

Value and Ethics Sub- committee

30 January 2023



Report of: Director – Legal and Democratic Services

Title: Dispersions

Ward: All

Officer Presenting Report: Director – Legal and Democratic Services

Recommendations:

1. That the Sub-committee grants a dispensation for a period of 4 years to all Members of the Council in respect of any matter under consideration by Full Council, Cabinet or any Committee of the Council concerning housing policy that may relate to any disclosable pecuniary interest in land that any member of the council has as an owner, landlord or tenant of public or privately owned property.
2. That the Sub-committee delegates authority to the Monitoring Officer, in consultation with the Chair of the Value and Ethics Sub-committee, to determine any other urgent applications for dispensations where it is not reasonably practicable to convene a meeting of the Value and Ethics Sub-committee.

The significant issues in the report are:

As set out in the report.



1. Summary

This report deals with two matters relating to dispensations that fall within the terms of reference of the Value and Ethics Sub-committee. Firstly, a dispensation to all members who have a disclosable pecuniary interest in housing policy matters. Secondly, urgent applications for other dispensations where it is not possible to convene a meeting of the Value and Ethics Sub-committee.

2. Overview of disclosable pecuniary interests and dispensations

Under the Localism Act 2011, there is a requirement for all councillors to register their disclosable pecuniary interests. One of the categories of disclosable pecuniary interest is an interest in land in the Council's area. The interests in land that will be recorded will generally be as either an owner, landlord or tenant of private or publicly owned property. In the majority of cases these interests will be recorded as sensitive interests, namely they will have been disclosed to the Council's Monitoring Officer but will not appear on the public register of disclosable pecuniary interests. However, these sensitive interests are still regarded as disclosable pecuniary interests.

Where a councillor has a disclosable pecuniary interest in respect of any matter under consideration at a meeting of the Council, Cabinet or a Committee of the Council then they must declare the nature of their interest, leave the meeting and not participate in the debate or any vote in respect of that matter.

The obligations in respect of disclosable pecuniary interests are set out in section 31(4) of the Localism Act 2011 and in paragraph 3 of the Member Code of Conduct.

However, under section 33 of the Localism Act 2011, the Council may grant a dispensation to any councillor where certain criteria are met and where such a dispensation is granted, the councillor may participate in and vote on a matter, where but for the dispensation, they would not be permitted to do so.

The criteria which are used to determine whether a dispensation will be granted are set out in section 33(2) of the Localism Act 2011. The Council may grant a dispensation if, after having regard to all relevant circumstances, the Council

- (a) considers that without the dispensation the number of persons prohibited by section 31(4) 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.

The responsibility for determining applications for dispensations is a function of the Value and Ethics Sub-committee and the terms of reference for the Sub-committee include the following:

Consideration of applications for dispensation to allow members to participate in consideration of matters in which they would, but for a dispensation, not be able to participate, in circumstances permitted by law.

3. Dispensation in respect of housing matters

At the Full Council meeting on 10 January 2023, the Golden Motion related to the private housing sector, in particular the rights of tenants and the responsibilities of landlords. A number of councillors had disclosable pecuniary interests as either tenants or as landlords in the Golden Motion and were therefore unable to participate in the debate or vote on the motion. Some councillors made enquiries about a dispensation in respect of the Golden Motion. Unfortunately, it was not possible to consider any applications for a dispensation as the function is currently reserved to the Value and Ethics Sub-committee, there was not enough time to call a meeting to consider whether a dispensation should be granted, and no delegation is in place to determine urgent applications for dispensations.

The Full Council meeting on 10 January 2023 was not the first time that the Council has considered a motion relating to housing matters and it is possible that similar motions may be proposed for debate in the foreseeable future. In the interests of ensuring that all relevant viewpoints can be expressed in such matters, there is a strong argument in favour of granting a dispensation to all councillors who have a disclosable pecuniary interest in land whether as an owner, landlord or tenant of public or privately owned property and that such a dispensation should be in place for a period of 4 years, 4 years being the maximum permitted period for a dispensation.

Therefore, it is recommended that the Value and Ethics Sub-committee grants a dispensation for a period of 4 years to all Members of the Council in respect of any matter under consideration by Full Council, Cabinet or any Committee of the Council concerning housing policy that may relate to any disclosable pecuniary interest in land that any member of the council has as an owner, landlord or tenant of public or privately owned property.

4. Urgent applications for dispensations

As things stand, any application for any other dispensation would need to be determined by the Value and Ethics Sub-committee on a case-by-case basis. However, there is currently no mechanism in place to determine urgent applications for dispensations, where it is not reasonably practicable to convene a meeting of the Value and Ethics Sub-committee.

Whilst applications for dispensations are infrequent, it would be desirable to have a mechanism whereby urgent applications for dispensations could be considered by the Council's Monitoring Officer, in consultation with the Chair of the Value and Ethics Sub-committee. The criteria set out in s.33(2) of the Localism Act 2011 would be used to determine any urgent applications and where an urgent application for a dispensation has been granted, this will be reported to the next meeting of the Value and Ethics Sub-committee.

Therefore, it is recommended that the Value and Ethics Sub-committee delegates authority to the Monitoring Officer, in consultation with the Chair of the Value and Ethics Sub-committee, to determine urgent applications for any other dispensations where it is not reasonably practicable to convene a meeting of the Value and Ethics Sub-committee.

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None