

REPORT OF THE MONITORING OFFICER

APPLICATIONS FOR DISPENSATION

SECTION 33 OF THE LOCALISM ACT 2011

THE RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS) REGULATIONS 2012

23 February 2023

1.0 Purpose of Report

1.1 To request the Council to grant a dispensation to all Members who have certain Disclosable Pecuniary Interests, as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in the decision to approve the budget and to set the level of Council Tax and Business Rates for 2023/24 during the Budget Council meetings on 23 February 2023.

2.0 Background

2.1 Under the Localism Act 2011 and the Members' Code of Conduct adopted by Bradford Council, a Member is required to consider whether he/she has a Disclosable Pecuniary Interest (DPI) in a matter to be considered at a formal meeting of the Authority. Dependent upon whether the DPI is included within their Register of Interests, Members are then required to disclose the interest to the meeting. In either case they may then not speak or vote on the matter concerned.

2.2 In the decision to approve the budget and to set the level of Council Tax and Business Rates for 2023/24 there are a number of categories of interest which give rise to the need for a declaration of a DPI.

These include the following:

- Property Ownership/ Licences / Corporate Tenancies
- Employment or Business Interests
- Sponsorship/ Membership of Organisations
- Contracts

2.3 Guidance from the then DCLG ("Openness and Transparency on personal interests – a guide for councillors", September 2013) states that any payment of, or liability to pay Council Tax does not create a Disclosable Pecuniary Interest. Accordingly, Members who pay or are liable to pay Council Tax do not require a dispensation to take part in the business of setting the Council Tax or precept or local arrangements for Council Tax support.

2.4 The DCLG guidance does not extend to similar issues arising with National Non-Domestic Rates, however, the same arguments would apply, namely that a payment of business rates, or a liability to pay business rates relating to employment or business interests would not itself create a Disclosable Pecuniary Interest.

- 2.5. All Councillors have completed their Registers of Interests as required by the Localism Act 2011 and, as such, Councillors have declared Disclosable Pecuniary Interests. Those interests are a matter of public record and available for public inspection and on-line.
- 2.6 Council on 17 February 2022 approved dispensations for two years, including 2023/24. The matter is being reported again to Council to ensure all changes in the matter of Councillors' disclosable pecuniary interests are approved for the purposes of a dispensation.

3.0 Issues

3.1 Section 31 (4) of the Localism Act 2011 states that where a Member is present at a meeting of an Authority and has a Disclosable Pecuniary Interest in any matter to be considered, they may not:

- participate, or participate further, in any discussion of the matter at the meeting, or
- participate in any vote, or further vote, taken on the matter at the meeting.

If a Member fails to comply with these requirements, they would potentially commit a criminal offence.

3.2 Section 33 of the Act provides that on written request the Authority may grant a dispensation relieving the Member from either or both of the above restrictions.

3.3 The Act allows the Council to grant a dispensation in the following circumstances for a specified period of time not exceeding 4 years.

- (i) The number of Members having DPis in a matter is so great a proportion of the Council that it would impede the transaction of the business;
- (ii) That, without the dispensation, the representation of different political groups on the Council would be so upset as to alter the outcome of any vote on the matter;
- (iii) That the Authority considers that the dispensation is in the interests of persons living in the Authority's area;
- (iv) That the Authority considers that it is otherwise appropriate to grant a dispensation.

In the circumstances it is considered that the requests for dispensation fall into all four categories set out above.

3.4 Due to the number of Councillors who have a relevant Disclosable Pecuniary Interest there is a real risk that without a dispensation, a significant number of Councillors would be required to declare an interest and as such be prevented from participating in the decision making process. The lack of the ability for a significant number of Councillors to participate could have the impact of either making the

Council meeting inquorate or upsetting the political balance of the meeting at which the decision is to be made.

- 3.5 It is in the interests of the citizens of the Bradford District that they are represented by their democratically elected Councillors at the debate to approve the budget and to set the Council Tax. These are the most important decisions taken by Council and it is therefore imperative that constituents are not disenfranchised by the provisions of the Localism Act 2011 relating to Disclosable Pecuniary Interests.
- 3.6 The Council's Code of Conduct also requires that where a Member has another interest in a matter to be discussed which should be declared in the public interest, it should be declared at the meeting. In circumstances where the interest may give rise to a perception of a conflict of interest in the matter, the Member must consider whether continued participation in the matter would be reasonable.
- 3.7 On the same grounds as the case for dispensations in respect of DPIs, I advise that Members who have personal interests where there is or may be a conflict of interest should also not be prevented from speaking and voting at Budget Council owing to the number of Councillors likely to be affected.
- 3.8 Attached as an appendix is a schedule of Members DPIs (part A) and a schedule of personal interests (part B). Council is requested to grant dispensations under s33 of the Localism Act to permit Members to speak and vote at the Budget meetings. It is also recommended that the dispensations continue in force until 23 February 2024.

4.0 Legal Implications

- 4.1 The Localism Act enables the Council to consider applications for dispensations in the accordance with the grounds referred to above. In order to grant a dispensation, the Council needs to be satisfied that on the information available, the application meets one or more of the criteria for dispensations set out above.

5.0 Conclusions

- 5.1 In the circumstances, the Monitoring Officer is satisfied that the criteria are met and considers it appropriate for the Council to grant a dispensation to those Members of Council who have requested such dispensations for a period of two years so as to enable all Members to participate in the decision to approve the Council budget and the setting of the Council Tax and Business Rates for 2023/24.

6.0 Recommendation

That Council:

1. Grants a dispensation to the Members of the Authority who have requested one, to enable them to participate in full in the decision to approve the budgets for 2023/24 and to set the Council Tax and Business Rates for 2023/24.
2. Approves the dispensation for a period of 1 year until 23 February 2024.

3. Notes the Monitoring Officer's advice that personal interests that may give rise to a perception of a conflict of interest shall not prevent Members from speaking and voting at the Budget meetings.

Asif Ibrahim
Monitoring Officer

23 February 2023