

Manchester City Council Report for Information

Report to: Standards Committee – 2 November 2023

Subject: Dispensations

Report of: City Solicitor and Monitoring Officer

Purpose of the Report

To review the operation and efficacy of the process for granting dispensations in relation to Members' Interests.

Recommendation

That the Standards Committee note the report.

Wards Affected: All

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy, please contact one of the contact officers above.

- Report to Standards Committee 15 June 2017 – Localism Act 2011 – Dispensations.
- Report to Standards Committee 16 June 2022 –Dispensations.
- Report to Standards Committee 16 March 2023- Annual Report.
- Ethical Guidance Updates.

1. Introduction

The Committee has requested regular reports on the operation and efficacy of the process for granting dispensations in relation to Member's Interests. The Committee last received a specific report regarding dispensations at its meeting on 16 June 2022. However, the Annual Report received by the Committee on 16 March 2023 also provided a brief update on the grant of dispensations.

2. The Requirement to Register Interests and Dispensations.

2.1 The Localism Act 2011 ('the Act') requires Members to notify the Council's Monitoring Officer within 28 days of becoming a Member of any 'Disclosable Pecuniary Interests' (DPIs).

2.2 Section 31 of the Act provides that:

Where a member or co-opted (voting) member of a Council:

- is present at a meeting of the Council or of any Committee, Sub-Committee, Joint Committee or Joint Sub-committee of the Council
- has a DPI in any matter to be considered or being considered at the meeting: and
- is aware that they have such a DPI,

the member must not (unless they have a dispensation):

- participate or participate further in any discussion of the matter at the meeting; or
- vote on the matter.

2.3 There is provision in the Act for the grant of dispensations (which can last for a period of up to 4 years) in limited circumstances. The grounds for the grant of a dispensation under the Act are where the Council (after consideration of all relevant circumstances):

- (a) considers 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;
- (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
- (d) considers that without the dispensation each member of the authority's

executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

2.4 The Council has delegated the authority to grant dispensations in the circumstances set out in paragraphs (a), (b) and (d) above to the Council's City Solicitor (its Monitoring Officer) and it has delegated the power to grant dispensations for the reasons set out in paragraphs (c) and (e) to the Standards Committee (after consultation with one of the Council's Independent Persons). The Standards Committee also has a delegation to determine appeals against the Monitoring Officer's decision on the grant of dispensations.

2.5 To obtain a dispensation a written request for a dispensation must be made by a member or co-opted member of the Authority, to the Council's Proper Officer (for this purpose the City Solicitor).

3. Grant of Dispensations – Operation and Efficacy

3.1 All new Members receive training as part of their induction on registration of interests, including in relation to dispensations. An item on dispensations was also contained in the Council's Ethical Guidance updates circulated to all Members in November 2022 and March 2023 respectively. A further item will be contained in the next Ethical Governance Update.

3.2 The Committee received the report of the City Solicitor in June 2017 which set out the Monitoring Officer's proposals regarding the grant of dispensations to enable members of the Council to participate and vote on certain budget related matters notwithstanding the fact that the Member may have a DPI.

3.3 The Committee noted the Monitoring Officer's proposal to advise all Council Members to submit a written request through their Group Leaders or Group Secretaries for the grant of a dispensation pursuant to section 33(2)(a) of the Localism Act 2011 ('the Localism Act') allowing them to participate and vote on:

- (i) Setting the Council Tax or a precept under the Local Government Finance Act 1992 (as amended from time to time or any superseding legislation) and matters directly related to such decisions such as budget calculations;
- (ii) Allowances, payments or indemnities given to Members of the Council

The Committee agreed the dispensation referred to in paragraph (i), should include determining the local council tax reduction scheme and other discounts and premiums pursuant to changes made by the Local Government Finance Act 2012 and that the dispensation referred to in paragraph (ii), should include all allowances payable to Council Members (including special

responsibility allowances).

- 3.4 The Committee also agreed to advise any Members of the Council who are tenants of Manchester City Council to submit a written request for the grant of a dispensation to allow them to participate and vote on matters in relation to housing (provided that those functions do not relate particularly to the lease or tenancy of the Council Member concerned) and indicated it was minded to grant dispensations to allow any Member who has a DPI to make representations at a meeting where members of the public have the same entitlement (e.g. to allow a Council Member who is making an application for planning permission to attend and make representations at a meeting of the Council's Planning Committee which is to hear the matter in the same way as a member of the public).
- 3.5 Dispensations are issued for a 4 year period by the Monitoring Officer to all Members who request such a dispensation in relation to participating and voting on the setting of the Council's Council Tax etc. and participating and voting on Members' Allowances on the basis that without the dispensation the number of Members prohibited from participating in this particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business at the Council's budget setting meeting.
- 3.6 In January 2023 the City Solicitor emailed a letter and application form to all Members regarding dispensations to allow Members of the Council to participate and vote on the setting of the Council tax or a precept (and matters directly related to such decisions, including the budget calculations).
- 3.7 After the City Solicitor emailed the letter mentioned in paragraph 3.6 to all Members in January 2023 the City Solicitor contacted those Councillors who required a budget dispensation, in advance of the budget Council meeting held in March 2023. The City Solicitor renewed a number of dispensations that had expired and issued a number of new dispensations to those Councillors newly elected since the previous budget Council meeting held in March 2022. The City Solicitor has introduced a rolling programme of renewing budget dispensations as required, dependant on when the Councillor was elected, as any dispensation issued is valid for a period of four years.
- 3.8 The annual report, considered by the Standards Committee on 16 March 2023, informed Members that other than normal budget dispensations no further dispensations had been sought since the report received by the Committee in June 2022. That remains the case.
- 3.9 It is the Monitoring Officer's view that the requests for dispensations that have been made have been sought in appropriate circumstances and that the level of requests for dispensations does not give rise to concern.

4. Recommendation

The Committee is asked to note this report.