

Report to: **Overview and Scrutiny Panel**

Date: **28 March 2019**

Title: **General Dispositions to Members and Appointment of Independent Persons**

Portfolio Area: **Support Services – Cllr Wright**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **Council 16 May 2019**

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RECOMMENDATIONS:

- 1. That the Overview & Scrutiny Panel grants the General Dispositions as set out in Paragraphs 2.4 and 2.5 below, from the Annual Meeting in 2019 to the Annual Meeting in 2023 so that:**
 - a. A General Dispensation is granted to all multi or dual-hatted Members of South Hams District Council to speak and vote on matters where they are members of another local authority and in receipt of a Members' Allowance, and**
 - b. A General Dispensation is granted to all Members as set out in paragraphs 2.4.1 to 2.4.5 of this report**
- 2. To recommend to Council that Mrs Victoria Spense and Mr Martin Gleed (West Devon Borough Council Independent Persons) are also appointed to South Hams District Council from the Annual Meeting in May 2019 until the Annual Meeting in May 2023.**

1. Executive summary

- 1.1. This report requests Members to:
 - 1.1.1. Consider granting general dispensations to Members for the next Council which will enable Members to participate in matters in which they may otherwise be prevented from participating and voting because of a disclosable pecuniary interest (see paragraph 2 below)

1.1.2. Appoint additional Independent Persons in order to cover instances where there are capacity or availability issues with the current South Hams Independent Persons (see paragraph 3 below).

2. Dispensations

- 2.1. The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and rules on dispensations as part of the standards arrangements. 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.
- 2.2. The Overview & Scrutiny Panel is responsible for granting dispensations under the Council's Dispensation Policy. The Dispensation Policy is attached at Appendix 1 and shows the criteria for determining dispensations together with the current dispensations that are extant; these are general dispensations relating to all South Hams District Council Members and 'multi' or 'dual-hatted' Members as detailed below.
- 2.3. As Members will note, the current dispensations were granted by the Overview & Scrutiny Panel for the current Council term until the Council's Annual Meeting in May 2019, and the dispensations therefore need to be reconsidered prior to the May 2019 Annual Meeting.
- 2.4. In February 2015, Overview & Scrutiny granted a General Dispensation to all members of South Hams District Council (until May 2019) to speak and vote where they would otherwise have a Disclosable Pecuniary Interest in the following matters:
 - 2.4.1. Housing: where a Member (or spouse/partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Member's particular tenancy or lease
 - 2.4.2. Statutory sick pay: if a Member receives this or is entitled to receive it
 - 2.4.3. An Allowance, travelling expense, payment or indemnity for Members
 - 2.4.4. Any ceremonial honour given to Members
 - 2.4.5. Setting the Council Tax or a Precept
- 2.5. In November 2015, Overview & Scrutiny also granted a General Dispensation to all multi or dual-hatted Members of South Hams District Council until May 2019, to speak and vote on matters where they are a member of another local authority and in receipt of a Members' Allowance.
- 2.6. Members are requested to consider granting the Dispensations set out in paragraphs 2.4 and 2.5 above. General Dispensations may be granted for a maximum of four years and the current dispensations expire at the Council's Annual Meeting in May 2019. The Overview & Scrutiny Panel needs to reconsider the General Dispensations listed in paragraphs 2.4 and 2.5 above with a view to granting new Dispensations in the same terms, for the four-year term of the next Council i.e. from the Annual Meeting in May 2019 until the Annual Meeting in May 2023 in accordance with the criteria set out in Appendix 1.

3. Independent Persons

- 3.1. The Council retains three Independent Persons in accordance with relevant regulations and these are Mr George Barnicott, Mr Peter Boreham and Mr Trevor Kirkin. The Independent Persons are appointed for the term of the Council and will

need to be reappointed at the Annual Meeting in May 2019 (the rules require that Independent Persons are appointed by the full Council).

3.2. The Independent Persons are consulted in relation to standards complaints about District Councillors or Town and Parish Councillors within the District of South Hams. The Council's 'Dealing with Standards Complaints' policy requires consultation of Independent Persons in excess of the statutory requirements in order to demonstrate transparency and this has proved particularly valuable in respect of the formal assessment of the complaints, from both the Monitoring Officer's and Complainants' perspective.

3.3. The Overview & Scrutiny Panel is asked to discuss appointing two of the current West Devon Independent Persons in addition to the South Hams Independent Persons to cover instances where there are conflicts of interest or unavailability of the South Hams Independent Persons. Currently, both Councils have appointed three Independent Persons but George Barnicott acts for both Councils already which means there would be 5 Independent Persons potentially available. There would be a financial implication of £1,000 for 2 additional Independent Persons per annum.

4. Proposed Way Forward

4.1. Members are asked to:

4.1.1. Consider appointing the West Devon Independent Persons as additional Independent Persons at South Hams District Council

4.1.2. Grant the General Dispensations set out in paragraph 2.4 and 2.5 of this report.

5. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and rules on dispensations as part of the standards arrangements. The Overview & Scrutiny Panel is responsible for promoting and maintaining high standards of conduct by Members and part of its remit is to grant dispensations where it is deemed appropriate in order that the business of the Council can be properly transacted.</p> <p>The Localism Act also provides that the Council must appoint Independent Persons in a consultative capacity to provide views on standards matters and complaints (these must be Council appointments).</p>
Financial	N	<p>If two of the West Devon Independent Persons are also appointed to South Hams in order that there are up to 5 Independent Persons available for consultation, then there this will cost the Council an extra £1,000 per year.</p>

Risk		There is a risk that, without granting the dispensations, the business of the Council may not be properly transacted and if the additional Independent Persons are not appointed then there may be difficulties in appointing an Independent Person to provide views on a complaint if there are absences / conflicts of interests.
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/a to this report
Safeguarding		N/a
Community Safety, Crime and Disorder		N/a
Health, Safety and Wellbeing		n/a
Other implications		n/a

Appendices:

Appendix 1: Dispensation Policy and record of current dispensations.

Background Papers:

None