



CORPORATE GOVERNANCE COMMITTEE – 20 MAY 2024

DISPENSATION FOR ELECTED MEMBERS

REPORT OF THE DIRECTOR OF LAW AND GOVERNANCE

Purpose of the Report

1. The purpose of this report is to seek a dispensation for all elected members allowing them to take part in any discussion and vote on any matter relating to the office they hold at the County Council, for which they receive an allowance, or any office held outside the County Council, to which they have been appointed by the County Council and for which they also receive an allowance.
2. Further, the report seeks approval of a form that has been developed to enable members to submit a request for a dispensation for a matter not covered by the dispensations outlined above.

Policy Framework and Previous Decisions

3. The Corporate Governance Committee has the function of granting dispensations to county councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct. This is set out in Article 9 of the County Council's Constitution.
4. On 29 September 2012, the Corporate Governance Committee delegated power to the Director of Law and Governance, after consultation with the Chairman and Spokesmen of the Corporate Governance Committee, to grant dispensations to members in accordance with legislation in force from time to time.
5. Given that the dispensation requested in this report is for all members of the County Council, the Director has chosen not to use her delegated powers but to seek approval from the Corporate Governance Committee instead.

Background

6. The Members' Code of Conduct, Part 5A of the Constitution, was approved by the County Council in December 2021. The Code of Conduct requires elected members to notify the Monitoring Officer of

their disclosable pecuniary interests so that they can be entered into the Register of Interests. Furthermore, members must not take part in any decision in which they have a disclosable pecuniary interest. One of the categories of disclosable pecuniary interest is “any employment, office, trade, profession or vocation carried on for profit or gain”.

7. There is legal uncertainty as to whether receipt of an allowance paid by the Council may amount to a disclosable pecuniary interest when considering council business. A number of local authorities have obtained legal opinion from differing Kings Counsel and those opinions are split. In the circumstances, a number of local authorities have advised their members to err on the side of caution, as a failure to declare a pecuniary interest may amount to a criminal offence.
8. Some commentators suggest that councils could consider granting “standing dispensations’ for the whole of the member’s term of office for certain recurring items of council business where it is foreseen that one of the grounds for granting a dispensation set out in the Act will be met.” This could include for example a dispensation relating to the payment of member allowances.

Dispensation Process

9. Section 31(4) of the Localism Act 2011 sets out that where a Member is present at a meeting of the authority and has a disclosable pecuniary interest in any matter to be considered, they may not:
 - (i) Participate, or participate further, in any discussion of the matter at the meeting, or
 - (ii) Participate in any vote, or further vote, taken on the matter at the meeting.
 - (iii) If a Member fails to comply with these requirements, they would potentially commit a criminal offence.
10. Section 33 of the Localism Act clarifies that a relevant authority may, following a written request made to the proper officer by the Members concerned, grant a dispensation relieving the Members from either or both of the restrictions set out in Section 31(4).
11. A relevant authority may grant a dispensation only if, after having had regard to all relevant circumstances, the authority:
 - (a) considers that without the dispensation the number of persons prohibited by section 31(4) 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,

- (b) considers that 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,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
12. A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
 13. It is suggested that the Corporate Governance Committee grant a dispensation for a period of one year, i.e., for the period up to the County Council election in 2025. A further report can then be submitted to the Corporate Governance Committee seeking a four year dispensation, i.e., for the life of the next Council.
 14. Currently, the County Council has no clear process in place to enable a dispensation to be granted. It is therefore proposed that the form, attached as Appendix A to this report, be made available to members via the Elected Member Portal so that they can, in future, submit requests for dispensations with ease.

Resource Implications

15. There are no resource implications arising from the proposals set out in this report.

Recommendations

16. It is recommended that the Committee:
 - (a) Grants a dispensation for a period of one year to all members of the County Council in relation to considering and voting on any matter as a result of an interest that may arise due to receiving an allowance from the County Council;
 - (b) Approves the form for future requests for dispensations.

Background Papers

The Constitution of Leicestershire County Council.

Circulation under the Local Issues Alert Procedure

17. None

Equality Implications/Other Impact Assessments

18. There are no equality implications arising from the recommendations in this report.

Human Right Implications

19. There are no human rights implications arising from the recommendations in this report.

List of Appendices

Appendix A – Dispensation Request Form

Officers to Contact

Lauren Haslam
Director of Law and Governance
Tel:
Email: lauren.haslam@leics.gov.uk

Rosemary Whitelaw
Head of Democratic Services
Tel: 0116 305 6098
Email: rosemary.whitelaw@leics.gov.uk

Appendix A

Leicestershire County Council Dispensation Request Form

Please give full details of the following in support of your application for dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	
Decision-making body in respect of which you require a dispensation	
Details of your membership of that body (i.e., chairman)	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to four years) for which dispensation is sought.	
Dispensation requested to participate, or participate further, in any discussion of that business by that body.	Yes/No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes/No

<p>Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary).</p> <p><i>See the extract from the Localism Act overleaf</i></p>	
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Signed:Dated:

Please send your completed form to:

The Director of Law and Governance
 Leicestershire County Council
 County Hall
 Glenfield
 Leicester
 LE3 8RA

or by email to: lauren.haslam@leics.gov.uk

Wherever possible, you will receive notification of the Monitoring Officer's decision within 2 working days of the decision.

Extract from Localism Act 2011**33 Dispensations from section 31(4)**

- (1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
- (2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—
 - (a) considers that without the dispensation the number of persons prohibited by section 31(4) 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,
 - (b) considers that 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,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

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