

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Conduct Advisory Panel
Date:	30 October 2012
Title:	Disclosable Pecuniary Interests - General Dispensation
Reference:	4409
Report From:	Chief Executive

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1. Executive Summary

- 1.1. The purpose of this report is to seek a general dispensation for all Members of the County Council exempting them from the restrictions imposed by Section 31(4) and 31(5) of the Localism Act 2011 ('the Localism Act'), enabling Members with a beneficial interest in land within the administrative area of Hampshire County Council to participate and vote in County Council business when issues relating to the setting of Council Tax or Precepts are considered.
- 1.2. This report also seeks 'for the avoidance of doubt' a general dispensation for all Members and Co-opted Members of the County Council exempting them from the restrictions imposed by Section 31(4), 31(5), 31(6), 31(7) and 31(8) of the Localism Act in order to enable Members and Co-opted Members of the County Council in receipt of an allowance under the County Council's Members' Allowances Scheme or Members' Allowances Scheme of another relevant authority to participate in County Council business.

2. Contextual information

- 2.1. Part 7 of the Localism Act, Sections 26 – 37 introduce revised arrangements in respect of the Members' Code of Conduct, and the Registration and Disclosure of Members' Interests.
- 2.2. Section 31(4) of the Localism Act provides that where a Member or Co-opted Member of the County Council has a Disclosable Pecuniary Interest ('DPI') in a matter under consideration such Member may not:
 - 2.2.1 Participate, or participate further, in any discussion of the matter at the meeting, or

2.2.2 Participate in any vote, or further vote, taken on the matter at the meeting.

By virtue of Section 31(5) to 31(8) of the Localism Act such provisions are extended to meetings and decisions made by the Executive pursuant to Executive Arrangements.

- 2.3. Regulations have now been made by the Secretary of State setting out matters constituting a DPI. Included within the list of DPI's which Members are required to register is any beneficial interest in land within the administrative area of the County Council where a Member or co-opted Member owns or rents and/or whose spouse or civil partner or person with whom they are living as such owns or rents. It is considered that this provision could apply to all Members of the County Council.
- 2.4. Similarly Members are required under the Regulations to disclose as a DPI 'any employment, office, trade, profession or vocation carried on for profit or gain'. Consideration has been given as to whether 'office' would include membership of the County Council or other relevant authority in consequence of payments made to Members and Co-opted Members' of the County Council under the Hampshire County Council Members Allowances Scheme or Members' Allowances Scheme of another relevant authority. The view of the Monitoring Officer is that whilst Members hold public office, such office is not carried out for profit or gain for the purposes of the Regulations, the receipt of an allowance being compensatory (relating to time spent and expenses incurred) and therefore not 'carried out for profit or gain'. On this basis it is considered that Members Allowances do not constitute a DPI under the Localism Act, and the fact that a Member or Co-opted Member of the County Council is in receipt of an allowance does not prevent such Member from participating in the business of the County Council. This advice is supported by Leading Counsel's opinion.
- 2.5. Section 33 of the Localism Act provides that the County Council may grant a dispensation relieving Members and Co-opted Members of the County Council from either or both of the restrictions set out in the Localism Act referred to at Paragraph 2.2 of this report. This function was delegated to the Conduct Advisory Panel by the County Council at its meeting on 17 May 2012.
- 2.6. The Conduct Advisory Panel may grant a dispensation under Section 33 of the Localism Act if, having regard to all the circumstances, it considers that without the dispensation the number of Members participating in any particular business would be so great a proportion of the body transacting the business so as to impede transaction of the business. A dispensation granted under this Section must specify the period for which it has effect not exceeding four years.
- 2.7. It is considered that if a dispensation were not granted then any Member with a beneficial interest in land within the administrative area of Hampshire County Council would be prevented from taking part in business relating to the setting of County Tax and precepts. Clearly the proportion of Members

with a DPI would be so great a proportion of any body of Members considering such matter so as to impede the transaction of the business.

- 2.8. Members may, notwithstanding the view of the Monitoring Officer and Leading Counsel that the receipt of an allowance under the Members' Allowances Scheme does not constitute a DPI, consider that a dispensation may be granted 'for the avoidance of doubt', so that there is no question that Members and Co-opted Members of the County Council may not participate or vote on County Council business.

3. Recommendation

It is recommended that the Conduct Advisory Panel, grants the following dispensations under Section 33(2)(a) of the Localism Act:

- 3.1. A dispensation expiring on 30 September 2016 to all Members of the County Council from the provisions of Section 31(4)(a) and (b) of the Localism Act enabling all Members of the County Council to participate and vote in any business of the County Council relating to the setting of the Council Tax or Precepts.
- 3.2. A dispensation expiring on 30 September 2016 to all Members of the County Council in receipt of an allowance under the Hampshire County Council Members' Allowances Scheme or Members' Allowances Scheme of another relevant authority from the provisions of Section 31(4)(a) and (b) of the Localism Act enabling all Members and Co-opted Members of the County Council to participate and vote in any business of the County Council.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because of the requirements of the Localism Act 2011, and for the good governance of the County Council.

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
None		
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	
Localism Act	2011	
Relevant Authorities (Disclosable Pecuniary Interests) Regulations	2012	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

Not Applicable

2. Impact on Crime and Disorder:

Not Applicable

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

Not Applicable

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Not Applicable