

AGENDA ITEM NO.5
CONDUCT COMMITTEE

Date	12 DECEMBER 2012
Title	DISPENSATIONS FOR COUNCIL TAX MATTERS

1. PURPOSE/SUMMARY

To make arrangements for the granting of Dispensations for the setting of Council Tax, and approval of schemes for related benefits and exemptions.

2. KEY ISSUES

- Members of the Council must declare Disclosable Pecuniary Interests in any matter which effects one of their registered interests; once declared members must leave the room.
- Failure to declare a DPI is a Criminal Offence.
- The Council has the capacity to grant Dispensations in respect of DPI's this would enable members who are granted such a dispensation to speak and or vote on a relevant matter.
- The Council has an obligation to set the Council Tax and associated benefits and reliefs each year, without the granting of relevant dispensations the Council would not be quorate and therefore the Council would fail in its statutory duties.

3. RECOMMENDATION(S)

That Authority be given to the Monitoring Officer and Deputy Monitoring Officer to grant relevant dispensations for the Setting of the Council Tax, Council Tax Benefits and Council Tax Discounts and Exemptions to enable members to Speak and Vote on such matters. Such Dispensations to be for the duration of a Councillors current term of Office.

Wards Affected	All
Forward Plan Reference No. (if applicable)	NA
Portfolio Holder(s)	
Report Originator	Ian Hunt, Chief Solicitor and Deputy Monitoring Officer
Contact Officer(s)	Rob Bridge Corporate Director and Chief Finance Officer Alan Pain, Corporate Director and Monitoring Officer Ian Hunt, Chief Solicitor and Deputy Monitoring Officer
Background Paper(s)	

1. BACKGROUND TO COUNCIL TAX, COUNCIL TAX BENEFIT AND COUNCIL TAX EXEMPTIONS AND DISCOUNTS

The Council has a statutory obligation to set the Council Tax by way of resolution at Full Council in each year. Further from April 2013 the schemes for the setting of Council Tax Benefits and the relevant regimes for the setting of Discounts and Exemptions to Council Tax also need to be determined.

As members are aware the Council Tax is set for each property within the District. This is calculated on a level set by the Council, and then apportioned according to the various Council Tax Bands to determine an individual property liability. The responsibility for paying the Council tax falls to the occupier or owner of a residential property.

Council Tax Benefit (CTB) is a means tested benefit. Unlike most other benefits, it is given as a reduction in someone's Council Tax bill, rather than being actually paid direct to them. It shares most rules about eligibility and administration with Housing Benefit (HB). These rules are prescribed by Government regulations with District Councils and Unitary Councils administering both HB and CTB locally. The amount of CTB awarded depends on:-

- Income (from wages, other benefits or a state /private pension),
- Capital (savings and other things that have financial value i.e. shares),
- Household make-up (if there are people dependent or non-dependent),
- The Council Tax payable (the basic amount, by band),
- The circumstances of another adult in the property (this is called "Second Adult Rebate").

Being on some benefits (such as Income Support, Employment and Support Allowance or Jobseekers' Allowance) can mean that a claim for CTB is not needed in its own right. In these cases, the Department for Work and Pensions (DWP) will give us information allowing an application for CTB to be made without a customer needing to complete another form.

At present, CTB is governed by legislation set by the Department for Work and Pensions (DWP). District and Unitary Councils administer it alongside Housing Benefit (HB) with some single application and administrative process. CTB when granted, it is offset against peoples' liability for Council Tax, reducing the amount they pay. CTB is currently paid out by Councils, with the cost of it being reimbursed to them by the DWP. This system allows for fluctuations in demand, so if Councils give more CTB out, the DWP will reimburse the higher costs.

From April 2013, this system is changing. CTB is being "localised". This means that there will no longer be a nationally governed CTB scheme. Councils will set their own schemes. This is part of the Government's wider policy of localisation, giving Councils increased financial autonomy and a greater stake in the economic future of their local area. At the same time as localising the scheme the Government is reducing the funding provided to Local Authorities; meaning that unless there is a reduction in the level of benefit paid there will be an additional cost to the Council.

In addition to CTB there are some prescribed reductions for Council Tax applicable in certain situations. Certain reductions are prescribed in legislation:

- Exemptions: certain types of properties that are normally empty, or occupied by students for example.
- Discounts: 25% or 50% is deducted in certain situations, such as 25% where the property only has one adult living in it.

From April 2013 the Council will have additional options for consideration in setting the Council Tax discounts and exemptions; these are detailed in the following table.

Changes to Council Tax discounts and exemptions		
Circumstance	Current Legislation	Proposed Legislation
Empty Properties	Class A exemption: Unoccupied, undergoing major repairs (exempt up to one year)	Replaced with a discount: Councils can set this between 0% and 100%
	Class C exemption: Empty and unfurnished (exempt up to six months)	
Second Homes	Discount: 10% for properties that are second homes (no time limit)	Second homes: Councils can set this between 0% and 100%
Long-term empty properties	Discount: 0-50%. We currently give 0%. For properties that are long term empty (generally over six months with no upper time limit)	Replaced with a premium:- Councils can charge an additional 50% (in effect 150% of basic Council Tax level) for properties empty over two years.

The impacts of these changes will vary based on the decisions of Council; however for individuals the impacts can be significant.

2. INTERACTION WITH DISCLOSABLE PECUNIARY INTERESTS

All councillors who own residential property have the capacity to be affected by these decisions.

The ownership of Land (which includes residential property) within the District is one of the prescribed Pecuniary Interests which must be registered by any Councillor. This includes land owned by the Councillors Spouse, Civil Partner, or Person whom they live with as a Spouse or Civil Partner.

Where at any meeting there is a matter in which the member has a relevant Pecuniary Interest they must not participate in the discussion or participate in any vote on the matter. Should any member fail to abide with this they commit a criminal offence.

In the current situation; any Councillor who occupies or owns a residential property; or has a Spouse, Civil Partner, or Person whom they live with as a Spouse or Civil Partner who does so there is a liability to pay Council Tax. Therefore in any debate as to the setting of the Council Tax they have a linked interest, and accordingly hold a DPI and can not take part in the relevant meeting.

Where a Councillor or their Spouse, Civil Partner, or Person whom they live with as a Spouse or Civil Partner is subject to the CTB framework the determination of the scheme may have a material impact on their eligibility and accordingly the Councillor would have a DPI and can not take part in the relevant meeting.

Were a Councillor or their Spouse, Civil Partner, or Person whom they live with as a Spouse or Civil Partner own a residential property which is potentially subject to one of the Council Tax discounts and or exemptions (for example a rental property which takes advantage of empty property discount during void periods) they would have a DPI and can not take part in the relevant meeting.

3. Dispensations in respect of Disclosable Pecuniary Interests

Under section 33 of the Localism Act 2011 the Council can grant dispensations to members in respect of DPI's, this function has been delegated to the Conduct Committee.

Dispensations can be granted by the Conduct Committee on one of the following grounds:

- considers that without the dispensation the number members 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,
- 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,
- considers that granting the dispensation is in the interests of persons living in the authority's area, or
- considers that it is otherwise appropriate to grant a dispensation.

It is considered that the Council is unlikely to be quorate to set the Council Tax without dispensations being granted to members.

While it is not considered that there would be an impact on the quorum of the Council in respect of either the CTB scheme or the Discounts and Exemptions it is considered appropriate to enable members to consider whether restricting members rights to speak is in the interests of the residents of the authority.

Requests for dispensations must be made by the individual member in writing to the Monitoring Officer; it is therefore recommended that the attached form (appendix A) be adopted by the Council in order to allow for the orderly requesting of dispensations and recording of their grant.

Although members must disclose whether they would have a DPI in considering the granting or not of a Dispensation framework they are not prohibited from considering the framework or committing a criminal offence by taking part further to section 33(4) of the Localism Act 2011.

4. RECOMENDATION

That the Conduct Committee considers the appropriateness of granting dispensations for the three categories of DPI set out above and sets the parameters for the issuing of dispensations.

That Authority be given to the Monitoring Officer and Deputy Monitoring Officer to grant relevant dispensations for the Setting of the Council Tax, Council Tax Benefits and Council Tax Discounts and Exemptions to enable members to Speak and Vote on such matters. Such Dispensations to be for the duration of a Councillors current term of Office.

Request for Dispensation

Council Tax Matters

I Councillor _____

Declare that I have a Disclosable Pecuniary Interest in the following matters:

The Setting of the Local Council Tax	
The Setting of a Local Council Tax Benefit Scheme	
The Setting of any Discounts or Exemptions in respect of Council	

(Please Tick)

I request that I be given a dispensation under the Localism Act 2011 to enable me to both speak and vote at all relevant meetings of the Council or its committees including Cabinet for those matters ticked above as and when relevant for the remainder of my current term of office.

Signed: _____ Dated: _____

Further to the determination of the Conduct Committee under minute XXXXX the above request for a Dispensation is GRANTED, and the above Councillor is permitted to speak and vote as requested above.

Signed: _____ Dated: _____
Monitoring Officer / Deputy Monitoring Officer