

AUDIT & GOVERNANCE COMMITTEE – 4 JULY 2012

DISPENSATIONS – MEMBERS’ INTERESTS

Report by County Solicitor and Monitoring Officer

Introduction

1. At the meeting of Council on 15 May, it was agreed that the terms of reference of this Committee be widened to include certain responsibilities previously undertaken by the Standards Committee. One of these is the responsibility “to grant dispensations to councillors and co-opted members from requirements relating to interests set out in the code of conduct for members”.
2. This report sets out potential arrangements for dealing with such instances and which are consistent with both the Council’s code of conduct for members and the Localism Act 2011 (and associated regulations).

Background

3. The council’s new code of conduct agreed by Council in May and to come into effect on 1 July requires that any councillor or co-opted member who has a disclosable pecuniary interest must register it within 28 days of coming into office. The interest must also be declared at a meeting of the council where the interest relates to any matter under consideration. The code then states that:

“Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.” (Code of Conduct, paragraph 19).
4. The potential arrangements outlined below suggest how the consideration of such potential dispensations could be handled in practice.

Dispensations - potential arrangements

5. The provisions on dispensations have been significantly changed under the Localism Act 2011. The following paragraphs summarised the new grounds for considering a dispensation and suggest how decisions could be made on them.

6. Previously, a member who had a prejudicial interest could apply to the Standards Committee for a dispensation on two grounds:
 - (a) That at least half of the members of the decision-making body had a prejudicial interest
 - (b) That so many members of one political party had a prejudicial interest in the matter such that it would upset the result of the vote on the matter.

7. In future, a dispensation can be granted in five circumstances:
 - (a) That so many members of the decision making body have disclosable pecuniary interests in a matter that it would “impede the transaction of the business”.
 - (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter;
 - (c) That the authority considers the dispensation is in the interests of persons living in the authority’s area;
 - (d) That, without the dispensation, no member of the Cabinet would be able to participate on this matter; or
 - (e) That the authority considers that it is otherwise appropriate to grant a dispensation.

(Section 33 of the Localism Act 2011)

8. Any grant of dispensation would need to specify how long it lasts for, up to a maximum of 4 years.
9. In addition, the Localism Act gives discretion for the consideration of dispensations to be delegated to a committee or sub-committee or to the Monitoring Officer. A general delegation has been made by this Council to this Committee. However, in practice, the Committee may wish to consider that the Monitoring Officer be delegated with responsibility for determining dispensations under grounds 7(a), (b) and (d) above, given the greater objectivity of those circumstances, with an appeal to the Audit & Governance Committee. Grounds 7 (c) and (e), being more subjective, may be better considered by the Committee itself, potentially in consultation with the Independent Person appointed under the Localism Act.
10. The Committee may wish to consider appointing a Dispensations Sub-Committee to consider applications for dispensations on its behalf. In which case, the Committee may wish to agree the following terms of reference for it:
 - (a) A meeting of any such sub-committee should normally comprise three members of the Audit & Governance Committee;
 - (b) The Monitoring Officer will select the membership of each sub-committee after consultation with the Chairman or (in his/her absence) the Deputy Chairman of the Audit & Governance Committee;

- (c) Meetings of the sub-committee will be chaired by a person appointed by the Chairman or in his/her absence Deputy Chairman of this Committee unless either the Chairman or Deputy Chairman is seeking the dispensation in which case the Monitoring Officer will be able to nominate a chairman;
 - (d) The sub-committee may comprise more than three members of the Committee up to and including the whole membership of the Committee;
 - (e) The sub-committee may seek the views or advice of the Independent Person and/or the Monitoring Officer in undertaking its deliberations.
11. Under the previous standards regime, there were no requests for dispensation and it is not anticipated that this will change under the new arrangements. Nevertheless it is considered appropriate that procedures should be put in place should any such requests arise in future.

RECOMMENDATIONS

12. **The Committee is RECOMMENDED:**
- (a) **to note the changes outlined in this report to the regime for granting dispensations to members and co-opted members with disclosable pecuniary interests;**
 - (b) **to consider delegating to the Monitoring Officer consideration of requests for dispensation occurring within the circumstances at paragraphs 7(a), (b) and (d) above, with a subsequent right of appeal to this Committee;**
 - (c) **to consider whether to appoint a sub-committee for considering applications for dispensation not otherwise delegated to the Monitoring Officer and if so to consider adopting the terms of reference outlined in paragraph 10 (a) – (e) above.**

NAME
County Solicitor and Monitoring Officer

Background papers: Localism Act 2012; Members' Code of Conduct
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