

## **DISPENSATIONS – PROPOSALS FOR FURTHER DELEGATION**

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

### **Why has this report come to the Council?**

To ask Council to delegate authority to grant dispensations to Members to the Monitoring Officer in certain circumstances.

### **Recommendations:**

The Audit and Governance Committee are recommending to Council that the Monitoring Officer be delegated authority to grant dispensations to Members to participate in discussions or voting, or both, at meetings where they would be otherwise unable to do so due to a Disclosable Pecuniary Interest, in circumstances set out in categories (i) and (iv) in para 2.1 only, and where it is not practicable to report requests for such dispensations to Audit and Governance Committee, and subject to any such dispensations being reported to the next meeting of Audit and Governance Committee.

## **1 Introduction**

1.1 Section 33 of the Localism Act 2011 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 The Council at its meeting on 14 June delegated authority to grant dispensations to Members under Section 33 of the Act to the Audit and Governance Committee, with revised terms of reference to include that and other functions relating to the regulation of

the conduct of Members. The Audit and Governance Committee at a recent meeting granted a number of dispensation to Members with Disclosable Pecuniary Interests relating to their employment in the nuclear industry.

## **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.

2.2 As previously discussed, of the grounds for granting dispensations set out in 2.1 above, those in categories (i) and (iv) involve little subjective judgement, but rather a simple arithmetical calculation to establish whether or not the number of Members affected by the interest is sufficient to impede the business in the way described. The grounds set out in (ii), (iii) and (v) do, however involve some subjectivity of judgement or involve a degree of political and a proposed set of criteria for assessment of such applications has already been agreed by the Council.

## **3 Proposals**

3.1 Whilst it is clearly appropriate that dispensations under categories (ii), (iii) and (v) above continue to be the responsibility of the Audit and Governance Committee to consider and determine, for the reasons set out in 2.2 above, the circumstances set out in categories (i) and (iv) may possibly arise at short notice where the calling of a meeting of this Committee to consider granting dispensations is not practicable. In these circumstances, and for categories (i) and (iv) only, it is suggested that the Monitoring Officer be delegated authority to grant dispensations to Members with Disclosable Pecuniary Interests to participate in discussions or voting, or both, in meetings where they would be otherwise unable to due to being affected by a DPI. The delegation would, in addition, only be exercisable where it is not practicable for timing or other reasons to report requests for such dispensations to the Audit and Governance Committee for determination.

3.2 It is not possible to predict how frequently the need for urgent dispensations to be granted will arise, though it is likely to be infrequent. The proposed delegation of authority to the Monitoring Officer as described in 3.1 above is intended as a precaution against an unexpected scenario arising where a large number of Members are required to leave a meeting due to the existence of a DPI, and thus requiring the abandonment of the meeting. There would be no other alternative course to abandonment of the meeting in these circumstances, no matter how urgent or important the business to be transacted.

## **4 Conclusion**

4.1 The proposed further delegation of authority to grant dispensations to the Monitoring Officer in the limited circumstances set out in this report requires approval of Council under the principle of *delegatus non potest delegare*, and the Audit and Governance Committee is therefore recommending Council to support the proposals.

Consultees: Chief Executive; Section 151 Officer

Monitoring Officer comments: Included in report

S151 Officer comments: There are no additional cost implications.

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

Appendices - none