

## NFNPA SC 49/17

### NEW FOREST NATIONAL PARK AUTHORITY

### STANDARDS COMMITTEE MEETING – 2 OCTOBER 2017

#### RENEWAL OF DISPENSATIONS UNDER THE LOCALISM ACT 2011

**Report by:** Julia Mutlow, Solicitor and Monitoring Officer

#### **Summary:**

In October 2013, Members of the Standards Committee agreed to grant a dispensation under the Localism Act 2011. The dispensation applied to all Members of New Forest National Park Authority ('NFNPA') who were also members of constituent authorities - Hampshire and Wiltshire County Councils, New Forest District Council and Test Valley Borough Council and in receipt of an allowance under the constituent authorities' Members' Allowances Schemes - exempting them from the restrictions imposed by Section 31 of the Localism Act. The dispensation was for a period of 4 years ending on 6 October 2017. This report asks Members to consider renewing the dispensation for a further 4 year term, thereby enabling Members to continue to participate in NFNPA business affecting those constituent authorities.

#### **Recommendation:**

It is recommended that the Standards Committee, grants a dispensation under Section 33(2)(e) of the Localism Act 2011:

A dispensation beginning on 5 October 2017 and expiring on 6 October 2021 to all Members of the NFNPA who are in receipt of an allowance under Hampshire County Council, Wiltshire County Council, New Forest District Council or Test Valley Borough Council Members' Allowances Schemes from the provisions of Section 31(4)(a) and (b) of the Localism Act 2011, thereby enabling all Members of the NFNPA to participate and vote in any NFNPA business relating to Hampshire County Council, Wiltshire County Council, New Forest District Council or Test Valley Borough Council.

#### **INTRODUCTION**

- 1.1 Part 7 of the Localism Act 2011 ('the Act') Sections 26 – 37 introduced revised arrangements in respect of the Members' Code of Conduct, and the Registration and Disclosure of Members' Interests.
- 1.2 Section 31(4) of the Act provides that where a Member of the NFNPA has a Disclosable Pecuniary Interest ('DPI') in a matter under consideration such Member may not:
  - 1.2.1 Participate, or participate further, in any discussion of the matter at the meeting, or
  - 1.2.2 Participate in any vote, or further vote, taken on the matter at the meeting.
- 1.3 By Regulations, the Secretary of State has set out matters constituting a DPI. Included within the list of DPIs which Members are required to register are 'any employment, office, trade, profession or vocation carried on for profit or gain'.

- 1.4 Consideration has been given as to whether 'office' would include membership of other public authorities such as County, Borough and District Councils or other relevant authorities in consequence of payments made to Members under those Councils' Members Allowances Scheme.
- 1.5 The view of the Monitoring Officer is that whilst Members hold public office, such office is not carried out for profit or gain for the purposes of the Regulations, the receipt of an allowance being compensatory (relating to time spent and expenses incurred) and therefore not 'carried out for profit or gain'. On this basis it is considered that Members Allowances do not constitute a DPI under the Act, and the fact that a Member is in receipt of an allowance does not prevent such Member from participating in NFNPA business relating to the constituent County, Borough and District Councils.
- 1.6 Section 33 of the Act provides that the NFNPA may grant a dispensation relieving Members of the NFNPA from the restriction set out in the Act referred to at Paragraph 1.2 of this report. This function was delegated to the Standards Committee by the NFNPA
- 1.7 The Standards Committee may grant a dispensation under Section 33(2)(a) of the Act if, having regard to all the circumstances, it considers that without the dispensation the number of Members participating in any particular business would be so great a proportion of the body transacting the business so as to impede transaction of the business. Alternatively, under Section 33(2)(e) it may grant a dispensation if it considers it is otherwise appropriate to do so. A dispensation granted under this Section must specify the period for which it has effect not exceeding four years.
- 1.8 A written request for dispensation has been received from an NFNPA Member, Cllr. Edward Heron, who has further suggested that such dispensation should be granted to all Members.
- 1.9 Members may, notwithstanding the view of the Monitoring Officer that the receipt of an allowance under the Members' Allowances Scheme does not constitute a DPI, consider that a dispensation may be granted 'for the avoidance of doubt', so that there is no question that Members the constituent authorities may not participate or vote on NFNPA business.

## RECOMMENDATION

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