

LOCALISM ACT 2011 DISPENSATIONS

Council – 1 December 2016

Report Author	Monitoring Officer
Portfolio Holder	Cllr Crow-Brown
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	All

Executive Summary:

The Monitoring Officer has received written requests for dispensations under section 33 of the Localism Act 2011 in respect of the setting of Council Tax, Members' allowances, payments or indemnities, housing and ceremonial honours and other matters.

Council is therefore requested to approve the requested dispensations through a general consent.

It is also recommended that the Council delegate to the Monitoring Officer, authority to deal with urgent dispensation requests.

Recommendation(s):

1. That (subject to a written request being received) the Council approve a general dispensation for elected and co-opted Members of Thanet District Council to speak and vote on the following items:

- Setting the Council Tax under the Local Government and Finance Act 1992 (or any subsequent legislation);
- Any allowance, payment or indemnity given to Members;
- Any Ceremonial Honours given to Members;
- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
- Housing, where they are a tenant of the council or East Kent Housing provided that those functions do not relate particularly to their tenancy or lease.
- Universal Credit where the member (or spouse or partner) directly receives Universal Credit in relation to their own circumstances

The grounds for the dispensation are described in Sections 33(2) (a), (b) and (c) of the Localism Act 2011 as described in section 1.1 of the report.

2. The dispensation referred to at 1) above be valid until the Annual Council meeting in 2019. Thereafter the grant of dispensations be considered at each Annual Council meeting following council elections.

3. The Council delegate authority to the Monitoring Officer to grant dispensations under section 33 of the Localism Act 2011 if the Monitoring Officer considers that it is urgent and cannot be considered in time for the next ordinary meeting of the Standards Committee.

CORPORATE IMPLICATIONS									
Financial and Value for Money	There are no financial implications arising from this report.								
Legal	(a) The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations. (b) The Council has delegated power to the Standards Committee to grant dispensations.								
Corporate	The Code of Conduct forms the bedrock of the standards regime for Members and aims to ensure that ethical behaviour and governance of the highest order is maintained as this contributes to open, transparent and fair decision making.								
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table border="1"> <thead> <tr> <th colspan="2">Please indicate which aim is relevant to the report.</th> </tr> </thead> <tbody> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td>✓</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td>✓</td> </tr> </tbody> </table> <p>By allowing dispensations on the issues mentioned within the report, this report ensures the widest participation of Members in debate and discussion of items at Council meetings.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓	Foster good relations between people who share a protected characteristic and people who do not share it.	✓
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CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	

1.0 General Dispensations

- 1.1 The Localism Act 2011 prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest, unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing to the Monitoring Officer and dispensations may be sought for a period of up to four years. Dispensations may be sought on the following grounds under section 33(2):

- (a) That so many Members of the decision making body have a disclosable pecuniary interest in a matter that the business of the meeting would be impeded;
- (b) Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote;
- (c) The dispensation is in the interests of persons living in the area;
- (d) No Member of Cabinet would be able to participate on the matter without a dispensation;
- (e) It is otherwise appropriate to grant a dispensation.

1.2 The previous 'national' Code of Conduct for Members had general exemptions relating to a Member's interest in housing, allowances and council tax. These exemptions were not repeated in the Localism Act 2011. Government Ministers have in the past provided assurance that general dispensations were not required under the new regime. However I consider it prudent in addition to provide general dispensations to Members as a 'belt and braces' approach.

1.3 In order to protect Members it is recommended that a General Dispensation is granted to all Members to speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:

- Setting the Council Tax under the Local Government and Finance Act 1992 (or any subsequent legislation);
- Any allowance, payment or indemnity given to Members;
- Any Ceremonial Honours given to Members;
- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
- Housing, where they are a tenant of the council or East Kent Housing provided that those functions do not relate particularly to their tenancy or lease.
- Universal Credit where the member (or spouse or partner) directly receives Universal Credit in relation to their own circumstances.

1.4 It should be noted that under Section 106 of the Local Government Finance Act 1992 there is a caveat that any Member who is 2 months (or more) in arrears with their Council Tax payments cannot participate in any Council meeting concerning the budget. In the event that any Members were affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail and any dispensation granted under this report would not apply.

2.0 Delegation of Dispensations

2.1 Council has delegated the power to grant dispensations to the Standards Committee. This ensures full Member scrutiny and allows for the decision on dispensations to be taken publicly. However there may be occasions when a conflict may be discovered immediately prior to or at a meeting and adjourning the meeting due to it not being quorate would be inconvenient and result in delay.

2.2 In order to guard against this situation arising, it would be useful to delegate urgency powers to the Monitoring Officer in order to allow him or her to grant a dispensation. To ensure that the public element of the decision is preserved, it is suggested that the Monitoring Officer report any use of this power to the next full meeting of the

Standards Committee.

Contact Officer:	Monitoring Officer Timothy Howes
Reporting to:	Chief Executive Madeline Homer

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation

Finance	Matthew Sanham, Corporate Finance Manager (Service Support)
Legal	Tim Howes, Director of Corporate Governance and Monitoring Officer