

Title of Report:	Request for Dispensation
Report to be considered by:	Standards Committee
Date of Meeting:	28 February 2014 (Virtual Meeting)
Forward Plan Ref:	N/a

Purpose of Report:

The Standards Committee is asked to consider an application for dispensations for the Councillors listed in Table A to be able to debate and vote at any District Council meeting where discussions are held that could impact on the budget of the Town or Parish Council on which they or a close family member are an employee or a serving member.

Recommended Action:

1. That the Members set out in Table A be granted a dispensation to speak and vote at any District Council meeting where discussions are held that could impact on the budget of the Town or Parish Council on which they or a close family member are an employee or a serving member.
2. The dispensation be granted until 31 March 2015.

Reason for decision to be taken:

To ensure that the Standards Committee is carrying out its duties under the Localism Act 2011.

Other options considered:

As set out in the report.

Key background documentation:

WBC Protocol on granting dispensations (approved by the Council on 10 May 2012)

The proposals will not help achieve the following Council Plan Themes and Priorities directly but it is a statutory requirement that the Standards Committee considers these dispensations.

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Implications

Policy:

The issues set out in this report are covered in the previously agreed protocol for granting Dispensations under the Localism Act 2011

Financial: None identified

Personnel: None

Legal/Procurement: The Council adopted processes in regard to dispensations comply with the Localism Act 2011

Property: None

Risk Management: The recommendations set out in this report do not constitute a significant risk to the Council

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?	☐		X
• Is it a major policy, significantly affecting how functions are delivered?	☐		☒
• Will the policy have a significant impact on how other organisations operate in terms of equality?	☐		☒
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	☐		☒
• Does the policy relate to an area with known inequalities?	☐		☒
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			☐
Not relevant to equality			☒

Executive Report

1. Introduction

- 1.1 Provisions came in to force on 01 July 2012 following the introduction of the Localism Act 2011. Section 33 of the Act prescribes the circumstances in which the Standards Committee or 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 The Act refers to the circumstances where a Councillor, finds they are in a position where they have to declare a Disclosable Pecuniary Interest (DPI) 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 Standards Committee or Monitoring Officer to stay in the meeting after declaring the interest to either speak or speak and vote according to any dispensation granted.
- 1.3 The Standards Committee or Monitoring Officer may grant a dispensation to a Parish Council Member or co-opted 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 Grounds (i) and (iv) are objective and dispensations on these grounds are delegated to the Monitoring Officer with an appeal to a Standards Committee. This would enable dispensations to be granted effectively "at the door of the meeting".
- 1.5 Grounds (ii), (iii) and (v) are rather more complex and subjective and the discretion to grant dispensations on these grounds remains with Standards Committee after consultation with the Independent Person.

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 requests for dispensations set out in Table A below were submitted to the Monitoring Officer in accordance with the criteria set out in paragraph 2.1. The written requests which have been made by the Councillors referred to in the table are for a dispensation to enable these Councillors to take part in the debate and vote upon a matter. It is proposed that the dispensation be granted until 31 March 2015.

2.3 One of the DPIs which Members are required to disclose under the Authority's Code of Conduct is "Membership of other bodies: Details of any body exercising functions of a public nature of which you are a member or in a position of general control or management."

2.4 It follows, therefore, that a District Councillor who is also a Town or Parish Councillor has a DPI to disclose in relation to any District Council meeting where discussions are held that could impact on the budget of the Town or Parish Council on which they or a close family member are an employee or a serving member.

2.5 In this instance it is considered that ground iii) "that the authority considers that the dispensation is in the interests of persons living in the authority's area" may be applicable. This is on the basis that 24 of the 50 Councillors who have notified us that they will be present at the Council meeting (apologies have been received from Councillors Ieuan Tuck and Adrian Edwards) have notified us that they have a DPI. The Monitoring Officer is of the view that this issue is substantive and a failure to grant a dispensation would impede the transaction of the business because of the number of members having the same DPI.

Table A	
Name of Councillor	Nature of DPI
David Allen	Member of Newbury Town Council
Howard Bairstow	Member of Newbury Town Council
Jeff Beck	Member of Newbury Town Council
Brian Bedwell	Wife is a Holybrook Parish Councillor
Dominic Boeck	Member of Thatcham Town Council
Jeff Brooks	Member of Thatcham Town Council
Hilary Cole	Member of Chieveley Parish Council
Roger Croft	Member of Thatcham Town Council

Richard Crumly	Member of Thatcham Town Council and Cold Ash Parish Council
Billy Drummond	Member of Greenham Parish Council
Sheila Ellison	Member of Thatcham Town Council
Marcus Franks	Wife is a Newbury Town Councillor
David Goff	Member of Newbury Town Council
John Horton	Member of Thatcham Town Council
Carol Jackson-Doerge	Member of Burghfield Parish Council
Alan Law	Wife is a clerk to Pangbourne Parish Council
Mollie Lock	Member of Stratfield Mortimer Parish Council
Royce Longton	Member of Burghfield Parish Council
Alan Macro	Member of Theale Parish Council
Tim Metcalfe	Member of Purley Parish Council
James Podger	Daughter is a Hungerford Town Councillor
Andrew Rowles	Member of Enborne Parish Council
Julian Swift-Hook	Member of Newbury Town Council and Greenham Parish Council
Tony Vickers	Wife is a Newbury Town Councillor

3. Considerations in granting a dispensation

- 3.1 The Standards Committee should take the following into consideration when determining whether or not a dispensation should be granted:
- (i) the Standards Committee 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) the Standards Committee 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) the Standards Committee 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) Standards 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 Standards 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 Standards 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 it is recommended that the dispensation be granted until 31 March 2015.
4. The regulations do not allow for the Standards 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 Standards 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 that “the authority considers that the dispensation is in the interests of persons living in the authority’s area.”
- 5.2 The Monitoring Officer recommends that in this case all the Members as set out in Table A should be granted a dispensation to speak and vote at any District Council meeting where discussions are held that could impact on the budget of the Town or Parish Council on which they or a close family member are an employee or a serving member. The Monitoring Officer recommends that this dispensation should last until 31 March 2015.
- 5.3 The Standards 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.

Appendices

There are no appendices attached to this report

Consultees

Local Stakeholders: N/a

Officers Consulted: Moira Fraser/Sarah Clarke/ Andy Day

Trade Union: Not consulted.