

Meeting Date: 26 November 2012

Portfolio: Finance, Governance and Resources

Key Decision: Not applicable

Within Policy and Budget Framework: Yes

Public/Private*: Public

Title: **CODE OF CONDUCT: DISPENSATIONS**

Report Number: GD.68/12

Report of: Director of Governance

PURPOSE/SUMMARY:

The purpose of the Report is to request the Standards Committee to grant Dispensations pursuant to section 33 of the Localism Act so that Members are able to participate in the setting of Council Tax and also make representations to Meetings when they have a disclosable pecuniary interest, providing the public have a similar such right to make representations.

RECOMMENDATIONS:

In accordance with Section 33 of the Localism Act 2011, the Standards Committee grant a dispensation to each Member of the City Council, each having submitted a written request, for a period of four years:

1. When the business of the Meeting relates to setting the Council Tax under the Local Government Finance Act 1992 (or any subsequent legislation) and where they, (or their spouse/civil partner, etc.) have a disclosable pecuniary interest as a result of property interests within the district (including owning or renting a home within the district);

2. Where a Member has Disclosable Pecuniary Interest in any business of the Council to allow them to attend a Meeting but only for the purpose of making representations, answering questions or giving evidence in relation to the business provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations have been made the Member must leave the room as required by Standing Order 24.3 of the Council's Procedure Rules.

TRACKING:

Standards Committee:	26 November 2012

1. BACKGROUND

- 1.1 Members will recall that under the previous statutory Code of Conduct there existed what were known as *personal* and also *personal and prejudicial* interests. If a Member had a prejudicial interest in a particular matter of business before the Council, then the general rule was that they were prohibited from participating in that item of business. However, there was specific provision in the legislation to the effect that members would not have a prejudicial interest where an item of business related to a number of functions of the Council, including setting the council tax, housing matters (where the member was a tenant of the Council and the item did not relate to the member's particular tenancy or lease), and allowances, indemnities and ceremonial honours given to members.
- 1.2 The Localism Act 2011 revoked the above mentioned statutory regime and required the Council to make appropriate arrangements for standards of Member behaviour. It also introduced a new system for the registration of Members' interests including what are known as *disclosable pecuniary interests* ("DPI"). From the 1st July of this year the Council has adopted and operated a new code of conduct regime and part of the new rules relate to the disclosure/registration of interests and the impact of such a disclosure or registration. The provisions of the Localism Act 2011 require that where a member has a disclosable pecuniary interest in any matter to be considered at a meeting, the member may only participate in the discussion and voting at that meeting if a dispensation has been granted under Section 33 of the Act.
- 1.3 Section 33 provides that the Council may, on receiving a written request, made to the proper officer (the Monitoring Officer), by a Member, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions or voting at a meeting.
- 1.4 The Council may only grant a dispensation under section 33 if, after having regard to the relevant circumstances, the Authority:
 - (a) considers that 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,
 - (b) considers that 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) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which [Part 1A](#) of the [Local Government Act 2000](#) applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by [section 31\(4\)](#) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

- 1.5 A dispensation must specify the period for which it has effect and this period must not exceed four years.
- 1.6 Attached to this report is a copy of a letter which has been signed and returned to the Monitoring Officer by each of the 53 Members of the City Council. The letter is self explanatory and each Member effectively requests a dispensation for the setting the Council Tax when they have a DPI by virtue of a property interest within the District and secondly, in circumstances when they have a DPI, to allow them to attend a Meeting to make representations, answer questions or give evidence in relation to the business being transacted providing that the public have the right to attend for that purpose.
- 1.7 In relation to the setting of the Council Tax Members may consider that the criterion specified in 1.4 a, c, d and/or e are appropriate.
- 1.8 In relation to the ability to make representations to Meetings Members may consider that criteria 1.4 e is appropriate.

2. PROPOSALS

- 2.1 That the Standards Committee grant Members the dispensations detailed above for the reasons specified.

3. CONSULTATION

- 3.1 None.

4. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is important that the Council is able to properly conduct its business and that Members are able to represent the communities that they have been elected to represent. Further, it is important that Members are not disenfranchised in terms of being less able to make representations to Meetings of the Council than are members of the Public.

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1 The setting of the Council's Budget is an important part of delivering the Authority's priorities.

Contact Officer: Mark Lambert

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Appendices attached to report: Specimen Letter requesting Dispensation.

In compliance with Section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's - None

Community Engagement – None

Economic Development – None

Governance – The Report has been written by the Director of Governance. To comply with the law and be able to participate in Meetings, Members should have the Dispensations specified within this Report.

Local Environment – None

Resources – None

Mark Lambert
Monitoring Officer
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

October 2012

Dear Sir

Carlisle City Council: Code of Conduct - Dispensation Request

Please accept this letter as my request for a dispensation under Section 33 of the Localism Act 2011 from the restrictions in Section 31(4)(a) and (b) of that Act, to enable me to participate in any discussions or votes at any meeting in respect of the matters detailed in (1) below and to make representations in respect of matters detailed in (2):

3. Setting the Council tax under the Local Government Finance Act 1992 or any subsequent legislation where I, (or my spouse/civil partner, etc.) have a disclosable pecuniary interest as a result of property interests within the district (including owning or renting a home within the district);
4. Where I have a Disclosable Pecuniary Interest in any business of the Council to allow me to attend a Meeting but only for the purpose of making representations, answering questions or giving evidence in relation to the business provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations have been made I will leave the room as required by Standing Order 24.3 of the Council's Procedure Rules.

Yours faithfully

Councillor

Full Name

Signature

Dated: