

Manchester City Council Report for Information

Report to: Standards Committee – 13 June 2019

Subject: Dispensations

Report of: City Solicitor

Summary

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

Recommendation

That the Committee note the report

Wards Affected: All

Contact Officers:

Name: Fiona Ledden
Position: City Solicitor
Telephone: 0161 234 3087
Email: fiona.ledden@manchester.gov.uk

Name: Poornima Karkera
Position: Head of Governance Legal Services.
Telephone: 0161 234 3719
E-mail: p.karkera@manchester.gov.uk

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
Minutes of the Executive 13 March 2019.

1. Introduction

The Committee last received a report regarding dispensations in June 2017. It has requested a report to its June 2019 meeting on the operation and efficacy of the process for granting dispensations since that date.

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, Joint Committee or subcommittee or joint subcommittee 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 dispensations.
- 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 at 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 at 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 for a 4 year period have been issued by the Monitoring Officer to all Councillors who requested 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 Applications for dispensations in respect of these matters for members who were elected in May 2019 will be addressed shortly.
- 3.7 Since the last report to Standards Committee relating to dispensations there has been one other occasion when the Monitoring Officer has received a request for a dispensation. This related to consideration by the Council's Executive of adoption of a construction charter promoted by the Unite Trade Union to establish nationally agreed minimum workforce standards within the Council's Ethical Procurement Policy. Dispensations were granted upon application to 5 Members of the Executive who had received sponsorship from Unite and therefore had DPs in relation to this matter. The grounds for the grant of the dispensation were that without the dispensation the number of Members 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.
- 3.8 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. An item on dispensations will be added to a future edition of the Council's twice yearly Ethical Guidance update circulated to all Members as a refresher on this topic.

4. Recommendation

- 4.1 The Committee is asked to note this report.