

# STANDARDS COMMITTEE

24th October 2013

## LOCALISM ACT 2011 – STANDARDS REGIME – BUDGET SETTING DISPENSATION

Relevant Portfolio Holder	Councillor John Fisher, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Ward(s) Affected	All Wards
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

### 1. SUMMARY OF PROPOSALS

To consider the granting of a general dispensation under s33 of the Localism Act 2011 to enable Members to participate and vote in the Budget setting process.

### 2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

- 1) **subject to the caveat set out in paragraph 3.11 of this report, the Standards Committee grants a dispensation under Section 33 (2) of the Localism Act 2011 to allow all Members to participate in and vote at Council and committee meetings when considering setting the Budget;**
- 2) **the dispensation referred to at 1) above take effect on receipt of a written request from Members for a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting; and**
- 3) **the dispensation referred to at 1) above be valid until the first Standards Committee meeting after the Borough Council Elections in 2014.**

### 3. KEY ISSUES

#### Financial Implications

- 3.1 None.

# **STANDARDS COMMITTEE**

**24th October 2013**

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## **Legal Implications**

- 3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests (“DPIs”).
- 3.3 Section 33 (1) requires that a Member must make a written request for a dispensation.
- 3.4 Section 33 (3) provides that a dispensation must specify the period for which it has effect and that period may not exceed 4 years.

## **Service / Operational Implications**

- 3.5 Under s31 (4) of the Localism Act 2011 a Member who has a DPI in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.6 The consideration of whether to grant a dispensation under s33 has been delegated to the Standards Committee.
- 3.7 At its meeting on 12th December 2012 the Committee resolved to grant, subject to receipt of the required written request from Members, general dispensations for the setting of the Council Tax, Council Rents and Members’ Allowances, and also for Members’ speaking rights. In light of experience of the new regime and to be consistent with other authorities, an additional general dispensation is now being sought for Members for when they consider setting the Budget.
- 3.8 Section 33 (2) includes a number of situations where a dispensation can be considered, but should be granted “only if, after having regard to all relevant circumstances” the Committee considers that one of those situations applies.
- 3.9 The statutory grounds under s33 (2) for the granting of a dispensation are where the authority –
  - “(a) considers that without the dispensation the number of persons prohibited by section 31(4) 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) considers that 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) considers that granting the dispensation is in the interests of persons living in the authority’s area,

**STANDARDS  
COMMITTEE**

**24th October 2013**

- (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without them dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation."
- 3.10 The Monitoring Officer considers that this exemption might be required where the business of a meeting relates to the Budget setting process and Members present may have DPIs. Members must comply with the additional requirement of applying for a dispensation in writing.
- 3.11 The only caveat to the above is that under Section 106 of the Local Government Finance Act 1992 any Member who is 2 months (or more) in arrears with their Council Tax payments cannot participate in any Council meeting concerning the budget. In the event that any Members were affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail and any dispensation granted under this report would not apply.
- 3.12 In accordance with the general dispensations previously granted by the Committee, and to satisfy the requirement for Members to apply for a dispensation in writing, the Monitoring Officer will circulate to all Members a request form seeking a dispensation for Members to sign prior to any budget setting considerations. The dispensation will then take effect upon receipt of the signed written request.

**Customer / Equalities and Diversity Implications**

- 3.13 None.

**4. RISK MANAGEMENT**

The granting of general dispensations by the Committee will, subject to receipt of a written request from Members for such a dispensation, clarify, for the avoidance of any doubt, Members' ability to participate in and vote at Council and committee meetings on certain matters as part of the Council's decision-making process.

**5. APPENDICES**

None.

**6. BACKGROUND PAPERS**

Section 33 of the Localism Act 2011.

**STANDARDS  
COMMITTEE**

**24th October 2013**

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