

Full Council

16 May 2024

Dispensations for Councillors

For Decision

Portfolio Holder:

Local Councillor(s): All Councillors

Executive Director: J Mair, Director of Legal & Democratic

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Report Status: Public (the exemption paragraph is N/A)

Brief Summary:

For transparency reasons members of the Council are required to disclose their interests to the Monitoring Officer.

Having disclosed an interest a member should not usually take part in a decision concerning that interest. Sometimes though it is appropriate or necessary for members to take part in a decision even though they might otherwise be thought to have an interest in the outcome, for instance an interest in the setting of council tax where a councillor has no greater an interest than that of any other council taxpayer.

Over the term of the last council a number of separate dispensations were granted. This report draws those dispensations together and recommends from the outset standing dispensations to enable members to take part in certain types of decision where their participation might otherwise be questioned as a possible breach of the Council's Member Code of Conduct.

Recommendation:

That the following dispensations be granted until the ordinary date of elections in May 2029:

1. **To all members:** to take part in agreeing the budget and the setting of council tax but not where the interest is as the owner of an additional property and the decision to be made relates to any council tax premium on dwellings occupied periodically (second homes).
2. **To all members:** to approve the Member Scheme of Allowances.
3. **To all members appointed to represent the Council on outside bodies:** to remain and to participate in any debate and decision in any council meeting and to deal with any matter as a Cabinet Member exercising executive functions, including individual executive delegated decision making.
4. **To executive members appointed to the Shareholder Committees of Care Dorset and the Dorset Centre of Excellence:** to remain and to participate in any debate and decision in any council meeting and to deal with any matter as a Cabinet Member exercising executive functions, including individual executive delegated decision making.
5. **To any members appointed to the Board of Homes Dorset:** To remain and to participate in any debate and decision in any council meeting and to deal with any matter as a Cabinet Member exercising executive functions, including individual executive delegated decision making.
6. **To any members or reserve members appointed to the South West Audit Partnership Ltd Owners Board:** To remain and to participate in any debate and decision in any council meeting and to deal with any matter as a Cabinet Member exercising executive functions, including individual executive delegated decision making.

Reason for Recommendation:

To enable members to take part appropriately in Council business and to minimise the potential for misunderstanding and third-party challenge.

1. Background

- 1.1 The Localism Act 2011 requires each member of the Council to disclose to the Monitoring Officer their “disclosable pecuniary interests”. The Monitoring Officer must in turn establish, maintain and publish a register of such interests. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

- 1.2 A member with a disclosable pecuniary interest in business being considered at a council or committee meeting is prohibited by the Localism Act from participating in discussion and prohibited from voting on the matter unless a dispensation has been granted in accordance with section 33 of The Act.
- 1.3 The Localism Act also requires the Council to adopt a code of conduct dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity. Dorset Council has adopted the Local Government Association (LGA) Model Code of Conduct as the Council's Code of Conduct.
- 1.4 As part of improving transparency the LGA Model Code requires that in addition to their own disclosable pecuniary interests members must disclose their "other registerable interests". Such interests include membership of or general control or management of a body to which a member is nominated or appointed by the Council. Where a matter arises at a meeting which relates directly to the financial interest or wellbeing of a member's other registerable interests they must:
 - disclose the interest
 - speak on the matter only if members of the public are also allowed to speak at the meeting
 - otherwise not take part in any discussion or vote on the matter and not remain in the room unless granted a dispensation.
- 1.5 In some further circumstances, where a matter arises at a meeting and it relates directly or indirectly to the financial interest or well-being of a councillor or their relative or close associate then they must disclose the interest, speak on the matter only if members of the public are also allowed to speak at the meeting and they must otherwise not take part in any discussion or vote unless granted a dispensation.

2. **Reasons for granting standing dispensations**

- 2.1 Most members are council taxpayers. Their interest in the setting of council tax is no greater than that of anyone else liable to pay council tax. Recommendation 1 proposes a dispensation to put beyond question that such members are entitled to participate in the ordinary setting of the budget and council tax, without there being any breach of the Member Code of Conduct. The proposed dispensation would not though permit a

- member who owns an additional property in Dorset to take part in decisions about a council tax premium on dwellings occupied periodically.
- 2.2 Members are responsible for setting their own allowances (after taking account of recommendations made by an independent remuneration panel) and the proposed second dispensation will serve to reinforce that there is no breach of the code of conduct when members adopt or make changes to their scheme of allowances.
 - 2.3 Item 14 on this agenda recommends the appointment of members to represent the Council on a range of outside bodies. The member in question then has what the Code of Conduct calls an “other registerable interest.” Having such an interest limits the extent to which the member can then participate in Council business concerning the outside body, undermining the very reason for their appointment as the Council’s representative on the outside body. The third recommendation addresses this concern.
 - 2.4 The company structures of Care Dorset and the Dorset Centre of Excellence reserve certain matters to the Council as shareholder. These functions are discharged through shareholder committees, membership of which amount to “other registerable interests”. Recommendation 4 is to enable members of the Executive appointed to the two shareholder committees to participate on behalf of the Council in shareholder committee business without breaching the code of conduct.
 - 2.5 Recommendation 5 is necessary to enable members appointed by the Council to the Board of Homes Dorset to participate in council business concerning Homes Dorset without breaching the Code of Conduct. The Council is also a part owner of the South West Audit Partnership Ltd and similarly recommendation 6 is necessary to enable the member appointed to the South West Audit Partnership Ltd Owners Board to feedback to the Council and participate in Council meetings without breaching the Code of Conduct.
 - 2.6 As in the case of the Shareholder Committees of Care Dorset and the Dorset Centre of Excellence, members appointed to the Board of Homes Dorset and the South West Audit Partnership Owners Board do not benefit personally either from their involvement in the company or from participating in Council business concerning the company.

3. **Financial Implications**

There are no new financial implications arising from this report.

4. **Natural Environment, Climate & Ecology Implications**

None.

5. **Well-being and Health Implications**

There are no direct well-being and health implications arising from this report. However the recommendations concerning participation in Council business relating to the work of Homes Dorset, Care Dorset and the Dorset Centre of Excellence will support the use of these innovative governance arrangements to deliver services that benefit Dorset residents.

6. **Other Implications**

None.

7. **Risk Assessment**

7.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Low

8. **Equalities Impact Assessment**

None for the purposes of this report.

9. **Appendices**

None.

10. **Background Papers**

None.

11. **Report Sign Off**

11.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer) and the Executive Director for Corporate Development (Section 151 Officer).