

## **Committee: Council**

**Date: 23 November 2016**

Wards: All

## **Subject: Member Dispensations**

Lead officer: Paul Evans, Assistant Director, Corporate Governance, 020 8545 3338

Lead member: Councillor Mark Allison Cabinet Member for Finance

Contact officer: Susanne Wicks, Senior Democratic Services Officer, 020 8545 3357

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### **Recommendations: That Council**

- A. Grant the following dispensations to all members from Section 31(4) of the Localism Act 2011 on the basis 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 to impede the transaction of the business, such dispensations to be made in respect of members of the Council and take effect from 23 November 2016 for the period of four years:
- i. housing, where the member is a tenant of the authority; provided that those functions do not relate particularly to that member's tenancy or lease;
  - ii. school meals or school transport and travelling expenses, where the member is a parent or guardian of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;
  - iii. an allowance, payment, pension or indemnity given to members;
  - iv. any ceremonial honour given to members; and
  - v. setting Council Tax or a precept under the Local Government Finance Act 1992.
- B. Note that any appeals against the decision to grant or refuse a dispensation made by the Monitoring Officer will be considered by the Standards and General Purposes Committee.
- C. Note that where the Monitoring Officer has used his delegated authority to grant a dispensation, a report on the authorization be submitted to the next meeting of the Standards and General Purposes Committee.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. On 21 November 2012, Council agreed to grant a general dispensation under s33 of the Localism Act 2011, for a period of four years, which expired on 21 November 2016.
- 1.2. This report seeks agreement to grant the dispensations for a further four years.
- 1.3. In 2012, Council also agreed to delegate authority to the Monitoring Officer to to grant dispensations pursuant to section 33 Localism Act 2011.
- 1.4. This report also asks Council to note that, as the Standards Committee was decommissioned in May 2016, any appeals or reports on authorisations will be made to the Standards and General Purposes Committee.

## **2 DETAILS**

- 2.1. The provisions on dispensations from members taking part in or voting on matters were significantly changed by the Localism Act 2011.

### **General dispensations**

- 2.2. Prior to the introduction of the Localism Act, general dispensations were provided to all Members, by way of statutory instrument with regard to prejudicial interests in any business of the authority where that business related to functions of the authority in respect of:
  - I. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - II. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - III. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - IV. an allowance, payment or indemnity given to members;
  - V. any ceremonial honour given to members; and
  - VI. setting council tax or a precept under the Local Government Finance Act 1992.
- 2.3. The restrictions on Members taking part in decision where they are in arrears in Council Tax (Local Government Finance Act 1992, s106) could not be dispensed with under the new regime and remain in force.

### **Individual dispensation**

- 2.6. Previously, under the 2007 Code of Conduct, a Member who had a prejudicial interest could apply to a sub-committee of a Standards Committee for a dispensation.

- 2.7 Under section 33 of the Localism Act 2011, a dispensation may be granted in the following circumstances:
1. where so many members of the decision-making body have Disclosable Pecuniary interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
  2. where, without the dispensation, the preparation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
  3. where the authority considers that the dispensation is in the interests of persons living in the authority’s area;
  4. where, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
  5. where the authority considers that it is otherwise appropriate to grant a dispensation.

2.8 Any grant of a dispensation must specify how long it lasts and only be in effect up to a maximum of 4 years.

2.9 In November 2012, Council delegated authority to grant dispensations be delegated to the Monitoring Officer, with a right of appeal to the Standards Committee. It was also agreed that the Monitoring Officer would report any use of the authority to the next meeting of the Standards Committee.

2.10 As the Standards Committee was decommissioned in May 2015, all appeals and reports on any authorisations will be made to the Standards and General Purposes Committee.

### **3 ALTERNATIVE OPTIONS**

3.1 The Council could decide not to grant the general dispensations and all dispensations would be considered either by the Monitoring Officer, who has been designated as the proper officer of the authority for the purposes of written requests by a Member(s) or co-opted Member(s) of the authority for the grant of a dispensation.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. The Standards and General Purposes Committee considered this matter at their meeting on 3 November 2016 and agreed to recommend the proposed dispensations to Council.

### **5 TIMETABLE**

5.1. If agreed, the dispensations will elapse in November 2020.

**6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. None for the purposes of this report.

**7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. Contained within the body of the report.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None for the purposes of this report.

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purposes of this report.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. Agreement to the list of general dispensations will ensure that members will be able to participate in such items without risk of a criminal investigation and that the decision making on such matters is lawful.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

11.1 None

**12 BACKGROUND PAPERS**

12.1. None