



Standards Committee

Date: FRIDAY, 5 OCTOBER 2018
Time: 11.00 am
Venue: COMMITTEE ROOMS - 2ND FLOOR, WEST WING, GUILDHALL

5. DISPENSATIONS POLICY AND GUIDANCE, ETC

For Decision
(Pages 1 - 28)

10. DISPENSATIONS REQUESTS

Revised version of previously circulated report with further request attached (see paragraphs 13 and 14 only)

For Decision
(Pages 29 - 38)

Item received too late for circulation in conjunction with the Agenda.

John Barradell
Town Clerk and Chief Executive

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Agenda Item 5

Committee: Standards Committee	Date: 5 October 2018
Subject: Policy and Guidance, etc on Dispensations under the Localism Act 2011	Public
Report of: Joint Report of Town Clerk and Comptroller & City Solicitor	For Decision
Report author: Martin Newton	

Summary

In July 2018, the Town Clerk authorised the establishment of a Dispensations (Standards) Working Party under the urgency provisions of Standing Order No. 41(a). The Working Party has since met regularly to consider dispensation policy and associated issues, with a view to reporting its findings to the Standards Committee in October 2018.

This report sets out the details of the Working Party's draft future policy and guidance on dispensations, revisions to the dispensation request application form and proposed decision notices. Also set out in the report are proposals to amend the current terms of reference of the Dispensations Sub (Standards) Committee. The aim of the Working Party has been to provide members with an enhanced level of requisite information about disclosable pecuniary interests, and a better understanding of the regulations around such interests and dispensations, and thereby increased clarity in the matter and confidence both for members and the general public that the Corporation is taking decisions on them in a consistent way.

Your Committee is asked to consider and comment on the matters and documentation set out in this report and to approve the contents of the draft future policy and guidance on dispensations and revisions to the dispensation request application form, for further consideration at the informal Court of Common Council meeting in November, along with some alterations to the Sub Committee terms of reference.

Recommendation

Your Committee is recommended to:-

- (a) Comment on and approve the draft policy and guidance and the dispensation request application form, set out in appendices 2 and 3, for

further consideration by members at the informal Court of Common Council meeting in November and agree any further reporting;

- (b) Approve the revisions to the Dispensations Sub (Standards) Committee terms of reference set out in appendix 4 to come into effect from the final approval of the matters referred to in (a) above.

Main Report

Background

1. In July 2018, the Town Clerk authorised the establishment of a Dispensations (Standards) Working Party under the urgency provisions of Standing Order No. 41(a) and with the following membership:- Oliver Lodge (Chairman), Ann Holmes (Deputy Chairman), Deputy Jamie Ingham Clark, Deputy Edward Lord and Mark Greenburgh (Co-opted Member)
2. The authorised terms of reference of the Working Party are set out in **appendix 1.**
3. The Working Party has since met regularly to consider dispensation policy and associated issues, with a view to reporting with its findings to the Standards Committee in October 2018, and its proposals are set out in this report and appendices 2, 3 and 4.

Proposals

4. A proposed policy and guidance has been considered in detail and this is attached as **appendix 2.** In summary, this document explains the general policy on the granting of dispensations, including when it might be necessary to apply for one, the process for this, statutory grounds for granting a dispensation, agreed additional factors to be taken into account in deciding whether one or more of the statutory grounds are satisfied, and other related matters.
5. Significant revisions have been made to the current dispensation request form, cross referencing with the policy and guidance document, and this is attached as **appendix 3.** The revisions aim to provide appropriate advice on matters that should be taken account of by the applicant and capture the relevant and necessary information that is required for a decision on the request to be made.
6. The communication of request decisions has been considered and decision notices covering granting / partially granting / rejection would provide a

consistent basis for informing applicants of the decision taken and the high-level reasons for that decision.

Dispensation Sub (Standards) Committee

7. The Working Party has also discussed the current terms of reference of the Dispensations Sub (Standards) Committee. The view of the Working Party is that revisions should be made to provide for the Standards Committee to elect annually from its membership a Chairman and 2 Deputy Chairmen of the Sub Committee, with one of those persons to always chair the Sub Committee. It is proposed that the members of any Sub Committee meeting would not be members of the Committee / Sub Committee that the dispensation request(s) relates to. It is further proposed that dispensation requests should be considered by the Sub Committee only (and not the Standards Committee itself) subject to any requirements to deal with any requests under the urgency provisions of Standing Order No. 41(a). Proposed revisions to the Sub Committee terms of reference are set out in **appendix 4.**

Next steps

8. It is proposed that the Committee consider and comment on the draft documents in appendices 2 to 4, approve the further consideration of the policy and guidance and application form at the informal meeting of the Court in November, and agree any further reporting.

Future matters to be considered

9. During their deliberations, the Working Party considered that further appropriate training would be advisable for members arising from the policy and guidance and associated matters. Members also considered that, going forward, the Town Clerk at each committee meeting would read out a list of any dispensations granted for business to be considered. The Working Party was also of the opinion that the member granted the dispensation should also indicate, at the appropriate time at the meeting, both the nature of the dispensation granted and the disclosable pecuniary interest that it relates to in order that this can be recorded in the public record of the meeting. The Working Party further identified an additional matter to be considered relating to the possibility of amendments to the Corporation's Standing Orders to provide for substitution of members at meetings.

Conclusion

10. The proposed policy and guidance and associated documents seek to provide members with an enhanced level of requisite information about disclosable pecuniary interests, and a better understanding of the regulations around such interests and dispensations, and thereby increased

clarity and confidence both for members and the general public that the Corporation is taking decisions on them in a consistent way. Your Committee is asked to consider and comment on the draft documents set out in the report and to approve the further consideration of the policy and guidance and application form at the informal meeting of the Court in November.

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Appendix 1

TERMS OF REFERENCE OF THE DISPENSATIONS (STANDARDS) WORKING PARTY

The Working Party will:

1. Review dispensations policy, procedures, guidance and any associated issues on behalf of the Standards Committee, in response to concerns raised by Members regarding consistency of decisions made on dispensation requests, and to enhance confidence in the processes to be followed on dispensation requests.
2. Consider possible improvements in relation to the above, considering especially means of enhancing consistency in determining dispensation applications.
3. Report to the Standards Committee in October 2018, with recommendations on its conclusions, including recommendations relating to:
 - Enhancements of policy relating to granting dispensations
 - Enhancements to the application process, including the application form
 - Enhancements to standard features of dispensation notifications
 - Any recommended changes to the composition of the dispensation-granting body
 - Any other matters relating to the consideration of applications for dispensations that the Working Group considers should be recommended to the Standards Committee
4. The Working Party will be chaired by the Chairman of the Standards Committee and will be regularly attended by:
 - The Deputy Chairman of the Standards Committee
 - 3 nominated Members of the Standards Committee (including a Co-opted Member)
 - The Comptroller and City Solicitor
 - The Town Clerk
5. The Working Party will meet as required.

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Standards Committee

Policy and guidance on the granting of dispensations

Introduction

Purpose of this document

1. The purpose of this document is to explain:
 - (a) what a dispensation is, and when it might be necessary to apply for one in order to participate in an item of business;
 - (b) the process for applying for a dispensation;
 - (c) the statutory grounds for granting a dispensation;
 - (d) the agreed additional factors that will be taken into account in deciding whether one or more of the statutory grounds have been satisfied; and
 - (e) the general policy position on the granting of dispensations.
2. The aim is to provide as much guidance as possible to Members and Co-opted Members (referred to collectively here as “Members”) about when it might be appropriate to apply for a dispensation and the information that should be provided in any application form. This document will also be used by the Standards Committee to ensure consistency in decision making.

Statement of general policy

3. The default statutory position is that a Member who has a disclosable pecuniary interest in any matter being considered at a meeting cannot speak or vote on that matter. Members may apply for a dispensation from these restrictions on specified statutory grounds and all applications will be decided on their individual merits. The Standards Committee will exercise its authority to grant dispensations subject to its general duty to promote high standards of conduct; in a way that is consistent with the Seven Principles of Public Life and helps to maintain public confidence in the conduct of the City Corporation’s business. In considering whether and how to exercise its discretion the Standards Committee will need to see good reasons why an application should succeed on one or more of the statutory grounds, with particular reference to the additional factors set out in this document. **The onus is on the Member making an application to demonstrate that a dispensation is justified in the circumstances.**

Disclosable pecuniary interests under the Localism Act 2011

4. In order to consider dispensations it is first necessary to understand the rules around disclosable pecuniary interests – what they are, when they are engaged and their effect on participation. The following is only a summary of the position

and Members should also refer to the other guidance available on disclosable pecuniary interests and the Members' Code of Conduct.

What is a disclosable pecuniary interest?

5. Under the Localism Act 2011 and The Relevant Local Authorities (Disclosable Pecuniary Interests) Regulations 2012 there are a number of disclosable pecuniary interests that prevent a Member from participating in any discussion or vote on a connected item of business under the following headings:

- (a) Employment;

Any employment, office, trade, profession or vocation carried on for profit or gain.

- (b) Sponsorship;

Any payment, etc. towards the election expenses of a Member, or the expenses incurred in carrying out their official duties (other than from the City Corporation). This would include any payment from a trade union.

- (c) Contracts;

Any contract with the City Corporation for goods, services or works. This will include any Member with one or more children at any of the City Corporation's independent schools.

- (d) Land;

Any beneficial interest in land which is within the City. This includes any freehold or leasehold interest in land, as well as any tenancy.

- (e) Licences;

Any licence to occupy land in the City for a month or longer.

- (f) Corporate tenancies;

Any tenancy where the City Corporation is the landlord and the tenant is a company or other body in which the Member or another relevant person has a beneficial interest.

- (g) Securities.

Any shares, debentures, debenture stock, loan stock, bonds, unit trusts and similar investments in a body that has a place of business or land in the City and the total nominal value exceeds £25,000 or 1/100th of the total issued share capital.

6. The disclosable pecuniary interest that is most commonly engaged in relation to planning, licensing and housing matters is (d) Land.

When is a disclosable pecuniary interest engaged?

7. The Localism Act 2011 does not provide any additional guidance on judging whether a disclosable pecuniary interest is engaged or not. It simply states that the prohibition on speaking or voting on a matter is engaged where a Member:
 - (a) is present at a meeting;
 - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
 - (c) is aware that the condition in paragraph (b) is met.
8. It is up to individual Members to make a judgement whether they have a disclosable pecuniary interest in relation to any particular item of business. As a starting point, a Member should consider whether the matter before the meeting could reasonably be said to appear to be likely to affect their disclosable pecuniary interest, or whether a member of the public would consider that the Member might be influenced by their disclosable pecuniary interest. If the answer to either of these questions is in the affirmative, then the Member has a disclosable pecuniary interest in the matter being considered. This will be the case, for example, where a decision would materially affect a Member's interest in land, either by affecting the value of that land, the prospects of selling that land, or the use and enjoyment of that land.
9. Speaking in general terms, a Member is highly likely to have a disclosable pecuniary interest in a planning or licensing application for a property adjacent to their home. A Member is less likely to have a disclosable pecuniary interest in a planning or licensing application for a property several streets away from their home. However, any decision on whether a Member does have a disclosable pecuniary interest in a particular matter will always depend on the particular circumstances.

Effect on participation and possible sanctions

10. A Member who is present at a meeting of the City Corporation, and who has a disclosable pecuniary interest relating to any business being considered, must not participate in any discussion of the business at the meeting, or participate in any vote taken on the matter at the meeting. If a Member becomes aware of their disclosable pecuniary interest during the meeting, they should not participate further from that point. **These prohibitions apply to any form of participation, including speaking as a member of the public.** In certain circumstances, Members can request a dispensation from these prohibitions. The City Corporation's standing orders do not require a Member with a disclosable pecuniary interest in an item of business to automatically leave the room. The Member should however leave the room if they consider that their continued presence is incompatible with the Members' Code of Conduct or the Seven Principles of Public Life. A flowchart illustrating these principles is attached at Appendix 1.

11. A Member commits a criminal offence if, without reasonable excuse, they participate in any discussion or vote on any City Fund matter (e.g. a local authority or police authority matter) in which they have a disclosable pecuniary interest. For this reason Members are advised to err on the side of caution. A Member who is found guilty of such an offence can be fined up to £5,000 and disqualified from holding office for up to five years. A prosecution may only be instigated by or on behalf of the Director of Public Prosecutions (DPP). In all cases, whether an item of business falls under the City Fund or not, a Member who participates in any discussion or vote despite having a disclosable pecuniary interest will be committing a breach of the Members' Code of Conduct. Members are advised to seek advice from the Monitoring Officer or the Town Clerk if they are unsure about whether they have a disclosable pecuniary interest in a particular matter.

Granting dispensations under the Localism Act 2011

The process

12. A relevant authority may, on a written request made to the proper officer of the authority by a Member of the authority, grant a dispensation relieving the Member from either or both of the restrictions on speaking or voting in cases described in the dispensation. A dispensation must specify the period for which it has effect, which may not exceed four years. At the City Corporation the granting of such dispensations is a function of the Standards Committee and its Dispensations Sub-Committee (referred to collectively in this document as "the Standards Committee").
13. As previously stated, the onus is on individual Members to decide whether they have a disclosable pecuniary interest in any given matter. Therefore the Standards Committee will generally assume that any dispensation being sought is required in order to allow the Member concerned to participate in the relevant item of business and will not normally refuse a request simply on the basis that a dispensation is not thought to be necessary. The only exception to this is where the facts as disclosed in the application form could not possibly amount to a disclosable pecuniary interest being engaged. **Any dispensation granted is entirely permissive in nature and does not impose any restrictions on speaking or voting where no such restrictions otherwise exist.**
14. The expectation is that the Town Clerk will read out any applicable dispensations at an appropriate point in the meeting, either under the agenda item on Members' declarations or at the start of the consideration of the item of business in question.

Timeliness of applications

15. The Standards Committee requests that Members lodge any applications as soon as possible after becoming aware that a dispensation is required in order to participate in a particular item of business. A Member does not have to wait until they know the precise date of the meeting at which a matter will be considered before applying for a dispensation. If applications are submitted at short notice it may not be possible to consider them in time for the meeting in question.

The statutory grounds for granting a dispensation

16. The legislation provides that a relevant authority (which includes the City Corporation) may only grant a dispensation if, after having had regard to all relevant circumstances, the authority:
- (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) if it is an authority operating executive arrangements, 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.

* Grounds (b) and (d) are not directly applicable to the City Corporation but are included for completeness and context.

Comments on the statutory grounds

17. The default position is that a Member with a disclosable pecuniary interest in any matter may not speak or vote on that matter. **The onus is on the Member making an application to demonstrate that at least one of the statutory grounds for granting a dispensation is satisfied.**
18. One obvious example of where it may be appropriate to grant a dispensation under statutory ground (a) is where the decision-making body would otherwise be inquorate.
19. In the Standards Committee's view the reference in statutory ground (c) to "persons living in the authority's area" is a reference to residents. A dispensation may also be granted where it is in the interests of other persons accessing the City, its facilities and services – such as City workers – but this would properly come under statutory ground (e). In both cases, the Standards Committee will consider whether not granting a dispensation would be to the disadvantage of that group. The Standards Committee will also take into account how many persons would be disadvantaged, and to what extent.

Factors to be taken into consideration

20. In deciding whether to grant a dispensation under one or more of the specific statutory grounds, the Standards Committee will take into account the following (non-exhaustive) list of factors, as well as any other relevant circumstances, as appropriate. However, the Standards Committee will look at the merits of each application in the round, and simply addressing one or more of the factors below does **not** mean that a dispensation will be granted:

Maintaining public confidence

- (a) Is the nature of the Member's interest such that allowing them to participate would risk damage to public confidence in the conduct of the City Corporation's business?

Applications to vote

- (b) Granting a dispensation to vote has a more direct influence over the decision-making process than a dispensation to speak, goes beyond simply representing the views of constituents and carries more risk of damaging public confidence. **Therefore, a dispensation to vote will only be granted in exceptional circumstances.**

Equivalent public rights

- (c) The default position under the Localism Act 2011 is that a Member with a disclosable pecuniary interest in a matter being considered at a meeting loses any right to speak that they would otherwise have had – **even as a member of the public**. However, in the Standards Committee's view the existence of such public speaking rights are a relevant consideration. Therefore, a dispensation to speak is more likely to be granted for the purpose of making representations, answering questions or giving evidence relating to the business where the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or some other reasonable expectation. This is most likely to arise in relation to planning and licensing matters. The Standards Committee recognises the difficulties facing a Member who lives within the ward they represent. A residential Member in the City seeking to represent their constituents will more frequently find that they have a disclosable pecuniary interest in planning and licensing applications than an elected Member elsewhere. The Standards Committee will look favourably on requests from residential Members to speak on such applications within their wards as a member of the public, where they have submitted written representations in the normal way. Any Member granted a dispensation to speak in such circumstances should then be treated as a member of the public when making oral representations on that matter. The onus though is still on the Member concerned to demonstrate that it is appropriate to grant a dispensation.

Expectation of ward representation

- (d) Is there a reasonable expectation that the Member's ward will be directly represented? For example, is the item of business to be considered at a ward committee?

Alternative means of ward representation

- (e) Where there is a reasonable expectation of ward representation, can the Member's ward be adequately represented without the dispensation being granted? For example, is another Member of the ward able to attend the meeting and speak on the matter – either because they do not have a disclosable pecuniary interest, or because they have already been granted a dispensation? Are there other mechanisms through which the views of constituents could be communicated, either through the Member submitting written representations or by briefing another Member of the committee from a different ward to speak on their behalf?

Widely held interests

- (f) Is the interest common to the Member and a significant proportion of the general public? If so, a Member may be less likely to be influenced by that interest, and granting a dispensation may carry less risk of damaging public confidence. An obvious example would be the setting of council tax.

Directly engaged interests

- (g) How directly engaged is the disclosable pecuniary interest? For example, whilst there may be an argument in some circumstances for allowing a Member with a lease or tenancy from the City Corporation to participate in general housing discussions, the Standards Committee will only grant a dispensation to a Member to participate in business relating to their particular lease or tenancy in very exceptional circumstances.

Personal knowledge, etc.

- (h) Is the participation of the Member in the business that the interest relates to justified by their particular knowledge, role or expertise? The potential contribution would have to be of especial value to the decision making process and provide a perspective that would not otherwise be available. Should the knowledge or expertise in question be provided by a Member or by a disinterested official adviser? Would the Member's participation assist or potentially distort the debate?

Diversity and inclusion

- (i) Does the Member have a particular viewpoint that might not otherwise be represented and might assist the debate in relation to that particular matter – whether this relates to age, race, disability, gender, sexual orientation, religion or belief, or any other protected characteristic?

Manifesto promises

- (j) Was the Member elected on a public platform that they would specifically address the item or items of business for which the dispensation is sought?

Scope and duration

- (k) Some requests for dispensations that are received are general in nature and for a lengthy time period e.g. a request to speak on planning matters until the ward elections in 2021. Others are much more specific in relation to a particular matter at a particular meeting e.g. a request to speak on planning application XXX at the Planning and Transportation Committee on XXX. **A focussed application, as in the latter example, is more likely to be successful** as this enables the Standards Committee to consider a specific set of circumstances. However, to avoid unnecessary bureaucracy arising from delays and adjournments, it is generally acceptable to apply for a dispensation in relation to a specific matter at a specific meeting, and/or such later meetings of that committee during the municipal year at which the matter may be considered.

Previous dispensation decisions

- (l) The Standards Committee cannot fetter its own discretion and must consider each application on its own merits. However, it is beneficial for all concerned for there to be a consistent approach to applications made in similar circumstances, and the Standards Committee will therefore have due regard to its own previous decisions, always acknowledging that the consensus can change over time.

Other related matters

Multiple applications from a particular ward

- 21. Applications to participate in a particular item of business may be received from more than one Member of the same ward. If one Member of the ward is granted a dispensation, this will have a bearing on whether any other Members of the ward should also be granted a dispensation – see paragraph 20(e) above. For this reason, the Standards Committee would prefer to consider the respective merits of all applications from a single ward on a particular item of business at the same time, rather than on a ‘first come, first served’ basis. To assist with this process, Members are reminded of the request to lodge any applications as soon as possible after becoming aware that a dispensation is required. The Members of each ward are encouraged to work together in deciding whether an application for a dispensation should be made and, if so, in considering which Member or Members would be in the strongest position to apply. This could potentially be organised through the ward deputy.

Council tax

- 22. The Department for Communities and Local Government guide for councillors entitled ‘Openness and transparency on personal interests’ states that, “...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.” Whilst this guidance will no doubt provide comfort to Members, it is not intended to be a definitive statement of the legal position. Although the prosecution of a Member who participated in such circumstances is highly unlikely, this cannot be absolutely guaranteed. Members are therefore entitled to apply for a dispensation should they wish to have greater assurance on this point. As the Standards Committee considers the granting of a dispensation in these circumstances to be uncontroversial, authority has been delegated to the Town Clerk to determine applications for dispensations relating to council tax.

Section 618 of the Housing Act 1985

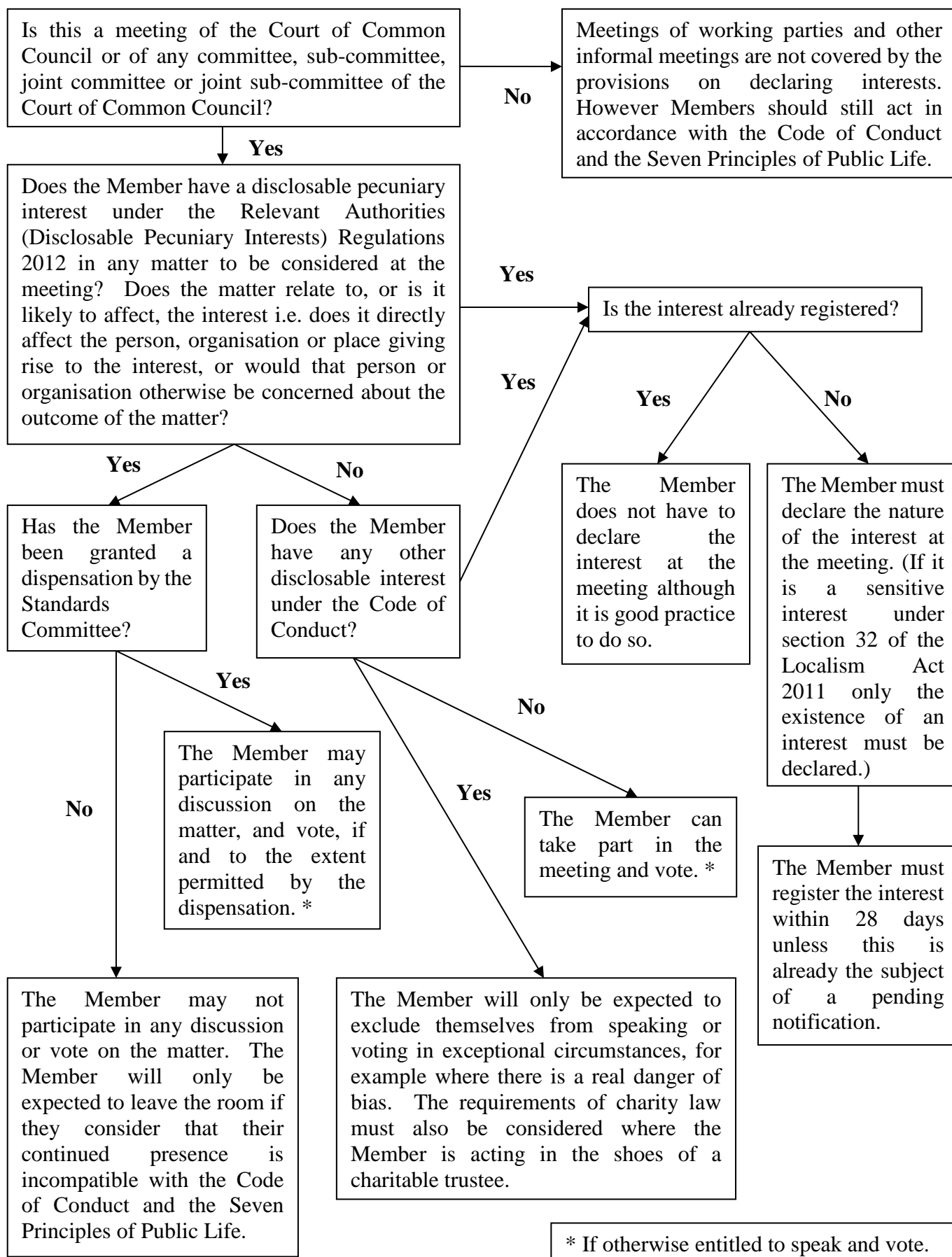
23. Under section 618 of the Housing Act 1985, a Member of the City Corporation may not vote on a resolution or question which is proposed or arises in pursuance of the Housing Act 1985 or the Housing Associations Act 1985 (concerning various housing management issues) and relates to land in which they are beneficially interested. This restriction is separate from, and runs parallel to, the relevant provisions of the Localism Act 2011. **It is not possible to grant a dispensation from the restriction on voting contained in this section.**
24. What this means in practice is that if a housing matter is being considered at a meeting that relates to land in which a Member has a beneficial interest, that Member may not vote, by virtue of section 618 of the Housing Act 1985. In addition, they may only speak on the matter if they have obtained a dispensation under the Localism Act 2011.

Conclusion

25. Requests for dispensations will be determined on their own merits but the Standards Committee will need to be presented with a strong case and will be guided by the principles set out in this document in making its decision. Any Member applying for a dispensation should thoroughly address the factors set out at paragraph 20 above and must satisfy the Standards Committee that a dispensation is justified on one or more of the statutory grounds. Applications should be submitted in good time where possible and Members are requested to liaise with the other Members of their ward where appropriate.

Approved by the Standards Committee on XXX.

APPENDIX 1 – DECLARING INTERESTS AT MEETINGS



Appendix 3



REQUEST FOR A DISPENSATION TO SPEAK AND/OR VOTE WHERE A MEMBER / CO-OPTED MEMBER HAS A DISCLOSABLE PECUNIARY INTEREST

The City of London Corporation may, following a written request, grant a dispensation for a Member (including a Co-opted Member) to take part in any discussion and vote on a matter in which they have a disclosable pecuniary interest, in some circumstances. The granting of dispensations is a function of the Standards Committee and its Dispensations Sub-Committee (referred to collectively in this form as “the Standards Committee”). You are strongly advised to read the accompanying ‘Policy and guidance on the granting of dispensations’ (“the Policy”) issued by the Standards Committee before completing this form and particular paragraphs of that document are cross-referenced at appropriate points below.

The information you provide in this form will be considered by the Standards Committee or its Dispensations Sub-Committee in reaching a decision. **The onus is on you to justify your application and the omission of any relevant information may affect the outcome.** You are requested to complete this form electronically and email it to declarations@cityoflondon.gov.uk. Electronic applications will only be accepted from your official City of London Corporation email address. Alternatively, paper forms can be submitted to the Committee and Member Services Team in the Town Clerk’s Department, but typed forms should be provided if at all possible.

Name:

Date:

☐ I confirm that I am the person named above and that I have personally completed this form or reviewed its contents. The details provided in this form are true and accurate and all material facts have been disclosed.

If submitting a paper form, please also sign in the box below.

Signature:

Relevant disclosable pecuniary interests (paragraphs 4-11 of the Policy)

Please describe the nature of the disclosable pecuniary interest(s) that would otherwise prohibit you from speaking and/or voting:

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Appendix 3

Details of dispensation sought (paragraphs 12-15, 20(b)-(c) & 20(k) of the Policy)

I request a dispensation to enable me to:

- ☐ speak as a member of the public
- ☐ speak as a Member
- ☐ vote

on the following matter(s):

I require the dispensation:

- ☐ for a specific committee meeting or meetings as follows:

- ☐ for a specific period as follows:

- ☐ until the Ward elections in 2021

If your request is urgent or at short notice please explain why the application is being made now:

Appendix 3

Statutory grounds (paragraphs 16-19 of the Policy)

A dispensation may only be granted where one of the statutory grounds is met. The grounds that are relevant to the City of London Corporation are set out below. Please tick the statutory ground(s) that you consider to be met in this instance and then explain in more detail why you believe this to be the case in the relevant text box.

- ☐ **Without the dispensation the proportion of Members and Co-opted Members prohibited from participating in any particular business would be so great as to impede the transaction of the business**

- ☐ **Granting the dispensation is in the interests of persons living in the City**

- ☐ **It is otherwise appropriate to grant a dispensation**

Appendix 3

Factors to be taken into consideration

In deciding whether or not to grant a dispensation under one or more of the specific statutory grounds, the Standards Committee will take into account the following list of factors, as well as any other relevant circumstances as appropriate. Please address as many of these factors as you can by providing the requested information where applicable in the relevant text box.

A. Maintaining public confidence (paragraph 20(a) of the Policy)

If you believe that granting a dispensation in this case would not risk damaging public confidence in the conduct of the City Corporation's business then please explain why in the box below.

B. Applications to vote (paragraph 20(b) of the Policy)

Dispensations to vote will only be granted in exceptional circumstances. If you are seeking such a dispensation then please explain in the box below why such exceptional circumstances apply in this case.

Appendix 3

C. Equivalent public rights (paragraph 20(c) of the Policy)

If you expect that members of the public will be allowed to speak at the meeting in question, whether under a statutory right or some other reasonable expectation, then please provide details in the box below. Where such speaking rights arise from the submission of a written representation (e.g. in relation to planning or licensing applications) please confirm whether you have submitted such a representation. Please also confirm whether you are willing to be treated as a member of the public when making oral representations on this matter.

D. Expectation of ward representation (paragraph 20(d) of the Policy)

If you believe that there is a reasonable expectation that your ward should be directly represented in relation to this item of business then please explain why in the box below.

Appendix 3

E. Alternative means of ward representation (paragraphs 20(e) & 21 of the Policy)

Please confirm whether you have considered other mechanisms through which the views of your constituents could be communicated, such as through the submission of written representations or by briefing another Member of the committee to speak on their behalf. If this would not be adequate representation in this case then please explain why in the box below. Please note from the guidance that if one Member of a ward is granted a dispensation in relation to a particular matter then this will have a bearing on whether any other Members of the ward should also be granted a dispensation. It will often therefore be appropriate to liaise with the other Members of your ward prior to submitting this application and if such discussions have taken place please provide details below.

F. Widely held interests (paragraph 20(f) of the Policy)

If you consider that you share the disclosable pecuniary interest in question with a significant proportion of the general public then please provide details in the box below.

Appendix 3

G. Directly engaged interests (paragraph 20(g) of the Policy)

If the item of business for which you are seeking a dispensation relates specifically to your disclosable pecuniary interest (e.g. your particular lease or tenancy) then please provide details in the box below. By contrast, if you consider that you have a disclosable pecuniary interest in this matter but that any potential advantage arising is minor or remote then please also provide details below.

H. Personal knowledge, etc. (paragraph 20(h) of the Policy)

If you consider that your particular knowledge, role or expertise would be of especial value to the decision making process and provide a perspective that would not otherwise be available then please provide details in the box below.

Appendix 3

I. Diversity and inclusion (paragraph 20(i) of the Policy)

If you have a particular viewpoint arising from a protected characteristic that might not otherwise be represented and might assist the debate in relation to the particular item of business in question then please provide details in the box below.

J. Manifesto promises (paragraph 20(j) of the Policy)

If you were elected on a public platform that you would specifically address the item or items of business for which the dispensation is sought then please provide details in the box below.

Appendix 3

K. Scope and duration (paragraph 20(k) of the Policy)

A focussed dispensation request that relates to a specific matter and is of short duration is more likely to be successful as this enables the Standards Committee to consider a particular set of circumstances. However there will be occasions when a more general dispensation for a longer term may be appropriate. If you are applying for such a dispensation then please explain your reasons in the box below.

L. Previous dispensation decisions (paragraph 20(l) of the Policy)

Each application will be considered on its own merits. However for the sake of consistency the Standards Committee will have due regard to its own previous decisions. If there is a recent decision that you wish to draw to the attention of the Standards Committee then please provide details in the box below.

Appendix 3

M. Other relevant considerations

If you consider that there are any other circumstances relating to your particular application that support your request for a dispensation on one or more of the statutory grounds or that should otherwise be disclosed to the Standards Committee then please provide details in the box below.

Appendix 4

Dispensations Sub (Standards) Committee

Note: The Standards Committee will elect on an annual basis a Chairman and two Deputy Chairmen of the Sub Committee and each meeting of the Sub Committee will be chaired by one of those persons subject to (d) below.

- a) The Dispensations Sub Committee is established to determine written requests for dispensations from a Members (including ~~or~~ a Co-opted Members) to take part in any discussion and/or vote on a matter in which they have a disclosable pecuniary interest in accordance with section 33 of the Localism Act 2011.
- b) Upon receipt of a written request for a dispensation, a meeting of the Sub Committee will be convened (~~unless a meeting of the Standards Committee is scheduled to take place within a reasonable timeframe~~), to consider the details of the request and will then do one of the following:-
 - (i) grant a dispensation (in whole or in part) for a specified period not exceeding four years;
 - (ii) reject the request for a dispensation; or
 - (iii) seek further information regarding the request ahead of further consideration at a newly convened meeting, or in accordance with the City Corporation's urgency provisions (Standing Order No. 41).
- c) The Town Clerk will advise the Member seeking a dispensation of the Sub Committee's decision upon the conclusion of the meeting and will retain a list of action taken in respect of all written requests considered by the Sub Committee.
- d) The Members of any meeting of the Sub Committee will not be Members of the Committee / Sub Committee that the dispensation request(s) relates to.
- de) The Sub Committee will consist of ~~any~~ three elected Members (voting) and one Co-opted Member (non-voting) to be drawn from the membership of the Standards Committee, subject to (d) above and the provisions for each meeting to be chaired by either the Chairman or two Deputy Chairmen elected annually by the Standards Committee also referred to above.
- ef) The quorum shall consist of any three ~~elected~~ Members.

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Committee: Standards Committee	Date: 5 October 2018
Subject: Requests for a Dispensation under the Localism Act 2011 (REVISED VERSION)	Public
Report of: Town Clerk	For Decision
Report author: Martin Newton	

Summary

Dispensation requests have been received to speak and/or vote on matters where the applicants would otherwise have a disclosable pecuniary interest.

Recommendation

Your Committee is asked to determine the applications for a dispensation.

Main Report

Background

1. Two dispensation requests have been received. Your Committee has requested that all such applications are accompanied by a covering report.

Disclosable pecuniary interests under the Localism Act 2011

2. Under the Localism Act 2011, The Relevant Local Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the City Corporation's Member Code of Conduct there are a number of disclosable pecuniary interests that prevent a Member from participating in any discussion or vote on a connected item of business.
3. The Localism Act 2011 does not provide any additional guidance on judging whether a disclosable pecuniary interest is engaged or not. It simply states that the prohibition on speaking or voting on a matter is engaged where a Member:
 - (a) is present at a meeting;

- (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
 - (c) is aware that the condition in paragraph (b) is met.
- 4. It is up to individual Members to make a judgement whether they have a disclosable pecuniary interest in relation to any particular item of business. This will be the case where a decision would materially affect a Member's interest in land, for example by materially affecting the value of that land, the prospects of selling that land, or the use and enjoyment of that land.
- 5. A Member also commits a criminal offence if, without reasonable excuse, they participate in any discussion or vote on any City Fund matter in which they have a disclosable pecuniary interest. For this reason we would always advise a Member to err on the side of caution. A Member who is found guilty of such an offence can be fined up to £5,000 and disqualified from holding office for up to five years. A prosecution may only be instigated by or on behalf of the Director of Public Prosecutions (DPP).

Granting dispensations under the Localism Act 2011

- 6. A relevant authority may, on a written request made to the proper officer of the authority by a Member of the authority, grant a dispensation relieving the Member from either or both of the restrictions on speaking or voting in cases described in the dispensation. A dispensation must specify the period for which it has effect, which may not exceed four years. The granting of such dispensations is a function of this Committee and its Dispensations Sub-Committee. A relevant authority may only grant a dispensation if, after having had regard to all relevant circumstances, the authority:
 - (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) if it is an authority operating executive arrangements, 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.

* Grounds (b) and (d) are not directly applicable to the City Corporation but are included for completeness and context.

Additional factors

7. Subject to the specific statutory grounds for granting a dispensation, Members may also wish to take into account the following (non-exhaustive) additional factors:
 - (i) whether the nature of the Member's interest is such that to allow them to participate would risk damage to public confidence in the conduct of the City Corporation's business;
 - (ii) whether the interest is common to the Member and a significant proportion of the general public;
 - (iii) whether the Member was elected on a platform that they would specifically address the item or items of business for which the dispensation is sought;
 - (iv) whether the participation of the Member in the business that the interest relates to is justified by their particular role or expertise;
 - (v) whether the request is for a dispensation to (a) speak at the meeting with the same rights as a member of the public; (b) participate fully in the debate as a Member of the decision-making body in question; or (c) participate fully in the debate as a Member of the decision-making body in question and vote on the business.
8. As previously stated, the onus is on individual Members to decide whether they have a disclosable pecuniary interest in any given matter. Therefore, the Committee should assume for present purposes that any dispensation being sought is required in order to participate, and you should not refuse a request simply on the basis that a dispensation is not thought to be necessary. Any dispensation granted is entirely permissive in nature and does not impose any restrictions on speaking or voting where no such restrictions otherwise exist.

The applications and specific considerations

9. The requests for dispensation received are listed below and the relevant application forms appended. This report does not seek to duplicate the information that is contained in the application form. However, where there is additional relevant information this is set out below.

Deputy Robert Merrett

10. A request for a dispensation from Deputy Robert Merrett is attached as an Appendix. He is a Common Councilman for the Ward of Bassishaw and a Common Council appointed member of the Board of Governors of the City of London School for Girls (CLSG). The request is to speak and or vote on all CLSG matters, but not vote on any matter that has a direct financial impact to himself as a parent of a pupil, such as school fees. Deputy Merrett's daughter has recently become a pupil at the school in September 2018.

Recent decision of the Dispensations Sub (Standards) Committee

11. At its meeting in August 2018, the Dispensations Sub (Standards) Committee considered a request from another Common Councilman for a dispensation to speak and vote as a member of the Board of Governors of the City of London Freeman's School, and the parent of two children at that School, on all business before the Board except the setting of school fees, and the award of bursaries from the City of London Freeman's School Bursary Fund.
12. In considering that application it was noted that as a Common Council appointment, the applicant's role as a Governor was different to that of a parent governor and therefore his disclosable pecuniary interest was such that a dispensation could only be granted if it met with the criteria set out under the Localism Act 2011. The Sub-Committee acknowledged the request to participate only in core strategic business and where no direct pecuniary interest arose. However, Members felt that it was not possible to determine what business before the Board was or was not relevant to the disclosable pecuniary interest and on that basis, the request should be refused as it was not appropriate for the applicant, in light of his disclosable pecuniary interest, to serve on the Board of Governors as a City Corporation Member.

Deborah Oliver

13. A request for a dispensation from Deborah Oliver (an external member of the Police Committee) is attached as an Appendix. The request is to speak only at Police Committee and any of its Sub-Committees on security of entrances to the Barbican complex and various walkways for

the entirety of her 4-year term, commencing 13 September 2018.
Deborah Oliver confirms that her disclosable pecuniary interest is her long leasehold and ownership of a property on the Barbican Estate.

Recent decision of the Standards Committee (under delegated authority)

14. In June 2018, a dispensation request was partially granted (Standards Committee under delegated authority (SO 41(b)) to another member of the Police Committee to speak only at Police Committee and Court on security of entrances to the Barbican complex and various walkways until next ward elections in 2021.

Conclusion

15. Your Committee is asked to determine the applications in accordance with the criteria set out under the Localism Act 2011.

Contacts:

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REQUEST FOR DISPENSATION – DISPENSATIONS FOR MEMBERS TO SPEAK AND VOTE WHERE THEY HAVE CERTAIN DISCLOSABLE PECUNIARY INTERESTS

The new Standards regime does not replicate the former statutory exemptions which allowed Members to vote on a number of matters in which they would otherwise have had a prejudicial interest. However, the City of London Corporation may, following a written request, grant a dispensation for a Member or a Co-opted Member to take part in any discussion and vote on a matter in which they have a disclosable pecuniary interest, in some circumstances.

It is anticipated that the principal matters likely to require dispensations are those relating to the following, where a Member has a beneficial interest in land within the City:-

- Housing (where the Member holds a lease or tenancy from the City, as long as the matter does not relate to their particular lease or tenancy).

However, dispensation may be granted in relation to any matter so long as a relevant criterion is met. The criteria that are relevant to the City of London Corporation are as follows:

- Without the dispensation the proportion of Members and Co-opted Members prohibited from participating in any particular business would be so great as to impede the transaction of the business; or
- Granting the dispensation is in the interests of persons living in the City; or
- It is otherwise appropriate to grant a dispensation.

Please provide the following information if you wish to request a dispensation to allow you to speak and/or vote on a specific matter or matters, either on a specific occasion or at any point until the next Ward elections in 2021.

The following information will be considered by the Standards Committee or its Dispensations Sub Committee.

Name: ---Deborah Oliver----- Date: -----1st October 2018----

Signed: ---Deborah Oliver-----

I request a dispensation to enable me to speak on the following matter(s):

A dispensation be granted to speak only at Police Committee and any of its Sub-Committees on security of entrances to the Barbican complex and various walkways for the entirety of my 4-year term, commencing 13 September 2018.

(Please delete as applicable)*

Please describe the nature of the disclosable pecuniary interest(s) that would otherwise prohibit you from speaking and/or voting on the above matter(s):

I am the long leaseholder and owner of a property on the Barbican Estate.

Please explain which of the criteria for granting a dispensation you consider to be met, and why:

I require the dispensation for:

(i) a time limited period from/to: Pol. Com. 4-year term ending in Sep 2022....

☒

(ii) for a specific meeting of:

On:

(ii) Until the Ward elections in 2021

If your request is urgent, please specify why:

Request considered by the Standards Committee / Dispensations Sub Committee:

Date:----- Decision taken:

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