

## **Wiltshire Council**

### **Standards Dispensation Sub - Committee**

**24 January 2013**

---

## **Applications for Dispensation for Business relating to Setting of Council Tax and Budget**

### **Purpose of Report**

1. To ask the Dispensation Sub-Committee to determine applications from Wiltshire Councillors for a dispensation to enable them to participate in and vote at meetings of the council on matters relating to the setting of council tax and the budget.

### **Background**

2. Under the former standards regime the setting of the council tax or a precept was exempt from being a prejudicial interest, so members were not prohibited from participating and voting in connection with such business. This statutory exemption was contained in paragraph 10(2)(c) of the previous code of conduct. This exemption was removed when the new standards framework was introduced through the Localism Act 2011 and no equivalent provision has been made in the new legislation in relation to the restrictions that apply to disclosable pecuniary interests.
3. It is my view, and the view of most monitoring officers, that a member who has any beneficial interest in land which is in the area of the council (including a home in the area), has a disclosable pecuniary interest in the setting of the council tax and the budget. As such a dispensation is required to enable members to participate in any discussions or vote on the setting of the council tax or budget.
4. Under the new standards regime it is a criminal offence if at a meeting of the council a councillor participates in any discussion or votes on a matter in which they have a disclosable pecuniary interest and have not been granted a dispensation.

### **Main Considerations**

5. Under section 33 of the Localism Act 2011 the council may grant a dispensation to allow a member to participate in and vote where that councillor has a disclosable pecuniary interest in the business concerned.

6. The council has delegated the function of determining dispensation requests to the Dispensation Sub-Committee of the Standards Committee. Members of the Sub-Committee are permitted under the legislation to participate and vote in the determination of dispensation requests, including their own.
7. A dispensation may be granted to a member who has a disclosable pecuniary interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter if it is considered that -
  - (a) 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 that business;
  - (b) 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) granting the dispensation is in the interests of people living in the authority's area;
  - (d) without the dispensation each member of the cabinet would be prohibited from participating in any particular business to be transacted by the cabinet;
  - (e) it is otherwise appropriate to grant a dispensation.
8. A dispensation may be granted for one or more meetings of the council, or for a period not exceeding four years. The dispensation must specify the period for which it has effect.
9. The law requires each member to submit a written request for a dispensation to the Monitoring Officer.
10. Following guidance on this issue councillors were asked to sign and date a dispensation request in the form attached at Appendix 1. Completed forms have to date been received from the councillors listed in Appendix 2. Councillor Morland has submitted a similar request, as set out in Appendix 3.
11. The Sub-Committee may grant a dispensation in the terms requested on the grounds set out in paragraph 7 (a),(c), and (e) above to enable the councillors to participate in and vote at meetings of the council, cabinet and committees on matters relating to the setting of the council tax and budget. The dispensation may be granted for the remaining period of this council.

### **Environmental and Climate Considerations**

12. None arising from this report.

## **Equalities Impact**

13. None

## **Risk Assessment**

14. Failure to determine these applications for dispensation could result in the council being unable to set the council tax or budget for 2013-14.

## **Financial Implications**

15. There are no costs arising from this report, but see paragraph 14 above.

## **Legal Implications**

16. The Council is obliged to determine requests for dispensation in accordance with the Localism Act 2011. Failure to do so in this instance could mean that the council is unable to fulfil its legal obligation to set the council tax and a balanced budget.

## **Recommendation**

17. The Sub-Committee is, therefore, recommended to grant a dispensation in the terms sought to each of the councillors listed in Appendix 2 and to any other councillor who submits a written request in these terms to the Monitoring Officer before the meeting of the body concerned.

## **Ian Gibbons**

### **Solicitor to the Council and Monitoring Officer**

Report author: Ian Gibbons

Appendices:

Appendix 1 Dispensation request form

Appendix 2 List of councillors requesting dispensations

Appendix 3 Dispensation request from Councillor Francis Morland