

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Standards Committee
DATE	4 September 2012
REPORT TITLE	General Dispensation and amendment to delegation of powers to grant dispensations
Report of	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To recommend a General Dispensation be granted to all Members on matters that may affect so many Councillors that the Council or Committee would be inquorate, and to amend the delegated powers on granting dispensations.

Financial implications:

There are no financial implications to this report.

RECOMMENDATIONS:

1. That a General Dispensation is granted to all current Members of West Devon Borough Council to speak and vote on the matters set out in paragraph 2.2 for a period of four years from the date of this decision
2. Recommend to Council that the delegation of powers to grant dispensations is amended to enable:
 - a Standards Sub-committee or
 - the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committee
 to grant dispensations when it is not expedient to wait until the next scheduled Committee meeting.

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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.
- 1.3 The Council has delegated powers to the Standards Committee and (in certain circumstances) to the Monitoring Officer to grant dispensations.
- 1.4 Parish and Town Councils are now responsible for granting their own dispensations (this was formerly a responsibility of the old Standards Committee).

2. GENERAL DISPENSATIONS

- 2.1 Under the old regime, the legislation specifically stated that members would not have a prejudicial interest in circumstances that potentially affected the majority of councillors, such as council tax setting and Members' allowances. There are no similar provisions under the new rules and Members are therefore at risk of committing a criminal offence if they participate in matters in which they have a Disclosable Pecuniary Interest and no dispensation has been granted. If the majority of Members declared an interest in these matters then it would impede the business of the Council.
- 2.2 In order to protect Members it is recommended that a General Dispensation is granted to all Members to speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is in the public interest and appropriate to grant a dispensation to allow all Members to participate fully in the following matters:
 - 2.2.1 **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
 - 2.2.2 **Statutory sick pay:** if a Councillor receives this or is entitled to receive it
 - 2.2.3 An **Allowance**, travelling expense, payment or indemnity for Councillors
 - 2.2.4 Any **ceremonial honour** given to Members
 - 2.2.5 Setting the **Council Tax or a Precept**
- 2.3 It is recommended that the general dispensation applies for the maximum permitted period of **four years** from the date of this decision.

3. DELEGATION OF DISPENSATIONS

3.1 Council has delegated to the Standards Committee powers to grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from the requirements relating to Disclosable Pecuniary interests in the following circumstances:

3.1.1 Where so many members of the decision-making body have a Disclosable Pecuniary Interest that political balance would be affected

3.1.2 It is in the interests of the inhabitants that a dispensation be granted, or

3.1.3 It is appropriate to grant a dispensation.

3.2 Council has granted to the Monitoring Officer delegated authority to grant dispensations where so many members of the Council have a Disclosable Pecuniary Interest that it would impeded the transaction of the business of the Council (i.e. the meeting would be inquorate).

3.3 However, there may be circumstances listed in 3.1.1 – 3.1.3 above where an urgent decision needs to be made between Standards Committee meetings. In such circumstances it is proposed that delegated powers are given as follows to consider such requests for dispensations (with a report being made to the next ordinary Committee meeting):

3.3.1 A sub-committee of the Standards Committee, or

3.3.2 The Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committee.

4. LEGAL IMPLICATIONS

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

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

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications to this report.

6. RISK MANAGEMENT

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

7. 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:	Council report 26 June 2012 and 31 July 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	So many members may have Disclosable Pecuniary Interest that it would impede the business of the Council	4	2	8	↔	Recommendations for a General Dispensation have been made for adoption by the Council	Monitoring Officer
2	Failure to make amendments to the delegation of powers to grant dispensations	Timely decisions on whether to grant dispensations	4	2	8	↔	Proposed amendments have been made to the delegation to decide requests fro dispensations	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔