

Request for Dispensation

Report of the Chief Fire Officer

For further information about this report please contact John Redmond, Chief Fire Officer, on 01743 260205 or Sharon Lloyd, Corporate Support Manager, on 01743 260210.

1 Purpose of Report

This report asks the Fire Authority to delegate authority to the Clerk and Monitoring Officer, in consultation with the Chair of the Standards and Human Resources Committee, to consider and decide upon a request for a dispensation, made by the Directors of the Board of Fire Authority controlled company, Shropshire Fire Risk Management Services Limited (SFRMS).

2 Recommendation

The Fire Authority Is asked to delegate authority to the Clerk and Monitoring Officer, in consultation with the Chair of the Standards and Human Resources Committee, to consider and decide upon a request for a dispensation, made by the Directors of the Board of Fire Authority controlled company, (SFRMS).

3 Background

The provisions of Part 1, Chapter 7 of the Localism Act 2011 state that a Member cannot:

- (a) Participate, or participate further, in any discussion of a matter at a meeting or
- (b) Participate in any vote, or further vote, taken on the matter at the meeting

if the Member has a disclosable pecuniary interest in the matter being considered.

The Code of Conduct confirms the position and the requirement for the Member to leave the room.

Members can, however, apply for a dispensation to take part in those meetings, if they believe that their failure to take part may cause one or more of the following four outcomes (set out in the Code of Conduct):

The number of Members precluded from transacting the business is so great that it would impede the business of the Fire Authority or any committee	Monitoring Officer
The political balance is affected to the extent that it could affect the outcome of a vote relating to the business.	Monitoring Officer
The dispensation is in the interests of persons living in area of the Fire Authority.	Standards and Human Resources Committee
It is otherwise appropriate to grant a dispensation.	Standards and Human Resources Committee

Members can make an application for a dispensation in writing to take part in meetings, where they would otherwise have a disclosable pecuniary interest for consideration by either the Monitoring Officer or the Standards Committee, depending upon the reason for the dispensation.

4 Previous Dispensation Granted to SFRMS Board Directors

On 4 September 2013 the Standards Committee granted the following dispensation to all Directors of the SFRMS Board, namely Councillors Mrs Barrow, Hartin, Kiernan, Mellings and Minnery, in accordance with section 31 (4) and 33 of the Localism Act 2011.

‘To take part in the discussion and vote on matters, which relate to SFRMS at any meeting of the Fire Authority or its committees. The dispensation was granted, as it was considered to be in the interests of the people, who live in the Fire Authority’s area. Without it, members of the SFRMS board would be prevented from reporting to the Fire Authority with regard to the performance of the company and / or they would not be involved in making decisions about the company, which are in the interests of the Fire Authority’.

At the time when the dispensation was granted, the Clerk and Monitoring Officer pointed out that, irrespective of the grant of the dispensation, there might be occasions when it would be inappropriate for board members to take part in meetings of the Fire Authority or its committees, when business relating to SFRMS Ltd. was being discussed or voted on. This might be due to issues, such as bias or a conflict of interests. Accordingly, whilst granting the dispensation, the Standards Committee requested that board members seek legal advice before exercising this dispensation to ensure that their participation in the relevant meeting was appropriate.

5 New Dispensation Request

As the dispensation expired on 3 March 2015, the Board Directors, namely Councillors Mrs Barrow, Hartin, Kiernan, Mellings and Minnery, have made a joint application for a further dispensation on the same terms as set out above. A copy of that request is attached as an appendix to this report.

Normally, in accordance with the table shown on page 2, requests for a dispensation of this type would be dealt with by the Standards and Human Resources Committee. Indeed, it was intended that the Committee would consider this request at its last meeting. However, two Members, who attended, were conflicted out, as subjects of the request. As two other members did not attend the meeting, there were then insufficient Members to make up the quorum of four.

The Committee, therefore, agreed that it would meet immediately prior to the April Fire Authority, to deal specifically with the request. Your officers checked to ensure that the four non-conflicted Members would attend, so that a decision could be made. Unfortunately, once again, it was clear that there would not be a quorum for the proposed meeting.

Until such time as a dispensation is granted the five Board Directors will not be able to remain in a meeting, when any matter relating to SFRMS is considered. Under the circumstances, the Fire Authority is asked to agree the alternative procedure, set out in section 1 of this report.

6 Financial Implications

There are no financial implications arising from this report.

7 Legal Comment

Participating in a meeting where the Member has a disclosable pecuniary interest in the subject matter being discussed can amount to a criminal offence (section 31, Localism Act 2011). Section 33 of the Localism Act 2011, however, provides for a dispensation to be granted in certain circumstances to allow participation without committing a criminal offence. The procedure and considerations for dispensation applications is contained in the main body of this report.

8 Initial Impact Assessment

This report merely sets out a proposed alternative process for dealing with a dispensation request in a timely manner. An Initial Impact Assessment is not, therefore, required.

9 Equality Impact Assessment

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising specifically from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

10 Appendix

Joint request for a dispensation made by Councillors Mrs Barrow, Hartin, Kiernan, Mellings and Minnery 31 March 2015

11 Background Papers

There are no background papers associated with this report.

From: Chris Mellings [mailto:chris.mellings@shropshire.gov.uk]
Sent: 31 March 2015 10:01
To: Sharon Lloyd
Cc: Cllr David Minnery; Joyce Barrow; Nigel Hartin; Cllr Terry Kiernan
Subject: RE: Dispensation relating to SFRMS

Dear Sharon,

Further to the dispensation previously granted, as this has now expired, please can we apply for a further dispensation under Section 33 of the Localism Act 2011 from Section 31 (4) of that Act to be able to participate in the discussion and to vote on matters which relate to Shropshire Fire Risk Management Ltd at any meeting of the Fire Authority or its Committee's?

We are requesting dispensation on the basis that it may be considered to be in the interests of the people who live in the Fire Authority's area as without it, as a Director, we will be prevented from reporting to the Fire Authority with regard to the performance of the company and being involved in making decisions about the company which are in the interests of the Fire Authority.

Councillor David Minnery
Councillor Nigel Hartin
Councillor Terry Kiernan
Councillor Joyce Barrow
Councillor Chris Mellings

Best Wishes

Chris



Floreat Salopia !

Councillor Chris Mellings
Shropshire Councillor for Wem, Wem Rural & Whixall
Town Councillor for Wem East