



## DECISION TAKEN BY THE MONITORING OFFICER

**Dispensation to all 110 members to enable them to participate and vote at the Council budget setting meetings**

**Officer making the decision:** David Clark, Service Director – Governance, Democratic & Legal Services and Monitoring Officer

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Scott Wooldridge, Head of Governance & Democratic Services

**Date of Decision:** 1 February 2024

**Details of the decision:**

The Monitoring Officer has agreed a dispensation for all 110 councillors to enable them to fully participate at Scrutiny, Executive and Full Council meetings in debating, setting and agreeing the Council's budget 2024/25 (including setting council tax), Housing Revenue Account budget and the Members Allowances Scheme 2024/25.

**Background**

In accordance with the Localism Act 2011 and the Council's Constitution, Council members are not permitted to speak or vote on any matter being dealt with at a meeting when they have a disclosable pecuniary interest, and are required to leave the room when the matter is being discussed. Members, their spouses or partners owning or renting a property in Somerset and paying Council tax may have a disclosable pecuniary interest in any decision to agree the budget including the Council tax precept. Under the previous statutory code of conduct, decisions regarding setting the Council tax precept were excluded from the scope of the regime, but no similar provisions were made under the Localism Act 2011.

Given the importance of all 110 councillors members being able to fully participate in the meeting dealing with the Council budget, the Monitoring Officer is recommended to grant dispensations to all members who would otherwise not be able to take part as a result of these particular disclosable pecuniary interests. There are a number of statutory and locally agreed criteria that can be applied when granting a dispensation. The Monitoring Officer considers that one of the statutory criteria is particularly pertinent here, namely that the granting of the dispensation to all members is in the interests of people living in the Council's area.

In order to protect Members it is recommended that a General Dispensation is granted to all Members to be present, speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:

- Housing: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease;
- Housing Benefit: where the Councillor (or spouse or partner) directly receives housing benefit in relation to their own circumstances;
- Members Allowances: An allowance, travelling expense, payment or indemnity for Councillors;
- Council Tax: Setting the Council Tax or a Precept; and 2.4.5 Decisions in relation to Council Tax Benefit.

Members' allowances are included in this general dispensation for the avoidance of doubt and for completeness even though they are not a Disclosable Pecuniary Interest.

The Monitoring Officer has delegated authority under the Council's Scheme of Delegation (delegation 75) to grant dispensations to councillors in accordance with the Localism Act 2011.

Ordinarily an application for a dispensation is made individually by a member on written request to the Monitoring Officer. However, given that this potentially affects significant numbers of members, it is recommended that the Monitoring Officer agrees a general dispensation for all councillors for the Scrutiny, Executive and Council meetings.

It is fair to say that there have been different interpretations of these provisions in different authorities, but given that a breach of these requirements would potentially

be a criminal offence and as there is a process available to avoid any doubt, the monitoring officer has preferred to advise that the issue is managed in this way.

It is important to highlight that the proposed general dispensations for Council Tax relate to Members' disclosable pecuniary interests, and do not affect a Member's obligation under Section 106 of the Local Government Finance Act 1992 to declare and not vote if they are two months or more in arrears with their Council Tax when voting on setting the Council's budget. This section applies to any Member that has an amount of Council Tax due to be paid which has been unpaid for at least two months. If the member present at the meeting of the authority, a committee or the Executive at which Council Tax calculations or any decision which would affect the Council Tax calculations is under discussion, the Member shall, as soon as practicable after the commencement of the meeting, disclose the fact that Section 106 applies to them and shall not vote on any question in relation to these matters.

If the Member fails to comply with this requirement they may be prosecuted and, if convicted, be liable to a fine unless they can prove that they did not know that either this section applied to them at the time of the meeting or that the matter in question was the subject of consideration at the meeting.

**Reasons for proposed decision:**

To enable all 110 councillors to participate, debate and vote at Scrutiny, Executive and Council meetings to agree the Council's Annual Budget, Council Tax precepts, HRA Budget and Members Allowances Scheme 2024/25.

Without the dispensation so many members of the Council have disclosable pecuniary interests in a matter that it would impede the transaction of the business (in practice this means that the Council would be inquorate as a result).

**Alternative options considered and rejected:**

It is in the public interest for all members of the Council to be able to participate in the discussions and decision relating to the Council's budget. To ensure that all the residents of Somerset can be properly represented in this debate and decision, it is recommended that the recommended dispensations are granted.

**Implications considered:**

The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and rules on dispensations as part of the conduct arrangements.

It is a criminal offence for Members to fail to register a Disclosable Pecuniary Interest or to speak and/or vote where they have a Disclosable Pecuniary Interest unless they have obtained a dispensation.

Section 31(4) of the Localism Act provides that a member who has a disclosable pecuniary interest in any matter to be considered at a meeting may not participate in any discussion, or vote on the matter. However, by virtue of section 33, an authority may, on a written request by a member, grant a dispensation relieving the member from either or both of the restrictions in Section 31(4).

Section 33(2) provides that a dispensation may be granted where the authority:

- (a) considers 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) 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 areas, or
- (d) considers that it is otherwise appropriate to grant a dispensation.

Council has specifically delegated to the Monitoring Officer the power to grant dispensations to Councillors or co-opted members in accordance with section 33 of the Localism Act 2011.

These proposals do not adversely compromise the Council's public sector equalities duty under the 2010 Equality Act.

**Background papers:**

Localism Act 2011

Council's Constitution and Officer Scheme of Delegation

The following consultation has been completed:	Councillor	Date
Local Councillors consulted where the decision directly affects their Division	N/A	N/A
Relevant Executive Member(s) informed	Bill Revans as Leader of the Council and Liz Leyshon as Deputy Leader	1 February 2024
Opposition Spokesperson(s) informed	David Fothergill, Dave Mansell, Leigh Redman and John Hunt as Leaders of the Opposition Parties	1 February 2024

**Decision Maker**

I am aware of the details of this decision, have considered the reasons, options, representations and consultation responses (where applicable) and give my approval / agreement to its implementation.

**Signed:***Somerset Council Monitoring Officer***Name:** David Clark**Post:** Monitoring Officer**Date:** 1 February 2024