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Council

WEST DEVON STANDARDS COMMITTEE - TUESDAY, 2ND DECEMBER, 2014

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 4)
2. **Reports**
 Reports to Standards:
 - a) Item 5 - Request to grant a General Dispensation (Pages 5 - 8)
3. **Minutes** (Pages 9 - 10)

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PART ONE - OPEN COMMITTEE

1. **Apologies for Absence**

2. **Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

3. **Items Requiring Urgent Attention**

To consider items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

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4. **Confirmation of Minutes**

Meeting held on 11th February 2014 (previously circulated)

5. **Request to grant a General Dispensation**

Report of the Monitoring Officer

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PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any)

If any, the Committee is recommended to pass the following resolution:-

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act”.

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STRATEGIC RISK ASSESSMENT

Reports to Members

Members will be aware of the requirement to take account of strategic risk in decision making. This note is designed to support Members consider strategic risks as part of the assessment of reports from officers.

There are an increasing number of issues that we have a statutory requirement to take into account which affect all aspects of the Council's policies and service delivery (e.g. Human Rights Act). There are also discretionary issues we choose to highlight in our reports (e.g. Financial Implications, and Impact on Council Priorities and Targets). Common Law duty requires Local Authorities to take into account all things they need to take into account! The Courts hearing Judicial Review applications make this their starting point in deciding whether any decision is reasonable.

Officers have a responsibility to assess the implications of recommendations to Members. Members should ensure that before making a decision they have undertaken a similar consideration relating to the risks associated with the report.

Examples of risk to be considered:-

Statutory Requirement :

- Equalities and Discrimination, particularly Race Equality. (Consider the impact on each of the following equality areas: Race, Religion and Belief, Gender, Sexual Orientation, Disability, Age)
- Human Rights
- Crime and Disorder
- Health and Safety
- Employment Legislation
- Data Protection
- Freedom of Information
- Corporate activity with an impact on Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest, and biodiversity

Corporate Requirement :

- Impact on Council's Reputation
- Impact on Priorities, Cross-Cutting themes, Targets and / or Commitments
- Impact on Standing Orders / Financial Regulations
- Impact on Council's Assets
- Financial Risks
- Compliance with National Policies and Guidance
- Impact on Sustainability

Members' attention is drawn to the Risk Assessment section within each report. Members are encouraged to consider whether the report has satisfactorily identified all likely negative impacts and mitigating action that will be taken. Members also need to consider the opportunities presented by actions, noting that any change entails an element of risk. The challenge is to effectively manage that risk.

RISK SCORING MATRIX

Impact/Severity		Target impact	Stakeholder impact	Finance impact
1	Insignificant	Low impact on outcome & target achievement & service delivery	Low stakeholder concern	Low financial risk
2	Minor	Minor impact on outcome & target achievement & service delivery	Minor stakeholder concern	Minor financial risk
3	Moderate	Moderate outcome & target achievement & service delivery	Moderate stakeholder concern	Moderate financial risk
4	Serious	High impact on outcome & target achievement & service delivery	High stakeholder concern	High financial risk
5	Very serious	Very high impact on outcome & target achievement & service delivery	Very high stakeholder concern	Very high financial risk
Likelihood/Probability		Risk	Opportunity	
1	Very low	Negligible chance of occurrence; has not occurred	Possible opportunity yet to be investigated with low likelihood of success	
2	Low	Low chance of occurrence; has occurred infrequently but within internal control	Opportunity being investigated with low likelihood of success	
3	Medium	Equal chance of occurrence or non occurrence; could occur more than once and be difficult to control due to external influences	Opportunity may be achievable with careful management	
4	High	More likely to occur than not occur; has occurred more than once and difficult to control due to external influences	Good opportunity which may be realised	
5	Very high	Very high chance of occurrence but not a certainty; has occurred recently	Clear reliable opportunity with reasonable certainty of achievement	

Risk score = Impact/Severity x Likelihood/Probability

Likelihood	5	5	10	15	20	25
	4	4	8	12	16	20
	3	3	6	9	12	15
	2	2	4	6	8	10
	1	1	2	3	4	5
	0	1	2	3	4	5
Impact						

NAME OF COMMITTEE	Standards Committee
DATE	2 December 2014
REPORT TITLE	Request to grant a General Dispensation
Report of	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To recommend that a General Dispensation be granted to all dual-hatted Members (which includes Councillors who are members of more than one local authority) in receipt of an allowance from another local authority.

Financial implications:

There are no financial implications to this report.

RECOMMENDATION:

That a General Dispensation be granted to all dual-hatted Members of West Devon Borough Council to speak and to vote on matters where they are a member of another local authority and in receipt of a Members' Allowance, from the date of this decision until May 2015

Officer contact:

Catherine Bowen (Principal Solicitor and Monitoring Officer)

Email: cbowen@westdevon.gov.uk

1. BACKGROUND

- 1.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules on dispensations as part of the new standards arrangements.
- 1.2 It is a criminal offence for Members to fail to register a Disclosable Pecuniary Interest or to speak and/or vote where they have a Disclosable Pecuniary

Interest unless they have obtained a dispensation. The rules on dispensations are set out under section 33 of the Localism Act 2011.

1.3 The Council has delegated powers to the Standards Committee and (in specified circumstances) to the Monitoring Officer to grant dispensations for a specified period of up to a maximum of four years, on the following grounds:

- (i) That so many members of the Council have disclosable pecuniary interests in a matter that it would impede the transaction of the business (i.e. it would otherwise be inquorate).
- (ii) That without the dispensation, the representation of different political groups on the Council would be so upset as to alter the outcome of any vote on the matter.
- (iii) That the Council considers that the dispensation is in the interests of persons living in the Council's area.
- (iv) That the Council considers that it is otherwise appropriate to grant a dispensation.

1.4 In September 2012 this Committee granted a general dispensation to all members until May 2015 to speak and vote where they would otherwise have a Disclosable Pecuniary Interest in the following matters:

- (i) Housing: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease
- (ii) Statutory sick pay: if a Councillor receives this or is entitled to receive it
- (iii) An Allowance, travelling expense, payment or indemnity for Councillors
- (iv) Any ceremonial honour given to Members
- (v) Setting the Council Tax or a Precept

2. DUAL- HATTED MEMBERS IN RECEIPT OF ALLOWANCES FROM OTHER AUTHORITIES

2.1 Under the 2012 Regulations, one of the definitions of a Disclosable Pecuniary Interest is one which includes 'any employment, office, trade, profession or vocation carried on for profit or gain'. This definition includes situations where councillors are members of outside bodies and receive payment for that role, and it can also include councillors who are also members of another authority and receive an allowance for that role, for example the County Council.

2.2 It was clearly not the intention to prevent members from participating in different levels of local government. In order to protect Members and allow participation in matters in which they have a potential Disclosable Pecuniary Interest by reason of their membership of another local authority and for which they receive an allowance, it is recommended that a General Dispensation is granted to such Members to speak and vote on matters relating to the other authority on the grounds that it is in the public interest and appropriate to grant such a dispensation.

2.3 It is recommended that the dispensation be granted until May 2015. The reason for this is that it is appropriate that the dispensation relates to the term of a council and the general dispensation referred to paragraph 1.4 above will need to be reconsidered before the new Council term starts in May 2015.

2.4 Clearly the dispensation will not cover circumstances where Members have an interest for other reasons, and Members will still need to declare specific interests where they arise. Members will also need to be mindful of the rules of bias/perceived bias and predetermination in relation to specific matters and advice should always be sought from the Monitoring Officer.

3. LEGAL IMPLICATIONS

3.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and the new rules on dispensations.

3.2 The Council has delegated powers to the Standards Committee and (in specific circumstances) to the Monitoring Officer to grant dispensations.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications to this report.

5. RISK MANAGEMENT

5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	The Localism Act 2011 Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Considerations of equality and human rights:	Not applicable
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Not applicable
Background papers:	Standards Committee 4 September 2012

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Failure to grant a general dispensation	Members would need to declare Disclosable Pecuniary Interests and not partake in business of the Council	4	2	8	↔	Recommendations for a General Dispensation have been made for adoption by the Council	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔

Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **2nd** day of **DECEMBER 2014** at **11.00 am**.

Present: Cllr A F Leech – Chairman
Cllr J Sheldon – Vice-Chairman
Cllr S C Bailey Cllr R E Baldwin
Cllr D Horn Cllr C R Musgrave

Deputy Monitoring Officer
Committee & Ombudsman Link Officer

SC 1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs M V L Ewings, J R McInnes and J B Moody.

SC 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

***SC 3 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 11th February 2014, were confirmed and signed by the Chairman as a correct record.

***SC 4 REQUEST TO GRANT A GENERAL DISPENSATION**

The Monitoring Officer presented a report (page 5 to the Agenda) requesting that a General Dispensation be granted to all 'dual-hatted' Members, which would include Councillors who are members of more than one local authority, in receipt of an allowance from another local authority.

At its Meeting on 4th September 2012, the Standards Committee, under Minute No SC 9 – 2012/2013, granted a general dispensation to all Members of the Council until May 2015 to speak and to vote on specific topics where they would otherwise have had to declare a Disclosable Pecuniary Interest which could have been to the detriment of the Council's lawful business. The proposal before the Committee now was to grant a further General Dispensation to all 'dual-hatted' Members of the Council to enable them to speak and vote on matters relating to other local authorities of which they may be members and receive an allowance for being so: for example as a member of Devon County Council.

It was **RESOLVED** that a General Dispensation be granted to all 'dual-hatted' Members of West Devon Borough Council to speak and to vote on matters where they are a member of another local authority and are in receipt of a Members' Allowance, from the date of this decision until May 2015.

(The Meeting terminated at 11.25 am.)

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