorship
- Contracts
- Land
- Licences
- Corporate tenancies
- Securities.

1.2 The Code then goes on to say that any Member who has a DPI in any matter to be considered or being considered at a meeting may not participate in any discussion or vote at the meeting. Similarly, where the decision is being made by the Member alone, he/she must not take any steps or further steps in the matter.

1.3 Under the previous Code of Conduct, a general dispensation was automatically given to all Members in respect of specified categories of 'prejudicial interests' (which broadly equated to the new DPIs). Unfortunately, these automatic dispensations were not reproduced in the legislation for DPIs. This means that individual dispensations need to be specifically considered by this Committee.

1.4 A number of areas have been identified in which dispensations may be necessary. These are:

- Allowance, payment or indemnity given to Members.
- Ceremonial honours given to Members.
- Setting Council Tax or a precept under the Local Government Finance Act 1992, as amended from time to time, or any superseding legislation.
- Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012, as amended from time to time, and any superseding legislation.

Dispensations may be granted if, having regard to all relevant circumstances, the Committee considers that:

- (a) 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) 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) granting the dispensation is in the interests of persons living in the authority's area;
 - (d) 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) that it is otherwise appropriate to grant a dispensation.
- 1.5 If granted, a dispensation must specify the period for which it has effect, and that period must not exceed 4 years.
 - 1.6 The Committee has delegated power to determine these matters. The requests can either be approved or refused, in whole or in part. On the assumption that Committee grants the requests for dispensation, then all current Members of the Borough Council will be covered by a dispensation.
 - 1.7 Turning to the criteria for the granting of dispensations, it seems clear that criteria (a) and (c) would apply to decisions concerning allowances, payments or indemnities given to Members, and also ceremonial honours given to Members. This is because the decisions on allowances, payments or indemnities are likely to be directly relevant to all Members as are ceremonial honours (although possibly to a lesser extent). However, the granting of ceremonial honours might primarily be regarded as something that is of benefit to the community of the authority's area. In terms of the remaining three decision making areas – Council Tax, local Council Tax reduction and business rates – criteria (a) and (b) would appear to be the most likely to apply. This is because most Members of the Borough Council will be Council Tax payers, and the decisions on setting Council Tax and business rates are inevitably matters of political controversy on which it is important to maintain, so far as possible, the political balance of the authority. In addition, it could be considered to be in the interests of persons living in the authority's area that their elected representatives are able to participate fully in making such important decisions. The Committee may also feel that, in addition to the specific criteria, it is otherwise appropriate to grant a dispensation using its powers under (e).
 - 1.8 Should Committee grant the dispensations requested, each Member will be formally notified of the grant. They will also be informed that, despite having been granted a dispensation,

where a DPI arises they will still be required to disclose that fact at the relevant meeting. They will then need to explain that they have a dispensation to speak and vote on the matter concerned. Even so, on individual matters, a Member may choose not to take advantage of their dispensation if they feel that is the right course of action in the circumstances.

2. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The new regime will contribute to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in. This will thereby contribute to the Council's priority of transforming our Council to achieve excellence.

3. **Legal and Statutory Implications**

The Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by their Members.

4. **Equality Impact Assessment**

No differential equality impact issues have been identified.

5. **Major Risks**

There are no specific risk issues.

6. **Financial Implications**

There are none flowing from this report.