

REPORT TITLE: DISPENSATION REQUESTS – FUTURE PROCESS

25 FEBRUARY 2025

REPORT OF THE MONITORING OFFICER

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WARD(S): ALL

**PURPOSE**

At its meeting on the 9 January 2025, the Audit & Governance Committee requested the Monitoring Officer to submit to a future meeting a proposed procedure for the granting of dispensation requests.

This report seeks the Audit & Governance Committee's agreement to a procedure for determining Dispensation requests from Councillors.

**RECOMMENDATION:**

That the Audit and Governance Committee delegates authority to the Monitoring Officer, following consultation with the Chair of the Audit & Governance Committee to determine dispensations in accordance with the procedure outlined in Appendix 1. This procedure also includes a requirement for the Monitoring Officer to report quarterly to the Audit and Governance Committee, detailing all dispensations granted or refused during the previous quarter.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

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

There are no direct financial consequences arising from this report.

3 LEGAL AND PROCUREMENT IMPLICATIONS

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.

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.

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.

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

None from this report.

5 PROPERTY AND ASSET IMPLICATIONS

None from this report.

## 6 CONSULTATION AND COMMUNICATION

Not applicable to this report.

## 7 ENVIRONMENTAL CONSIDERATIONS

None from this report.

## 8 PUBLIC SECTOR EQUALITY DUTY

There are no equalities interests that arise from this report.

## 9 DATA PROTECTION IMPACT ASSESSMENT

None from this report.

## 10 RISK MANAGEMENT

A risk assessment has been considered and is detailed in the report.

<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 the process for granting dispensations 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 The council's [constitution](#) in Part 2, Article 9 – "Audit and Governance Committee" states that this committee's Terms of Reference includes the authority to grant dispensations, where referred by the Monitoring Officer and in accordance with the Localism Act 2011 or other legislation. The same section also delegates to the Audit & Governance Committee the ability to monitor the use of dispensations.
- 11.2 The councils [constitution](#) in Part 3.4 "The Scheme of Delegation to Officers" states that the scheme "authorises officers of the council subject to the limitations and reservations of this scheme to (b) exercise functions specifically delegated to them either by the Leader or by the Council, a Committee or Sub-Committee (under Section 101 of the Local Government Act 1972)
- 11.3 At its meeting on the 9th of January 2025, the Audit & Governance Committee requested the Monitoring Officer to propose to a future meeting of the committee, a procedure for the granting of dispensation requests.
- 11.4 Several options have been considered and the recommended procedure is shown in Appendix 1. In summary, this option enables the Monitoring Officer, following consultation with the Chair of this Committee, to determine the majority of dispensation requests, although it does allow for the Monitoring Officer to refer certain requests to the Audit & Governance Committee where appropriate. It also requires the Monitoring Officer to report every quarter to the Audit & Governance Committee regarding any dispensation requests received.
- 11.5 Granting dispensations through the Monitoring Officer in this way offers several key advantages. The Monitoring Officer holds a statutory position, operating independently from political influence, and this neutrality can foster enhanced public trust in the dispensation process. Furthermore, the Monitoring Officer is well-positioned to facilitate a more efficient process for granting dispensations which often only arise following the publication of a committee agenda but are required to be in place before the meeting. The Monitoring Officer can respond promptly to such requests.

- 11.6 This procedure does not apply to a dispensation for Councillor non-attendance at council meetings for a period of six consecutive months which would remain to be determined by Full Council.

12 OTHER OPTIONS CONSIDERED AND REJECTED

For all dispensations to be granted by the Audit & Governance Committee.

For all dispensations to be granted by a sub-committee of the Audit & Governance Committee.

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:

Appendix 1 – Draft Proposed Procedure.

## **Dispensations Process**

### **1. Introduction**

1.1. This guide explains:-

- a) the purpose and effect of dispensations
- b) the procedure for requesting dispensations
- c) the criteria which are applied in determining dispensation requests

### **2. Purpose and effect of dispensations**

2.1. Section 31(4) of the Localism Act 2011 sets out that where a Member is present at a meeting of the council 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 Councillor fails to comply with these requirements, they would potentially commit a criminal offence.
- d) However, a relevant authority may, following a written request made to the proper officer by the Councillors concerned, grant a dispensation relieving the Councillors from either or both of the restrictions set out above.

### **3. Process for making requests**

- 3.1. Any Councillor who wishes to apply for a dispensation must email their request to the Monitoring Officer at least 10 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.
- 3.2. To avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary. The headings that the request must cover are shown in Appendix A.
- 3.3. A request for dispensation must be made on an individual basis. Group applications are not permitted.

### **4. Consideration by the Monitoring Officer**

- 4.1. The Monitoring Officer will consider requests for a dispensation in the order in which they are received having regard to the criteria set out in paragraph 6 below.
- 4.2. The Monitoring Officer, after consultation with the Chairman of the Audit & Governance Committee, may grant a dispensation if they consider that either:
  - a) Without the dispensation, the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business

would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate)

- b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business
- c) granting the dispensation is in the interests of persons living in the Council's area
- d) without the dispensation, each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive; or
- e) it is otherwise appropriate to grant a dispensation.

4.3. The terms of any dispensation shall be in accordance with paragraph 7.

4.4. The Monitoring Officer will notify the Councillor of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

4.5. If the Monitoring Officer feels that it is appropriate to do so, they shall refer the request to the Audit & Governance Committee as soon as is reasonably practicable.

4.6. The Monitoring Officer will report at least quarterly to the Audit & Governance Committee regarding dispensations determined in the previous quarter.

## **5. Consideration by the Audit & Governance Committee**

5.1. The Audit & Governance Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received and having regard to the criteria set out in paragraph 6.

5.2. Meetings of the Audit & Governance Committee will normally be open to the public and any Councillor who has submitted a request will have the opportunity to attend and make representations in support of their application.

5.3. The Audit & Governance Committee may grant a dispensation if they consider that either

- a) without the dispensation, the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate)
- b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business
- c) granting the dispensation is in the interests of persons living in the Council's area

- d) without the dispensation, each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive; or
- e) it is otherwise appropriate to grant a dispensation.

5.4. The terms of any dispensation shall be in accordance with paragraph 7.

5.5. The Monitoring Officer will notify the Councillor of the Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

## **6. Criteria for determination of requests**

6.1. In reaching a decision on a request for a dispensation the Monitoring Officer or the Audit & Governance Committee (as appropriate) will consider:

- a) the nature of the Councillor's interest
- b) the need to maintain public confidence in the conduct of the Council's business
- c) the possible outcome of the proposed vote
- d) the need for efficient and effective conduct of the Council's business
- e) any other relevant circumstances.

## **7. Terms of dispensations**

7.1. Dispensations may be granted:

- a) for one meeting; or
- b) for a period not exceeding 4 years.

7.2. Dispensations may allow the Councillor:

- a) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- b) to participate in any vote or further vote, taken on the matter at the meeting(s).
- c) If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

## **8. Disclosure of decision**

8.1. Any Councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

8.2. A copy of the dispensation will be kept by the Monitoring Officer.



**10. Appendix A – Items to be included in the request for a dispensation.**

- a) Your name:
- b) Decision-making body in respect of which you require a dispensation:
- c) Details of your Councillorship of that body:
- d) The business for which you require a dispensation (refer to agenda item number if appropriate):
- e) Details of your interest in that business:
- f) Date of meeting or time period (up to 4 years) for which dispensation is sought:
- g) Dispensation requested to participate, or participate further, in any discussion of that business by that body: Yes/ No
- h) Dispensation requested to participate in any vote, or further vote, taken on that business by that body: Yes No
- i) Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)
- j) Signed:
- k) Dated:
- l) Please send your email with this information to: The Monitoring Officer,  
Winchester City Council - [monitoringofficer@winchester.gov.uk](mailto:monitoringofficer@winchester.gov.uk)