



REPORT of MONITORING OFFICER

to
JOINT STANDARDS COMMITTEE
19 OCTOBER 2017

COUNCILLOR CODE OF CONDUCT – REQUEST FOR DISPENSATION

1. PURPOSE OF THE REPORT

- 1.1 To consider a request from Councillor M S Heard for a dispensation to enable him to participate in meetings where he has a particular Disclosable Pecuniary Interest. This matter is for decision by the Committee.

2. RECOMMENDATION

- 2.1 The Committee is recommended to decline the request for a dispensation.

3. SUMMARY OF KEY ISSUES

- 3.1 The Local Code of Conduct for Councillors provides that where a Councillor has a Disclosable Pecuniary Interest in a matter under consideration at a meeting he/she shall disclose it and must not participate or vote. Further, the Councillor must withdraw from the meeting unless a dispensation has been received.
- 3.2 Councillor Heard has written to the Chief Executive requesting a dispensation to enable him to attend and participate in meetings of the Overview and Scrutiny Committee operating as the Crime and Disorder Committee. His letter is attached as **APPENDIX 1**.
- 3.3 The Localism Act 2011 provides for the Council to grant dispensations in limited circumstances to enable Members to participate and vote on matters in which they have Disclosable Pecuniary Interests. A dispensation, if granted, would allow the Member with a Disclosable Pecuniary Interest to participate in discussions and vote on such matters. The wording of the relevant section of the Localism Act 2011 is as follows:

Section 33(2)

A relevant authority may grant a dispensation under this section only if, after having regard to all the 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.

3.4 While Councillor Heard disputes that he has a Disclosable Pecuniary Interest, or the nature of it, he has been advised by or on behalf of the Monitoring Officer that it is considered that he does have a Disclosable Pecuniary Interest. In considering his request against the circumstances set out above, it is clear that items (a), (b) and (d) do not apply. This leaves the request to be considered against grounds (c) and (e).

3.5 It is clear that Councillor Heard, in common with other Councillors, has a particular interest in policing and police performance and wishes to further that through the Overview and Scrutiny Committee acting as the Crime and Disorder Committee. If he were unable to act as he would wish and not obtain a dispensation, then in terms of ground (c) it is necessary to assess whether a dispensation to him is in the interests of persons living in the area. In this context, there is no case to be made to satisfy the need to represent a particular Ward issue since there is another Ward Member and other Ward Members for Maldon and an arrangement could be made for another Member to raise questions on behalf of the conflicted Member. Ground (c) ought to be seen as perhaps applicable to all or a number of Councillors.

3.6 This then leaves ground (e) and whether it is otherwise appropriate to grant a dispensation. Councillor Heard supports his request by drawing attention to his experience that puts him in a good position to contribute towards the efficient and effective conduct of Council business on this subject. The view can be taken that since the majority of policing matters generally are for scrutiny there is little that is strictly business to be transacted in the normal way. While there may be a case for any Member to be granted a dispensation on a specific matter under consideration at a particular time, to grant a dispensation on this request which of its nature is quite wide could set a precedent for other similar requests. As the Local Government Act 2000 states, dispensations may only be granted in limited circumstances and the Committee is advised that it should look most critically at any such request in the light of the applicable grounds.

3.7 This matter has been looked at from a legal perspective and, given the comments set out above, the conclusion of the Monitoring Officer is that the request for a dispensation should be declined.

4. IMPACT ON CORPORATE GOALS

4.1 Although somewhat indirectly, this matter is connected with the decision making processes of the Council, is in part a matter of compliance with the law and is also

linked to high level outcomes associated with the corporate goal of delivering good quality, cost effective and valued services in a transparent way.

5. IMPLICATIONS

- (i) **Impact on Customers** – It is right and proper that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council's procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – None identified.
- (v) **Impact on Resources (human)** – None identified.
- (vi) **Impact on the Environment** – None identified.

Background Papers: None.

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