

Dispersations Sub-Committee

25 May 2021

Applications for Dispersations

Recommendations

That the Dispersations Sub-committee grants the following dispersations 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 reasons for the proposed exemptions set out in this report are to protect members from inadvertent breaches of the requirements related to Disclosable Pecuniary Interests due to omissions and ambiguities in the legislation and to ensure that the County Council can conduct its business effectively. As there are potential criminal sanctions, our view is that the position should be clear in the interests of both members and the public.

- 1.2 Without the grant of dispensations in (a) (b) and (c), 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.

Recommendation (a)

- 1.3 Previous legislation relating to the Code of Conduct provided blanket exemptions to ensure certain types of business could be dealt with by local authorities. The current legislation (the Localism Act 2011 and the associated 2012 Regulations) relating to Disclosable Pecuniary Interests (DPI) did not make similar provision. However, it does provide 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)

- 1.4 If a dual-hatted member or their spouse/partner is in receipt of a Members Allowance from another authority, this would be a Disclosable Pecuniary Interest for the purposes of the Code and would preclude a dual-hatted member from participating in any discussion involving that other authority. Based on the County Council's membership more than 50% would be precluded from taking part and voting on matters in the absence of a dispensation being granted by virtue of the fact that they are a dual-hatted member. This would have an adverse impact on democracy.

Recommendation (c)

- 1.5 Similarly County Councillors whose spouse or partner may be employed by the County Council or another public authority would be considered to have a Disclosable Pecuniary Interest in matters affecting the County Council or the other public authority. It would have a detrimental impact on democracy were elected County Councillors unable to speak on any matter affecting the County Council due to the employment of their spouse or partner by the County Council or were they to be similarly be barred in relation to another authority. A more proportionate response would be to allow County Councillors to speak and vote on all matters other than those which would have a direct impact on the employment of the partner/spouse by either the County Council or the other authority.

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.
- 2.3 The legal powers to grant dispensations are therefore wide. Any decision made by the Sub-Committee must only have regard to relevant factors and must be 'Wednesbury' reasonable. Wednesbury is an English court case from 1948. The Wednesbury principle is that no decision should be so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.
- 2.4 All councillors are elected to represent their constituents and act in the public interest. The nature of the role is a public one rather than a private interest. In the circumstances and to ensure that County Councillors can undertake fully the role to which they have been democratically elected, it is recommended that the dispensations set out in this report are granted.

Background Papers

None.

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No members were consulted on this report