

Audit and Corporate Governance Committee



Report of Monitoring Officer

Author: Kathy Fiander

Telephone: 01491 823649

Textphone: 18001 01491 823649

E-mail: kathy.fiander@southandvale.gov.uk

AGENDA ITEM 10

To: Audit and Corporate Governance Committee

To: Audit and Governance Committee

DATE: 29 January 2013

DATE: 30 January 2013

Dispensations and the councillors' code of conduct

Recommendation(s)

The committee is recommended to:

- a. appoint sub-committees (to be known as Dispensation Panels) comprising three members of the committee, or their appointed substitutes, and authorise the Dispensation Panel to determine dispensations referred by the Monitoring Officer;
- b. appoint each member or substitute of the Audit and Corporate Governance Committee (South), Audit and Governance Committee (Vale) to serve on any Dispensation Panel which is convened so as to include her or him in its membership;
- c. agree that wherever possible, a panel should comprise the chairman or vice-chairman of the committee plus two other members of the committee, but that this should not affect the principle that any three members of the committee or their appointed substitutes will constitute a properly appointed panel;
- d. authorise the Monitoring Officer to convene panels having regard to councillors' availability and eligibility to take part;
- e. adopt the procedures for dealing with dispensations set out in appendix 1 to this report with effect from the date of this committee;
- f. authorise the Monitoring Officer to make minor amendments to the procedures including minor or consequential amendments required for clarification, consistency and compliance with the council's style guide;

Purpose of Report

1. At its meeting in July 2012, Council agreed to widen the terms of reference of the committee (Audit and Corporate Governance Committee (South) and Audit and Governance Committee (Vale)) to include certain responsibilities previously undertaken by the former Standards Committee. In doing this, Council agreed to amend the terms of reference of the committees *“to include the power to grant dispensations to councillors under section 33 of the Localism Act 2011”*. Council also agreed to *“designate the Monitoring Officer as the proper officer for receipt of requests for dispensations under section 33 of the Localism Act 2011”*.
2. This report proposes arrangements for dealing with requests for dispensations from councillors, consistent with both the councillors’ code of conduct and the Localism Act 2011 (and associated regulations).

Corporate Objectives

3. High standards of conduct underpin all of the councils work and the achievement of all its objectives.

Background

4. The new code of conduct came into effect on 1 July. It requires that any councillor who has a disclosable pecuniary interest must register it within 28 days of coming into office. Councillors must also declare the interest at a meeting of the council where the interest relates to any matter under consideration. Paragraph 19 of the code states that:

“Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter”.

5. Section 31(4) of the Localism Act 2011 states that a dispensation may allow a councillor to:
 - a. participate, or participate further, in any discussion of the matter at the meeting(s) and/or
 - b. participate in any vote, or further vote, taken on the matter at the meeting(s).
6. As such the Localism Act 2011 significantly changes the provisions on dispensations. Whilst the former Standards Committee was responsible for granting dispensations to district and parish councillors, parish councils are now able to grant their own dispensations. This report therefore relates to the granting of dispensations to district councillors.

ARRANGEMENTS FOR DEALING WITH DISPENSATIONS

7. The following paragraphs summarise the new grounds for considering a dispensation and suggest how the committee could make decisions on such requests.

8. In accordance with Section 33 of the Localism Act 2011 the committee may grant a dispensation when any of the following five circumstances arise:
 - a. 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”; or
 - b. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter; or
 - c. That the authority considers the dispensation is in the interests of persons living in the authority’s area; or
 - d. That, without the dispensation, no member of the Cabinet would be able to participate in this matter; or
 - e. That the authority considers that it is otherwise appropriate to grant a dispensation.
9. The Localism Act gives discretion for the consideration of dispensations to be delegated to a committee or panel or to the Monitoring Officer. Council has agreed a general delegation this committee.
10. The committee is recommended to agree to appoint Dispensation Panels to consider applications for dispensations on its behalf. In essence the terms of reference could include the following and are more fully set out in appendix 1 to this report:
 - a. A Dispensation Panel will comprise three members of the committee, or their appointed substitutes, to determine dispensations referred by the Monitoring Officer;
 - b. Any member or substitute of the committee can serve on any Dispensation Panel;
 - c. Wherever possible, a panel should comprise the chairman or vice-chairman of the committee plus two other members of the committee, but that this should not affect the principle that any three members of the committee or their appointed substitutes can constitute a properly appointed panel;
 - d. The Monitoring Officer will convene panels having regard to councillors’ availability and eligibility to take part;
11. Under the previous standards regime, there were few requests for dispensations and we do not expect this to change under the new arrangements. Nevertheless we should ensure that procedures are in place should any requests arise in future.

Financial Implications

12. The cost of implementing the new arrangements for dealing with dispensations will be met from existing budgets.

Legal Implications

13. The council should have in place arrangements for dealing with dispensations as required in the Localism Act 2011 and the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.

Risks

14. There are no immediately identifiable risks in adopting these procedures.

Other Implications

15. None

Conclusion

16. Council agreed that this committee should have responsibility for considering and agreeing councillors' requests for dispensations. This report proposes a procedure for dealing with dispensation requests that the committee is asked to agree.

Background Papers

- None