

DISPENSATIONS

EXECUTIVE MEMBER: Councillor Elaine Woodburn
LEAD OFFICER & REPORT AUTHOR Tim Capper, Democratic Services Manager and Monitoring Officer

Why has this report come to the Audit and Governance Committee?

At the last meeting of the Committee a proposed Scheme of Dispensations was agreed to assist the Audit and Governance Committee in dealing with applications for dispensations under Section 33 of the Localism Act. This report summarises applications for dispensations received from a number of members and asks for them to be determined in accordance with the Scheme.

Recommendations:

The Audit and Governance Committee are recommended to consider granting dispensations to Members as set out in paragraph 3 of the report, using the Criteria set out in Appendix "A".

1 Introduction

1.1 Section 33 of the Localism Act gives local authorities powers to grant dispensations to any of its members affected by Disclosable Pecuniary Interests, which relieve the affected Members from the restrictions placed on them by Section 31(4) of the Act. These restrictions are that Members cannot participate in discussions, or vote, on matters considered in meetings where the Member is present on matters in which they have Disclosable Pecuniary Interests (DPI's).

1.2 A dispensation is effectively a mechanism for relieving a Member of the requirement that he/she cannot participate in the discussion or voting on a matter in which the Member has a DPI. A dispensation can relieve the Member of either of the restrictions imposed by

Section 31(4) (of not being able to participate in the discussion; or of not being able to vote), or both.

1.3 It should be emphasised that under Section 33 of the Act, dispensations can be granted only to Members affected by Disclosable Pecuniary Interests. They cannot be granted in any other circumstances, for example where Members are unable to participate in decision-making due to possible allegations of bias or predetermination.

2 Circumstances in which Dispensations can be Granted

2.1 Under Section 33 of the Act, a dispensation can be granted in the following circumstances:

(i) That so many members of the decision-making body have DPI's in a matter that their inability to participate and vote would "impede the transaction of the business" – in practice meaning 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.

(iii) That the authority considers that the granting of the dispensation is in the interests of persons living in the area.

(iv) That, without a dispensation, no Member of the Executive would be able to participate in a particular matter being considered by the Executive.

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

3 Dispensations

3.2 It is recommended that the Committee considers granting dispensations to the following Members under para 2(iii) above to enable them to participate in discussions and votes on matters relating to the nuclear industry and the disposal of nuclear waste, due to their employment, or their spouses' or partners', employment in the nuclear industry:

Councillors Dave Banks, Geoff Blackwell, Karl Connor, Jon Downie, Phil Greatorex, Peter Kane, Alistair Norwood, Dave Riley, Sam Pollen.

3.3 As suggested in the report to this Committee on 2 August, the criteria agreed for assessing potential dispensations should be used for deciding whether or not it is appropriate to grant dispensations, and these are attached at Appendix "A" for convenience. It is suggested that any dispensations granted should be to both participate in discussions and to vote, and should be for the remainder of the current Council term, i.e. until May 2015.

4 Conclusion

4.1 This report sets out proposals for dealing with dispensations in accordance in accordance with the the procedures agreed by the Committee at its last meeting..

Consultees: Chief Executive; Section 151 Officer

Monitoring Officer comments: Included in report

S151 Officer comments: no further comment

EIA comments: No groups are advantageously or disadvantageously affected by the proposals in the report.

Appendices – Appendix “A” Proposed Criteria for Determining Applications for Dispensations

CRITERIA FOR DETERMINING APPLICATIONS FOR DISPENSATIONS UNDER GROUNDS (ii), (iii) or (v)

In determining whether or not to grant a request for a dispensation, regard shall be had to the following:

- 1** Whether the nature of the Member's interest is such that to allow them to participate would damage the public's confidence in the conduct of the authority's business – *for example a dispensation would not normally be granted to a Member who has a disclosable pecuniary interest which has a potential effect (advantageously or disadvantageously) on his financial position, or that of his spouse or civil partner.*
- 2** Whether the interest is common to the Member and a significant proportion of people in the local community? *If this is the case a dispensation is more likely to be granted*
- 3** Is the participation of the Member with the interest that the business relates to justified by the Member's expertise or knowledge of the matter under discussion? Does the value of this expertise or knowledge outweigh the public interest and expectation that the Member should not participate in a matter in which he/she has an interest?