

## **DARLINGTON BOROUGH COUNCIL**

### **DISPENSATION – SECTION 33 OF THE LOCALISM ACT, 2011**

On 23rd March 2017, the Monitoring Officer 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 Council concerning the Crown Street Library.

The dispensation is to include the Council meeting on the 23rd March 2017 and at any subsequent meetings of Council when the Crown Street Library is discussed and is 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) (e) 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. 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 at 'ordinary' Cabinet meetings (ie not specific meetings of Cabinet as sole Trustee) and at meetings of Council.

At meetings of Council, Members of Cabinet will have a pecuniary interest concerning participation in decisions 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 at all in decision making.

Without a dispensation the whole of Cabinet would be disqualified from participation at Council.

Members of Cabinet, have by separate executive dispensation, participated in the Cabinet meeting of 7 March 2017 which considered the Library Service (including the Crown Street Library).

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. Members of Cabinet ought to be able to participate in decision making about the library service as a whole, including matters relating to the Crown Street Library. The fact that they are members of Cabinet also sole trustee of the Crown Street Library ought not to prevent participation, given the importance of determining the way the service should be provided.

Members of Cabinet, as members of Council need to be able to present, explain, answer questions, to be accountable and to debate and fully participate at Council meetings that are considering matters that have been previously considered by Cabinet.

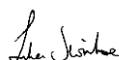
Although, other things being equal, the non-participation by 7 members of Cabinet at Council would not ordinarily alter the political balance sufficiently to effect voting, this level of absence from members of one party does have the potential to impact on the political balance and on voting outcomes depending on the level of attendance by other members.

I have discussed the use of the dispensation with the Chief Executive who is in agreement that the grant of a dispensation to allow full participation is appropriate.

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

Date: 23rd March 2017

Signed:



Luke Swinhoe  
Assistant Director, Law and Governance  
Monitoring Officer