

Report to Standards Committee

Subject: Dispensation for the setting of Council Tax

Date: 31 January 2013

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1. PURPOSE OF THE REPORT

To seek a dispensation for members of Gedling Borough Council in relation to the setting of council tax.

2. BACKGROUND

- 2.1 The Localism Act 2011 together with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced the new disclosable pecuniary interests (DPIs). It is a criminal offence for a Member to fail to register a DPI or to speak or vote on a matter where they have a DPI, unless they have obtained a dispensation.
- 2.2 Of particular concern is the impact of the new DPIs on the setting of council tax. There has been some discussion nationally as to whether Members who have property interests and are liable to pay Council Tax have a DPI in relation to Council Tax matters and the setting of the budget. Under the Localism Act 2011, Members' interests in land and property and those of their Spouse, Civil Partner, or Person whom they live with as a Spouse or Civil Partner are DPIs. As property interests give rise to a council tax liability, it is likely that when the council tax is being set, the majority of Members will have a DPI. On that basis, to ensure that Council is able to make the necessary decisions, and that Members do not inadvertently breach the statutory requirements, all councillors whose property interests make them liable to council tax have been invited to apply for a dispensation to enable them to participate and vote on matters relating to the setting of the council tax and budget. The names of the Councillors who have applied for such a dispensation will be provided to the Committee at the meeting.
- 2.3 Without a dispensation, Members with a DPI will be both breaching the Code of Conduct and also committing an offence if they take part in any part of a meeting where the council tax is set. In addition, it is considered that the Council is unlikely to be quorate to set the council tax and budget without dispensations being granted to members.

2.4 Section 33(2) of the Localism Act 2011 provides that a dispensation may be granted where 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) considers that without the dispensation each member of the authority's executive would be prohibited 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.

Dispensations may be granted for a period of up to four years. If dispensations are to be granted, it would seem appropriate for them to take effect until the next council elections in May 2015.

2.5 Members are asked to note that Section 106 of the Local Government Finance Act 1992 provides that, in the event of any Member being 2 months (or more) in arrears with their Council Tax payments, they cannot participate in any Council meeting concerning the budget. In this eventuality, this provision will prevail and any dispensation granted would not apply.

3. RECOMMENDATION

In order to provide a safeguard to Members and enable the Council's business to be conducted, it is recommended that:

3.1) in relation to those Members who have submitted an application, a dispensation be granted until May 2015 to enable them to speak and vote where they would otherwise have a disclosable pecuniary interest in setting the Council Tax and the Council's budget; and

3.2) the Monitoring Officer be authorised to grant dispensations in the same circumstances to any Member submitting a future application.