

## **ISLE OF WIGHT COUNCIL DECISION RECORD**

### **DELEGATED DECISION BY OFFICER – PRIVATE RECORD**

(Part 3 of The Openness of Local Government Bodies Regulations 2014)

#### **DISPENSATION GRANTED - SECTION 33 (2) OF THE LOCALISM ACT 2011**

#### **BUDGET - COUNCIL TAX AND PRECEPT SETTING**

Date of Decision: 21 January 2022

Record of Decision:

That, under section 33 (2) of the Localism Act 2011 and under all other enabling powers, full dispensation is granted for a period of four years from 21 January 2022 (inclusive) to each and every councillor of the Isle of Wight Council to remain in the meeting room and to speak and to vote on the budget including setting the council tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation), notwithstanding the existence of any disclosable pecuniary interest(s). For clarity this dispensation relates to disclosable pecuniary interests only and does not affect a councillor's obligation under section 106 of the Local Government Finance Act 1992 to declare and not vote if they are two months or more in arrears with their council tax at the time of the meeting on setting the Council's budget.

Reasons for Decision:

- That without the dispensation the number of persons prohibited 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 (section 33(2)(a) of the Localism Act 2011).
- That without the dispensation the representation of the different political groups on the body transacting any particular business would be so upset so as to alter the likely outcome of any vote relating to the business (section 33(2)(b) of the Localism Act 2011).
- That the dispensation is in the interests of persons living in the authority's area (section 33(2)(c) of the Localism Act 2011).
- That it is considered that it is otherwise appropriate to grant a dispensation (section 33(2)(e) of the Localism Act 2011).

As the delegated officer for granting dispensations under section 33(2) of the Localism Act 2011 (see page 98 of the Council's Constitution), I am of the opinion that it is wise to exercise my powers for the above reasons even though there is guidance from the Government to the effect that no dispensation is needed, and this view is arguable. The guide to councillors entitled 'Openness and transparency on personal interests' (dated September 2013) advises that: *'Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support. If you are a homeowner or tenant in the area*

*of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land. Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual'. [Openness and transparency on personal interests: guidance for councillors - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/openness-and-transparency-on-personal-interests-guidance-for-councillors)*

An abundance of caution is being exercised by me as the Monitoring Officer because the government guidance is not statutory guidance and has so far not been tested in court. It is therefore considered prudent and transparent to grant this general dispensation for the reasons stated and for the maximum period of four years in the interests of efficient and effective administration.

Details of alternative options, if any, considered and rejected: None as the local authority is required to set a lawful budget each year and the grant of this dispensation is in support of this statutory duty and obligation.

Name and post of decision-maker: Christopher Potter, Monitoring Officer

Signed:



**C.Potter**