



Agenda Item 4

Standards Committee
23 September 2020

Title: Dispensation for Councillors

Lead Officer: Graham Leach, Democratic Services Manager & Deputy Monitoring Officer, Telephone 01926 456141 or email graham.leach@warwickdc.gov.uk

Portfolio Holder: N/A as non-executive decision

Public report

Wards of the District directly affected: To be confirmed at the meeting once applications for dispensation are confirmed

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	17/9/2020	Andrew Jones
Head of Service		Not applicable
CMT		Not applicable
Section 151 Officer		Not applicable
Monitoring Officer		Andrew Jones
Finance		Not applicable
Portfolio Holder(s)		Not applicable

1. Summary

- 1.1. The proposals set out in this report will protect Members from inadvertent breaches of the requirements related to Disclosable Pecuniary Interests or a "Pecuniary Other Interest" ensuring that the Council can conduct its business.

2. Recommendation

- 2.1. The Standards Committee grants dispensations as at (a) and (b) below to Councillors until elections for the Council in May 2023, in respect of circumstances where they have a Disclosable Pecuniary Interest in a matter relating to another authority only by virtue of the fact that either they or their 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 District Council and the other authority and the matter would affect the financial position of that other authority, the Councillor may speak on the matter provided they then immediately withdraw from the meeting room, unless it relates to the future structure of local government; and
 - (b) In relation to other matters (including the future structure of local government) affecting that other authority, the District Councillor may speak and vote.

3. Reasons for the Recommendation

- 3.1. Within the Constitution, the Standards Committee is responsible for considering and determining requests for dispensation from requirements of the adopted Members' Code of Conduct.
- 3.2. Dispensations for Members to participate can be granted (in certain circumstances) for up to four years allowing a member to speak and or vote where they have a Disclosable Pecuniary Interest. The application must be made in writing to the proper officer (Chief Executive), as defined within the procedure at Appendix 1 to the report.
- 3.3. Officers have written to all Councillors asking for confirmation as to whether the partner or spouse (as recognised under the Localism Act) is a Councillor on an authority other than Warwick District Council. This list will be presented to Committee, along with guidance on what dispensation has been applied for.
- 3.4. The District Council currently has 44 Members, of which 3 are County Councillors and 1 has a spouse or partner who is a County Councillor, and 11 Councillors are Town/Parish Councillors who are entitled to an allowance/expenses from their respective Town/Parish Council.
- 3.5. Under the Code of Conduct these District Councillors have a Disclosable Pecuniary Interest in any matter coming before a meeting which would impact on the County/Town/Parish council where they are in receipt of a Member's allowance from that Council.

- 3.6. Normal guidance would be that dispensation could be provided where there is a conflict with the County/Town/Parish Council and there would be a financial impact, twin-hatted members may speak at a meeting but then must withdraw from the meeting room until the matter has been dealt with. This is covered by recommendation 2.1.
- 3.7. However, as Members will be aware, the Government will shortly be publishing a White Paper on Devolution and Local Government Reform. This is likely to have a significant impact on the future shape of local government. It is expected that the White Paper will canvass views on new local government structures, as well as views about devolved powers and steps towards recovery. Where these might involve unitary structures, there are likely to be conflicting views across the levels of local government and any changes towards, for example unitary local government, would have financial implications for both tiers of government.
- 3.8. It is important that all Member views be heard on such a fundamental issue and that the vast majority of Members are able to formally participate in the voting on the future direction of the Council; any proposals for new local governance structures; and the future role of Councils in Warwickshire.
- 3.9. The potential exclusion of such a large number of Members and their collective, skills knowledge and experience would seriously damage the quality of the decision-making of Member Bodies and the representation of communities across Warwickshire.
- 3.10. In addition, the political balance of the Council and its Committees would be seriously disturbed if effectively Members of the Council (the range of twin hatters, including association with spouses) were to be precluded from voting.
- 3.11. This report seeks wider dispensations to enable the twin-hatted Members to participate in any future meeting where the proposals relating to the White Paper, devolution and/or local government reform are discussed. The Committee is asked to consider the applications and decide whether it would be appropriate to grant wider dispensations to those twin-hatted Members who have a Disclosable Pecuniary Interest, only due to their receipt of a Member allowance in these particular circumstances
- 3.12. The Committee is reminded that any decision must only have regard to relevant factors and must be reasonable. In respect of reasonableness, this should be considered in line with the English Court case from 1948, which established The Wednesbury Principle". This 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.

4. Policy Framework

4.1. Fit for the Future (FFF)

- 4.1.1. The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit.

4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#)..

4.2. **FFF Strands**

4.2.1 **External impacts of proposal(s)**

People - Health, Homes, Communities – Enabling Members to participate in these debates at Council meetings will enable them to represent the views of their communities and to help the Council focus on potential impacts for their communities.

Services - Green, Clean, Safe - None.

Money- Infrastructure, Enterprise, Employment - None.

4.2.2. **Internal impacts of the proposal(s)**

People - Effective Staff – None.

Services - Maintain or Improve Services - None.

Money - Firm Financial Footing over the Longer Term - None.

4.3. **Supporting Strategies**

4.3.1. Each strand of the FFF Strategy has several supporting strategies but there are none which directly relate to this proposal.

4.4. **Changes to Existing Policies**

4.4.1. This report does not bring forward changes to existing policies identified within the Policy Framework of the Council.

4.5. **Impact Assessments**

4.5.1. The report does not meet the requirements for undertaking an equality impact assessment.

5. **Budgetary Framework**

5.1. The report does not directly impact on the budgetary framework or budget of the Council.

6. **Risks**

6.1. The primary risks associated with this report about balancing the impact of not enabling Councillors to participate in debates and their resultant loss of voice against the conflict of interest and views they may have as a result being a Member of another Council. This is discussed within section 3 of the report.

7. Alternative Option(s) considered

- 7.1. The Standards Committee could consider each application for dispensation on its individual merits. However, officers believe that the recommended general dispensations enable the Council to function more effectively and do not compromise the Council's transparency.
- 7.2. The Standards Committee could establish a Sub-Committee to consider future applications of this nature if it so wished. This approach appears to officers to be overly bureaucratic.
- 7.3. This report deals only with the request for wider dispensations for twin-hatted Members who are currently precluded from voting on these proposals only due to the fact that they or their spouse or partner are in receipt of a Member allowance. Any Member who has a Disclosable Pecuniary Interest (DPI) for other reasons would need to make a personal application setting out in detail the nature of their DPI and the reasons why they should be granted a dispensation for that DPI and the extent of the dispensation they are seeking.

Dispensation

You may make an application for a dispensation allowing you to speak and/or vote in relation to a matter in which you have a Disclosable Pecuniary Interest by writing to the Chief Executive. You should set out your Disclosable Pecuniary Interest and the reasons why you believe you should be allowed to speak and /or vote in relation to the matter. The Chief Executive will refer your application to the Standards Committee for consideration.

To grant dispensations from either or both of the restrictions in section 31(4) Localism Act 2011 i.e. restrictions on participation and voting in relation to matters in which a member has a Disclosable Pecuniary Interest, if in all the circumstances it 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, 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.