

## **DISPENSATIONS**

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### **1. Purpose**

1.1 To ask the Standards Committee to the grant 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 granting the dispensation is in the interests of persons living in the authority's area, such dispensations to be made in respect of all Members of Milton Keynes Council (MKC) who are Members of Milton Keynes Development Partnership (MKDP) and take effect from 8 March 2016 for the period of four years.

### **3. Background**

3.1 Section 31(4) of the Localism Act prevents all Members with a disclosable pecuniary interest from participating in any discussion of the matter at the meeting or voting on the matter.

3.2 By virtue of being directors of MKDP, Members have a beneficial interest in MKDP and in there are two situations where that is a disclosable pecuniary interest:

- where there is any contract between MKC and MKDP; and
- where MKDP is MKC's tenant: Corporate tenancies.

3.3 As a result, Members who are directors of MKDP will 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 who are Directors of MKDP. It is recommended that this general dispensation should run for 4 years from the date that it is given.

- 3.5 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.
- 3.6 MKDP is an independent legal entity which is wholly owned by MKC. Given the governance relationship between MKC and MKDP, at any given time, some Members of MKC will be Directors of MKDP. These same Members will also comprise the Executive, be members of non-executive committees and be Ward Members.
- 3.7 As Directors of MKDP, their duty is to MKDP. However, when they sit as members of the Council their duty is not so fettered and without a dispensation, a Director of MKDP will not be able to speak or participate in matters where they have a disclosable pecuniary interest. This impedes their ability to speak on behalf of their residents or to participate as part of the executive or a committee member when the matter was before them. The purpose of putting councillors on the board is to allow a two way flow of knowledge and to ensure that the mutual interests of MKC and MKDP are protected. To exclude members of MKDP from participating would otherwise frustrate these objectives.
- 3.8 It is the Monitoring Officer’s view that this is not in the interests of persons living in Milton Keynes and Members should not have to choose between being a Director of MKDP or their equally important roles as Ward Members for example. The dispensation will allow Members who are Directors of MKDP to speak to issues that come before them when they are acting on behalf of their residents, or party, or Council interests.
- 3.9 Any grant of a dispensation must specify how long it lasts, and only be in effect up to a maximum of 4 years. It is recommended that the dispensation lasts for the maximum term of four years.

Background Papers: None