

REPORT TITLE: DISPENSATION REQUEST – COUNTY COUNCIL AND CITY COUNCIL “DUAL HATTERS”

9 JANUARY 2025

REPORT OF THE MONITORING OFFICER

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WARD(S): ALL

PURPOSE

This report follows the council's recent adoption of the new code of conduct for Winchester City Council based on the Local Government Association Model Code and accompanying guidance and updated arrangements for dealing with complaints. The code and guidance clarify the position that if a councillor is in receipt of taxable allowances from another council this must now be registered and declared as a disclosable pecuniary interest (DPI).

Following the circulation of this guidance, five Winchester City Councillors who also serve on Hampshire County Council have requested dispensations to continue participating in Winchester City Council meetings. The dispensations are considered to be in the best interests of Winchester City Council residents and the council and would be valid for up to four years.

The council's constitution in Part 2, Article 9 – "Audit and Governance Committee" states that this committee's Terms of References includes the authority to grant dispensations, where referred by the Monitoring Officer and in accordance with the Localism Act 2011 or other legislation and to monitor the use of dispensations.

This report seeks the Audit and Governance Committee's authority to grant a dispensation for 5 councillors detailed in section 11 of the report. The dispensation would allow those councillors to remain in a meeting more often, participate in more discussions, motions, and questions, and vote on more matters relating to Hampshire County Council than they would otherwise be able to.

RECOMMENDATION:

That the Audit and Governance Committee grants a dispensation for a period of up to four years, or for the time each Councillor remains a County Councillor, whichever is longest to Councillors Porter, Tod, Wallace, Warwick, and Williams

## IMPLICATIONS:

### 1 COUNCIL PLAN OUTCOME

- 1.1 This committee is responsible for maintaining high governance standards within the Council pursuant to its duties under the [Localism Act 2011](#). The committee has the role of ensuring that the ethical standards regime forming part of the governance framework of the Council is robust, thereby engendering public confidence that the Council can deliver upon its priorities within the Council Plan.

### 2 FINANCIAL IMPLICATIONS

- 2.1 There are no direct financial consequences arising from this report.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 Section 27(1) of the Localism Act 2011 requires the Council to promote and maintain high standards of conduct by its members and co-opted members when they are acting in the capacity of members.
- 3.2 Section 27(2) requires that the Council must adopt a code dealing with the conduct that is expected of members and co-opted members in order to discharge this duty.
- 3.3 Section 31(4) of the Localism Act 2011 sets out that where a Member is present at a meeting of the authority and has a disclosable pecuniary interest in any matter to be considered, they may not:
- a) Participate, or participate further, in any discussion of the matter at the meeting, or
  - b) Participate in any vote, or further vote, taken on the matter at the meeting.
  - c) If a Member fails to comply with these requirements, they would potentially commit a criminal offence.
- 3.4 However, a relevant authority may, following a written request made to the proper officer by the Members concerned, grant a dispensation relieving the Members from either or both of the restrictions set out above.

### 4 WORKFORCE IMPLICATIONS

- 4.1 None from this report.

### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None from this report.

### 6 CONSULTATION AND COMMUNICATION

- 6.1 Not applicable to this report.

## 7 ENVIRONMENTAL CONSIDERATIONS

7.1 None from this report.

## 8 PUBLIC SECTOR EQUALITY DUTY

8.1 There are no equalities interests that arise from this report.

## 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None from this report.

## 10 RISK MANAGEMENT

10.1 A risk assessment has been considered and is detailed in the report. If this Committee determine to grant a dispensation and the members subsequently revise their declaration of interests form it is considered there will be no significant risks that cannot be fully minimised by existing or planned controls or additional procedures.

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
Financial Exposure	Ensure that the process for granting dispensations is transparent and well-documented to prevent any potential issues concerning decision-making or conflicts of interest or concerns of such.	The clear and transparent process for granting dispensations can enhance decision-making accountability and trust in the council's financial management practices.
Exposure to challenge	Provide guidance to councillors on the new Code of Conduct and the implications of receiving allowances from other councils. This will help ensure compliance and reduce the risk of legal challenges or disputes.	By adopting a robust Code of Conduct and providing clear guidance, the council can demonstrate its commitment to good governance and ethical behaviour, which can enhance its reputation and credibility.
Reputation	Transparency in decision-making and clear communication can help maintain and enhance the council's reputation.	The granting of dispensations can be seen as a proactive step in ensuring good governance, which can positively impact the council's reputation and public trust.

Achievement of outcome	Ensure that the process for granting dispensations is transparent and based on clear criteria.	The granting of dispensations can demonstrate the council's commitment to good governance and accountability.
Community Support		
Timescales		

## 11 SUPPORTING INFORMATION:

- 11.1 At its meeting on 6 November 2024, Full Council resolved that the Local Government Association Model Code of Conduct for Councillors be adopted as the Winchester City Council Code of Conduct to come into force on 1 January 2025 ([available here](#)).
- 11.2 At its meeting on 28 November 2024, the Audit & Governance Committee agreed to endorse the guidance accompanying the Code of Conduct ([available here](#)).
- 11.3 The endorsed guidance document contains this question and answer regarding Councillor allowances received from other councils. *"Does 'office carried on for profit or gain' include allowances I may receive from another council I sit on? If you receive allowances which are treated as taxable income rather than simply being pure reimbursement of expenses, say, then they do need to be registered and declared as appropriate. Reimbursement of expenses is separately covered by the DPI category 'sponsorship' and makes clear that it excludes the need to register or declare reimbursement of expenses from one's own authority. However, that does not exclude any allowances received from another authority. When this issue was raised with Government it was stated: "a member being in receipt of taxable Councillor allowances may be considered to give rise to a disclosable pecuniary interest under the subject of 'Employment, office, trade or vocation' set out in the regulations. That means that any member in receipt of taxable allowances from another authority would have to register such as a DPI. For example, a parish Councillor who is also a district Councillor and is in receipt of taxable allowances from the district would need to register that fact."*
- 11.4 Following the publication of this guidance, five Winchester City Councillors (Councillors Porter, Tod, Wallace, Warwick, and Williams) who also serve as elected Councillors at Hampshire County Council, have formally requested dispensations to ensure their continued active participation in Winchester City Council meetings.
- 11.5 It is noted that the five councillors represent all three political groups at Winchester City Council.
- 11.6 The requested dispensations are grounded in the understanding that their interests arise solely from their responsibilities as elected Councillors in both

local authorities. These dispensations will not apply to any situation where a Councillor might experience personal financial gain or loss but will cover instances where their interests pertain to their elected roles and responsibilities.

- 11.7 The rationale for granting these dispensations includes the following:
- a) The requested dispensations explicitly exclude any situations where a Councillor might experience personal financial gain or loss.
  - b) The participation of these Councillors in Winchester City Council meetings is deemed essential due to their:
    - (i) Role as appointees or nominees of another local authority, which provides valuable insights into the needs and perspectives of both communities.
    - (ii) Specialised expertise and knowledge pertaining to their respective local authority areas, which enhances the quality of discussions and decision-making.
- 11.8 Considering these factors, the dispensations are considered to be in the best interests of the residents within the Winchester City Council area.
- 11.9 This dispensation is valid for up to four years from the date of this report, provided the councillor remains a member of both authorities.
- 11.10 It is noted that even with the dispensation in place, there will be instances where Councillor Warwick who is a member of the Executive at Hampshire County Council may still need to leave a Winchester City Council meeting if there is a matter that has direct relevance to Executive decisions at Hampshire County Council that she is or is anticipated she could be making or be part of the executive making said decisions.

## 12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 Not to seek a dispensation from the Audit & Governance Committee which could impact both the proper functioning of the council and the representation of residents within the council.

### BACKGROUND DOCUMENTS:-

#### Previous Committee Reports:-

[AG140 code of conduct for councillors.pdf](#) - Audit & Governance Committee 26 September 2024.

[AG146 COMBINED Complaints guidance process.pdf](#) – Audit & Governance Committee 28 November 2024

### APPENDICES:

None