

REPORT TO:		Standards Committee	
DATE:		Thursday, 9 December 2021	
PORTFOLIO:		Councillor Joyce Plummer - Resources	
REPORT AUTHOR:		Jane Ellis, Executive Director (Legal & Democratic Services)	
TITLE OF REPORT:		Grant of Dispensations	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	No	If yes, date of publication:	

1. **Purpose of Report**

- 1.1 To seek the granting of dispensations to a number of Hyndburn Councillors and Altham Parish Councillors, to vote on certain issues (see Section 3 of the report).

2. **Recommendations**

- 2.1 That Standards Committee considers the requests from Hyndburn Borough Council members to grant dispensations to speak and vote on the issues set out in Section 3.2 of the report.
- 2.2 That Standards Committee considers the request from Altham Parish Council members to grant dispensations to speak and vote on the issues set out in Section 3.4 of the report.

3. **Reasons for Recommendations and Background**

- 3.1 In June 2012, Hyndburn Borough Council and Altham Parish Council each adopted a new Code of Conduct following the introduction of the new standards regime under the Localism Act 2011. Unlike the previous codes, the new Codes do not expressly enable Councillors to speak and vote on a number of specific issues where a large number would have an interest, e.g. setting the Council Tax. Therefore, Standards Committee will need to consider granting dispensations on those issues where legislation does not specifically allow Hyndburn and Altham Parish Councillors to speak and vote.
- 3.2 Following the Elections in May 2021, a number of councillors were newly elected. Hyndburn Councillors Dominik Allen, Peter Britcliffe, Susan Hayes, Carole

Haythornthwaite, Michael Hindley, Sajid Mahmood, Caroline Montague and Steven Smithson have submitted individual requests for dispensations and copies of the request forms are attached at Appendix 1. The requests relate to dispensations to speak and vote on the following matters:-

- An allowance, payment or indemnity given to Members; and
- Ceremonial honours given to Members; and
- Setting Council Tax or a precept under the Local Government and Finance Act 1992 as amended from time to time or any superseding legislation
- Setting a local Council Tax reduction scheme for the purposes of the Local Government Finance Act 2012 as amended from time to time or any superseding legislation
- Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012 as amended from time to time and any superseding legislation

- 3.3 Dispensations in the above terms have previously been granted to the other 27 Hyndburn Borough Councillors and are not due to expire until either 2022, 2023 or 2024.
- 3.4 Similarly, legislation is silent on the issue of Parish Councillors being able to speak and vote on the setting of a parish precept even though most, if not all of them, could have an interest in the decision as local residents. Following a number of casual vacancies in 2021, three councillors have been co-opted by Altham Parish Council. Councillors David Murray and Robert Dexter Stubbs have applied for a dispensation to speak and vote in respect of the setting of a precept under the Local Government and Finance Act 1992 (as amended from time to time) or any superseding legislation. Copies of their forms are included within Appendix 2. Councillor Joshua Haworth has also been contacted and invited to apply and subject to the relevant signed form being returned before the meeting, this request should also be considered by the Committee. Dispensations to this effect have previously been granted to the other four serving Altham Parish Councillors and are not due to expire until either 2022 or 2024.
- 3.5 The Government takes the view that a dispensation is unnecessary in certain circumstances and that councillors do not have a disclosable pecuniary interest in decisions relating to the setting of council tax levels. The matter has not been decided by a court however and there is scope to argue that Hyndburn Borough Council and Altham Parish Councillors do potentially have a disclosable pecuniary interest when making decisions of this type, as they reside in the Borough / Parish and would be required to pay any new level of council tax or precept. However, legal grounds exist to grant the requested dispensations pursuant to the Localism Act 2011.
- 3.6 Standards Committee needs to decide whether to grant dispensations to allow each Councillor to speak and vote on the relevant issues.
- 3.7 A dispensation must specify the period for which it has effect and the period specified may not exceed four years. None of the current applicants has an existing dispensation in force as they are newly elected/appointed, so the dispensation should

commence as soon as possible. Due to the postponement of the elections in May 2020 until May 2021 and the election or co-option of some individuals as a result of in-year vacancies, it is proposed that the dispensations be granted for such periods of time so as to bring them into line with the timetable of local government elections for the seats held by the individuals concerned, i.e. for less than the maximum period allowed of four years. This will simplify the administration of future dispensation requests, by standardising the expiry dates to coincide with those of other elected members in ordinary election years. If approval is granted by the Committee to the latest dispensation requests it is proposed that the approval should cover the following periods:-

- 10th December 2021 – 15th October 2022 - Steven Smithson, Robert Dexter Stubbs, Joshua Haworth and David Murray
- 10th December 2021 – 29th November 2024 - Dominik Allen, Peter Britcliffe, Susan Hayes, Carole Haythornthwaite, Michael Hindley, Sajid Mahmood and Caroline Montague

3.8 The Committee may grant a dispensation to speak only or may grant a dispensation to speak and vote. A dispensation can be granted if the Committee is satisfied on any of the following grounds:

- The number of members prevented from speaking or voting would be so great as to “impede the transaction of business”; or
- The political balance at the relevant meeting would otherwise be sufficiently affected as to alter the likely outcome of the vote; or
- The dispensation is in the interests of people living in the area; or
- All the members of the Cabinet are affected by the interest; or it is otherwise appropriate to grant the dispensation.

4. Alternative Options considered and Reasons for Rejection

4.1 Not applicable.

5. Consultations

5.1 None required.

6. Implications

Financial implications (including any future financial commitments for the Council)	None.
Legal and human rights implications	The legal requirements are discussed in Section 3 above.
Assessment of risk	No risks identified.

Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	Not applicable.
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7. Local Government (Access to Information) Act 1985:
List of Background Papers

7.1 None.

8. Freedom of Information

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.