

Subject:	Localism Act 2011 – Dispensations	Status:	For Publication
Report to:	Council	Date:	12 th December 2012
Report of:	Director of Business	Portfolio Holder:	
Key Decision:	No <input type="checkbox"/> Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required: No	Attached:	No
Biodiversity Impact Assessment	Required: No	Attached:	No
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1.	RECOMMENDATION(S)
1.1	It recommended that a general dispensation be granted to all members of the Council for the period of four years from 12 th December 2012 in the following circumstances: a) any allowance payment or indemnity granted to a member. b) setting the Council Tax or a precept under the Local Government Finance Act 1992.
1.2	In all other circumstances the decision to grant a dispensation is delegated to the Monitoring Officer.

2. PURPOSE OF REPORT

- 2.1 This report proposes a range of dispensations to be granted to Members to enable them to participate on a matter and vote in certain circumstances not withstanding the fact that the Member may have a disclosable pecuniary interest.
- 2.2 It also proposes the procedure to be followed by Members where they are seeking a dispensation in circumstances other than the general dispensation.

3. CORPORATE PRIORITIES

- 3.1 This report concerns the administration of a statutory requirement. In terms of the Corporate Priorities the recommendations support the following priority:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 That the Council does not put in place adequate measures to deal with dispensation applications promptly resulting in exclusion of Members with a disclosable pecuniary interest that is not prejudicial to the wider public interest.

5. BACKGROUND AND OPTIONS

- 5.1 The Localism Act 2011 introduced a new scheme with regard to Standards of conduct in local government including the replacement of pecuniary interests with Disclosable Pecuniary interests (DPI).
- 5.2 A guidance note on Disclosable Pecuniary Interests is set out at Appendix 1 to the report.
- 5.3 The Act also included the introduction of a new Criminal Offence for not declaring a DPI. The Act requires that a member who has a DPI must not participate or vote at a meeting at which the relevant interests apply, unless granted a dispensation to speak and vote on the matter.

- 5.4 The provisions on dispensations are also significantly changed by the Localism Act 2011. There are now 5 circumstances in respect of which a dispensation may be granted, namely:-
- (a) that without the dispensation the number of persons prohibited from participating in the business would render the meeting inquorate.
 - (b) It is considered that without the dispensation the representation of different Political groups as the body transacting the business would be so upset as to alter the outcome of any vote relating to the business under consideration.
 - (c) the granting of a dispensation is in the interests of the persons living in that area.
 - (d) In the case of an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, it is considered that without the dispensation each Member of the Councils executive would be prohibited from participating in any particular business to be transacted by the authority's executive.
 - (e) It is considered otherwise appropriate to grant a dispensation.
- 5.5 Any dispensation granted can only be for a maximum period of 4 years, although the provisions allow for a dispensation for a particular meeting.
- 5.6 Whilst it is open to any Member to apply for a dispensation in accordance with the criteria set out above, there are a number of generic areas where all or a majority of Members would have a common interest and it is considered that rather than expect each member to apply for such dispensations that a blanket dispensation be granted.
- 5.7 It is proposed that the following dispensations be granted under Section 33 of the Localism Act 2011 until:
- (a) Any allowance, payment, or indemnity granted to a member
 - (b) Setting the Council Tax or a precept under the Local Government Finance Act 1992.
- 5.8 The Localism Act gives a discretion for the power to grant dispensations to be delegated to a committee, or to the Monitoring Officer.

It is proposed that other than the general dispensation granted at 5.7. All other decisions on dispensations should be delegated to the Monitoring Officer and applications should be made on the form set out at Appendix 2 to the report. A register of all dispensations granted will be kept and maintained by the Monitoring Officer.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 There are no specific financial implications.

7. MONITORING OFFICER

7.1 No additional comments.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

8.1 No HR implications.

9. CONCLUSION

9.1 To consider the report and make the appropriate determination.

Background Papers

Background Papers	
Document	Place of Inspection
Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012	Futures Park Newchurch Road Bacup

Guidance Note on Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, 'M' means you, when acting as a member of the Council, and 'relevant person' means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vacation (Note :this reflects the Regulations)</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and</i>

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

2 Register of interests (Code of Conduct – para. 4)

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council's website.

3 Sensitive interests (Code of Conduct – para. 5)

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 Non participation in case of disclosable pecuniary interest

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, the Rules of Procedure of the Council and its Committees require you to leave the room where the meeting is held while any discussion or voting takes place.

B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5 Dispensations (Code of Conduct – Appendix 2)

The Council through the Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. There is separate guidance on the process for applying for a dispensation within the Code of Conduct.

6 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election

- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale (£5000) and disqualification from being a councillor for up to 5 years. If a complaint is received in respect of non-disclosure the matter may be referred to the Police to investigate because of the criminal nature of the breach. It is not a matter which the Standards Committee or Monitoring Officer have statutory authority to investigate under the Act

June 2012

LOCALISM ACT 2011

Dispensation Request

Name of Councillor	
Nature and description of interest for which dispensation sought:	
Period for which dispensation is sought. NOTE: This may be for a maximum period of 4 years. Where a dispensation is sought for a particular meeting, please specify date of meeting	
Grounds on which the dispensation is sought. <ul style="list-style-type: none"> • Please refer to grounds referred to in guidance. • Please also provide supporting reasons as to why you consider the dispensation request should be granted. • Please state whether you are seeking a dispensation to speak and to vote or to speak only on the particular matter. 	

GUIDANCE NOTES.

A dispensation can be granted on the following grounds to enable a member to speak and/or vote where they would otherwise have disclosable pecuniary interest.

- (a) that without the dispensation the number of persons prohibited from participating in the business would render the meeting inquorate.
- (b) It is considered that without the dispensation the representation of different Political groups as the body transacting the business would be so upset as to alter the outcome of any vote relating to the business under consideration.
- (c) the granting of a dispensation is in the interests of the persons living in that area.
- (d) In the case of an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, it is considered that without the dispensation each Member of the Councils executive would be prohibited from participating in any particular business to be transacted by the authority's executive.
- (e) It is considered otherwise appropriate to grant a dispensation.

A dispensation request must be made to the Monitoring Officer in writing or by email on this form addressed to:

Stuart Sugarman
Monitoring Officer
Rossendale Borough Council
Futures Park
Newchurch Road
Bacup
Lancashire OL13 0BB

Or

stUARTSUGARMAN@ROSSENDALEBC.GOV.UK Telephone Number: 01706 252447

It is advisable to submit a dispensation request well in advance of the date of the meeting for which the dispensation is sought or in any event other than exceptional circumstances **within five clear days** prior to the date of the meeting to which the dispensation request relates.

Bias and Predetermination

You should note that there may be circumstances where you do not have a disclosable pecuniary interest but it would be inappropriate for you to speak and vote on any matter by reason that you may be biased if you were to do so – for example speaking or voting on a Planning application relating to a close member of your family other than your spouse or partner. A dispensation cannot be granted in such circumstances to enable you to speak and vote.

It is extremely unlikely that a dispensation will be granted in respect of a disclosable pecuniary interest where circumstances of bias or predeterminations may arise.

For further information please contact the Monitoring Officer.