

WEST DEVON BOROUGH COUNCIL

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

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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. 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 ↓ ↑ ↔