

BROMSGROVE DISTRICT COUNCIL

**AUDIT, STANDARDS AND
GOVERNANCE COMMITTEE**

15th June 2017

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

- 1.1 To consider the granting of any new Individual Member Dispensations (IMDs) requested by Members up to the point of the meeting, and which will be detailed by the Monitoring Officer at the meeting (section 3.16 of the report refers).
- 1.2 To note the position in relation to the current General Dispensations and Outside Body Appointment Dispensations which have been granted by the Committee and which currently remain valid until the first meeting of the Committee following the District Council Elections in 2019 (sections 3.10, 3.13 and 3.14 of the report refer).
- 1.3 To consider, for this and future dispensation update reports, a proposed minor administrative change to the way in which dispensations granted to Members by the Committee by virtue of a Member's appointment to a relevant outside body, or in cases where a previously granted IMD is no longer relevant to the Member concerned as the Member's circumstances have changed, are recorded in such reports (sections 3.14 and 3.17 of the report refer).

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) any new Individual Member Dispensations (IMDs) requested by Members up to the point of the meeting, and as advised by the Monitoring Officer at the meeting, be granted under section 33 (2) of the Localism Act 2011, to allow those Member(s) to participate in and vote at Council and committee meetings in the individual circumstances detailed;**
- 2) any new IMDs granted remain valid until the first meeting of the Audit, Standards and Governance Committee after the District Council Elections in 2019, at which point all dispensations will be reviewed;**

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- 3) the unchanged position in relation to the existing General and Outside Body Appointment Dispensations granted by the Committee, as detailed under sections 3.10 and 3.13 of the report, be noted;
- 4) the proposed minor administrative changes detailed under sections 3.14 and 3.17 of the report be approved; and
- 5) for the avoidance of any doubt, it be noted that, in all cases, any dispensations granted by the Committee will only take effect on receipt of a subsequent written request to the Monitoring Officer from the relevant Member(s), for a specific dispensation to be granted to them where appropriate business is due to be discussed / debated at a particular meeting, and where those Members have a Disclosable Pecuniary Interest in the matter which would otherwise preclude them from participating / voting in this.

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 (“DPIs”).
- 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

Background

- 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,
- (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 Since the introduction of the current standards regime in 2012, the Audit, Standards and Governance Committee has been responsible for considering the granting of dispensations in circumstances where the Monitoring Officer feels that a dispensation may be warranted. This function was previously carried out by the former Standards Committee.

3.9 It should be noted that, in all cases, any dispensations granted by the Committee will only take effect on receipt of a subsequent written request to the Monitoring Officer from the relevant Member(s), for a specific dispensation to be granted to them where appropriate business is due to be discussed / debated at a particular meeting, and where those Members have a Disclosable Pecuniary Interest which would otherwise preclude them from participating in this. As such, Members must ensure that they submit a written request for dispensation to the Monitoring Officer whenever as soon as they are aware that any such business is due to be considered. The position with this remains unchanged.

Current Dispensation Categories

3.10 Dispensations, all of which require the advance approval of the Committee and a subsequent written request from the Member to the Monitoring Officer, currently fall within three categories:

(i) General Dispensations

These are general categories proposed by the Monitoring Officer (linked to discussions at the County-wide Monitoring Officers’ Group) and at present apply to all Members in relation to:

- allowing Members to address Council and committees in circumstances where a member of the public may elect to speak; and
- the adoption of any new or updated Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the District.

Council Tax Arrears

In relation to General Dispensations, it should be noted that whilst previous reports to the Committee have advised that it is no longer necessary for Members to seek / be granted General Dispensations in relation to the Budget or Council Tax setting functions, 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 are affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail.

(ii) **Individual Member Dispensations**

These are Member-specific dispensations normally based on a Member's (or the Member's spouse's or civil partner's) employment or membership of a relevant organisation, and are considered by the Committee on an individual basis.

(iii) **Outside Body Appointment Dispensations**

The Monitoring Officer proposes which outside body appointments it is felt necessitate dispensations and the Committee has currently granted such dispensations to Members who sit on:

- the Amphlett Hall Management Committee;
- the Artrix Holding Trust (Bromsgrove Arts Development Trust); and
- the Artrix Operating Trust (Bromsgrove Arts Centre Trust – charitable company).

3.11 The table below sets out the Individual Member and Outside Body Appointment Dispensations which were granted by the Committee as it's meeting on 16th June 2016. Subject to any changes in outside body appointments and / or a Member's individual circumstances, these dispensations remain valid until the first meeting of the Committee following the District Council Elections in 2019.

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Councillor(s)	Relevant DPI	Reason for dispensation
C Bloore M Buxton L Mallett	Officer for Unison or spouse/partner to officer for Unison	To allow participation in debates concerning employment / staffing issues in relation to the authority.
M Buxton J Griffiths R Laight S Webb	Amphlett Hall Management Committee	To allow participation in debates concerning the Amphlett Hall generally but not in relation to funding issues.
C Allen-Jones G Denaro R Laight K May M Sherrey C 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.
J Griffiths 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.
L Mallett	Employee of CLIC Sargent	To allow participation in discussions in respect of the impact of cancer on children and young people.
Cllr B Cooper	Contract with the Sandwell & West Birmingham Hospitals NHS Trust	To allow participation in debates or decisions regarding health issues generally or matters involving the NHS, and to allow for performance of role as the Councils representative on the Health Overview and Scrutiny Committee of Worcestershire County Council.

Dispensation Changes

- 3.12 A report such as this is referred to the Committee each year to seek / highlight any required dispensation changes which the Monitoring Officer has been made aware of by Members, and / or which the Monitoring Officer wishes to raise independently with the Committee.

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- 3.13 The Monitoring Officer is not proposing any changes to the current categories of General or Outside Body Appointment Dispensations detailed at 3.10 above. As such, the only changes associated with these relate to any change in Member appointments to Amphlett Hall or the Artrix Holding / Operating Trusts since last year's report.
- 3.14 In order to avoid Officer time spent in continually reviewing changes in Member appointments to those (or any other future relevant) outside bodies, and detailing those changes in reports such as this in order to list the current Members' names (the changes for which are, in any event, recorded separately in the appropriate Cabinet / Council minutes), and given that it is the nature of those outside bodies and Members' roles on them which dictate the need for the Committee to consider whether a dispensation should be granted, Officers request that the actual names of the Members currently appointed to the relevant bodies no longer be included in such reports, and that any changes in outside body memberships automatically carry over for the purpose of Member dispensations.
- 3.15 Not naming the current Members who have been appointed to the relevant outside bodies in this report will not have any detrimental effect on the process as, immediately following the production of reports such as this, outside body memberships can change and those changes would not normally be picked up until subsequent annual reports. Also, and most importantly, as set out under section 3.9, whilst the Committee grants Member dispensations generally in respect of agreed outside bodies, any dispensations approved by the Committee will only take effect on receipt of a subsequent written request to the Monitoring Officer from appointed Members for a specific dispensation to be granted when relevant business is due to be discussed / debated at a particular meeting.
- 3.16 In relation to IMDs, Officers have contacted Councillors to ask whether they wish to seek to any new dispensations and whether any former dispensations granted no longer apply, this being the stance which has previously been undertaken. At the time of drafting this report no new dispensations requiring the Committee's consideration had been requested by Members. The only updates / changes relate to dispensations which are no longer relevant, i.e. following a change in a Member's (or their spouse's / civil partner's) employment / membership of organisations, details of which Members should, in any event, be updating on their Register of Members' Disclosable Pecuniary Interests forms. Members should also be seeking guidance from the Monitoring Officer during the year should their individual circumstances change, which might, in turn, necessitate the grant of a new IMD. Any requests received from Members (including the newly elected Member for Alvechurch Village ward following the 8th June by-election), for the grant of new IMDs prior to the meeting on 15th June will be reported by the Monitoring Officer at the meeting, and considered by the Committee accordingly. It is recommended that should any new requests be forthcoming and granted by the Committee, these remain valid until the first meeting of the Committee following the District Council Elections in 2019, at which stage there will be a full

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review of all prevailing dispensations to ensure that all Members, including any newly elected Members following the 2019 elections, are sufficiently covered.

- 3.17 Again therefore, in relation to any previously granted IMDs which are no longer relevant (for example, where a Member or their spouse / civil partner may have ceased / changed employment for which they have previously been granted a IMD) it is proposed that details of these not be included in reports and that these automatically cease to have effect. The key issues here being that:
- the Committee will still be responsible for considering any new IMDs requested by Members;
 - any previously granted IMDs which are no longer relevant will automatically become defunct; and
 - as detailed under section 3.9, before any dispensation can take effect Members are, in any event, required to submit a written request to the Monitoring Officer for such a dispensation when relevant business is due to be discussed / debated at a particular meeting.
- 3.18 Should Members support the above approach this will avoid the need for unnecessary reports to Committee in the future and reports should only be required where:
- the maximum 4 year period for the grant of dispensations is due to expire;
 - new dispensations under any category need to be considered by the Committee; or
 - where the Monitoring Officers feels that any overarching General and / or Outside Body Appointment Dispensations are no longer necessary and wishes to update the Committee accordingly.

Customer / Equalities and Diversity Implications

- 3.19 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, where such Members have a DPI which would otherwise preclude them from so participating / voting.

5. BACKGROUND PAPERS

- Section 33 of the Localism Act 2011.
- Section 106 of the Local Government Finance Act 1992.

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- Reports to Standards Committee on 28th November 2012, 10th October 2013, 9th January 2014 and 9th October 2014.
- Reports to Audit, Governance and Standards Committee on 16th July 2015 and 16th June 2016.

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