

Cumberland Shadow Scrutiny Committee

Meeting on 23 January 2023

CODE OF CONDUCT: DISPENSATIONS

Report from:	Monitoring Officer
Report Author:	Clare Liddle
Wards:	Not Applicable
Key Decision:	Not Applicable

1.0 Purpose/Summary of report

- 1.1 The purpose of the Report is to ask the Shadow Standards Committee to grant Dispensations pursuant to section 33 of the Localism Act so that Shadow Councillors are able to participate in the setting of Council Tax and also make representations to Meetings when they have a disclosable pecuniary interest, providing the public have a similar such right to make representations.

2.0 Recommendation

- 2.1 In accordance with Section 33 of the Localism Act 2011, that the Shadow Standards Committee grants a dispensation for the remainder of the shadow period to each Councillor of the Shadow Authority of the Cumberland Council who has submitted a written request:
- a. When the business of the Meeting relates to setting the Council Tax under the Local Government Finance Act 1992 (or any subsequent legislation) and where they, (or their spouse/civil partner, etc.) have a disclosable pecuniary interest as a result of property interests within the Cumberland District (including owning or renting a home within the district);
 - b. Where a Councillor has Disclosable Pecuniary Interest in any business of the Council to allow them to attend a Meeting but only for the purpose of making representations, answering questions or giving evidence in relation to the business

provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations have been made, the Councillor must leave the room as required by Standing Order 21.3 of the Shadow Authority for Cumberland Council's Procedure Rules.

3.0 Background and Proposals

- 3.1 Under the provisions of the Localism Act 2011 ("the Act"), councils must make appropriate arrangements for standards of Councillor behaviour. The provisions of the Localism Act 2011 require that where a Councillor has a disclosable pecuniary interest in any matter to be considered at a Meeting, the Councillor may only participate in the discussion and voting at that Meeting if a dispensation has been granted under Section 33 of the Act.
- 3.2 Section 33 provides that the Council may, on receiving a written request, made to the proper officer (the Monitoring Officer), by a Councillor, grant a dispensation relieving the Councillor from either or both of the restrictions on participating in discussions or voting at a meeting.
- 3.3 The Council may only grant a dispensation under section 33 if, after having regard to the relevant circumstances, it considers:
 - (a) that without the dispensation the number of persons prohibited 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) 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) 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, 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) that it is otherwise appropriate to grant a dispensation.

- 3.4 A dispensation must specify the period for which it has effect and this period must not exceed four years.
- 3.5 Attached to this report is a copy of a letter which will be signed and returned to the Monitoring Officer by each of the 46 Councillors of the Shadow Authority for Cumberland who request a dispensation. The letter is self-explanatory and each Councillor effectively requests a dispensation for the setting the Council Tax when they have a DPI by virtue of a property interest within the Cumberland District and secondly, in circumstances when they have a DPI, to allow them to attend a Meeting to make representations, answer questions or give evidence in relation to the business being transacted providing that the public have the right to attend for that purpose.
- 3.6 In relation to the setting of the Council Tax, members of the Shadow Standards Committee may consider that the criterion specified in paragraph 3.3(a), (c), (d) and/or (e) are appropriate.
- 3.7 In relation to the ability to make representations to Meetings, members may consider that criteria 3.3(e) is appropriate.

4.0 PROPOSALS

- 4.1 That the Shadow Standards Committee grant Councillors the dispensations detailed above for the reasons specified.

5.0 CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 5.1 It is important that the Council is able to properly conduct its business and that Members are able to represent the communities that they have been elected to represent. Further, it is important that Members are not disenfranchised in terms of being less able to make representations to Meetings of the Council than are members of the Public.

6.0 CONTRIBUTION TO THE CUMBERLAND PLAN PRIORITIES

- 6.1 The setting of the Council's Council Tax and Budget is an important part of delivering the priorities.

Contact Officer:

Clare Liddle, Monitoring Officer, clare.liddle@cumberland.gov.uk

Appendices attached to report:

Specimen Letter requesting dispensation.

In compliance with Section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

CORPORATE IMPLICATIONS/RISKS:

Financial, Resources and Procurement:

None

Human Resources:

None

Legal:

The Report has been written by the Monitoring Officer. To comply with the law and be able to participate in Meetings, Councillors should have the Dispensations specified within this Report.

Health and Sustainability Impact Assessment

None

Equality and Diversity

None

Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Specimen Letter requesting Dispensation



**Civic Centre
Rickergate
Carlisle
Cumbria CA3 8QG
Telephone (01228) 817200
cumberland.gov.uk**

Member of the Shadow Authority
for Cumberland

DATE

Dear Councillor

CODE OF CONDUCT – DISPENSATIONS: Budget Process

Under the Council's code of conduct regime, the provisions of the Localism Act 2011 require that where a member has a disclosable pecuniary interest in any matter to be considered at a meeting, the member may only participate in the discussion and voting at that meeting if a dispensation has been granted under Section 33 of the Act. It is arguable that Council Tax comes within the definition of disclosable pecuniary interest and as such the rules would have an impact on elected members' ability to participate in the budget process. It is sensible to address any possible issue via the dispensation route.

A dispensation may only be granted on the written request of a Councillor. The granting of dispensations falls either to myself or the Shadow Standards Committee, and a dispensation may be granted for a period of up to four years. The circumstances in which a dispensation may be granted are wide, and include where the number of councillors prohibited from participating would impede the transaction of the business, or where the grant of a dispensation is in the interests of persons living in the council's area, or is otherwise considered to be appropriate.

Disclosable pecuniary interests relate mainly to your (and your spouse/partner's) employment, property interests and shareholdings and the circumstances in which you will have a disclosable pecuniary interest in an item of business being considered at a meeting are limited. However, as your property interests will give rise to a Council Tax liability, it could be that when the council tax is being set, the majority of members will have a disclosable pecuniary interest. On that basis, to ensure that Council is able to make the necessary decisions, I recommend that all councillors whose property interests make them liable for Council Tax should apply for a dispensation to enable them to participate and vote on matters relating to the setting of the Council Tax.

This would ensure that no Councillor inadvertently breaches the statutory requirements with regard to disclosable pecuniary interests.

The Council's Procedure Rules ensure Members have a right to speak when members of the public also have such a right to speak. Accordingly, it is also appropriate to obtain a dispensation to make sure that there is no argument about your ability to do this.

I enclose a document to enable you to make a written request for a dispensation on the two points described, as required by the Localism Act 2011. I should be grateful if you would please complete the request (by signing and dating the proforma letter) and return it Rachel Plant, Democratic Services Manager, Civic Centre, Carlisle, CA3 8QG as soon as possible. Please note that Council Tax is due to be considered at the meeting of the Shadow Authority on 26th January and, in order that you may take part, you should return your letter before then.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Thaddeus'.

Monitoring Officer

To:

Clare Liddle
Monitoring Officer
Shadow Authority for Cumberland
Civic Centre
Carlisle
CA3 8QG

January 2023

Dear Mrs Liddle

Code of Conduct - Dispensation Request

Please accept this letter as my request for a dispensation under Section 33 of the Localism Act 2011 from the restrictions in Section 31(4)(a) and (b) of that Act, to enable me to participate in any discussions or votes at any meeting in respect of the matters detailed in (1) below and to make representations in respect of matters detailed in (2):

1. Setting the Council Tax under the Local Government Finance Act 1992 or any subsequent legislation where I (or my spouse/civil partner, etc.) have a disclosable pecuniary interest as a result of property interests within the Cumberland District (including owning or renting a home within the district);
2. Where I have a Disclosable Pecuniary Interest in any business of the Council, to allow me to attend a Meeting but only for the purpose of making representations, answering questions or giving evidence in relation to that business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations have been made I will leave the room as required by Rule 21.3 of the Council's Procedure Rules.

Yours sincerely

.....
Signature

.....
Print Name

Dated: