

To: **Members of the Standards Committee**

**Councillors S Bland, C Fitzsimmons,
B Maher, T McCarthy and J Walker**

Professor Steven
Broomhead
Interim Chief Executive

**(Invitations extended to Mr A Mackie, Mr M Organ and
Mr W Ravenscroft as Independent Persons)**

Town Hall
Sankey Street
Warrington
WA1 1UH

15 February 2013

Standards Committee

Monday, 125 February 2013 at 2.00pm

Room 2, Town Hall, Warrington

Agenda prepared by Louise Murtagh, Democratic Services Officer – Telephone (01925) 442111 E-mail lmurtagh@warrington.gov.uk

AGENDA

Part 1

Items open to members of the public (including the press) subject to any statutory right of exclusion.

- | | Page
Number |
|--|------------------------|
| 1. <u>Apologies for Absence</u> | |
| To record any apologies for absence received | |
| 2. <u>Code of Conduct – Declaration of Interests</u> | |
| Members are reminded of their responsibility to declare any personal or prejudicial interest they have in any item of business on the agenda no later than when the item is reached. | |
| 3. <u>Minutes</u> | 1 |
| To confirm the Minutes of the meeting of the Committee held on 10 January 2013 as a correct record. | |
| 4. <u>Requests for Dispensation - Warrington Borough Council Meeting Monday, 4 March 2013</u> | 5 |

Report of Solicitor to the Council

Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington.



STANDARDS COMMITTEE

10 JANUARY 2013

Present: S Bland, C Fitzsimmons, B Maher and T McCarthy
Also Present:—Mr A Mackie, M Organ and W Ravenscroft

ST6 Apologies for Absence

There were no apologies for absence received.

ST7 Code of Conduct

Councillors S Bland, C Fitzsimmons, B Maher and T McCarthy declared an interest in minute ST9. They were not present during the consideration of their own dispensation request.

ST8 Minutes

The Minutes of the meeting held on 25 July 2012 were agreed as a correct record and signed by the Chair.

ST9 Granting of Dispensations to Councillors

The Committee considered the report of the Solicitor to the Council that advised member that at the Council meeting of Monday, 4 March 2013, consideration of the Budget 2013/14 report was to be held. Councillors living in the borough and paying Council Tax were likely to be affected financially by the decision to set the budget and therefore the level of Council Tax.

The Localism Act prevented Members from participating in any business of the Council where they had a Disclosable Pecuniary Interest unless they had sought a dispensation under Section 33 of the Act.

Councillors had been made aware of this issue by email on 3 January 2013 and again on 17 January 2013; and had been asked to forward their written requests to Democratic Services. A list of Councillors who had made such requests was tabled at the Committee.

Councillors S Bland, C Fitzsimmons, B Maher and T McCarthy left the meeting prior to the vote being held in relation to their own dispensation requests. Councillor McCarthy took the position of Chair during consideration of Councillor Fitzsimmons' dispensation.

It was noted that of the 57 Councillors dispensation requests had been received from 30.

Decision – That the Committee

1. granted dispensations to the 30 Councillors as listed in respect of the Budget 2013/2014 report being considered at the full Council meeting of 4 March 2013

1	Axcell	16	Keane
2	Barr	17	Kennedy
3	Biggin	18	Maher
4	Bland	19	Marks
5	Bowden	20	McCarthy
6	Brinksman	21	McLaughlin
7	Carter	22	Murphy
8	Finnegan	23	O'Neill
9	Fitzsimmons	24	Parish
10	Froggatt	25	Patel
11	Gleave	26	Vobe
12	Hannon K	27	Walker J
13	Hannon M	28	Walker P
14	Hughes	29	Williams
15	Joyce	30	Woodyatt

2. requested that further correspondence be forwarded to Councillors not listed in the table above advising them of the requirement to make such a request
3. the Standards Committee meet again prior to the Council meeting of 4 March 2013 to consider any additional requests received by Councillors

ST10 Parish Council Representation on the Standards Committee

The Committee received a verbal report from the Chair regarding current Parish Council Representation on the Standards Committee.

At the Standards Committee meeting of 25 July 2012 it was resolved that the Council invite a maximum of three Parish Councillors to be co-opted as non-voting members of the Committee.

Accordingly letters were sent to the three previous parish council representatives. Responses were received as follow -

- Parish Councillor Maureen Banner was happy to join the Standards Committee as a co-opted member.
- Mr George Warburton did not stand for election as a Parish Councillor in May 2012 and was therefore ineligible.
- Parish Councillor Val Allen, although still a Parish Councillor, thanked the Council for the invitation but was unable to offer her services to the Standards Committee.

Decision – that the Committee

1. Welcomed Parish Councillor Banner's offer to join the Standards Committee as a non-voting co-opted member.

Item 3

2. Requested that correspondence be sent to Parish Council Clerks advertising the two remaining vacant positions and asking for applications from Parish Councillors

Dated.....

Signed.....

WARRINGTON BOROUGH COUNCIL

STANDARDS COMMITTEE – 25 FEBRUARY 2013

Report of the: Solicitor to the Council
Report Author: Louise Murtagh, Democratic Services Officer
Contact Details: **Email Address:** lmurtagh@warrington.gov.uk **Telephone:** 01925 442111

Ward Members: All

**TITLE OF REPORT: REQUESTS FOR DISPENSATION – WARRINGTON
BOROUGH COUNCIL MEETING MONDAY, 4 MARCH 2013**

1. PURPOSE

- 1.1 At its forthcoming meeting on Monday, 4 March 2013, the Council is to consider the Budget 2013/14 report. Councillors living in the borough and paying Council Tax are arguably affected financially by the decision to set the budget and therefore the level of Council Tax.
- 1.2 The Localism Act prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing and dispensations may be sought for a period of up to four years.
- 1.3 Dispensations were granted to 30 Councillors at the Standards Committee meeting of 10 January 2013. This additional meeting has been called to consider any further dispensation requests received after 10 January 2013

2. CONFIDENTIAL OR EXEMPT

- 2.1 This report is not confidential or exempt.

3. THE DISPENSATION PROCEDURE

- 3.1 Dispensations may be sought on the following grounds:
 - That so many Members of the decision making body have a disclosable pecuniary interest in a matter that the business of the meeting would be impeded.
 - Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote
 - The dispensation is in the interests of persons living in the area
 - It is otherwise appropriate to grant a dispensation

Agenda Item 4

3.2 The most relevant criterion for the 4 March Council meeting is that dispensations are required because the business of the meeting would be impeded if they were not granted.

4. PRACTICAL GUIDANCE

4.1 An email was sent to all members of the Council explaining the background to the dispensation issue and inviting members to confirm that they wish to apply for a dispensation. Requests were reported to the committee on 10 January 2013.

4.2 Since the last meeting of the committee, there has been some debate raised about the necessity of a dispensation in the circumstances of the Council budget meeting. This is the result of comments made by a Minister in a Westminster debate. The Minister expressed the view that it was not the intention of parliament that dispensations should be required to allow councillors to set their annual budget and Council Tax.

4.3 The view that a dispensation is required is on the basis that Council Tax is levied in relation to land and the member has registered an interest in the land. Therefore, there is a discloseable pecuniary interest as the level of Council Tax affects the value of the land and the finances of the member. This analysis was effectively confirmed under the previous statutory regime which specifically included an exemption for members when, 'setting council tax or any precept under the Local Government Finance Act 1992'.

4.4 The new regime does not provide such an exemption but does provide an obvious mechanism for a local authority's Standards Committee to provide such an exemption, (or dispensation), for all of its members where, 'so many of its members would have an interest that the business of the meeting would be impeded'. Because it was considered necessary to include an exemption in the statutory regime for the previous Code and because the new regime provides a mechanism to grant dispensations when setting the Council Tax, a large number of authorities have chosen to put in place a block dispensation to remove any, even remote, likelihood of criminal liability under the current statutory scheme. Both Cheshire authorities and Halton have all arranged a block dispensation for their members.

4.5 The debate at Westminster highlighted the Government's view that this was not the intention of parliament in establishing the new code of conduct regime and guidance from the government department encouraging authorities to take a broad purposive approach. Whatever the legal arguments on either side, it is clear that the drafting of the provisions of the Localism Act and the Discloseable Pecuniary Interests Regulations is the source of debate and difficult to interpret.

Agenda Item 4

4.6 Part of the Monitoring Officer's role is to protect member's from the possibility of inadvertently breaching the Standards regime and any criminal liability. Given the wording of the legislation and the uncertainty of the position, advice to members must remain, that to be safe, they should seek a dispensation. The Standards Committee has sought to make the process as easy as possible and a large number of members have already been granted the four year dispensation. A further number of applications for a dispensation have been received by Member Services. The Committee will therefore need to consider those applications. However, it must be recognised that ultimately, it is a matter for an individual councillor if they wish to take the risk of not seeking a dispensation when taking part in the budget Council and the setting of the Council Tax.

4.7 Additional requests received will be reported at the Committee meeting. This is in order to maximise the opportunity for Councillors to contact Democratic Services with their dispensation requests. The Committee's decision should be based upon application of the criteria described in this report. The Committee can also decide how long the dispensation should apply and this can be up to a period of 4 years.

5. **CONSULTATION**

5.1 No consultation has been undertaken upon this matter because the decision is, by virtue of statute, a matter entirely one for the Standards Committee.

6. **FINANCIAL IMPLICATIONS**

6.1 There are no financial implications arising from this report.

7. **EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

7.1 There are no immediately apparent equality issues arising from this report.

8. **RISK ASSESSMENT**

8.1 Without appropriate dispensations being made the risk to the Council is that it would be unable to deal with a matter of significance given the large number of Councillors who have a disclosable pecuniary interest in the setting of the Budget for 2013/2014

9. **REASON FOR RECOMMENDATION**

9.1 To enable the Standards Committee to discharge its obligation to consider applications for dispensation.

10. **RECOMMENDATION**

Agenda Item 4

10.1 To consider the applications for dispensations in accordance with the Localism Act 2011, Section 33 and the period that these dispensations should be applied for.

11. BACKGROUND PAPERS

11.1 None other than as identified in this report.

Contacts for Background Papers:

Name	E-mail	Telephone
Louise Murtagh	lmurtagh@warrington.gov.uk	01925 442111