

# Dispensations Sub-Committee

24 June 2013

## Agenda

The Dispensations Sub-Committee will meet in **Shire Hall, Warwick** on **24 June 2013** at **11.30 a.m.**, or on the rising of the Audit and Standards Committee, whichever is later.

### 1. General

(1) Apologies for Absence

(2) Appointment of Chair

(3) Minutes of the Dispensations Sub-Committee – 25<sup>th</sup> September 2012

### 2. Applications for Dispensations

To consider the proposed recommendations regarding the application of dispensations to all County Councillors for a four-year period.

**JIM GRAHAM**  
Chief Executive  
2013

## **Membership**

Councillors Chris Saint, Bob Stevens and Mary Webb.

For queries regarding this agenda, please contact:  
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The **DISPENSATIONS SUB-COMMITTEE OF THE AUDIT AND STANDARDS COMMITTEE** met at **WARWICK** on **25 SEPTEMBER 2012**

**Present**

County Councillors

Tim Naylor  
Bob Stevens (Chair)  
David Johnston

Officers of Warwickshire County Council

Martyn Harris, Democratic Services Officer  
Jane Pollard, Corporate Legal Services Manager

**1. General**

**Appointment of Chair**

It was moved by Councillor Naylor and seconded by Councillor Johnston that Councillor Stevens be elected Chair of the Sub-Committee.

**(1) Apologies for absence**

There were no apologies for absence

**(2) Members' Disclosures of Personal and Prejudicial Interests**

There were no declarations of interest.

**2. Applications for Dispensations**

The Sub-Committee considered a report that set out a number of proposed dispensations to be granted for Members of the County Council, which would allow those Members to speak and vote in relation to a matter in which they have a disclosable pecuniary interest under the new regulations.

The Sub-Committee noted that there were three proposed dispensations under consideration:

- A blanket dispensation to be applicable to all Members regarding school meals, school transport, Members' Allowances or expenses, and the setting of Council Tax or a precept (this dispensation had been automatic under the previous legislation).
- A dispensation for those Members who are also Members of another public authority, such as a District or Borough Council, or a Police Authority, allowing them to speak on such matters
- A dispensation for those Members whose spouse or partner was a member of a public authority, which would allow the Member to speak on such matters.

The Sub-Committee noted that the third dispensation had been raised in relation to a small number of Councillors whose partners were District Councillors within Warwickshire. The Sub-Committee noted that under the new regulations, a Member's declarable pecuniary interests included those of a spouse or partner, and as such would prevent a Member speaking or voting on such matters.

In response to a question from Councillor Naylor, Jane Pollard confirmed that the dispensation relating to school meals and transport applies in general, and that if a Member was making a decision relating to a particular school, which that Member had an interest in, the dispensation would not apply, and the Member would not be able to speak or vote on that matter.

In response to a question from Councillor Stevens, Jane Pollard confirmed that the dispensations Sub-Committee would meet on an ad-hoc basis, if and when there was an application for a dispensation from an Elected Member. The Sub-Committee also noted that it was likely that the Sub-Committee would have to meet following County Council and District/Borough Council elections in future.

**It was resolved:**

- (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 your partner 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 issue is a matter of dispute between the county council and the other authority and 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.

- (3) That the sub-committee grants the following dispensations for four years to Councillor Sarah Boad, Councillor Isobel Seccombe and Councillor Jerry Roodhouse in respect of circumstances where he/she has a disclosable pecuniary interest in a matter relating to another authority **only by virtue of the fact** that his or her spouse is an elected member of that other authority and in receipt of an allowance from that other authority
- a) Where the issue is a matter of dispute between the county council and the other authority and 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.

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Chair of the Committee

The Committee rose at 9.45am



## Dispensations Sub-committee

24 June 2013

### Applications for Dispensations

#### Recommendations

That the Dispensations Sub-committee grants the following dispensations for four years to all County Councillors:

- (a) Allowing them to both speak and vote in relation to the following functions of the County Council:
  - i. school meals or school transport and travelling expenses, where the County Councillor is a parent or guardian of a child in full-time education, unless it relates particularly to the school which the child attends;
  - ii. the provision of any allowance, payment, pension, indemnity or other financial benefit given to members; and
  - iii. setting Council Tax or a precept.
  
- (b) Who are elected members or co-opted members of another public authority, or whose spouse or partner are elected 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 or his/her spouse or partner is in receipt of an allowance from that other authority:
  - i. where the issue is a matter of dispute between the County Council and the other authority, and 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; and
  - ii. in relation to other matters affecting that other authority, the County Councillor may speak and vote.
  
- (c) Where he/she only has a Disclosable Pecuniary Interest in a matter relating to the County Council or another authority by virtue of the fact that his or her spouse or partner is an employee of the County Council or that other authority, the County Councillor may speak and vote on all matters affecting the County Council or that other authority other than issues which would have a direct impact on the employment of the spouse or partner.

## **1.0 Key Issues**

- 1.1 The Dispensations Sub-Committee last met on 25 September 2012 to grant dispensations following the implementation of the new Code of Conduct. With the new County Council in place, it is now appropriate to review the position.
- 1.2 The drafting in the legislation is not helpful and quite clearly did not achieve exactly what the government intended. Without the grant of dispensations, the ability of members to make representation on local issues would be significantly impaired. 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. The Sub-Committee is therefore recommended to grant the dispensations.
- 1.3 The reasons for the proposed exemptions remain the same as when last considered i.e. they aim 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 County Council can conduct its business. 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.

### **Recommendation (a)**

- 1.4 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. The new legislation relating to Disclosable Pecuniary Interests (DPI) has not made similar provision. 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.

### **Recommendation (b)**

- 1.5 If a dual-hatted member or their spouse/partner is in receipt of a Members Allowance from another authority, this appears to be a Disclosable Pecuniary Interest and would preclude a dual-hatted member from participating in any discussion involving that other authority. This would have an adverse impact on democracy.

### **Recommendation (c)**

- 1.6 A similar issue has arisen with the new County Council in relation to County Councillors whose spouse or partner may be employed by the County Council or another public authority. As the interest of a spouse or partner is treated as if it is the interest of the member, this would be a Disclosable Pecuniary Interest. Quite clearly, it would be nonsense for elected County Councillors to be unable to speak on any matter affecting the County Council due to the employment of their spouse or partner, and similarly for an elected member of another authority. A more proportionate response would be to allow Councillors to speak and vote on all matters other than those which would have a direct impact on the employment of the partner/spouse.



## 2.0 Powers to grant dispensations

- 2.1 Dispensations for up to four years can be granted allowing a member to speak and or vote where s/he has a Disclosable Pecuniary Interest. The Council delegated the power to make dispensations to this 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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