

GRANT OF DISPENSATIONS UNDER THE MEMBERS' CODE OF CONDUCT

To: **Constitution & Ethics Committee**

Meeting Date: **23rd June 2015**

From: **Monitoring Officer**

Electoral division(s): **All**

Forward Plan ref: **Key decision: No**

Purpose: **The Committee is asked to consider whether amendments should be made to the Members' Code of Conduct to make clear the process for the grant of dispensations in specified circumstances to allow a Member to discuss and vote on matters in which a Member has a disclosable pecuniary interest.**

Recommendation: **That the Committee recommend to Full Council that**

- 1. amendments are made to the Members' Code of Conduct to permit the grant of dispensations to Members as set out in Appendix 1; and**
- 2. delegated power is granted to the Monitoring Officer to grant dispensations under the Members' Code of Conduct**

<i>Officer contact:</i>		<i>Member contact</i>	
Name:	Quentin Baker	Name:	Cllr M Smith
Post:	Director of Law, Property & Governance and Monitoring Officer	Portfolio:	Chairwoman, Constitution and Ethics Committee
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	mandysmith1235@btinternet.com
Tel:	01223 727961	Tel:	01954 230253

1. BACKGROUND

- 1.1. Under section 31(4) Localism Act 2011 (the “Localism Act”) Members are prohibited from participating in or voting on matters in which they have a disclosable pecuniary interest. [The interests which constitute ‘disclosable pecuniary interests’ are set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012]. This [position] is currently set out in Part 2 of the Members’ Code of Conduct.
- 1.2. However, under section 33 of the Localism Act, a local authority may, in certain circumstances, grant dispensations to Members to enable them to participate and vote on matters notwithstanding the fact that a Member may have a disclosable pecuniary interest in the matter under consideration. Such dispensations are not currently covered by the Members’ Code of Conduct.
- 1.3. The position under the Localism Act differs from the previous national model code of conduct for Members. The old model contained specific exemptions which allowed Members’ to participate and vote on matters which potentially affected the majority or a large number of Members. These exemptions covered interests including: allowances, payment or indemnity to Members and setting council tax.
- 1.4. It is considered prudent that the Council now considers amendments to the Members’ Code of Conduct to bring it in line with the statutory position. This would also ensure dispensations could be granted in circumstances similar to those envisaged by the general exemptions under the old standards model (as described in paragraph 1.3).

2. MAIN ISSUES

- 2.1. Under section 33 of the Act, an authority can grant dispensations to its members or co-opted members which would allow them to vote and take part in discussions on matters in which they have a disclosable pecuniary interest. However, this power only arises in specific circumstances where the local authority, on having regard to all the relevant circumstances, considers that:
 - 2.1.1. without the dispensation the number of persons prohibited by section 31(4) of the Act 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,
 - 2.1.2. 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,
 - 2.1.3. granting the dispensation is in the interests of persons living in the authority's area,
 - 2.1.4. 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 by section 31(4) of the Act from participating in any particular business to be transacted by the authority's executive, or
 - 2.1.5. considers that it is otherwise appropriate to grant a dispensation.¹

¹ See section 33(2)(a) - (e) Localism Act 2011

- 2.2. At present, the Council has no written procedure for dealing with the grant of dispensations in accordance with section 33 of the Act. Such a procedure could, however, be drafted into Part 2 of the existing Members' Code of Conduct. It is within the power of this Committee to recommend amendments to the Members' Code of Conduct to go before Full Council.
- 2.3. The amendments that would need to be inserted into the Members' Code of Conduct are underlined in Appendix 1. In summary, these amendments set out the circumstances in which a dispensation would be considered (in line with the provisions of section 33 of the Act) and detail the procedure to be followed to apply for such a dispensation.
- 2.4. It is proposed that the Monitoring Officer is granted delegated power to authorise dispensations under the Members' Code of Conduct.
- 2.5. The right to a dispensation arises by statute whether or not the requirement is included in the Members' Code of Conduct. However, it is advisable to make provision for the consideration and grant of such dispensations by the Council in the Members' Code of Conduct to ensure the Council's process for dealing with them is clear and transparent.

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

3.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

There are no significant implications within this category.

4.2 Statutory, Risk and Legal Implications

There are no significant implications within this category.

4.3 Equality and Diversity Implications

There are no significant implications within this category.

4.4 Engagement and Consultation Implications

There are no significant implications within this category.

4.5 Localism and Local Member Involvement

The amendments proposed are in accordance with section 33 of the Localism Act 2011.

4.6 Public Health Implications

There are no significant implications within this category.

Source Documents	Location
Localism Act 2011	Available at: www.legislation.gov.uk
Members' Code of Conduct	Available at: http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution