

DARLINGTON BOROUGH COUNCIL

DISPENSATION – SECTION 33 OF THE LOCALISM ACT, 2011

On 7th March 2017, the Chief Executive of Darlington Borough Council, considering the number of Executive Members who have a disclosable pecuniary interest granted a dispensation to all members of Cabinet, to allow full participation at meetings of Cabinet concerning the Crown Street Library. The dispensation is to include the Cabinet meeting on the 7th March 2017 and at any subsequent meetings of Cabinet when the Crown Street Library is discussed and to continue until the end of 2019.

The members granted the dispensation are Councillors Dixon, Harker, Copeland, Cyndi Hughes, McEwan, Andy Scott and Wallis.

Having regard to all relevant circumstances the dispensation was granted under Section 33(2) (d) of the Localism Act, 2011;

- (a) 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 transaction of the business,
- (b) that without the dispensation, the representation of different political group on the body transacting the business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) that granting the dispensation is in the interests of persons living in the Authority's area,
- (d) (in the case of an authority operating executive arrangements) that it is considered 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) that it is otherwise appropriate to grant a dispensation.

Darlington Borough Council is the sole trustee of Crown Street Library. The role of discharging the role of sole trustee falls to the Council's executive body, which is Cabinet. The 'sole trustee role' that members of Cabinet have contrasts with the 'ordinary role' that members of Cabinet have when considering the provision of the library service in Darlington.

When members of Cabinet are considering the provision of the library service in Darlington they need to be able to consider the service provision as a whole including Crown Street Library.

As the role of sole trustee of the Crown Street Library rests with Members of Cabinet, they have a pecuniary interest when making in decisions at 'ordinary' Cabinet meetings about library provision which are likely to effect the future of the Crown Street Library (such as consideration about whether to relocate the main library service from the Crown Street Library to the Dolphin Centre).

A pecuniary interest would ordinarily mean that a member is not able to participate in decision making. In a situation where all Cabinet Members have a pecuniary interest the whole of Cabinet would be disqualified from participation. This applies to any meeting of Cabinet concerning the future of the Crown Street Library and would constrain the decisions about the library service as a whole that could be made.

However, Cabinet need to be able to exercise their executive role and fully participate in decision making about library service provision. The provision of a library service is a statutory duty under the Public Libraries and Museums Act 1964 and includes taking account of the local needs and resources (including the Crown Street Library building). In making decisions about the Library Service, the provision of the service as a whole, needs to be considered.

Unless a dispensation is granted under S.33(2)(d) each member of Cabinet will be prohibited from participating in any Cabinet meeting where decisions about the Library Service that will impact on the Crown Street Library are considered.

I have discussed the use of the dispensation with the Council's Monitoring Officer, who is in agreement that the grant of a dispensation is appropriate.

In these circumstances, it is my view that it is right to grant a general dispensation in the terms set out above

Date: 7th March 2017

Signed:

A handwritten signature in blue ink that reads "Ada Burns". The signature is written in a cursive style.

Ada Burns
Chief Executive