

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

### **Summary**

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

### **Recommendation**

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

### **Main Report**

#### **Background**

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

#### **Disclosable pecuniary interests under the Localism Act 2011**

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

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

### **Granting dispensations under the Localism Act 2011**

- 6. A relevant authority may, on a written request made to the proper officer of the authority by a Member of the authority, grant a dispensation relieving the Member from either or both of the restrictions on speaking or voting in cases described in the dispensation. A dispensation must specify the period for which it has effect, which may not exceed four years. The granting of such dispensations is a function of this Committee and its Dispensations Sub-Committee. A relevant authority may only grant a dispensation if, after having had regard to all relevant circumstances, the authority:
  - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;\*
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area;

- (d) if it is an authority operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive;\* or
- (e) considers that it is otherwise appropriate to grant a dispensation.

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

### **Additional factors**

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

## **The applications and specific considerations**

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

### Deputy Robert Merrett

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

## **Recent decision of the Dispensations Sub (Standards) Committee**

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

### Deborah Oliver

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

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

**Recent decision of the Standards Committee (under delegated authority)**

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

**Conclusion**

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

**Contacts:**

Martin Newton  
Committee and Member Services Officer  
020 7332 3154  
[martin.newton@cityoflondon.gov.uk](mailto:martin.newton@cityoflondon.gov.uk)