

DISPENSATIONS

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1. Purpose

- 1.1 To present to the Standards Committee a list of decisions which might be subject to the granting of a dispensation under s33 of the Localism Act 2011

2. Recommendations

- 2.1 That dispensations be granted from Section 31(4) of the Localism Act 2011 on the basis that without the dispensation the number of persons prohibited by section 31(4) 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, such dispensations to be made in respect of all Members of Milton Keynes Council and take effect from 30 August 2012 for the period of four years:
- 2.1.1 housing, where the Member is a tenant of the authority; provided that those functions do not relate particularly to that Members tenancy or lease;
 - 2.1.2 school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;
 - 2.1.3 an allowance, payment, pension or indemnity given to Members;
 - 2.1.4 any ceremonial honour given to Members; and
 - 2.1.5 setting Council Tax or a precept under the Local Government Finance Act 1992.
- 2.2 That the Monitoring Officer be designated as the proper officer of the authority for the purposes of written requests by a Member(s) or co-opted Member(s) of the authority for the grant of a dispensation.
- 2.3 That the Monitoring Officer be delegated the power to grant dispensations under any of the heads in Section 33 of the Localism Act on the basis that the requirement for a dispensation in the opinion of the Monitoring Officer is urgent.

- 2.4 That where the Monitoring Officer has used his delegated powers to grant a dispensation a report on the use of the power be prepared and submitted to the next meeting of the Standards Committee.

3. Background

- 3.1 The provisions on dispensations from Members taking part in or voting on matters are significantly changed by the Localism Act 2011.

General exemptions

- 3.2 Previously, general exemptions were provided to all Members, by way of statutory instrument with regard to prejudicial interests in any business of the authority where that business related to functions of the authority in respect of;

- “1. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
2. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
3. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
4. an allowance, payment or indemnity given to members;
5. any ceremonial honour given to members; and
6. setting council tax or a precept under the Local Government Finance Act 1992.”

- 3.3 The new law on interests does not reproduce these exemptions and as a result, Members will effectively be both breaching their Code of Conduct and also committing an offence, should they take part in a meeting where any of these matters are being discussed and they have a disclosable pecuniary interest in the matter.

- 3.4 Where these matters arise it would appear prudent for a general dispensation be granted to apply to all Members. It is recommended that this general dispensation should run for 4 years from the date that it is given.

- 3.5 The restrictions on Members taking part in decisions where they are in arrears in Council Tax (Local Government Finance Act 1992, s106) cannot be dispensed with under the new regime and remain in force.

Individual dispensations

- 3.6 Previously, under the 2007 Code of Conduct, a Member who has a prejudicial interest could apply to Standards Committee for a dispensation on two grounds:

1. That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is

realised how many Members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and

2. That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).

3.6 No dispensations were ever granted under the previous regime.

3.7 Under section 33 of the Localism Act 2011, a dispensation may be granted in the following circumstances:

i. That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;

ii. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;

iii. That the authority considers that the dispensation is in the interests of persons living in the authority’s area;

iv. That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or

v. That the authority considers that it is otherwise appropriate to grant a dispensation.

3.8 Any grant of a dispensation must specify how long it lasts, and only be in effect up to a maximum of 4 years.

3.9 It is suggested that it may be most appropriate for dispensations to be granted by the Standards Committee. This will ensure full Member scrutiny and allow for the decision to grant dispensations to be taken publicly; however there are times when a conflict may be discovered just prior to or at a meeting and adjourning the meeting due to it not being quorate would be at best inconvenient and may result in delay and detriment to the Council or other parties.

3.9.1 In order to guard against this situation arising it would be useful to delegate urgency powers to the Monitoring Officer in order to allow him or her to grant a dispensation. However, to ensure that the public element of the decision is preserved, it is suggested that the Monitoring Officer would be under a duty to report any use of the power to the next full meeting of the Standards Committee.

Background Papers: None