

Standards Committee Role in respect of Dispensations to Permit Voting

1. Background

- 1.1 Under the Localism Act 2011, where a Member has a “Disclosable Pecuniary Interest” in a matter to be considered or being considered at the meeting that Member must withdraw from the meeting, and not speak or vote on the matter unless a dispensation has been granted. Failure to observe this prohibition is potentially a criminal offence.
- 1.2 Under the Localism Act 2011, the Council, on written request, is permitted to grant dispensations where:-
- So many members of the decision-making body have disclosable pecuniary interests in a matter that it would "impede the transaction of the business";
 - 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;
 - The authority considers that granting the dispensation is in the interests of persons living in the authority's area;
 - Without a dispensation, each member of the Executive would be unable to participate on a particular matter; or
 - The authority considers that it is otherwise appropriate to grant a dispensation
- 1.3 A dispensation can be granted in respect of a particular meeting or for a period not exceeding four years.

2. Considerations

- 2.1 The roles and functions of the Committee are set out in Article 11 of the Constitution, however, consideration of a request for a dispensation is not included. Reference to a dispensation appears only in paragraph 18 of the Members’ Code of Conduct which is set out in Part 4A of the Constitution (“unless the Member has requested and been granted a dispensation by the Standards Committee”).
- 2.2 Members are asked to consider the addition of a new paragraph 11.4.8 to Article 11, to read:-

11.4.8 Considering and deciding upon requests for dispensations from elected Members and Voting Co-opted Members.

And that the current paragraph 11.4.8 be renumbered to be 11.4.9 (making recommendations on any matter arising from any report).

- 2.3 It is also suggested that Part Two of the Members Code of Conduct have a **new paragraph 24 headed “Grant of Dispensations” which sets out the provisions in paragraph 1.2 of this report and advises Members that they must direct requests for a dispensation to the City Solicitor in the first instance.**
- 2.4 Requests for dispensations will be considered by the Standards Committee. If necessary, a meeting will be called with less notice than the five days required by the Constitution, as permitted under paragraphs 9.3 and 9.4 of the Access to Information Procedure Rules in Part 3B of the Constitution.
- 2.5 If, however, a request is received which, in the time available, it would not be possible to convene a meeting of the Standards Committee, the Monitoring Officer should be authorised to consider it and take a decision in accordance with the provisions of Article 14 of the Constitution (delegation of functions) after consultation with the Chair of Standards Committee – **New Article 14.8 – *The Monitoring Officer is authorised (after consultation with the Chair of Standards Committee) to consider and take a decision on an application for a dispensation from a member (to permit speaking and voting on a matter where otherwise a disclosable pecuniary interest would prevent it), in circumstances where a decision of the Standards Committee cannot be obtained in the time available.***
- 2.6 The prohibition against speaking and voting does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation.
- 2.7 A dispensation may not apply where a member is prohibited from participating on grounds other than the DPI provisions of the Localism Act or in some circumstances where the member is biased or has predetermined the matter.
- 2.8 The existing Article 14.8 should be **deleted** in view of the abolition of the Standards Board for England - ***14.8 The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.***

Approval by the City Solicitor of External Legal Spend

- 2.9 Contract Standing Order 4.3 provides “Where the Council has an in-house provision and the estimated contract value is less than £100,000, external suppliers can only be used when the Strategic Director providing such in-house provision confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity”.
- 3.0 In order to make clear that the same restriction applies to external legal support, the following is suggested **“As the Council possesses an in-house legal service, external suppliers can only be used when the City Solicitor confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity” as an addition to Article 14 (Article 14.14) .**

