

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

7th July 2016

LOCALISM ACT 2011 – STANDARDS REGIME – DISPENSATIONS

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

- 1.1 To re-grant two previously granted general dispensations; and
- 1.2 To note the position in relation to a number of previously granted general dispensations which are no longer required.

2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

1) the previously granted general dispensations in relation to:

- (i) allowing Members to address Council and committees in circumstances where a member of the public may elect to speak; and**
- (ii) the adoption of any new or updated Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the District**

be re-granted under section 33 (2) of the Localism Act 2011, to allow Members to participate in and vote at Council and committee meetings when considering these matters;

- 2) the position, as detailed at paragraph 3.13 of the report, in relation to the previously granted general dispensations for the setting of the Budget, Council Tax, Council Rents and Members' Allowances, which the County Monitoring Officers' Group has determined are no longer required, be noted;**
- 3) it be noted that all dispensations granted by the Committee take effect on receipt of a written request from Members for such a dispensation and where Members may have a Disclosable Pecuniary Interest in the**

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

7th July 2016

matter under consideration, which would otherwise preclude such participation and voting; and

- 4) it be noted that any re-granted dispensations will remain valid until the first meeting of the Audit, Governance and Standards Committee following the next Borough Council Elections in 2018.

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,
 - (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,

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

7th July 2016

- (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 subsequently transferred to the newly established Audit, Governance and Standards Committee. All dispensations granted are valid until the first meeting of the Standards/Audit, Governance and Standards Committee following the next applicable Borough Council elections.
- 3.9 On 12th December 2012 (following the introduction of the new standards regime under the Localism Act 2011) 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 (i.e. those Members with a DPI who would otherwise be prevented from addressing Council and committees in circumstances where a member of the public may elect to speak).
- 3.10 On 24th October 2013 the Standards Committee granted an additional general dispensation for when Members considered the setting of the Budget.
- 3.11 On 3 July 2014 the Audit, Governance and Standards Committee re-granted the dispensations referred to at 3.9 and 3.10 above. The Committee and also granted an additional dispensation in relation to the consideration of the Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance.
- 3.12 On 2nd July 2015, the Audit, Governance and Standards Committee again re-granted the above dispensations, together with a revised dispensation for when Members might need to consider the adoption of any new or updated Non-Domestic Rates – Discretionary Rate Relief Policy Guidance affecting properties within the District.
- 3.13 In late 2015 the County Monitoring Officers' Group determined that it was no longer necessary for Members to seek/be granted dispensations in relation to the setting of the Budget, Council Tax, Council Rents or Members' Allowances. As such, the general dispensations previously granted by the Committee in respect of those functions are no longer applicable. It should be noted however 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 are affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

7th July 2016

- 3.15 As such, of the general dispensations previously granted, only those dispensations relating to public speaking rights and Non-Domestic Rates – Discretionary Rate Relief Policy now remain relevant/in force. Members are therefore asked to re-grant these two categories of dispensation only, and as there are no local elections taking place in 2017, to grant these dispensations until the first meeting of the Committee following the 2018 Borough elections.
- 3.16 It should be noted that any dispensations approved by the Committee only take effect on receipt of a written request from Members for a specific dispensation to be granted. As such, Members must ensure that they submit a written request for dispensation to the Monitoring whenever they are aware that any relevant business is due to be discussed/debated at meetings, in order for the required dispensation to then be applied.

Customer / Equalities and Diversity Implications

- 3.17 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.
- Various reports to the former Standards Committee and Audit, Governance and Standards Committee, as detailed in the report.

AUTHOR OF REPORT

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