

# **AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

**3rd July 2014**

## **LOCALISM ACT 2011 – STANDARDS REGIME – GENERAL DISPENSATIONS**

Relevant Portfolio Holder	Councillor John Fisher, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	
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 re-granting of general dispensations previously granted by the former Standards Committee, and the grant of an additional general dispensation, under s33 of the Localism Act 2011, to enable Members to participate and vote on matters under consideration at Council and at committee meetings in the particular circumstances set out in paragraphs 3.9, 3.10 and 3.11 of this report.

### **2. RECOMMENDATIONS**

The Committee is asked to RESOLVE that

- 1) subject to the caveat set out in paragraph 3.12 of this report in relation to setting the Budget, the Audit, Governance and Standards Committee grants dispensations 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 the setting of:
  - a) the Budget;
  - b) Council Tax;
  - c) Members' Allowances; and
  - d) Council Rents;
- 2) the Audit, Governance and Standards Committee grant a dispensation under Section 33 (2) of the Localism Act 2011 to allow Members to address Council and committees in circumstances where a member of the public may elect to speak;
- 3) the Audit, Governance and Standards Committee grant a dispensation under Section 33 (2) of the Localism Act 2011 to allow Members to participate in and vote at Council and committee meetings when considering the adoption of Non-Domestic Rates,

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**Discretionary Rate Relief Policy and Guidance affecting properties within the Borough;**

- 4) the dispensations referred to at 1), 2) and 3) 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**
- 5) the dispensations referred to at 1), 2) and 3) above be valid until the first meeting of the Audit, Governance and Standards Committee after the Borough Council Elections in 2015.**

## **3. KEY ISSUES**

### **Financial Implications**

- 3.1 None.

### **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 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.
- 3.7 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,

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- (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,
  - (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."
- 3.8 The consideration of whether to grant a dispensation under s33 was previously delegated to the former Standards Committee. This function has now transferred to the newly established Audit, Governance and Standards Committee.
- 3.9 On 12th December 2012 the Standards 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. On 24th October 2013 the Standards Committee granted an additional general dispensation for when Members considered setting the Budget.
- 3.10 All of the dispensations detailed at paragraph 3.9 above are valid until the first meeting of the Standards Committee – which has now been superseded by the Audit, Governance and Standards Committee – after the Borough Council Elections which took place on 22nd May 2014. Members are therefore asked to consider re-granting the Council Tax, Council Rents, Members' Allowances, Members' speaking rights and Budget Setting dispensations for the year ahead; until the first meeting of the Audit, Governance and Standards after the Borough Council elections in 2015.
- 3.11 In addition to the general dispensations set out at paragraphs 3.9 and 3.10 above, the proposal for the adoption of a Non-Domestic Rates, Discretionary Rate Relief Policy and Guidance by the Council in July 2014 has raised the prospect of a number of Members, whether in their role as a nominated Member to an outside body or in their capacity as Ward representative or otherwise, having to consider participation in the consideration and decision on the matter as a result of a DPI. The Monitoring Officer has suggested that a dispensation under s33 of the Localism Act to allow Members with a DPI to participate would be appropriate provided that Member/s make the necessary application in writing to the Monitoring Officer in the usual way. Members are therefore also asked to consider the granting of this additional dispensation.

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- 3.12 It should be noted that under Section 106 of the Local Government Finance Act 1992 there is a caveat that 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.
- 3.13 In accordance with the general dispensations previously granted by the Standards Committee, and in order 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 relevant considerations at Council and/or committee meetings. The dispensations will then take effect upon receipt of the appropriate signed written requests from Members.

## **Customer / Equalities and Diversity Implications**

- 3.14 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.

Section 106 of the Local Government Finance Act 1992.

Reports to Standards Committee on 12th December 2012 and 24th October 2013.

## **AUTHOR OF REPORT**

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