



**AGENDA ITEM: 8**

**STANDARDS COMMITTEE  
20 SEPTEMBER 2016**

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**Report of: Borough Solicitor**

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**SUBJECT: DISPENSATIONS**

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Wards affected: Borough wide.

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To seek approval to grant dispensations to Councillors in relation to interests in relevant lines in the budget and in relation to specific pecuniary interests that relates to the functions of the authority. Also to delegate authority to grant urgent applications for dispensations to the Borough Solicitor.

## **2.0 RECOMMENDATIONS**

- 2.1 That a dispensation be granted, until September 2020, to all Councillors who have disclosable pecuniary or pecuniary interests in relation to relevant lines in the budget to allow them to participate and vote in the budget debate.
- 2.2 That a dispensation in the following terms be granted until September 2020 to all members and co-opted members of the Borough Council and all members of the Parish Councils in West Lancashire (insofar as it is applicable and within the Committee's powers):

“Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a disclosable pecuniary interest that relates to the functions of the council in respect of:-

- (i) housing where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease.
- (ii) school meals, or school transport and travelling expenses where you are parent or guardian of a child in full time education, or are a parent governor of a school, and its does not relate particularly to the school which the child attends.
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or entitled to the receipt of, such pay.
- (iv) an allowance, payment or indemnity given to members.
- (v) any ceremonial honour given to members; and

- (vi) setting council tax or a precept under the Local Government Finance Act 1992.”

2.2 That delegated authority be given to the Borough Solicitor, in consultation with the Leader and Leader of the Opposition, to grant dispensations, in cases of urgency.

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### **3.0 BACKGROUND**

3.1 The Localism Act 2011 introduced a new standards regime including the declaration of Disclosable Pecuniary Interests (DPI), pecuniary interests and non pecuniary interests. The Act also included the introduction of a new criminal offence for not declaring a DPI. The Act requires that a Member who has a DPI must not participate or vote at a meeting at which the relevant interests apply. The Council also has a Code of Conduct which applies similar provisions to pecuniary interests. Paragraph 10.5(3) of the Code does however permit Members who have a pecuniary interest to speak before leaving the meeting if there are public speaking rights for the meeting in question.

3.2 Council has delegated authority to the Standards Committee to grant dispensations.

### **4.0 CURRENT POSITION – GENERAL DISPENSATIONS**

4.1 Paragraph 10.5 of the Council’s Code of Conduct in relation to pecuniary interests and the specific dispensation dated 16 July 2012 in relation to DPIs provides general dispensation to permit Members who have a disclosable pecuniary interest or a pecuniary interest to speak and vote in respect of an interest that relates to the Council’s functions as follows:

- (i) Housing where they are a tenant of the Council, and those functions do not relate particularly to the tenancy or lease.
- (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and its does not relate particularly to the school which the child attends.
- (iii) Statutory sick pay where they are in receipt or entitled to receipt of such pay.
- (iv) An allowance, payment or indemnity given to Members.
- (v) Any ceremonial honour given to Members.
- (vi) Setting Council tax or a precept under the LGFA 1992.

4.2 Over recent years in respect of declaration of interests Members have declared interests in relation to relevant lines in the budgets at meetings of the Council. These Councillors have also declared that if there was a detailed debate on the items declared which affect the financial position of the Body in question they would leave the meeting room for that element of the discussion but return for the rest of the debate and then vote (unless it is a vote affecting the financial position of the Body in question). Prior to this, for each budget, the then Department of the Transport, Local Government and the Regions used to issue dispensations for Members who had pecuniary interests in lines in the budget to enable them to

participate and vote in the budget debate, which seemed to be a more sensible way forward.

## **5.0 DISPENSATIONS – CURRENT STATUTORY POSITION**

5.1 Section 33 of the 2011 Act came into force on 8 June 2012 and enables the Council to grant dispensations in the following circumstances:

- (a) that without the dispensation the number of persons prohibited by section 31(4) from participating in the business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) that without the dispensation the representation of the different political groups on the body transacting the business would be so upset as to alter the outcome of any vote relating to the business;
- (c) that granting the dispensation is in the interests of persons living in the authority's area;
- (d) in the case of an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers 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;
- (e) that it is otherwise appropriate to grant a dispensation

5.2 A dispensation under this section must specify the period for which it has effect, and the period specified must not exceed four years.

5.3 Section 33(4) also states that Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under Section 33.

## **6.0 ISSUES**

6.1 Whilst it is open to any Member to apply for a dispensation in accordance with the criteria set out above in relation to the budget, it is proposed to regard all Members as so applying unless they specifically request otherwise.

6.2 Whilst Council has delegated authority to the Standards Committee to grant dispensations there may be occasions where a dispensation needs consideration urgently.

## **7.0 PROPOSALS**

7.1 That the dispensation at paragraph 2.1 above be granted, in accordance with Section 33(a),(b),(c) and (e) of the Localism Act 2011 and other enabling powers to maximise full and balanced Member involvement in the decision making process in the interests of local democracy .

7.2 That the dispensation at paragraph 2.2 above be granted for a further four years in accordance with paragraph 10.5(4) of the West Lancashire Borough Council and Parish Councils Members' Code of Conduct.

7.3 That authority to grant dispensations, in cases of urgency, be given to the Borough Solicitor in consultation with the Leader and Leader of the Opposition.

## **8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

8.1 Promoting and maintaining high ethical Standards contributes to achievement of the Community Strategy.

## **9.0 FINANCIAL AND RESOURCE IMPLICATIONS**

9.1 There are no resource implications arising from this report. A record of dispensations granted is kept with the Register of Members Interests and maintained by the Monitoring Officer.

## **10.0 RISK ASSESSMENT**

10.1 Section 31 of the Localism Act 2011 and the Code of Conduct set out what a member must do if he or she has a DPI or pecuniary interest in a matter which is to be considered at a meeting. Dispensations under Section 33 of the Act permit members to speak and vote to avoid breaching the Act and Code of Conduct in appropriate circumstances.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees and stakeholders, however there is a direct impact on elected members. Therefore a Equality Impact Assessment (EIA) is attached as Appendix 1 to this report.

### **Appendices**

Appendix 1      EIA