

Dispensations Sub-committee

25 September 2012

Applications for Dispensations

Recommendations

(1) That the Sub-Committee grants dispensations for four years to all county councillors allowing them to both speak and vote in relation to the following functions of the county council

- a. school meals or school transport and travelling expenses, where you or are a parent or guardian of a child in full time education, unless it relates particularly to the school which the child attends;
- b. the provision of any allowance, payment, pension, indemnity or other financial benefit given to members;
- c. setting council tax or a precept

(2) That the sub-committee grants the following dispensations for four years to county councillors who are elected members or co-opted members of another public authority and who have a disclosable pecuniary interest in a matter only by virtue of the fact that s/he is in receipt of an allowance from that other authority

- (a) Where the matter would affect the financial position of that other authority the county councillor may speak on the matter provided s/he immediately withdraws from the meeting room
- (b) In relation to other matters affecting that other authority the county councillor may speak and vote.

1.0 Key Issues

- 1.1 The proposals set out in this report are aimed to protect members from inadvertent breaches of the requirements related to Disclosable Pecuniary

Interests due to omissions and ambiguities in the new legislation and to ensure that the council can conduct its business.

- 1.2 There is considerable debate about the interpretation of some of the new legislation and whether matters are covered or not and different authorities are taking different views. However as there are potential criminal sanctions our view is that the position should be absolutely clear in the interests of both members and the public.
- 1.3 Previous legislation relating to the Code of Conduct has provided blanket exemptions to ensure certain types of business can be dealt with by local authorities. These are to cover circumstances where the local authority may not be able to achieve a quorum due to the number of members likely to have such an interest. The new legislation relating to disclosable pecuniary interests (DPI) has not made similar provision. All councillors will for example be council tax payers and/or business rate payers.
- 1.4 The impact of having a disclosable pecuniary interest is that the member is barred from participating in any discussion or vote on a matter in which they have a DPI. However the new legislation has provided arrangements for granting dispensations. Therefore the Sub-committee is asked to grant similar dispensations to all county councillors to ensure the business of the local authority can be transacted.
- 1.5 A particular issue has arisen with regard to member allowances and the position of dual hatted members. It appears that a dual hatted member in receipt of an allowance from another authority has a disclosable pecuniary interest. It appears it may preclude a dual hatted member from participating in any discussion involving that other authority whether the matter is of a financial or non-financial nature.
- 1.6 This clearly has a significant impact on local democracy and the ability of members to make representation on local issues. Many issues require the co-operation of partners to enable delivery and this issue has the potential to exclude large numbers of members from discussion and debates.

2.0 Proposal

2.1 Dispensations for up to four years can be granted (in certain circumstances) allowing a member to speak and or vote where s/he has a disclosable pecuniary interest. The application must be made in writing to the proper officer (Chief Executive). The Council delegated the power to make dispensations to the Dispensations Sub-Committee.

2.2 The grounds for granting a dispensation are -having regard to all relevant circumstances the sub-committee considers

(a) that without the dispensation the number of persons prohibited from participating in any particular business would be so great a

proportion of the body transacting the business as to impede the transaction of the business,

(b) that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or

(e) that it is otherwise appropriate to grant a dispensation.

Background Papers

None

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