

Divisions Affected - None

COUNCIL
17 May 2022

DISPENSATIONS

Report by Director of Law & Governance

RECOMMENDATION

1. The Council is **RECOMMENDED** to
 - a) approve, under **Section 33 of the Localism Act 2011**, the general dispensations, listed at paragraph 7 of this report, for all elected and co-opted voting Members of Oxfordshire County Council;
 - b) agree that those general dispensations should remain in force for a period of three years;
 - c) agree that the granting of individual dispensations under **Section 33 of the Localism Act 2011** and the Code of Conduct be delegated to the Monitoring Officer

Executive Summary

2. This report proposes that Council approve a number of general dispensations under the Localism Act 2011, such dispensations to remain in force for a period of three years, in the interests of good governance and the effective conduct of public affairs. It also recommends that the power to grant individual dispensations be delegated to the Monitoring Officer

Background

3. The Localism Act 2011 ('the Act') made significant changes to the Standards regime. Under the Act the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council is obliged to adopt a Code of Conduct setting out the conduct expected of elected and co-opted voting Members whenever they act in their official capacity as a Member

4. On 5 April 2022 the Council adopted a Member Code of Conduct ('the Code of Conduct') which was recommended by the Local Government Association.
5. The Act prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest (DPI) unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing and dispensations may be sought for a period of up to four years.
6. Dispensations may be sought on the following grounds:
 - a) That so many Members of the decision making body have a disclosable pecuniary interest in a matter that the business of the meeting would be impeded
 - b) Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote
 - c) The dispensation is in the interests of persons living in the area
 - d) No Member of the Cabinet would be able to participate on the matter without a dispensation
 - e) It is otherwise appropriate to grant a dispensation.

General Dispensations

7. It is proposed that general dispensations to speak and vote on the following items are granted to all Oxfordshire County Council Members and co-opted voting Members and that those dispensations remain in force until the next Council elections:
 - Determining an allowance (including special responsibility allowances), travelling expense, payment or indemnity given to Members
 - Housing Benefit/ Universal Credit: where the Councillor (or spouse or partner) receives housing benefit or universal credit;
 - Any Ceremonial Honours given to Members;
 - Setting the Council Tax precept under the Local Government and Finance Act 1992 (or any subsequent legislation).

Council Tax

8. Guidance issued by the Department for Communities and Local Government (DCLG) in 2012 (updated September 2013): Openness and transparency on personal interests stated in summary that the DCLG view was that Members did not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support because this is a decision affecting the generality of the public in the area rather than Members as individuals.
9. If granted, the dispensation for council tax relates to a Member's DPI and does not affect a Member's obligation under Section 106 of the Local Government Finance Act 1992 to declare and not vote if they are 2 months or more in arrears with their council tax when voting on setting the Council's budget.
10. Historically the Council has relied on this DCLG guidance and has not sought dispensations for Members to speak and vote on matters relating to council tax. However, as the DCLG guidance is not statutory and has not been tested in court, the Monitoring Officer considers it prudent and transparent to include council tax in the general dispensation.

Delegation to the Monitoring Officer

11. Council could be requested to grant individual dispensations, but to address concerns about the timely consideration of an application for a dispensation it is recommended that the granting of dispensations to an individual member under Section 33 of the Act be delegated to the Monitoring Officer on application in writing.
12. Such delegation would operate on the following basis:
 - The Monitoring Officer would be the sole decision taker but would act in consultation with the Chief Executive
 - The delegation would apply to applications from an individual Member only.

Code of Conduct

13. The Code of Conduct also requires councillors not to speak or vote where a matter directly relates to, or significantly affects, the financial interest or well-being of one of their Other Registrable Interests, or directly relates to, or significantly affects, a non-registrable interest of a councillor, relative or close associate and in all cases to leave the room. A proviso is made that they may speak but only if members of the public are allowed to speak on the matter. Although not included in s33, the Code refers to the Monitoring Officer being able to grant dispensations to allow Councillors with such interests to speak and vote. It is recommended that Council authorise the Monitoring Officer to grant dispensations on the basis described in paragraph 12 above.

Corporate Policies and Procedures

14. This report supports the Council's Strategic Plan 2022-25 of promoting a vibrant and participatory local democracy. The proposed dispensations and the ability of the Monitoring Officer to grant individual dispensations seek to promote participation by Councillors in matters where otherwise they would be unable to speak and vote, and unable to represent their constituents.

Legal Implications

15. Any legal implications arising from the legislation (The Localism Act 2011, Section 33) are set out in the body of this report.

Financial Implications

16. None

Staff Implications

17. There are no staffing implications associated with this report

Equality & Inclusion Implications

18. There are no direct equality and inclusion implications associated with this report.

Sustainability Implications

19. There are no sustainability implications associated with this report

Risk Management

20. Not putting in place the recommended general dispensations would mean that every Member would need to apply for a personal dispensation when the relevant matters arose. Not putting in place the recommended delegation would mean that it might not be possible for applications for a personal dispensation to be considered and acted upon in a timely manner. This would not be an efficient use of the Council's resources or in the public interest

Consultations

21. There are no consultation implications associated with this report

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