

STANDARDS DISPENSATION SUB-COMMITTEE

DRAFT MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE MEETING HELD ON 24 JANUARY 2013 AT COMMITTEE ROOM A - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER.

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Peter Doyle

Also Present:

Cllr Christopher Newbury

1 Election of Chairman

Resolved:

To elect Councillor Trevor Carbin as Chairman.

2 Declarations of Interest

There were no declarations of interest. The Monitoring Officer explained that section 33(4) Localism Act 2011 enabled the members to determine these requests even though their own requests were included.

3 Consideration of a dispensation request for Wiltshire Councillors for Business relating to Setting of Council Tax and Budget

Ian Gibbons, Service Director of Law and Governance and Monitoring Officer introduced the report and explained that there was considerable interest in this issue at all levels of government with views being divided.

He noted the informal view of the Department of Communities and Local Government, that being a council tax payer for a property in which a councillor has a disclosable pecuniary interest does not give rise to a disclosable pecuniary interest in the setting of the council tax, precept or budget. This was subject to the caveat that the DCLG could not give legal advice.

The Monitoring Officer informed the Sub-Committee that it was apparent from enquiries he had made with the Association of Council Secretaries and

Solicitors (ACSeS) that the majority of monitoring officers were advising their councillors that a dispensation should be sought. Similar advice had been issued by the National Association of Local Councils (NALC). This in itself demonstrated that there was considerable uncertainty about the true interpretation of the statutory provisions.

A particular concern was that under the former standards regime Parliament had found it necessary to include a specific statutory exemption to enable councillors to take part in setting the council tax or precept. No equivalent provision had been carried through to the new legislation leaving the position open to question. With the new rules on the registration and disclosure of disclosable pecuniary interests backed by the criminal law it was appropriate, in the Monitoring officer's view, to advise that councillors should err on the side of caution and seek a dispensation for the avoidance of doubt. Ultimately it was a matter for councillors to decide themselves.

The Monitoring Officer referred to the list of requests received from councillors seeking a dispensation. He drew the Sub-Committee's attention to the applications made by Councillors Morland and Clark, which had been submitted in a different form, but amounted to the same request. It was suggested that the Sub-Committee, if minded to grant the requests, frame their decision to include any late applications received prior to the start of the relevant council tax and budget setting meetings.

The statutory grounds on which a dispensation could be made were explained as set out in the report.

Members were also advised that the legislation made it clear that the validity of any decision made in respect of the business concerned i.e the setting of the council tax was not affected by any failure to comply with the code of conduct (section 28(4) Localism Act 2011)

The Sub-Committee sought clarification on the content of the Risk Assessment and Legal Implications paragraphs of the report in the light of this advice. It was acknowledged and noted that the Risk Assessment section should have stated:

'Failure to determine these applications for dispensation could result in the council being unable to set the council tax or budget for 2013-14 and members who have not applied for a dispensation could potentially be at risk of prosecution.';

and the Legal Implications section should read:

'The Council is obliged to determine requests for dispensation in accordance with the Localism Act 2011.';

Having considered all relevant matters before them the Sub-Committee

Resolved:

- 1. To grant a dispensation in the terms sought to each of the councillors listed in Appendix 2 (as updated to the time of the Sub-Committee's meeting), for the duration of this council on the grounds set out at paragraph 7 a. and c. of the report, 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; and**
 - c. granting the dispensation is in the interests of the people living in the authority's area.****
- 2. To grant a dispensation on the same grounds to Councillors Clark and Morland in the terms that they sought for the duration of this council.**
- 3. To grant a dispensation on the same grounds to any other councillor who submits a written request in the same terms to the Monitoring Officer before the meeting of the body concerned.**
- 4. To recommend that a request is sent to the DCLG asking for the law to be clarified for the avoidance of doubt.**

(Duration of meeting: 2.06 - 2.26 pm)

The Officer who has produced these minutes is Kirsty Butcher, of Democratic Services, direct line , e-mail

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