

CONDUCT COMMITTEE

15 JULY 2013

REPORT OF MONITORING OFFICER

A.1 REQUEST FOR A DISPENSATION

(Report prepared by Martyn Knappett and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider a request for a dispensation to be granted to Councillor Joy Broderick, under the Localism Act 2011, permitting her to participate at any Council meeting, in any discussion of, or in any vote, on a matter connected to the Clacton and Holland on Sea Coastal Defence Scheme. A separate personal statement has been received from Councillor Broderick in support of her request and forms a supplemental paper to the agenda.

EXECUTIVE SUMMARY

A request was received from Councillor Joy Broderick for a dispensation as set out above, which formed a report to Full Council on 2 July the Council, as notice had been received of a motion relating to the Defence Scheme.

The Council considered the Report, and it was resolved:

1. That the dispensation be granted for Councillor Broderick to participate in the discussion and vote at the meeting of the Council on 2 July 2013 relating to the proposed Coastal Protection Scheme for Clacton and Holland-on-Sea;
2. That the matter be referred to the Conduct Committee for urgent discussion with a view to giving a permanent exemption.

This Scheme is an important issue for the Council, which has been developed and subject to discussions and decisions over the last few months. The request from Councillor Broderick will allow her to participate in the future.

Given the scale and wide impact of the proposed works, especially for those owning property close to the site of the scheme and the Members who represent them it is considered to be in the interests of all electors that their representatives are able to participate in discussions and votes on the scheme and it is accordingly recommended that the requested dispensation be granted.

A personal statement has been received from Councillor Broderick in support of her request for a Dispensation and forms a supplemental paper to the Agenda. The Summons for the Council meeting included a Member Note, drawing attention to all Members of Agenda Item no. 4 regarding the application for a dispensation, no further requests for dispensations have been received by the Monitoring Officer.

Law

The **Localism Act 2011** places a duty on all Members to register their Discloseable Pecuniary Interests (DPIs), as specified in various categories under **The Relevant Authorities (DPI) Regulations 2012**, one of these categories relates to 'Land' and is stated as meaning "any beneficial interest in land which is within the area of the authority". Therefore, each member with an interest in land in the district should have registered a DPI.

The effect of a DPI, is that if any matter to be considered or being considered at a meeting, has a direct impact on the DPI, the Member must not participate in any discussion of, or in any vote on, the matter at the meeting. If the DPI is not already registered, the interest must also be disclosed at the meeting. The Council may grant dispensations in limited circumstances to enable Members to participate and vote on matters in which they have DPIs.

The Council may, upon receiving a written request from a member of the authority, grant a dispensation relieving the member from either or both of the restrictions in Section 31(4) of the Localism Act 2011 ("the Act"), which prohibit a member with a DPI from participating in the discussion or voting on an item directly impacting the DPI. The granting of a dispensation will allow such participation in discussions and votes to take place.

Before granting any dispensation, one of the provisions in Section 33(2) of the Act must apply and in having regard to all the relevant circumstances it is the Monitoring Officer's advice that Sub-Sections 33(2) (c) and (e) apply, in that it is considered granting the dispensation in relation to this issue is in the interests of persons living in the authority's area, or that it is otherwise appropriate to grant a dispensation.

A dispensation granted must be for a specified period for which it has effect, and the period specified may not exceed four years. Due to the proposed length of the Coastal Defence Scheme it is proposed that a dispensation should be granted for the length of the Members term of office –i.e. until 5th May 2015.

RECOMMENDATION

That in accordance with the provisions of the Localism Act 2011, a dispensation be granted to Cllr J Broderick to enable her to participate in discussions and votes at any meeting of the Council (including Cabinet and Committees) relating to the proposed coastal protection scheme for Clacton and Holland on Sea with immediate effect and ending on 5th May 2015.