

**AGENDA ITEM**

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**COMMITTEE:** STANDARDS  
**DATE:** 21 DECEMBER 2015  
**SUBJECT:** REVIEW OF PROCESS FOR GRANT OF DISPENSATION(S) FOR MEMBERS

**REPORT BY:** HEAD OF HUMAN RESOURCES AND MONITORING OFFICER

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**IMPLICATIONS:**

<b>LEGAL</b>	<input type="checkbox"/>	<b>COMMUNITY SAFETY</b>	<input type="checkbox"/>
<b>EQUALITIES</b>	<input type="checkbox"/>	<b>ENVIRONMENT</b>	<input type="checkbox"/>
<b>FINANCIAL</b>	<input type="checkbox"/>	<b>OTHER</b>	<input type="checkbox"/>
<b>STAFFING</b>	<input type="checkbox"/>		

**WARDS AFFECTED:**

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**PURPOSE**

1. The purpose of this report is to enable the Standards Committee to comment upon the revision to the process of applying for and granting dispensations to Members (including co-opted Members).

**RECOMMENDATION**

2. That the Standards Committee consider the proposals set out below and comment upon them.

**BACKGROUND**

3. In November 2015 Councillor David Agleby gave notice of a Motion to be considered by Full Council in relation to the impact of the Trade Union Bill currently passing through Parliament. The Motion did not proceed at the meeting of the Council on 10 November 2015 since it was highlighted that if any Members wishing to debate and vote upon the content were members, or or received sponsorship from, trade unions they would be unable to do so given restrictions applying to the Members where a disclosable pecuniary interest exists.

**LEGAL FRAMEWORK**

4. Section 30 of the Localism Act 2011 ('the 2011 Act') requires members (including a co-opted member) to disclose any disclosable pecuniary interests which they hold to the Council's Monitoring Officer. Regulations made under the 2011 Act set out those disclosable pecuniary interests for the purpose of the Act. Once disclosed to

the Monitoring Officer that officer must add these to a Register which is open for public inspection. The requirement to register such interests is set out in Part 9 of the Council's Constitution. A copy of Part 9 appears at Appendix A and includes the list of disclosable pecuniary interests which appears in the Regulations.

5. Section 31 of the 2011 Act states that if a member (including a co-opted member):
  - (a) is present at a meeting of the Council or any Committee or Sub-Committee of the Council,
  - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered at that meeting and
  - (c) is aware that the condition in paragraph (b) is met;the member must take a specified course of action.
6. The specified course of action is:
  - (a) if the interest is not entered in the Register of Interests, they must disclose it to the meeting;
  - (b) if the interest is not in the Register and is not the subject of a pending notification, notify the Monitoring Officer within 28 days; and
  - (c) the member (or co-opted member) may not:-
    - (i) participate, or further participate, in any discussion of the matter at the meeting, or
    - (ii) participate in any vote, or further vote, taking on the matter at that meeting.
7. Further, the Council's Standing Orders require that a member having a disclosable pecuniary interest in a matter within the meaning of the Council's Code of Conduct for Members (which contains the disclosable pecuniary interests set out in the Regulations referred to above) and who attends a meeting at which the matter is considered must withdraw from the room or chamber where the meeting is being held, unless a dispensation has been obtained.
8. Section 33 of the 2011 Act allows a member (or co-opted member) to give notice to the Proper Officer of the Council requesting that a dispensation is granted relieving the member (or co-opted member) from either or both of the restrictions referred to at paragraph 7(c)(i) and (ii) above.
10. The Council may grant a dispensation only if, having had regard to all relevant circumstances, the Council:
  - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the Council or Committee 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 Council or Committee 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 with respect the executive, it considers that without the dispensation each member of the authority's executive would be prohibited 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.
11. Any dispensation granted must:
- (a) specify the period for which it has effect (which may not exceed a period of four years from the date it is granted);
  - (b) specify the ground referred to in paragraph 9 above on which it was granted; and
  - (c) set out any qualifications or limitations applying to that dispensation.
12. The Council's Constitution provides that the Standards Committee are responsible for determining applications for dispensations by members in relation to any matters, other than those matters being considered by the Executive.

## **REPORT**

13. Following the Council meeting on 10 November it was apparent that if Councillor Agbley's Motion is to progress at the meeting of the Council on 11 January 2016, applications would be made for dispensations. This has prompted a review of the relevant provisions of the Council's Constitution which has identified several issues regarding the current procedure.
14. At present the Council's Constitution provides that Standards Committee discharges the function of determining whether dispensations should be granted to allow Councillors to participate in debates and / or vote on matters in which they have an interest. There is however, one exception which allows the Head of Paid Service to determine applications for dispensations in relation to business transacted by the Executive.
15. Currently the Constitution does not formally appoint a Proper Officer to whom written requests for dispensations should be sent. Additionally, some parts of the Constitution still refer to the Act and Regulations which were in place prior to implementation of the 2011 Act, including the previous grounds on which a dispensation could be granted. Appropriate amendments are being drafted to update these legal references.
16. Further, whilst carrying out the review of the legal and constitutional provisions the views of the Leaders of the Council's Political Groups and the Chair of the Standards Committee were sought as to the appropriate process for consideration of applications for dispensations. The unanimous view of the Group Leaders was that the Standards Committee should continue to consider applications for

dispensations from all Members, including in relation to business transacted by the Executive, save for a process allowing the Head of Paid Service (or other appropriate officer) to consider urgent applications in relation to Executive business. All Group Leaders recognise and value the contribution of independent members who sit on the Standards Committee and the independence and transparency which this adds to the process.

17. As a result of the Executive Forward Plan the nature of the Executive's business is usually known some time in advance of its meetings and therefore it is anticipated that the occasions on which a dispensation is sought as a matter of urgency should be exceptionally rare. Nonetheless it is desirable to identify whether guidance can be given as to how such a provision should operate in particular whether the Head of Paid Service should consult the Chair of the Standards Committee when determining such an application.
18. In light of the above and the stated views of Group Leaders, it is proposed that the following process is adopted:
  - (a) The Head of Human Resources and Monitoring Officer be appointed as the Proper Officer for receiving written requests for dispensations;
  - (b) That the Constitution is amended to provide that the Standards Committee considers requests for dispensations for all Members, other than in relation to urgent Executive business;
  - (c) That the Head of Paid Service is authorised to consider requests in relation to urgent Executive business, in consultation with the Chair of Standards Committee or, in their absence, the Vice-chair of Standards Committee;
  - (d) That the Constitution is amended to reflect the above and updated to refer to the legal provisions which apply under the 2011 Act.
19. The views of the Standards Committee are sought in relation to the above proposals.

## **APPENDICES**

The following Appendices are attached to this report:

Appendix A – Part 9 of the Constitution referring to disclosable pecuniary interests.

## **LIST OF BACKGROUND PAPERS**

Localism Act 2011