

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

29th July 2019

LOCALISM ACT 2011 – STANDARDS REGIME – DISPENSATIONS

Relevant Portfolio Holder	Councillor David Thain, 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

The purpose of this report is to provide members with an opportunity to consider and agree a number of general dispensations for all Councillors as well as specific dispensations for individual Councillors where requested.

2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

- 1) **any new Individual Member Dispensations (IMDs) requested by Members up to the point of the meeting, and as advised by the Monitoring Officer at the meeting, be granted under section 33 (2) of the Localism Act 2011, to allow those Member(s) to participate in and vote at Council and Committee meetings in the individual circumstances detailed;**
- 2) **the previously granted general dispensation in relation to allowing Members to address Council and Committees in circumstances where a member of the public may elect to speak 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;**

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

29th July 2019

- 3) subject to the caveat set out in paragraph 3.10 of this report in relation to setting the Council's 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;
 - e) Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the Borough;
- 4) 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 matter under consideration, which would otherwise preclude such participation and voting; and
- 5) it be noted that any new or re-granted dispensations will remain valid until the first meeting of the Audit, Governance and Standards Committee following the next Borough Council Elections in 2020.

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.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

29th July 2019

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,
 - (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 the 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 Audit, Governance and Standards Committee following the next applicable Borough Council elections.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

29th July 2019

3.9 Dispensations, all of which require the advance approval of the Committee and a subsequent written request from the Member to the Monitoring Officer, currently fall within three categories:

- General Dispensations
- Council Tax Arrears
- Individual Member Dispensations
- Outside Body Appointment Dispensations

3.10 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 are affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail.

3.11 The following individual member dispensations have been requested for approval, to remain valid until the first meeting of the Audit, Standards and Governance Committee after the District Council Elections in 2020.

Councillor(s)	Relevant DPI	Reason for dispensation
Councillors David Thain and Jenny Wheeler	Non-voting Directors appointed to the Redditch Town Centre Partnership's Board.	To enable the Councillors to participate in discussions and decisions concerning the town centre partnership and town centre regeneration.

3.12 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 Officer 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

3.13 None.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

29th July 2019

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.

AUTHOR OF REPORT

Name: Jess Bayley, Senior Democratic Services Officer (Redditch)

Email: jess.bayley@bromsgroveandredditch.gov.uk

Tel: 01527 64252 Ext: 3268