

# Taunton Deane Borough Council

## Standards Committee – 19 March 2013

### Dispensation Process

#### Report of the Monitoring Officer

(This matter is the responsibility of Executive Councillor John Williams, Leader of the Council)

#### 1. Executive Summary

This report is to discuss the dispensation process and to assess a further delegation to the Monitoring Officer.

#### 2. The Dispensation Process

2.1 The Localism Act 2011 made significant changes to the provisions of granting dispensations.

2.2 A dispensation can be granted in the following circumstances:-

- i. That so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
- ii. 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. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- iii. That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- iv. That, without a dispensation, no member of the Executive would be able to participate on this matter (so, the assumption is that, where the Executive would be inquorate as a result, the matter can then be dealt with by an individual Executive Member. It will be necessary to

make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or

- v. That the authority considers that it is otherwise appropriate to grant a dispensation.

- 2.3 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 2.4 The Local Government Act 2000 required that dispensations could only be granted by Standards Committee but the Localism Act now gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer.
- 2.5 In July 2012 Full Council approved delegation of Grounds (i) and (iv) above to the Monitoring Officer as it was thought that they were fairly objective with an appeal to the Standards Committee. This enables dispensations to be granted “at the door of the meeting”.
- 2.6. However Grounds (ii), (iii), and (v), were deemed to be more objective and remained with Standards Committee, after consultation with the Independent Person.

### **3. Proposed change to the delegation.**

- 3.1 Last year a motion was put to Full Council and a number of members were unable to speak due to having Disclosable Pecuniary Interests. Members were frustrated as they believed that the information they could have obtained from those members would have assisted the debate but due to the restraints of the new legislation and the current dispensation process they were unable to obtain the information they required.
- 3.2 It was noted that a dispensation could possibly have been given under (iii) above, ie that the authority considered that the dispensation would have been in the interests of persons living in the area.
- 3.3 It was also noted that under the previous Standards regime, those members with interests would have had the ability to have addressed the meeting, make statements, answer questions or give evidence.
- 3.4 However, due to the timing of the Council meeting there would have been insufficient time to have requested a dispensation from the Standards Committee due to the statutory timescales required to give notice of meetings.
- 3.5 If however the Monitoring Officer had delegated authority to grant a dispensation where it was believed that it was in the interests of the persons living in the authority's area but that dispensation was limited to only being able to allow the member to make statements or representations, answer questions, or give evidence and such dispensation to only be granted following a consultation with the Independent Person then members would have had the benefit of

knowledge from those members who had a Disclosable Pecuniary Interest and could not take any part in the meeting.

3.6 It is not envisaged that the Monitoring Officer should be able to grant a dispensation allowing a member to vote in those circumstances and should the member wish to vote then the application for a full dispensation should still be made to the Standards Committee.

3.7 This proposal would therefore allow members to serve their communities and impart information to a debate but ensure that integrity of the member with an interest is maintained.

3.8 Therefore it is proposed that the Standards Committee reviews the Dispensation Process and decides whether to grant the delegation as set above to the Monitoring Officer to enable circumstances where a member with a Disclosable Pecuniary Interest can take part in the meeting without being in breach of the Localism Act 2011 and thus commit a criminal offence.

3.9 Also set out in this report is the revised application and guidance on granting dispensations. This guidance is set out at Appendix 1.

#### **4. Finance Comments**

There are no finance implications in this report.

#### **5. Legal Comments**

5.1 The Council has a statutory duty to promote and maintain high standards of conduct and therefore a transparent process for granting dispensations is essential.

#### **6. Links to Corporate Aims** (Please refer to the current edition of the Corporate Strategy)

There are no links to the Corporate Aims

#### **7. Environmental Implications**

There are no environmental implications in this report.

#### **8. Community Safety Implications** (if appropriate, such as measures to combat anti-social behaviour)

There are no community safety implications

#### **9. Equalities Impact**

There are no equalities impact assessment required with this proposal.

**10. Risk Management** (if appropriate, such as reputational and health and safety risks. If the item the subject of the report has been included in a Service Plan, the result of the risk assessment undertaken when the plan was prepared should be entered here.

The Council needs to demonstrate that it can comply with its duty to promote and maintain high standards of conduct and the recommendation in this report will assist the Council in doing that.

**11. Partnership Implications** (if any)

There are no partnership implications contained in this report.

**12. Recommendations**

- 12.1 The Standards Committee is recommended to discuss the proposed change to the delegation to the Monitoring officer as set out in this report and decide whether they wish to grant such delegation.
- 12.2 To approve the dispensation guidance as set out in Appendix 1

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# APPENDIX 1

## STANDARDS COMMITTEE 19.03.13

### DISPENSATION REQUEST

Name of Councillor	
Nature and description of interest for which dispensation sought:	
Period for which dispensation is sought.  NOTE: This may be for a maximum period of 4 years. Where a dispensation is sought for a particular meeting, please specify date of meeting Grounds on which the dispensation is sought.	
Please refer to grounds referred to in guidance.  Please also provide supporting reasons as to why you consider the dispensation request should be granted.  Please state whether you are seeking a dispensation to speak and to vote or to speak only on the particular matter	

## **Guidance on Dispensation Requests**

A dispensation can be granted on the following grounds to enable a member to speak and/or vote where they would otherwise have a disclosable pecuniary interest: -

1. That so many members of the Council have disclosable pecuniary interests in a matter that it would impede the transaction of the business (i.e. it would otherwise be inquorate)
2. That without the dispensation, the representation of different political groups on the Council would be so upset as to alter the outcome of any vote on the matter.
3. That the Council considers that the dispensation is in the interests of persons living in the Council's area.
4. That without a dispensation no member of the Executive would be able to participate on the matter
5. That the Council considers that it is otherwise appropriate to grant a dispensation.

A dispensation request must be made to the Monitoring Officer in writing or by email addressed to Tonya Meers, Monitoring Officer, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton, TA1 1HA or email to [t.meers@tauntondeane.gov.uk](mailto:t.meers@tauntondeane.gov.uk)

It is advisable to submit a dispensation request well in advance of the date of the meeting for which the dispensation is sought and in any event, other than in exceptional circumstances the dispensation request should be submitted not less than 10 clear days prior to the date of the meeting to which the dispensation request relates.

The *Council's Standards Committee* has agreed the following criteria in determining whether to grant dispensation requests:-

1. Whether the nature of the member's interest is such that to allow them to participate would not damage public confidence in the conduct of the authorities business
2. Whether the interest is common to the member and a significant proportion of the general public; if this is the case a dispensation is more likely to be granted.
3. Is the participation of the member in the business that the interest relates to justified by a member's particular role or expertise?

4. Whether the interest is trivial or remote; if this is the case a dispensation is more likely to be granted.

### **Bias and Predetermination**

You should note that there may be circumstances where you do not have a disclosable pecuniary interest but it would be inappropriate for you to speak and vote on any matter by reason that you may be biased if you were to do so – for example speaking and voting on a planning application relating to a close member of your family other than your spouse or partner. A dispensation cannot be granted in such circumstances to enable you to speak and vote.

Moreover it is extremely unlikely that a dispensation will be granted in respect of a disclosable pecuniary interest where circumstances of bias or predetermination may arise. For further information and clarification please contact the Monitoring Officer.