

BROMSGROVE DISTRICT COUNCIL

AUDIT, STANDARDS AND GOVERNANCE COMMITTEE

16th July 2015

LOCALISM ACT 2011 – STANDARDS REGIME – DISPENSATIONS

Relevant Portfolio Holder	Councillor Geoff Denaro
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Ward(s) Affected	All Wards
Ward Councillor(s) Consulted	N/A

1. SUMMARY OF PROPOSALS

To consider the re-granting of both dispensations previously granted by the former Standards Committee and the granting of new dispensations.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) subject to the caveat set out in paragraph 3.15 of this report in relation to setting the Budget, the Audit, Standards and Governance Committee grants dispensations under Section 33 (2) of the Localism Act 2011 to allow all Members to participate in and vote at Council and committee meetings when considering the setting of:
 - a) the Budget;
 - b) Council Tax; and
 - c) Members' Allowances.
- 2) the Audit, Standards and Governance Committee grant a dispensation under Section 33 (2) of the Localism Act 2011 to allow Members to address Council and committees in circumstances where a member of the public may elect to speak;
- 3) subject to Officer confirmation at the meeting as to the continuing validity of the individual Member dispensations detailed in the table at Appendix 1 to the report, together with confirmation of any further individual dispensations which are being sought by Members, the Audit, Standards and Governance Committee grants dispensations under section 33 (2) of the Localism Act 2011 to allow those Members to participate in and vote at Council and committee meetings in the individual circumstances detailed;
- 4) the Audit, Standards and Governance Committee grant a dispensation under Section 33 (2) of the Localism Act 2011 to allow Members to participate and vote at Council and committee meetings when considering the adoption of any new or updated Non-Domestic

Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the District;

- 5) the dispensations referred to at 1), 2), 3) and 4) above take effect on receipt of a written request from Members for a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting; and**
- 6) the dispensations referred to at 1), 2), 3) and 4) above be valid until the first meeting of the Audit, Standards and Governance Committee after the District Council Elections in 2019.**

3. KEY ISSUES

Financial Implications

- 3.1 None.

Legal Implications

- 3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests (“DPs”).
- 3.3 Section 33 (1) requires that a Member must make a written request for a dispensation.
- 3.4 Section 33 (3) provides that a dispensation must specify the period for which it has effect and that period may not exceed 4 years.

Service / Operational Implications

- 3.5 Under s31 (4) of the Localism Act 2011 a Member who has a DPI in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.6 Section 33 (2) includes a number of situations where a dispensation can be considered, but should be granted “only if, after having regard to all relevant circumstances” the Committee considers that one of those situations applies.
- 3.7 The statutory grounds under s33 (2) for the granting of a dispensation are where the authority –
- “(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,

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- (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 them 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.”
- 3.8 The consideration of whether to grant a dispensation under s33 was previously delegated to the former Standards Committee. This function has now transferred to the newly established (by Council on 17th June 2015) Audit, Standards and Governance Committee.
- 3.9 On 28th November 2012 the Standards Committee resolved to grant, subject to receipt of the required written request from Members, general dispensations for the setting of the Council Tax and Members' Allowances, and also for Members' speaking rights (i.e. to those Members with a DPI who would otherwise be prevented from addressing Council and committees in circumstances where a Member of the public may elect to speak).
- 3.10 On 10th October 2013 the Standards Committee granted an additional general dispensation for when Members considered setting the Budget.
- 3.11 On 9th January 2014 and 9th October 2014 the Standards Committee granted a number of general dispensations to individual Members based on their memberships of certain outside bodies (The Artrix Holding Trust and Artrix Operating Trust) and/or either their or their spouse's/partner's employment. Details of those dispensations, which at the time of this report going to print the relevant Members were being consulted on to ascertain whether any changes were required to these, are attached at Appendix 1 to the report. As part of the same exercise, all Members have been asked to consider whether they wish to apply for any additional individual dispensations based on outside body memberships and/or employment. Officers will update Members at the meeting should any additional requests for dispensations be sought or any changes to Appendix 1 be necessary.
- 3.12 An additional dispensation is being sought to allow Members to participate and vote at Council and committee meetings when considering the adoption of any new or updated Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the District.

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- 3.13 All of the dispensations referred to at paragraphs 3.9 to 3.12 are subject to receipt of the required written request from Members and remain valid until the first meeting of the new Audit, Standards and Governance Committee after the District Council Elections which took place on 7th May 2015.
- 3.14 As this is the first meeting of the Committee since the Elections Members are asked to consider re-granting all of the previously approved dispensations for following 4 years ahead; until the first meeting of the Audit, Standards and Governance Committee after the District Council elections in 2019. The dispensation in relation to the Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance is being requested in the event the current Policy and Guidance requires any future consideration by Members, or a new Policy is being introduced.
- 3.15 It should be noted that under Section 106 of the Local Government Finance Act 1992 there is a caveat that any Member who is 2 months (or more) in arrears with their Council Tax payments cannot participate in any Council meeting concerning the budget. In the event that any Members were affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail and any dispensation granted under this report would not apply.
- 3.16 In accordance with the general dispensations previously granted by the Standards Committee, and in order to satisfy the requirement for Members to apply for a dispensation in writing, the Monitoring Officer will circulate to all Members a request form seeking a dispensation for Members to sign prior to any relevant considerations at Council and/or committee meetings. The dispensations will then take effect upon receipt of the appropriate signed written requests from Members.

Customer / Equalities and Diversity Implications

- 3.17 None.

4. RISK MANAGEMENT

The granting of general dispensations by the Committee will, subject to receipt of a written request from Members for such a dispensation, clarify, for the avoidance of any doubt, Members' ability to participate in and vote at Council and committee meetings on certain matters as part of the Council's decision-making process.

5. APPENDICES

Appendix 1 - Draft table of individual Member dispensations.

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6. BACKGROUND PAPERS

Section 33 of the Localism Act 2011.

Section 106 of the Local Government Finance Act 1992.

Reports to Standards Committee on 28th November 2012, 10th October 2013, 9th January 2014 and 9th October 2014 and Dispensation request to Council on 16th July 2014.

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APPENDIX 1 – Draft Individual Member Dispensations

(Note: final dispensation details subject to Officer confirmation at the meeting)

Member(s)	Relevant DPI	Reason for dispensation
Cllr S Shannon	Director of BHI (Bromsgrove Housing Initiatives)	To allow participation in debates concerning housing issues; it is considered that it would be in the interests of the public to allow Members with knowledge of housing issues to contribute to any relevant debates.
Cllrs M Buxton, L Mallett and C Bloore	Officer for Unison or spouse/partner to officer for Unison	To allow participation in debates concerning employment / staffing issues in relation to the authority.
Cllrs C Allen-Jones, G Denaro, R Laight, K May, M Sherrey and K Taylor	The Artrix Holding Trust (Bromsgrove Arts Development Trust)	To allow participation in debates concerning the Artrix theatre generally but not in relation to funding issues.
Cllrs M Glass, J Griffiths, H Jones, R Smith and C Spencer	The Artrix Operating Trust (Bromsgrove Arts Centre Trust – charitable company)	To allow participation in debates concerning the Artrix Theatre generally but not in relation to funding issues.
Cllr Luke Mallett	Employee of the British Heart Foundation	To allow participation in debates or decisions regarding health improvement or public health and well-being generally.