

## MUNICIPAL YEAR 2012/2013 REPORT NO. 165

### MEETING TITLE AND DATE:

Councillor Conduct  
Committee –14 February  
2013

**REPORT OF:** Director of  
Finance, Resources and  
Customer Services

**Agenda – Part: 1**

**Item: 3**

**Subject:** Dispensations

**Wards:** All

**Cabinet Member consulted:**

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### 1. EXECUTIVE SUMMARY

The Councillor Conduct Committee is being asked to consider requests for dispensations under section 33 of the Localism Act 2011, for all councillors to participate and vote on matters relating to setting the Council Tax, housing matters and rents plus members allowances.

### 2. RECOMMENDATIONS

To grant the requests for dispensations in the following areas as set out in the report, with the dispensations being effective until the next Council elections in 2014 on the grounds that it is in the interests of persons living in the Borough for as many members as possible to be able to debate and decide on the issues in question.

- (a) An allowance, payment or indemnity given to members or any ceremonial honour given to members.
- (b) Setting council tax or a precept under the Local Government Finance Act 1992 as amended from time to time or any superseding legislation.
- (c) Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012 as amended from time to time and any superseding legislation.
- (d) Housing matters and rents (provided that those functions did not relate particularly to the members tenancy or lease).

### **3. BACKGROUND**

Section 31(4) of the Localism Act 2011 states that where a member attends a meeting and has a DPI in a matter to be considered at that meeting that member may not:

- (a) participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting,

unless a dispensation has been granted.

The Council's Code of Conduct (paragraph 31(4)) allows dispensations to be given in the following circumstances:

- (a) Where the members of the decision making body have DPIs in a matter that would 'impede the transaction of the business'
- (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter
- (c) That the authority considers that the dispensation is in the interest of persons living in the authority's area
- (d) That the authority considers that it is otherwise appropriate to grant a dispensation

The Monitoring Officer has the delegated authority to approve dispensations in respect of (a) and (b) above, with a right of appeal to the Councillor Conduct Committee. The Committee itself has the authority to approve dispensations under (c) and (d) after consultation with the Independent Person(s).

In addition to the requirement for a member with a DPI to not participate in any discussion, or vote on the matter, the Council's Code (paragraph 31 (1)) also requires any such member to leave the room until the matter under consideration has been concluded.

The Monitoring Officer previously consulted Lawrence Greenberg, one of our Independent Persons, on the report contents and the exemptions for the dispensations.

In the previous legislation specific exemptions were given to members, meaning that they would not have a (then) prejudicial interest (which would have prevented them from taking part in the decision making process) in any

business that related to the functions of the authority. Some of the more relevant ones are set out in the recommendations above for consideration by this Committee.

These exemptions, or similar, have not been carried over to the new legislation.

The Council meeting on 27 February 2013 will be considering the setting of the Council Tax and housing rents, plus deciding on whether to increase members' allowances for 2013/14. All members have been written to and some replies have been received. The Committee will receive an update on the responses from members at the meeting. A failure to disclose a DPI could result in a breach of the Council's Code of Conduct and/or a criminal offence, the Monitoring Officer strongly recommends that it would be prudent for the Committee to grant a dispensation for all members in relation to the recommendations, until the next Council elections in 2014.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

None. Given the requirements for members to declare their interests.

#### **5. REASONS FOR RECOMMENDATIONS**

The Council's Code of conduct requires that any dispensations of this nature have to be agreed by the Councillor Conduct Committee. Given that the failure to disclose a DPI could result in a breach of the Council's Code of Conduct and a criminal offence, the Monitoring Officer feels that it would be prudent for the Committee to grant a dispensation for all members in relation to these issues until the next Council elections in 2014.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

None

##### **6.2 Legal Implications**

The localism Act 2011 and the relevant Authorities ( Disclosable Pecuniary Interests) Regulation 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations.

The Council has delegated powers to the Councillor Conduct Committee to grant dispensations.

#### **7. KEY RISKS**

Councillors are required to declare Disclosable Pecuniary Interests (DPIs). Failure to do so could result in a breach of the Code of Conduct and possible

criminal offence. In order to avoid the risk of members not being able to participate in these decisions a dispensation is being sought.

#### **8. IMPACT ON COUNCIL PRIORITIES**

The ability for all councillors to set the business rates, the Council Tax and housing rents, and to decide on whether to increase members' allowances for 2013/14 will ensure that the Council's priorities in relation to fairness for all, growth and sustainability and strong communities are met.

#### **9. EQUALITIES IMPACT IMPLICATIONS**

This decision has not required an equalities impact assessment.

#### **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

None

#### **11. HEALTH AND SAFETY IMPLICATIONS**

None

#### **12. HR IMPLICATIONS**

None

#### **13. PUBLIC HEALTH IMPLICATIONS**

None

**Background Papers:** None