

## **COUNCILLOR CONDUCT COMMITTEE**

**18 SEPTEMBER 2012**

### **GENERAL DISPENSATIONS**

Report from/Author: Perry Holmes, Monitoring Officer

#### **Summary**

This report recommends a general dispensation to be granted to all Members on matters that may affect so many Councillors that the Council or Committee would be inquorate

#### **1. Budget and Policy Framework**

1.1 The Councillor Conduct Committee has the power to grant dispensations in accordance with chapter 2, article 4, paragraph 9.3 of the Council's constitution.

#### **2. Background**

2.1 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 conduct arrangements.

2.2 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.

2.3 The Council has delegated powers to the Councillor Conduct Committee to grant dispensations.

2.5 Parish and Town Councils are now responsible for granting their own dispensations.

#### **3. General Dispensations**

3.1 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 had an interest in these matters then it would impede the business of the Council.

- 3.2 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:
- 3.2.1 **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;  
**Housing Benefit:** where the Councillor (or spouse or partner) receives housing benefit ;
  - 3.2.2 **Statutory sick pay:** if a Councillor receives this or is entitled to receive it;
  - 3.2.3 An **Allowance**, travelling expense, payment or indemnity for Councillors
  - 3.2.4 Any **ceremonial honour** given to Members
  - 3.2.5 Setting the **Council Tax or a Precept**
- 3.3 It is recommended that the general dispensation applies for the maximum permitted period of **four years** from the date of this decision.

#### 4. Delegation of dispensations

- 4.1 Council has delegated to the Councillor Conduct Committee powers to grant dispensations to Councillors or co-opted members in accordance with section 33 of the Localism Act 2011 allowing Councillors or co-opted members to take part in debate and vote on any item in which they have a Disclosable Pecuniary Interest.
- 4.2 Dispensations can be granted in the following circumstances:
- 4.2.1 Where so many members of the decision-making body have a Disclosable Pecuniary Interest that political balance would be affected
  - 4.2.2 It is in the interests of the inhabitants that a dispensation be granted, or
  - 4.2.3 It is appropriate to grant a dispensation.
- 4.3 Members' allowances are included in this general dispensation for the avoidance of doubt and for completeness even though the Monitoring Officer has given advice that they are not a Disclosable Pecuniary Interest.

#### 5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Failure to grant a general dispensation	So many Members may have a Disclosable Pecuniary Interest that it would impede the business of the Council	Recommendations for a General Dispensation have been made for adoption by the Council	C2

#### 6. Financial implications

- 6.1 There are no financial implications arising from this report.

## **7. Legal implications**

- 7.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations.
- 7.2 The Council has delegated powers to the Councillor Conduct Committee to grant dispensations.

## **8. Recommendations**

- 8.1 That a general dispensation is granted to all current Members of the Council to speak and vote on matters set out in paragraph 3.2 above for a period of four years from the date of this decision.

### **Lead officer contact:**

Perry Holmes, Monitoring Officer  
Tel: (01634) 332133 Email: [perry.holmes@medway.gov.uk](mailto:perry.holmes@medway.gov.uk)

### **Background papers:**

None