
Request for Dispensation - Summary Report

Committee considering report:	Governance and Ethics Committee (Virtual)
Date of Committee:	22 February 2016
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Forward Plan Ref:	N/a

1. Purpose of the Report

- 1.1 The Governance and Ethics Committee is asked to consider an application for a dispensation from Councillor Lee Dillon to speak and vote at Full Council meetings where the 2016/16 budget is discussed.
- 1.2 The Governance and Ethics Committee is asked to consider an application for a dispensation from Councillor Lee Dillon to speak at Executive meetings where the 2016/16 budget is discussed.

2. Recommendation

- 2.1 Members to consider the request for a dispensation.

3. Implications

- 3.1 **Financial:** None identified
- 3.2 **Policy:** The issues set out in this report are covered in the previously agreed protocol for granting Dispensations under the Localism Act 2011.
- 3.3 **Personnel:** None
- 3.4 **Legal:** The Council adopted processes in regard to dispensations comply with the Localism Act 2011.
- 3.5 **Risk Management:** The recommendations set out in this report do not constitute a significant risk to the Council.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 As set out in the report

Executive Summary

1. Introduction

- 1.1 Regulations came in to force on 01 July 2012 following the introduction of the Localism Act 2011. Section 33 of these regulations prescribes the circumstances in which the Governance and Ethics Committee, Sub-Committees and the Monitoring Officer may grant dispensations to Councillors to speak and/or vote at a meeting in which they have a Disclosable Pecuniary Interest under Section 31 of the Act. If a Member acts in accordance with the granting of such a dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct is not a failure to comply with the authority's Code.
- 1.2 These regulations refer to the circumstances where a Councillor, finds they are in a position where they have to declare a disclosable pecuniary interest under the Code of Conduct which would ordinarily then require them to leave the meeting. These councillors might be able to obtain a dispensation (permission) from the Governance and Ethics Committee, Sub-Committee or Monitoring Officer to stay in the meeting after declaring the interest and either speak or speak and vote according to any dispensation granted.
- 1.3 The Governance and Ethics Committee, Sub-Committee or Monitoring Officer may grant a dispensation to a Member in the following circumstances:
 - (i) that so many Members of the decision making body have Disclosable Pecuniary Interests in a matter that it would "impede" the transaction of the business of that body. [In practice this means 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 such as to alter the outcome of the vote on that particular matter.
 - (iii) that the authority considers that the dispensation is in the interests of persons living in the authority's area.
 - (iv) that without a dispensation no Member of the Executive would be able to participate in a particular matter. They suggest that where the Executive would be inquorate as a result then the particular decision could be dealt with by an individual Member of the Executive. It may be necessary to make provision in the Scheme of Delegation to enable this to occur although it does appear to be an unlikely event.
 - (v) that the Council considers that it is "otherwise appropriate" to grant a dispensation. This is a particularly wide provision as to some extent is (iii) above.
- 1.4 It is considered that grounds (i) and (iv) are objective and it is recommended that dispensations on these grounds are delegated to the Monitoring Officer with an appeal to the Governance and Ethics Committee.
- 1.5 Grounds (ii), (iii) and (v) are rather more complex and subjective and it is considered appropriate that the discretion to grant dispensations on these grounds

remains with Governance and Ethics Committee after consultation with the Independent Person.

1.6 In this instance it is considered that grounds iii) and v) may be applicable.

2. Request to Grant Dispensation

2.1 Requests for dispensations must:

- (a) be made in writing
- (b) be made to the Proper Officer of the Council
- (c) be made by an individual Member or Co-Opted Member of the authority

2.2 The information below was submitted to the Monitoring Officer and explains the written request which has been made by Councillor Dillon for a dispensation to enable him to speak at Executive meetings on the 2016/17 budget and to speak and vote at Full Council meetings on the 2016/17 budget.

2.3 Councillor Dillon is an employee of Sovereign Housing Association and the current proposals out to consultation include removing funding for the Neighbourhood Warden Service (£208k) of which Sovereign act as the employer.

2.4 Councillor Dillon has been employed by Sovereign Housing for six years and his current role is as the Manager of the Careline and Out of Hours team. He has no direct responsibilities relating to the Wardens and he is not on any senior management group that has or can makes decisions about the Warden Service.

2.5 He would like this dispensation to last for all Executive and Council meetings at which the 2016/17 budget is discussed.

2.6 In addition it may be useful to note that as a Member of Thatcham Town Council (TTC) he has always declared a non pecuniary interest when the Wardens are debated, and that TTC have historically contributed £60k per annum to the scheme.

3. Considerations in granting a dispensation

3.1 The Governance and Ethics Committee should take the following into consideration when determining whether or not a dispensation should be granted:

- (i) they should weigh up the effect of Members' disclosable pecuniary interest against the outcome of the vote if they are not participating in the vote.
- (ii) they should consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Member were allowed to vote.
- (iii) they should look at whether the interest in question is one that is common to both the Member and to a significant proportion of the population.
- (iv) account should also be taken of the expertise and knowledge of the Member and whether this justifies their participation in the item in question. For example, if members of Police and/or Fire authorities would be able to bring their expertise by addressing the meeting.
- (v) Governance and Ethics Committee Members should have regard to whether the business in question relates to a voluntary or public body which is to be considered by the Overview and Scrutiny Management Commission, and additionally whether the interest is a financial one.

- (vi) if a dispensation not being granted would mean the meeting was not quorate, this might be a reason to grant the dispensation.

4. Procedure

1. The Governance and Ethics Committee should consider the implications for the dispensation set out at 3.1 above. This consideration may also take account of any other relevant circumstances or local criteria.
2. The Governance and Ethics Committee should determine the nature of any dispensation they are minded to grant:
 - (a) whether the applicant can speak and not vote; or
 - (b) whether the applicant can participate fully and vote.
3. The Committee can also decide the length of the dispensation (not more than four years). In this instance the applicant has asked that the dispensation be granted for all Council and Executive meetings where the 2016/17 budget is discussed..
4. The regulations do not allow for the Governance and Ethics Committee to grant a general dispensation to cover any situation where a disclosable pecuniary interest may arise.
5. If the Committee grants a dispensation it should do so in writing and before the meeting(s) in question is/ are held.
6. The Governance and Ethics Committee may decide to refuse an application for a dispensation. This is within their discretion under the regulations.
7. A written record of the decision taken must be kept and placed with the Register of Interests maintained under Section 81(1) of the Local Government Act 2000.

5. Recommendation

- 5.1 While the Monitoring Officer has the ability to consider a request for a dispensation in certain circumstances this is not one which the Monitoring Officer considers to fall within his remit. The Monitoring Officer considers that this request would fall within criterion (iii) and (v) that the Council considers that the dispensation would be in the interests of persons living within the area and considers it 'otherwise appropriate'

The Monitoring Officer advises that Councillor Dillon has no higher management responsibility in the Warden Service being employed in a different part of the employer's organisational structure. Members should be aware of the considerations in 3.1 (i) and (ii) above in determining this request. In addition. Members need to determine whether members of the public would consider the public interest would not be served as a result of his position by the impact on his employer. The granting or otherwise of a dispensation will not impact on the quorum for Executive or Council.

- 5.2 All three Independent Persons were consulted.

- i) Lindsey Appleton stated that 'Councillor Dillon, as a direct employee of Sovereign Housing would have a potential conflict of interest. I acknowledge that his 6 years' experience and knowledge is relevant and that he is employed within a different organisational structure. I also acknowledge his declaration of non-pecuniary interest. However, his close proximity to the employer is clear. I feel that the perception from the public would be such that public interest may not be deemed served. In this case, I would be minded not to grant a dispensation.'
- ii) James Rees commented that due to the potential perceptions of bias Councillor Dillon should be able to speak BUT not vote at Council meetings where the 2016/17 budget was discussed. He was also of the view that Councillor Dillon should be able to speak at Executive meetings where the budget was discussed.
- iii) Mike Wall was of the view that Councillor Dillon should be able to speak BUT not vote at Council where the 2016/17 budget was discussed. He supported granting a dispensation for Councillor Dillon to speak at Executive meetings where the 2016/17 budget was discussed.

The Governance and Ethics Committee is asked to determine:

- (a) whether a dispensation should be granted;
- (b) if they are minded to grant a dispensation :
 - (i) whether the applicant can speak and not vote; or
 - (ii) whether the applicant can participate fully and vote
- (c) if they are minded to grant a dispensation how long they are willing to grant the dispensation for.

5. Appendices

There are no appendices to this report