

Standards Committee

Determination of Requests for Dispensation

10 October 2012

Report of Head of Law and Governance / Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to agree a method for dealing with applications for dispensation which are received from members of Cherwell District Council.

This report is public.

Recommendations

The Standards Committee is recommended to:

- (1) Delegate authority to the Head of Law and Governance/Monitoring Officer in consultation with an Independent Person to determine requests for dispensation that are received from members of Cherwell District Council.

Executive Summary

- 1.1 Section 33 of the Localism Act 2011 enables Councillors to apply for a dispensation to enable them to participate in the debate and/or vote on matters in which they have disclosable pecuniary interests. It is necessary to agree an appropriate method for dealing with such requests.

Background Information

- 2.1 Under the provisions of the Localism Act 2011, as incorporated in the Council's adopted Code of Conduct, a Councillor with a disclosable pecuniary interest must refrain from participation in the discussion and vote on any matter to which the interest applies. It is, however, possible for a Councillor to seek a dispensation from either or both of these restrictions on certain grounds. Dispensation applications from Cherwell District Council Councillors are determined by this Committee while applications from Town and Parish Councillors are determined by the relevant Town and Parish Council concerned.

- 2.2 The grounds for dispensation are as follows:
- 2.2.1 Where, without the dispensation, the number of persons prohibited 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.
 - 2.2.2 Where, 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.
 - 2.2.3 Where the granting of the dispensation is in the interests of persons living in the Authority's area.
 - 2.2.4 Where, without the dispensation, each member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive.
 - 2.2.5 Where it is otherwise appropriate to grant a dispensation.
- 2.3 While the grounds for dispensation in paragraphs 2.2.1, 2.2.2, and 2.2.4 above largely represent previous provisions, the much broader and subjective grounds contained with paragraphs 2.2.3 and 2.2.5 are new.
- 2.4 While it is not yet clear how many dispensation applications might be submitted by Cherwell District Council Councillors it is clear that the adoption of a procedure whereby the Committee needs to determine every dispensation application would be impracticable given the likely frequency with which the Committee will be meeting, and the speed with which some dispensation requests may need to be considered. Accordingly it is proposed that the Committee delegates authority to the Head of Law and Governance/Monitoring Officer to determine dispensation applications in consultation with one of the Independent Persons. In the event that the Head of Law and Governance/Monitoring Officer considers it appropriate to refer a dispensation application to the Committee for consideration this could be done. This is most likely to arise with certain dispensation applications that might be submitted pursuant to paragraphs 2.2.3 and/or 2.2.5 above.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 It is necessary for the Committee to agree to introduce an appropriate procedure for dealing with requests for dispensation. It is suggested that the majority of dispensation requests can be dealt with satisfactorily under delegated authority by the Head of Law and Governance/Monitoring Officer in consultation with one of the Independent Persons. However, any applications raising difficult or subjective issues would be brought to Committee for determination.

3.2 The options available to the Committee are:-

- Option One** to approve the recommendation.
- Option Two** to delegate authority only in respect of applications for dispensation on certain grounds
- Option Three** to reject the recommendation and reserve all applications for dispensation for determination by the Committee

Consultations

None

Implications

- Financial:** There are no financial implications arising from this report.
Comments checked by Karen Curtin, Head of Finance and Procurement,
Karen.curtin@cherwellandsouthnorthants.gov.uk
- Legal:** The relevant legal implications are dealt with in the report.
Comments checked by Kevin Lane, Head of Law and Governance,
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- Risk Management:** There are no risk management implications arising from this report.
Comments checked by Gavin Halligan-Davies, Interim Corporate Performance Manager, gavin.halligan-davies@cherwellandsouthnorthants.gov.uk

Document Information

Appendix No	Title
None	
Background Papers	
None	
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