

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee

26 July 2012

AUTHOR/S: Monitoring Officer

DECLARATION OF INTERESTS AND DISPENSATIONS

Purpose

1. The Localism Act 2011 significantly changed the provisions on both the declaration of interests and the circumstances in which a member can be granted a dispensation so they can participate even where an interest exists.

Recommendations

2. That Council:
 - (a) delegates the power to grant a dispensation to the Monitoring Officer (in consultation with the Chairman of the Civic Affairs Committee and the Independent Person) with all dispensations granted to be reported back to the Civic Affairs Committee; and
 - (b) Approves the dispensations procedure attached at Appendix A

Reasons for Recommendations

3. The Council is able to delegate the power to grant a dispensation to a committee, sub-committee or to the Monitoring Officer and due to the time restraints involved it is recommended that it is delegated to the Monitoring Officer, who must consult appropriately before making the decision.

Background

Registration of interests

4. Each elected or co-opted member must register all Disclosable Pecuniary Interests ("DPI"s) within 28 days of becoming a member. Failure to register is a criminal offence.
5. There is no express continuing requirement under the Act for a member to keep the register up to date, except on re-election or re-appointment. However, the proposed SCDC code includes a requirement that a member should notify the Monitoring Officer within 28 days of any changes to their interests. It is thought that this will help to avoid members inadvertently failing to declare interests.
6. If a member finds themselves in a meeting where a matter is to be discussed in which they have a DPI which isn't on the register, they are required to declare that interest to the meeting and to notify the Monitoring Officer within 28 days in order that it may be registered. Failure to do so shall, in the absence of reasonable excuse, be a criminal offence. In the circumstances it is advisable for the Monitoring Officer to issue annual reminders to members encouraging them to update their entries.
7. The code of conduct which is recommended for adoption requires registration of non-statutory interests, referred to as non-disclosable pecuniary interests and non-

pecuniary interests, and applies similar requirements of registration or verbal disclosure. A failure to do so on the part of a member would be a breach of members' code of conduct but would not be a criminal offence.

Disclosure of Interests and Withdrawal from Meetings

8. The new statutory requirements around disclosure differ from the old provisions as if the DPI or non-statutory interest is listed in the register, a member is not required by law to verbally declare its existence during a meeting. The SCDC Code includes a provision that declaration at a meeting does still continue in order to aid transparency.
9. If a member has a DPI in a matter they are prohibited from participating in discussions or voting upon the matter at the meeting unless they have a valid dispensation. The SCDC code includes a provision that any member with a DPI in a matter should be required to withdraw from the meeting room during that item. Members with a non-statutory interest may participate in the debate and decision unless the interest is such that it could reasonably be regarded as so significant as to impair the member's judgement of the public interest, in which case they should also withdraw from participation under the laws on pre-determination and bias.

Sensitive Interests

10. The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. Accordingly, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose), at a meeting or on the register of members' interests, would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest". If the Monitoring Officer agrees, the member is only obliged to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer must exclude the detail of the interest from the published version of the register of members' interests.

Dispensations

11. The provisions on dispensations are significantly changed by the Localism Act. Under the new provision a dispensation will be able to be granted in the following circumstances –
 - a) That so many members of the decision-making body have DPIs in a matter that it would impede the transaction of the business. In practice this means that the decision-making body would be inquorate as a result; or
 - b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter; or
 - c) That the authority considers that the dispensation is in the interests of persons living in the authority's area; or
 - d) That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
 - e) That the authority considers that it is otherwise appropriate to grant a dispensation.

12. Any grant of a dispensation must specify how long it lasts for up to a maximum of 4 years.
13. The Localism Act enables the power to grant a dispensation to be delegated to a committee, sub-committee, or to the Monitoring Officer. It is suggested that in order to keep bureaucracy to a minimum, the authority to grant a dispensation be delegated to the Monitoring Officer, in consultation with the Independent Person and the Chairman of the Civic Affairs Committee. This will enable dispensations to be granted within a short time frame which is essential as a member does not often realise that he/she has an interest in an agenda item until the agenda is published, which would not allow the Civic Affairs Committee time to convene in order to make a decision on a dispensation request.
14. A SCDC Dispensations Procedure Guide and template application form is attached at **Appendix A**.

Implications

15. Financial	As detailed in the body of the report.
Legal	As detailed in the body of the report.
Staffing	None specific.
Risk Management	None specific.
Equality and Diversity	None specific.
Equality Impact Assessment completed	No
Climate Change	None specific.

Consultations

16. The Standards Committee was consulted throughout the process and agreed the application pack and recommended allowances

Consultation with Children and Young People

17. Not relevant.

Background Papers: the following background papers were used in the preparation of this report:

Localism Act 2011

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