
Subject:	REQUEST FOR DISPENSATIONS
Meeting and Date:	Standards Committee – 15 July 2015
Report of:	Director of Governance
Classification:	UNRESTRICTED

Purpose of the report: To consider whether to grant dispensations to Councillors P S Le Chevalier and S M Le Chevalier to relieve them from the restriction contained within Section 31(4) of the Localism Act 2011 and Paragraph 5 of the Code of Conduct (participation in discussions and voting).

Recommendation: To grant the dispensations for Councillors P S Le Chevalier and S M Le Chevalier with immediate effect in the form attached at Appendix 1 of this report.

1. Summary

1.1 Councillors P S Le Chevalier and S M Le Chevalier have submitted requests to the Standards Committee for the granting of dispensations relieving members from both of the restriction contained in section 31(4) of the Localism Act 2011 and paragraph 5 of the Council's Code of Conduct for members (participation in discussions and voting).

2. Introduction and Background

2.1 Although there is no case law on the point, guidance from the Department of Communities and Local Government and legal opinion is supportive of the proposition that the Localism Act does not require Members to declare their own office as a District Councillor and indeed, this position is now widely accepted. There is no such consensus with regard to the position of spouses and therefore this remains a grey area. In these circumstances the two councillors have decided to put the matter beyond doubt and seek dispensations.

2.2 The effect of the dispositions (if granted) would be to enable the two Councillors to participate and vote in matters relating to the Members' Allowances Scheme on the same basis as the other 43 Members of the Council.

2.3 Section 33(2) of the Localism Act provides that an authority may grant a dispensation only if, having regard to all of the 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.

2.4 A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

3. Identification of Options

3.1 Option 1: To grant the dispensations with immediate effect to Councillor P S Le Chevalier and S M Le Chevalier to relieve them from the restriction contained within Section 31(4) of the Localism Act 2011 and Paragraph 5 of the Code of Conduct (participation in discussions and voting).

3.2 Option 2: To not grant the dispensations to one or both councillors.

3.3 Option 3: To grant the dispensation for a different duration or on a different basis from that recommended by the Monitoring Officer.

4. Evaluation of Options

4.1 It is the view of the monitoring officer that given the nature of the DPI's, the limited the effect of the dispensations, the fact that they would only put the two members in the same position as the other 43 members of the Council and the uncertainty over whether the interests even amount to DPI's in the first place, the dispensations can be granted under paragraph (e) above. Further, that the grant of the dispensations would not be inconsistent with the duty of the authority to promote and maintain high standards of conduct by members.

4.2 If members decide to grant the dispensations it is recommended that they have immediate effect and that they remain in effect for the remainder of the councillor's current terms of office as district councillors, unless revoked by the Council before then.

4.3 If granted it is recommended that the dispensations be granted in the form attached at Appendix 1 to this report.

5. Resource Implications

There are no resource implications.

6. Appendices

Appendix 1 – Dispensation Form

7. Background Papers

Dover District Council's Code of Conduct

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