

Bolsover District Council

Standards Committee on 4th November 2024

Delegation of the Decision to Grant Dispensations

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is public
Report By	Jim Fieldsend Director of Governance and Monitoring Officer

PURPOSE/SUMMARY OF REPORT

For Standards Committee to consider a proposal to delegate the power to grant dispensations for Members to speak and vote in committees when they have a declarable interest.

REPORT DETAILS

1. Background

- 1.1 At its meeting on 2nd September 2024 Standards Committee considered a proposal to grant delegated powers to the Director of Governance and Legal Services & Monitoring Officer (“Monitoring Officer”) to grant dispensations for Members to speak and vote in committees when they have declarable interests. A copy of the report to the September meeting is attached at Appendix 1.
- 1.2 At the meeting Members were not prepared to grant power to the Monitoring Officer. Instead, Members asked that the Monitoring Officer undertook a benchmarking exercise and to report back to the next meeting of the Committee.
- 1.3 The Monitoring Officer has written to other monitoring officers in Derbyshire and received 4 responses:
 - “it is delegated to the MO in my authority. Our Standards and Appeals Committee only meet twice a year, so it is not practicable to refer these decisions to them. Also, what if the issue would also exclude the majority of the S & A committee and they weren’t quorate, who would decide. I think best to sit with you”;
 - “Easier said than said done I know, but I would avoid delegated powers to determine these matters if you can. In my view, it would undermine the declaration of interests process if a Member could ask the MO at a

meeting for a dispensation from the rules, and put the MO in a difficult position”;

- “I have some delegations whilst some others are reserved to the Committee.

I am able to grant dispensations under Section 33 (2) (a) (b) and (d) of the Localism Act 2011 with the Standards Committee retaining those areas as detailed in (c) and (e)”.

To clarify the specific grounds in Section 33(2) of the Localism Act 2011 are as follows:

Section 33(2) (a) - 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;

Section 33(2)(b) - 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;

Section 33(2)(c) - the dispensation is in the interests of persons living in the authority's area;

Section 33(2)(d) - each member of the authority's executive would be prohibited

Section 33(2)(e) - it is otherwise appropriate to do so.

- “I granted a number of members a dispensation at a recent meeting, which I am able to do under my Council’s Constitution”. On inspection of the Constitution the power to grant dispensations is limited to “circumstances where so many of the councillors on that decision making body have Disclosable Pecuniary Interests (DPI) in a matter that would impede transaction of business”

- 1.4 Out of the monitoring officers who responded only one suggested he had absolute ability to grant dispensations and this was at an authority whose Standards Committee only met twice a year. Two monitoring officers did have the power but only in limited circumstance and only where the numbers of councillors who would need to leave a meeting would affect the business of the meeting. Any decision which requires a more objective view on whether a dispensation is justified is reserved for the relevant Standards Committees. This avoids the risk of undue pressure being placed on the officer with delegated powers.

2. Details of Proposal or Information

- 2.1 In light of the above it is recommended that the Monitoring Officer be given limited powers to approve the dispensations under Section 33 (2) (a) (b) and (d) of the Localism Act 2011 and that Standards Committee continue to be able to grant dispensations under Section 33(2)(c) and (e).

3. Reasons for Recommendation

- 3.1 To clarify the rules around granting dispensations to councillors where they have a relevant interest in an item to be considered.

4 Alternative Options and Reasons for Rejection

- 4.1 Not to change the rules on granting dispensations. This is rejected as the proposed changes allow for the decisions to be granted in clear situations where a dispensation is warranted.
- 4.2 To change the rules so that the Monitoring Officer can decide on all requests for a dispensation. This is rejected for the reasons set out in paragraph 1.4.

RECOMMENDATION(S) that Standard Committee:

1. Delegate the decision to consider applications for dispensations under Section 33 (2) (a) (b) and (d) of the Localism Act 2011 to the Monitoring Officer;
2. Recommend to Council that the Scheme of Delegation to Officers include a power for the Monitoring Officer "To determine all application made by Councillors under Section 33 (2) (a) (b) and (d) of the Localism Act 2011 to vote on a matter in which they have a relevant interest in accordance with part 12 of the Code of Conduct for Councillors.

IMPLICATIONS:

Finance and Risk: Yes No

Details:

None arising from this report.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

None arising from this report.

On behalf of the Solicitor to the Council

Staffing: Yes No

Details:

None arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>No</p>
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	<p>No</p>

<p>District Wards Significantly Affected</p>	<p>None</p>
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/></p>	<p>Details:</p>

<p>Links to Council Ambition: Customers, Economy and Environment.</p>
<p>Demonstrating good governance</p>

DOCUMENT INFORMATION	
Appendix No	Title
1	Standards Report, 2 nd September 2024

<p>Background Papers</p>
<p><i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i></p>