

BROMSGROVE DISTRICT COUNCIL

**AUDIT, STANDARDS AND
GOVERNANCE COMMITTEE**

30th July 2019

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.
- 1.2 To consider granting General Dispensations and Outside Body Appointment Dispensations, to remain valid until the first meeting of the Committee following the District Council Elections in 2023.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) any Individual Member Dispensations (IMDs) and Outside Body Appointments dispensations 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) 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 the caveat set out in paragraph 3. of this report in relation to setting the Council's Budget, the Audit, Standards and 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;
 - c) Members' Allowances; and
 - d) Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the District;
- 4) it be noted that all dispensations granted by the Committee take effect on receipt of a written request from Members for such 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
- 5) it be noted that the dispensations referred to at resolutions (1), (2) and (3) will remain valid until the first meeting of the Audit, Governance and Standards Committee following the next District Council Elections in 2023.

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. The consideration of whether to grant a dispensation under s33 was previously delegated to the former Standards Committee.
- 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 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
 - (ii) Council Tax Arrears
 - (iii) Individual Member Dispensations
 - (iv) Outside Body Appointment Dispensations
- 3.10 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.
- 3.11 The table below sets out the IMDs and Outside Body appointment dispensations that have been requested by Members. Further requests for dispensations may be made after the publication of the agenda for this meeting and will be reported by the Monitoring Officer for Members' consideration. Subject to approval by the Audit, standards and governance committee, these dispensations will apply until the next District Council elections in 2023.

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Councillor(s)	Relevant DPI	Reason for dispensation
S Baxter	Chairman of the National Association of local Councils.	To allow participation in debates involving Parish Councils within the district.
S Baxter	President of the Worcestershire County Association of Local Councils.	To allow participation in debates involving Parish Councils within the district.
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
L. Mallett	Employee of CLIC Sargent	To allow participation in discussions in respect of the impact of cancer on children and young people.
A. Beaumont, S. Douglas, .J King, and S. Webb	Amphlett Hall Management Committee	To allow participation in debates concerning the Amphlett Hall generally but not in relation to funding issues.
S. Webb	Bromsgrove and Redditch Citizens Advice Bureau (CAB)	To allow participation in debates concerning the CAB generally but not in relation to funding issues.
S. Douglas, M. Glass, H. Rone-Clarke, M. Sherrey, P. Whittaker	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.
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.

3.12 In relation to IMDs, Officers have contacted all Members to ask whether they wish to seek to add any dispensations.

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Customer / Equalities and Diversity Implications

3.16 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.
- 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, 16th June 2016, 15th June 2017 and 23rd July 2018.
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AUTHOR OF REPORT

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