

Agenda



AGENDA for the STANDARDS COMMITTEE meeting to be held in COMMITTEE ROOM A, COUNTY HALL, HERTFORD on THURSDAY, 15 FEBRUARY 2018 at 10.00AM

MEMBERS OF THE COMMITTEE (5) - QUORUM 3

N Bell, D J Hewitt (Chairman), A Plancey, R G Parker, W J Wyatt-Lowe (Vice-Chairman)

AGENDA

AUDIO SYSTEM

The meeting room has an audio system to assist those with hearing impairment. Anyone who wishes to use this should contact Main (front) Reception.

PART 1 (PUBLIC) AGENDA

Meetings of the Committee are open to the public (this includes the press) and attendance is welcomed. However, there may be occasions when the public are excluded from the meeting for particular items of business. Any such items are taken at the end of the public part of the meeting and are listed under "Part II ('closed') agenda".

1. MINUTES

To confirm the minutes of the Committee held on 16 November 2017.
(attached)

2. MEMBER APPLICATION FOR DISPENSATION UNDER S33 OF THE LOCALISM ACT 2011

Report of the Chief Legal Officer

3. OTHER PART I BUSINESS

Such other Part I Business which, if the Chairman agrees, is of sufficient urgency to warrant consideration.

**PART II ('CLOSED') AGENDA
EXCLUSION OF PRESS AND PUBLIC**

No Part II business has been notified. If Part II business is notified, the Chairman will move:-

“That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item/s of business on the grounds that it/they involve/s the likely disclosure of exempt information as defined in paragraph of Part 1 of Schedule 12A to the said Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

If you require a copy of any of the reports mentioned above or require further information about this agenda please contact Elaine Shell, Democratic Services Manager, on telephone no. 01992 555565 or e-mail elaine.shell@hertfordshire.gov.uk. Agenda documents are also available on the internet at <https://cmis.hertsdirect.org/hertfordshire/CabinetandCommittees.aspx>

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

Minutes



To: All Members of the Standards Committee, Chief Executive, Chief Officers

From: Legal, Democratic & Statutory Services
Ask for: Elaine Shell
Ext: 25565

STANDARDS COMMITTEE 16 NOVEMBER 2017

ATTENDANCE

MEMBERS OF THE COMMITTEE

N Bell, D J Hewitt (Chairman), R G Parker, A Plancey, W J Wyatt-Lowe (Vice-Chairman)

OTHERS PRESENT

Independent Person: T Morris

Upon consideration of the agenda for the Standards Committee meeting on 16 November 2017 as circulated, copy annexed, conclusions were reached and are recorded below:

Note: No conflicts of interest were declared by any member of the Committee in relation to the matters on which decisions were reached at this meeting.

PART I ('OPEN') BUSINESS

1. MINUTES

- 1.1 The Minutes of the Committee meeting held on 27 February 2017 were confirmed as a correct record and were signed by the Chairman.

2. GENERAL DISPENSATIONS

[Officer Contact: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)]

- 2.1 The Committee was reminded that the Localism Act 2011 ('the Act') had introduced the concept of Disclosable Pecuniary Interests ('DPIs') and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 had

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defined the categories of Member interests that would constitute DPIs under the 2011 Act; one such category was *'any employment, office, trade, profession or vocation carried on for profit or gain'*. Also included in the list of DPIs which Members were required to register was any beneficial interest or any licence (alone or jointly with others) to occupy land for a month or longer which the Member, his/her spouse or civil partner or person with whom they are living as such had within the administrative area of the County Council. Since the Act had been brought in there had been some discussion around some of the provisions in the 2011 Act relating to standards, what the DPI categories encompassed and their impact on certain items of Council business. The Government had not issued any guidance on the issue of whether the payment of an allowance (whether Basic or Special Responsibility Allowance) should be registered as a DPI category; there was no judicial interpretation on the point nor whether being a council tax payer created a DPI for purposes of budget debates.

- 2.2 It was a criminal offence for a Member present at a meeting to participate in any discussion of a matter or to vote on a matter in which s/he had a DPI unless s/he had been granted a dispensation. For the avoidance of doubt, therefore, the Chief Legal Officer considered that it would be appropriate for the Committee to grant a general dispensation to Members to enable them to participate and vote in the setting of the Council Tax and precept when they would otherwise be prevented from doing so in consequence of having a disclosable pecuniary interest arising from receipt of an allowance under the County Council's Allowances Scheme, or that of a District or Borough Council on which a Member also served, or where they had a beneficial interest in or held a licence (alone or jointly) of land within the County.
- 2.3 Members considered the proposal noting the grounds for granting such dispensations (set out in paragraph 5 of the report). It was agreed that the effect of not granting the recommended dispensations would be a risk of impeding the transaction of the Council's business. The Committee also considered that the Act provided that dispensations should be granted for a period of up to 4 years.

RESOLVED

- 2.4 1. That the Chief Legal Officer be authorised to grant dispensations from the provisions of Sections 31(4)(a) and (b) of the Localism Act 2011, such dispensations to last until the date of the County Council election in 2021 to allow all Members who have a disclosable pecuniary interest arising from an allowance:
- (a) under the Hertfordshire County Council Members' Allowances Scheme; or
 - (b) under the Members Allowances Scheme of another local authority in Hertfordshire; or
 - (c) from a body to which they have been appointed to by the Hertfordshire

County Council

to participate in debate and vote on:

- (i) any business of the County Council relating to setting the council tax or a precept;
 - (ii) allowances, payments or indemnities given to Members of the Council; and
 - (iii) any business of the County Council relating to the Integrated Plan where they may otherwise be prevented from doing so in consequence of being in receipt of an allowance as mentioned in (a) to (c) above.
2. That the Chief Legal Officer be authorised to grant dispensations from the provisions of Sections 31(4)(a) and (b) of the Localism Act 2011 such dispensations to last until the date of the County Council election in 2021 to allow all Members to participate and vote in any business of the County Council relating to setting the council tax or precept when they would otherwise be prevented from doing so in consequence of a beneficial interest or licence (alone or jointly) of any land within the administrative area of Hertfordshire.

3. STANDARDS UPDATE

[Officer Contact: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)]

- 3.1 Members were provided with an update on standards issues, as summarised below:-

Member Training

- 3.2 Member training on standards and the Member Code of Conduct had been included as part of the Member induction programme following the County Council elections in May 2017; the Chief Legal Officer had also offered to attend Group Meetings to provide further training and information on standards issues (e.g. the declaration of interests at meetings).
- 3.3 The Committee considered that all new Members should be strongly advised to attend the training undertaken within Group Meetings.

Protocol with Hertfordshire Police in relation to DPI Offences

- 3.4 A review of the protocol in place between Hertfordshire Monitoring Officers and Hertfordshire Police for the referral of potential Disclosable Pecuniary Interest offences under the Localism Act 2011 had been undertaken. The review resulted in some minor amendments being made which sought to clarify the process for referral. The revised protocol was currently being circulated for

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signature by Hertfordshire Monitoring Officers.

DCLG Consultation

- 3.5 The Committee was advised that the Department for Communities and Local Government (DCLG) was consulting on proposals to update the criteria barring individuals from becoming or being a local councillor or directly-elected mayor. The Government proposed to amend the disqualification criteria, so that individuals would be banned from standing for office if there were (a) on the sex offenders register, (b) were subject of an Anti-Social Behaviour Order, or (c) subject of a Criminal Behaviour Order. The consultation also proposed that the new rules would apply to councillors and mayors in parish, district, county and unitary councils, London boroughs, combined authorities and the Greater London Assembly.
- 3.6 Whilst supportive of the proposed amendments, and of any disqualification criteria which would support public trust and confidence in elected persons, the Committee considered that the consultation provided no supporting rationale for the inclusion of (b) and (c) above. The Committee also considered that, rather than being applied only to those serving in local government, the disqualification criteria should be applied to all elected persons, including Police and Crime Commissioners, Parliamentary candidates and Members of both Houses of Parliament.
- 3.7 Members also considered that it was not clear why the proposals should have any impact on the discharge by local authorities of their public sector equalities duties, and agreed that clarification should be sought on how any change to the disqualification criteria would be enforced and how any individual subject of them would be identified.
- 3.8 The deadline for responses to the consultation was 8 December 2017.

RESOLVED

- 3.9 1. The Committee noted the report.
2. It was UNANIMOUSLY AGREED that the Chief Legal Officer should respond to the Department for Communities and Local Government consultation entitled 'Disqualification criteria for Councillors and Mayors' on the Committee's behalf expressing its views as set out at paragraphs 3.6 and 3.7 above.

4. OTHER PART I BUSINESS

- 4.1 There was no other Part I Business.

KATHRYN PETTITT
CHIEF LEGAL OFFICER

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MEMBER APPLICATION FOR DISPENSATION UNDER S33 OF THE LOCALISM ACT 2011

Report of the Chief Legal Officer

Author: Kathryn Pettitt, Chief Legal Officer (Tel: 01992 555527)

1. Purpose of Report

- 1.1 To consider the request from Dr. Susie Gordon for a dispensation under the Localism Act 2011.

2. Summary

- 2.1 The Localism Act 2011 (the '2011 Act') introduced the concept of Disclosable Pecuniary Interests ('DPIs'). The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 defined those interests that would constitute DPIs under the 2011 Act. It is a criminal offence for members to fail to register a DPI or to speak and/or vote where they have a DPI unless they have obtained a dispensation.
- 2.2 The Council has delegated the power to the Standards Committee to grant dispensations in respect of DPIs.

3. Recommendations

1. That a dispensation is granted pursuant to sections 31(4)(a) and (b) of the Localism Act 2011 to allow Dr. Susie Gordon to participate, debate and vote in business in which she has a disclosable pecuniary interest by virtue of having a beneficial freehold interest in the premises known as the A120 Veterinary Centre and comprising land lying south of Tilekiln Farm, Standon Road, Little Hadham (title number HD394474) provided that the dispensation does not apply in instances where the business to be considered directly affects the financial position of Dr. Susie Gordon
2. That the dispensation mentioned in 1 above applies for 4 years from the date hereof.

4. Background

- 4.1 The 2011 Act introduced the concept of DPIs and the Disclosable Pecuniary Interest Regulations 2012 define the categories of interest which comprise DPIs. A member must disclose any matter which falls within the categories of disclosable pecuniary interest if it applies to themselves or their partner (which means a spouse or civil partner, a person with whom the member is living as husband or wife, or a person with whom they are living as if they are civil partners).
- 4.2 One of the categories of disclosable pecuniary interests is:

'Any beneficial interest in land which is within the area of the relevant authority'.
- 4.3 It is a criminal offence if a member who is present at a meeting where he/she has a DPI in any matter to be considered or is being considered participates in any discussion of that matter or votes on the matter. These restrictions, however, do not apply where the member has applied for and been granted a dispensation.
- 4.4 Clearly if the item relates directly to the member's DPI then the provisions mentioned in paragraph 4.3 would apply. The provisions of the 2011 Act, however, are widely drawn and, as such, the provisions mentioned in 4.3 above may apply even if there is only a minimal impact on the member's DPI or the DPI is only indirectly affected by the matter to be considered or being considered at the meeting.
- 4.4 There were two court cases in 2015 relating to members who voted on matters where it was alleged that they should not have participated due to the matter affecting an interest that they had registered as a DPI. In neither case did it appear that the DPI was directly affected by the subject matter of the Report being considered. In one case the Councillor concerned was found guilty of an offence by the Magistrates' Court and given a six months conditional discharge, the District Judge commenting that the member could have applied for a dispensation. In the other case the High Court ruled that the member's DPI was not engaged as it was not directly affected by the matter under consideration. Given the uncertainty the Monitoring Officer considers that it is appropriate for members to seek a dispensation if there is likelihood that the member's DPI is engaged indirectly.
- 4.5 Dr. Susie Gordon has included in the register of Member's interests as a disclosable pecuniary interest land lying south of Tilekiln Farm, Standon Road, Little Hadham (HD394474). This interest arises by virtue of her beneficial freehold interest in premises known as the A120 Veterinary Centre and comprising land lying south of Tilekiln Farm, Standon Road, Little Hadham (title number HD394474). The land is in the vicinity of the A120 Little Hadham by-pass which is referred to in the Council's capital programme.

- 4.6 Given the uncertainty around when a DPI may be engaged, Dr. Susie Gordon has requested that a dispensation be granted to allow her to participate in meetings and business of the Council where the DPI referred to in paragraph 4.5 above might be engaged provided that the business does not directly affect her DPI.

5. Application for Dispensation

- 5.1 The 2011 Act provides that, following a written request made to the proper officer, dispensations can be granted to enable members to participate in meetings where they have a DPI provided that certain grounds are satisfied. The grounds for the grant of a dispensation are, if having regard to all the relevant circumstances, the Council considers that:
- 5.1.1 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 the business;
 - 5.1.2 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;
 - 5.1.3 the grant of the dispensation would be in the interests of the persons living in the authority's area;
 - 5.1.4 without dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive;
 - 5.1.5 it is otherwise appropriate to grant a dispensation.
- 5.2 The Monitoring Officer considers that the grounds set out in paragraph 5.1.5 above applies to the application which has been received. Reference to the A120 Little Hadham By-Pass will be included in reports relating to the Council's Integrated Plan/Budget and the project may also be referred to in finance monitors, performance and other general update reports. In the context of the scale and wide remit of the Integrated Plan/Budget it would be appropriate to grant a dispensation in respect of Susie Gordon's disclosable pecuniary interest in the land at the A120 Veterinary Centre to allow her to participate, debate and vote on consideration of the Council's Integrated Plan and Budget. This is particularly so as the A120 Little Hadham By-Pass forms one element only of the capital programme. Any dispensation granted, however, should be on the basis that it would not apply in instances where the business to be considered directly affects the financial position of Dr. S. Gordon.

5.3 Dispensations can be granted for a period of up to four years. It is proposed that a dispensation be granted for the period of 4 years.

5.3 Dispensations can be to speak and vote; or vote; or speak.

6. Financial Implications

6.1 None

Background Information

Chapter 7 Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/1464/made/data.pdf>