

**Committee:** Audit and Standards Committee

**Date:** Thursday 26  
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**Title:** Dispensation Protocol

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**Portfolio Holder:** N/A

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## Summary

1. The purpose of this report is to consider a formal protocol with respect to Councillor applications for dispensation.

## Recommendations

2. The Committee is recommended to:

Approve the protocol (Appendix A) and incorporate it into the Council's constitution.

## Reasons

3. The Council is responsible for determining requests for a dispensation by a councillor under s.33 of the Localism Act 2011. The council may grant a dispensation to an elected or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.
4. A protocol provides clarity to the process.

## Financial Implications

5. There is no specific resource allocation to support the Member Code of Conduct function. Costs are usually met from existing service budget.

## Background Papers

6. Draft Protocol and application.

## Impact

Communication/Consultation	None as in compliance with best practice guidance and the Committee's terms of reference.
Community Safety	None
Equalities	<p>In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.</p> <p>No formal Equality Impact Assessment is required in this matter.</p>
Health and Safety	None
Human Rights/Legal Implications	<p>Section 31(4) of the Localism Act 2011 states that dispensations may allow the member to:</p> <p>(a) participate, or participate further, in any discussion of the matter at the meeting(s); and/or</p> <p>(b) participate in any vote, or further vote, taken on the matter at the meeting(s)</p> <p>If a dispensation is granted, the member may remain in the room where the meeting considering the business is being held.</p> <p>The Council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles.</p>
Sustainability	N/A
Ward-specific impacts	N/A

Workforce/Workplace	The officer involvement required to comply with these obligations are factored into service plans and work plans.
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## Situation

7. In certain circumstances, members may be granted a dispensation that enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or a close Personal Interest. Provided members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.
8. Section 31(4) of the Localism Act 2011 states that dispensations may allow the member to:
  - (a) participate, or participate further, in any discussion of the matter at the meeting(s); and/or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting(s)
9. If a dispensation is granted, the member may remain in the room where the meeting considering the business is being held.
10. Introducing a formal protocol provides guidance explaining:
  - (a) The purpose and effect of dispensations
  - (b) The procedure for requesting dispensations
  - (c) The criteria applied in determining dispensation requests
  - (d) The terms of dispensations
11. Until a dispensation is granted, a member may not participate in the consideration of the matter before the council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.
12. A member may also have a close Personal Interest under the Member Code of Conduct and should also use this same procedure to request a dispensation in respect of that interest.
13. A protocol seeks to promote standards and transparency and ensures that applications are dealt with pursuant to such published procedure in a fair and even-handed manner.

## Risk Analysis

14.

Risk	Likelihood	Impact	Mitigating actions
There are significant risks to the council's reputation in terms of compliance with its legal duties and community leadership if any inappropriate behaviours within its sphere of influence are not robustly addressed.			

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.