

Monitoring Officer

Decision Notice

This Decision records the outcome of the request for a dispensation to be granted in compliance with Section 33 (a) to (e) of the Localism Act 2011, in accordance with the Tendring District Council's Committee terms of reference and delegated powers. These arrangements were approved by full Council on 26th November 2013.

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**.

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's Monitoring Officer 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:

A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons prohibited by section 31(4) 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,*
- (b) 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,*

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

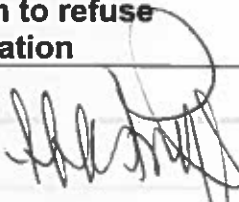
(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

Councillor:	Councillor Ivan Henderson
Inc. Ward	Harwich East
Relevant Category of Discloseable Pecuniary Interest and details	Employment - Essex County Council – Essex Fire Authority Sponsorship - Essex County Council – Essex Fire Authority
Reason provided	<p>On 14 March 2016 the ECC and Essex Fire Authority Joint Standards Committee authorised the grant of dispensations for 'twin hatted' members – i.e. those who are members of other public authorities. They also authorised the Monitoring Officer to grant dispensations for any future interests which may arise relating to other public authorities.</p> <p>At the meeting of Community Leadership and Partnerships Overview and Scrutiny Committee on 6th April, one of the items on the agenda is a Presentation by the Essex County Fire and Rescue Service to present to the Committee a Consultation Document for Essex Fire Authority - Options for Change 2016 - 2020. As I requested the matter be brought to the Committee and I am a member of the Committee I would like to be involved with the debate and vote on the item.</p>
Relevant Criteria Section 33 (2) of Localism Act 2011	<p>Applicable paragraphs:</p> <p><i>(b) 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; and</i></p> <p><i>(e) considers that it is otherwise appropriate to grant a dispensation.</i></p>

Independent Person consulted?	No, insufficient time between request and meeting, also DPI dispensation not strictly required.
Monitoring Officer Decision to grant dispensation Include: <ul style="list-style-type: none"> • Participate in discussions? • Participate in vote? • Specified Period Include the Monitoring Officer's reasons for the Decision(s)	<p>When the 'Disclosable Pecuniary Interest Regulations' were published, there was some debate over whether 'twin hatters' did fall under the definitions, and it was felt that the role of a councillor for another organisation, for which a members' allowance was paid, was not considered to be for profit or gain (a requirement of the 'employment' category within the Regulations). However, I have noted that you, as have some other members, have been open and transparent and included Essex CC and the Fire Authority within your DPI registration, therefore a dispensation is granted in respect of the DPI, to allow you to be involved with the debate and vote on matters affecting the Fire Authority for the term of office expiring in May 2019.</p> <p>Under the District Council's Code of Conduct dispensations can also be sought for Non-Pecuniary Interests, and in this case the circumstances would come under Paragraph 6.1(b) in that, Councillor I Henderson is a member of a body which (i) exercises functions of a public nature and (iii) can influence of public policy.</p> <p>It is reasonable and appropriate that Councillor I. Henderson remains able to discuss the Fire Authority consultation document and feed in the District Council's views, via the Overview and Scrutiny Committee, being a twin hatter should not prevent him from undertaking this role, as ultimately, it is a consultation document and not a final decision. This dispensation will only be granted for the consideration of the consultation document, and I believe it is necessary to keep this NPI under review, depending upon the subject matter of the item from the Fire Authority.</p>
Monitoring Officer Decision to refuse dispensation	Not applicable

Signed:



Monitoring Officer

Dated: 23rd March 2016

(but decision communicated previously via email for the purposes of the Overview and Scrutiny Meeting on 6th April 2016)

