

STANDARDS COMMITTEE

15 June 2016

DISPENSATIONS - 2016/17 UPDATE

REPORT OF HEAD OF LEGAL AND DEMOCRATIC SERVICES

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RECENT REFERENCES:

ST92 – Dispensations – 30 January 2012

ST93 – Localism Act 2011 – New Code of Conduct – 6 September 2012

ST95 – Dispensations – 28 January 2013

ST98 – Standards issues – Update – 24 June 2013

ST111 – Dispensations 15/16 update – 28 September 2015

EXECUTIVE SUMMARY:

The Standards Committee can grant a dispensation in circumstances where the business of the Council would otherwise be impeded as follows:-

- (i) the number of Councillors affected is so great a proportion of the Council that it would impede business.
- (ii) it would upset the political balance of the Council to such an extent as to alter the likely outcome of the meeting.
- (iii) each Member of the Council's Cabinet would be prevented from participating in any particular business before Cabinet,

In addition, the following matters can be considered:

- (iv) the dispensation would be in the interests of persons living in the area.
- (v) it is otherwise appropriate to grant a dispensation.

The dispensation can allow Councillors who would otherwise have a Disclosable Pecuniary Interest (DPI), or a personal and prejudicial interest, to speak and vote at a committee meeting, and are granted for the period of the Councillor's term of office, i.e. until the Councillors concerned come up for re-election. Following the implementation of the Local Government Boundary Commission Electoral Review, all existing Councillors retired from office at the May 2016 Election and the dispensations therefore ceased.

The Chief Operating Officer, in consultation with the Chairman, had previously been given delegated powers to grant dispensations within parameters set previously by the Committee. He has subsequently retired and it is therefore appropriate for the delegated powers to be reviewed and reconfirmed.

The report therefore updates Members on the current position, recommends the granting of dispensations to continue the previous arrangements, and also recommends giving delegated powers to the Head of Legal and Democratic Services, in consultation with the Chairman, to grant dispensations to Members.

#### RECOMMENDATIONS:

1. That dispensations be granted to those Members listed in paragraphs 2.1 to 2.4 of the report, for the reasons set out therein.
2. That an additional dispensation be granted to Cllr Thacker to cover her membership of the South Downs National Park Authority.
3. That a dispensation be granted to Cllr Porter to cover her membership of Hampshire County Council.
4. That the dispensations set out above continue in force until the Member in question is required to stand for election.
5. That the Head of Legal and Democratic Services be given delegated authority, in consultation with the Chairman, to grant dispensations to Members in the future.

## STANDARDS COMMITTEE

15 June 2016

### DISPENSATIONS 2016/17 - UPDATE

#### DETAIL:

- 1 Introduction
- 1.1 At its meeting held on 27 September 2012 the Council adopted its new Code of Conduct (Report ST93 refers).
- 1.2 Dispensations can be granted to allow a Member to participate and vote on a decision when:
  - a) in the case of a disclosable pecuniary interest, it would otherwise be a criminal offence or,
  - b) in respect of a personal and prejudicial interest, it would otherwise be a breach of the Code of Conduct.
- 1.3 The categories for seeking a dispensation in relation to disclosable pecuniary interests are as follows:-
  - a) the number of Councillors affected is so great a proportion of the Council that it would impede business.
  - b) it would upset the political balance of the Council to such an extent as to alter the likely outcome of the meeting.
  - c) the dispensation would be in the interests of persons living in the area.
  - d) each Member of the Council's Cabinet would be prevented from participating in any particular business before Cabinet,
  - e) it is otherwise appropriate to grant a dispensation.
- 1.4 The Act does not specifically provide the mechanism for the consideration of personal and prejudicial interests under local codes – but using the same criteria is a reasonable approach. The Committee has granted delegated powers to the Chief Operating Officer to grant dispensations in the following circumstances:
  - “(a). Authorised, in consultation with the Chairman, to grant dispensations in relation to Disclosable Pecuniary Interests in respect of Council House tenancies.

(b). Authorised, in consultation with the Chairman, to grant dispensations in relation to Disclosable Pecuniary Interests due to membership or employment in other public offices, until the expiry of their period of office as a District Councillor.

(c) Authorised, in consultation with the Chairman, to give dispensations to Members to speak and vote during the annual budget debate, either at Council or other meetings, in relation to personal and prejudicial interests affecting “not for profit” voluntary organisations and public bodies, provided that the dispensations would not extend to circumstances where the office on the outside body would give rise to a significant risk of a personal financial liability for the Member concerned.

(d) Authorised, in consultation with the Chairman, to grant dispensations to deal with short term applications when:

- (i) the number of Councillors affected is so great a proportion of the Council that it would impede business.
- (ii) it would upset the political balance of the Council to such an extent as to alter the likely outcome of the meeting.”

1.5 Specific examples of instances in which decisions have been made with regard to granting, or renewing dispensation previously granted, are set out below. Dispensations can last for a maximum period of 4 years – and cease when a Member comes up for re-election. Following the retirement of the Chief Operating Officer, it is appropriate for reconsider and reconfirm the delegated powers to be exercised by the Head of Legal and Democratic Services.

1.6 The position of those Members of the Council who were either additionally Hampshire County Councillors or County Council employees has been previously considered. It was agreed that being a County Councillor was an ‘office....carried on for profit or gain’ and so could be interpreted as potentially being a disclosable pecuniary interest (DPI). As the County Council had varying levels of involvement in many City Council matters, it was agreed that, for the avoidance of doubt, the most straightforward solution could be for those Members to seek a dispensation allowing them to participate in meetings, except where a clear conflict of interests existed. The Committee added that the dispensation should be widened to include public bodies generally. Council approved this approach.

1.7 The dispensations were granted in similar wording based on the following variations:

“That in relation to membership of (or employment by) Hampshire County Council (or other public body), a dispensation be granted to speak and vote in respect of disclosable pecuniary interests and

personal/prejudicial interests, except in circumstances where there is a material conflict of interest between the two authorities e.g. negotiation on land transactions or legal disputes.”

- 1.8 Some councils are taking different approaches as to whether such dispensations are necessary in respect of members of other councils who are in receipt of members allowances. However, the legislation is poorly drafted and the current Winchester approach does provide protection for its Members from vexatious complainants.
- 1.9 Other instances where the Committee has also previously agreed to grant dispensations include those Councillors who have Council house tenancies. Any DPI that may otherwise occur would mean that the Councillor would not be able to take part in discussion on some matters related to Council house tenancies - in particular the rent setting decision at full Council. The Code allows them to participate in any Housing matter not affecting their own tenancy. The dispensation allows them to participate in rent/budget setting items.
- 1.10 Dispensations have also been given in some instances because of a councillor's links with a voluntary body – but there are none if force at the moment.

## 2 Disclosable Pecuniary Interests - Dispensations in 2015/16

- 2.1 Dispensations were previously granted to **Councillors Humby, Huxstep, Mather, Stallard and Tod** as all are also Hampshire County Councillors.
- 2.2 Councillor Godfrey was granted a similar dispensation as an employee of the County Council.
- 2.3 A dispensation was granted to **Councillor Thacker**, who would otherwise also have a disclosable pecuniary interest due to her husband being a Hampshire County Councillor.
- 2.4 **Councillors Scott and Green** were also previously granted a dispensation with regard to them being a tenant of the Council.
- 2.5 Former **Councillor Lipscomb** was granted a dispensation, in view of his being a member of the South Downs National Park Authority. **Councillor Thacker** has been appointed as his replacement.

## 3. Proposed Dispensations for 2016/17

- 3.1 Other than Councillor Lipscomb, who did not stand for re-election, all councillors with an existing dispensation were re-elected in May 2016. In addition, County **Councillor Porter** was elected as a City Councillor.

- 3.2 The Head of Legal and Democratic Services granted interim dispensations under delegated powers to Councillors Godfrey, Huxstep, Humby, Mather, Porter, Stallard, Thacker and Tod until the Standards Committee meeting.
- 3.2 It is suggested that the dispensations set out in Section 2 above (other than for former Councillor Lipscomb) are all renewed until the election when the relevant member is required to retire. It is also suggested that Councillor Thacker is granted an additional dispensation to cover her membership of the South Downs National Park Authority, and that Councillor Porter is granted a dispensation as a member of the County Council.
- 3.3 Finally, it is suggested that delegated powers to the Head of Legal and Democratic Services, in consultation with the Chairman, to grant dispensations to Members in the future. This would avoid the need for Standards Committee to meet and agree dispensations to Members following each election.

#### OTHER CONSIDERATIONS:

4 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 4.1 An Efficient and Effective Council.

5 RESOURCE IMPLICATIONS:

- 5.1 None directly.

6 RISK MANAGEMENT ISSUES

- 6.1 The dispensations proposed are reasonable and prudent and take account of the wider public interest in allowing the Council to function, while providing appropriate transparency.

#### BACKGROUND DOCUMENTS:

None

#### APPENDICES:

None