



Standards Committee

Date: FRIDAY, 24 JANUARY 2020
Time: 11.00 am
Venue: COMMITTEE ROOMS – 2ND FLOOR, WEST WING, GUILDHALL

Members: Ann Holmes (Chair)
Caroline Addy (Deputy Chairman)
Randall Anderson
Judith Barnes (Co-opted)
Henry Colthurst
Nick Cooke (Co-opted)
Mary Durcan
Deputy Jamie Ingham Clark
The Very Revd. Dr. David Ison (Co-opted)
Alderswoman Susan Langley
Dan Large (Co-opted)
Vivienne Littlechild
Deputy Edward Lord
Alderman & Sheriff Professor Michael Mainelli
Barbara Newman
Jeremy Simons
Elizabeth Walters (Co-opted)

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Lunch will be served in the Guildhall Club at 1pm
NB: Part of this meeting could be the subject of audio or visual recording

John Barradell
Town Clerk and Chief Executive

AGENDA

Part 1 - Public Agenda

1. **APOLOGIES**

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

For Decision

3. **MINUTES OF THE PREVIOUS MEETING**

To consider the public minutes of the meeting held on 4 October 2019.

For Decision
(Pages 1 - 12)

4. **MINUTES OF SUB COMMITTEES**

To receive the public minutes of recent Assessment and Dispensations Sub Committee meetings that have met since the last meeting of the Grand Committee.

For Information
(Pages 13 - 22)

5. **TERMS OF REFERENCE AND FREQUENCY OF MEETINGS**

Report of the Town Clerk.

For Decision
(Pages 23 - 34)

6. **FURTHER REVIEW OF DISPENSATIONS POLICY AND LEADING COUNSELS OPINION**

Report of the Comptroller and City Solicitor.

For Decision
(Pages 35 - 84)

7. **REQUESTS FOR A DISPENSATION UNDER THE CORPORATION'S APPROVED DISPENSATIONS POLICY**

Report of the Town Clerk.

For Decision
(Pages 85 - 160)

8. **REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE - FOLLOW UP ACTIONS**

Report of the Comptroller and City Solicitor.

For Decision
(Pages 161 - 182)

9. **ANNUAL REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS 2019**

Joint report of the Comptroller and City Solicitor and the Director of Human Resources.

For Information
(Pages 183 - 222)

10. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

11. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

12. **EXCLUSION OF THE PUBLIC**

MOTION: That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

For Decision

Part 2 - Non-Public Agenda

13. **NON-PUBLIC MINUTES OF THE PREVIOUS MEETING**

To consider the non-public minutes of the meeting held on 4 October 2019.

For Decision
(Pages 223 - 224)

14. **NON-PUBLIC MINUTES OF SUB COMMITTEE**

To receive the non-public minutes of the Assessment Sub-Committee meeting of 3 December 2019.

For Information
(Pages 225 - 226)

15. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

16. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

STANDARDS COMMITTEE

Friday, 4 October 2019

Minutes of the meeting of the Standards Committee held at Committee Room - 2nd Floor West Wing, Guildhall on Friday, 4 October 2019 at 11.00 am

Present

Members:

Ann Holmes (Chair)
Caroline Addy (Deputy Chairman)
Randall Anderson
Judith Barnes
Henry Colthurst
Nick Cooke
Mary Durcan
Deputy Jamie Ingham Clark
Vivienne Littlechild
Deputy Edward Lord
Alderman & Sheriff Professor Michael Mainelli
Barbara Newman
Jeremy Simons

Officers:

Gemma Stokley	- Town Clerk's Department
Lorraine Brook	- Town Clerk's Department
Antoinette Duhaney	- Town Clerk's Department
Michael Cogher	- Comptroller and City Solicitor
Edward Wood	- Comptroller and City Solicitor's Department
Kristina Drake	- Media Officer

1. **APOLOGIES**

Apologies for absence were received from Alderwoman Susan Langley and Dan Large (Co-opted).

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

There were no declarations.

3. **MINUTES OF THE PREVIOUS MEETING**

The public minutes of the meeting held on 3 May 2019 were considered and approved as a correct record.

MATTERS ARISING

Review of Local Government Ethical Standards by the Committee on Standards in Public Life (page 11) – A Co-opted Member questioned when further reports relating to various recommendations could be expected by the Committee. The Chair clarified that work on these matters was already

underway and that the first such report would be brought to the Committee in early 2020.

4. **MINUTES OF DISPENSATIONS SUB COMMITTEES**

The Committee received the minutes of the Dispensations Sub (Standards) Committee meeting held on 3 July 2019 and the draft minutes of the Dispensations Sub (Standards) Committee held on 4 September 2019.

RECEIVED.

5. **REVIEW OF DISPENSATIONS POLICY**

The Committee considered a report of the Comptroller and City Solicitor relative to a formal review of the Dispensations Policy.

The Chair introduced the item by stating that the Committee had looked at the experience of the first six months of the policy which was introduced in March 2019. The petition submitted in relation to this, Wardmote resolutions, comments from the Barbican and Golden Lane Residents Associations and points made at the informal meeting of this Committee last month had also been taken into account.

The Chair intimated that she intended to hold discussion today on dispensations to speak, dispensations to vote, Section 618 and procedural matters in turn, in that order. She added that, for dispensations to speak and procedural matters, her note at Item 5A. may prove useful and that for all of the issues, the basic information was contained within the Comptroller's report.

The Chair went on to highlight that the Localism Act was clear in that anyone with an engaged DPI may neither speak nor vote without a dispensation and that, to obtain a dispensation, at least one of the statutory grounds must be met.

She concluded her introduction by clarifying that the Committee's concern today was rooted in finding the best balance between representing constituents and avoiding conflicts of interest. The policy had to meet the requirements of the Law and the organisation's own Code of Conduct and protect individual Members and the Corporation from challenge.

Dispensations to speak

The Chair clarified that dispensations to speak for up to four years on council tax and general housing matters, and to speak as a member of the public on planning and licensing matters, were currently delegated to the Town Clerk. Today, she would like to seek the Committee's views on whether and, if so, how far, it wished to extend these arrangements.

At the Chair's request, the Comptroller and City Solicitor highlighted that the legal obligations were set out within the report and that the Committee had a wide but not unlimited discretion with regard to the granting of dispensations. They couldn't seek to ignore or evade the statutory scheme. They were

required to exercise discretion properly, having regard to all relevant circumstances. He clarified that the Committee were not prevented from granting dispensations for Members terms of office (4 years) or from granting more general dispensations – both of which had already been done in practice. However, the Committee had a duty to inform themselves of the relevant facts in each case (the Tameside duty). The Comptroller went on to state that the granting of dispensations could be delegated to Officers or to individual Committees but not to individual Members, either expressly or by implication. Any policy that had the effect of always or never granting a dispensation would be unlawful. He echoed the Chair's earlier point that this was therefore a balancing act between democratic representation and the general (not just local) public interest. He concluded by highlighting that other legal constraints also needed to be borne in mind such as Section 618 of the Housing Act 1985 and the rule against actual or apparent bias.

The Chair highlighted that Item 5A contained a range of extensions to the current delegated dispensations to speak that Members may wish to make. She opened the matter of dispensations to speak up to debate.

A Member stated that she still found it difficult to grasp why speaking for hundreds of others as opposed to simply speaking for herself was an issue here and asked the Comptroller and City Solicitor if he could expand on this. The Comptroller explained that if a Member has an engaged DPI then there isn't a difference, in relation to the prohibition on participation in the Localism Act – that's why provision is made for dispensations. The Comptroller also referred to the *R (Richardson) v North Yorkshire CC* case in which it was held that a Member could not separate out their official and private capacities. He added that, if a Member were one of many affected by a proposal, this would be a relevant factor in deciding whether to grant a dispensation as had been the case with a recent dispensation granted to Deputy Joyce Nash to both speak and vote in relation to plans to extend the City of London School for Girls. A Member stated that another Councillor in the same position would also be applying for similar rights and questioned whether the same outcome was therefore likely. The Comptroller and City Solicitor declined to comment and stated that this would be a decision for the Dispensations Sub Committee in due course. A Co-opted Member added that each application was considered on its own merits but that common sense would suggest that, if all circumstances were equal, outcomes were also likely to be the same. Another Member queried whether that Councillor was in exactly the same position.

A Member stated that he felt that there was an overriding need for all elected Members to have the ability to speak on all matters and that this should therefore be the Committee's starting point. He clarified that, ideally, he would be keen to see a blanket dispensation to speak introduced for all. He went on to state that the main issues here were around Housing, Planning and Licensing matters and suggested that at the start of each Members' term of office, specific dispensations to speak should be provided in relation to these. He agreed that the matter of voting was a thornier issue.

Another Member urged caution here, adding that every application was required to be considered on its merits. He added that granting too wide a dispensation would create a potentially invidious situation and highlighted that part of the test was whether a Member applying for a dispensation was one of many or one of few and that levels of detail were therefore important.

A Member asked the Comptroller and City Solicitor to comment on whether, in his view, the proposal put forward by a Member regarding blanket dispensations for all to speak on any matter would be legal. The Comptroller and City Solicitor responded by, once again, highlighting that dispensations to speak on general housing matters were already in existence. He questioned what it was that Members wished to see added to this. He agreed with the point made that Housing, Planning and Licensing matters tended to be the most significant here and added that policies were already in place around granting rights to speak on all of these.

A Member commented that she had left the informal meeting of this Committee last month in no doubt that the general feeling was that blanket dispensations to speak should be granted to all. She referred also to the petition received on the Dispensations Policy indicating that the public felt disenfranchised by the current scheme. She added that curtailing Members rights to speak on behalf of their electors effectively meant that standing for election was pointless.

The Deputy Chairman stated that it was very important to bear in mind all the different interests in play. She recognised the pressure to grant dispensations to speak but added that there was, nevertheless, the need to act legally.

A Member questioned whether there was any distinction made, legally, between seeking a dispensation to speak and one to vote. The Comptroller and City Solicitor explained that the statute made no distinction in terms of the test applied but did separate out applications in terms of those seeking to speak and/or vote. Conceptually, there clearly was a difference which the Committee was entitled to take into account.

A Member commented that the Policy's current definition of 'general housing matters' did not include car parking and storage and therefore that was one example of how it could be more widely drafted. He went on to state that he struggled with how this matter had been made so complex given that the Committee had broad, legal authority under the Localism Act to grant dispensations and should seek to use that authority properly, to treat elected Members as if they had common sense and to allow them to effectively represent those who had elected them. He too referred to the petition received as well as the two Wardmote resolutions put in the same terms – all indicating that residents in the City felt that the current policy prevented them from being fully represented. He agreed with the point made earlier regarding the many and the few and felt that those seeking to act on behalf of the few should not be granted a general dispensation. That aside, he stated that he was firmly of the view that a policy that permits all to speak and vote should be in place with a 'break line' indicating that crossing this was at the personal risk of individual Members.

A Co-opted Member stated that she could see that general dispensations on some matters affecting all equally would be helpful. She argued that this, however, already existed in the form of general housing matters, and car parking and storage where this had been applied for.

The Deputy Chairman agreed that such eventualities were already covered in the existing policies. She added that applications for dispensations relating to specific topics, which were general in that they persisted in time, were easier to process and satisfy the test. Applications with no specific topic were extremely difficult to process.

A Member stated that he would be in favour of extending the dispensations delegated to the Town Clerk to include speaking on any matters affecting ward constituents.

Another Member agreed with this approach. She added that the current regime seemed to take away the ability of elected Members to demonstrate integrity and the ability to make good judgements. For this reason and, on the grounds of good governance, she would also support the introduction of blanket dispensations for resident Members to at least speak on all matters.

A Co-opted Member interjected to state that it was also important to consider the views of the wider public and third-party interests, particularly in relation to Planning and Licensing applications. He added that the granting of blanket dispensations could open the City Corporation up to litigation and questioned why Members would find the need to apply for a dispensation on a case by case basis so cumbersome. It could cause problems if there was a lack of clarity over the interests that Members had.

Two Members made the point that elected Members' publicly available registers of interests covered their pecuniary interests and also that there was an Item on every Committee agenda prompting Members to declare these in relation to items of business to be considered.

A Co-opted Member cautioned that, legally speaking, the process of granting such wide dispensations could be challenged in that it could demonstrate that relevant information was not available and that the process was therefore flawed or unfair. Areas such as Planning, and Licensing could rapidly decline in credibility with third parties with such an approach. He concluded by pointing out the financial value of developments in the City which inevitably meant that the City Corporation was subject to a high degree of scrutiny.

A Member disagreed that this would be the case and suggested that this wrongly conflated a number of different issues such as personal liability and the rule against bias which in his view the dispensations regime should not properly be dealing with.

The Deputy Chairman expressed a concern that blanket dispensations could lead to Members not focussing enough on their own individual circumstances in relation to a particular item of business.

The Chair took the opportunity to summarise at this point stating that there were clearly two points of view. There were Members who were in favour of granting a blanket dispensation to speak on any matter affecting ward constituents (with whatever caveats needed attaching to it) for a four-year term of office, and other Members who had concerns about such an approach.

The Chair requested, at this stage, an indicative show of hands to determine who would be in favour of granting such blanket dispensations. Five Members indicated that they would favour this approach and seven Members (including the two Co-optees present) indicated that they would not.

A Member who had indicated his opposition to the proposal stated that the key issue here was around parameters to general dispensations. He added that he felt that there were some circumstances where such an approach would work well but that he was yet to hear these articulated or receive enough information on which to reach a firm decision.

In light of this, and the clear divergence of views amongst the Committee, it was agreed that a report should come back to this Committee seeking to simplify the process around applying for dispensations to speak and examining how the existing delegations to the Town Clerk could be applied as broadly as possible whilst avoiding the risk of a successful legal challenge against individual Members or the City Corporation.

Dispensations to Vote

The Chair underlined that dispensations to vote were currently only granted in exceptional circumstances. There was a suggestion that the wording within the current policy should be amended to state that they would only be granted in certain circumstances, with good reason. She invited the Comptroller and City Solicitor to comment on this position. The Comptroller and City Solicitor stated that voting was certainly more influential than speaking in terms of outcomes. He referred again to the caselaw around actual and apparent bias, particularly in relation to matters such as Planning and Licensing, where third party rights were engaged.

A Member stated that the issues referred to (specifically around bias and Judicial Review) could not be dispensated against. He reiterated that his concern was therefore that these were very separate issues not stemming from the Localism Act and could be dealt with at the appropriate time. The Comptroller and City Solicitor said that it was debatable whether the dispensations regime could be entirely separated out from these other related issues but in his view, it would not be wise to do so.

In response to a Member stating that some Members with engaged DPIs in development matters spoke and voted at meetings of the Planning and

Transportation Committee, the Chair advised that Members should be reporting such instances if this was the case.

The Deputy Chair highlighted that dispensations may not be granted unless certain criteria were met and that, if the dispensations regime worked properly, matters such as potential bias should be considered at that stage. She added that blanket dispensations were therefore difficult to grant and could not be entirely separated from the issue of bias.

A Co-opted Member stated that the Localism Act and dispensations regime were intended to work as 'gatekeepers' to prevent issues such as bias arising in the first place.

The Chair asked elected Members to formally vote as to whether or not they would like to see the current policy on dispensations to vote (whereby these were only granted with good reason) changed.

Votes were cast as follows:

FOR: 5 votes

AGAINST: 5 votes

The Chair exercised her casting vote on the matter and the vote was therefore lost.

Section 618 of the Housing Act 1985

The Chair clarified that the general consensus of those present at the informal meeting of this Committee last month seemed to be that Members should seek the removal of this section. She stressed that it was not within the gift of the Committee to act alone on this but asked that Members indicate their willingness to invite the Policy and Resources Committee, Community and Children's Services Committee and Barbican Residential Committee to consider, with the advice of the Remembrancer, taking steps to seek this from government.

Members were unanimously supportive of this proposal. A Member highlighted that a Housing Act was likely to be announced at the next Queen's Speech and that this would be an obvious opportunity to make the repeal.

Procedure

The Chair highlighted that there were some suggested changes detailed within her note at Item 5A for consideration. She added that this was not intended as an exhaustive list but may prove useful in terms of initiating discussion.

Firstly, Members discussed the suggestion that Members might be required to take advice as to the engagement of a disclosable pecuniary interest (DPI) from the Monitoring Officer or relevant committee lawyer, prior to applying for dispensation. Members were in favour of the principle but felt that Members should be strongly encouraged as opposed to required to adopt this approach.

A Member stressed that it was important to ensure that advice was only sought from those suitably qualified.

It was also agreed that the assessment criteria should be altered so that complaints in relation to speaking and voting will not be investigated, provided that the Member has obtained advice in good faith and with full disclosure from the Monitoring Officers or relevant committee lawyer that a DPI is not engaged. The Deputy Chair commented that this should be premised on the fact that Members had then acted in accordance with the advice received.

Members were also in favour of setting deadlines for applications for dispensations. Notwithstanding this, it was noted that the urgency procedures already in place would be retained where necessary, such as in the case of late items of business being submitted to Committees. Guidance should also be produced on what constitutes an urgent application.

The Committee were also unanimously of the view that the requirement that a member may not consider an application for dispensation for a committee on which they themselves sit should be removed.

Members were unsupportive of the suggestion that pre-meetings of individual Committees to decide applications for dispensations to vote should be pursued.

Finally, it was felt useful that meetings of the Dispensations Sub Committee should be fixed in advance at regular intervals for the following year, whilst retaining means of dealing with urgent applications.

Forms

A Member commented that the shortening and simplifying of the application form seemed to him a positive change. He added that he felt that it also served as a useful reminder to Members in terms of their obligations and that he could easily imagine a situation arising in terms of his own business interests or Livery connections for example where such focus would be helpful.

The Member went on to suggest that the Dispensations regime should be covered extensively at all future Member Induction sessions and that forms should be provided to all at election or re-election every four years or as appropriate with adequate explanation.

A Member suggested that for reasons of transparency, the revised form might also usefully refer to the need to add any interest to a Members register. Another Member added that the form should also encourage Members to apply for dispensations as early as possible.

The Chair went on to focus on the suggestion that the use of the now simplified and shortened form should be made mandatory. She suggested that this made the role of the Dispensations Sub Committee easier in terms of process and comparability. Members were supportive of this and clarified that, aside from exceptional circumstances, applications submitted not using the revised form would not be considered.

A Member suggested that hard copies of the form be made available in the Members Reading Room alongside other stationary for ease of access.

The Chair referred to the four applications for general dispensations that had previously been deferred pending discussions today and requested that the Town Clerk now contact those Members and request that their applications be resubmitted on the revised forms for consideration at a Dispensations Sub Committee to be convened as soon as possible following their receipt. In response to a question, it was clarified that those who had sat on the Dispensations Sub Committee that had originally considered these applications would not be precluded from determining them once they had been re-submitted.

Finally, the Committee discussed the possibility of introducing a minimum period between the submission of identical applications. A Member stated that he was nervous about this and felt it was setting the wrong tone in that Members should be trusted to act sensibly. The Chair clarified that this suggestion had arisen from recent monitoring of the regime but concurred with the majority view that this should not be pursued at present.

The Deputy Chair suggested that it would be useful to have a document detailing all recent decisions around dispensations made readily available to Members. The Town Clerk responded that this could be made available both online and in hard copy in the Members Reading Room going forward.

RESOLVED – That:

- (i) After considering the report, discussion paper, the previous minutes, Chairman's notes, petition and Wardmote resolutions, the Committee instruct Officers to bring back to them a report examining how the process around applying for dispensations to speak might be simplified and how the existing delegations to the Town Clerk could be applied as broadly as possible whilst avoiding the risk of a successful legal challenge against individual Members or the City Corporation.
- (ii) The Committee invite the Policy and Resources Committee, Community and Children's Services Committee and Barbican Residential Committee to consider, with the advice of the City Remembrancer, taking steps to seek the repeal of s.618 of the Housing Act 1985.

6. INSURANCE AND INDEMNITIES FOR INDEPENDENT PERSONS

The Committee considered a joint report of the Comptroller and City Solicitor and the Chamberlain setting out the position in relation to the potential personal liability of the Corporation's Independent Persons appointed under the Localism Act 2011 when carrying out their duties and the recommendations of the Committee on Standards in Public Life that local authorities provide indemnities

to their Independent Persons in relation to their comments during the discharge of their duties.

RESOLVED – That Members approve the proposal in the report for onward approval by the Court of Common Council to indemnify and/or insure Independent Persons (through the extension of the Corporation's Defamation Cover) against awards of damages or expenses incurred arising out of the disclosure of any comments made in good faith during the exercise of their statutory functions as Independent Persons.

7. ANNUAL UPDATE TO MEMBER DECLARATIONS

The Committee considered a report of the Town Clerk providing Members with an overview of the annual update to the Members' Declarations which commenced in July 2019.

In response to questions, the Town Clerk clarified that there was no statutory requirement for an annual update to take place. The Code of Conduct requires Members to maintain an up to date register and the guidance provides for an annual reminder to be sent for this purpose. The Town Clerk also highlighted the disappointing response rate from both elected and relevant Co-opted Members to date.

With this in mind, it was recognised that the amount of time currently dedicated by Officers to undertaking this piece of work was not sustainable given the response rates. It was therefore proposed that, whilst a completely hands-off approach would not be desirable, the Town Clerk should be instructed to simply issue an annual reminder to all Members and Co-optees to check and update forms where necessary. The onus would therefore be on individual Members/Co-optees to manage their own entries. Current arrangements around the chasing and logging of such updates would cease.

RESOLVED – That Members note the report and instruct the Town Clerk to move to a system whereby Members were simply reminded, on an annual basis, to take responsibility for checking and updating their entries.

8. THE CITY OF LONDON CORPORATION'S INDEPENDENT SCHOOLS AND PARENT GOVERNORS

The Committee received a joint report of the Town Clerk and the Comptroller and City Solicitor, alongside an excerpt from the Policy and Resources Committee meeting held on 4 July 2019, concerning the management of the City Corporation's three independent schools and the extent to which the parents of current pupils can and should be able to serve as Governors.

RECEIVED.

9. LORD MAYOR AND SHRIEVAL GIFTS AND HOSPITALITY

The Committee considered a report of the Executive Director, Mansion House and Central Criminal Court, updating Members on the Lord Mayor and Shrieval declarations of gifts and hospitality for the year 2018/19.

Members questioned whether was necessary for the Committee to continue to receive this level of information. The Executive Director confirmed that it was a requirement under the Code of Conduct for this information to be kept and published online regardless.

The Committee thanked the Executive Director for his time but were unanimously of the view that the report needn't be submitted to this Committee in future years.

RESOLVED – That Members note the report.

10. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

11. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

12. **EXCLUSION OF THE PUBLIC**

RESOLVED - That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of the Schedule 12A of the Local Government Act.

13. **NON-PUBLIC MINUTES OF THE PREVIOUS MEETING**

The Committee considered and approved the non-public minutes of the meeting held on 3 May 2019.

14. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

A Member questioned the outcome of the discussion around the proposal for granting blanket dispensations to speak to be given to Members for the duration of their terms of office that had taken place in public session under Item 5.

15. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

The Committee considered and approved a late, separately circulated report of the Town Clerk relative to Co-opted Member Appointment(s).

The meeting ended at 1.00 pm

Chairman

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ASSESSMENT SUB (STANDARDS) COMMITTEE

Tuesday, 3 December 2019

Minutes of the meeting of the Assessment Sub (Standards) Committee held at the Guildhall EC2 at 11.00 am

Present

Members:

Caroline Addy
Henry Colthurst

Mary Durcan
Dan Large

Officers:

Michael Cogher	- Comptroller and City Solicitor
Sadaf Anwar	- Comptroller and City Solicitor's Department
Antoinette Duhaney	- Town Clerk's Department
Gemma Stokley	- Town Clerk's Department

1. ELECTION OF A CHAIRMAN

Henry Colthurst indicated his willingness to stand for Chairman. With no other Panel member expressing a willingness to serve, Henry Colthurst was duly appointed Chairman.

Welcomes, Introductions and Meeting Management

The Chairman opened the meeting by welcoming all present, including both elected Members and members of the public in the public gallery. He also took the opportunity to formally introduce the Panel members and those Officers present.

The Chairman went on to refer to the front sheet of the agenda pack which served as a reminder to all that meetings of the City of London Corporation could be the subject of audio or video recording. He reported that he had received prior notice of the fact that this morning's meeting would be video recorded, both by a public attendee and also by the City Corporation's own Media Team.

The Chairman took the opportunity to highlight that the organisation did have a Filming Protocol in place which was available on the public website and asked that this Protocol was respected by all in terms of not disturbing the conduct of the meeting and focusing cameras only on Members and Officers directly involved in today's proceedings.

The Chairman concluded by referring to the fact that, for meeting management purposes, comments from the public gallery were not permitted and that, in accordance with Standing Order 35 (1), no elected Member in attendance who was not a member of this Sub-Committee was permitted to speak on any matter under consideration without his permission.

2. **SUB COMMITTEE TERMS OF REFERENCE**

The Sub Committee formally received their Terms of Reference.

RECEIVED.

3. **COMPLAINTS PROCEDURE**

The Sub Committee formally received the document entitled 'How Complaints Submitted to the City of London Corporation relating to the Member Code of Conduct will be Dealt With'.

RECEIVED.

4. **MEMBERS' CODE OF CONDUCT AND GUIDANCE**

The Sub Committee received the document entitled 'Code of Conduct for Members in respect of the City of London Corporation's Local Authority, Police Authority and Non-Local Authority Functions' and the accompanying guidance to this.

RECEIVED.

5. **PROTOCOL ON MEMBER/OFFICER RELATIONS**

The Sub Committee formally received the Protocol on Member/Officer Relations.

RECEIVED.

6. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no questions.

7. **ANY OTHER PUBLIC BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

Deliberations

The Chairman reported that the views of the Panel were that deliberations on the complaints before them would be held in private.

Counsel clarified that the complaints would be received in non-public session but that the actual determination/deliberation on these would be held in private session. The Town Clerk added that, following deliberations, the outcome of each complaint would be communicated with the relevant parties in writing as was normal procedure and in accordance with the organisation's complaints procedure.

With the permission of the Chairman, an elected Member, observing from the public gallery, questioned this approach and asked whether those present would be called back into the meeting to be informed of the decisions following private deliberations. A Panel Member stated that this would not be the case as there was a reluctance to publicly announce outcomes before all of the relevant parties (all of whom were not in attendance today) were informed of these. Counsel drew the attention of those present to paragraph 45 of the Complaints

Procedure which set out how the decisions of this Sub Committee were to be announced.

Another elected Member, also observing from the public gallery spoke to suggest that it was not automatic that complaints had to be heard in non-public session. The Chair acknowledged this point but reiterated that this remained the unanimous view of the Panel.

8. **EXCLUSION OF THE PUBLIC**

RESOLVED– That, under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act.

Elected Members observing from the public gallery remained for the non-public session.

9. **ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT (01/19)**

The Sub Committee considered a report of the Comptroller and City Solicitor.

RESOLVED – That the Sub Committee move immediately to deliberations in private.

10. **ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT (02/19)**

The Sub Committee considered a report of the Comptroller and City Solicitor.

RESOLVED – That the Sub Committee move immediately to deliberations in private.

11. **ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT (03/19)**

The Sub Committee considered a report of the Comptroller and City Solicitor.

RESOLVED – That the Sub Committee move immediately to deliberations in private.

12. **ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT (04/19)**

The Sub Committee considered a report of the Comptroller and City Solicitor.

Counsel was present for this item; the Comptroller and City Solicitor was not.

The Chairman advised that one member of the Panel had now recused themselves from determining this complaint and that the meeting would therefore not be quorate for this purpose. For this reason, the Chairman announced that this case would now have to be deferred until January 2020 where it would be heard by a reconvened panel and advised by Counsel.

13. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no questions in the non-public session.

14. **ANY OTHER NON-PUBLIC BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration in the non-public session.

The meeting closed at 11.15 am

Chairman

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DISPENSATIONS SUB (STANDARDS) COMMITTEE

Monday, 18 November 2019

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 2.30 pm

Present

Members:

Deputy Jamie Ingham Clark (Chairman)
Judith Barnes

Mary Durcan
Barbara Newman

Officers:

Michael Cogher - Comptroller and City Solicitor
Gemma Stokley - Town Clerk's Department

Welcomes, Introductions and Meeting Management

The Chairman opened the meeting by welcoming all present, including both elected Members and members of the public in the public gallery. He also took the opportunity to formally introduce the Panel members and those Officers present.

The Chairman went on to refer to the front sheet of the agenda pack which served as a reminder to all that meetings of the City of London Corporation could be the subject of audio or video recording. He reported that he had, indeed, received prior notice of the fact that this afternoon's meeting would be video recorded, both by a public attendee and also by the City Corporation's own Media Team.

The Chairman took the opportunity to highlight that the organisation did have a Filming Protocol in place which was available on the public website and asked that this Protocol was respected by all in terms of not disturbing the conduct of the meeting and focusing cameras only on Members and Officers directly involved in today's proceedings.

The Chairman concluded by referring to the fact that there was a relatively busy public gallery this afternoon and clarified, for meeting management purposes, that comments from the public gallery were not permitted and that, in accordance with Standing Order 35 (1), no elected Member in attendance who was not a member of this Sub-Committee was permitted to speak on any matter under consideration without his permission.

1. APOLOGIES

There were no apologies.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. **DISPENSATION REQUESTS**

The Sub-Committee considered a report of the Town Clerk setting out details of three Members (Mark Bostock, Brian Mooney and Susan Pearson) who have requested dispensations to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- (a) Affect them uniquely or more so than any of their constituents; and
- (b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book.

The report also provides details of a request from Adrian Bastow to speak and vote on matters relating to the proposed extension of the City of London School for Girls onto the Grade II listed areas of the Barbican Estate.

Adrian Bastow

The Chairman suggested that the Sub Committee look to determine the application from Mr Bastow first which requested a dispensation to speak and vote on a specific matter (the proposed extension of the City of London School for Girls) for a defined period of time (until final decisions on the matter were made by the Planning and Transportation Committee).

At the request of the Chairman, the Comptroller and City Solicitor summarised Mr Bastow’s position by reporting that he was currently a tenant at Defoe House. His property was also of sufficient distance from the proposed development to have less of a potential impact. The Comptroller went on to state that this was clearly a potentially controversial development but highlighted that a dispensation to speak and vote on the matter had already been granted to a Member in similar circumstances recently, where it was not considered that the Member in question had a disclosable pecuniary interest but was nevertheless seeking a dispensation by way of reassurance.

The Comptroller and City Solicitor proceeded to remind Members that, in determining the application, they must have due consideration for both the current Dispensations Policy and take into account all relevant circumstances.

Members discussed the application and were of the view that the applicant would be no more affected than any other Barbican Estate resident in respect of proposals to expand the City of London School for Girls. Furthermore, Members noted that, as a lessee, he had no beneficial interest in land and were also satisfied that he did not have an engaged DPI in the matter. On this basis, they were content to grant the dispensation as requested, by way of reassurance.

The Co-opted Member deferred to the local knowledge of elected Members on the Panel in terms of the location of Defoe House in relation to the proposed expansion works and stated that, if this was as tenuous as suggested, she too would be happy to grant the dispensation as requested.

Mark Bostock, Susan Pearson, Jason Pritchard, Brian Mooney

The Chairman highlighted that the three remaining applications were in identical form.

At the invitation of the Chairman, the Comptroller and City Solicitor outlined the legal position which was that the Sub-Committee must have due regard to and follow the current Dispensations Policy unless they had good reason to depart from it and must only grant a dispensation if considered appropriate having taken into account all relevant matters, including the statutory grounds on which dispensations could be granted.

The Comptroller and City Solicitor went on to report that some matters around the Dispensations Policy would be returning to the grand Committee for further consideration early in the new year – the Committee had sought further views/advice around the granting of general dispensations such as these and one elected Member had since submitted an alternative method of granting such dispensations, all of which would be considered in the round. He also reminded Members that, at the October meeting of the Standards Committee, the current policy was voted on and remained in force, unchanged.

A Member questioned whether a decision could be made to grant these applications today with that decision sent to the grand Committee to ratify or not at its next meeting in January 2020. The Chairman stated that he felt that it would be preferable, in the interests of speed and clarity, to request that these three applications be considered by the January meeting of the Standards Committee immediately after they had reached a decision on the wider policy at that same meeting. The Chairman added that there was no change in the applications before the Sub-Committee today versus what had been applied for by the same applicant previously, and noted that previous meetings of this Sub-Committee had stated that they were unable to find substantial or sufficient grounds on which to grant them. The Chairman suggested that if the applications were to be resubmitted ahead of January 2020, providing some specifics in terms of the kind of matters that Members wished to speak and vote on (e.g. the proposed expansion of the City of London School for Girls or carparking) these could be considered under urgency, if necessary.

A Member highlighted that it was difficult to predict all matters that a Member might wish to speak and vote on and that she therefore had sympathy with this approach of seeking general dispensations to cover all eventualities. The Chairman commented that the normal procedure was for Members to be provided with at least five clear working days' notice of specific agenda items and that this was sufficient for urgency procedures to be engaged. He did, however, see that this was not possible where late items were permitted. He went on to refer to specific processes, such as for Planning and Transportation Committee, that alerted relevant elected Members to applications received, way in advance of these hitting Committees for formal consideration and thereby providing Members with adequate time to consider their personal positions and seek dispensations/further advice where necessary.

The Chairman continued to refer to the need for specifics within the applications under the current policy. The Co-opted Member agreed that, as the applications currently stood, she could not see any grounds on which they could be granted as they would seemingly allow Members to speak and vote on matters in which they had an engaged disclosable pecuniary interest and affected them, their partners and just a handful of others. This, in her view, would seriously undermine democracy and the integrity of the City of London Corporation as a whole.

Another Member disagreed with this interpretation and questioned whether, in determining these applications, the law or the City Corporation's own policy should take precedence. She also questioned whether the fact that these applications had time limits on them (until March 2021) made them more specific and less general. The Comptroller and City Solicitor reported that, despite the differing views on the current policy, it was undoubtedly a lawful one, made within the constraints of the law. He also reminded the Sub-Committee that current policy was not to allow dispensations to vote where a Member had an engaged disclosable pecuniary interest, except in exceptional circumstances – he added that the fact that the applications were time limited could not be considered as an exceptional circumstance.

The Chairman went on to state that the current policy was the organisation's interpretation of the law as it applied to us but recognised that the law was not designed for the specifics of the City of London Corporation. He added that the current policy did clearly allow the voices of resident Members to be heard and cited the application from Mr Bastow that had just been granted as a working example of this. The Chairman summarised that there was no reason for this Sub-Committee to depart from policy on the three remaining applications before them.

The Co-opted Member highlighted that there were existing dispensations in place allowing for resident Members to speak on issues affecting their estates as a whole and that that, to her mind, was an appropriate and democratic approach. If, however, Members were seeking general dispensations to speak and vote on behalf of what could easily be, in certain circumstances, the few versus the many, this was clearly unacceptable.

Another Member concurred that the generality of these three outstanding applications was the key issue at present.

The Chairman went on to reiterate that the Standards Committee would be considering the Dispensations Policy further in January 2020 and reminded the Sub Committee that he had spoken at the last meeting of the Committee, in October 2019, to suggest that there may be a way forward in terms of granting such applications, but that he had not yet heard enough on this. At present, these applications did not provide enough detail to allow them to be granted under current policy. The Comptroller and City Solicitor reported that the grand Committee set policy around this and that it was for this Sub-Committee to implement that policy. It would therefore be legitimate to send these

applications back to the grand Committee for consideration alongside future policy.

A Member disagreed with deferring these applications further and stated that it would be her preference for the Sub Committee to reach a decision on them today and to have that decision ratified by the grand Committee should it depart from current policy. She added that this matter came up frequently with the residents she represented who were increasingly dissatisfied with the lack of progress being made on this matter. She questioned why elected Members should not be left to decide for themselves on what matters it was appropriate for them to speak or vote on, particularly as the law states that the onus is on Members here. The Comptroller and City Solicitor stated that if any decision reached today was conditional and relied on the ratification of the grand Committee, this would have the same effect as deferring the decision until the next meeting of the grand Committee.

A Member questioned whether it would be enough to state that it was considered that granting these dispensations was in the interests of persons living in the authority's area. The Comptroller and City Solicitor reiterated that the Sub Committee would also need to explain why they were departing from current policy in terms of granting dispensations to vote. When pressed by the Chairman, none of the Panel could articulate on which statutory grounds these three applications could be granted, when (as the Comptroller reminded the Sub-Committee) considered in the light of current policy. The Chairman added that, as well as being satisfied that the applications could be granted on statutory grounds, those taking the decision were also bound to have regard to all relevant circumstances, something that was not possible in the absence of any specifics. He added that the scenario articulated by the Co-opted Member earlier in the meeting was one of many that could feasibly arise.

The Chairman concluded by stating that, until such time as the Standards Committee reviewed and amended the Dispensations Policy, these applications failed for the same reasons that they had done previously. He agreed that it would be in the best interests of all to resolve these issues as quickly as possible and, with regret, reported that these three applications would now be deferred to the grand Committee for consideration at their next meeting on 24 January 2020.

RESOLVED – That:

- 1) A dispensation to speak and vote on the extension of the proposed extension of the City of London School for Girls on to the Grade II listed areas of the Barbican Estate be granted to Adrian Bastow for the period up to the final decisions being made by the Planning and Transportation Committee;
- 2) Applications from Mark Bostock, Brian Mooney and Susan Pearson to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- a) Affect them uniquely or more so than any of their constituents; and
- b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book be referred back to the Standards Committee for decision immediately after they have reached a decision on the Dispensations Policy at their meeting on 24 January 2020.

4. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no questions.

5. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

The meeting closed at 2.59 pm

Chairman

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Committee(s)	Date:
Standards Committee	24/01/2020
Subject: Standards Committee – Terms of Reference and Frequency of meetings	Public
Report of: Town Clerk	For Decision
Report Author: Gemma Stokley, Senior Committee and Member Services Officer	

Summary

The purpose of this report is for the Standards Committee to consider and approve their terms of reference and that of their sub committees and the frequency of meetings, ahead of submission of the White Paper to the Court of Common Council on 23 April 2020. The Committee are also asked to receive meeting dates for the remainder of 2020 and for 2021.

Details of the composition of the Standards Committee and their terms of reference are set out below.

Recommendations

It is recommended that:-

- (a) subject to any comments, the terms of reference of the Standards Committee be approved for submission to the Court of Common Council, as set out at Appendix 1;
- (b) Members consider the frequency of the Committee's meetings; and
- (c) Members note the scheduled meeting dates for the remainder of 2020 and for 2021.

Main Report

This report sets out the terms of reference and composition of the Standards Committee, including details of the Committee's Co-opted Members and the Independent Persons.

The Committee are also asked to comment on the frequency of their meetings and to note the meeting dates scheduled for the remainder of 2020 and for 2021.

Standards Committee –Terms of Reference

1. The Standard's Committee's terms of reference, as last agreed by the Court of Common Council at its meeting on 25 April 2019 are set out at **Appendix 1**.

The terms of reference will be submitted to the Court of Common Council for approval once more on 23 April 2020 ahead of the start of the new municipal year.

Standards Committee – Composition

2. The Standard's Committee's composition, as agreed by the Court of Common Council at its meeting on 25 April 2020 is:-
 - two Aldermen appointed by the Court of Aldermen
 - ten Commoners elected by the Court of Common Council, at least one of whom shall have fewer than five years' service on the Court at the time of their appointment
 - four representatives (with no voting rights) who must not be Members of the Court of Common Council or employees of the City of London Corporation.

N.B. This was subsequently altered by the Court of Common Council on 5 December 2019 when they approved a temporary expansion of the Standards Committee to incorporate a total of five as opposed to four Co-optees for a period of a maximum of 3 years, until December 2022, at which point the terms of office of two of the Committee's existing Co-opted Members will expire and will not be renewable.
3. None of the appointed shall serve on the Committee for more than eight years.
4. Three independent persons are also appointed pursuant to the Localism Act 2011. In previous years, Independent Persons were invited to attend all future meetings of the Committee (in an observer capacity). These attendance arrangements were, however, part of the review of the Standards Framework carried out by the Standards Regime Working Party in 2017/18 where it was decided that Independent Persons should no longer continue to routinely attend Standards Committee meetings so as to reinforce their independence from that Committee.
5. Whilst the Independent Persons' input is important and valued, the Working Party were of the opinion that in the interest of independence they should instead be invited to attend a separate briefing session with the Chairman, Deputy Chairman and relevant Officers of the Standards Committee every six months in order to be updated on their activities. Under this new approach, the Independent Persons also continue to receive all Standards Committee agendas and minutes.
6. It should be noted that Independent Persons are at liberty to attend open Standards Committee meetings as members of the public should they so wish.
7. The quorum consists of three Members, at least one of whom must be a non-Common Council Member.

Standards Committee – 2019/2020 Membership

8. The Standard's Committee's membership in 2019/2020, as agreed by the Court of Common Council at its meeting on 25 April 2019, was as follows:-

Alderman

Susan Langley
Professor Michael Mainelli

Common Councilmen

Mary Durcan, *for one year*
Ann Holmes, *for three years*
Barbara Newman, *for one year*
Deputy Edward Lord, *for two years*
Jeremy Simons, *for two years*
Caroline Addy
Deputy Jamie Ingham Clark, *for three years*
Randall Anderson
Henry Colthurst
Vivienne Littlechild

Non-Common Council Members

Judith Barnes (appointed for a four-year term expiring in March 2022)
Dan Large (appointed for a four-year term expiring in December 2022)
Nicholas Cook QC (appointed for a two-year term expiring in March 2021)
Vacancy

9. The Corporation's Independent Persons are, at present, Anju Sanehi and Chris Taylor (appointed pursuant to the Localism Act 2011). There is currently one vacancy for an Independent Person which is in the process of being recruited to. It is envisaged that an appointment will be made ahead of the new municipal year.

Meetings of the Standards Committee

10. In 2013 and every year subsequent to this, the Committee have confirmed that 3 scheduled meetings per annum were sufficient. On that basis, the following meeting dates are scheduled for the remainder of 2020 and for 2021:
- Friday 1 May 2020 (11.00am)
 - Friday 2 October 2020 (11.00am)
 - Friday 29 January 2021 (11.00am)
 - Friday 14 May 2021 (11.00am)
 - Friday 8 October 2021 (11.00am)
11. Where there is no business, and with the Chairman's consent, meetings may be cancelled. Equally, where there is sufficient or urgent business, special, additional meetings of the Committee may be called at the request of the Chairman.

12. Where meetings of the Sub Committees are required, these will be scheduled on an ad hoc basis throughout the year, except in the case of the Dispositions Sub Committee where meetings are currently scheduled in advance and take place every other month if required.

Standards Committee – current Sub Committees’ terms of reference

13. **Dispositions Sub (Standards) Committee**

Established on 13th September 2013, the principal function of the Dispositions Sub Committee is to consider requests for a dispensation from elected Members and Co-opted Members to speak and/or vote on a specific matter(s), in-line with the City of London Corporation’s criterion. Consequently, the Sub Committee will meet on an ad hoc basis as and when requests for a dispensation are received.

14. The terms of reference of this Sub Committee were recently reviewed and approved by the Standards Committee in October 2018 and are as follows:

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 Dispositions Sub Committee is established to determine written requests for dispensations from Members (including a Co-opted Member) 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, the next scheduled meeting of the Sub Committee will meet 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) Where possible, the Members of any meeting of the Sub Committee will not be Members of any Committee / Sub Committee that the dispensation request(s) relates to.

- e) The Sub Committee will consist of 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 one of the two Deputy Chairmen elected annually by the Standards Committee also referred to above.
- f) The quorum shall consist of any three Members.

Allegations of breaches of the Members' Code of Conduct - Assessment, Hearing and Appeal Sub Committees

- 16. The outcome of the review of the Standards framework in 2017/18 necessitated some amendments to the previous arrangements. The review outcome approved the appointment of a Standards Appeal Committee (12 members, comprising elected Aldermen and Common Councillors of the Corporation, who are not members of the Standards Committee) to conduct the appeals process of the complaints procedure, and the membership of that committee and its terms of reference is now determined and approved by the Court of Common Council.
- 17. The Localism Act 2011 requires the City of London Corporation to have in place arrangements under which written allegations of a breach of the Members' Code of Conduct can be investigated and decisions on those allegations taken. These arrangements apply to both Members and Co-opted Members.
- 18. In order to carry out its functions efficiently and effectively, and to avoid any conflicts of interest, the Standards Committee had previously established three separate Sub-Committees for the different stages of the complaints process, being Assessment, Hearing and Appeal Sub-Committees. As stated above, a revised complaints procedure is now in operation with the appeals process under the control of the Standards Appeal Committee.
- 19. The current terms of reference for each of the Standard's Committee's complaints procedure sub committees are set out at **Appendix 2**.

Background Papers:-

- Appointment of Members on Committees Court report (White Paper), April 2019
- Review of Standards Regime – Court of Common Council, January 2018
- Standards Committee – Amendments to Terms of References – Court of Common Council July 2018

Appendices:-

- **Appendix 1** – Standards Committee's Terms of Reference, as approved by the Court of Common Council in April 2019.

- **Appendix 2** - The terms of reference for the Standards Committee's current sub committees.

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Standards Committee – Terms of Reference

To be responsible for:-

- (a) promoting and maintaining high standards of conduct by Members and Co-opted Members of the City of London Corporation and to assist Members and Co-opted Members to observe the City of London Corporation's Code of Conduct;
- (b) preparing, keeping under review and monitoring the City of London Corporation's Member Code of Conduct and making recommendations to the Court of Common Council in respect of the adoption or revision, as appropriate, of such Code of Conduct;
- (c) keeping under review, monitoring and revising as appropriate the City of London Corporation's Guidance to Members on the Code of Conduct and the complaints procedure and relevant paperwork, reporting any changes on these documents to the Court of Common Council in the Committee's annual report.
- (d) keeping under review by way of an annual update by the Director of HR, the City of London Corporation's Employee Code of Conduct and, in relation to any revisions, making recommendations to the Establishment Committee;
- (e) keeping under review and monitoring the Protocol on Member/Officer Relations and, in relation to any revisions, making recommendations to the Establishment Committee;
- (f) advising and training Members and Co-opted Members on matters relating to the City of London Corporation's Code of Conduct;
- (g) monitoring all allegations referred to it and dealing with assessment of and any hearing into any allegations of breach of the City of London Corporation's Code of Conduct in respect of Members and Co-opted Members, and in particular:
 - (i) to determine whether any allegation should be investigated by or on behalf of the Town Clerk or the Monitoring Officer and their findings reported to the Committee;
 - (ii) in relation to any allegation that it has decided to investigate, to determine whether there has been a breach of the Code of Conduct, taking into account the views of an Independent Person appointed under the Localism Act 2011;
 - (iii) where there has been a breach of the Code of Conduct, to determine the appropriate sanction, and where this involves removal of a Member or Co-opted Member from any committee or sub-committee, to make an appropriate recommendation to the relevant appointing body;

- (h) to prepare an annual report on its activity for submission to the Court of Common Council.

Standards Committee – Sub-Committees’ Draft Terms of Reference

Assessment Sub Committee

- a) The Assessment Sub-Committee is established to receive and assess allegations that a Member or Co-opted Member of the City has failed, or may have failed, to comply with the Code of Conduct.
- b) Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee will make an initial assessment of the allegation and will then do one of the following:-
 - (i) refer the allegation to the Monitoring Officer, with an instruction that s/he arrange a formal investigation of the allegation; or
 - (ii) direct the Monitoring Officer to arrange training, conciliation or other appropriate alternative steps; or
 - (iii) decide that no action should be taken in respect of the allegation.
- c) 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.
- d) The quorum shall consist of any three elected Members.
- e) The Sub Committee will take into account the views of an Independent Person appointed under the Localism Act 2011.

Hearing Sub Committee

- a) To hear and determine any allegation that a Member has failed, or may have failed, to comply with the Code of Conduct for Members;
- b) Following the hearing, to make one of the following findings:-
 - (i) that the subject Member has not failed to comply with the Code of Conduct;
 - (ii) that the subject Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters considered at the hearing;
 - (iii) that the subject Member has failed to comply with the Code of Conduct and that a sanction should be imposed.
- c) If the Sub-Committee makes a finding under paragraph b) (iii), it may impose any one of or any combination of sanctions that are available:

If the Hearing Sub-Committee finds that a subject Member has failed to follow the Code of Conduct and that they should be sanctioned, it may impose any one or a combination of the following:-

- censure of that Member;
- withdrawal of City hospitality for an appropriate period;
- removal of that Member from a particular committee or committees.

The option of removal from a particular committee or committees includes sub-committees. The Hearing Sub-Committee will make a recommendation to the relevant appointing body in each case.

The Hearing Sub-Committee has no power to impose any alternative sanctions, although the willingness of a member to co-operate in the matters listed below may have a bearing on any sanction that is imposed:-

- that the Member submits a written apology in a form specified by the Hearing Sub-Committee;
- that the Member undertakes such training as the Hearing Sub-Committee specifies;
- that the Member participates in such conciliation as the Hearing Sub-Committee specifies.

- d) 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, provided that Members should not be selected to sit on the Hearing Sub Committee if they sat on the Assessment Sub Committee in relation to the same complaint.
- e) The quorum shall consist of any three elected Members.
- f) The Sub Committee will take into account the views of an Independent Person appointed under the Localism Act 2011.

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Committee(s)	Date:
Standards Committee	24 January 2020
Subject: Further Review of Dispensations Policy & Leading Counsel's Opinion	Public
Report of: Michael Cogher, Comptroller & City Solicitor	For Decision

Summary

Following the formal review of the Dispensation's Policy at its meeting on 4th October 2019 the Committee requested that further consideration be given to the possibility of simplifying the process for granting and broadening dispensations to speak (but not vote). On 6th November 2019 Mr Harrower sent an email to all members of the Committee proposing a change to the Dispensation Policy to grant what he refers to as a "general" (but not "blanket") dispensation to speak and vote for members in residential wards. In order to seek to finally resolve the matter after many months of debate, the Comptroller and City Solicitor, in consultation with the Chairman and Deputy Chairman has obtained Leading Counsel's opinion on Mr Harrower's proposal and the Dispensations Policy in general. This opinion is now presented for the Committee's formal consideration.

Recommendation

That the Committee: -

1. Considers and notes Leading Counsel's Opinion.
2. Resolves to amend the Dispensation Policy in line with Leading Counsel's proposal in paragraph 55 of the Opinion as set out in paragraph 4 of this report.
3. Considers the matters set out in paragraphs 7-11 and determines what changes, if any, to make.

Main report

1. The issues in question are more than familiar to the Committee and are set out in the report and background documents considered by the Committee at its meeting on 4th October 2019. Following consideration of that report the Committee resolved (draft minute) as follows in relation to the Policy:
 - (i) After considering the report, discussion paper, the previous minutes, Chairman's notes, petition and Wardmote resolutions, the Committee instruct Officers to bring back to them a report examining how the process around applying for dispensations to speak might be simplified, and how the existing delegations to the Town Clerk could be applied as broadly as possible whilst avoiding the risk of a successful legal challenge against individual Members or the City Corporation.

“General” Dispensations and Voting

2. On 6th November 2019 Mr Harrower sent a proposal to amend the Policy, together with a proposed new application form, to members of the Committee. A copy is attached at **Appendix 1 and 1(a)**. As a result, in consultation with the Chairman and the Deputy Chairman, it was agreed that the City Solicitor would obtain advice from Leading Counsel not previously involved in any Corporation Standards matters to review the Policy and Mr Harrower’s proposal.
3. Accordingly, the City Solicitor instructed Phillip Kolvin Q.C., well known and respected public law counsel, to advise. A copy of the Instructions appears at **Appendix 2** and Mr Kolvin’s Opinion appears at **Appendix 3**. It should be noted that Mr Kolvin had before him the report before the Committee on 4th October 2019 including the Discussion Paper, petition and Wardmote resolutions considered at the informal meeting on 6th September 2019.
4. Members will note that Mr Kolvin considers that the existing policy is lawful and that the proposed policy is unlawful for the reasons he explains. He suggests, should the Committee be so minded, a lawful mechanism for relaxing the restrictions on voting in paragraph 57 of the Opinion. This would replace the final sentence of paragraph (b) of Appendix 3 to the Policy (“**Therefore, a dispensation to vote will only be granted in exceptional circumstances**”) with the following:

“When asked to grant a dispensation to vote the Standards Committee will carefully consider all the relevant circumstances including but not limited to”:

- (i) the impact of the dispensation on public confidence in the Corporation.
 - (ii) the impact on democratic debate and accountability of not granting dispensation.
 - (iii) the impact of the decision on the member’s interest.
 - (iv) whether the member is simply one of a large number of people similarly affected by the decision or whether they are disproportionately affected by it”.
5. The Committee will be aware that the Instructions and the Opinion were circulated to all members of the Court of Common Council at the request of the Chairman on 11th December 2019.
6. In response, Mr Harrower sent an email to the Court on 18th December 2019 making a number of criticisms in relation to the Instructions, Opinion and some ancillary matters. That email is not reproduced here but members are referred to it for their consideration. It will be provided to co-opted members separately. Leading Counsel has again been requested to comment on the legal arguments Mr Harrower makes and Mr Kolvin Q.C’s further advice is attached at **Appendix 4**.

Potential Changes to the Town Clerk’s Delegations

7. In accordance with the Committee resolution, officers have also considered how the existing delegations to the Town Clerk could be applied more broadly. One possible area for change is paragraph 17(b) of the Policy.

This authorises the Town Clerk to grant dispensations of up to four years to speak on planning and licensing applications as a member of the public.

However, these dispensations are not currently available to Members of the Planning Committee or the Licensing Committee in relation to the business of their own committee. Instead, those Members must apply to the Standards Committee on a case by case basis. If the Committee is in favour of such a change, the Policy could be amended to include Members of the Planning Committee and the Licensing Committee within the scope of this delegation.

8. As previously mooted, another possible area for change is paragraph 17(c) of the Policy. This authorises the Town Clerk to grant dispensations of up to four years to speak on general housing matters. However, the definition of “general housing matters” does not currently include the provision of parking spaces, and private storage spaces separate from a dwelling. Members with a parking space or private storage space must apply separately to the Standards Committee for a dispensation. Again, if the Committee is in favour of such a change, the Policy could be amended to include parking spaces and private storage spaces within the scope of this delegation.

Time Limits

9. The draft minutes of the meeting on 4th October 2019 record that:

Members were also in favour of setting deadlines for applications for dispensations. Notwithstanding this, it was noted that the urgency procedures already in place would be retained where necessary, such as in the case of late items of business being submitted to Committees. Guidance should also be produced on what constitutes an urgent application.

10. For reference, the current wording in paragraph 12 of the Policy is more flexible and explains that:

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.

11. Your Chairman has suggested that it ought to be a requirement that an application is received a minimum of two weeks before the dispensation is first required. Applications received after that deadline should not be considered by the Standards Committee, or by the Town Clerk under urgency, unless the need for a dispensation could not previously have been foreseen. If the Committee are so minded, the wording in paragraph 12 of the Policy could be amended accordingly.

Conclusion

12. The Committee is invited to accept Leading Counsel's Opinion as a correct statement of the law, and to confirm the current Dispensations Policy as at **Appendix 5** either with or without the amendment proposed in paragraph 4 above, and to consider the matters set out in paragraphs 7 to 11 above.

Appendices

- Appendix 1 - Mr Harrower's email dated 6th November 2019
- Appendix 1(a) - Mr Harrower's Revised Dispensation Application Form
- Appendix 2 - Instructions to Leading Counsel
- Appendix 3 - Leading Counsel's Opinion
- Appendix 4 - Leading Counsel's further Opinion
- Appendix 5 - Current Dispensations Policy

Background Documents

- Comptroller and City Solicitor's report to informal meeting on 6 September 2019
- Chair's note to informal meeting on 6 September 2019
- Minutes of informal meeting on 6 September 2019

Michael Cogher

Comptroller & City Solicitor

Tel: 0207 332 3699

Email: michael.cogher@cityoflondon.gov.uk

Appendix 1 – GH email dated 6th November 2019

From: Harrower, Graeme <Graeme.Harrower@cityoflondon.gov.uk>
Sent: 06 November 2019 09:37
To: Holmes, Ann <Ann.Holmes@cityoflondon.gov.uk>; Addy, Caroline <Caroline.Addy@cityoflondon.gov.uk>; Anderson, Randall <Randall.Anderson@cityoflondon.gov.uk>; Colthurst, Henry <Henry.Colthurst@cityoflondon.gov.uk>; Durcan, Mary <Mary.Durcan@cityoflondon.gov.uk>; Ingham Clark, Jamie <Jamie.InghamClark@cityoflondon.gov.uk>; Langley, Susan (Alderwoman) <Susan.Langley@cityoflondon.gov.uk>; Littlechild JP, Vivienne <Vivienne.Littlechild@cityoflondon.gov.uk>; Lord, Edward (Deputy) <Edward.Lord@cityoflondon.gov.uk>; Mainelli, Michael (Alderman & Sheriff) <Michael.Mainelli@cityoflondon.gov.uk>; Newman CBE CC, Barbara <Barbara.Newman@cityoflondon.gov.uk>; Simons CC, Jeremy <Jeremy.Simons@cityoflondon.gov.uk>; Barnes, Judith <Judith.Barnes@cityoflondon.gov.uk>; Cooke, Nick <Nick.Cooke@cityoflondon.gov.uk>; Large, Dan <Dan.Large@cityoflondon.gov.uk>
Cc: Barradell, John <John.Barradell@cityoflondon.gov.uk>; Cogher, Michael <Michael.Cogher@cityoflondon.gov.uk>; Stokley, Gemma <gemma.stokley@cityoflondon.gov.uk>; Duhaney, Antoinette <Antoinette.Duhaney@cityoflondon.gov.uk>
Subject: Dispensations: a way forward?

To All Members of the Standards Committee

At Alderman Mainelli's suggestion, and following a discussion I had with him a couple of weeks ago, I attach a draft of a revised version of the new dispensations application form that reflects what residents have been calling for since the petition.

The revised form (on a single page) is intended to be suitable for use by all resident councillors in the City. It does not cover dispensations for non-resident councillors, but these should be very rare, because the usual statutory ground of dispensations being granted "in the interests of persons living in the authority's area" would not typically be satisfied. Non-resident dispensations could continue to be applied for on a case by case basis, perhaps using a different, more general form.

You will see how the conceptually distinct issue of the "rule against bias" is dealt with in paragraph (ii) of the attached form. The actual grant of the dispensation could repeat the statement about that rule, similar to an "informative" in a planning consent.

The form presupposes that a dispensation to vote will be granted on an equal basis to a dispensation to speak. This reflects the legislation. The fact that a member has an engaged pecuniary interest in a matter is not a reason for that member being denied a dispensation to vote on it, but rather the contrary: dispensations exist to allow a member to speak and vote in spite of having an engaged pecuniary interest, as long as their doing so is in the interests of their constituents and not just themselves (hence the exception in paragraph (a) of the dispensation in the attached form). In short, the statutory purpose of dispensations is for democracy to trump self-interest. This is different from a corporate boardroom scenario, where democratic representation is not an issue.

I attach a link to recent correspondence between the Chair of the Barbican Association and the Chair of the Standards Committee that appears on the Barbican Association's website:

<http://www.barbicanassociation.co.uk/wp-content/uploads/2019/11/Re-Disenfranchisement-again.pdf>

The case for “general” (but not “blanket”) dispensations to vote, as set out in the attached form, is made with admirable clarity in the last email in that correspondence (dated 3 November).

Regards,

Graeme Harrower



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

The granting of dispensations is a function of the Standards Committee and its Dispensations Sub-Committee. You are advised to read the policy and guidance on the granting of dispensations before completing this form.

Please complete this form electronically and email it to declarations@cityoflondon.gov.uk. 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:

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

- ☐ I confirm that this interest is already included in my register of interests, or
- ☐ I confirm that I will register this interest within 28 days

I request a dispensation for the duration of my current term of office to enable me to speak and vote on any matter which affects my constituents and in which I have a disclosable pecuniary interest **except** for:

- (a) a matter which affects me uniquely or more than any of my constituents; or
- (b) as regards voting only, a matter which falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision remains in force.

This dispensation is sought on the statutory ground of its being “in the interests of persons living in the authority’s area”.

In requesting this dispensation, I acknowledge that:

- (i) I will use my judgment as to whether I rely on it in every case (e.g. in a matter which affects only a very small number of constituents no less than myself); and
- (ii) this dispensation does not affect the application of the “rule against bias” (which mainly applies in planning and licensing decisions).

**IN THE MATTER OF DISPENSATIONS UNDER
S.33 OF THE LOCALISM ACT 2011**

INSTRUCTIONS TO LEADING COUNSEL TO ADVISE

1. Leading Counsel is instructed by Michael Cogher, the Comptroller and City Solicitor of the City of London Corporation, of Guildhall, London EC2P 2EJ. The Instructing Solicitor is also the Corporation's Monitoring Officer.
2. Leading Counsel will find enclosed the following documents: -
 - (a) City of London Corporation Members' Code of Conduct
 - (b) Dispensations Policy & Guidance ("the Policy")
 - (c) Agenda, relevant report and draft minutes of the Standards Committee meeting on 4th October 2019
 - (d) Agenda, report and draft minutes of the Dispensations Sub-Committee on 18th November 2019
 - (e) Email proposal and attachment from Mr Harrower, Common Councillor, dated 6th November 2019

Introduction

3. Leading Counsel is asked to advise in relation to the Corporation's Policy on the granting of dispensations to speak and vote on matters in which a member has a disclosable pecuniary interest under s.31 and s.33 of the Localism Act 2011. This Policy is the subject of criticism of a number of members and residents who favour its replacement with a policy of granting "general dispensations" in the form set out in the documents referred to in (d) and (e) above.

Organisational Background

4. The City of London Corporation is a unique hybrid body, being a corporation by prescription with local authority and private functions. It is the local authority for the Square Mile. Its membership consists of 125 elected members across 25 wards. Each ward is represented by an Alderman and between 2 and 10 common councillors. The Corporation's members meet as the Court of Common Council (commonly referred to as "the Court"). Although there are a small number of Labour members, members are largely independent. There are no political groups and therefore no party whips. Seats on committees and the chairmanship of those committees are therefore determined by members and not parties. Executive arrangements and the rules on political balance do not apply.
5. Electors in Corporation elections comprise those who occupy as owner or tenant a property on the rating list in a Ward, who are resident in a Ward or who are appointed by a qualifying body (an incorporated or unincorporated body other than a partnership) occupying as owner or tenant premises in a Ward. In simple terms, businesses in the City are able to nominate a number of employees, depending on the size of the workforce to vote in Corporation elections.
6. Some Wards such as those covering the Barbican Estate and the Golden Lane Estate have significant numbers of residential electors while others, the majority, do not, being predominantly business Wards.
7. The Corporation's small geographical size, number of members and size and number of committees (its Planning and Transportation Committee consists of 35 members for example) means that resident members are more likely to have an engaged disclosable pecuniary interest in matters such as planning and housing management than their colleagues in other local authorities.

Relatively small Wards and numbers of electors compared to London Boroughs also means members wish to robustly represent their constituents and there is a strong imperative to participate rather than taking the more conventional local government approach of erring on the side of caution in cases of doubt over interests.

8. The standards arrangements under the Localism Act 2011 apply to the Corporation qua local authority and police authority only but are applied by local choice in relation to its private functions also. Local standards arrangements comprise a Standards Committee of elected and co-opted members, three Independent Persons and a separate complaints appeal committee. Dispensations are handled by a Dispensations Subcommittee with some delegations to officers.

The Current Policy

9. Leading Counsel is referred to the Policy and will note that a distinction is made between dispensations to speak and dispensations to vote. In simple terms dispensations to speak will generally be granted while dispensations to vote will be granted only in exceptional circumstances.
10. Provision is made for dispensations to speak and vote on the setting of the Council Tax (to the extent necessary), dispensations to speak as a member of the public on planning and licensing matters and dispensations to speak on defined “General Housing Matters” and are effectively available “on demand” through the delegation to officers.
11. The Policy acknowledges that there are other circumstances which may prevent a member from participating in a meeting in which they have an interest, notably in circumstances where the rule against bias or s.618 of the Housing Act 1985 are engaged.

The Current Position

12. There has been considerable discussion between members over the last eighteen months or so as to the approach which the Corporation should take to dispensations which has led to the adoption of the current Policy. There are a number of members, whose principal spokesperson appears to be Mr Harrower, who continue to argue for wide ranging term length dispensations which leave the decision in the hands of individual members, subject to some limitations. It is unnecessary to recount the twists and turns of the debate around the issue at the Standards Committee, Dispensations Sub-committee and generally. Suffice it to say that the current Policy was reconsidered, endorsed and retained by a narrow margin at the Standards Committee meeting on the 4th October 2019 but with the intention that further consideration be given in relation to general dispensations to speak at the next meeting. The Dispensations Sub-committee on 18th November referred the three applications for “General Dispensations” to the next Standards Committee meeting in January 2020 (whilst granting Mr Adrian Bastow’s specific application on exceptional grounds).

The Proposal for “General Dispensations”

13. Leading Counsel will observe that that applications for General Dispensations and the proposed new approach amount largely the same thing. The proposed revision is to grant dispensations in residential wards in the following terms:

“for the duration of my current term of office to enable me to speak and vote on any matter which affects my constituents and in which I have a disclosable pecuniary interest **except** for:

(a) a matter which affects me uniquely or more than any of my constituents; or

(b) as regards voting only, a matter which falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision remains in force.

This dispensation is sought on the statutory ground of its being “in the interests of persons living in the authority’s area”.

In requesting this dispensation, I acknowledge that:

- (i) I will use my judgment as to whether I rely on it in every case (e.g. in a matter which affects only a very small number of constituents no less than myself); and
- (ii) this dispensation does not affect the application of the “rule against bias” (which mainly applies in planning and licensing decisions)”.

Concerns

14. The proposal is clearly carefully crafted and, on its face, will have attractions for many Members, not least because it will put to rest a time-consuming policy debate and greatly reduce the need for meetings of the Dispensations Sub-committee. However, the Instructing Solicitor is concerned that proposal runs the risk of breaching a number of fundamental public law principles.
 - i. It fails to properly give effect to the statutory scheme. S.33(2) explicitly provides that a dispensation can only be granted on one of the statutory grounds where the authority has had regard to all relevant circumstances. The breadth and duration could preclude the authority from considering the specific circumstances of any given case, for example by assessing the likely impact of the decision on the members’ interest and the extent to which it affects the member to a greater or lesser extent than other residents.
Alternatively, it could be seen as an attempt to evade or disapply the statutory scheme and therefore amount to the exercise of powers for an improper purpose.

- ii. It could preclude the Corporation from making appropriate inquiries in any given scenario thus failing to satisfy its Tameside duties and amount to a failure to take into account all relevant circumstances leading to Wednesbury irrationality.
- iii. It amounts to a fettering of discretion.
- iv. Whilst it is for a member to decide whether they have a DPI in a matter, once they have done so it is for the authority to determine whether a dispensation can and should be granted under the statutory scheme. The proposal, it seems to the Instructing Solicitor could therefore be seen as an unlawful delegation to a member.

Advice Sought

15. Accordingly, Leading Counsel is asked to advise in writing: -
- (a) as to whether the proposed approach to “General Dispensations” advocated by Mr Harrower is lawful and if so as to the risk of successful challenge if adopted;
 - (b) generally.

Leading Counsel should note that these instructions and the advice received will be made public.

16. Should Counsel wish to discuss any matters arising from these instructions please contact the Comptroller and City Solicitor, Michael Cogher (tel: 020 7332 3699, email: michael.cogher@cityoflondon.gov.uk) who has conduct of this matter.

Michael Cogher
Comptroller and City Solicitor
6th December 2019

**IN THE MATTER OF DISPENSATIONS UNDER
S.33 OF THE LOCALISM ACT 2011**

INSTRUCTIONS TO LEADING
COUNSEL TO ADVISE

TO THE CLERK OF
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**IN THE MATTER OF DISPENSATIONS UNDER SECTION 33 OF THE LOCALISM
ACT 2011**

ADVICE

Introduction

1. I am instructed to advise the City of London Corporation on a proposed approach to general dispensations under section 33 of the Localism Act 2011 due to be discussed by my client's Standards Committee next month.
2. It will be convenient to set out the scheme for disclosable pecuniary interests first, and then to deal with the issues which have given rise to the current debate.

The scheme for disclosable pecuniary interests

3. The Localism Act 2011 washed away the previous scheme concerning personal and prejudicial interests and replaced it with a scheme for "disclosable pecuniary interests" ("DPI").
4. What is a DPI? There are two requirements. The first is that it must be a pecuniary interest of a description specified in regulations made by the Secretary of State: section 30(3). The relevant regulations are The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464). Regulation 2 and the Schedule to the Regulations set out the relevant categories of pecuniary interests. For completeness, the Schedule is set out in the Annexe to this advice. The categories relate, in very brief, to:
 - Employment, office, trade, profession or vacation.
 - Sponsorship of the member.
 - Present contracts for goods or services.

- Beneficial interests in land in the area of the authority.
 - Licences to occupy land in the area of the authority.
 - Beneficial interest in a body which has a tenancy from the authority.
 - A tenancy with the authority where the tenant is a body in which the relevant person has a beneficial interest.
 - Beneficial interest in securities of a body where the body has a place of business or land in the area of the authority.
5. The second requirement is that it must be an interest of the member or their spouse/civil partner or someone living with the member as such, where the member is aware that their partner has the interest: section 30(3).
 6. Section 30 of the Localism Act imposes disclosure requirements on members of a relevant authority. For this purpose, relevant authority means the Common Council of the City of London in its capacity as a local authority or police authority. This is presumably so as to distinguish its functions as a land-holding body. I am instructed that the statutory code is applied by local choice in respect of my client's private functions.¹
 7. Within 28 days of taking office, the member must notify the authority's monitoring officer of any DPIs: section 30(1). Upon re-election, the member must notify the monitoring officer of any new DPIs: section 30(2). Upon notification, the monitoring officer must then cause the DPI to be entered in the authority's register, whether or not the interest notified actually qualifies as a DPI: section 30(4).
 8. Section 31 then imposes requirements in relation to matters considered at meetings or by a single member. My instructions do not relate to the latter case, so I confine myself to what is stated regarding meetings. Section 31 applies to a situation where a member (a) is present at a meeting of the relevant authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, (b) has a DPI in any matter to be considered, or being considered, at the meeting and (c) is aware that (b) applies: section 31(1).

¹ Standards Committee's Policy and Guidance, cited below, paragraph 3.

9. It will be noted that to reach that point, the member must not just have a DPI, and it is not even enough if in broad terms it relates to a matter under consideration. The DPI must be in the matter under consideration. That must and can only mean that the pecuniary interest is likely to be affected (positively or negatively) by the item under discussion. As such, one can see that a member of the public is likely to lose confidence in the integrity of the member if the member participates in the discussion, particularly without disclosing the nature of the interest and that they stood to gain or lose by a vote one way or the other.
10. Therefore, section 31(2) says that if the DPI is not entered in the register, the member must disclose it to the meeting² (section 31(2)) and then notify it to the monitoring officer, unless it has already been notified: section 31(3).
11. Crucially, section 31(4) then provides that the member may not participate, or participate further, in any discussion of the matter at the meeting or participate in any vote, or further vote, taken on the matter at the meeting. However, section 32(4) goes on to say that that requirement is subject to section 33.
12. Section 33 lies at the crux of this matter. It materially provides as follows:
- (1) 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 in section 31(4) in cases described in the dispensation.*
13. Dwelling there for a moment, I make four observations.
14. First, the starting point is that members with DPIs in an item under discussion neither speak nor vote. A dispensation is just that: a release or exemption from the rule.
15. Second, the authority cannot unilaterally grant dispensations. Its discretion arises only when a written request is made.
16. Third, the prohibition on speaking and voting do not necessarily stand or fall together. The authority can release the member from neither, one or the other, or both of the restrictions.

² Unless the interest is sensitive within the meaning of section 32(3).

17. Fourth, the dispensation must describe, presumably with specificity, the cases to which it applies.

18. The dispensation powers are not unfettered. Rather, they may only be exercised in a limited range of circumstances set out in section 33(2). This provides, so far as material:

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers 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 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,

...

or

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

19. Again, I make four observations about that provision.

20. First, the dispensation powers are discretionary. While one of the threshold criteria has to be satisfied, that does not apparently compel the authority to grant a dispensation. In reality, it seems unlikely that an authority would consider one of the criteria satisfied but refuse to grant dispensation at all. In other words, the discretion really operates at the earlier stage when deciding whether one of the criteria is satisfied, which is an evaluative exercise, e.g. deciding whether it is “appropriate” to grant a dispensation.

21. Second, however, the reason for granting a dispensation might well influence the type of dispensation to be granted. For example, if the authority's decision-making power would simply be paralysed if dispensation is not granted, the authority might naturally decide to grant dispensation enabling a member to speak and vote. In other cases, it may decide that the ends of democracy are sufficiently served by enabling the member to speak but not to vote.
22. Third, in making that decision, the authority must have had regard to "all relevant circumstances." This certainly imports a duty to ascertain all relevant circumstances, even (and in fact in particular) where the full circumstances are not before it. It also must mean that the authority cannot and should not grant a dispensation which is wider than appropriate in the light of its knowledge of the circumstances. A blanket dispensation may be administratively convenient but inapposite if the authority cannot properly foresee all the circumstances which may be relevant in any particular case.
23. Fourth, the relevant circumstances must, presumably, include the circumstances of the individual member making the application. It is not difficult to imagine a dispensation granted to councillor A but not granted to councillor B, e.g. if the dispensation related to housing land provision where one councillor is a tenant and another a major housebuilder in the area of the authority.
24. However, it is not necessary that a dispensation is granted on a case by case basis, although it could be. Rather, section 31(3) permits a dispensation to be granted for up to four years.

The facts

25. With all that in mind, I come to look at the specific facts of this case. These facts are admirably set out in my instructions, and so I am able to focus on those specifically bearing on the questions I am asked.
26. I have been furnished with the City of London Corporation Members' Code of Conduct. The Code sets out the terms of the statutory scheme. It also makes provision for notification of other matters not amounting to DPIs. It does not set out the Corporation's approach to dispensations. That is because this is dealt with in the Standards Committee's *Policy and guidance on the granting of dispensations under*

the Localism Act 2011 and the Members' Code of Conduct which has been in force since 1st March 2019.

27. The policy makes it clear that the Standards Committee will exercise its discretionary power to grant dispensations subject to its general duty to promote high standards of conduct; in a way which is consistent with the Seven Principles of Public Life and helps to maintain public confidence in the conduct of the Corporation's business (para 4). This seems to be to be a salutary approach.
28. The exceptional nature of the jurisdiction (by which I mean that the default is that there should not be dispensation) is reflected in the stipulation that the Committee would need to see good reasons for dispensation based on the statutory grounds, with particular reference to the additional factors set out in the policy, with the onus on the member to demonstrate that the dispensation is justified (para 4).
29. Paragraph 5 then sets out as policy that Members would generally be given dispensation to speak (but not vote) on all matters concerning their Ward unless their DPI would be directly and materially impacted by a matter to be determined, subject of course to the proper exercise of the statutory discretion in each case. This might be read as a mild presumption in favour of exercising the discretion to grant dispensation for the limited purpose of speaking, provided that one of the statutory criteria is found to apply. However, given that the application of the statutory criterion requires regard to be had to all the relevant circumstances, it is of no great weight. For example, if the Committee, having regard to all the relevant circumstances, decided that it was not appropriate to grant a dispensation, the existence of this policy could not persuade it that it was appropriate to grant the dispensation.
30. The policy sets out a process for considering dispensations, which I mention merely for the sake of completeness.
31. The policy then sets out the statutory grounds and makes brief comment upon them. In particular it states that the Committee will consider whether not granting a dispensation may be to the disadvantage of residents or those accessing the City such as workers (the former under criterion (c) and the latter criterion (e)) taking into account the number disadvantaged, and to what extent they are disadvantaged (para 16).

32. There are some straightforward cases which are delegated to the Town Clerk for decision with an expectation that they will normally be granted (para 17). These are the setting of Council Tax (for the obvious reason that otherwise no resident could participate in the discussion), speaking on planning and licensing applications by non-members of the relevant committees, and speaking on general housing matters (as defined) by tenants where the item of business does not relate particularly to that Member's DPI. Other matters are referred to the Standards Committee.
33. Members are encouraged to co-ordinate their applications for dispensation on a Ward basis (para 19).
34. The policy also refers to the restriction imposed by section 618 of the Housing Act 1985 on those beneficially interested in land voting on matters arising pursuant to that Act. This is a statement not of policy but of law.
35. In paragraph 18, the policy sets out a non-exhaustive list of factors it will take into account, as set out in Appendix 3. This amounts to a well-considered list of factors. I do not deal with all of the factors. The list asks whether the dispensation would damage public confidence; whether there is a reasonable expectation that a Member's ward will be directly affected; whether the interest is in common to the Member and a significant proportion of the general public; how direct the impact is on the DPI; whether the Member has special knowledge of value to the decision-making process; whether participation is in the interests of diversity; whether the item relates to a specific manifesto commitment; and whether a dispensation has been granted or refused in similar cases. It also points out that the more focussed the application, the more likely it is to be granted. It is difficult to imagine that list of factors rousing significant contention.
36. What has, however, proved rather more contentious is the following:

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.

37. The distinction between speaking and voting is not maintained for matters relating to council tax. For everything else, the principle that dispensations to vote are exceptional is applied.
38. I understand that this distinction has continued to be the subject of discussion and debate.
39. Most recently, on 4th October 2019, the Standards Committee considered a paper by the Comptroller and City Solicitor on the topic, which was accompanied by a Note from the Chair setting out a number of options. I am instructed that the Standards Committee endorsed the current policy, but with the intention that the matter receive further consideration at its next meeting, which is to take place in January 2020.
40. On 18th November 2019 the Dispensation Sub-Committee referred three applications for general dispensations to the next Standards Committee, while granting one further application on exceptional grounds. The three applications to be referred are in a format which largely replicates a proposed revision to the policy. The idea is that the policy should be to grant dispensations in residential wards following requests in the following form:

I request a dispensation for the duration of my current term of office to enable me to speak and vote on any matter which affects my constituents and in which I have a disclosable pecuniary interest except for:

(a) a matter which affects me uniquely or more than any of my constituents; or

(b) as regards voting only, a matter which falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision remains in force.

This dispensation is sought on the statutory ground of its being “in the interests of persons living in the authority’s area”.

In requesting this dispensation, I acknowledge that:

(i) I will use my judgment as to whether I rely on it in every case (e.g. in a matter which affects only a very small number of constituents no less than myself); and

(ii) this dispensation does not affect the application of the “rule against bias” (which mainly applies in planning and licensing decisions).

41. There are several points to commend in the proposal:

- (1) It amounts to a genuine request for dispensation.
- (2) It acknowledges that dispensation is needed.
- (3) It refers to one of the statutory criteria for dispensation.
- (4) It acknowledges the voting stricture in section 618 of the Housing Act 1985.
- (5) It acknowledges that the rule against bias is not circumvented by a dispensation.

42. However, in my view, to grant the proposal as asked would be unlawful for the reasons which follow,

Opinion

43. The permissive part of the dispensation is that the member should be able to speak and vote on any matter affecting his/her constituents and in which s/he has a DPI. If there is no effect on the DPI, the provisions are not engaged in any event. So the reference to the DPI adds nothing. So far as “affecting his constituents” is concerned, this again is very broad. It is hard to think of a decision concerning a particular ward which does not affect any constituents of the ward. So the permissive part is essentially a general dispensation to vote in matters concerning the ward.

44. One turns then to the exceptions.

45. The only genuine exception is that it is a matter that affects the member uniquely or more so than any of their constituents. Again, it is hard to conceive of what that might be unless the matter specifically concerned the member. Moreover, the dispensation is expected to acknowledge that the member will decide whether to rely on the dispensation. Obviously, this cannot be relied upon by the decision-maker since it

places the decision in the hands of the members themselves, who would have carte blanche whether to utilise the dispensation or not.

46. The other “exceptions” are not really exceptions at all, but legal prohibitions, relating to section 618 and the rule against bias.
47. What this amounts to, therefore, is a policy whereby a general dispensation is granted to permit the member to speak and vote on matters bearing on their DPI except where the application specifically or uniquely concerns the member.
48. The legal problems with this are essentially as set out in my instructions.
49. First, the entire basis of the legislative scheme is that a member is precluded from speaking or voting except in specific circumstances adumbrated in a dispensation. This dispensation essentially turns the scheme on its head by granting dispensation across the entire field of decision-making relevant to the DPI, unless it specifically relates to the member in question. I would agree that the breadth of the discretion is in the hands of the relevant authority. Sometimes it will grant a very focussed dispensation, e.g. relating to one specific item on the agenda of a specific meeting. Sometimes it will grant a wider dispensation, perhaps dealing with a category of cases over a period of years. But what it might not do in my judgment is to effectively grant dispensation for everything except in the very unusual case that the effect on the member is unique or surpasses the effect on anyone else. That is to subvert the statutory scheme.
50. Second, in granting dispensation, the authority is obliged to have regard to all relevant circumstances.³ How it balances out those circumstances is of course a matter for it. But it must have all the circumstances in mind and, if they are not before it, then it must make a proper investigation as to those circumstances in order that it may take them into account.⁴ This dispensation would not, and indeed could not, be based on all relevant circumstances, because my client could not possibly know what all the relevant circumstances are which may arise in future applications in (I assume) the following four years. The relevant circumstances would necessarily include the likely impact of the decision on the interest of the member in question, the extent to which it

³ *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation* [1948] 1 KB 223.

⁴ *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014.

affects the member, and also the extent to which it affects other residents. The proposed dispensation is so wide as to make any sensible inquiry on the topic impossible to achieve.

51. A third and related point is that the motive driving the proposed dispensation is to enable the member to speak and vote in every conceivable case unless s/he is uniquely affected by the decision. But the powers have been conferred with the purpose of furthering the statutory scheme.⁵ This dispensation does not further the scheme but essentially frustrates it, and is unlawful for that reason.⁶
52. A fourth difficulty is that the dispensation applies to matters “which affect my constituents”. However, there is no mechanism for determining whether a matter does affect the constituents. In the search for a formulation so general as to loosen the strictures of the statutory scheme, a term has been introduced which is of uncertain application. This is not only likely to frustrate the statutory scheme, but it would be irrational to grant a dispensation which is uncertain. It must also be recalled that the provisions create criminal offences pursuant to section 34. It must, therefore, be certain when an offence is committed.⁷ Here, however, the definition of the circumstances in which a dispensation applies creates uncertainty.
53. A fifth possible difficulty, also referred to in my instructions is that the policy would arguably amount to a fettering of discretion.⁸ I think the criticism may be apt, but in reality it would depend on precisely how the policy is framed. I think that a more problematic issue is that referred to above – it is essentially an abdication of the responsibilities placed upon the Corporation to make balanced judgments on the topic of dispensations.
54. A sixth possible difficulty is that the policy seems to place responsibility in the hands of the member, which is an unlawful delegation of power.⁹ Again, I am not entirely sure that, properly analysed, this is a real problem. It is always open to a member to decide whether to rely on the dispensation. The problem would arise if the Corporation treated the ability of a member to ignore the dispensation as a relevant

⁵ *R v Tower Hamlets LBC ex p Chetnik Developments Ltd* [1988] AC 858.

⁶ See *Padfield v Minister for Agriculture, Fisheries & Food* [1968] AC 997, 1030 B-D.

⁷ *Kokkinakis v Greece* (1993) 17 EHRR 397 at [52], as applied in *R v Rimmington* [2005] UKHL 63.

⁸ *R v Secretary of State for the Home Department ex p Venables* [1998] AC 407, 496G-497C.

⁹ *R v Tower Hamlets London Borough Council, ex p Khalique* (1994) 26 HLR 517, 525.

circumstance. It cannot be relevant to a decision whether to grant a dispensation that the member may choose to ignore it. His ability does not amount to a delegation – lawful or unlawful – but to rely on it would mean that the Corporation had unlawfully taken into account an irrelevant circumstance.

55. A seventh difficulty, which is not free-standing but exacerbates some of the other issues, is that the policy makes no distinction between speaking and voting. I understand there to be a belief that the two stand or fall together. I do not think this is right at all. Speaking out on a topic is completely different from exercising a vote in relation to it. The former is to contribute to the debate, the latter is to exercise power. The policy should respect, reflect or at least refer to that distinction, not ignore it.
56. It does not matter whether one, two or all of the above difficulties are correctly stated. If any one of them is correctly stated, the proposed policy is unlawful. I have no doubt at all that at least one of the issues identified above is fatal. For that reason, I am clear that the proposed policy is unlawful.

A different solution

57. I believe that one of the chief sources of contention is that the policy says it will be exceptional for there to be a grant of a dispensation to vote. As I have said, there is nothing wrong with the policy. But if my client wishes to relax it to some degree it could revise the policy to say that a dispensation so as to permit the member to vote is more likely to risk public confidence in the Corporation's decision-making process than a dispensation to permit the member to speak. When asked to grant a dispensation to permit the member to vote, it will carefully consider all relevant circumstances, including but not limited to: (i) the impact of a dispensation on public confidence in the authority; (ii) the impact on democratic debate and accountability of not granting dispensation; (iii) the impact of the decision on the member's interest, and (iv) whether the member is simply one of a large number of people similarly affected by the decision or whether they are disproportionately affected by it. In my judgment such a policy would be lawful, since it would point to particular factors which are likely to be in play in a dispensation decision regarding voting, without going so far as to say that a dispensation should be exceptional.

Conclusion

58. In this advice, I have stated my opinion that the existing policy is lawful and the proposed policy unlawful. I have suggested a form of words which might go some way to mediate between proponents of the old and the new. No doubt there are other formulations which would have a similar effect.
59. If I can assist in any other way, including by giving my view on alternative formulations, I would of course be glad to do so.

PHILIP KOLVIN QC
11TH December 2019

Cornerstone Barristers
London WC1

Annex

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.
	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—
	(a) under which goods or services are to be provided or works are to be executed; and
	(b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)—
	(a) the landlord is the relevant authority; and
	(b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—
	(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
	(b) either—
	(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Appendix 4 – Leading Counsel's further advice

IN THE MATTER OF DISPENSATIONS UNDER SECTION 33 OF THE LOCALSIM ACT 2011

ADVICE (2)

Introduction

1. On 11th December 2019 I gave written advice on the subject of dispensations under section 33 of the Localism Act 2011.
2. Since then, Councillor Harrower has commented upon my advice, in an email dated 18th December 2019 and addressed to all members together with a number of officers. I am asked for my views upon his comments.
3. Councillor Harrower has helpfully divided his comments into four sections, and I shall adopt both his categorisation and numbering in this advice.

(1) Partial instructions / partial opinion

4. It is suggested that my instructions were incomplete, in the sense that they omitted important facts and mischaracterised other facts which, it is said, affects the validity of my opinion. Five instances are cited.

(a) Public confidence

5. First, it is said that a local petition called for reforms enabling councillors to speak and vote on matters in which they have a declared interest, unless the matter uniquely or especially affects them. The petition read:

We, the undersigned residents of the City of London, declare that we have no confidence in the City Corporation's current "standards" policy and practice. We petition the Court of Common Council to make immediate and fundamental reforms so that:

- our elected representatives are free to speak and vote on our behalf, including on matters in which they have a declared interest (unless the matter uniquely or especially affects them), so that we have the same level of representation as residents of other local authorities; and

- our elected representatives do not feel intimidated into not speaking or voting on matters that affect us because they fear referral by the Corporation to a complaints process that has proved to be not fit for purpose – or worse, referral to the police - simply because they have a declared interest in a matter, even though they can derive no financial benefit from it.

6. The fact that the petition was framed in terms of public confidence is said to undermine my legal view that part of the reason for having a system of DPIs and dispensations is to maintain public confidence in the democratic system. I do not believe that it does so, any more than knowledge that no residents much care whether their councillors speak or not would have led me to the opposite legal conclusion. I was expressing my legal view as to the purpose of the system.
7. Turning to the instant facts, I do understand that many local residents may feel strongly that they wish their elected representative to be able to speak and vote on matters which affect them, even if the representative has a DPI. That, however, does not necessarily lead to the conclusion that there must be a general dispensation in the exact form demanded. It is precisely because there may be instances in which the inability of the member concerned to speak or vote would lead to democratic failure that the dispensation regime was created. However, the careful check and balance required by that regime is not satisfied by a near open-ended dispensation which places decision-making as to whether they intend to speak or vote despite their DPI entirely in the hands of the member. Equally, however, I see that there might be a desire for the policy to be relaxed to some degree, and so suggested a form of wording to achieve such relaxation in paragraph 57 of my advice. The fact that a relaxation was called for by a number of residents serves to confirm rather than weaken my view on the topic.

(b) *“Statutory scheme”*

8. Second, issue is taken with my view that the starting position is that the member with a DPI in an item under discussion is not entitled to speak or vote, with that position being subject to the ability to apply for a dispensation.
9. Councillor Harrower disagrees with that formulation, saying that the starting proposition is that the member should not participate, but that a member may apply for dispensation. I have to say, with respect, that if there is a difference of substance between his formulation and mine, I have failed to discern it.
10. Based on that distinction, however, he says that the purpose of the statutory scheme is to enable elected members to speak on matters in which they have a DPI where this is in the interests of their constituents.
11. I regard that as an incomplete description of the purpose of the scheme. The purpose of the scheme is to prevent the member from speaking or voting on such matters, unless they apply for a dispensation to enable them to do so, in which case the decision-maker must approach the matter with the statutory criteria in mind. Councillor Harrower’s approach places undue emphasis on the dispensation without reference to the preceding proscription which is disapplied by grant of the dispensation. Certainly, in exercising discretion the decision-maker has to consider the interests of those living in the area, but they do so as one of a number of statutory criteria, and having had regard to all the relevant circumstances.
12. I certainly agree that there is power to grant a dispensation where the decision-maker considers this to be in the interests of local residents. I must, however, respectfully disagree that this is sufficient to support an argument that there should be some form of blanket dispensation granted without regard to all the relevant circumstances.
13. On this topic, Councillor Harrower says that the current dispensations policy is characterised by a reluctance to grant dispensations. I have suggested a somewhat more relaxed approach, should my client care to adopt it.

(c) Mischaracterisation

14. It is suggested that reference in my instructions to unlawful delegation is incorrect, with the suggested error carried forward into my opinion. I must respectfully disagree. As paragraph 54 of my advice made clear, this was not a factor in my opinion.
15. Under this heading, Councillor Harrower also suggests that some phraseology in my instructions as to whether the general dispensation he suggested may amount to the exercise of powers for an improper purpose may have led me into error.
16. I can only give assurance that this is not so. I analysed the matters raised in my instructions and gave my own, independent opinion upon them. While I agreed with the thrust, I did not agree with every word, as paragraphs 53 and 54 make clear.

(d) Inoperability

17. It is suggested that anything other than the most general of dispensations is inoperable because of logistical considerations regarding the timing of publication of agendas and convening of committees. As to that, I would say that it is for my client to ensure that the scheme of dispensations is operable. If it is inoperable as it stands (and I make no presumption on that topic), it is no answer to grant a dispensation in such general terms as to be unlawful.
18. Furthermore, the suggestion appears to view the choices as binary: either a case by case dispensation considered at the last minute or a near blanket dispensation granted for several years. As section 33(1) says, a dispensation can be granted in respect of cases described in the dispensation. There is nothing in principle wrong with a dispensation in respect of defined cases. What is wrong, as I have advised, is a dispensation which is so widely framed that it turns the statutory scheme on its head.

(e) Corporation self-interest

19. It is suggested that a specific reference to Councillor Harrower as an advocate of the proposed change of approach may have indicated to me that that I was being asked to compose a robust opinion to stymie him.

20. As a barrister advising a public authority, my function is to take a neutral, objective approach. It is a different approach to that of a barrister seeking to make a case in court, when the purpose is to persuade the court of a particular view of the law or facts. My advice represents my independent, objective view of the law.

21. For these reasons, I am unable to accept Councillor Harrower's conclusion that "partial instructions have resulted in a partial opinion", whichever connotation of the word partial is adopted.

(2) No opinion should be treated as a "trump card"

22. In this section, Councillor Harrower states that members should not automatically accept an opinion by Queen's Counsel as a definitive statement of the law.

23. That must be correct. Lawyers, like anyone else, are capable of being wrong. I would not wish any advice of mine to be treated as *ex cathedra*. If it were, there would be no need for this follow-up advice. It would be a sufficient response to say "Counsel has advised."

24. However, there is a distinction between "could be wrong" and "is wrong". In my advice, I have taken care to set out my reasoning, so that the correctness of the conclusions may be tested. I stand by those conclusions, even in the light of Councillor Harrower's critique.

(3) Inconsistency in approach

25. In this section, Councillor Harrower suggests that the City Solicitor has taken inconsistent approaches at different meetings.

26. It is of course very difficult for me to pronounce upon this, without chapter and verse as to the facts. However, I hope that the following comments of mine are helpful.

27. First, if the City Solicitor said that policy is a relevant matter but an authority may depart from it for good reason, that is an accurate statement of very well-established legal principle.

28. Second, if an authority adopted a policy never, or always, to grant dispensations, that would be unlawful, since it would amount to a failure of discretion.

If history showed that an authority never or always granted dispensations that would be evidence of a failure of discretion, or a misunderstanding of the power to grant dispensations, although it would not necessarily be unlawful, since it might merely demonstrate that all the cases which had arisen justified the particular conclusions reached. For example, if every time members applied for dispensation they did so in the most modest terms reflecting the statutory criteria, it would not be unlawful to grant the dispensation in each and every case.

29. Third, I also agree with the proposition advanced by the City Solicitor at the Dispensations Sub-Committee on 4th September that it is open to members to make broad applications which then fall to be judged against the statutory criteria.
30. However, none of this leads to the conclusion that the proposed dispensation set out in paragraph 40 of my first advice is lawful. In my view, it is unlawful for the reasons I gave.

(4) Lack of independence

31. In this section, Mr. Harrower suggests that the City Solicitor lacks sufficient independence to be involved in the resolution of these issues. I hope it is sufficient for me to say that I am entirely independent of all parties to these discussions, and have provided my independent legal view. In making the suggestion at paragraph 57, I tried to recognise the sensitivities of the matter, and to be constructive and helpful to all parties to the debate.
32. I believe that this deals with all the further matters which have been raised. But if I have omitted anything material, I would of course be glad to rectify the deficiency.

PHILIP KOLVIN QC
8th January 2020

Cornerstone Barristers
London WC1

Standards Committee

Policy and guidance on the granting of dispensations under the Localism Act 2011 and the Members' Code of Conduct

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, the information that should be provided in the application form in every case, and additional information that might usefully be provided in order to support a particular application. This document will also be used by the Standards Committee to ensure consistency in decision making.

Application

3. The Localism Act 2011 applies to the City Corporation in its capacity as a local authority or police authority. However, the City Corporation has chosen to apply the Members' Code of Conduct, including the rules on disclosable pecuniary interests, to all of its functions – not just its local authority and police authority functions. The Code of Conduct applies to any member of the City Corporation and any external or co-opted member of a committee of the City Corporation (collectively referred to as a "Member" in this document).

Statement of general policy

4. 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 discretionary power 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.**

5. The Court of Common Council has requested that the Standards Committee "...adopt a position where Members would generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest other than when that disclosable pecuniary interest would be directly and materially impacted by a matter to be determined at a meeting of the Court or one of its committees or sub-committees, subject of course to the proper exercise of the statutory discretion in each case." This is the guiding principle that underpins this policy.

Disclosable pecuniary interests

6. 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. A summary of the position is therefore set out at Appendix 1. Members should also refer to the other guidance available on disclosable pecuniary interests and the Members' Code of Conduct, which can be accessed via the link in Appendix 1.

Granting dispensations

The process

7. 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") although individual applications will normally be considered by the Dispensations Sub-Committee. The Standards Committee has decided to delegate authority to determine certain types of straightforward dispensation applications to the Town Clerk.
8. Dispensation applications, whether determined by the Standards Committee, or by the Town Clerk under delegated authority, are subject to the statutory rules on public access to information in the normal way. In most cases the public interest in disclosing this information will outweigh the public interest in maintaining any applicable exemption. This means that the detail of any application will normally be made public, even if it contains special category personal data, including information about a protected characteristic, that is relevant to the application.
9. 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 engage a disclosable pecuniary interest. **Any dispensation is entirely permissive in nature and does not impose any restrictions on speaking or voting where no such restrictions otherwise exist.**

10. 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. However it is the responsibility of the Member concerned to make sure that the existence and nature of any dispensation being relied upon is made known at a meeting.
11. Any dispensation relates only to the disclosable pecuniary interest(s) cited in the application. If a Member has another engaged disclosable pecuniary interest, that was either omitted from the original application, or arose after the original application was made, then this will not be covered by the terms of the existing dispensation. A Member wishing to speak or vote on a relevant item of business in such circumstances would need to make a fresh application. The Standards Committee also reserves the right to review and revoke or amend any dispensation previously granted in appropriate circumstances.

Timeliness of applications

12. 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

13. 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

- 14. 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.**
- 15. 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.
- 16. 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.

Dispensation decisions that are delegated to the Town Clerk

- 17. The Standards Committee has decided to delegate authority to determine certain types of straightforward dispensation applications to the Town Clerk. Whilst one or more of the statutory grounds for granting a dispensation must still be satisfied in each case, the Standards Committee considers that it will normally be possible to establish this in relation to the three types of application set out below. The Town Clerk may grant such dispensations for a term ending on or before the date of the next ordinary Common Council elections. Any Member who requires a dispensation that goes beyond these delegated arrangements must apply to the Standards Committee in the normal way. The matters delegated to the Town Clerk are as follows:

Council tax

- (a) 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 to speak and vote on the setting of council tax 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.

Speaking on planning and licensing applications

- (b) The Standards Committee is of the view that, subject to certain safeguards, Members should generally be permitted to speak with the same rights as a member of the public on planning and licensing applications. However, where a Member has a relevant disclosable pecuniary interest, the Localism Act 2011 prohibits this unless a dispensation is applied for and granted for the purpose. The Standards Committee considers that granting a dispensation in these circumstances will normally be in the interests of persons living in the City and/or will be otherwise appropriate. Therefore, authority has been delegated to the Town Clerk to grant dispensations in appropriate circumstances, to Members who are not members of the Committee in question, for the purpose of making oral representations, answering questions, or giving evidence, relating to planning and licensing applications where the public are also allowed to attend the meeting for the same purpose. This is dependent on the Member in question having submitted written representations on a particular application, or otherwise having satisfied the criteria to speak as a member of the public in the normal way. Any Member relying on such a dispensation should then be treated as a member of the public when making oral representations on that matter. These dispensations are not available to Members of the Planning Committee or the Licensing Committee in relation to the business of their own Committee, and any dispensation granted under delegated powers for this purpose will lapse if a Member is subsequently appointed to the Committee in question. Members of the Planning Committee and the Licensing Committee may still apply for a dispensation to participate in relation to the business of their own Committee, where they have a relevant disclosable pecuniary interest, but must do so on a case by case basis to the Standards Committee.

Speaking on general housing matters

- (c) The Standards Committee is of the view that Members should normally be permitted to speak on general housing matters¹ even where they have one or more of the following types of disclosable pecuniary interest relating to a residential property in the City:
 - (i) A lease or tenancy from the City Corporation.
 - (ii) A licence from the City Corporation to occupy land for a month or longer.
 - (iii) A corporate tenancy from the City Corporation, where the tenant is a company in which the Member has a beneficial interest.

N.B. Under the Localism Act 2011 this includes any disclosable pecuniary interest belonging to a spouse, civil partner, or person with whom the Member is living as husband or wife, or as if they were civil partners.

The Standards Committee considers that granting a dispensation in these circumstances will generally be in the interests of persons living in the City. Therefore, authority has been delegated to the Town Clerk to grant such dispensations, so long as the item of business does not relate particularly to the Member's own disclosable pecuniary interest. What this means in practice is that a Member with such a dispensation will be able to speak on housing matters that affect all of the City Corporation's tenants or leaseholders on a particular estate equally. This would include, for example, speaking on the appropriate level of service charge. However, such a dispensation will not permit a Member to speak on an item of business that relates solely or particularly to their own lease or tenancy. This would include, for example, rent arrears or repairs relating to the Member's own property. If a Member is unsure whether an item of business relates particularly to their own disclosable pecuniary interest, they are encouraged to seek advice from the Monitoring Officer or the Town Clerk, or apply for a specific dispensation from the Standards Committee.

¹ For these purposes "general housing matters" means the exercise of the City Corporation's functions as a housing authority in relation to:-

- Housing governance i.e. decision making, scrutiny and consultation arrangements together with any proposals for stock transfer.
- General housing management i.e. arrangements for the proper management of the City Corporation's housing stock and housing estates including management of common parts, estate amenities and community facilities, and commercial properties which are an integral part of housing estates, together with the procurement of services to carry out such activities.
- General repairs and maintenance including arrangements for procuring repairs and maintenance.
- General rent and service charge setting.
- Strategic housing policy including allocations, homelessness and the provision of new homes.

For these purposes "general housing matters" does not include:

- The provision of parking spaces, and private storage spaces separate from a dwelling.

Factors to be taken into consideration by the Standards Committee

18. In deciding whether to grant a dispensation under one or more of the specific statutory grounds, the Standards Committee will take into account the (non-exhaustive) list of factors set out in Appendix 3, 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 in Appendix 3 does **not** mean that a dispensation will be granted.

Other related matters

Multiple applications from a particular ward

19. Applications to participate in a particular item of business may be received from more than one Member of the same ward. 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.

Section 618 of the Housing Act 1985

20. 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.**
21. 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. Even were the Standards Committee to grant a dispensation to vote under the provisions of the Localism Act 2011, that Member would still be prohibited from voting under section 618 of the Housing Act 1985. In addition, they may only speak on the matter if they have obtained a dispensation to do so under the Localism Act 2011.

Conclusion

22. Requests for dispensations will be determined on their own merits and any dispensation granted must be justified on one or more of the statutory grounds. Dispensations to speak and vote on council tax, to speak on general housing matters, and to speak on planning and licensing applications as a member of the public, may be granted by the Town Clerk under delegated authority. All other applications will be considered by the Standards Committee, which will need to be presented with a clear case and will be guided by the principles set out in this document in making its decision. Any Member applying for a dispensation to the Standards Committee should thoroughly address the factors set out at Appendix 3. 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 and in force from 1 March 2019.

Appendix 1 – Disclosable pecuniary interests

What is a disclosable pecuniary interest?

1. 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.

2. 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?

3. The Localism Act 2011 does not provide any additional guidance on judging whether a disclosable pecuniary interest should impact on a Member's participation in a particular item of business or not. It simply states that the prohibition on speaking or voting on a matter applies 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.

It is not possible to simply substitute the different descriptions of a disclosable pecuniary interest, such as 'land' or 'employment', into (b) above. Therefore some additional form of wording has to be read into this provision, whether that refers to a disclosable pecuniary interest being 'engaged' in any matter, or 'relating to' any matter, or being 'affected by' any matter. There isn't a definitive test – whether a Member has a disclosable pecuniary interest in a particular item of business is a matter of fact and degree to be determined in each individual case.

4. It is therefore up to individual Members to make a judgement as to whether any disclosable pecuniary interest that they possess relates to a particular item of business, drawing on their experience and taking any advice as appropriate. As a starting point, a Member should consider:

- (a) whether the matter before the meeting could reasonably be said to appear to be likely to affect their disclosable pecuniary interest; or
- (b) 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 is likely to have 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. It should be apparent from the above examples that there does not have to be a financial impact on a Member in order for that Member to be prohibited from participating in a particular item of business.

5. Speaking in general terms, a Member is highly likely to have an engaged 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.
6. It may be helpful to give some specific examples of scenarios where a disclosable pecuniary interest will not normally be engaged. In the Standards Committee's view, no Member will have a disclosable pecuniary interest in general matters such as City-wide refuse collection, street cleaning or air quality, even if they do live and/or work

in the City (unless, for example, they are contractually involved in the delivery of the service).

Relationship between the Localism Act 2011 and the Members' Code of Conduct

7. The provisions of the Localism Act 2011 in relation to disclosable pecuniary interests are reflected in the Members' Code of Conduct. Paragraph 13 provides that, "Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State". **The Members' Code of Conduct applies to all of the City Corporation's functions, not just local authority and police authority functions.**

Effect on participation and possible sanctions

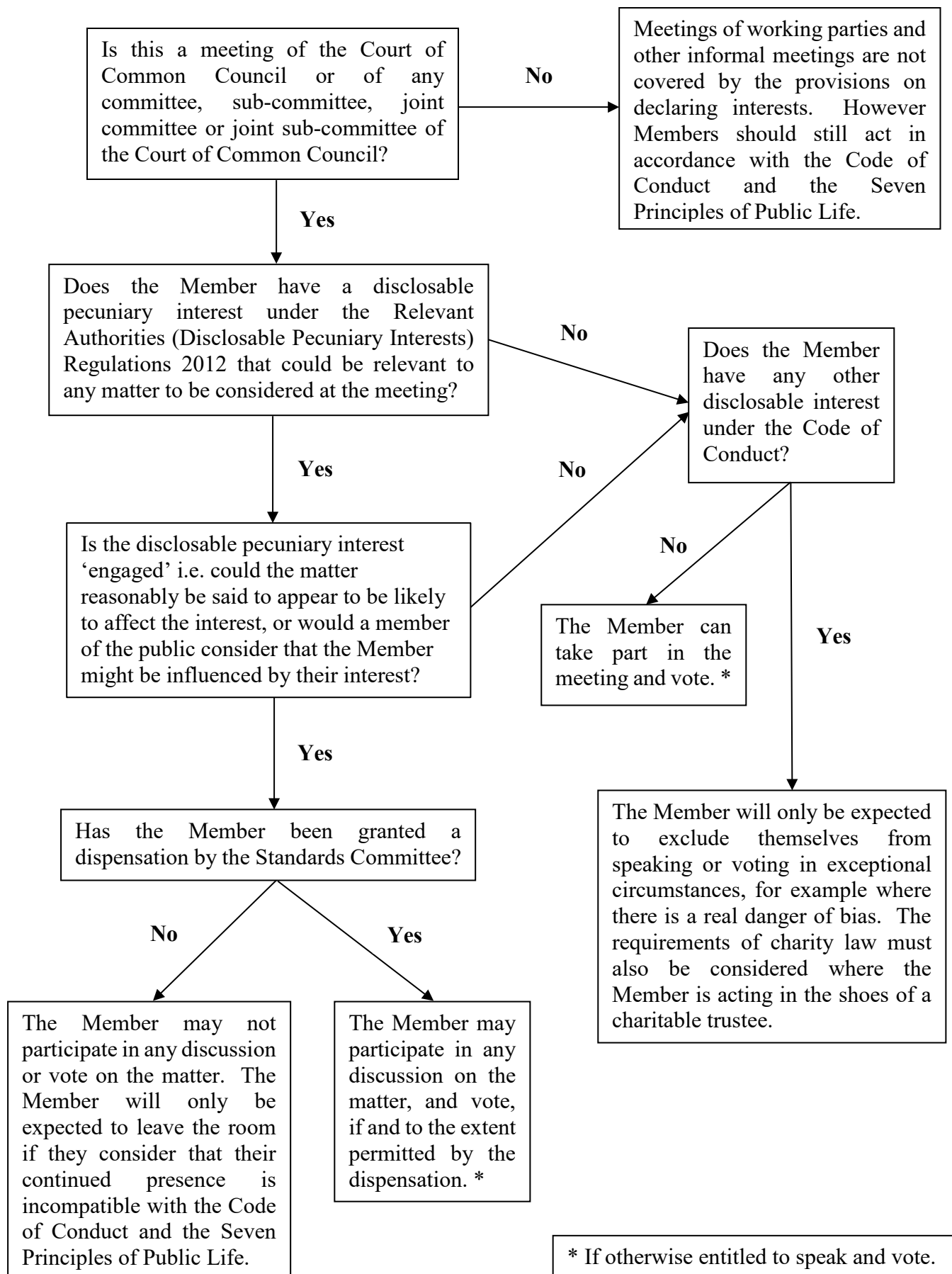
8. A Member who is present at a meeting of the City Corporation, and who has a disclosable pecuniary interest relating to any business being considered, must not participate in any discussion of the business at the meeting, or participate in any vote taken on the matter at the meeting. If a Member becomes aware of their disclosable pecuniary interest during the meeting, they should not participate further from that point. **The prohibition on speaking includes 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 2.
9. 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. A breach of the Code of Conduct may also occur whether a Member is aware that they have a disclosable pecuniary interest or not.
10. Where a Member has an engaged disclosable pecuniary interest, there are other mechanisms through which the views of their constituents can be communicated, without the need for a dispensation. The Member could for example submit written representations, or brief another Member to speak on their behalf.

Further information

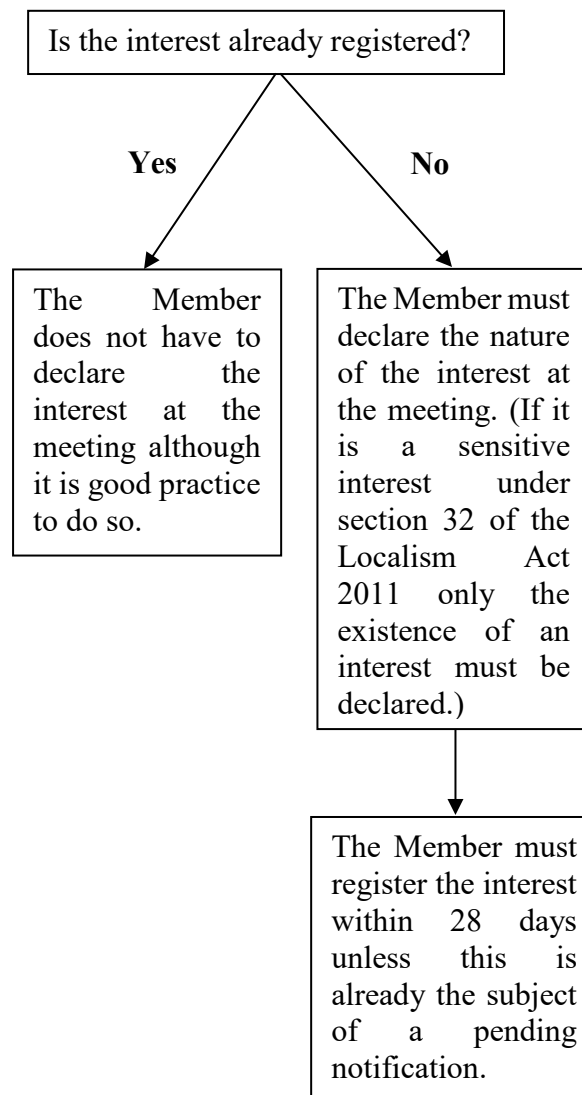
11. The full text of the Members' Code of Conduct and additional guidance can be found at the following link: <https://www.cityoflondon.gov.uk/about-the-city/how-we-make-decisions/Pages/corporate-governance.aspx>. Members are advised to seek advice from the Monitoring Officer or the Town Clerk if they are unsure about whether they have a disclosable pecuniary interest in a particular matter.

Appendix 2 – Interests at meetings

Part I: Participation at meetings where an interest may be engaged



Part II: Declaring interests at meetings and subsequent registration



Appendix 3 – Factors to be taken into consideration by the Standards Committee

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 (see paragraph 17(b) of the main document) but may arise in other areas. 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? Does the item of business directly affect the Member's ward?

Widely held interests

- (e) 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 impacted interests

- (f) How directly or materially impacted is the disclosable pecuniary interest? For example, whilst arrangements have been put in place 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.

- (g) Is the participation of the Member in the business that the interest relates to justified by their particular knowledge, role or expertise? Would the potential contribution 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

- (h) 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

- (i) 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? Did this appear as a commitment in their election material?

Scope and duration

- (j) Some requests for dispensations that are received are general in nature and for a lengthy time period. Others are much more specific in relation to a particular matter at a particular meeting. **A focussed application 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

- (k) 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.

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Committee: Standards Committee	Date: 24 January 2020
Subject: Requests for a Dispensation under the Corporation's approved Dispensations Policy	Public
Report of: Report of Town Clerk	For Decision
Report authors: Gemma Stokley Antoinette Duhaney	

Summary

This report set out details of three Members (Mark Bostock, Susan Pearson, Brian Mooney) who have requested a dispensation to speak and or vote on any matter which affects their constituents and in which they may have a "pecuniary interest," except for matters which:

- (a) affect them uniquely or more so than any of their constituents; and
- (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book;

Recommendation

The Committee is asked to determine the applications for a dispensation as detailed below.

Main Report

Background

1. Three Members have submitted requests for a dispensation. The Standards Committee has requested that all such applications are accompanied by a covering report. These applications are submitted under the new dispensations policy that came into force on 1 March 2019. The statutory grounds for granting a dispensation under the Localism Act 2011, and the factors that your Sub-Committee should take into account when considering these applications, are set out and explained in that document.

The applications

2. The full applications for dispensations are appended to this report. The applications from Mark Bostock (appendix 1), Susan Pearson (appendix 2), and Deputy Brian Mooney (appendix 3) were first considered by the Dispensations Sub-Committee on 3 July 2019 and the minutes of the Sub-Committee are attached as appendix 4. However, the applicants listed above were dissatisfied with the Sub-Committee's decisions and requested that their applications be reconsidered.
3. These applications were therefore resubmitted to the Sub-Committee on 4 September 2019 and, at this meeting, it was agreed that these applications be deferred (minutes attached as appendix 5) pending the outcome of a review of the Dispensations Policy by the Standards Committee at their meeting on 4 October 2019.
4. In the light of the Standards Committee's deliberations in October 2019 (the minutes of the Standards Committee's meeting on 4 October 2019 are attached as appendix 6), the applications were resubmitted on the revised dispensations application form to a meeting of the Dispensations Sub-Committee which took place on 18 November 2019.
5. At the 18 November 2019 meeting of the Dispensations Sub-Committee (minutes attached as Appendix 7) it was noted that there were still matters unresolved in relation to the Dispensations Policy and the three applications were therefore referred back to the Standards Committee itself for decision immediately after they have reached a decision on the Dispensations Policy at their meeting on 24 January 2020.
6. This covering report does not seek to include all of the information included within the applications but provides a summary of the dispensation sought by each applicant.

Mark Bostock

7. In summary, Mark Bostock confirms that he has the following "disclosable pecuniary interests" for the purpose of the Localism Act 2011 and that these interests have been published in his register of interests:
 - (a) a long lease that he and his wife hold in a flat at 815 Frobisher Crescent in the Barbican Estate; and
8. Mark Bostock has confirmed that the dispensation request is to speak and vote for the remainder of his term of office (which ends in March 2021) on any matter which affects his constituents and in which he may have a "pecuniary interest", except for a matter which:
 - (a) affects him uniquely or more than any of his constituents; and
 - (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book;

9. Mr Bostock makes this request on the grounds that the grant of this dispensation is in “the interest of persons living in the authority’s area.”

Specific considerations

10. Mark Bostock is a Common Councillor for Cripplegate Ward and a Member of a number of committees including the Markets Committee, the Planning and Transportation Committee, the Barbican Residential Committee and Hampstead Heath, Highgate Wood and Queen's Park Committee.
11. The Planning and Transportation Committee is a Ward Committee consisting of four Alderman nominated by the Court of Alderman and up to 31 Commoners representing each Ward (two representatives for the Wards with six or more Members regardless of whether the Ward has sides) or Side of Ward. There are two representatives for Cripplegate Ward. The quorum for that Committee is any nine Members.

Susan Pearson

12. In summary, Susan Pearson confirms that she has a "disclosable pecuniary interest" for the purpose of the Localism Act 2011 consisting of a long lease that she holds in a flat at 21 Hatfield House, Golden Lane Estate, London EC1Y 0ST and that this has been published in her register of interests:
13. Ms Pearson has confirmed that the dispensation request is to speak and vote for the remainder of her term of office (which ends in March 2021) on any matter which affects her constituents and in which she may have a “pecuniary interest”, except for a matter which:
 - (a) affects her uniquely or more than any of her constituents; and
 - (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book;
14. Ms Pearson makes this request on the grounds that the grant of this dispensation is in “the interest of persons living in the authority’s area.”

Specific considerations

15. Susan Pearson is a Common Councillor for Cripplegate Ward and a Member of a number of committees including the Planning and Transportation Committee, the Finance Committee, the Community and Children’s Services Committee and the Barbican Residential Committee.
15. The Community and Children’s Services Committee is a Ward Committee consisting of two Alderman nominated by the Court of Alderman and up to 33 Commoners representing each Ward (two representatives for the Wards with six or more Members regardless of whether the Ward has sides) or Side of Ward. Those Wards having 200 or more residents (based on the Ward List) are able to nominate a maximum of two representatives. There are also a limited number of Members co-opted by the Committee (e.g. the two parent governors required by law). There are two representatives for the Ward of

Cripplegate. The quorum for that Committee is any nine Members [N.B. - the co-opted Members only count as part of the quorum for matters relating to Education Functions].

Deputy Brian Mooney

- 16 In summary, Brian Mooney confirms that he has a "disclosable pecuniary interest" for the purpose of the Localism Act 2011 consisting of two flats in Queen's Quay, Upper Thames Street, London EC4. This interest has been published in his register of interests.
- 17 Deputy Mooney has confirmed that the dispensation request is to speak and vote for the remainder of his term of office (which ends in March 2021) on any matter which affects his constituents and in which he may have a "pecuniary interest", except for a matter which:
 - (a) affects him uniquely or more than any of his constituents; and
- 18 insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book;
- 19 Deputy Mooney makes this request on the grounds that the grant of this dispensation is in "the interest of persons living in the authority's area".

Specific considerations

- 20 Brian Mooney is Deputy Member of Queenhithe Ward and a Member of a number of committees including the Markets Committee, the Planning and Transportation Committee and the Port Health and Environmental Services Committee.

Conclusion

- 21 A summary of current dispensations awarded since May 2017 by the Standards Committee, Dispensations Sub (Standards) Committee and under Standing Orders 41(a) and (b) is attached as appendix 8.
- 22 The Committee is asked to determine these applications in accordance with their agreed Dispensations Policy.

Appendices

1. Mark Bostock application
2. Susan Pearson application
3. Brian Mooney application
4. Minutes from 03.07.19 Dispensations Sub-Committee meeting
5. Minutes from 04.09.19 Dispensations Sub-Committee meeting
6. Minutes from 04.10.19 Standards Committee meeting
7. Minutes from 18.11.19 Dispensations Sub-Committee meeting
8. Current dispensations

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

The granting of dispensations is a function of the Standards Committee and its Dispensations Sub-Committee. Authority to grant some straightforward applications has also been delegated to the Town Clerk. You are advised to read the policy and guidance on the granting of dispensations before completing this form.

Please complete this form electronically and email it to declarations@cityoflondon.gov.uk. 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. Please submit your application as soon as possible after becoming aware that a dispensation is required.

Name:

Date:

Dispensations available from the Town Clerk

I request a dispensation until the Ward elections in 2021 to enable me:

- ☐ to speak and vote on the setting of council tax
- ☐ to speak as a member of the public on planning applications
- ☐ to speak as a member of the public on licensing applications
- ☐ to speak on general housing matters

NOTE I already have these dispensations

Please complete the rest of this form if you are applying for any other dispensation from the Standards Committee

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

- ☒ I confirm that this interest is already included in my register of interests, or
- ☐ I confirm that I will register this interest within 28 days

I request a dispensation to enable me to:

☒ speak

☒ vote

on the following matter(s):

on any matter which affects my constituents and in which I may have a pecuniary interest except for a matter which:

(a) affects me uniquely or more than any of my constituents; or

(b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision

for a specific committee meeting or meetings, or for a specific period, as follows:

Until my term of office ends in March 2021

Please provide any relevant information in support of your application, including a consideration of the statutory grounds for granting a dispensation (paragraph 13) and the additional factors (Appendix 3) set out in the policy:

The dispensation is not an "unlimited" dispensation. It excludes matters in which I have a greater interest than any of my constituents, because in that case the statutory ground of being "in the interests of persons living in the authority's area" is not satisfied.

The dispensation covers matters in which I have no greater interest than any of my constituents, because in that case the statutory ground is satisfied.

The purpose of the law providing for dispensations to be granted is to enable me to speak or vote for others, notwithstanding my own conflict of interest, in the interest of democracy.

It is more important for me to have a dispensation to vote than to speak, so I can represent my constituents in the making of the decision. Otherwise, the way would be open for members with no local knowledge, interest or mandate to make the decision.

In a case where I can rely on a dispensation, but only a few constituents are equally affected, I should be trusted to use my judgment (or "common sense") as to whether I do so, or whether I do not speak or vote.

A system of specific dispensations applied for individually has proved to be unworkable, because I usually receive only a week's notice of the agenda, and dispensations sub-committee meetings cannot be convened within that time.

The public has signalled its wish for members to have "general" dispensations. A public authority cannot ignore the public.



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

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Please complete this form electronically and email it to declarations@cityoflondon.gov.uk. 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. Please submit your application as soon as possible after becoming aware that a dispensation is required.

Name: Sue Pearson

Date: 1 November 2019

Dispensations available from the Town Clerk

I request a dispensation until the Ward elections in 2021 to enable me:

- ☐ to speak and vote on the setting of council tax
- ☐ to speak as a member of the public on planning applications
- ☐ to speak as a member of the public on licensing applications
- ☐ to speak on general housing matters

NOTE I already have these dispensations

Please complete the rest of this form if you are applying for any other dispensation from the Standards Committee

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

Leasehold property 21 Hatfield House, Golden Lane Estate EC1Y 0ST

☒ I confirm that this interest is already included in my register of interests, or

☐ I confirm that I will register this interest within 28 days

I request a dispensation to enable me to:

☒ speak

☒ vote

on the following matter(s):

on any matter which affects my constituents and in which I may have a pecuniary interest except for a matter which:

(a) affects me uniquely or more than any of my constituents; or

(b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision remains on the statute book.

for a specific committee meeting or meetings, or for a specific period, as follows:

Until my term of office ends in March 2021

Please provide any relevant information in support of your application, including a consideration of the statutory grounds for granting a dispensation (paragraph 13) and the additional factors (Appendix 3) set out in the policy:

The dispensation is not an "unlimited" dispensation. It excludes matters in which I have a greater interest than any of my constituents, because in that case the statutory ground of being "in the interests of persons living in the authority's area" is not satisfied.

The dispensation covers matters in which I have no greater interest than any of my constituents, because in that case the statutory ground is satisfied.

The purpose of the law providing for dispensations to be granted is to enable me to speak or vote for others, notwithstanding my own conflict of interest, in the interest of democracy.

It is more important for me to have a dispensation to vote than to speak, so I can represent my constituents in the making of the decision. Otherwise, the way would be open for members with no local knowledge, interest or mandate to make the decision.

In a case where I can rely on a dispensation, but only a few constituents are equally affected, I should be trusted to use my judgment (or "common sense") as to whether I do so, or whether I do not speak or vote.

A system of specific dispensations applied for individually has proved to be unworkable, because I usually receive only a week's notice of the agenda, and dispensations sub-committee meetings cannot be convened within that time.

The public has signaled its wish for members to have "general" dispensations. A public authority cannot ignore the public.



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

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Please complete this form electronically and email it to declarations@cityoflondon.gov.uk. 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. Please submit your application as soon as possible after becoming aware that a dispensation is required.

Name:

Date:

Dispensations available from the Town Clerk

I request a dispensation until the Ward elections in 2021 to enable me:

- ☐ to speak and vote on the setting of council tax
- ☐ to speak as a member of the public on planning applications
- ☐ to speak as a member of the public on licensing applications
- ☐ to speak on general housing matters

I understand that I already have these dispensations

Please complete the rest of this form if you are applying for any other dispensation from the Standards Committee

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

☒ I confirm that this interest is already included in my register of interests, or

☐ I confirm that I will register this interest within 28 days

I request a dispensation to enable me to:

☒ speak

☒ vote

on the following matter(s):

any matter which affects my constituents and in which I may have a pecuniary interest except for a matter which:

(a) affects me uniquely or more than any of my constituents; or

(b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985, for as long as that provision remains on the statute book.

for a specific committee meeting or meetings, or for a specific period, as follows:

Until my current term of office ends in March 2021

Please provide any relevant information in support of your application, including a consideration of the statutory grounds for granting a dispensation (paragraph 13) and the additional factors (Appendix 3) set out in the policy:

The dispensation is not an "unlimited" dispensation. It excludes matters in which I have a greater interest than any of my constituents, because in that case the statutory ground of being "in the interests of persons living in the authority's area" is not satisfied.

The dispensation covers matters in which I have no greater interest than any of my constituents, because in that case the statutory ground is satisfied.

The purpose of the law providing for dispensations to be granted is to enable me to speak or vote for others, notwithstanding my own conflict of interest, in the interest of democracy.

It is more important for me to have a dispensation to vote than to speak, so I can represent my constituents in the making of the decision. Otherwise, the way would be open for members with no local knowledge, interest or mandate to make the decision.

In a case where I can rely on a dispensation, but only a few constituents are equally affected, I should be trusted to use my judgment (or "common sense") as to whether I do so, or whether I do not speak or vote.

A system of specific dispensations applied for individually has proved to be unworkable, because I usually receive only a week's notice of the agenda, and dispensations sub-committee meetings cannot be convened within that time.

The public has signalled its wish for members to have "general" dispensations. A public authority should not ignore its public without good reason.

DISPENSATIONS SUB (STANDARDS) COMMITTEE

Wednesday 3 July 2019

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 3.30pm.

Present

Members:

Caroline Addy (Chairman)
Mary Durcan

Jeremy Simons

Officers:

Michael Cogher	- Comptroller and City Solicitor
Edward Wood	- Comptroller and City Solicitor's Department
Antoinette Duhaney	- Town Clerk's Department

1. APOLOGIES

Apologies for absence were received from Judith Barnes (Co-optee).

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations of interest.

3. DISPENSATION REQUESTS

The Sub-Committee proceeded to consider the dispensation requests submitted by Mark Bostock, Susan Pearson, Jason Pritchard and Brian Mooney.

Mark Bostock

The Sub-Committee considered your application for a dispensation relating to a long lease of a flat and lease of a store in the Barbican residential estate.

Details of dispensation sought

To speak and vote for the remainder of your term of office (until March 2021) on any matter which affects your constituents and in which you may have a disclosable pecuniary interest, except for a matter which:

(a) affects you uniquely or more than any of your constituents; and

(b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book.

Details of dispensations granted

The following dispensations were granted for the remainder of your current term of office (until March 2021):

- (1) To speak on general housing matters, as identified in the dispensations policy, and also car parking spaces and private storage spaces relating to the Barbican residential estate, insofar as those issues affect residents of the Barbican residential estate equally; and
- (2) To speak and vote on planning application (18/00335/LBC) at the Planning and Transportation Committee on 30 July 2019 and any subsequent meeting at which that application is considered; and
- (3) To speak and vote on the setting of council tax; and
- (4) To speak on licensing applications with the same rights as a member of the public, in accordance with the dispensations policy.

Reasons

Under the Localism Act 2011 the Sub-Committee may grant a dispensation only if, after having had regard to all relevant circumstances, it considers that one of the statutory grounds is satisfied. The Sub-Committee considered that the terms of the dispensation sought were too widely drafted and lacked supporting information to enable it to reach such a conclusion.

The Sub-Committee noted the guiding principle in paragraph 5 of the dispensations policy, that Members should generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest, other than when that interest would be directly and materially impacted.

However, the Sub-Committee also noted that this must be subject to the proper exercise of the statutory discretion in each case. The Sub-Committee considered that without a more detailed application it was impossible for them to carry out the assessment of the statutory grounds that the Localism Act requires, or to determine when an interest would be directly and materially impacted in line with the dispensations policy.

This reflects Appendix 3 paragraph (j) of the dispensations policy, which states that a focussed application is more likely to be successful, as this enables the Sub-Committee to consider a specific set of circumstances. You are entitled to submit a revised application. It should be noted that, whilst use of the approved application form is not currently obligatory, it has been designed to assist applicants in including all relevant information.

The Sub-Committee were however satisfied that granting some specific elements of your application would be in the interests of persons living in the City. In relation to (1), the Sub-Committee were informed that you had previously been granted a dispensation until April 2020 in similar terms.

The Sub-Committee noted your change of circumstances, in that at the time of your original application you did not actually hold a lease of a store in the Barbican residential estate. The Sub-Committee also noted that, due to the timescales involved, the Town Clerk had already reconfirmed your existing dispensation under urgency procedures, with an extended expiry date of March 2021. For the avoidance of doubt the Sub-Committee were happy to endorse that decision.

The Sub-Committee considered whether you should additionally be allowed to vote on those matters. In reaching its decision the Sub-Committee had due regard to the dispensations policy, and in particular Appendix 3 paragraph (b), which provides that a dispensation to vote will only be granted in exceptional circumstances. The Sub-Committee did not consider that any exceptional circumstances had been successfully argued in your application and therefore the request to vote was refused.

In relation to (2), the Sub-Committee noted that planning application (18/00335/LBC) would not now be considered until 30 July 2019 at the earliest. The Sub-Committee also noted that since submitting your application you had been advised by the Monitoring Officer that you would not have a disclosable pecuniary interest in the planning application in question.

The Sub-Committee agreed with the Monitoring Officer's assessment but understood your desire for further reassurance on this point. They were also mindful of paragraph 9 of the dispensations policy, which states that an application will not normally be refused simply on the basis that a dispensation is not thought to be necessary. The Sub-Committee considered that this did constitute exceptional circumstances and therefore they were prepared to grant you a dispensation to speak and vote on that planning application.

In relation to (3) and (4) the Sub-Committee were willing to provide you with the other dispensations that the Town Clerk is able to grant under delegated authority and for which you are eligible. It should be noted that a dispensation to speak on all planning applications as a member of the public until the Ward elections in 2021 is not available to you as you are a Member of the Planning and Transportation Committee.

Susan Pearson

The Sub-Committee considered your application for a dispensation relating to your long lease of a flat in the Golden Lane Estate.

Details of dispensation sought

To speak and vote for the remainder of your term of office (until March 2021) on any matter which affects your constituents and in which you may have a disclosable pecuniary interest, except for a matter which:

- (a) affects you uniquely or more than any of your constituents; and
- (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book.

Details of dispensations granted

The following dispensations were granted for the remainder of your current term of office (until March 2021):

- (1) To speak and vote on the setting of council tax; and
- (2) To speak on licensing applications with the same rights as a member of the public, in accordance with the dispensations policy; and
- (3) To speak on general housing matters, as identified in the dispensations policy, insofar as those issues affect residents of the Golden Lane estate equally.

Reasons

Under the Localism Act 2011 the Sub-Committee may grant a dispensation only if, after having had regard to all relevant circumstances, it considers that one of the statutory grounds is satisfied. The Sub-Committee considered that the terms of the dispensation sought were too widely drafted and lacked supporting information to enable it to reach such a conclusion.

Although you specifically mentioned a meeting of the Community and Children's Services Committee on 12 July 2019 in your application, you were only able to say that matters are frequently considered by this committee which affect your constituents and in which you may occasionally have a disclosable pecuniary interest.

The Sub-Committee noted the guiding principle in paragraph 5 of the dispensations policy, that Members should generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest, other than when that interest would be directly and materially impacted.

However, the Sub-Committee also noted that this must be subject to the proper exercise of the statutory discretion in each case. The Sub-Committee considered that without a more detailed application it was impossible for them to carry out the assessment of the statutory grounds that the Localism Act requires, or to determine when an interest would be directly and materially impacted in line with the dispensations policy.

This reflects Appendix 3 paragraph (j) of the dispensations policy, which states that a focussed application is more likely to be successful, as this enables the Sub-Committee to consider a specific set of circumstances. You are entitled to submit a revised application. It should be noted that, whilst use of the approved

application form is not currently obligatory, it has been designed to assist applicants in including all relevant information.

The Sub-Committee were however satisfied that it would be in the interests of persons living in the City to provide you with the dispensations that the Town Clerk is able to grant under delegated authority and for which you are eligible. It should be noted that a dispensation to speak on all planning applications as a member of the public until the Ward elections in 2021 is not available to you as you are a Member of the Planning and Transportation Committee.

Jason Pritchard

The Sub-Committee considered your application for a dispensation relating to your tenancy of a flat from the City Corporation.

Details of dispensation sought

To speak and vote for the remainder of your term of office (until March 2021) on any matter which affects your constituents and in which you may have a disclosable pecuniary interest, except for a matter which:

- (a) affects you uniquely or more than any of your constituents; and
- (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book.

Details of dispensations granted

The following dispensations were granted for the remainder of your current term of office (until March 2021):

- (1) To speak and vote on the setting of council tax; and
- (2) To speak on planning and licensing applications with the same rights as a member of the public, in accordance with the dispensations policy; and
- (3) To speak on general housing matters, as identified in the dispensations policy, insofar as those issues affect all of the City Corporation's tenants or leaseholders on your estate equally.

Reasons

Under the Localism Act 2011 the Sub-Committee may grant a dispensation only if, after having had regard to all relevant circumstances, it considers that one of the statutory grounds is satisfied. The Sub-Committee considered that the terms of the dispensation sought were too widely drafted and lacked supporting information to enable it to reach such a conclusion.

Although you specifically mentioned a meeting of the Community and Children's Services Committee on 12 July 2019 in your application, you were only able to say that matters are frequently considered by this committee which affect your constituents and in which you may occasionally have a disclosable pecuniary interest.

The Sub-Committee noted the guiding principle in paragraph 5 of the dispensations policy, that Members should generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest, other than when that interest would be directly and materially impacted.

However, the Sub-Committee also noted that this must be subject to the proper exercise of the statutory discretion in each case. The Sub-Committee considered that without a more detailed application it was impossible for them to carry out the assessment of the statutory grounds that the Localism Act requires, or to determine when an interest would be directly and materially impacted in line with the dispensations policy.

This reflects Appendix 3 paragraph (j) of the dispensations policy, which states that a focussed application is more likely to be successful, as this enables the Sub-Committee to consider a specific set of circumstances. You are entitled to submit a revised application. It should be noted that, whilst use of the approved application form is not currently obligatory, it has been designed to assist applicants in including all relevant information.

The Sub-Committee were however satisfied that it would be in the interests of persons living in the City to provide you with the dispensations that the Town Clerk is able to grant under delegated authority.

Brian Mooney

The Sub-Committee considered your application for a dispensation relating to your ownership of two flats at Queen's Quay.

Details of dispensation sought

To speak and vote for the remainder of your term of office (until March 2021) on any matter which affects your constituents and in which you may have a disclosable pecuniary interest, except for a matter which:

- (a) affects you uniquely or more than any of your constituents; and
- (b) insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1985 for as long as that provision remains on the statute book.

Details of dispensations granted

The following dispensations were granted for the remainder of your current term of office (until March 2021):

- (1) To speak and vote on the setting of council tax; and
- (2) To speak on licensing applications with the same rights as a member of the public, in accordance with the dispensations policy.

Reasons

Under the Localism Act 2011 the Sub-Committee may grant a dispensation only if, after having had regard to all relevant circumstances, it considers that one of the statutory grounds is satisfied. The Sub-Committee considered that the terms of the dispensation sought were too widely drafted and lacked supporting information to enable it to reach such a conclusion.

The Sub-Committee noted the guiding principle in paragraph 5 of the dispensations policy, that Members should generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest, other than when that interest would be directly and materially impacted.

However, the Sub-Committee also noted that this must be subject to the proper exercise of the statutory discretion in each case. The Sub-Committee considered that without a more detailed application it was impossible for them to carry out the assessment of the statutory grounds that the Localism Act requires, or to determine when an interest would be directly and materially impacted in line with the dispensations policy.

This reflects Appendix 3 paragraph (j) of the dispensations policy, which states that a focussed application is more likely to be successful, as this enables the Sub-Committee to consider a specific set of circumstances. You are entitled to submit a revised application. It should be noted that, whilst use of the approved application form is not currently obligatory, it has been designed to assist applicants in including all relevant information.

The Sub-Committee were however satisfied that it would be in the interests of persons living in the City to provide you with the dispensations that the Town Clerk is able to grant under delegated authority and for which you are eligible. It should be noted that a dispensation to speak on all planning applications as a member of the public until the Ward elections in 2021 is not available to you as you are a Member of the Planning and Transportation Committee.

4. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no further matters raised.

5. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There was no urgent business raised.

The meeting closed at 4.55 pm

Chairman

**Contact Officer: Antoinette Duhaney, 020 7332 1408,
antoinette.duhaney@cityoflondon.gov.uk**

DISPENSATIONS SUB (STANDARDS) COMMITTEE

Wednesday, 4 September 2019

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 2.30 pm

Present

Members:

Caroline Addy (Chairman)
Judith Barnes (Co-opted)

Mary Durcan
Vivienne Littlechild

Officers:

Edward Wood	-	Comptroller and City Solicitor's Department
Michael Cogher	-	Comptroller and City Solicitor
Antoinette Duhaney	-	Town Clerk's Department

1. APOLOGIES

No apologies for absence were received.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations of interest.

3. DISPENSATION REQUESTS

The Sub Committee proceeded to consider the dispensation requests submitted by Mark Bostock, Susan Pearson, Jason Pritchard, Brian Mooney and Joyce Nash. The Chairman drew the Sub-Committee's attention to the agenda supplement which included the correct version of Mark Bostock's dispensation request. The Sub-Committee also noted that with the exception of Joyce Nash, all of the above requests were previously considered by the Sub-Committee on 03.07.19. However, all four applicants had resubmitted their requests.

The Sub-Committee considered the merits of each application in turn and in respect of the applications from Mark Bostock, Susan Pearson, Jason Pritchard and Brian Mooney, the Sub-Committee considered the reasons given by the Sub-Committee when these four applications were previously considered on 03.07.19 Appendix 6 (pages 35-41). The Sub-Committee referred to the statutory grounds for granting a dispensation (pages 11-12) and also had due regard to Appendix 3 (pages 21-22) of the dispensations policy - Factors to be taken into consideration.

Mark Bostock, Susan Pearson, Jason Pritchard, Brian Mooney

Members had mixed views on whether the Sub-Committee's earlier decision in respect of the above four applicants should be followed. However, given the current review of the dispensations policy, Members were unanimous in their view that these applications should be deferred pending the outcome of the

review and decisions taken by the Standards Committee at its meeting on 4th October 2019.

RESOLVED – That the applications from Mark Bostock, Susan Pearson, Jason Pritchard and Brian Mooney be deferred pending the outcome of the current review and decisions taken by the Standards Committee on 4th October 2019. A meeting of the Sub-committee will then be convened at the earliest opportunity thereafter to consider these applications.

Joyce Nash

Details of dispensation sought

To speak and vote on matters relating to the expansion of the City of London School for Girls onto the Grade II listed areas of the Barbican Estate at the request of resident electors for the period up to the final decisions made by the Planning & Transportation Committee (as discussion could take place on some of the Committees of which Ms Nash is a Member).

Details of dispensation granted

A dispensation was granted to speak and vote on matters relating to the expansion of the City of London School for Girls for the period until final decisions are made by the Planning & Transportation Committee or for the remainder of the current term of office ending in March 2021, whichever is sooner.

Reasons

Under the Localism Act 2011 the Sub-Committee may grant a dispensation only if, after having had regard to all relevant circumstances, it considers that one of the statutory grounds is satisfied. Members were of the unanimous view that statutory ground (c) (that granting the dispensation is in the interests of persons living in the authority's area) and statutory ground (e) (that it is otherwise appropriate to grant a dispensation) were satisfied in this case.

The Sub-Committee noted the guiding principle in paragraph 5 of the dispensations policy, that Members should generally be granted a dispensation to speak (but not vote) on all matters concerning their Ward where they have an engaged disclosable pecuniary interest (DPI), other than when that interest would be directly and materially impacted.

Members were satisfied that Ms Nash should be allowed to speak as she had a widely held interest which was common to a significant number of Barbican residents and that she was less affected than many other Barbican residents who lived closer to the City of London School for Girls.

The Sub-Committee then went on to consider whether, in accordance with Appendix 3 of the dispensations policy, there were exceptional circumstances that would justify the granting of a dispensation to vote in this instance, and decided that there were. Members accepted that this was a major project and that any potential impact on the Barbican Estate was of wider public interest. It was also relevant that the City of London Corporation was acting as both applicant and local planning authority in this matter, and that Members who sat

on the Board of Governors of the City of London School for Girls would not have a DPI arising from their role and would not be prohibited from speaking or voting on matters relating to the proposed expansion.

In relation to other factors to be taken into account under Appendix 3 of the dispensations policy, it was accepted that the application from Ms Nash was appropriately focussed, which enabled the Sub-Committee to properly exercise its statutory discretion. In addition, it was noted that she had considerable personal knowledge of the issues, which would assist the decision making process. There were not considered to be any previous dispensation decisions that had been made in equivalent circumstances.

It was also noted that Ms Nash was a tenant of the City of London Corporation rather than the owner of her property and that she was not a serving Member of the Planning & Transportation Committee, Barbican Residential Committee or the Board of Governors of the City of London School for Girls.

The Sub-Committee acknowledged that a dispensation may not be granted for more than four years and that therefore a time restriction must be placed on the dispensation so that it was not open ended; it was felt that a dispensation for the period until final decisions are made by the Planning & Transportation Committee, or for the remainder of the current term of office ending in March 2021, whichever is sooner, was appropriate.

4. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE

There were no further matters raised.

5. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT

There was no urgent business.

The meeting closed at 3.48 pm

Chairman

Contact Officer: Antoinette Duhaney, Committee & Member Services Officer
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STANDARDS COMMITTEE
Friday, 4 October 2019

Minutes of the meeting of the Standards Committee held at Committee Room - 2nd
Floor West Wing, Guildhall on Friday, 4 October 2019 at 11.00 am

Present

Members:

Ann Holmes (Chair)
Caroline Addy (Deputy Chairman)
Randall Anderson
Judith Barnes
Henry Colthurst
Nick Cooke
Mary Durcan
Deputy Jamie Ingham Clark
Vivienne Littlechild
Deputy Edward Lord
Alderman & Sheriff Professor Michael Mainelli
Barbara Newman
Jeremy Simons

Officers:

Gemma Stokley	- Town Clerk's Department
Lorraine Brook	- Town Clerk's Department
Antoinette Duhaney	- Town Clerk's Department
Michael Cogher	- Comptroller and City Solicitor
Edward Wood	- Comptroller and City Solicitor's Department
Kristina Drake	- Media Officer

The Chair welcomed to the meeting Members and members of the public. In view of the large number of members of the public in attendance she also asked that committee members and officers introduce themselves.

1. APOLOGIES

Apologies for absence were received from Alderwoman Susan Langley and Dan Large (Co-opted).

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. MINUTES OF THE PREVIOUS MEETING

The public minutes of the meeting held on 3 May 2019 were considered and approved as a correct record.

MATTERS ARISING

Review of Local Government Ethical Standards by the Committee on Standards in Public Life (page 11) – A Co-opted Member questioned when further reports relating to various recommendations could be expected by the Committee. The Chair clarified that work on these matters was already underway and that the first such report would be brought to the Committee in early 2020.

4. MINUTES OF DISPENSATIONS SUB COMMITTEES

The Committee received the minutes of the Dispositions Sub (Standards) Committee meeting held on 3 July 2019 and the draft minutes of the Dispositions Sub (Standards) Committee held on 4 September 2019.

RECEIVED.

5. REVIEW OF DISPENSATIONS POLICY

The Committee considered a report of the Comptroller and City Solicitor relative to a formal review of the Dispositions Policy.

The Chair introduced the item by stating that the Committee had looked at the experience of the first six months of the policy which was introduced in March 2019. The petition submitted in relation to this, Wardmote resolutions, comments from the Barbican and Golden Lane Residents Associations and points made at the informal meeting of this Committee last month had also been taken into account.

The Chair intimated that she intended to hold discussion today on dispensations to speak, dispensations to vote, Section 618 and procedural matters in turn, in that order. She added that, for dispensations to speak and procedural matters, her note at Item 5A. may prove useful and that for all of the issues, the basic information was contained within the Comptroller's report.

The Chair went on to highlight that the Localism Act was clear in that anyone with an engaged DPI may neither speak nor vote without a dispensation and that, to obtain a dispensation, at least one of the statutory grounds must be met.

She concluded her introduction by clarifying that the Committee's concern today was rooted in finding the best balance between representing constituents and avoiding conflicts of interest. The policy had to meet the requirements of the Law and the organisation's own Code of Conduct and protect individual Members and the Corporation from challenge.

Dispensations to speak

The Chair clarified that dispensations to speak for up to four years on council tax and general housing matters, and to speak as a member of the public on planning and licensing matters, were currently delegated to the Town Clerk. Today, she would like to seek the Committee's views on whether and, if so, how far, it wished to extend these arrangements.

At the Chair's request, the Comptroller and City Solicitor highlighted that the legal obligations were set out within the report and that the Committee had a wide but not unlimited discretion with regard to the granting of dispensations. They couldn't seek to ignore or evade the statutory scheme. They were required to exercise discretion properly, having regard to all relevant circumstances. He clarified that the Committee were not prevented from granting dispensations for Members terms of office (4 years) or from granting more general dispensations – both of which had already been done in practice. However, the Committee had a duty to inform themselves of the relevant facts in each case (the Tameside duty). The Comptroller went on to state that the granting of dispensations could be delegated to Officers or to individual Committees but not to individual Members, either expressly or by implication. Any policy that had the effect of always or never granting a dispensation would be unlawful. He echoed the Chair's earlier point that this was therefore a balancing act between democratic representation and the general (not just local) public interest. He concluded by highlighting that other legal constraints also needed to be borne in mind such as Section 618 of the Housing Act 1985 and the rule against actual or apparent bias.

The Chair highlighted that Item 5A contained a range of extensions to the current delegated dispensations to speak that Members may wish to make. She opened the matter of dispensations to speak up to debate.

A Member stated that she still found it difficult to grasp why speaking for hundreds of others as opposed to simply speaking for herself was an issue here and asked the Comptroller and City Solicitor if he could expand on this. The Comptroller explained that if a Member has an engaged DPI then there isn't a difference, in relation to the prohibition on participation in the Localism Act – that's why provision is made for dispensations. The Comptroller also referred to the R (Richardson) v North Yorkshire CC case in which it was held that a Member could not separate out their official and private capacities. He added that, if a Member were one of many affected by a proposal, this would be a relevant factor in deciding whether to grant a dispensation as had been the case with a recent dispensation granted to Deputy Joyce Nash to both speak and vote in relation to plans to extend the City of London School for Girls. A Member stated that another Councillor in the same position would also be applying for similar rights and questioned whether the same outcome was therefore likely. The Comptroller and City Solicitor declined to comment and stated that this would be a decision for the Dispensations Sub Committee in due course. A Co-opted Member added that each application was considered on its own merits but that common sense would suggest that, if all circumstances were equal, outcomes were also likely to be the same. Another Member queried whether that Councillor was in exactly the same position.

A Member stated that he felt that there was an overriding need for all elected Members to have the ability to speak on all matters and that this should therefore be the Committee's starting point. He clarified that, ideally, he would be keen to see a blanket dispensation to speak introduced for all. He went on to state that the main issues here were around Housing, Planning and Licensing matters and suggested that at the start of each Members' term of office,

specific dispensations to speak should be provided in relation to these. He agreed that the matter of voting was a thornier issue.

Another Member urged caution here, adding that every application was required to be considered on its merits. He added that granting too wide a dispensation would create a potentially invidious situation and highlighted that part of the test was whether a Member applying for a dispensation was one of many or one of few and that levels of detail were therefore important.

A Member asked the Comptroller and City Solicitor to comment on whether, in his view, the proposal put forward by a Member regarding blanket dispensations for all to speak on any matter would be legal. The Comptroller and City Solicitor responded by, once again, highlighting that dispensations to speak on general housing matters were already in existence. He questioned what it was that Members wished to see added to this. He agreed with the point made that Housing, Planning and Licensing matters tended to be the most significant here and added that policies were already in place around granting rights to speak on all of these.

A Member commented that she had left the informal meeting of this Committee last month in no doubt that the general feeling was that blanket dispensations to speak should be granted to all. She referred also to the petition received on the Dispensations Policy indicating that the public felt disenfranchised by the current scheme. She added that curtailing Members rights to speak on behalf of their electors effectively meant that standing for election was pointless.

The Deputy Chairman stated that it was very important to bear in mind all the different interests in play. She recognised the pressure to grant dispensations to speak but added that there was, nevertheless, the need to act legally.

A Member questioned whether there was any distinction made, legally, between seeking a dispensation to speak and one to vote. The Comptroller and City Solicitor explained that the statute made no distinction in terms of the test applied but did separate out applications in terms of those seeking to speak and/or vote. Conceptually, there clearly was a difference which the Committee was entitled to take into account.

A Member commented that the Policy's current definition of 'general housing matters' did not include car parking and storage and therefore that was one example of how it could be more widely drafted. He went on to state that he struggled with how this matter had been made so complex given that the Committee had broad, legal authority under the Localism Act to grant dispensations and should seek to use that authority properly, to treat elected Members as if they had common sense and to allow them to effectively represent those who had elected them. He too referred to the petition received as well as the two Wardmote resolutions put in the same terms – all indicating that residents in the City felt that the current policy prevented them from being fully represented. He agreed with the point made earlier regarding the many and the few and felt that those seeking to act on behalf of the few should not be granted a general dispensation. That aside, he stated that he was firmly of the

view that a policy that permits all to speak and vote should be in place with a 'break line' indicating that crossing this was at the personal risk of individual Members.

A Co-opted Member stated that she could see that general dispensations on some matters affecting all equally would be helpful. She argued that this, however, already existed in the form of general housing matters, and car parking and storage where this had been applied for.

The Deputy Chairman agreed that such eventualities were already covered in the existing policies. She added that applications for dispensations relating to specific topics, which were general in that they persisted in time, were easier to process and satisfy the test. Applications with no specific topic were extremely difficult to process.

A Member stated that he would be in favour of extending the dispensations delegated to the Town Clerk to include speaking on any matters affecting ward constituents.

Another Member agreed with this approach. She added that the current regime seemed to take away the ability of elected Members to demonstrate integrity and the ability to make good judgements. For this reason and, on the grounds of good governance, she would also support the introduction of blanket dispensations for resident Members to at least speak on all matters.

A Co-opted Member interjected to state that it was also important to consider the views of the wider public and third-party interests, particularly in relation to Planning and Licensing applications. He added that the granting of blanket dispensations could open the City Corporation up to litigation and questioned why Members would find the need to apply for a dispensation on a case by case basis so cumbersome. It could cause problems if there was a lack of clarity over the interests that Members had.

Two Members made the point that elected Members' publicly available registers of interests covered their pecuniary interests and also that there was an Item on every Committee agenda prompting Members to declare these in relation to items of business to be considered.

A Co-opted Member cautioned that, legally speaking, the process of granting such wide dispensations could be challenged in that it could demonstrate that relevant information was not available and that the process was therefore flawed or unfair. Areas such as Planning and Licensing could rapidly decline in credibility with third parties with such an approach. He concluded by pointing out the financial value of developments in the City which inevitably meant that the City Corporation was subject to a high degree of scrutiny.

A Member disagreed that this would be the case and suggested that this wrongly conflated a number of different issues such as personal liability and the rule against bias which in his view the dispensations regime should not properly be dealing with.

The Deputy Chairman expressed a concern that blanket dispensations could lead to Members not focussing enough on their own individual circumstances in relation to a particular item of business.

The Chair took the opportunity to summarise at this point stating that there were clearly two points of view. There were Members who were in favour of granting a blanket dispensation to speak on any matter affecting ward constituents (with whatever caveats needed attaching to it) for a four-year term of office, and other Members who had concerns about such an approach.

The Chair requested, at this stage, an indicative show of hands to determine who would be in favour of granting such blanket dispensations. Five Members indicated that they would favour this approach and seven Members (including the two Co-optees present) indicated that they would not.

A Member who had indicated his opposition to the proposal stated that the key issue here was around parameters to general dispensations. He added that he felt that there were some circumstances where such an approach would work well but that he was yet to hear these articulated or receive enough information on which to reach a firm decision.

In light of this, and the clear divergence of views amongst the Committee, it was agreed that a report should come back to this Committee seeking to simplify the process around applying for dispensations to speak and examining how the existing delegations to the Town Clerk could be applied as broadly as possible whilst avoiding the risk of a successful legal challenge against individual Members or the City Corporation.

Dispensations to Vote

The Chair underlined that dispensations to vote were currently only granted in exceptional circumstances. There was a suggestion that the wording within the current policy should be amended to state that they would only be granted in certain circumstances, with good reason. She invited the Comptroller and City Solicitor to comment on this position. The Comptroller and City Solicitor stated that voting was certainly more influential than speaking in terms of outcomes. He referred again to the caselaw around actual and apparent bias, particularly in relation to matters such as Planning and Licensing, where third party rights were engaged.

A Member stated that the issues referred to (specifically around bias and Judicial Review) could not be dispensated against. He reiterated that his concern was therefore that these were very separate issues not stemming from the Localism Act and could be dealt with at the appropriate time. The Comptroller and City Solicitor said that it was debatable whether the dispensations regime could be entirely separated out from these other related issues but in his view, it would not be wise to do so.

In response to a Member stating that some Members with engaged DPIs in development matters spoke and voted at meetings of the Planning and

Transportation Committee, the Chair advised that Members should be reporting such instances if this was the case.

The Deputy Chair highlighted that dispensations may not be granted unless certain criteria were met and that, if the dispensations regime worked properly, matters such as potential bias should be considered at that stage. She added that blanket dispensations were therefore difficult to grant and could not be entirely separated from the issue of bias.

A Co-opted Member stated that the Localism Act and dispensations regime were intended to work as 'gatekeepers' to prevent issues such as bias arising in the first place.

The Chair asked elected Members to formally vote as to whether or not they would like to see the current policy on dispensations to vote (whereby these were only granted with good reason) changed.

Votes were cast as follows:

FOR: 5 votes

AGAINST: 5 votes

The Chair exercised her casting vote on the matter and the vote was therefore lost.

Section 618 of the Housing Act 1985

The Chair clarified that the general consensus of those present at the informal meeting of this Committee last month seemed to be that Members should seek the removal of this section. She stressed that it was not within the gift of the Committee to act alone on this but asked that Members indicate their willingness to invite the Policy and Resources Committee, Community and Children's Services Committee and Barbican Residential Committee to consider, with the advice of the Remembrancer, taking steps to seek this from government.

Members were unanimously supportive of this proposal. A Member highlighted that a Housing Act was likely to be announced at the next Queen's Speech and that this would be an obvious opportunity to make the repeal.

Procedure

The Chair highlighted that there were some suggested changes detailed within her note at Item 5A for consideration. She added that this was not intended as an exhaustive list but may prove useful in terms of initiating discussion.

Firstly, Members discussed the suggestion that Members might be required to take advice as to the engagement of a disclosable pecuniary interest (DPI) from the Monitoring Officer or relevant committee lawyer, prior to applying for dispensation. Members were in favour of the principle but felt that Members should be strongly encouraged as opposed to required to adopt this approach.

A Member stressed that it was important to ensure that advice was only sought from those suitably qualified.

It was also agreed that the assessment criteria should be altered so that complaints in relation to speaking and voting will not be investigated, provided that the Member has obtained advice in good faith and with full disclosure from the Monitoring Officers or relevant committee lawyer that a DPI is not engaged. The Deputy Chair commented that this should be premised on the fact that Members had then acted in accordance with the advice received.

Members were also in favour of setting deadlines for applications for dispensations. Notwithstanding this, it was noted that the urgency procedures already in place would be retained where necessary, such as in the case of late items of business being submitted to Committees. Guidance should also be produced on what constitutes an urgent application.

The Committee were also unanimously of the view that the requirement that a member may not consider an application for dispensation for a committee on which they themselves sit should be removed.

Members were unsupportive of the suggestion that pre-meetings of individual Committees to decide applications for dispensations to vote should be pursued.

Finally, it was felt useful that meetings of the Dispensations Sub Committee should be fixed in advance at regular intervals for the following year, whilst retaining means of dealing with urgent applications.

Forms

A Member commented that the shortening and simplifying of the application form seemed to him a positive change. He added that he felt that it also served as a useful reminder to Members in terms of their obligations and that he could easily imagine a situation arising in terms of his own business interests or Livery connections for example where such focus would be helpful.

The Member went on to suggest that the Dispensations regime should be covered extensively at all future Member Induction sessions and that forms should be provided to all at election or re-election every four years or as appropriate with adequate explanation.

A Member suggested that for reasons of transparency, the revised form might also usefully refer to the need to add any interest to a Members register. Another Member added that the form should also encourage Members to apply for dispensations as early as possible.

The Chair went on to focus on the suggestion that the use of the now simplified and shortened form should be made mandatory. She suggested that this made the role of the Dispensations Sub Committee easier in terms of process and comparability. Members were supportive of this and clarified that, aside from exceptional circumstances, applications submitted not using the revised form would not be considered.

A Member suggested that hard copies of the form be made available in the Members Reading Room alongside other stationary for ease of access.

The Chair referred to the four applications for general dispensations that had previously been deferred pending discussions today and requested that the Town Clerk now contact those Members and request that their applications be resubmitted on the revised forms for consideration at a Dispensations Sub Committee to be convened as soon as possible following their receipt. In response to a question, it was clarified that those who had sat on the Dispensations Sub Committee that had originally considered these applications would not be precluded from determining them once they had been re-submitted.

Finally, the Committee discussed the possibility of introducing a minimum period between the submission of identical applications. A Member stated that he was nervous about this and felt it was setting the wrong tone in that Members should be trusted to act sensibly. The Chair clarified that this suggestion had arisen from recent monitoring of the regime but concurred with the majority view that this should not be pursued at present.

The Deputy Chair suggested that it would be useful to have a document detailing all recent decisions around dispensations made readily available to Members. The Town Clerk responded that this could be made available both online and in hard copy in the Members Reading Room going forward.

RESOLVED – That:

- (i) After considering the report, discussion paper, the previous minutes, Chairman's notes, petition and Wardmote resolutions, the Committee instruct Officers to bring back to them a report examining how the process around applying for dispensations to speak might be simplified and how the existing delegations to the Town Clerk could be applied as broadly as possible whilst avoiding the risk of a successful legal challenge against individual Members or the City Corporation.
- (ii) The Committee invite the Policy and Resources Committee, Community and Children's Services Committee and Barbican Residential Committee to consider, with the advice of the City Remembrancer, taking steps to seek the repeal of s.618 of the Housing Act 1985.

6. INSURANCE AND INDEMNITIES FOR INDEPENDENT PERSONS

The Committee considered a joint report of the Comptroller and City Solicitor and the Chamberlain setting out the position in relation to the potential personal liability of the Corporation's Independent Persons appointed under the Localism Act 2011 when carrying out their duties and the recommendations of the Committee on Standards in Public Life that local authorities provide indemnities

to their Independent Persons in relation to their comments during the discharge of their duties.

RESOLVED – That Members approve the proposal in the report for onward approval by the Court of Common Council to indemnify and/or insure Independent Persons (through the extension of the Corporation's Defamation Cover) against awards of damages or expenses incurred arising out of the disclosure of any comments made in good faith during the exercise of their statutory functions as Independent Persons.

7. ANNUAL UPDATE TO MEMBER DECLARATIONS

The Committee considered a report of the Town Clerk providing Members with an overview of the annual update to the Members' Declarations which commenced in July 2019.

In response to questions, the Town Clerk clarified that there was no statutory requirement for an annual update to take place. The Code of Conduct requires Members to maintain an up to date register and the guidance provides for an annual reminder to be sent for this purpose. The Town Clerk also highlighted the disappointing response rate from both elected and relevant Co-opted Members to date.

With this in mind, it was recognised that the amount of time currently dedicated by Officers to undertaking this piece of work was not sustainable given the response rates. It was therefore proposed that, whilst a completely hands-off approach would not be desirable, the Town Clerk should be instructed to simply issue an annual reminder to all Members and Co-optees to check and update forms where necessary. The onus would therefore be on individual Members/Co-optees to manage their own entries. Current arrangements around the chasing and logging of such updates would cease.

RESOLVED – That Members note the report and instruct the Town Clerk to move to a system whereby Members were simply reminded, on an annual basis, to take responsibility for checking and updating their entries.

8. THE CITY OF LONDON CORPORATION'S INDEPENDENT SCHOOLS AND PARENT GOVERNORS

The Committee received a joint report of the Town Clerk and the Comptroller and City Solicitor, alongside an excerpt from the Policy and Resources Committee meeting held on 4 July 2019, concerning the management of the City Corporation's three independent schools and the extent to which the parents of current pupils can and should be able to serve as Governors.

RECEIVED.

9. LORD MAYOR AND SHRIEVAL GIFTS AND HOSPITALITY

The Committee considered a report of the Executive Director, Mansion House and Central Criminal Court, updating Members on the Lord Mayor and Shrieval declarations of gifts and hospitality for the year 2018/19.

Members questioned whether was necessary for the Committee to continue to receive this level of information. The Executive Director confirmed that it was a requirement under the Code of Conduct for this information to be kept and published online regardless.

The Committee thanked the Executive Director for his time but were unanimously of the view that the report needn't be submitted to this Committee in future years.

RESOLVED – That Members note the report.

10. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

11. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

The Chair thanked members of the public for their attendance.

12. **EXCLUSION OF THE PUBLIC**

RESOLVED - That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of the Schedule 12A of the Local Government Act.

13. **NON-PUBLIC MINUTES OF THE PREVIOUS MEETING**

The Committee considered and approved the non-public minutes of the meeting held on 3 May 2019.

14. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

A Member questioned the outcome of the discussion around the proposal for granting blanket dispensations to speak to be given to Members for the duration of their terms of office that had taken place in public session under Item 5.

15. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

The Committee considered and approved a late, separately circulated report of the Town Clerk relative to Co-opted Member Appointment(s).

The meeting ended at 1.00 pm

Chairman

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DISPENSATIONS SUB (STANDARDS) COMMITTEE

Monday, 18 November 2019

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 2.30 pm

Present

Members:

Deputy Jamie Ingham Clark (Chairman)
Judith Barnes

Mary Durcan
Barbara Newman

Officers:

Michael Cogher - Comptroller and City Solicitor
Gemma Stokley - Town Clerk's Department

Welcomes, Introductions and Meeting Management

The Chairman opened the meeting by welcoming all present, including both elected Members and members of the public in the public gallery. He also took the opportunity to formally introduce the Panel members and those Officers present.

The Chairman went on to refer to the front sheet of the agenda pack which served as a reminder to all that meetings of the City of London Corporation could be the subject of audio or video recording. He reported that he had, indeed, received prior notice of the fact that this afternoon's meeting would be video recorded, both by a public attendee and also by the City Corporation's own Media Team.

The Chairman took the opportunity to highlight that the organisation did have a Filming Protocol in place which was available on the public website and asked that this Protocol was respected by all in terms of not disturbing the conduct of the meeting and focusing cameras only on Members and Officers directly involved in today's proceedings.

The Chairman concluded by referring to the fact that there was a relatively busy public gallery this afternoon and clarified, for meeting management purposes, that comments from the public gallery were not permitted and that, in accordance with Standing Order 35 (1), no elected Member in attendance who was not a member of this Sub-Committee was permitted to speak on any matter under consideration without his permission.

1. APOLOGIES

There were no apologies.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. **DISPENSATION REQUESTS**

The Sub-Committee considered a report of the Town Clerk setting out details of three Members (Mark Bostock, Brian Mooney and Susan Pearson) who have requested dispensations to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- (a) Affect them uniquely or more so than any of their constituents; and
- (b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book.

The report also provides details of a request from Adrian Bastow to speak and vote on matters relating to the proposed extension of the City of London School for Girls onto the Grade II listed areas of the Barbican Estate.

Adrian Bastow

The Chairman suggested that the Sub Committee look to determine the application from Mr Bastow first which requested a dispensation to speak and vote on a specific matter (the proposed extension of the City of London School for Girls) for a defined period of time (until final decisions on the matter were made by the Planning and Transportation Committee).

At the request of the Chairman, the Comptroller and City Solicitor summarised Mr Bastow’s position by reporting that he was currently a tenant at Defoe House. His property was also of sufficient distance from the proposed development to have less of a potential impact. The Comptroller went on to state that this was clearly a potentially controversial development but highlighted that a dispensation to speak and vote on the matter had already been granted to a Member in similar circumstances recently, where it was not considered that the Member in question had a disclosable pecuniary interest but was nevertheless seeking a dispensation by way of reassurance.

The Comptroller and City Solicitor proceeded to remind Members that, in determining the application, they must have due consideration for both the current Dispensations Policy and take into account all relevant circumstances.

Members discussed the application and were of the view that the applicant would be no more affected than any other Barbican Estate resident in respect of proposals to expand the City of London School for Girls. Furthermore, Members noted that, as a lessee, he had no beneficial interest in land and were also satisfied that he did not have an engaged DPI in the matter. On this basis, they were content to grant the dispensation as requested, by way of reassurance.

The Co-opted Member deferred to the local knowledge of elected Members on the Panel in terms of the location of Defoe House in relation to the proposed expansion works and stated that, if this was as tenuous as suggested, she too would be happy to grant the dispensation as requested.

Mark Bostock, Susan Pearson, Jason Pritchard, Brian Mooney

The Chairman highlighted that the three remaining applications were in identical form.

At the invitation of the Chairman, the Comptroller and City Solicitor outlined the legal position which was that the Sub-Committee must have due regard to and follow the current Dispensations Policy unless they had good reason to depart from it and must only grant a dispensation if considered appropriate having taken into account all relevant matters, including the statutory grounds on which dispensations could be granted.

The Comptroller and City Solicitor went on to report that some matters around the Dispensations Policy would be returning to the grand Committee for further consideration early in the new year – the Committee had sought further views/advice around the granting of general dispensations such as these and one elected Member had since submitted an alternative method of granting such dispensations, all of which would be considered in the round. He also reminded Members that, at the October meeting of the Standards Committee, the current policy was voted on and remained in force, unchanged.

A Member questioned whether a decision could be made to grant these applications today with that decision sent to the grand Committee to ratify or not at its next meeting in January 2020. The Chairman stated that he felt that it would be preferable, in the interests of speed and clarity, to request that these three applications be considered by the January meeting of the Standards Committee immediately after they had reached a decision on the wider policy at that same meeting. The Chairman added that there was no change in the applications before the Sub-Committee today versus what had been applied for by the same applicant previously, and noted that previous meetings of this Sub-Committee had stated that they were unable to find substantial or sufficient grounds on which to grant them. The Chairman suggested that if the applications were to be resubmitted ahead of January 2020, providing some specifics in terms of the kind of matters that Members wished to speak and vote on (e.g. the proposed expansion of the City of London School for Girls or carparking) these could be considered under urgency, if necessary.

A Member highlighted that it was difficult to predict all matters that a Member might wish to speak and vote on and that she therefore had sympathy with this approach of seeking general dispensations to cover all eventualities. The Chairman commented that the normal procedure was for Members to be provided with at least five clear working days' notice of specific agenda items and that this was sufficient for urgency procedures to be engaged. He did, however, see that this was not possible where late items were permitted. He went on to refer to specific processes, such as for Planning and Transportation Committee, that alerted relevant elected Members to applications received, way in advance of these hitting Committees for formal consideration and thereby providing Members with adequate time to consider their personal positions and seek dispensations/further advice where necessary.

The Chairman continued to refer to the need for specifics within the applications under the current policy. The Co-opted Member agreed that, as the applications currently stood, she could not see any grounds on which they could be granted as they would seemingly allow Members to speak and vote on matters in which they had an engaged disclosable pecuniary interest and affected them, their partners and just a handful of others. This, in her view, would seriously undermine democracy and the integrity of the City of London Corporation as a whole.

Another Member disagreed with this interpretation and questioned whether, in determining these applications, the law or the City Corporation's own policy should take precedence. She also questioned whether the fact that these applications had time limits on them (until March 2021) made them more specific and less general. The Comptroller and City Solicitor reported that, despite the differing views on the current policy, it was undoubtedly a lawful one, made within the constraints of the law. He also reminded the Sub-Committee that current policy was not to allow dispensations to vote where a Member had an engaged disclosable pecuniary interest, except in exceptional circumstances – he added that the fact that the applications were time limited could not be considered as an exceptional circumstance.

The Chairman went on to state that the current policy was the organisation's interpretation of the law as it applied to us but recognised that the law was not designed for the specifics of the City of London Corporation. He added that the current policy did clearly allow the voices of resident Members to be heard and cited the application from Mr Bastow that had just been granted as a working example of this. The Chairman summarised that there was no reason for this Sub-Committee to depart from policy on the three remaining applications before them.

The Co-opted Member highlighted that there were existing dispensations in place allowing for resident Members to speak on issues affecting their estates as a whole and that that, to her mind, was an appropriate and democratic approach. If, however, Members were seeking general dispensations to speak and vote on behalf of what could easily be, in certain circumstances, the few versus the many, this was clearly unacceptable.

Another Member concurred that the generality of these three outstanding applications was the key issue at present.

The Chairman went on to reiterate that the Standards Committee would be considering the Dispensations Policy further in January 2020 and reminded the Sub Committee that he had spoken at the last meeting of the Committee, in October 2019, to suggest that there may be a way forward in terms of granting such applications, but that he had not yet heard enough on this. At present, these applications did not provide enough detail to allow them to be granted under current policy. The Comptroller and City Solicitor reported that the grand Committee set policy around this and that it was for this Sub-Committee to implement that policy. It would therefore be legitimate to send these

applications back to the grand Committee for consideration alongside future policy.

A Member disagreed with deferring these applications further and stated that it would be her preference for the Sub Committee to reach a decision on them today and to have that decision ratified by the grand Committee should it depart from current policy. She added that this matter came up frequently with the residents she represented who were increasingly dissatisfied with the lack of progress being made on this matter. She questioned why elected Members should not be left to decide for themselves on what matters it was appropriate for them to speak or vote on, particularly as the law states that the onus is on Members here. The Comptroller and City Solicitor stated that if any decision reached today was conditional and relied on the ratification of the grand Committee, this would have the same effect as deferring the decision until the next meeting of the grand Committee.

A Member questioned whether it would be enough to state that it was considered that granting these dispensations was in the interests of persons living in the authority's area. The Comptroller and City Solicitor reiterated that the Sub Committee would also need to explain why they were departing from current policy in terms of granting dispensations to vote. When pressed by the Chairman, none of the Panel could articulate on which statutory grounds these three applications could be granted, when (as the Comptroller reminded the Sub-Committee) considered in the light of current policy. The Chairman added that, as well as being satisfied that the applications could be granted on statutory grounds, those taking the decision were also bound to have regard to all relevant circumstances, something that was not possible in the absence of any specifics. He added that the scenario articulated by the Co-opted Member earlier in the meeting was one of many that could feasibly arise.

The Chairman concluded by stating that, until such time as the Standards Committee reviewed and amended the Dispensations Policy, these applications failed for the same reasons that they had done previously. He agreed that it would be in the best interests of all to resolve these issues as quickly as possible and, with regret, reported that these three applications would now be deferred to the grand Committee for consideration at their next meeting on 24 January 2020.

RESOLVED – That:

- 1) A dispensation to speak and vote on the extension of the proposed extension of the City of London School for Girls on to the Grade II listed areas of the Barbican Estate be granted to Adrian Bastow for the period up to the final decisions being made by the Planning and Transportation Committee;
- 2) Applications from Mark Bostock, Brian Mooney and Susan Pearson to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- a) Affect them uniquely or more so than any of their constituents; and
- b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book be referred back to the Standards Committee for decision immediately after they have reached a decision on the Dispensations Policy at their meeting on 24 January 2020.

4. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no questions.

5. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

The meeting closed at 2.59 pm

Chairman

Contact Officer: Gemma Stokley
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Standards Committee

List of Dispensations Requested – May 2017 onwards

N.b. These dispensations are entirely permissive in nature and do not impose any restrictions on speaking or voting where no such restrictions otherwise exist.

	Name	Granted/ Rejected	Date	Comment
1.	Randall Anderson	Partially granted (Speaking rights only) (Standards Committee)	19/05/17	A dispensation be granted until the ward Elections in 2021 to speak at meetings where matters relating to charging policy for car parking and stores are under consideration but the request for a dispensation to vote on such matters, should he have a disclosable pecuniary interest, be refused. Expires in March 2021.
2.	Deputy David Bradshaw	Rejected (Standards Committee)	19/05/17	The Committee felt that further information was required and that the application was too wide reaching by requesting to speak and/or vote on any matter impacting on either Barbican or Golden Lane residents.
3.	Deputy Joyce Nash	Partially granted (Speaking rights only) (Standards Committee)	19/05/17	A dispensation be granted until the ward Elections in 2021 to speak at meetings where the charging policy for Car

				<p>Parking and Stores in the Barbican are under consideration but the request for a dispensation to vote on such matters, should she have a disclosable pecuniary interest be refused.</p> <p>Expires in March 2021.</p>
4.	Mary Durcan	Partially granted (speaking rights only at a specific meeting) (Standards Committee)	19/05/17	<p>A dispensation be granted for a specific meeting of the Barbican Residential Committee on 5th June 2017 only to speak on the charging policy for Barbican car parking and storage spaces charging but the request for a dispensation to vote on such matters be refused. The limited duration of the dispensation reflects the application.</p> <p>Expires after 5th June 2017. = EXPIRED</p>
5.	Barbara Newman	Partially granted (Speaking rights only) (Standards Committee)	19/05/17	<p>A dispensation be granted from 16/5/17 to 1/8/17 to speak at meetings where Car Parking charges are under consideration but the request for a dispensation to vote on such matters, should she have a disclosable pecuniary interest, be refused;</p> <p>Dispensation valid between 19/05/17 and 01/08/17. = EXPIRED</p>

6.	William Pimlott	Partially granted (Speaking rights only) (Standards Committee)	19/05/17	A dispensation be granted until the ward Elections in 2021 to speak at meetings where Parking for Barbican Residents is under consideration but the request for a dispensation to vote on such matters, be refused Expires in March 2021.
7.	John Tomlinson	Rejected (Standards Committee)	19/05/17	The Committee felt that further information was required and that the application was too wide reaching by requesting to speak and/or vote on any matter at both the Barbican Residential Committee and the Community & Children's Services Committee.
8.	Stephen Quilter	Partially granted (Speaking rights only) (Standards Committee)	19/05/17	A dispensation be granted until the ward Elections in 2021 to speak on Car Parking and Baggage Stores in the Barbican at meetings of the Barbican

				<p>Residential but the request for a dispensation to vote on such matters be refused.</p> <p>Expires in March 2021.</p>
9.	Sue Pearson	<p>Rejected</p> <p>(Standards Committee)</p>	19/05/17	<p>The Committee felt that further information was required (particularly in terms of which of the criteria the Member considered had been met where no explanation was provided) and that the application was too wide reaching by requesting to speak and/or vote on any housing and other matters to do with Golden Lane Estate.</p>
10.	Gregory Lawrence	<p>Partially granted</p> <p>(Speaking rights only)</p> <p>(Standards Committee)</p>	19/05/17	<p>A dispensation be granted until the ward Elections in 2021 to speak on all matters concerning the London Central Markets,</p>

				<p>other than those in which he has a direct pecuniary interest as a shareholder or director of any company which holds a tenancy in the market, and which would affect only him personally or his business interests as opposed to the generality of the tenants within the market. The request for a dispensation to vote on such matters be refused.</p> <p>Expires in March 2021.</p>
11.	Oliver Sells QC	<p>Rejected (Standards Committee)</p>	19/05/17	<p>The Committee felt that further information was required and that the application was too wide reaching by requesting to speak and/or vote on any matter relating to his residency in the City of London and membership of the Inner Temple.</p>
12.	David Bradshaw	<p>Granted (Standards Committee under urgency procedures (SO 41(a)))</p>	01/06/17	<p>A dispensation be granted to speak on car parking charging at the meetings of the Barbican Residential Committee on 5th June 2017. The dispensation to speak will expire after 5th June 2017. = EXPIRED</p> <p>The dispensation is entirely permissive in nature and does not impose any restrictions on speaking or voting where</p>

				<p>no such restrictions otherwise exist.</p> <p>NB. Mr Bradshaw has a pecuniary interest in this matter and acknowledges that he cannot vote on the item.</p>
13.	Deputy Edward Lord	Granted (Standards Committee under delegated authority procedures (SO 41(b)))	10/10/17	<p>A dispensation be granted under Section 33 (2) of the Localism Act 2011 to enable Deputy Edward Lord, as a City resident, to speak and vote on matters concerning the setting of council tax.</p>
14.	Deputy David Bradshaw	Partially granted (speaking rights only) (Dispensations Sub Committee)	13/03/18	<p>A dispensation be granted to speak only at Barbican Residential Committee on 19 March 2018 on (i) concrete repairs to the Barbican Estate, (ii) lease enforcement dealing with breaches and (iii) the annual rent review.</p> <p>The request to vote on (iii) above was refused.</p> <p>Expires after 19 March 2018. = EXPIRED</p>

15.	Deputy John Tomlinson	Partially granted (speaking rights only) (Dispensations Sub Committee)	13/03/18	<p>A dispensation be granted to speak only at Barbican Residential Committee on 19 March 2018 on (i) concrete repairs, (ii) lease enforcement and (iii) any discussion which may arise on a possible review of the current composition and terms of reference of the Barbican Residential Committee.</p> <p>The request to vote on (i) to (iii) above was refused.</p> <p>Expires after 19 March 2018. = EXPIRED</p>
16.	Mark Bostock	Partially granted (speaking rights only) (Dispensations Sub Committee)	13/03/18	<p>A dispensation be granted to speak only at Barbican Residential Committee on 19 March 2018 on Barbican car park charges.</p> <p>The request to vote on the above was refused.</p> <p>Expires after 19 March 2018. =</p>

				EXPIRED
17.	Susan Pearson	Granted (Dispensations Sub Committee)	13/03/18	<p>A dispensation be granted to speak on planning application 17/00770/FULL (former Richard Cloudesley School) at the Planning and Transportation Committee on 26 March 2018 and subsequent meetings of that Committee when planning application 17/00770/FULL is discussed.</p> <p>EXPIRED</p>
18.	Ann Holmes	Rejected (Dispensations Sub Committee)	13/03/18	<p>Request refused to speak on planning and licensing matters until the ward elections in 2021.</p> <p>The Sub-Committee considered the request to be too wide reaching – rather than focussing on specific applications or matters in proximity to the Member's property – and for too long a period. The dispensation request was therefore refused.</p>

19.	Mark Bostock	Partially granted (speaking rights only) (Standards Committee under urgency procedures (SO 41(a))	06/04/18	A dispensation be granted to speak on planning application 17/00909/FULL (Barbican Estate) at the Planning and Transportation Committee on 9 April 2018. Expires after 9 April 2018 = EXPIRED
20.	Mark Bostock	Partially granted (speaking rights only) (Standards Committee) **Standards Committee under delegated authority (SO 41(b))	18/05/18	A dispensation be granted to speak only on Ben Jonson, Breton, Thomas More, Benyon and Willoughby Houses, Barbican residential car park and stores** at the Barbican Residential Committee on 4 June 2018. Expires after 4 June 2018 = EXPIRED

21.	Deputy John Tomlinson	Partially granted (speaking rights only) (Standards Committee)	18/05/18	<p>A dispensation be granted to speak only at Barbican Residential Committee on 4 June 2018 on (i) car park charges and stores</p> <p>The request to vote and speak on (ii) concrete repairs was refused as this was not on the agenda, and (iii) any discussion which may arise on a possible review of the current composition and terms of reference of the Barbican Residential Committee was refused as no proposal for this currently exists.</p> <p>Expires after 4 June 2018 = EXPIRED</p>
22.	Deputy David Bradshaw	Partially granted (speaking rights only until 4 June 18) (Standards Committee)	18/05/18	<p>A dispensation be granted to speak only on Baggage stores in the Barbican at the Barbican Residential Committee on 4 June 2018.</p> <p>Expires after 4 June 2018 = EXPIRED</p>
23.	Deputy Edward Lord	Rejected (Standards Committee under delegated authority (SO 41(b)))	21/05/18	Request refused for a dispensation to speak and vote at Hospitality Working Party on 22 May 18 on an application for the use of Guildhall by the Global

				Tobacco and Nicotine Forum (GTNF) at the meeting of the Hospitality Working Party on 22 May 2018.
24.	William Pimlott	Partially granted (Standards Committee under delegated authority (SO 41(b)))	31/5/18	<p>A dispensation be granted to speak only on Ben Jonson, Breton, Thomas More, Benyon and Willoughby Houses, Barbican residential car park and stores at the Barbican Residential Committee on 4 June 2018.</p> <p>Expires after 4 June 2018 = EXPIRED</p>
25.	Mary Durcan	(Standards Committee under delegated authority (SO 41(b)))	31/5/18	<p>A dispensation be granted to speak only on Ben Jonson, Breton, Thomas More, Benyon and Willoughby Houses, Barbican residential car park and stores at the Barbican Residential Committee on 4 June 2018.</p>

				Expires after 4 June 2018 = EXPIRED
26.	Mark Bostock	(Standards Committee under delegated authority (SO 41(b)))	31/5/18	<p>A dispensation be granted to speak only on Ben Jonson, Breton, Thomas More, Benyon and Willoughby Houses, Barbican residential car park and stores at the Barbican Residential Committee on 4 June 2018.</p> <p>Expires after 4 June 2018 = EXPIRED</p>
27.	Alderman Ian Luder	Partially granted (Standards Committee under delegated authority (SO 41(b)))	4/06/18	<p>A dispensation be granted 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.</p> <p>Expires in March 2021.</p>

28.	Alderman Ian Luder	Granted (Standards Committee under delegated authority (SO 41(b))	4/06/18	A dispensation be granted under Section 33 (2) of the Localism Act 2011 to enable Alderman Ian Luder, as a City resident, to speak and vote on matters concerning the Corporation's budget and setting of council tax.
29.	Mark Bostock	Partially granted (speaking rights only) (Dispensations Sub Committee)	11/06/18	A dispensation be granted to speak only at Barbican Residential Committee on 21 June 2018 on charging policy for car parking and stores, Barbican Estate Expires after 21 June 2018 = EXPIRED
30.	Deputy David Bradshaw	Rejected (Dispensations Sub Committee)	11/06/18	Request refused for a dispensation to speak on car parking and baggage stores costs at Barbican Residential Committee on 21 June 2018
31.	Deputy Joyce Nash	Rejected (Dispensations Sub Committee)	11/06/18	Request refused for a dispensation to vote on car park charges and store room charges at Barbican Residential Committee until ward elections in 2021. NB (see above on page 2) – Deputy Nash still has a dispensation to speak on

				these matters at Barbican Residential Committee until ward elections in 2021.
32.	Deputy John Tomlinson	Rejected (Dispensations Sub Committee)	11/06/18	Request refused for a dispensation to speak and vote on car park charges and store room charges at Barbican Residential Committee on 21 June 2018.
33.	Mary Durcan	Rejected (Dispensations Sub Committee)	11/06/18	Request refused for a dispensation to speak and vote on car park charges and store room charges at Barbican Residential Committee on 21 June 2018.
34.	William Pimlott	Dispensations Sub Committee	11/06/18	<p>On facts described by Mr Pimlott in his application, the Committee's view is that he could not have a disclosable pecuniary interest, and therefore it would not be appropriate to grant him a dispensation.</p> <p>However, the Committee's guidance is that, in its view, it would not be a breach of paragraph 14 of the Code for him to speak only (but not vote) on the matters in question.</p>

35.	Randall Anderson	Partially granted (speaking rights only) (Standards Committee under urgency procedures (SO 41(a))	04/07/18	Dispensation to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review. Expires after 5 July 2018 = EXPIRED
36.	Vivienne Littlechild	Granted (Standards Committee under urgency procedures (SO 41(a))	04/07/18	Dispensation to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review. Expires after 5 July 2018 = EXPIRED
37.	Alderman Ian Luder	Partially granted (Standards Committee under urgency procedures (SO 41(a))	04/07/18	Dispensation to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review. Expires after 5 July 2018 = EXPIRED
38.	Deputy Catherine McGuinness	Partially granted (speaking rights only) (Standards Committee under urgency	04/07/18	Dispensation to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review.

		procedures (SO 41(a))		Expires after 5 July 2018 = EXPIRED
39.	Deputy John Tomlinson	Partially granted (speaking rights only) (Standards Committee under urgency procedures (SO 41(a))	04/07/18	Dispensation to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review. Expires after 5 July 2018 = EXPIRED
40.	Susan Pearson	Granted (Standards Committee under urgency procedures (SO 41(a))	04/07/18	Dispensation to speak on planning applications 18/00506/FULL, 18/0409/FULL and 18/00410/LBC Conversion at Planning and Transportation Committee either on 10 July 2018 or at later meeting when the applications are considered.

				Expires after 10 July 2018 or when applications are considered at Planning and Transportation Committee EXPIRED
41.	Shravan Joshi	Rejected (Dispensations Sub-Committee) <i>(tabled as a late item upon receipt via email on 21/08/18)</i>	21/08/18	Request refused to speak and vote as a Governor of the Board of Governors of the City of London Freeman's 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 (Charity Registration No 284769).
42.	Oliver Sells	Rejected (Dispensations Sub-Committee)	21/08/18	Request refused to speak on the following matter: Planning Application re: Inner Temple Temporary Structures expected to be considered by the Planning & Transportation Committee on 11/09/18.
43.	Randall Anderson	Partially granted (Dispensations Sub (Standards) Committee)	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31

				<p>December 2019 or current review is concluded whichever is the earlier.</p> <p>Expires on 31 December 2019 or when current review is concluded whichever is the earlier.</p>
44.	Deputy Joyce Nash	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	<p>Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier.</p> <p>Expires on 31 December 2019 or when current review is concluded whichever is the earlier.</p>
45.	Alderman Ian Luder	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	<p>Dispensation to speak only on relevant aspects of housing fire safety and residents' safety post Grenfell until next</p>

				ward elections in 2021. Expires in March 2021.
46.	Alison Gowman	Rejected (Dispensations Sub (Standards) Committee	10/09/18	Request refused to speak / vote on housing governance review until next ward elections in 2021.
47.	Deputy David Bradshaw	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier. Expires on 31 December 2019 or when current review is concluded whichever is the earlier.
48.	Mary Durcan	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier.

				Expires on 31 December 2019 or when current review is concluded whichever is the earlier.
49.	Deputy Catherine McGuinness	Rejected (Dispensations Sub (Standards) Committee)	10/09/18	Request refused to speak on housing governance review at committees on which she serves, including Policy and Resources (although she would not chair).
50.	Deputy John Tomlinson	Partially granted (Dispensations Sub (Standards) Committee)	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier. Expires on 31 December 2019 or when current review is concluded whichever is the earlier.
51.	Mark Bostock	Partially granted (Dispensations Sub (Standards) Committee)	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier. Expires on 31 December 2019 or when

				current review is concluded whichever is the earlier.
52.	William Pimlott	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier. Expires on 31 December 2019 or when current review is concluded whichever is the earlier.
53.	Susan Pearson	Rejected (Dispensations Sub (Standards) Committee	10/09/18	Request refused to speak at Community and Children's Services Committee and Housing Management and Almhouses Sub-Committee on (i) matters regarding the primary school and social housing to be built on the Richard Cloudesley School site adjacent to Golden Lane; (ii) management and charges of Golden Lane Estate; (iii) renovation of housing

				blocks on Golden Lane Estate.
54.	Vivienne Littlechild	Partially granted (Dispensations Sub (Standards) Committee	10/09/18	<p>Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier.</p> <p>Expires on 31 December 2019 or when current review is concluded whichever is the earlier.</p>
55.	Barbara Newman	Partially granted (Standards Committee under urgency procedures (SO 41(a))	17/09/18	<p>Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier.</p> <p>Expires on 31 December 2019 or when current review is concluded whichever is the earlier.</p>

56.	Alderman Nicholas Anstee	Partially granted (Standards Committee under urgency procedures (SO 41(a))	17/09/18	Dispensation to speak only on housing governance review at Barbican Residential Committee until 31 December 2019 or current review is concluded whichever is the earlier. Expires on 31 December 2019 or when current review is concluded whichever is the earlier.
57.	Ann Holmes	Granted (Standards Committee under urgency procedures (SO 41(a))	21/09/18	Dispensation to speak as member of the public at Licensing (Hearing) Sub Committee on 2 October 2018 on licensing proposal relating to 60 Bartholomew Close. Expires after 2 October 2018 = EXPIRED
58.	Mary Durcan	Rejected (Standards Committee under urgency procedures (SO 41(a))	21/09/18	Request refused to speak only on housing governance review at Housing Sub (Community and Children's Services) Committee on 24 September 2018.

59.	Deputy Robert Merrett	Rejected Standards Committee	05/10/18	Request refused 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.
60.	Susan Pearson	Rejected (Standards Committee under urgency procedures (SO 41(a)))	29/10/18	Request refused to speak in respect of agenda item 7 (land transactions – former Richard Cloudesley School site)
61.	Susan Pearson	Rejected (Standards Committee under urgency procedures (SO 41(a)))	29/10/18	Request refused to speak at Community and Children Services Committee and Housing Management and Almshouses Sub Committee until next ward elections in 2021 on a) matters regarding primary school and social housing on former Richard Cloudesley School site; b) matters regarding management and charges of Golden Lane Estate; and c) matters regarding renovation of housing blocks on Golden Lane Estate, with exception of Hatfield House (where she would neither speak nor vote).
62.	Susan Pearson	Partially Granted	25/01/2019	Dispensation granted to speak only on

		(Standards Committee – tabled under AOB due to late submission/time limit on decision)		<p>discharge of condition 5 of planning permission dated 19th July 2018 (planning reference 17/00770/FULL) for the redevelopment of the former site of Richard Cloudesley School for the Planning and Transportation Committee meeting on 29th January 2019 or subsequent meeting when the Planning Application is discussed.</p> <p>EXPIRED</p>
63.	Mark Bostock	Partially Granted (Standards Committee under urgency procedures (SO 41(a)))	30/01/2019	<p>Dispensation to speak only at Barbican Residential Committee on 31 January 2019 on:-</p> <p>a) Electric car charging policy; b) General policy for car parking and stores; c) Housing Governance; and d) Enforcement of the lease covenants on a specific property in the Barbican.</p> <p>Expires after 31 January 2019 = EXPIRED</p>
64.	Mary Durcan	Granted (Standards Committee under urgency procedures (SO 41(a)))	30/01/2019	<p>Dispensation to speak only at Barbican Residential Committee on 31 January 2019 on:-</p>

				<p>a) Electric car charging policy; b) General policy for car parking and stores; c) Housing Governance; and d) Enforcement of the lease covenants on a specific property in the Barbican.</p> <p>Expires after 31 January 2019 = EXPIRED</p>
65.	John Tomlinson	Granted (Standards Committee under urgency procedures (SO 41(a)))	30/01/2019	<p>Dispensation to speak only at Barbican Residential Committee on 31 January 2019 on:-</p> <p>a) Electric car charging policy; b) General policy for car parking and stores; c) Housing Governance; and d) Enforcement of the lease covenants on a specific property in the Barbican.</p> <p>Expires after 31 January 2019 = EXPIRED</p>
66.	Ann Holmes	Granted - (Dispensations Sub (Standards) Committee	01/02/19	<p>Dispensation to speak in her capacity as a resident at the Half Cup Licensing Hearing on 04/02/19</p> <p>Expires after 4 February 2019 = EXPIRED</p>

67.	Mark Bostock	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	Dispensation to speak on general housing matters as identified in dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19. Expires after 18 March 2019 = EXPIRED
68.	Mary Durcan	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	Dispensation to speak on general housing matters as identified in dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19. Expires after 18 March 2019 = EXPIRED
69.	Barbara Newman	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	Dispensation to speak on general housing matters as identified in dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19. Expires after 18 March 2019 = EXPIRED

70.	Deputy David Bradshaw	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	Dispensation to speak on general housing matters as identified in dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19. Expires after 18 March 2019 = EXPIRED
71.	Randall Anderson	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	Dispensation to speak on general housing matters as identified in dispensations policy at Barbican Residential Committee on 18/03/19. Expires after 18 March 2019 = EXPIRED
72.	Deputy John Tomlinson	Partially granted - (Standards Committee	18/03/19	Dispensation to speak on general housing matters as identified in

		under urgency procedures (SO 41(a))		<p>dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19.</p> <p>Expires after 18 March 2019 = EXPIRED</p>
73.	Adrian Bastow	Partially granted - (Standards Committee under urgency procedures (SO 41(a))	18/03/19	<p>Dispensation to speak on general housing matters as identified in dispensations policy and also car parking spaces and private storage spaces at Barbican Residential Committee on 18/03/19.</p> <p>Expires after 18 March 2019 = EXPIRED</p>
74.	Mark Bostock	Partially granted - (Dispensations Sub	01/04/19	Dispensation to speak on general housing matters, as identified in

		(Standards)		<p>dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
75.	Mary Durcan	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
76.	Barbara Newman	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car</p>

				<p>parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
77.	Deputy David Bradshaw	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
78.	Randall Anderson	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential</p>

				<p>estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
79.	Deputy John Tomlinson	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican residential estate equally</p> <p>Expires after April 2020</p>
80.	Adrian Bastow	Partially granted - (Dispensations Sub (Standards)	01/04/19	<p>Dispensation to speak on general housing matters, as identified in dispensations policy, and also car parking spaces and private storage spaces, relating to Barbican residential estate until April 2020 insofar as those issues affect residents of the Barbican</p>

				residential estate equally Expires after April 2020
81.	Ann Holmes	Granted (Town Clerk's delegated authority - par. 17 of Dispensations Policy)	04/06/19	Dispensation until the ward elections in 2021 to – a) speak and vote on the setting of council tax; b) speak as a member of the public on planning applications; and c) speak as a member of the public on licensing application. Expires after ward elections 2021

	Alderman Ian Luder	OUTSTANDING – AWAITING		Request to speak to Policy & Resources Committee on review
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		SUBMISSION OF HOUSING GOVERNANCE REVIEW PAPER TO PR		of housing governance / Barbican Residential Committee
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Committee: Standards Committee	Date: 24 January 2020
Subject: Review of Local Government Ethical Standards by the Committee on Standards in Public Life – Follow Up Actions	Public
Report of: Comptroller & City Solicitor	For Decision
Report author: Edward Wood, Chief Solicitor	

Summary

The Committee on Standards in Public Life advises the Prime Minister on ethical standards across the whole of public life in England. They undertook a detailed review of the arrangements in place to promote and maintain high standards of conduct by public office holders in local government during 2018. The review was considered at your previous meeting on 3 May 2019 and Members indicated a number of recommendations that they would like to look at in more detail in a follow up report.

Recommendations:

Members are asked to consider the individual recommendations set out in the body of this report.

Main Report

Background

1. The Committee on Standards in Public Life (“CSPL”) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders and promotes the seven principles of public life.
2. The CSPL undertook to review the effectiveness of the arrangements in the Localism Act 2011 once they had bedded in. They therefore carried out a detailed review during 2018 seeking evidence from all interested stakeholders and published their recommendations on 30 January 2019. A copy of the full review was brought to your previous meeting on 3 May 2019.

3. The CSPL made 26 recommendations in total. Many of these recommendations would require new primary or secondary legislation to implement. At the time of writing, the Government's response to the report, setting out whether or not it accepts some or all of the recommendations, is still awaited. However, it was noted at your previous meeting that some of the recommendations could be adopted by the City Corporation at a local level, without waiting for national action.
4. The CSPL also made 15 best practice recommendations as part of the review, which it considered that any local authority could and should implement under the current arrangements. The CSPL intend to review the implementation of these recommendations in 2020.
5. At your previous meeting, Members were asked to review how well the City Corporation's current arrangements reflected these two sets of recommendations, and consider any changes to existing processes that may be desirable and could be implemented immediately.
6. Where the City Corporation had the power to act unilaterally, existing arrangements were in most cases considered to be in line, or broadly in line, with the recommendations of the CSPL. However, Members indicated a number of recommendations that they wanted to receive updates on, or to consider in more detail in a follow up report, which are set out below.

CSPL Recommendation 1

The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

7. At your previous meeting it was noted that the implementation of this recommendation was a matter for the Local Government Association ("LGA"). However, officers undertook to report back to Committee once the views of the LGA were known. It has now been announced that the LGA have appointed consultants to draw up a new national model Code of Conduct to be launched at their July conference. There will be a formal consultation with all councils on a proposed draft in the Spring following initial consultations with representative bodies.

Recommendation: To note the latest position.

CSPL Recommendation 2

The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations

2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

8. The CSPL cite existing concerns in relation to the intimidation of councillors. They point out that one aspect in which this is distinct from the intimidation of MPs and Parliamentary candidates is that councillors' home addresses are often published on a council website or in a register of interests. The nature of local democracy means that those who are likely to engage in intimidation of a councillor are likely to live nearby. The fact that individuals' home addresses are public can also make any threats made through electronic means, such as social media, more distressing.
9. As previously advised, any change to the legislative regime would require government action. However, at the previous meeting, Members indicated that they would like to consider the requirements around publishing a home address in the register of interests in more detail, due to security concerns arising from the current arrangements.
10. Under section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a register of disclosable pecuniary interests and must secure that the register is available for inspection and published on the authority's website.
11. The categories of disclosable pecuniary interest listed in the 2012 Regulations include any beneficial interest in land which is within the authority's area, any licence to occupy land in the authority's area for a month or longer, and any corporate tenancy. Such an interest is generally described by reference to the postal address of the property, although the 2012 Regulations don't specifically state what property information must be provided. However, in many cases it would be impossible to determine whether an interest in land was affected by a particular decision without this level of detail.
12. The CSPL reference the fact that there is already provision for sensitive interests in section 32 of the Localism Act 2011. This permits the non-disclosure of details (e.g. a home address) in the public version of the register where the Member and the Monitoring Officer agree that their disclosure could lead to violence or intimidation. The CSPL have previously recommended that Monitoring Officers draw councillors' attention to these provisions, and a communication on this subject could certainly be sent to all Members if there is felt to be a lack of awareness.
13. If your Committee wanted to be more proactive, the CSPL point out that some authorities, such as the City of Westminster, already have a blanket policy that home addresses will be recorded in the register of

interests but omitted from the published version, although this may be on the cusp of what is permissible under the sensitive interest provisions.

14. It might be worth noting a couple of points of difference between the City Corporation and other local authorities. In making their recommendation the CSPL draw a parallel with the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. As previously noted, although that requirement has now been removed for other local authorities, it is still an electoral requirement in the City, and would require a separate legislative change to amend.
15. It is also worth pointing out of course that the City Corporation is unique in that the majority of Members are not resident within the local authority area and therefore are not required to register their home address.

Recommendation: To decide what if any action to take in relation to the disclosure of home addresses in the public version of the register of interests.

CSPL Recommendation 3

Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

16. The CSPL point out that, at the moment, Codes of Conduct can only apply to local councillors when they are acting in their capacity as a councillor. This is because section 27(2) of the Localism Act 2011 currently refers to the conduct that is expected of Members and Co-opted Members of the authority *when they are acting in that capacity*. This means that in practice a councillor cannot breach a Code of Conduct by, or be sanctioned for, objectionable behaviour in a private context.
17. Their evidence suggests that the current narrow scope of the Code of Conduct makes it difficult to effectively deal with some instances of poor behaviour, particularly in relation to social media use. The CSPL therefore propose that, given their significant representative role, there should be a rebuttable presumption that a councillor's behaviour in public is in an official capacity. An individual's behaviour in private, in a personal capacity, should remain outside the scope of the Code.
18. At the previous meeting, Members requested that this recommendation and the potential issues around it should feature in a further report. It is worth reiterating though that any amendment to the legislation would require government action, so no change to the status quo is imminent. Clearly if the statutory regime is amended in due course then instances

of poor behaviour by Members on social media will more frequently come within the scope of the Code of Conduct, even if a post or tweet is not directly related to their official work. However, it is proposed that the presumption should be capable of rebuttal and the precise details of how this would work are not yet known. If this recommendation is implemented then Members will be fully updated on the new rules at that stage.

19. At the previous meeting Members specifically asked that the complaint relating to social media use that was considered by the Hearing Sub (Standards) Committee in August 2018 should be referenced as part of the discussion. In that case, the Member caused offence through a tweet from his personal Twitter account. Although the tweet itself was unrelated to his work as a Member, there were references at the top of his Twitter account to his position as a Common Councilman, his Chairmanship of one of the City Corporation's Boards, and another office that he held by virtue of being a Common Councilman. The Hearing Sub considered that he was clearly associating himself with those roles and was not therefore seeking to differentiate between his personal actions and his actions as an elected Member. In the circumstances he could not divorce his private capacity from his public one and therefore the Members' Code of Conduct was engaged.
20. It can be seen therefore that even under the current arrangements a Member can be deemed to be acting in an official capacity in circumstances where a post or tweet is unrelated to their work as an elected representative. There is currently nothing in the guidance to Members on the Code of Conduct about social media use and your Committee may wish to consider inserting some suitable wording.

Recommendation: To note the position and to consider whether advice on the use of social media should be included in the current guidance to Members.

CSPL Recommendation 4

Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a Member when they claim to act, or give the impression they are acting, in their capacity as a Member or as a representative of the local authority.

21. The CSPL note that the 2007 model Code of Conduct stated that its scope included not just when a councillor was "conducting the business of the authority", but also if a councillor was to "act, claim to act or give the impression you are acting as a representative of your authority". The Localism Act 2011 does not include this qualification. As a result, some cases where an individual is improperly purporting to act as a councillor do not fall within the scope of the Code, even though the councillor in

question would clearly be misusing their office. For example, a councillor may threaten to cause someone a detriment by implying they would do so through their influence as a councillor.

22. At your previous meeting, Members were of the view that this recommendation was less controversial but again requested that the potential issues feature in a further report. As above, it is worth reiterating that any amendment to the legislation would require government action, so no change to the status quo is imminent. However it seems unobjectionable that a Member who is seeking to exert influence by virtue of their office should be subject to the Code, whether or not they are actually acting in that capacity. To the extent that a Member might give the impression that they are acting in an official capacity on social media there is some overlap with the previous recommendation. As before, if this recommendation is implemented then Members will be fully updated on the new rules at that stage.

Recommendation: To note the position.

CSPL Recommendation 6

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

23. As the CSPL acknowledge, there is currently no legal requirement for local authorities to maintain a gifts and hospitality register, nor for individual councillors to register or declare gifts and hospitality they receive as part of their role. Six out of the twenty Codes sampled by the CSPL had no provision for this, although most required councillors to register gifts and hospitality in some way. The value threshold was variously set at £25, £50, or £100.
24. The CSPL are concerned about the use of high thresholds, although the example that they give is that an individual threshold of £100 could allow a councillor to accept significant gifts and hospitality from a single source on multiple occasions, without needing to register the fact that they have done so. They also point out that £50 is the registration threshold for gifts or donations during election campaigns, which would then provide a consistent declaration threshold both during and outside election periods.
25. At the previous meeting it was noted that the City Corporation currently requires any gift or hospitality with a value of £100 or more, or totalling £200 or more over a year from a single source, to be registered. Whilst this is higher than the CSPL's recommended threshold, it does already

address the issue of multiple gifts and instances of hospitality. Members are invited to consider whether the current threshold in the Code of Conduct – which was the subject of much discussion when it was first agreed – is still the most appropriate for local circumstances, or whether it should be lowered in line with the CSPL recommendation. In the alternative, Members may wish to wait for the publication of the updated model Code of Conduct by the LGA, which will no doubt consider gifts and hospitality as well as all other relevant matters raised in the CSPL review.

Recommendation: To consider whether to make a recommendation to the Court of Common Council to reduce the minimum threshold for registering gifts and hospitality under the Code of Conduct to £50 and £100 (cumulative).

CSPL Recommendation 8

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

26. The CSPL make the point that security of tenure is important in order to protect Independent Persons from being removed from their role for unpopular advice or recommendations. Equally, however, restricted tenure can ensure that the Independent Person's judgment and independence is not compromised by a long period of involvement in a single authority. They therefore recommend a fixed term of two years, with the option of a single re-appointment. They also recommend that the terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory.
27. Your Committee has already agreed in principle to introduce a fixed term of office for the City Corporation's Independent Persons, without waiting for any legislative change. As stated in the CSPL report, this has perceived benefits for both the Independent Persons and the City Corporation. However, a view was expressed at your previous meeting that a fixed term of two years, renewable once, was potentially too short, and your Committee requested a further report outlining the pros and cons of introducing fixed terms of different lengths.
28. If your Committee's main motivation for introducing a fixed term of office for the Independent Persons is to guarantee their continued objectivity, then the CSPL recommendation should be adopted in full. Opting for a shorter fixed term of two years, renewable once, would ensure a regular turnover of Independent Persons, with a constantly changing perspective and no opportunity for any bias, or apparent bias, towards the City Corporation or any of its Members to emerge.

29. The flipside to this is that, notwithstanding any staggering of appointments, a shorter fixed term could lead to a lack of continuity that might prove disruptive to the work of your Committee. It has not always been easy to recruit Independent Persons with the necessary skills and experience to carry out the role effectively. The City Corporation is also a unique organisation and it inevitably takes some time for new Independent Persons to learn about the full range of functions and services provided and to fully familiarise themselves with our procedures.
30. For comparison, both Members and Co-opted Members of your Committee are currently able to serve for a maximum of eight years, and this is normally achieved through a four year term, renewable once. Introducing equivalent arrangements for the City Corporation's Independent Persons would provide a level of consistency, whilst still moving away from the undesirable situation of having open-ended appointments. However, Members may feel that this does not give sufficient emphasis to the need for independence in this particular role.
31. A possible compromise option would be a three year term, renewable once. However, if the Government were to subsequently adopt the CSPL recommendation in full, then opting for any other option now would lead to further disruption in the future, as the terms of office of the Independent Persons would have to be adjusted again at that stage.
32. Whichever option is adopted, your Committee will need to give some thought to transitional provisions and the timetable for future appointments. As Members will know, there is currently one vacancy for an Independent Person. The City Corporation's two remaining Independent Persons were appointed by the Court of Common Council on 21 June 2012. Members will therefore need to consider whether both of these existing appointments should come to an end by June 2020, in order to avoid any terms exceeding eight years.
33. In the alternative, the retirements could be staggered, with one each in 2020 and 2021, or 2021 and 2022, in order to spread the recruitment and assist with continuity. In this scenario, your Committee would no doubt wish to consult the current Independent Persons regarding the order and timing of their retirement. Such an arrangement would also ensure that the appointment of new Independent Persons was appropriately staggered going forwards, although this could equally be achieved through initial terms of differing lengths.
34. The Establishment Committee will also need to consider any changes, as the Independent Persons fulfil functions that come under that Committee as well. A recommendation will then need to go to the Court of Common Council for approval, as the appointing body.

Recommendation: To decide on an appropriate fixed term for the Independent Persons, the timetable for new appointments and any transitional provisions, and to make a recommendation to the Establishment Committee and the Court of Common Council on this basis.

CSPL Recommendation 11

Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

35. This recommendation was the subject of a separate report to your Committee on 4 October 2019, in order to expedite its implementation. The proposal to indemnify and/or insure the Independent Persons in the exercise of their statutory functions was subsequently also approved by the Finance Committee, Establishment Committee and the Court of Common Council, and these arrangements are now in place.

Recommendation: To note the position.

CSPL Recommendation 15

The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

36. The Nolan principle of openness demands that local authorities should be taking decisions, including decisions on standards issues, in an open way. The experience of the CSPL is that, whilst transparency does not automatically increase public trust in a process, it is nevertheless essential to enabling public scrutiny and accountability.
37. Most of the information recommended for publication is already voluntarily provided in your Committee's annual report, including anonymised details of the number of complaints received, the outcome of those complaints and any sanctions applied. At the previous meeting your Committee agreed in principle that information about the general nature of the complaints received should also be provided in future annual reports, without waiting for any changes to the Local Transparency Code.
38. For the avoidance of doubt, it is not proposed to name the Members concerned in the annual report, nor to go into detail about individual complaints. Members will recall that the Court of Common Council has previously indicated that the annual report is not the appropriate medium

to air such matters, and decisions on the publication of information relating to individual complaints is a matter for the Hearing or Appeal Sub-Committee on a case by case basis (see additional comments on Best Practice Recommendation 9).

39. The proposal is simply to give an indication of the types of complaints received, in order to paint a more accurate picture of the matters coming before the Standards Committee. To illustrate the proposed changes to the format, the relevant text from the most recent annual report is included below:

During 2018/19, four alleged breaches of the Members' Code of Conduct have been considered. The Assessments Sub (Standards) Committee has considered the details of these alleged breaches and decided that no further action should be taken in respect of three of these. In the remaining case, the Sub Committee decided that the alleged breach should be the subject of an investigation and a hearing, which, at the time of reporting, is scheduled to take place in June 2019.

40. An alternative option for presenting the information in a tabular format could be:

Matter No.	Alleged breaches of the Code	Outcome/Status
2018/19-01	<i>Failing to act with integrity; failing to comply with the Corporation's policies and procedures; failing to treat officers with mutual respect; bullying and intimidation; bringing the office or authority into disrepute.</i>	<i>Hearing pending</i>
2018/19-02	<i>Failing to treat others with respect; bringing the office or authority into disrepute.</i>	<i>No further action at assessment stage</i>
2018/19-03	<i>Failing to treat colleagues with mutual respect; bullying and intimidation; bringing the office or authority into disrepute.</i>	<i>No further action at assessment stage</i>
2018/19-04	<i>Failing to treat colleagues with mutual respect; bullying and intimidation.</i>	<i>No further action at assessment stage</i>

Recommendation: To make changes to the format of the annual report to include information about the general nature of the complaints received.

CSPL Best Practice Recommendation 1

Local authorities should include prohibitions on bullying and harassment in Codes of Conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

41. The evidence received by the CSPL suggests that most allegations of Code breaches relate to bullying and harassment. At the same time, their sampling found that most Codes of Conduct do not cover this behaviour effectively. Whilst most Codes had a specific prohibition on bullying and intimidation, only two out of twenty Codes sampled included specific behaviours that would amount to bullying, and five only had a broad provision such as 'showing respect for others'.
42. Members will know that when the current version of the City Corporation's Code was adopted in March 2018, the pre-existing reference to "Always treating people with respect, including the organisations and constituents that you engage with and those that you work alongside" was supplemented by the additional explicit wording "...and not bullying, harassing (including sexually harassing), intimidating or attempting to intimidate any person."
43. However, the Code does not currently include a definition of bullying and harassment nor give examples of the sort of behaviour that would be caught. At the previous meeting your Committee were of the view that a suitable form of wording should be adopted.
44. The CSPL quote the Newcastle City Council Code as a good example, which in turn seems to draw its definition of bullying from the Advisory, Conciliation and Arbitration Service ("ACAS"), and its definition of harassment from the Equality Act 2010. The text reads:

Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

45. The CSPL also include examples from ACAS of bullying behaviour as follows:
 - *spreading malicious rumours, or insulting someone by word or behaviour*
 - *copying memos that are critical about someone to others who do not need to know*

- *ridiculing or demeaning someone – picking on them or setting them up to fail*
- *exclusion or victimisation*
- *unfair treatment*
- *overbearing supervision or other misuse of power or position*
- *unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected*
- *making threats or comments about job security without foundation*
- *deliberately undermining a competent worker by overloading and constant criticism*
- *preventing individuals progressing by intentionally blocking promotion or training opportunities*

46. There is much to commend this wording, which could be inserted in its entirety into the current Code of Conduct. As the Code must be approved by the Court of Common Council, a recommendation would have to be made to that body. In the alternative, Members may wish to wait for the publication of the updated model Code by the LGA, which will no doubt consider bullying and harassment as well as all other relevant matters raised in the CSPL review.

Recommendation: To consider whether to include additional clarification on bullying and harassment in the Code of Conduct now, or to wait until the publication of the updated model Code by the LGA.

CSPL Best Practice Recommendation 3

Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

47. The CSPL state that drawing up a Code of Conduct is an important process for an authority: it involves the members of that authority considering what the Seven Principles of Public Life demand in their own context. A failure to create or adopt a substantive Code means that the potential benefits of devolved standards are not being realised. They

also cite evidence that many authorities have not yet revisited their Codes in the light of learning experiences.

48. At your previous meeting it was noted that, whilst it has not been the practice to review the City Corporation's Code of Conduct on an annual basis, it has been reviewed from time to time, most recently in March 2018. It is likely that the Code will be updated again as a result of this report, or following the publication of the LGA's new model Code of Conduct. However, there was support at your previous meeting for ensuring that regular reviews of the Code were built into the Committee timetable. Members were of the view that an annual review was too frequent but requested further proposals as to how the Code might be reviewed more regularly, on a suitable timescale – possibly every three years – going forward.
49. Whilst a detailed annual review of the Code of Conduct may be unnecessary, it might be prudent to have a 'light touch' annual review of the Code as a standing item in your Committee's work cycle – in much the same way as the Protocol on Member/Officer Relations is presented every year. If Members wished, the Code could then go on to the Court for approval at the start of every municipal year. This would be an opportunity to flag up any minor changes to the Code arising from the events of the preceding year.
50. A more in-depth review of the Code of Conduct could then take place every three years, which could also be built into your Committee's work cycle. Given the current review of the City Corporation's standards arrangements arising from the CSPL report, the next in-depth review could be scheduled for 2023. It has not been previous practice to carry out a public consultation on the contents of the Code, but such a consultation exercise could be incorporated within the in-depth review if Members consider this to be appropriate. Likewise, neighbouring boroughs could also be included in any such consultation process if desired, although the LGA's new national model Code of Conduct could lead to greater homogeneity in any event.

Recommendation: To agree an appropriate timetable for regular reviews of the Code of Conduct.

CSPL Best Practice Recommendation 6

Councils should publish a clear and straightforward public interest test against which allegations are filtered.

51. The CSPL explain that the Monitoring Officer usually filters complaints about councillor conduct and judges if the complaints are trivial or vexatious, or whether they should proceed to a full investigation. Usually

this filtering is based on the judgment of the officer, often against a formal policy, though the Monitoring Officer may seek the advice of an independent person or members of a standards committee when they do so. At the City Corporation this filtering process is carried out by Members, but the need for formal assessment criteria remains the same.

52. The CSPL highlight that the standards bodies in Scotland, Wales and Northern Ireland all make use of a 'public interest' test when filtering complaints. These tests set clear expectations to those making complaints and ensure consistency of approach. The tests do not necessarily need to be detailed. For example, the Northern Ireland Local Government Commissioner for Standards provides a simple two-stage test:

1 'CAN' we investigate your complaint?

- Is the person you are complaining about a councillor?*
- Did the conduct occur within the last six months?*
- Is the conduct something that is covered by the Code?*

2 'SHOULD' we investigate your complaint?

- Is there evidence which supports the complaint?*
- Is the conduct something which it is possible to investigate?*
- Would an investigation be proportionate and in the public interest?*

53. At the previous meeting your Committee noted that the City Corporation's Complaints Procedure already sets out a series of tests and assessment criteria to be applied at the initial assessment stage, which address a number of the considerations contemplated by the CSPL under the heading of a public interest test. However it was also noted that the relevant provisions are not identical, and Members therefore requested an opportunity to review the existing wording. For reference, the Complaints Procedure currently states that:

ASSESSMENT OF COMPLAINTS

The Assessment Sub-Committee should firstly satisfy itself that the complaint meets the following tests:-

- (i) It is a complaint against one or more named Members of the Corporation;*

- (ii) *The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;*
- (iii) *The complaint, if proven, would be a breach of the Code of Conduct under which the Member was operating at the time of the alleged misconduct;*
- (iv) *The complaint is about something that happened or came to light within the last three months, or is connected to alleged misconduct within the last three months, unless there are reasonable grounds for the complaint not having been made within that time period.*

If the complaint fails one or more of these tests, it cannot be investigated as a breach of the code and the complainant must be informed that no further action will be taken in respect of the complaint.

ASSESSMENT CRITERIA

The Corporation has developed criteria for the Assessment Sub-Committee to use when assessing new complaints and deciding what action, if any, to take. These criteria should ensure fairness for both the complainant and the subject member. Assessing all new complaints by established criteria will also protect the Assessment Sub-Committee from accusations of bias.

In drawing up assessment criteria, the Corporation has borne in mind the importance of ensuring complainants are confident that complaints are taken seriously and dealt with appropriately, whilst appreciating that a decision to investigate a complaint or to take other action will cost both public money and the officers' and members' time – an important consideration where the matter is relatively minor.

The following questions constitute the current assessment criteria:-

- (i) *Has the complainant submitted enough information to satisfy the Assessment Sub-Committee that the complaint should be referred for investigation?*
- (ii) *Has the complaint already been the subject of an investigation or other action relating to the code of conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?*
- (iii) *Is the complaint insufficiently serious to warrant further action?*

(iv) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat? In relation to politically motivated or tit-for-tat complaints, the Assessment Sub-Committee must decide whether the allegation is genuine and serious despite the motivation, or whether in fact it is reasonable to assume that it is not the expression in good faith of a genuine concern.

54. Members will note that the matters under 'Assessment of Complaints' broadly correlate to the 'Can we investigate' stage in the Northern Ireland formulation, and the matters under 'Assessment Criteria' broadly correlate to the 'Should we investigate' stage. If the more succinct treatment in the Northern Ireland example is preferred, then the Complaints Procedure could be amended accordingly. However, Members may recall that the current provisions were finalised following input from Leading Counsel and a Member Working Party. Your Committee retains ownership of the Complaints Procedure but, because the Court of Common Council approved the previous version, the Court must be informed of any changes to that document.

Recommendation: To consider whether to amend the wording in the Complaints Procedure regarding the initial assessment of complaints.

CSPL Best Practice Recommendation 9

Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

55. Openness and transparency are important secondary safeguards, to ensure that the process can be scrutinised by other members and by the public. The CSPL consider that local authorities should be free to make their own arrangements for whether they maintain a public list of pending investigations. However, they should be recording allegations and complaints they receive, even if they do not result in an investigation, and should certainly publish decisions on formal investigations.
56. At your previous meeting, Members requested more information on this matter. As previously explained, your Hearing Sub-Committee (and the Appeals Sub-Committee) are subject to the normal rules regarding public access to reports and minutes. A detailed explanation of the categories of exempt information, and the application of the public interest test for maintaining an exemption, are set out in Appendix 2 of the Complaints Procedure.

57. In addition, the Complaints Procedure provides that the relevant Sub-Committee will decide on a case by case basis whether a formal announcement is called for as to its findings and any sanctions imposed. This might, for example, take the form of a notice on the members' notice board, a statement to the Court of Common Council and/or a statement on the City Corporation's website.
58. Where no breach of the Code is found, there is a presumption against a formal announcement being made. Where a breach is found, there is a presumption in favour of a formal announcement being made. However, regard must be had to all of the circumstances of the case including:
- (i) *the nature of the allegation(s);*
 - (ii) *any information already in the public domain;*
 - (iii) *where relevant, the proximity of any election;*
 - (iv) *the effect of publication on the subject Member;*
 - (v) *the views of the parties; and*
 - (vi) *the public interest.*
59. The Complaints Procedure was the result of a lengthy review involving Leading Counsel and a Member Working Party, and the relevant provisions on the publication of decisions were at the time considered to strike a proportionate balance between competing interests. However, if Members wish to amend those provisions in order to require the publication of a decision notice on the City Corporation's website in every case, then this can be implemented. As previously advised, your Committee retains ownership of the Complaints Procedure but, because the Court of Common Council approved the previous version, the Court must be informed of any changes to that document and your Committee might wish to consult them.

Recommendation: To consider whether to amend the Complaints Procedure in order to require the publication on the City Corporation's website of a decision notice on every allegation that has been formally investigated.

CSPL Best Practice Recommendation 11

Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

60. The evidence received by the CSPL suggested that difficulties persist in resolving standards matters where clerks are not well supported by the parish council to formally make and resolve complaints, or to prevent behaviour from recurring. Parish councils should take corporate responsibility when allegations of a councillor bullying an employee are received. For example, where behaviour that is in breach of a code is observed by councillors or reported by a clerk, the parish council should lodge a formal standards complaint corporately or in the name of the chair. A clerk should not have to do so themselves. In addition to providing necessary support to the clerk in such circumstances, such measures signify to individual councillors that disruptive behaviour is not ignored or accepted by the council generally.
61. This recommendation is clearly not directly applicable to the City of London Corporation, and in terms of support there are many senior officers who could make a complaint on behalf of a more junior colleague in appropriate circumstances. However, in a similar vein, the City of London Corporation's Standards Committee has previously 'self-referred' complaints in appropriate circumstances. At the previous meeting your Committee suggested that some clarification around the self-referral process might be useful.
62. There are two previous occasions where a meeting of the Assessment Sub-Committee has been convened, in the absence of a complaint, to determine whether there should be an investigation. On both occasions there were reasonable grounds to believe a breach of the Code of Conduct had occurred, based on the City Corporation's own knowledge and records i.e. in both cases the minutes of a meeting recorded that the Member had participated in an item of business despite having an engaged disclosable pecuniary interest that was listed in their register of interests.
63. Leading Counsel has previously approved the use of such a process to avoid criticism and reputational damage which could arise from the City Corporation being seen to ignore potential breaches of the Code and the statutory requirements in relation to disclosable pecuniary interests within its knowledge. Furthermore, it also avoids the situation where powerful or influential Members might avoid being held to account simply because no individual is prepared to be seen to challenge them. It is therefore recommended that self-referral is retained as an option.
64. On the two previous occasions that the process was used, it was initiated by a decision of the Town Clerk under urgency, in consultation with the Chairman and Deputy Chairman of the Standards Committee. Your Committee might consider that it would be preferable in future for such decisions to be taken by Members, in which case any decision on referral could be taken by the Standards Committee as a whole. This wouldn't

prevent individual Members subsequently sitting on any Assessment or Hearing Sub-Committee. Another alternative would be for the Chairman of the Standards Committee to agree to put in an *ex officio* complaint in appropriate circumstances.

65. There is also currently no mention of self-referral in the Complaints Procedure and it might be preferable if some explicit reference to this alternative process were to be included in that document, either now or when that document is next updated.

Recommendation: To consider the appropriate use of self-referral.

CSPL Best Practice Recommendation 13

A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

66. The CSPL explain that the Monitoring Officer role is particularly varied and includes quite disparate aspects. They will often (as in the case of the City Corporation) have a role in senior management. They will offer formal legal advice; but they will also act as a mediator and adviser in relation to standards issues. Some of the most significant difficulties for Monitoring Officers include the inherent potential for conflict when simultaneously:
- acting as a source of advice and guidance for Members and officers;
 - assessing complaints in the first instance (not applicable to the City Corporation);
 - obtaining and weighing advice from Independent Persons (not applicable to the City Corporation);
 - overseeing and managing investigations to determine whether serious breaches of the Code of Conduct have occurred, either personally or by seeking outside expertise and handling the consequential report and conveying it to Members.
67. The CSPL make the point that far more serious complications can arise where the Monitoring Officer is overseeing an investigation into a senior Member of the local authority. There is a potential conflict of interest, given the professional relationship between the Monitoring Officer and senior Members, in providing procedural and legal advice to enable them to pursue their objectives. They recommend that any investigation, even if outsourced to an independent investigator, should be overseen and

managed ideally by the Monitoring Officer from a different authority, or failing that by a deputy, with the Monitoring Officer kept at arm's-length.

68. It is worth noting the view of Lawyers in Local Government that the role of the Monitoring Officer in relation to ethical standards is no different to that in relation to their other statutory responsibilities, and that dealing with complaints in relation to Members should not expose the Monitoring Officer to any greater risk of conflict. However, they also observe that many local authorities have arrangements in place so that the Monitoring Officer does not advise the Standards Committee in relation to a complaint where they have been the investigating officer, etc.

69. The City Corporation's current Complaints Procedure is broadly in line with the views of both bodies by providing that:

Where the Assessment Sub-Committee has decided that an allegation should be formally investigated, an individual other than the Monitoring Officer will be responsible for that investigation ("the Investigating Officer"). The Monitoring Officer will appoint the Investigating Officer, in consultation with the Chairman of the Standards Committee. The Investigating Officer may be another officer from the Comptroller & City Solicitor's Department, or another Chief Officer of the Corporation. Where appropriate the Investigating Officer may be assisted by an external investigator.

70. At the previous meeting your Committee noted the existing arrangements for managing conflicts, which were considered to work sufficiently well. However, Members requested that the pros and cons of using a Monitoring Officer from another local authority should be explored.

71. The option of using an external Monitoring Officer would obviously represent an additional resource. This would be particularly useful where there are other conflicts. For example, there is one ongoing complaint where both the Monitoring Officer and another senior member of his team are unable to act. This inevitably means that it is harder to find suitably experienced officers internally to act as Deputy Monitoring Officer and Investigating Officer. Equally however there are very experienced external investigators who need little or no supervision – the previous investigators we have used have insisted on having full control of their own investigations. It is also possible of course to instruct external counsel to provide legal advice to Committee as and when required, as the City Corporation has done on a number of occasions.

72. Using another authority's Monitoring Officer would inevitably mean that the City Corporation would lose some control over the conduct and timing of its own investigation. An external Investigating Officer would not be as familiar with local issues and procedures, although this is not

an insurmountable problem. No enquiries have to date been made of other authorities and it is not known whether there would be any interest in entering into such an arrangement, reciprocal or otherwise. Given the various approval processes that would be required, it might take some time to put such an arrangement in place.

Recommendation: To consider whether to approach another local authority about using their Monitoring Officer for investigations in appropriate circumstances and, if so, to amend the Complaints Procedure accordingly.

Conclusion

73. At your previous meeting, Members reviewed the City Corporation's current standards arrangements against the recommendations made by the CSPL and indicated a number of subject areas that they wanted to receive updates on, or to consider in more detail. This follow up report contains additional information on those matters and your Committee are invited to consider any changes to existing processes that may be desirable, either now or in the future.

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Background Documents

Report to Standards Committee dated 3 May 2019: Review of Local Government Ethical Standards by the Committee on Standards in Public Life

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Committee(s) Standards Committee	Date(s): 24/01/2020
Subject: Annual review of the Protocol on Member/Officer Relations 2019	Public
Report of: Comptroller & City Solicitor and Director of Human Resources	For Information
Report author: Tracey Jansen, Assistant Director of Human Resources	

Summary

This report provides the Committee with the annual review of the Protocol on Member/Officer Relations highlighting any related issues that have arisen during 2019. The report also includes commentary from the Comptroller and City Solicitor on Employment Tribunal cases in the past year.

Recommendation

Members are asked to note the report.

Main Report

Background

1. This annual report has been requested by the Committee to:
 - review the Protocol on Member/Officer Relations highlighting any related issues in the past year
 - keep under review the Employee Code of Conduct
 - include a commentary about the Employment Tribunal cases in the past year

Current Position

2. The Committee's Terms of Reference include responsibility to keep under review and monitor the Protocol on Member/Officer Relations. Members will recall that at its meeting in January 2019 this Committee approved a slightly revised Protocol which was intended to clarify the dispute procedures available to an Officer who is dissatisfied with the conduct or behaviour of a Member. The revised wording also acknowledged that the Aldermanic Chairmen perform a similar role in relation to the welfare and conduct of Aldermen as the Chief Commoner has traditionally had in relation to Common Councilmen. These amendments were subsequently endorsed by the Establishment Committee and approved by the Court of Common Council and the current Protocol is attached at Appendix 1.
3. There has been one formal dispute under the Dispute Procedures which are set out in the Protocol for the period under review. This was the subject of a complaint to the Standards Committee that was originally assessed in 2018. The

Member in question was found to be in breach of the Code of Conduct following a hearing in July 2019 and an appeal in December 2019.

4. The Terms of Reference also include keeping under review by way of annual update the Employee Code of Conduct. The Employee Code of Conduct broadly sets out the standards of conduct expected of employees and covers political neutrality, relationships with Members and the wider Nolan Principles. Breaches of the Code of Conduct are dealt with as disciplinary matters although minor breaches are dealt with informally in accordance with the statutory ACAS Code of Practice.
5. Since the last annual report to this Committee, there have been further amendments to the Code of Conduct. The Establishment Committee at its meeting in April 2019 approved revisions to the Code of Conduct and a separate Conflicts of Interest Policy which now includes the Declaration of Interest process which previously sat within the Code of Conduct. This has enabled the Code of Conduct to focus on the principle standards and behaviours of Officers, whilst the separate Conflicts of Interest Policy provides a more comprehensive approach to matters pertaining to conflicts or potential conflicts.
6. The changes to the Code of Conduct include clarity about employees who are also resident and who may wish to raise local matters in their capacity as a resident. This matter was raised at the Standards Committee when it reviewed the Code of Conduct last year. The second issue raised at the Standards Committee last year was in relation to personal and pecuniary interests. The new Conflict of Interest Policy and associated processes for making declarations and identifying conflicts of interest are now addressed in the new Policy (attached for information). The new semi-automated processes for making declarations are currently being tested.
7. Formal Disciplinary Cases during 2019:
There were 40 formal cases related to conduct and/or behaviour that fell short of the standards expected under the Code of Conduct. Most cases resulted in a formal warn. 7 employees left before the conclusion of the investigation or shortly after the disciplinary outcome and 8 employees were dismissed.
8. Formal Grievances:
There were 40 formal grievances raised in 2019.
10 cases related to standards of conduct in relation to bullying and harassment
11 related to management issues
9 related to terms and conditions of employment
6 related to a protected characteristic (discrimination)
2 related to other type of discrimination
2 were other types of complaints not covered by the above
9. There were no disciplinary or grievance cases which related to the Protocol on Member/Officer Relations.

10. Members are not of course ordinarily involved in day-to-day employment matters but may be required to hear appeals against dismissal of employees. Of the 8 cases which resulted in dismissal, 5 of these employees raised appeals against their dismissal of which 4 were heard by Members. All four decisions to dismiss were upheld.
11. The Establishment Committee receives regular reports in relation to the progress of Employment Tribunal cases. Four cases were concluded in this reporting period. There are currently 11 outstanding cases, four of which have been brought by police officers (one is a class claim with 49 claimants). One case relates to the Protocol on Member/Officer Relations.

Implications

12. This report provides Members with information needed to monitor and review the Protocol on Member/Officer Relations and to consider whether any amendments or actions arising are appropriate.

Conclusion

13. This report summarises activity over the past year in relation to the Protocol on Member/Officer Relations and the Employee Code of Conduct.

Appendices

Appendix 1 - Protocol for Member/ Officer Relations – April 2019
Appendix 2 - Employee Code of Conduct
Appendix 3 - Conflict of Interest Policy

Background Papers

Protocol on Member/Officer Relations: Report to Establishment Committee February 2019
Code of Conduct and Conflict of Interests: Report to Establishment Committee April 2019

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PROTOCOL ON MEMBER / OFFICER RELATIONS

1. Introduction

- (1) The purpose of the Protocol, which was approved by the Court of Common Council on 13 April 2006, is to provide a guide to working relationships between Members of the Court (including co-opted Members) and Officers, and is in addition to any statutory requirements governing such relationships. The Protocol applies whether such relationships are in the context of the City's role as a local authority, police authority, port health authority or in any of its other roles.
- (2) Although it does not form part of the Members' or Employees' Codes of Conduct, the Protocol should be viewed in conjunction with those documents.
- (3) Responsibility for upholding the Protocol rests with the Chief Commoner and the Aldermanic Chairmen and, when necessary, the Standards Committee in relation to Members, and with the Town Clerk in relation to Officers.

2. Principles Underlying Member / Officer Relations

- (1) Good administration and effective decision-making are dependent upon the maintenance of successful working relationships between Members and Officers, based on mutual trust, respect and an understanding of respective roles and responsibilities. These relationships, and the trust which underpins them, should not be abused or compromised.
- (2) Whilst it is acceptable for Members, particularly Committee Chairmen as part of their leadership role, to offer guidance to Officers, they must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority. It is the responsibility of Officers to provide clear, impartial advice upon which Members may make decisions.
- (3) In addition to avoiding actual impropriety, Members and Officers should also seek to avoid situations which might give rise to the suspicion and/or appearance of improper conduct.

3. Role of Members

- (1) Members are subject to:-
 - (a) the Corporation's Code of Conduct; and,
 - (b) Standing Orders of the Court of Common Council.
- (2) Members have four main areas of responsibility:-
 - (a) determining the policy and strategic direction of the Corporation
 - (b) monitoring and reviewing the performance of the Corporation in implementing that policy and delivering services
 - (c) representing the Corporation externally
 - (d) representing their constituents and stakeholders

- (3) It is not the role of Members to involve themselves in the detail of day to day management of the Corporation's services.
- (4) Members are required to take the advice of Officers into account in reaching a decision on a matter and must respect the Officers' responsibility to provide impartial advice, guidance and information.
- (5) The power to make decisions for the discharge of the authority's functions lies with the Court of Common Council and the properly constituted committees and sub-committees. A Member acting in an individual capacity cannot exercise any lawful authority and Members in general must operate through the Court of Common Council and its committees and sub committees. Members acting individually may not legally commit the Corporation.
- (6) Whilst individual Chairmen are in the same constitutional position as all other Members, having no legal authority to make executive decisions, they have certain other powers (e.g. the control and conduct of meetings) as well as a broader leadership role. Chief Officers are required to consult Chairmen (and Deputy Chairmen) before certain delegated powers are exercised.
- (7) Leading Members i.e. the Lord Mayor, the Chairman of the Policy & Resources Committee, the Chief Commoner and other Committee Chairmen (or Deputy Chairmen with the agreement of, or in the absence of, the relevant Chairman) can speak for the Corporation on matters appropriate to their roles and in accordance with the policy of the Corporation. Arrangements for media interviews and the issue of press releases will be made through or in agreement with the Public Relations Office.
- (8) Whilst all other Members have opportunities to promote the work of the Corporation with the people they meet and when entertaining on behalf of the Corporation, they cannot act as spokesmen for the Corporation.

4. Role of Officers

- (1) Officers are subject to:
 - (a) the Corporation's Code of Conduct;
 - (b) Standing Orders of the Court of Common Council;
 - (c) Financial Regulations; and,
 - (d) other instructions and professional guidelines relevant to their duties.
- (2) The primary role of Officers is to provide impartial advice, guidance and information to Members, and to implement promptly and efficiently the policies determined by the Court of Common Council and its various committees. Certain Officers have specific statutory responsibilities.
- (3) Officers must recognise the right of Members, as elected representatives, to determine the policy of the authority and must not act in any way to undermine that right.

- (4) Officers serve the Corporation as a whole and must carry out the work of the Corporation under the direction and control of the Court of Common Council and the properly constituted committees and sub-committees.

5. Expectations

- (1) Members have a right to expect from Officers:-
- (a) commitment to the Corporation as a whole
 - (b) a working partnership
 - (c) an understanding of, and support for, respective roles, workloads and pressures
 - (d) timely response to enquiries and complaints and the efficient execution of decisions
 - (e) impartial, professional advice and guidance
 - (f) regular, up to date information on matters appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
 - (g) respect, dignity and courtesy
 - (h) integrity, mutual support and appropriate confidentiality
 - (i) not to have personal issues raised with them outside the agreed procedures
 - (k) that they will not use their relationship with Members to advance their personal interests or to influence decisions improperly
 - (l) compliance at all times with the relevant Code of Conduct
 - (m) Commitment to equality, diversity and inclusion in their relationship with Members and colleagues
- (2) Officers have a right to expect from Members:-
- (a) a working partnership
 - (b) an understanding of, and support for, respective roles, workloads and pressures
 - (c) leadership and policy direction
 - (d) respect, dignity and courtesy
 - (e) integrity, mutual support and appropriate confidentiality
 - (f) not to be subject to bullying or to be placed under undue pressure and, in this respect, Members should have regard to the seniority of Officers in their dealings with them ie. they should not engage junior officers in discussions and requests more properly directed at senior officers
 - (g) that they will not use their relationship with Officers to advance their personal interests or to influence decisions improperly
 - (h) compliance at all times with the relevant Code of Conduct
 - (i) Commitment to equality, diversity and inclusion in their relationship with Officers and colleagues

6. Members in the Ward Role

Members will, through their work with their electorate and stakeholders, need to contact Officers to obtain information on behalf of their constituents and others. This is perfectly in order and from time to time it may be appropriate for Officers to reply to constituents etc. on behalf of, or at the request of, Members.

7. Correspondence and Communications

Members may contact (i.e. by letter, e-mail, fax, telephone) Officers to seek advice, guidance or information. Whatever method of communication is used, Members should receive an acknowledgement as soon as possible, but in any event within 2 working days, and a full response as soon as possible thereafter within 10 working days of receipt of the request. If for any reason this is not possible, a holding reply setting out the reasons for the delay should be sent as soon as possible following the acknowledgement, but in any event before the expiry of the 10 working days.

8. Limitations on Behaviour

The separate roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration:-

- (1) personal relationships between Members and Officers going beyond normal working relationships can confuse/obscure the separate roles and interfere with the proper discharge of the authority's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment;
- (2) the need to maintain and recognise the separate roles means that there are limits to the matters on which Members may seek the advice of Officers;
- (3) relationships with particular individuals should not be such as to create a suspicion/perception that an Officer favours a particular Member above others.

9. Reports

- (1) Chairmen of committees or sub-committees may, on behalf of the committees or sub-committees concerned, make reasonable requests to Chief Officers or other Officers to prepare written reports on matters relating to the authority for consideration at Member-level. Such requests should not seek confidential information (e.g. relating to case work or personal details of applicants for services).
- (2) Any disagreement relating to such a request (e.g. if the Chief Officer concerned considers that the cost of providing the information or the nature of the request is unreasonable) should be referred to the Town Clerk.

10. Members' Access to Documents and Information

- (1) Members' rights of access to documents and information are governed by the common law and statute. Members have such access to documents and information that is reasonably necessary to enable them properly to perform their duties as elected representatives.
- (2) Generally, information should, therefore, be made available to Members on request unless there is a justifiable legal or other reason for declining access.
- (3) Standing Order No. 42 sets out the detail on Members' access to documents.

- (4) If the information is not readily available or will require significant resources to produce, Officers should seek the guidance of their Chief Officer before taking steps to provide information that has been requested.

11. Other Members of Corporation Committees

Co-opted Members of the various committees, the Verderers serving on the Epping Forest & Commons Committee and the Independent Members of the Standards Committee are entitled to receive documents and information relating to their appointments in the same way as if they were elected Members.

12. Dispute Procedures

- (1) The overriding objective in any dispute is to achieve a satisfactory resolution through informal channels. However, it has to be recognised that this might not always be possible.
- (2) Procedure for Members:-
- (a) If a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Chief Officer.
 - (b) If the employee concerned is a Chief Officer, the matter should be raised with the Town Clerk. (In the case of the Town Clerk there is a separate procedure.)
 - (c) If the matter cannot be resolved informally, it may be necessary to resort to the Corporation's Disciplinary Procedure.
- (3) Procedure for Officers:-
- (a) If an Officer is dissatisfied with the conduct or behaviour of a Member, they are encouraged to raise the matter with the appropriate Chief Officer or the Town Clerk with a view to seeking to resolve their concerns informally if possible. This may result in the matter being referred to the Chief Commoner or one of the Aldermanic Chairmen where appropriate.
 - (b) An Officer also has the same right as any other person under the Localism Act 2011 to make a complaint to the Standards Committee where they consider that there has been a breach of the Members' Code of Conduct.

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Code of Conduct

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Scope

1. The Code of Conduct (the 'Code') applies to all employees and other workers (including casual workers, agency workers and consultants)¹ and their conduct both within the organisation and when dealing with other organisations as a representative of the City of London Corporation. For ease of reference the term "employees and / or other workers" will be used unless otherwise stated as applying only to employees or specified other workers.
2. Where there are additional requirements in the policy applicable to Chief Officers and senior managers at grades I and J (including any other employees and other workers with the same level of seniority); for ease of reference the term "Senior Management" will be used, unless it is stated as applying only to part of this group.
3. As far as possible, employees must also comply with the Code if they are appointed as a representative of the City Corporation on any organisation, trust or company in addition to the requirements of such bodies.
4. The principles detailed below set common standards for all employees and other workers, but individual Chief Officers may wish to issue further guidance specifically relating to their departmental service requirements, which will supplement but not contradict the principles contained in this Code.
5. The Code does not affect an employee's and other worker's rights and responsibilities under the law. These principles should be taken in conjunction with requirements set down by any employees or other worker's professional bodies obligations.
6. The Code cannot cover every eventuality and if in any doubt or any additional guidance is required, employees and other workers should consult their line manager, who may seek advice as necessary from Corporate HR or their HR contact.

Standards

7. Employees and other workers are expected to give the highest possible standard of service to the public, service users, Members, management and colleagues; and where it is part of their duties, to provide advice to Members, management and colleagues to do so with impartiality and in good faith.
8. This will be achieved in part through the demonstration of effective and appropriate behaviours defined internally, and adherence to the Principles of Public Life i.e. selflessness, objectivity, accountability, openness, leadership, honesty and integrity in which the public, Members, or managers can trust. Employees and other workers are expected to conduct themselves with the reasonably held belief that the City Corporation is not likely to fundamentally undermine the required relationship of trust and confidence between themselves and the organisation.

¹ For relevant parts of the Code that relate to volunteers, see Volunteers Guide.

9. There is an implied duty in employment and casual worker contracts to serve the employer with good faith and fidelity (i.e. the duty: not to disrupt the employer's business, not to compete, not to solicit customers, not to entice employees, not to misuse the employer's property; and the duty: of confidentiality, to account and to disclose wrongdoings); the duty to: obey lawful and reasonable instructions, to be adaptable and to exercise reasonable care and skill. Equivalent provisions will be included in contracts with other workers.
10. Employees and other workers must immediately inform their line manager in writing if, during their City Corporation employment / engagement circumstances arise (during or outside of working hours) that could reasonably be expected to impact on their capability, capacity and/or suitability to carry out the duties and responsibilities of their role.
11. Employees and other workers must not conduct themselves in a way that brings or could bring the City Corporation, Members, service users, partners and colleagues into disrepute or cause reputational damage; so that it is likely to destroy or seriously damage the relationship of trust and confidence between them.
12. All employees and other workers should refer any press or media enquiries directly to the Media Team, without engagement. Any article, publication or interview given on City Corporation policy or activity must be properly authorised by the Director of Communications or Head of Media.
13. To ensure compliance with the Code of Conduct, employees and other workers should periodically familiarise themselves with the latest version and any documents referred to therein. Employees and other workers should also have read and understood the conditions under which they are engaged, including all local policies, which take into account all legislation and any local and national schemes where applicable. This Code and corporate policies are contained within the Employee Handbook.
14. Any substantive contravention of this Code may result in disciplinary proceedings, and those disciplinary proceedings may result in dismissal. For other workers not falling within the scope of disciplinary procedures appropriate action will be taken. In addition, certain cases such as those involving bribery, corruption or fraud may also be referred to the Police and subject to a criminal investigation. Where the offence involves financial irregularities then the City Corporation will aim to recover its assets.
15. Employees and other workers shall not during or at any time after their employment / engagement with the City Corporation ending (except in the proper course of their duties or unless required by law), disclose or otherwise make use of any confidential information relating to the City Corporation's business, strategy, policies or finances, including personal information relating to service users, Members or employees or other workers. (See Disclosure of Information below).
16. Employees and other workers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management potential deficiencies in the provision of service. Employees and other workers must report impropriety or any material breaches of procedure to the appropriate manager. The

Whistleblowing Policy is also available to employees who feel they need to raise an issue outside of the management chain.

17. The Director of Human Resources will be responsible for the interpretation, advice and management of this Code on behalf of the City Corporation.

Conflicts of Interest

18. All City Corporation employees and other workers must remain beyond suspicion and ensure that they are not placed in a position that risks, or appears to risk, conflict between their private interests and their City Corporation duties.
19. The Conflicts of Interests Policy sets out the process to report the type of incidents which may give rise to conflicts of interest including for example: relationships, personal interests, secondary employment or running a business, outside commitments, and the giving or receiving of sponsorship (whether awarded from outside or by the City Corporation), procurement activities, gifts and hospitality. In addition, where employees and other workers self-identify any other type of conflict / potential conflict of interest these should be disclosed as soon as they become aware of them.
20. Senior management are required to make disclosures or confirm a nil return on a wider range of categories than employees and other workers; this is in line with their responsibilities for the activities of the City Corporation, its workforce and for advising Members on the potential implications of political decisions.
21. An employee wishing to undertake additional employment will require permission in advance from their Chief Officer. The City Corporation will not prevent an employee from undertaking additional employment providing it does not conflict with the interests of, or in any way weaken public confidence in the City Corporation and does not in any way affect performance of their duties and responsibilities whilst they are at work; or where their current position could confer advantage to their private interest/personal gain. If there is a conflict the manager can ask an employee to discontinue with conflicting additional work or business interests; noting that the permission given to undertake an additional role does not preclude the City Corporation taking action in response to its impact on their work performance.

Disclosure of Information

22. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public.
23. Most Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Town Clerk's department. Obstruction of a member of the public who wishes to exercise their lawful rights to access documents may be a criminal offence. If in doubt, refer to the Town Clerk or Comptroller for advice.

24. The public are specifically excluded from certain proceedings of Committees or meetings associated with the business of any Committee. No employee or other worker shall communicate to the public, the confidential content of such proceedings or any document relating to the City Corporation, unless required by law or expressly authorised by the Town Clerk to do so. Equally, no employee or other workers shall disclose confidential information to other employees or other workers who have no reason to know.
25. Employees and other workers have a responsibility to protect and not disclose commercially sensitive information unless required to effectively perform their duties. Guidance should be sought from the appropriate Chief Officer.
26. Employees and other workers have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment or engagement to any third party for any unauthorised reason.
27. Employees and other workers should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
28. Employees and other workers must not communicate confidential information or documents to others who do not have a legitimate right to know. Furthermore, such information which is stored on computer systems must also only be disclosed in accordance with the requirements of the Data Protection Act. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

Political Neutrality

29. Employees and other workers serve the City Corporation as a whole and must not allow their own personal or political opinions to interfere with their work. They must serve all Members and colleagues; and must ensure that the individual rights of all Members and employees are respected. Employees and other workers whether or not politically restricted, must follow every lawfully expressed policy of the City Corporation. Where a City Corporation employee or other worker holds a politically restricted post such restriction is deemed to be incorporated in their contract of employment / engagement. (See Politically Restricted Posts Policy).

Criminal convictions and driving offences

30. Prospective employees and other workers will be asked to disclose convictions on their City Corporation in accordance with the DBS Code of Practice. Employees and other workers must declare actual convictions including driving offences during their employment. The existence of convictions will not preclude the appointment of candidates to the City Corporation unless relevant to the post.

31. During the course of employment or engagement, if required by the City Corporation due to the nature of their role, employees and other workers will be subject to repeat criminal record disclosure checks. (Refer to the Disclosure and Barring Service Policy for detailed guidance).

Relationships

Relatives and close personal relationships

32. Employees and other workers must declare using the Declaration of Interest Form (Officers) any close personal relationships they have with any candidates for appointment to a vacancy (as they become aware of them); a Member; contractor/potential contractor; City Corporation partner organisation; a service user; or as a manager / supervisor with an employee and other worker or vice versa to ensure that potential problems are avoided. Similarly, where a relationship is formed in the workplace and there is potential for conflict to arise, this should be declared. Any such disclosures will be dealt with sensitively.
33. To avoid accusations of impropriety employees and other workers should not be involved in the administration or decision-making in any City Corporation employment or service provision matters for relatives and anyone with whom they have a close personal relationship, including a child. (See Conflicts of Interests, Relationships).

Other employees / workers and managers

34. All employees and other workers have a responsibility to act in a way that ensures dignity and respect for their colleagues. All employees and other workers are expected to adhere to the standards of behaviour as set out in the City Corporation's relevant Policies and Procedures. In particular not to unlawfully discriminate against colleagues, or engage in any form of harassment i.e. sexual, racial.
35. The City Corporation recognises that employees and other workers who work together may have or form close personal relationships. While it does not wish to interfere with these personal relationships, the City Corporation does expect all such employees and other workers to behave in an appropriate and professional manner at work.
36. Employees and other workers with their managers have a mutual responsibility to ensure good working relationships in compliance with the policies and procedures contained in the Employee Handbook. As part of this, employees and other workers should carry out any reasonable and lawful requests that their manager makes and to do so to the best of their ability; and behave courteously, reasonably and fairly in all dealings with their managers. Managers should endeavour to reasonably support employees and other workers in the proper performance of their duties, including assistance, where necessary, in working with others; and behave courteously, reasonably and fairly in all dealings with their teams.

Members

37. Employees and other workers are responsible to the City Corporation as an authority through its Chief Officers and the Town Clerk and Chief Executive as the Head of Paid Service. The role of some employees is to give advice and information to Members and for all employees and other workers to implement the policies determined by the City Corporation.
38. Mutual respect between employees, other workers and Members is essential, and relationships should be conducted on a constructive and professional basis. In this regard, the City Corporation has adopted a Protocol on Member / Officer Relations.
39. Employees and other workers should self-declare any relationship they have with a Member in the interest of transparency and must not lobby Members inappropriately in relation to personal issues affecting either their employment or other matters personal to them. This does not preclude employees who are also residents of the City Corporation, from raising matters in relation to local matters, appropriately in their own time.

Public and Service Users

40. Employees and other workers should always remember their responsibilities to the public and service users they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals as defined by the policy statements of the City Corporation. All stakeholders (e.g. residents, service users and city workers) have a right to be treated with fairness and equality.
41. Where an employee or other worker is either a relative or in a close personal relationship with a member of the public or service user, such relationships must be declared promptly to the line manager or senior manager to determine the appropriate action. (See Relatives and Close Personal Relationships above and Conflicts of Interest Policy).

The Press and the Media

42. Employees and other workers must not deal directly with the press or the media unless they have been expressly authorised by the Director of Communications or the Head of Media. All media enquiries received by officers must be immediately referred to the Media Team, without engaging with the journalist. Any article, publication, or interview given on aspects of City Corporation policy or activity must be properly authorised by the Director of Communications or the Head of Media.

Other Employment Matters

43. Employees and other workers occupying posts which require registration with a statutory body (e.g. the Health and Care Professions Council (HCPC) Register of Social Workers), or

any other mandatory membership, must ensure they maintain the necessary criteria to retain the relevant level of registration and provide evidence to their line manager accordingly. In addition, an employee or other worker must adhere with any duty to report issues with a bearing on their registration or membership and inform their line manager accordingly.

44. Employees and other workers shall dress in line with the appropriate standards set by individual departments. Any special clothing, including personal protective clothing and equipment, or uniform provided by the City Corporation must be worn where required.
45. Employees and other workers should ensure that they are display their corporate identification pass at all times with their photo clearly visible whilst on City Corporation premises and remove it on departure. Passes must be made available for inspection by security personnel and comply with any security requests or instructions whilst on City Corporation premises. (Refer to Security Policy, People).
46. All employees, other workers and volunteers are expected to notify their line manager if they are going to be absent from work; agency workers must inform their agency who will then notify the City Corporation. (See, Sickness Absence Policy).
47. All employees and other workers must be accurate in timekeeping at work, undertaking time recording where this is a requirement.

Equality and Inclusion

48. All City Corporation employees and other workers must ensure that the City Corporation's policies relating to equality and inclusion are complied with in addition to the requirements of the law. Such policies would include the: Equal Opportunity Policy, Lone Working Policy (incorporating the Preventing Violence Policy) and Grievance Procedure, Recruitment and Selection Policy and Managing People Policy. All members of the local community, customers and colleagues have a right to be treated with fairness and equity.

Data Protection, Information Technology and Security

49. The City Corporation encourages the use of appropriate technology to achieve efficient and effective services. Employees and other workers must ensure that they use technology professionally, appropriately and responsibly and follow the City Corporation's procedures in relation to the use of technology and access to / storage of information in relation to the General Data Protection Regulation and the Data Protection Act.
50. This also applies to external facing technology including social media which due to its nature means any comments posted either directly about or that could be associated with the City Corporation should be regarded as public, whether made in a work or private capacity. Comments should not damage the reputation of the organisation, Members, employees, other workers or service users, or contravene the Equal Opportunity Policy. (See, Social Media Policy).

51. The City Corporation processes personal data collected in respect of the processes cited within the Code of Conduct in accordance with its Data Protection Policy (Employees) and Employee Privacy Notice. Data collected is held securely, accessed by and disclosed to individuals only for the purposes of conducting the relevant process (i.e. to ratify declarations, to investigate reported breaches) and related processes (where relevant), and as required by law.
52. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the corporate Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Disciplinary Procedure.
53. All employees and other workers must undertake such data protection training as required by the Corporation's Data Protection Officer.

Intellectual Property

54. Intellectual property is a generic term that includes inventions and patents, creative writings and drawings, photographs and images. If these are created by an employee or other worker during the course of employment or engagement, then as a general rule the property belongs to the City Corporation. Specific arrangements may exist locally.
55. Any matter or thing capable of being patented under the Patents Act 1977 whether made, developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the City Corporation through the appropriate Chief Officer, and subject to the provisions of the Patents Act, it will belong to and be the absolute property of the City Corporation.

Bribery, Corruption and Fraud

56. Employees and other workers must be aware that it is a serious criminal offence (and an act of gross misconduct) for them to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee or other worker to demonstrate that any such rewards have not been corruptly obtained. Such acts may compromise the impartiality of the City Corporation and cause reputational, legal and financial damage.
57. It is important to avoid the perception as well as the fact of bribery or corruption. Employees and other workers must comply with all applicable bribery and corruption laws.
58. Employees and other workers will not offer, promise, give, request, or agree to receive, or accept any bribes:
 - in the course of their employment;
 - when conducting City Corporation business; or
 - when representing the City Corporation in any capacity.

59. A bribe means a financial payment or other forms of reward or advantage, whether direct or indirect, that is intended to induce or influence, or has the effect of inducing or influencing, an individual, company or public body (whether in the UK or abroad) to perform their functions, including business and public duties, improperly. Improper performance includes:
- not acting in good faith;
 - not acting impartially; and
 - not acting in accordance with a position of trust.
60. Employees and other workers must not act fraudulently, whether in relation to finances, resources or other assets. For instance employees and other workers should not directly or indirectly seek to claim entitlement to a government benefit or service (e.g. heating and housing benefits, carer and disability benefits, Blue Badge etc.) from the City Corporation, government department or other local authority by misrepresenting their true circumstances or falsification of records to secure a form of benefit whether financial or otherwise for themselves or others.

Use of Financial Resources and Property

61. Employees and other workers must ensure that they use all City Corporation funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money and to avoid legal challenge to the City Corporation.
62. All employees and other workers should be aware of and adhere to the City Corporation's Financial Regulations, Procurement Code and the Acceptable Use of IT Policy.
63. Employees and other workers must not steal, misuse, wilfully damage or take off site without permission, anything that belongs to the City Corporation.
64. Employees and other workers must not use City Corporation resources to recognise or reward colleagues without the approval of their Chief Officer.

Health and Safety and Wellbeing

65. The City Corporation as a responsible employer is committed to supporting and encouraging employees to be healthy and resilient individuals. The City Corporation has chosen to adopt a holistic and proactive approach to workplace health, safety and wellbeing, adopting preventative measures; to safeguard the physical health and mental wellbeing of employees and other workers.
66. Employees and other workers are expected to ensure that a safe working environment is maintained and prevent the risk of injury to themselves and others in accordance with the City Corporation's Health and Safety Statement, occupational health and safety policies and guidance including any local arrangements. Employees and other workers are also expected to be proactive in reporting significant hazards or danger. They should inform their line manager in the first instance or other appropriate senior person.

67. The City Corporation has an Alcohol and Drugs Misuse Policy (see Employee Handbook) which is aimed at ensuring that employees and other workers are fit to work to perform their duties.

Safeguarding

68. All employees and other workers have a responsibility to safeguard the welfare of children, young people and adults at risk, whatever the role of the individual, or the City Corporation service or department they work in.
69. Any allegations or concerns that children and adults may be suffering significant harm should be raised promptly with your line manager and the City Corporation's Children and Families Service or Adult Social Care Service (see Safeguarding Policy).

Professional Indemnity

70. If an employee, former employee or volunteer (for the purpose of this paragraph, the term 'employee's refers to the narrow definition of employed staff), is subject to a claim for professional negligence from third parties, in relation to work they carried out as part of their duties for the City Corporation (including voluntary work approved by a Chief Officer carried out in connection with the City Corporation); they will be indemnified in relation to claims for damages and reasonable legal costs (subject as follows) for breaches of professional duty arising from the bona fide execution of their duties in accordance with current policies of the City Corporation. The City Corporation reserves the right to decide whether to defend (or contribute to the costs of defending) a legal action brought against an employee.

Raising Concerns and Whistleblowing

71. The City Corporation is committed to the highest possible standards of probity. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about the conduct of any aspect of the City Corporation's work to come forward and voice those concerns to us. It is recognised that most cases will have to proceed on a confidential basis.
72. Where employees or other workers have concerns around misconduct or the lawfulness of any action or proposed action, they should raise their concerns to the appropriate manager or Chief Officer without delay.
73. The Whistleblowing Policy is also available to employees and other workers who feel they need to raise an issue outside of the management chain. Any suspicion of wrongdoing will be treated seriously and will be reviewed and analysed in accordance with the Whistleblowing or Complaints Policy, considering the Public Interest Disclosure Act, the Human Rights Act and if appropriate the City Corporation's Anti-Fraud and Corruption Strategy.

74. City Corporation employees, agency workers, and contractors should be aware that they have statutory protection against victimisation and dismissal under the Public Interest Disclosure Act 1999 (PIDA)², if they speak out genuinely against corruption and malpractice at work (see, Regulation of Investigatory Powers Policy and Procedure). Further information on how to make a disclosure is contained in the Whistleblowing Policy.

Links / Other resources

- Acceptable Use of IT Policy
- Alcohol and Drugs Misuse Policy
- Anti-Fraud and Corruption Strategy
- Conflicts of Interest Policy
- Data Protection Policy (includes the Employee Privacy Notice)
- Disciplinary Procedure
- Disclosure and Barring Service Policy
- Equal Opportunity Policy
- Financial Regulations
- Gifts and Hospitality Declaration Form
- Grievance Procedure
- Health and Safety Statement
- Physical and Verbal Abuse Policy
- Politically Restricted Posts Policy
- Procurement Code
- Protocol on Member/Officer Relations
- Recruitment and Selection Policy
- Regulation of Investigatory Powers Policy
- Safeguarding Policy
- Security Policy - People
- Sickness Absence Policy
- Social Media Policy
- Whistleblowing Policy

² PIDA was further strengthened by the Enterprise and Regulatory Reform Act 2013.

Conflicts of Interest Policy

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Scope

1. The Conflicts of Interest Policy applies to all employees and other workers i.e. casual workers, agency workers, consultants, prospective employees under conditional offer of employment, service providers and third-party advisors. For ease of reference the term “employees and / or other workers” will be used in the policy unless otherwise stated as applying only to employees or specified other workers.
2. Where there are additional requirements in the policy applicable to Chief Officers and senior managers at grades I and J (including any other employees and other workers with the same level of seniority); for ease of reference the term “Senior Management” will be used, unless it is stated as applying only to part of this group.
3. As far as possible, employees and other workers must also comply with the policy if they are appointed as a representative of the City of London Corporation on any organisation, trust or company in addition to the requirements of such bodies.
4. The principles detailed below set common standards for all employees and other workers, but individual Chief Officers may wish to issue further guidance specifically relating to their departmental service requirements, which will supplement but not contradict the principles contained in this policy.
5. This policy does not affect employees and other workers rights and responsibilities under the law. These principles should be taken in conjunction with requirements set down by any employee and other workers professional bodies obligations and the City Corporation’s Code of Conduct.
6. Whilst the policy tries to cover as many aspects of business conduct as possible, it is recognised that issues will arise which will not fit precisely into the categories described. Where this is the case employees should consult their line manager, who may seek advice as necessary from Corporate HR or their HR contact.

Standards

7. Employees and other workers are expected to give the highest possible standard of service to the public, service users, Members, management and colleagues; and where it is part of their duties to provide advice to Members and colleagues, to do so with impartiality and in good faith.
8. This will be achieved in part through the demonstration of effective and appropriate behaviours defined internally, and adherence to the Principles of Public Life i.e. selflessness, objectivity, accountability, openness, leadership, honesty and integrity in which the public, Members, or managers can trust. Employees and other workers are expected to conduct themselves with the reasonably held belief that the City Corporation is not likely to fundamentally undermine the required relationship of trust and confidence between themselves and the organisation.

9. There is an implied duty in employment and casual worker contracts to serve the employer with good faith and fidelity (i.e. the duty: not to disrupt the employer's business, not to compete, not to solicit customers, not to entice employees, not to misuse the employer's property; and the duty: of confidentiality and to account); the duty to: obey lawful and reasonable instructions, to be adaptable and to exercise reasonable care and skill. Equivalent provisions will be included in contracts with other workers.
10. Employees and other workers must immediately inform their line manager in writing if, during their City Corporation employment / engagement circumstances arise (during or outside of working hours) that could reasonably be expected to impact on their capability, capacity and / or suitability to carry out the duties and responsibilities of their role.
11. Employees and other workers must not conduct themselves in a way that brings or could bring the City Corporation, Members, service users, partners and colleagues into disrepute or cause reputational damage, so that it is likely to destroy or seriously damage the relationship of trust and confidence between them.
12. All employees and other workers should refer any enquiries from journalists directly to the Media Team, without engagement. Any article, publication or interview given on City Corporation policy or activity must be properly authorised by the Director of Communications or Head of Media.
13. In cases of doubt about what constitutes a conflict of interest, employees and other workers should always try to establish in advance the validity of a particular action by consulting their line manager. However, if an employee or other worker initially acted in good faith, then later considered the action to be contrary to the spirit of this policy, they should inform their line manager at the earliest opportunity who may seek advice as necessary from Corporate HR or their HR contact.
14. To ensure compliance with the Conflicts of Interest Policy, employees and other workers should periodically familiarise themselves with the latest version and any documents referred to therein. Any substantive contravention of this policy may result in disciplinary proceedings, and those disciplinary proceedings may result in dismissal. For other workers not falling within the scope of disciplinary procedures appropriate action will be taken. In addition, certain cases such as those involving bribery, corruption or fraud may also be referred to the police and subject to a criminal investigation. Where the offence involves financial irregularities then the City Corporation will aim to recover its assets.
15. Employees and other workers shall not during or at any time after their employment / engagement with the City Corporation ending (except in the proper course of their duties or unless required by law), disclose or otherwise make use of any confidential

information¹ relating to the City Corporation's business, strategy, policies or finances, including personal information relating to service users, Members or employees or other workers. (See Code of Conduct, Disclosure of Information).

16. Employees and other workers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management potential deficiencies in the provision of service. Employees and other workers must report impropriety or any material breaches of procedure to the appropriate manager. The Whistleblowing Policy is also available to employees who feel they need to raise an issue outside of the management chain. (See below, Raising Concerns and Whistleblowing).
17. The Director of Human Resources will be responsible for the interpretation, advice and management of this procedure on behalf of the City Corporation.

Conflicts of Interest

18. A 'conflict of interest' is a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act could be impaired or influenced by another interest they hold. Conflicts can be financial or non-financial and may be:
 - **Insignificant:** trivial and does not create a real risk of conflict of interest;
 - **Perceived or potential:** reasonably perceived or where there is the real possibility of a future material conflict, between one or more interests; or
 - **Actual:** if there is a material conflict between one or more interests.
19. For details of the circumstances to make a disclosure, when and who should make a disclosure; see below at: Circumstances to complete a Declaration of Interest Form; and in addition, for Chief Officers: Circumstances to complete a Register of Interest Form.
20. Detailed below are the most typical areas in which conflicts of interest arise but these are not exhaustive. An employee or other worker should self-declare any other actual or potential conflict, as where there is a risk of improper conduct caution is always advisable.

Relationships

21. Candidates when making an employment application must disclose on the application form whether they are related to a Member and detail any other connection to the City Corporation. Deliberate omission to make such a disclosure will disqualify the

¹ Information obtained in the course of employment / engagement should not be used for personal gain or benefit, nor should it be passed on to others who might use it in such a way.

candidate and if the omission is discovered after appointment, they may be liable to dismissal.

22. Employees and other workers involved in making appointments must ensure that these are made on the basis of merit and must declare to their line manager or senior manager any relationship between the candidate and themselves to avoid any possible accusation of bias. It is unlawful for an employee or other worker to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the City Corporation's procedures are detailed in the Recruitment and Selection Policy.
23. The City Corporation reserves the right, where such a relationship exists between employees or other workers, to ensure that the persons concerned are not employed in a situation where one would be responsible for managing the other. Alternative mitigating measures may be introduced to ensure that appropriate reporting lines are in place.
24. Any close personal relationships employees and other workers have with a Member, a contractor / potential contractor; a worker in a City Corporation partner organisation, a service user, or as a manager / supervisor with an employee and other worker or vice versa should be declared to ensure that potential problems including any perceptions of unfairness are avoided. Any such disclosures will be dealt with sensitively.
25. Employees and other workers should not be involved in decisions relating to employment matters such as discipline, promotion or pay adjustments for any other employee or other worker who is a relative, partner or someone they have a close personal relationship with. Nor, any situation which could potentially involve a conflict of interest in work roles, for example the countersigning of invoices against purchase orders raised by someone with whom they have a close personal relationship.
26. On no account must employees and other workers be directly involved in the administration or decision-making on a matter or application on behalf of the City Corporation involving their close relative (including a child), or any other person with whom they have a close personal relationship. Should such a situation arise, employees and other workers must inform their line manager or senior manager to determine appropriate action.
27. Neither must employees and other workers abuse their position of trust to access records relating to themselves, their close relatives or those with whom they have a close personal relationship (refer to the Code of Conduct section: Data Protection, Information Technology and Security).

Personal Interests

28. Employees and other workers must declare to their Chief Officer, any financial or non-financial interests that could bring about conflict with the City Corporation's interests

using the Declaration of Interest Form (Officers) and submit it to the appropriate Chief Officer. Employees and other workers should be mindful not to place themselves in a situation which could compromise their continuing professional duty to the interests of the City Corporation.

29. Employees and other workers are required to serve the City Corporation and must not allow their personal political opinions to interfere with their work. (Refer to the Code of Conduct section: Political Neutrality and the Politically Restricted Posts Policy).
30. Employees and other workers should self-declare any relationship they have with a Member in the interest of transparency and must not lobby Members inappropriately in relation to personal issues affecting either their employment or other matters personal to them. (Refer to, Protocol on Member/Officer Relations). This does not preclude employees who are also residents of the City Corporation, from raising matters in relation to local matters, appropriately in their own time.
31. Employees and other workers must declare membership of any organisation not open to the public (with formal membership and commitment of allegiance); which has secrecy about rules and / or membership, and / or conduct. For example, the Freemasons, a Society / Trust or an organisation with regular gatherings or meetings not open to members of the public who are not a member of the organisation.
32. In the main employees and other workers do not need to disclose membership of a Livery company, City Company without Livery, Guild or Company seeking Livery Membership, apart from senior management. (See below, Circumstances to Complete a Declaration of Interest Form).

Secondary employment, running a business, or other outside commitments

33. Employees and other workers off-duty hours are their personal concern, but they should not subordinate their duty to private interests so as to put themselves in a position where duty and private interests' conflict.
34. An employee or other worker who wishes to take up secondary employment, running a business or work (paid or unpaid), whether this is external or internal to the City Corporation (e.g. acting as an independent contractor or an independent consultant) requires Chief Officer agreement in advance.
35. An employee or other worker who wishes to take on outside commitments (e.g. becoming a school Governor in their local area, or a board member or trustee of a charity linked to the City Corporation, acting as a volunteer) requires Chief Officer's approval in advance. Refer to: Examples of Conflicts of Interest (appended) and for public duties the Special Leave and Time Off Policy.

36. When making such declarations employees and other workers must indicate the approximate time commitment involved or the relevant timescale; and must also notify of any subsequent change of circumstances.
37. The City Corporation will not automatically preclude the undertaking of additional employment, but any such employment must not, in the view of the City Corporation:
- conflict with or react detrimentally to the City Corporation's interests, (for example, if their official duties overlap in some way with their proposed work);
 - in any way weaken public confidence in the conduct of the City Corporation's business;
 - interfere with the employee's or other worker's ability to undertake their role, e.g. cause a breach of the Working Time Directive or place demands on the individual such that they cannot perform at their full capacity for the City Corporation;
 - make use of information or material to which the employee or other worker has access by virtue of their position.
38. No outside work of any sort should be undertaken in the office or in Corporation working hours, and use of City Corporation facilities, equipment or materials. The use of telephones, photocopiers or IT systems for outside work is forbidden.
39. If there is a conflict the manager can ask for an employee or other worker to discontinue with conflicting business interests. In the event of a detrimental impact on the employee or other worker's City Corporation duties, the prior approval of a declaration does not preclude any action being taken in response to its impact on their work performance.
40. Any work undertaken on behalf of the City Corporation or which contributes to the work of the City Corporation or is requested / delivered on the basis of being an employee or other worker at the City Corporation and which attracts a fee or is paid e.g. a presentation or lecture, will need Chief Officer approval and the fees will need to be paid to the City Corporation. In the case of a Chief Officer, approval from the Town Clerk is required.
41. In circumstances where the City Corporation grants paid time off work to undertake public duties for up to 12 days maximum in any year, this requires Chief Officer approval (see the Special Leave and Time Off Policy). Where a fee is gained or allowance paid from these duties and City Corporation paid time off has been given, the fee will need to be paid to the City Corporation (e.g. a tribunal panel member day rate fee), or financial loss shown (e.g. in excess of a local councillor's annual allowance) in order to receive paid time off for Special Leave.
42. In addition, senior management are required to make disclosures or confirm a nil return on a range of specified categories, relating to their outside commitments. See below, Circumstances to complete a Declaration of Interest Form.

Sponsorship – Giving and Receiving

43. Where an outside organisation wishes to sponsor or is seeking to sponsor a City Corporation activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
44. Where the City Corporation wishes to sponsor an event or service: neither an employee or other worker, nor any partner, spouse, relative or other person in a close relationship; must benefit from such sponsorship in a direct way without there being full disclosure to a Chief Officer. Any such disclosure should be made using the Declaration of Interest Form (Officers). Similarly, where the City Corporation through sponsorship, grant aid, financial or other means gives support in the community; employees and other workers should ensure that impartial advice is given and that there is no conflict of interest involved.

Procurement Activities and Contractors / Potential Contractors

45. At the start of each procurement exercise where a conflict arises the relevant Contract Lead/City Procurement has the responsibility to co-ordinate the timely completion of the Contract and Tendering Declaration Form (Officers) by employees and other workers involved in procurement activities i.e. benchmarking activities, specification writing, supplier identification, sourcing, evaluation and selection, decision making and governance forums. (See below, Circumstances to complete a Declaration of Interest Form).
46. Employees and other workers who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a direct or indirect pecuniary interest with a contractor who is either engaged or proposed to be engaged by the City Corporation; they should declare that interest using the Contract and Tendering Declaration Form (Officers) at the earliest opportunity and send this to the Commercial Director for City Procurement with a copy to their line manager and Chief Officer.
47. Orders and contracts must be awarded in accordance with the principles of best value as contained in the City Corporation's Procurement Code. All procurement undertaken by the City Corporation must accord equal treatment and consideration to all organisations competing for its contracts. This involves undertaking the procurement in accordance with the rules, procedures and guidance we publish and applying them equally to all participants without favour.
48. Employees and other workers must ensure that no special favour is shown to businesses operated or controlled by, for example current or recent former employees or other workers, their partners, close relatives or associates in awarding contracts whether to businesses run by them or employing them in a senior or relevant managerial capacity.

49. Employees and other workers who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
50. Where a Chief Officer in conjunction with the Commercial Director for City Procurement feels that any relationship is substantive, the Chief Officer will notify the Town Clerk who will then decide if Members need to be informed. The Chief Officer will determine any appropriate safeguards, including removing the officer in the engagement or supervision of the contractor, taking advice from the Town Clerk as appropriate.
51. Existing consultants, service providers, third party advisors may wish to express interest in contracts that the City Corporation advertises for tender, which may include projects they are already advising on. Alternatively, they may be providing advice or consultancy services to other firms who may wish to tender for the City Corporation's services. These situations naturally give rise to conflicts of interest i.e. advisors to the City Corporation are bidding directly (individually or through their company); or advising outside companies bidding for City Corporation contracts. Any such conflicts should be reported at the earliest opportunity to the Commercial Director for City Procurement, the original appointing manager (i.e. for the consultant, service provider, third party advisor) and the relevant Chief Officer; in order to assess the potential risk and impact of the conflict and determine an appropriate course of action where applicable.
52. It is not acceptable for employees and other workers with buying responsibilities to use their own, relatives or friend's personal loyalty cards while making purchases on behalf of the City Corporation or service users.

Gifts and Hospitality

53. There can be little doubt that the acceptance of gifts or hospitality by employees and other workers from persons who have, or may seek to have, dealings with the City Corporation would be viewed by the public with grave suspicion and would make the employee or other worker concerned and the City Corporation extremely vulnerable to criticism (refer to the Code of Conduct section: Bribery and Corruption).
54. An employee or other worker should tactfully refuse any personal gift which is offered to them or a close relative by, or indirectly attributable to any person or body who has, or may have, dealings of any kind whatsoever with the City Corporation or, who has applied, or may apply, to the City Corporation for any kind of decision.
55. The only exceptions to this rule are:
 - Small gifts of only token value often given by way of trade advertisements to a wide range of people, e.g. calendars, diaries, pens, pencils and similar articles of use in the workplace (up to a maximum value of £20); or

- Small gifts of only token value given on the conclusion of a courtesy visit or visit by / to dignitaries, (up to maximum value of £20).
 - Working meals which are permissible provided the employee or other worker has the approval of the Chief Officer.
 - Chief Officers or appropriate employee or other worker nominated to represent them can attend work related functions as the City Corporation representative.
56. Employees and other workers offered or in receipt of gifts in the course of their work must complete the Gifts and Hospitality Declaration Form (available on the intranet under Tools and Apps). The completed form will need to be sanctioned by the line manager in advance, unless of a tokenistic value as outlined above.
 57. If there is any doubt about whether a gift may be accepted, the gift should be politely and tactfully refused.
 58. In the event of an employee or other worker receiving a gift without warning, which does not fall in any of the exceptions mentioned above, this should immediately be reported to their Chief Officer who will be responsible for deciding whether the gift should be returned.
 59. Employees and other workers should only accept offers of hospitality if there is a genuine need to impart information or represent the City Corporation in the community, establish or maintain good business relationships, and / or improve the image and reputation of the City Corporation.
 60. Acceptance by employees and other workers of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the City Corporation gives advance consent.
 61. Where visits to inspect equipment or review services by undertaking site visits etc. are required, employees and other workers should ensure that the City Corporation meets the cost of such visits to avoid jeopardising the integrity of subsequent procurement decisions.
 62. Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant; and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of hospitality.
 63. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the City Corporation should be seen to be represented.
 64. An employee and other worker prior to receipt of any hospitality must complete the Gifts and Hospitality Declaration Form (available on the intranet under Tools and Apps). The completed form will need to be sanctioned by the line manager in advance, unless of a tokenistic value as outlined above.

65. When receiving authorised hospitality employees and other workers should be particularly sensitive as to its timing in relation, for example, to decisions which the City Corporation may be taking affecting those providing the hospitality.
66. When hospitality has to be declined the offer should be courteously but firmly declined and it should be explained to the other party the procedures and standards operating within the City Corporation.
67. Any gifts and hospitality offered but declined, unless of a tokenistic value, should be recorded on the Gifts and Hospitality Declaration Form; this ensures transparency and acts as protection for the employee and other worker concerned.

Circumstances to complete a Declaration of Interest Form

68. Employees and other workers must complete a Declaration of Interest Form (Officers), including the approximate time taken per annum or the relevant timescale where applicable, to declare:
 - **Relationships:** Employees and other workers must declare any close relationships they have with any candidates for appointments, a Member, contractor; or as a manager / supervisor with an employee and other worker or vice versa. Where such relationships exist employees and other workers must not be involved in the administration or decision-making on a matter or application on behalf of the City Corporation, nor in the provision of a reference for them to the City Corporation; both in the interest of transparency and to avoid the potential for accusations of impropriety.
 - **Personal interests:** Any financial or non-financial interests that could bring about conflict with the City Corporation's interests; for instance membership of any organisation not open to the public.
 - **Secondary employment, running a business, or other outside commitments (paid / unpaid):** Before they are entered into, together with the approximate time taken per annum or the relevant timescale.
 - **Sponsorship – Giving and Receiving:** Any benefit derived by an employee or other worker, their partners, spouse or relative or anyone else in a close personal relationship where the City Corporation gives support in the community through sponsorship or an event or service, grant aid, financial or other means.
 - **Any conflict / potential conflict of interest:** That employees and other workers self-identify as soon as they become aware of them.
69. In addition to the above, senior management are required to make disclosures or confirm a nil return on a wider range of categories than employees and other workers including the approximate time taken per annum or the relevant timescale where applicable. This is commensurate with their responsibilities for the activities of the City

Corporation, its workforce and for advising councillors on the potential implications of political decisions, these are set out below:

- **Land²**, any beneficial interest in land within the area of the City Corporation.
- **Licenses** (alone or jointly with others) to occupy land in the area of the City Corporation for a month or longer.
- **Corporate tenancies**, where to their knowledge (a) the landlord is the City Corporation; and (b) the tenant is a body in which the employee or other worker has a beneficial interest.
- **Securities³**, where (a) the body to their knowledge has a place of business or land in the area of the City Corporation; and (b) either: (i.) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body (whichever is the lower); or (ii.) if the share capital of that body is of more than one class, the total nominal value of the shares in any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
- **Membership of:** a Livery company, City Company without Livery, Guild or Company seeking Livery Membership.
- **Think tank membership**, an organisation one of whose principal purposes include the influence of public opinion or policy and which is likely to seek to affect the policy of the City Corporation, or which may have an impact on its services or stakeholders.
- **Membership of:** a professional association or body.
- **Trade association membership⁴**, whether as an individual or company owner.

70. The Contract and Tendering Declaration Form (Officers) should be used to report relationships of a direct or indirect pecuniary nature with external contractors or potential contractors to the Commercial Director for City Procurement and copied to the line manager and relevant departmental Chief Officer. (See above, Procurement Activities and Contractors / Potential Contractors).
71. In the event a declaration is made that impacts on contract and/or tendering processes and outside of such processes, both the Contract and Tendering Declaration Form (Officers) and the Declaration of Interest Form (Officers) will need to be completed; and vice versa.

² 'Land' excludes any interest or right which does not carry with it a right (solely or jointly with another person) for them to occupy it or receive an income).

³ 'Securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society. A beneficial interest arises where there is a right to the economic benefit of the securities i.e. a right to the income from the securities or a share of it and a right to the proceeds of sale or part of the proceeds.

⁴ Trade association membership as either a sole trader or as a company i.e. company owner.

72. Employees and other workers should note a separate reporting process for declarations regarding the receipt or offer of hospitality and gifts, which are to be recorded using the Gifts and Hospitality Declaration Form (available on the intranet under Tools and Apps).
73. Managers may seek further advice as appropriate from Corporate HR / HR contact, Legal, Audit or Procurement according to the nature of the guidance sought.

When to complete and who should complete a Declaration of Interest Form

74. Employees and other workers should make declarations: as soon as a new matter to declare arises; a change / potential change in circumstances (including notifying their line manager and Chief Officer when there is a cessation regarding a previous declaration); and annually by specified groups of staff as set out below. If in doubt about what to disclose, the general principle should be to disclose.
75. Where an employee or other worker is in doubt as to whether they have an actual or potential conflict, they should seek advice from their line manager or Chief Officer. Employees and other workers are encouraged to err on the side of transparency and openness.
76. **A Declaration of Interest Form (Officers)** must be completed in the following circumstances:

Self-declaration	Specified staff groups	Chief Officers
<p>On joining, promotion, change of role (where applicable) and then annual reminders for all employees and other workers working for the City Corporation who must <i>self-declare</i> as soon as they become aware of a perceived, potential or actual conflict; or a change including the cessation of an existing declared conflict.</p> <p>The responsibility for avoiding any conflict of interest lies with the individual, however there will also be an annual Chief Officer reminder. See Circumstances in which a Declaration of Interest must be made above.</p>	<p>On joining, promotion, change of role (where applicable) and then annually thereafter (unless the employee or other worker notifies changes in the interim period).</p> <p>Annually following a Chief Officer communication for the following employees and other workers groups:</p> <ul style="list-style-type: none"> • Senior managers at grades I and J (including any other employees with the same level of seniority) • Sourcing, Category Management and Commercial Contract Management staff within City Procurement • City Surveyors • Internal Audit • Staff with buying responsibilities i.e. responsible for purchasing goods, services or works on behalf of the City Corporation <p>Where the employee and other worker has no declaration to make, they must submit a nil return.</p>	<p>On joining, promotion, change of role (where applicable) and then annually thereafter (unless the Chief Officer notifies changes in the interim period).</p> <p>Annually following a communication by the office of the Director of HR with returns reviewed by the Town Clerk.</p> <p>Where there are no declarations to make, they must submit a nil return.</p> <p>If a Chief Officer has a new declaration or changes to make to an existing declaration, they must self-declare these by advising the Town Clerk at the earliest opportunity. Any new work (paid/unpaid) will need to be approved by the Chief Officer's employing committee and the Establishment Committee.</p>
<p>Note: Should a declaration made on the Declaration of Interest Form also have an impact regarding contract and/or tendering processes, then that information should be recorded on both the Declaration of Interest Form (Officers) and the Contract and Tendering Declaration Form (Officers), detailed below.</p>		

77. The completed Declaration of Interest Form (Officers) is submitted to the employee or other worker's line manager for comments then referred to the Chief Officer to confirm whether the declaration is acceptable, acceptable subject to specified conditions or not acceptable and ensure the communication of their decision. The Chief Officer will make the final decision on any declarations made, seeking advice where required.
78. Each Chief Officer oversees the annual Declaration of Interest notification reminder process⁵ within their department. Whereas Corporate HR / HR Contact will issue the Declaration and Register of Interest Form for new starters at the conditional offer stage of recruitment or as a result of a promotion or change of role. The returned form will be passed to the appointing manager which is normally the line manager for processing, and then referred on to the Chief Officer as described above.
79. Similarly, each Chief Officer will complete a Declaration of Interest Form to make a new declaration or changes to an existing declaration; to be approved by the Town Clerk. Any new work (paid/unpaid) will need to be approved by the Chief Officer's employing committee and the Establishment Committee.
80. **A Contract and Tendering Declaration Form (Officers)** must be completed as detailed below:
- Annually by Sourcing, Category Management and Commercial Contract Management staff within City Procurement, who must also notify as soon as a conflict of interest arises or changes to line management during the year.
 - Annually by all City Surveyors staff, who must also notify as soon as a conflict of interest arises or changes to line management during the year.
 - At the start of each procurement exercise, declarations of interests by employees and other workers involved should be recorded in the minutes of meetings with City Procurement staff and any external procurement advisors. If a conflict arises, then a declaration form should be completed.
81. Should a declaration made on the Contract and Tendering Declaration Form (Officers) also have an impact outside of contract and/or tendering processes, then that information should also be recorded on the Declaration of Interest Form (Officers), detailed above.
82. **A Contract and Tendering Declaration Form (External)** is required to be completed by existing consultants, service providers and third-party advisors to declare any conflicts of interest at each procurement exercise. For further advice refer to City Procurement.

⁵ The office of the Director of HR co-ordinates Chief Officers' Declarations of Interest process.

Circumstances to complete a Register of Interest Form

83. Chief Officers must also complete a Register of Interest Form to declare the nature of involvement and the approximate time spent on: outside paid work, voluntary work and interests affecting their working life. Where they have no declaration to make, they must submit a nil return.
84. Chief Officers must complete the Register of Interest Form (Chief Officers) annually, the administration for this process is co-ordinated by the office of the Director of HR, and the form is reviewed by the Town Clerk. The Director of HR then reports on the Chief Officers Register of Interests to the Establishment Committee. This information becomes part of the public record, as named individual records are available in open committee papers.
85. However, if there are any new declarations to be made in the intervening time these must be declared at the earliest opportunity and the same principles apply. Any new work (paid/unpaid) will need to be approved by the Chief Officer's employing committee and the Establishment Committee.

Raising Concerns and Whistleblowing

86. The City Corporation is committed to the highest possible standards of probity. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about the conduct of any aspect of the City Corporation's work to come forward and voice those concerns to us. It is recognised that most cases will have to proceed on a confidential basis.
87. Where employees or other workers have concerns around misconduct or the lawfulness of any action or proposed action, they should raise their concerns to the appropriate manager or Chief Officer without delay.
88. The Whistleblowing Policy is also available to employees and other workers who feel they need to raise an issue outside of the management chain. Any suspicion of wrongdoing will be treated seriously and will be reviewed and analysed in accordance with the Whistleblowing or Complaints Policy, considering the Public Interest Disclosure Act, the Human Rights Act and if appropriate the City Corporation's Anti-Fraud and Corruption Strategy.
89. City Corporation employees, agency workers, and contractors should be aware that they have statutory protection against victimisation and dismissal under the Public Interest Disclosure Act 1999 (PIDA)⁶, if they speak out genuinely against corruption and malpractice at work (see, Regulation of Investigatory Powers Policy and

⁶ PIDA was further strengthened by the Enterprise and Regulatory Reform Act 2013.

Procedure). Further information on how to make a disclosure is contained in the Whistleblowing Policy.

List of Appendices

Conflicts of Interest, forms and guidance:

- Appendix 1 - Declaration of Interest Form (Officers)
- Appendix 2 - Contract and Tendering Declaration Form (Officers)
- Appendix 3 - Register of Interest Form (Chief Officers)
- Appendix 4 - Declaration and Register of Interests FAQ's
- Appendix 5 - Examples of Conflicts of Interest
- Appendix 6 - Managers Guide, Declaration and Register of Interests

Links / Other resources

- Anti-Fraud and Corruption Strategy
- Code of Conduct
- Data Protection Policy (includes the Employee Privacy Notice)
- Disciplinary Procedure
- Employee Privacy Notice
- Equal Opportunity Policy
- Financial Regulations
- Gifts and Hospitality Declaration Form
- Politically Restricted Posts Policy
- Procurement Code
- Protocol on Member/Officer Relations
- Recruitment and Selection Policy
- Regulation of Investigatory Powers Policy and Procedure
- Special Leave and Time Off Policy
- Whistleblowing Policy

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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