

CHESHIRE FIRE AUTHORITY

MEETING OF: GOVERNANCE AND CONSTITUTION COMMITTEE
DATE: 29TH JANUARY 2020
REPORT OF: DIRECTOR OF GOVERNANCE AND COMMISSIONING
AUTHOR: ANDREW LEADBETTER

SUBJECT: DISPENSATIONS

Purpose of Report

1. To consider the granting of dispensations that enable Members with Disclosable Pecuniary Interests to take part in debates and votes in relation to the setting of the Council Tax precept and approval of the Members' Allowance Scheme (and any changes and/or additions to it).

Recommended: That

- [1] dispensations be granted to all Members of Cheshire Fire Authority, that have requested them, to enable them to take part in debates and votes concerning the setting of the Council Tax precept, and approval of the Members' Allowance Scheme (and any changes and/or additions to it), such dispensations to be effective for four years.

Background

1. Dispensations were initially granted by the Governance and Constitution Committee on 8th February 2013. Subsequent dispensations have also been granted as membership of the Fire Authority has changed. The dispensations granted to-date have related to the setting of the Council Tax precept, and approval of the Members Allowance Scheme (and any changes and/or additions to it).
2. The Localism Act 2011 (the Act) states that dispensations must specify the period for which they have effect, which may not exceed four years. Dispensations were granted to some Members of the Authority for four years on 5th October 2016. As this period is due to expire later this year it would seem appropriate to review the position with a view to granting dispensations for another four year period covering all Members that require the benefit of the dispensations.

Information

3. In considering whether to grant dispensations Members need to consider Section 33 of the Act. A copy of the section is attached as Appendix 1 to this report.
4. Section 33(1) states that there must be a written request from a Member to the proper officer (taken to be the Monitoring Officer) for a dispensation from the restrictions contained in Section 31(4) of the Act (which prohibits participation and voting). All Members have been contacted to establish whether they wish to secure a dispensation or dispensations. A list of those Members and the dispensations sought will be provided at the meeting.
5. Section 33(2) states that a dispensation can only be granted by an Authority if, after having had regard to all relevant circumstances, it is satisfied that one of the reasons described in the Act is applicable.

Council Tax Precept

6. Members that own property within the area of the Fire Authority would appear to have a Statutory Disclosable Interest in the setting of the Council Tax precept. On disclosing such an interest, if no dispensation existed, a Member would be unable to remain in the meeting and have no opportunity to take part in the debate, nor vote.
7. As the majority of Members are likely to need to make such a disclosure at a meeting of the Fire Authority, when the Council Tax precept is to be determined, there would appear to be a likelihood that:

the transacting of business would be impeded (Section 33(2)(a);

the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business (Section 33(2)(b).

8. Accordingly, it would appear to be appropriate to grant a dispensation to the Members that have requested it.

Members' Allowance Scheme

9. All Members receive an allowance and would appear to have a Statutory Disclosable Interest in the approval of the Members' Allowance Scheme (and any changes and/or additions to it). On disclosing such an interest, if no dispensation existed, a Member would be unable to remain in the meeting and have no opportunity to take part in the debate, nor vote.
10. As all Members will need to make such a disclosure when the Members' Allowances Scheme is to be determined:

the transacting of business would be impeded (Section 33(2)(a)

11. Accordingly, it would appear to be appropriate to grant a dispensation to those Members that have requested it.

Period of Dispensations

12. The Act states that dispensations must specify the period for which they have effect, which may not exceed four years. It would seem sensible for the dispensations to be granted for the longest period possible as the situations described above for each of the dispensations is unlikely to change.

Financial Implications

13. There are no financial implications arising from this report.

Legal Implications

14. The legal implications are covered in the body of the report.

Equality and Diversity Implications

15. There are no equality and diversity implications arising from this report.

Environmental Implications

16. There are no environmental implications arising from this report.

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BACKGROUND PAPERS: NONE