

Committee: Standards Committee	Date: 18 May 2018
Subject: General policy on granting dispensations under the Localism Act 2011	Public
Report of: Comptroller & City Solicitor	For Decision
Report author: Edward Wood, Chief Solicitor	

Summary

The Assessment Sub (Standards) Committee has requested that your Committee consider the current policy on the granting of dispensations under the Localism Act 2011 and the scope for reviewing and clarifying the current arrangements.

Recommendation:

Members are asked to review the current policy on the granting of dispensations.

Main Report

Background

1. The Assessment Sub (Standards) Committee that met on 22 March 2018 considered a breach of the Code of Conduct where a dispensation was in place. As a matter arising, Members requested that a report be taken back to your Committee to consider the current policy on the granting of dispensations under the Localism Act 2011 and to consider the scope for reviewing and clarifying the current arrangements.
2. The view expressed was that, as some decisions on dispensations are taken by the Dispensations Sub (Standards) Committee rather than your Committee as a whole, there was a risk that decisions could be taken in a piecemeal fashion. It was felt that a general discussion of the issues would ensure a consistent approach. In particular, there was some disagreement amongst Members of the Assessment Sub (Standards) Committee about the scope and duration of dispensations that should generally be granted.

Matters to be included in covering report

3. Your Committee will recall that at your meeting on 19 May 2017 you requested that all applications for a dispensation be accompanied by a covering report. An example of the covering report that has subsequently been provided is included in item 15 on this agenda and is not therefore reproduced here.
4. Members will note that the covering report explains the prohibition on speaking or voting on a matter in which a Member has a disclosable pecuniary interest. It also sets out the disclosable pecuniary interest that is considered to be engaged in any particular case and the grounds for granting a dispensation under the Localism Act 2011. As these matters are derived from statute it is not proposed to make any changes to this aspect of the covering report.
5. However, Members will note that there is a further non-exhaustive list of additional factors that Members may wish to take into account when considering whether to grant a dispensation. These factors are not statutory in nature and are amenable to change, should your Committee so wish. Members are therefore asked to consider whether they are content with the existing list of additional factors and whether there are any further factors that ought to be listed.
6. Your Committee will also note that the covering report seeks to provide Members with any information additional to that contained in the application form that may be relevant to or helpful in making a decision: such as the Member's ward, relevant committee memberships and any recent history of dispensation applications; clarification of any matters included in the application form; and any specific issues arising from the particular committee or item of business in question. Your Committee is asked to consider whether there is any further information that could usefully and relatively easily be provided as a matter of course. One suggestion that has previously been mooted is a list of all current/recent dispensations.

Scope and duration of dispensations

7. Some requests for dispensations that are received are general in nature and for a lengthy time period e.g. a request to speak on planning matters until the ward elections in 2021. Others are much more specific in relation to a particular matter at a particular meeting e.g. a request to speak on planning application XXX at the Planning and Transportation Committee on XXX.

8. When the Assessment Sub (Standards) Committee discussed this, one Member felt that the latter position was preferable for maintaining oversight of the use of dispensations, and considering the specific context in any particular case, and stated that this was the stance adopted at the most recent meeting of the Dispensations Sub (Standards) Committee.
9. However another Member strongly objected to this approach on the basis that it is difficult for Members to pre-empt every specific dispensation that might be required. Granting dispensations that are wider and last for longer would also require less administrative work in terms of determining applications. That Member also made the point that the current application form has a box for requesting a dispensation “Until the ward elections in 2021” and that if your Committee does not wish to encourage such applications then that form ought to be amended.
10. Anecdotally it does appear that in previous years your Committee was more receptive to granting a dispensation for the duration of the electoral cycle, whereas more recent decisions have indicated a preference for granting a dispensation on a case by case basis. Clearly each individual request for a dispensation must still be determined on its individual merits. However, if there is a consensus amongst your Committee about the relative merits of the two approaches then some suitable wording could be included in the standard covering report, and the application form amended if necessary. Your Committee might also wish to circulate some suitable guidance to the Court of Common Council on this point.

Conclusion

11. Whilst the grounds for granting a dispensation are statutory in nature, your Committee has some discretion in terms of the factors to be taken into account, the information to be provided and the scope and duration of any dispensations granted. Your Committee is therefore asked to consider whether any changes are required to the standard covering report, or the application form, and whether any additional guidance should be circulated to the Court of Common Council.

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