

Report to: **Overview & Scrutiny Panel**

Date: **19 November 2015**

Title: **DISPENSATIONS TO DUAL-HATTED MEMBERS**

Portfolio Area: **Support Services**

Wards Affected: **All**

Urgent Decision: **N**

Date next steps can be taken: **19 November 2015**

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**RECOMMENDATION:**

**That the Panel considers whether to extend the general dispensation previously granted to all dual-hatted Members of South Hams District Council to speak and vote on matters where they are a member of another local authority and in receipt of a Members' Allowance for that other authority, until May 2019.**

**1. Executive summary**

- The Overview & Scrutiny Panel has delegated authority to grant dispensations to enable Members of South Hams District Council to speak and / or vote in specified circumstances when Members would otherwise be precluded from participating (i.e speaking and voting) in a matter because they have a Disclosable Pecuniary Interest.
- At its meeting on 19 February 2015, the former Corporate Performance & Resources (CP&R) Scrutiny Panel granted a General Dispensation to all dual-hatted Members of South Hams District Council to speak and vote on matters where they are a member of another local authority and in receipt of a Members' Allowance for that other authority, until May 2016.
- Members have been granted other general dispensations (for example, to speak and vote on issues relating to Council Tax and Members' allowances) until the Annual Meeting in 2019.

- Members of the former CP&R Panel requested that this matter be revisited during the new Council term.

## **2. Background**

- The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests (DPIs) and rules on dispensations as part of the new standards arrangements introduced by the Localism Act.
- The significance of a dispensation is that it allows a Member to legitimately take part in a matter when s/he has a DPI. It is both a breach of the Code of Conduct and a criminal offence for Members to fail to register a DPI or to speak and/or vote at a meeting where they have a DPI unless they have obtained a dispensation.
- The Council has delegated powers to Overview & Scrutiny and (in limited 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:
  - That so many members of the Council have DPIs in a matter that it would impede the transaction of the Council's business (i.e. it would otherwise be inquorate).
  - 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.
  - That the Council considers that the dispensation is in the interests of persons living in the Council's area.
  - That the Council considers that it is otherwise appropriate to grant a dispensation.
- Under the 2012 Regulations, one of the definitions of a DPI 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 (for example, as a Trustee of an external organisation) 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.
- It was clearly not the intention of Central Government 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 DPI by reason of their membership of another local authority and for which they receive a Members' allowance, the CP&R Panel granted a General Dispensation to affected 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.
- The Council's Dispensation Policy provides criteria to be considered in determining whether to grant dispensations:

- Whether the nature of the Member's interest is such that to allow him/her/them to participate would not damage public confidence in the conduct of the Council's business.
  - Whether the interest is common to the Member and a significant proportion of the general public;
  - Is the participation of the Member in the business that the interest relates to, justified by a member's particular role or expertise?
  - Whether the interest is trivial or remote
- 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 which cannot be covered by a dispensation.

**3. Outcomes, options available and consideration of risk**

- Members have the following options:
  - To continue the dispensation for dual-hatted Members until the Annual Meeting in 2019 in line with the General Dispensations
  - To continue the dispensation for dual-hatted members until the Annual Meeting in 2016 only, as agreed by the CP&R Scrutiny Panel
  - To revoke the dispensation with immediate effect for dual-hatted members because it is not considered that the criteria and grounds for granting dispensations continue to apply
- If a dispensation is not granted then dual-hatted members will be required to declare interests in specific matters and will therefore not be able to participate in Council business and decision making.
- Failure to grant dispensations to dual-hatted may expose those dual-hatted members to risk of complaint that they have failed to declare a DPI and will therefore be in breach of the Council's adopted Code of Conduct and potentially commit a criminal offence.

**4. Proposed Way Forward**

- The Overview & Scrutiny Panel is recommended to further discuss the issue of granting a dispensation to dual-hatted Members where they are in receipt of an allowance, and decide whether it is appropriate to extend this in the light of the Council's adopted criteria and the public interest.

**5. Implications**

| Implications | Relevant to | Details and proposed measures to address |
|--------------|-------------|--|
|--------------|-------------|--|

|  | proposals<br>Y/N |   |
|--|------------------|---|
| Legal/Governance                             | Y                | The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests, the requirement for a local Code, Registers of interests and new rules on dispensations.<br><br>Authority is delegated to the Overview & Scrutiny Committee to make decisions about dispensations (and in limited circumstances) to the Monitoring Officer. |
| Financial                                    | N                | There are no financial implications arising directly out of this report.  |
| Risk   | Y                | The risk are set out in paragraph 3 of the report.  |
| Comprehensive Impact Assessment Implications |                  |   |
| Equality and Diversity                       | N/a              |   |
| Safeguarding                                 | N/a              |   |
| Community Safety, Crime and Disorder         | N/a              |   |
| Health, Safety and Wellbeing                 | N/a              |   |

### **Supporting Information**

#### **Appendices:**

None

#### **Background Papers:**

The Council's Policy on Dispensations