

**Hampshire Fire and Rescue Authority**

**Standards and Governance Committee**

**Item: 8**

**11 December 2013**

**Localism Act 2011 – Granting of Dispensation**

**Report of the Clerk**

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**1 Summary**

1.1 This report concerns a request for the grant of a dispensation under section 33 of the Localism Act 2011 to those Members of the Authority who are directors of 3SFire Ltd (“the Company”), to participate in discussions and vote at meetings of the Authority and its committees concerning certain matters relating to the Company.

**2 Recommendations**

2.1 That the Committee agrees that:

2.1.1 without the granting of dispensations for those Members of the Authority who are directors of 3SFire Ltd, the representation of different political groups on the Standards and Governance Committee would be so upset as to alter the likely outcome of any vote relating to business involving the Company;

2.1.2 for the reasons given in the report, it is otherwise appropriate to grant dispensations for those Members of the Authority who are directors of the Company to enable them to participate in discussions and vote at meetings of the Authority, or of any committee of the Authority, concerning certain matters relating to the Company;

2.1.3 dispensations be granted under section 33 of the Localism Act 2011 to enable Councillors Chris Carter, Roger Price and Royston Smith to participate in discussions and vote at meetings of the Authority, or of any committee of the Authority, concerning matters relating to the Company except that the dispensations do not apply to any discussion or vote concerning:

- (a) the making of a contract with, or grant or loan to, the Company
- (b) the giving of consent to remuneration of the directors of the Company, further to Article 21 of the Company’s Articles; and
- (c) the giving of consent to any matter falling within Article 67 of the Company’s Articles ; and

- 2.1.4 the dispensations shall be for a period of 4 years running from the date of this meeting.

### **3 Introduction**

- 3.1 A number of Members of the Authority are directors of the Company and, as such, have disclosable pecuniary interests (DPIs) in matters relating to the company. Unless the Authority grants those Members dispensations under section 33 of the Localism Act 2011, the Members are not permitted by law<sup>1</sup> to participate in the discussion or vote on any matter relating to the Company. By virtue of the Authority's Standing Order 10(1), the Members are required to withdraw from the room whilst the item is being considered.
- 3.2 At the special meeting of the Authority which took place on 26 March 2013, concern was raised by Members that the Member directors of the Company should be present at Authority meetings to provide relevant information to, and be questioned by, the Authority concerning the Company. It was agreed that consideration should be given to the attendance of the Member directors at future meetings at which matters relating to the Company are considered.
- 3.3 On 5 July 2013, this Committee considered a report setting out three available options in relation to this issue. A copy of the report can be accessed here: [http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitems/summary.htm?pref=Y&tab=1&item\\_ID=5016&cancel=n](http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitems/summary.htm?pref=Y&tab=1&item_ID=5016&cancel=n)  
The Committee favoured the option of amending Standing Orders to allow for the appointment of substitute Members in a situation where a member of a Committee, who is a member of a political group, is unable to participate in discussion or voting on an item of business at a meeting of that Committee by virtue of holding a DPI in that item. Accordingly, the Committee decided to recommend this option to the Authority.
- 3.4 The Authority, at its meeting on 26 September 2013, considered the Committee's recommendation and noted that the Committee's preferred option still did not enable the Member directors of the Company to participate in the discussion or vote on any matter relating to the Company. The Authority decided to refer the matter back to the Committee for further review the options. In the intervening period, a request for a dispensation has been received from the Chairman on behalf of all three Member directors, and this is attached as Appendix 1.

### **4 Granting a dispensation under Section 33 Localism Act 2011**

- 4.1 Section 33 of the Localism Act 2011 enables a dispensation to be granted, relieving a Member from either or both of the restrictions on participation in discussion or voting in particular cases.

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<sup>1</sup> Section 31(4) of the Localism Act 2011 provides that a Member who has a DPI in any matter being considered at a meeting of the Authority must not participate in any discussion of, or vote on, that matter at the meeting.

- 4.2 The power to grant dispensations has been delegated to the Standards and Governance Committee by the Authority, most recently confirmed at its meeting on 26 September 2013.
- 4.3 A dispensation may be granted on a written request made to the Clerk by a Member or Co-opted Member. In this instance, requests have been received from Councillors Chris Carter, Roger Price and Royston Smith (Appendix 1).
- 4.4 The relevant grounds on which the dispensations could be granted are:
- 4.4.1 that in accordance with section 33(2)(b), the Authority considers that without the dispensation the representation of different political groups on the Standards and Governance Committee would be so upset as to alter the likely outcome of any vote relating to business involving the Company, and
- 4.4.2 that in accordance with section 33(2)(e), the Authority considers that it is otherwise appropriate to grant dispensations for those Members of the Authority who are directors of the Company, to enable them to participate in discussions and vote at meetings of the Authority, or of any committee of the Authority, concerning matters relating to the Company. In appointing the directors of the Company, the Authority chose those Members who had particular skills and experience to offer the Company. For the same reasons, the Authority would want those Members to be involved in Authority discussions relating to the Company. In addition, granting dispensations will address quorum issues that might otherwise arise.
- 4.5 It is proposed that an appropriate safeguard would be to grant the dispensations on the basis that they do not apply to any discussion or vote concerning:
- (a) the making of a contract with, or grant or loan to, the Company
  - (b) the giving of consent to remuneration of the directors of the Company, further to Article 21 of the Company's Articles; and
  - (c) the giving of consent to any matter falling within Article 67 of the Company's Articles Clause 67(1)(a) - (o) sets out those matters which the Company may not undertake without the prior written consent of the Authority or as may be within the scope of a current business plan approved by it (see Appendix 2). Such matters include entering into contracts above a specified value, borrowing or loaning money and sale of assets.
- 4.6 It should be noted however that, even in the cases cited in Para 4.5 (c), Standing Order 10(1) would still enable the Authority to hear representations from the Member directors on the particular matter. This could be, for example, as to why the Authority's consent for the Company's proposed action was being sought, prior to leaving the room for the discussion and vote.
- 4.7 A dispensation must specify the period for which it has effect, which may not

exceed four years. It is proposed that the dispensations be granted for the period from 11 December 2013 to 10 December 2017, after which they can be renewed.

## **5 Risk Analysis**

5.1 The risks of granting dispensations were identified in sections 6.5 – 6.7 of the report referred to in para 3.3 above. The proposed action to mitigate those risks is set out in section 4 above.

## **6 People Impact Assessment**

6.1 The proposals in this report are considered to be compatible with the provisions of the equality and human rights legislation.

## **7 Resource Implications**

7.1 There are no resource implications of the proposed action.

Section 100D – Local Government Act 1972 – background papers

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of this report.

N.B. The list excludes:

Published works.

Documents that disclose exempt or confidential information as defined in the Act.

TITLE

FILE

None.