

GOVERNANCE COMMITTEE**20 NOVEMBER 2012****REPORT OF MONITORING OFFICER****DISCLOSABLE PECUNIARY INTERESTS AND SETTING OF PRECEPTS FOR COUNCIL TAX****1.0 PURPOSE OF REPORT**

1.1 To advise of the implications of Disclosable Pecuniary Interests for Councillors setting council tax or a precept under the Local Government Finance Act 1992.

1.2 To recommend proposals to deal with the above issue.

2.0 RECOMMENDATIONS

2.1 **That Governance Committee approve a dispensation for all Borough Councillors to allow them to vote at Council meetings setting council tax or a precept under the Local Government Finance Act 1992.**

3.0 KEY ISSUES

3.1 The Localism Act 2011 does not specifically exempt setting precepts for Council Tax as a Disclosable Pecuniary Interest (DPI) for Councillors living in the Borough.

3.2 In this context there is legal opinion that setting the precept for Council Tax may therefore be a DPI.

3.3 The National Association of Local Councils issued last week advice which included:

‘Both the Society of Local Council Clerks (SLCC) and the National Association of Local Councils (NALC) are of the clear legal opinion that councillors **do** have a Disclosable Pecuniary Interest (DPI) when setting their councils precept.’

‘It is a criminal offence for a councillor to participate and vote on a matter in which he/she is deemed to have a DPI. A failure to comply with requirements in relation to DPIs is **not** a Standards/Code of Conduct issue, it is a criminal offence. As such it would not be something that the District/Borough councils would deal with.’

‘NALC and SLCC are of the opinion that if councillors are unsure if they have a DPI then the safest way to deal with this would be to seek a dispensation from their Parish/Town Council.’

3.4 This will have implications for principle authorities setting Council Tax precepts and therefore it will be necessary to approve dispensations for Borough Councillors to be able to deal with this matter.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 No implications for Corporate Priorities

4.2 No implications for performance

4.3 The same legislation will apply to Parish Councillors who will be required to approve their

own dispensations for precept setting.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 No direct financial implications.
- 5.2 No HR implications.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 The Localism Act 2011 applies.
- 6.2 The only body that could provide a definitive answer is the Government, and in the absence of specific guidance from Government on this issue all we can rely on is legal opinion.
- 6.3 There is no consistency of legal opinion on this matter across local government. Both the Society of Local Council Clerks (SLCC) and the National Association of Local Councils (NALC) are of the clear legal opinion that councillors **do** have a Disclosable Pecuniary Interest when setting their councils precept.

7.0 COMMUNITY SAFETY

- 7.1 No impact and/or benefit to Community Safety relating to this report.

8.0 EQUALITIES

- 8.1 No Equalities implications relating to this report.

9.0 RISKS

9.1 Probability



Very High A				
High B				
Significant C				
Low D				
Very Low E			1	
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

→
Impact

Risk No.	Description
1	No dispensation issued and Councillor challenged/ commits criminal offence.

10.0 **CLIMATE CHANGE**

10.1 No climate change implications relating to this report

11.0 **CONSULTATION**

11.1 None

12.0 **WARDS AFFECTED**

12.1 ALL

Contact Officer Angela Tebbutt, Monitoring Officer
Date: 13 November 2012

Appendices : None

Background Papers: Localism Act 2011

Reference : X : Committees\ Governance\2012 13\201112