

Report to Standards Committee

Subject: Interests, Dispensations and Predetermination

Date: 14 June 2012

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1. Purpose of the Report

To update the Standards Committee on the deliberations of Standards Committee Working Group B and authorise the Standards Committee and Monitoring Officer to deal with dispensations under Section 33 of the Localism Act 2011.

2. Background

2.1 Members will recall that at the last Standards Committee, it was agreed that 3 working groups be set up to consider a variety of matters arising out the obligation to introduce a new standards regime under the Localism Act 2011. Working Group B consisting of Councillor P Barnes, Mr D Kotak and Mr G D Proctor was set up to consider Registration of Interests, Disclosable Pecuniary Interests, Dispensations and Predetermination. The Working Group has not met, but has approved the approach outlined in this report.

3. Proposal

Disclosable Pecuniary Interests/ Registration of Interests

3.1 These two issues are interlinked and no progress can be made until the Regulations defining “pecuniary interests” are issued. At the time of writing the report it is understood that Regulations are being drafted and will be released soon. No further action is proposed at this stage.

Predetermination

3.2 The predetermination section in the Localism Act came into force on **15 January 2012**. The Council Solicitor and Monitoring Officer issued a briefing note to all Councillors and training has been given to the Planning Committee

members by one of the Council's solicitors. No further action is proposed at this stage as the issue of predetermination and bias can be included in the training provided to all Members on the new Code and arrangements in due course.

Dispensations

3.3 Section 33(1) of the Localism Act 2011 includes provisions for the granting of dispensations where a member has a pecuniary interest in a matter and is unable to participate in any discussions or vote at the meeting. This section is not yet in force.

3.4 Section 33 provides that a written request for a dispensation must be made to the "proper officer of the authority". It is proposed that the Appointments and Conditions of Service Committee (which has the power to appoint proper officers) appoint the Council Solicitor and Monitoring Officer as proper officer for the receipt of a written request for a dispensation. A report will be prepared for the Appointments and Conditions of Service Committee in due course.

3.5 Under the Localism Act, a dispensation can be granted if having had regard to all the circumstances, it is considered that –

- a) 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 that business;
- b) 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;
- c) the authority considers that the dispensation is in the interests of persons living in the authority's area;
- d) That, without a dispensation, no member of the Cabinet would be able to participate on the matter; or
- e) That the authority considers that it is otherwise appropriate to grant a dispensation.

3.6 Whilst the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a sub-committee, or to the Monitoring Officer.

3.7 Grounds a) and d) above are pretty objective, so it is proposed to delegate dispensations on these grounds to the Monitoring Officer, thus enabling dispensations to be granted “at the door of the meeting”.

3.8 Grounds b), c) and e) are rather more objective and so it is appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee.

3.9 These delegations will not take effect until Section 33 of the Localism Act is brought into force.

4. Resource Implications

None.

5. Recommendation

It is recommended that:

5.1. the report is noted; and

5.2. the Council Solicitor and Monitoring Officer is requested to prepare a report to Council on behalf of the Standards Committee recommending to Council that it delegates the power to grant dispensations –

- a. on Grounds set out in Section 33(2)(a) and (d) of the Localism Act 2011 to the Monitoring Officer, and
- b. on Grounds set out in Section 33(2)(b), (c) and (e) of the Localism Act 2011 to the Standards Committee.