

COUNCILLOR CONDUCT COMMITTEE

6 NOVEMBER 2019

REQUESTS FOR DISPENSATION

Report from/Author: Perry Holmes, Monitoring Officer

Summary

This report informs the Committee of a dispensation that has been granted by the Monitoring Officer for all Members of the Council.

1. Budget and Policy Framework

- 1.1 Upholding high standards of conduct are a matter for the Councillor Conduct Committee.
- 1.2 The Councillor Conduct Committee's terms of reference allow for the granting of dispensations to Councillors and co-optees to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.

2. Background

- 2.1 The Council's Code of Conduct includes provisions for the granting of dispensations.

- 2.2 The relevant sections read as follows:

8. ***Disclosable Pecuniary Interests ("DPs")***

- 8.1 *"DPI" means those disclosable pecuniary interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Schedule One to (the Member's Code of Conduct).*
- 8.2 *You will have a DPI in a matter being considered at a Council meeting where your DPI is closely aligned to the business of the Council agenda item and where the interest is:*
 - i) *your interest, or;*
 - ii) *an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with*

whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

11. Participation in Meetings or Decision Making when you have a DPI.

11.1 *Unless a dispensation has been granted, if you are present at a meeting and you have a DPI in a matter to be considered you must::*

- a) not take part in any discussion of the matter*
- b) not take part in any vote on the matter*
- c) leave the meeting room (including the public gallery).*

13.4 *Where you are discharging a function of the authority (acting alone) and you have a DPI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else).*

14. Dispensations

14.1 *Where you have a Disclosable Pecuniary Interest or other significant interest you may still be able to participate and/or vote at a meeting if you have obtained a dispensation from the Councillor Conduct Committee. A dispensation request form is attached to the Code (Appendix 1).*

14.2 *There are 5 circumstances in respect of which a dispensation may be granted, namely:*

- (a) that so many members of the decision-making body have disclosable pecuniary interests or OSIs in a matter that it would impede the transaction of the business;*
- (b) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;*
- (c) that the dispensation is in the interests of persons living in Medway;*
- (d) that without a dispensation, no member of the Cabinet would be able to participate in this matter, or*
- (e) that it is otherwise appropriate to grant a dispensation.*

2.3 Councillors Jarrett and Maple (on behalf of all Members within their political groups) and Councillors Pendergast and Sands, requested a dispensation to be able to participate and vote on reports relating to Members' Allowances.

2.4 Their requests are set out at Appendix 1 to this report.

3. Current position

- 3.1 When the Independent Remuneration Panel Report was considered at Council, all Councillors had an Other Significant Interest because their financial position was impacted to a greater degree than most inhabitants and a member of the public with knowledge of the relevant facts would reasonably think the interest is so significant that it would be likely to prejudice the public interest.
- 3.2 The duty to approve or amend the Members' Allowances Scheme is a matter for Council.
- 3.3 The decision whether to grant dispensations on request is a matter for this Committee. However, section 6.17 of the Employee Delegation Scheme, within the Council's Constitution provides the Chief Legal Officer with a delegation to:

“consider and determine any requests for dispensations from Medway Members and voting and non-voting co-opted Members in cases where the timing of a request would make it impractical to convene a meeting of the Committee”.

4. Advice and Analysis

- 4.1 The Councillor Conduct Committee would have been in no better position to grant the dispensations, because its entire membership would have also been impacted by the IRP Report and therefore would have had OSIs on the same issue. In addition, the requests were for all Councillors, including those who are Members of the Councillor Conduct Committee.
- 4.2 Without dispensations in place, all Members would be required to leave the room and not take part in the debate or decision of the report because of their OSIs and therefore determination of the report from the Independent Remuneration Panel would be impossible.
- 4.3 The Monitoring Officer therefore exercised his delegation and granted a dispensation for all Members of Medway Council on 10 October 2019 because “so many members of the decision-making body have OSIs in the matter that it would impede the transaction of business.”
- 4.4 The dispensation was granted for a four year term to enable Members to participate in debate and/or to vote on reports relating to Member's allowances at Council meetings, in which they have an Other Significant Interest.

5. Risk management

- 5.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

Risk	Description	Action to avoid or mitigate risk
Non-determination	<p>The Local Authorities (Members' Allowances)(England) Regulations 2003 ("the Regulations") make provision for the payment of allowances to Members of the Council and requires the Council to prepare schemes for the payment of allowances to Members.</p> <p>The Council must establish and maintain an Independent Remuneration Panel (IRP) whose function is to make recommendations to the Council concerning allowances. The Council must have regard to the panel's advice/recommendations.</p> <p>Without Members having a dispensation in place, Full Council would not be able to consider the IRP's report and make a decision on its recommendations.</p>	Granting the dispensation

6. Financial and Legal Implications

- 6.1 This report contains no specific financial implications.
- 6.2 The legal implications are contained in the body of the report.

7. Recommendation

- 7.1 The Committee is recommended to note that the Monitoring Officer granted a dispensation to all Members of the Council, for a four year period from 10 October 2019, for the reasons set out in paragraph 4.2 of the report, to allow Members to participate in debate and/or vote on reports relating to Members' allowances, in which they have an Other Significant Interest.

Lead officer contact:

Perry Holmes, Monitoring Officer

Telephone: 01634 332133

Email: perry.holmes@medway.gov.uk

Appendices:

Appendix 1 – Requests for Dispensation

Background Papers:

None