

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: Councillor Day

Wards of the District directly affected: None

Approvals required	Date	Name
Portfolio Holder	13/2/23	Day
Finance	13/2/23	Lorraine Henson
Legal Services		
Chief Executive	13/2/23	Chris Elliott
Director of Climate Change	13/2/23	Dave Barber
Head of Service(s)		
Section 151 Officer	13/2/23	Andrew Rollins
Monitoring Officer	13/2/23	Andrew Jones
Leadership Co-ordination Group		
Final decision by this Committee or rec to another Cttee / Council?	Yes	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No	
Accessibility Checked?	Yes	

Summary

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.

Recommendation(s)

The Audit & Standards Committee grants dispensations as at (a) and (b) below to Councillor Matecki and Roberts 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 they are an elected Member of Warwickshire County Council (WCC) and in receipt of an allowance from WCC:

- (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.

1 Reasons for the Recommendation

- 1.1 Within the Constitution, the Audit & Standards Committee is responsible for considering and determining requests for dispensation from requirements of the adopted Members' Code of Conduct.
- 1.2 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.
- 1.3 In September 2020, dispensation, as per the above, was granted to all Councillors who would have an interest by virtue of them being in receipt of an allowance from another local authority. Since that time Councillors Matecki and Roberts have been elected to Warwickshire County Council and it is considered appropriate to enable them with the same dispensation ahead of the decisions to be taken at Council in February 2023.
- 1.4 One of the matters relates to the Local Council Tax Retention Scheme, which was considered by Cabinet on Thursday 9 February 2023. The request for dispensation was made not in sufficient time before that meeting to reasonably allow this Committee to meet and discuss such a request. Therefore the Deputy Monitoring Officer consulted with the Independent Persons on a reasonable approach of allowing Councillor Matecki to participate, based on the previous dispensation to other Councillors and then bringing the report to this Committee for formal consideration ahead of Council taking the final decision.
- 1.5 It is considered appropriate this dispensation should be approved as this was granted to all other Councillors in similar position previously so enabling the Councillors to fully participate in such items.

2 Alternative Options

- 2.1 The 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.

3 Legal Implications

- 3.1 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 Financial

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

5 Business Strategy

- 5.1 Warwick District Council has adopted a Business Strategy which sets out key areas for service delivery. For this report the relevant aspect is Health, Homes, Communities, through the action of 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.

6 Environmental/Climate Change Implications

- 6.1 The report does not have environmental implications in relation to the Council's policies and Climate Emergency Action Plan.

7 Analysis of the effects on Equality

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

8 Data Protection

- 8.1 The report does not have any Data Protection considerations as the information is in the public domain.

9 Health and Wellbeing

- 9.1 The report does not have health and wellbeing implications.

10 Risk Assessment

- 10.1 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.

11 Consultation

- 11.1 The Independent Persons for the Council have been consulted on the approach that was adopted and were content with this.

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.