

Committee: Dispensations Sub (Standards) Committee	Date: 10 September 2018
Subject: Requests for a Dispensation under the Localism Act 2011	Public <u>Revised version</u>
Report of: Report of Town Clerk	For Decision
Report author: Martin Newton	

Summary

Ten Members have requested a dispensation to speak / and or vote on specified matters where they would otherwise have a disclosable pecuniary interest by virtue of their beneficial interest in land within the City.

Recommendation

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

Main Report

Background

1. Ten Members have submitted requests for a dispensation. The Standards 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. The disclosable pecuniary interests that are potentially engaged in this case are:
 - (a) Any beneficial interest in land which is within the area of the relevant authority.
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 application and specific considerations

9. Ten requests for dispensations have been received and the relevant application forms are appended. This report does not seek to duplicate the information that is contained in the application forms, however, where there is additional relevant information this is set out below.

Randall Anderson

10. Randall Anderson is a Common Councilman for the Ward of Aldersgate and a Member of a number of committees including Barbican Residential Committee, Community and Children's Services Committee (Chairman), Policy and Resources Committee (ex-officio) and Housing Management and Almshouses Sub (Community and Children's Services) Committee (Deputy Chairman). The request is to speak / and or vote on the housing governance review until the next ward elections in 2021 and no specific meetings are identified.
11. Randall Anderson previously applied for a dispensation to speak and vote at meetings where matters relating to charging policy for car parking and stores are under consideration until the ward elections in 2021. The application was partially granted by the Standards Committee in May 2017 (speaking rights only until the ward elections in 2021). A further application to speak and vote at the Policy and Resources Committee in July 2018 on the housing governance review was again partially granted (speaking rights only) under Standing Order 41(a) urgency procedures.
12. The Barbican Residential Committee is made up of 20 members, including 2 other representatives from Aldersgate (details of a dispensation request from one of these members is set out in paragraph 16) and 6 representatives from Cripplegate (Within and Without) (details of dispensation requests from five of these members are set out in paragraphs 20, 22, 26, 28 and 30). The quorum for that Committee is any four non-residents of the Barbican Estate. The Community and Children's Services Committee comprises up to 35 members (and also co-optees), including representatives from each Ward and 1 other representative from Aldersgate (details of a dispensation request from this member is set out in paragraph 16). The quorum for that Committee is any 9 members. The Policy and Resources Committee is made up of 24 members (and also ex-officio members), including 2 other representatives from Aldersgate (details of a dispensation request from one of these members is set out in paragraph 16). The quorum for that Committee is any 9 members. The Housing Management and Almshouses Sub (Community and Children's Services) is made up of 10 members, including 1 other representative from Aldersgate. The quorum for that Committee is 3.

Alderman Ian Luder

13. Alderman Luder is an Alderman for the ward of Castle Baynard and a Member of the Audit and Risk Management Committee (Chairman). The request is to (i) speak on the housing governance review and to (ii) speak and vote on relevant aspects of housing fire safety and residents' safety post Grenfell, both until the next ward elections in 2021, and no specific meetings are identified.
14. Alderman Luder previously applied for a dispensation to speak and vote at Police Committee and at Court on security of entrances to the Barbican complex and various walkways until next ward elections in 2021. The application was partially granted by the Town Clerk under delegated authority in June 2018 (speaking rights only until next ward elections in 2021). A second request to enable Alderman Luder, as a City resident, to speak and vote on matters concerning the Corporation's budget and setting of council tax was granted by the Town Clerk under delegated authority at the same time.
15. The Audit and Risk Management Committee is made up of 16 members, including 1 other representative from Castle Baynard. The quorum for that Committee is 5 (at least 3 Common Councilmen).

Deputy Joyce Nash

16. Deputy Nash is a Common Councilman for the Ward of Aldersgate and a Member of a number of committees including Barbican Residential Committee, Community and Children's Services Committee and Policy and Resources Committee. The request is to speak on the housing governance review until the next ward elections in 2021 and no specific meetings are identified. Details of membership and quorum for those committees are set out in paragraph 12. A dispensation request from one other Aldersgate member on these Committees (ex-officio on Policy and Resources Committee) is set out in paragraph 10 and dispensation requests from five Cripplegate members on the Barbican Residential Committee are set out in paragraphs 20, 22, 26, 28 and 30.
17. Deputy Nash was previously granted a partial dispensation by the Standards Committee on 19 May 2017 to speak only on charging policy for car parking and baggage stores at the Barbican Residential Committee until the ward elections in 2021. A further request to vote on car park charges and store room charges at Barbican Residential Committee until ward elections in 2021 was refused by the Dispensations Sub (Standards) Committee in June 2018.

Alderman Alison Gowman

18. Alderman Gowman is an Alderman for the Ward of Dowgate and a Member of the Property Investment Board. The request is to speak and /

or vote on the housing governance review until the next ward elections in 2021 and no specific meetings are identified.

19. The Property Investment Board is made up of 14 members with a quorum of any 3.

Deputy David Bradshaw

20. Deputy Bradshaw is a Common Councilman for the Ward of Cripplegate Within and a Member of Barbican Residential Committee. The request is to speak and vote on the housing governance review at the Barbican Residential Committee meeting on 17 September 2018. Details of membership and quorum for that Committee are set out in paragraph 12. Dispensation requests from two Aldersgate members on that Committee and four other Cripplegate members are set out in paragraphs 10, 16, 22, 26, 28 and 30.

21. Deputy Bradshaw has previously received dispensations to speak only on car parking charging at the meetings of the Barbican Residential Committee on 5 June 2017 (approved by the Town Clerk under urgency provisions); on (i) concrete repairs to the Barbican Estate, (ii) lease enforcement dealing with breaches and (iii) the annual rent review at Barbican Residential Committee on 19 March 2018 (Dispensations Sub (Standards) Committee in March 2018); and on baggage stores in the Barbican at the Barbican Residential Committee on 4 June 2018 (Standards Committee in May 2018). In June 2018, the Dispensations Sub (Standards) Committee refused a request for a dispensation to speak on car parking and baggage stores costs at Barbican Residential Committee on 21 June 2018

Mary Durcan

22. Deputy Bradshaw is a Common Councilman for the Ward of Cripplegate Within and a Member of Barbican Residential Committee. The request is to speak on (i) the housing governance review, (ii) Barbican Service Charge account and (iii) any other issues of importance on the agenda affecting constituency residents/electors where the disclosable pecuniary interest would otherwise prevent participation at the Barbican Residential Committee meeting on 17 September 2018. Details of membership and quorum for that Committee are set out in paragraph 12. Dispensation requests from two Aldersgate members and four other Cripplegate members on that Committee are set out in paragraphs 10, 16, 20, 26, 28 and 30.

23. Mary Durcan has previously requested the following dispensations: speaking rights only granted by the Standards Committee in May 2017 for the Barbican Residential Committee on 5th June 2017 relating to the charging policy for Barbican car parking and storage spaces charging; speaking rights only granted under delegated authority (Standing Order

41(b)) in May 2018 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; and request refused by the Dispensations Sub (Standards) Committee to speak and vote on car park charges and store room charges at Barbican Residential Committee on 21 June 2018.

Deputy Catherine McGuinness

24. Deputy Catherine McGuinness is a Common Councilman for the Ward of Castle Baynard and a Member of a number of committees including Policy and Resources (Chairman) and Community and Children's Services. The request is to speak on the housing governance review at committees on which she serves, including Policy and Resources Committee (although she would not chair), and no specific meeting dates are identified. Details of membership and quorum for those committees are set out in paragraph 12. Details of other dispensation requests relating to those committees are set out in paragraphs 10, 16 and 26.
25. Deputy McGuinness has previously been granted a dispensation under urgency provisions (Standing Order No. 41(a)) to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review.

Deputy John Tomlinson

26. Deputy Tomlinson is a Common Councilman for the Ward of Cripplegate Without and a Member of a number of committees including Barbican Residential Committee and Policy and Resources Committee. The request is to speak on the future and composition of the Barbican Residential Committee as part of the housing governance review at relevant committees until the next ward elections in 2021. Details of composition and quorum for the above Committees are set out in paragraph 12 and details of other dispensation requests from members of those committees are also set out in paragraphs above.
27. The outcome of Deputy Tomlinson's previous dispensation requests are (i) request rejected by the Standards Committee in May 2017 as 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; (ii) request partially granted (speaking rights only) by Dispensations Sub (Standards) Committee in March 2018 to speak only at Barbican Residential Committee on 19 March 2018 on concrete repairs, lease enforcement and any discussion which may arise on a possible review of the current composition and terms of reference of the Barbican Residential Committee; (iii) request partially granted (speaking rights only) by the Standards Committee in May 2018 to speak only at Barbican Residential Committee on 4 June 2018 on car park charges and

stores. The request to speak and vote on concrete repairs was refused as this was not on the agenda, and 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; (iv) request rejected by the Dispensations Sub (Standards) Committee in June 2018 for a dispensation to speak and vote on car park charges and store room charges at Barbican Residential Committee on 21 June 2018; (v) request partially granted under urgency provisions to speak on agenda item 4 of the Policy and Resources Committee agenda for 5 July 2018, entitled Housing Governance Review.

Mark Bostock

28. Mark Bostock is a Common Councilman for the Ward of Cripplegate Without and a Member of Barbican Residential Committee. The request is to speak and vote on the future and composition of the Barbican Residential Committee and the housing governance review at the Barbican Residential Committee and other relevant meetings until the next ward elections in 2021, or otherwise the Barbican Residential Committee on 17 September. Details of membership and quorum for that Committee and other committees are set out in paragraph 12. Dispensation requests from other members on that Committee and other committees are also set out above.

29. The outcome of Mark Bostock's previous dispensation requests are (i) partially granted (speaking rights only) by the Dispensations Sub (Standards) Committee in March 2018 to speak only at Barbican Residential Committee on 19 March 2018 on Barbican car park charges; (ii) partially granted (speaking rights only) under urgency procedures (Standing Order 41(a)) to speak on planning application 17/00909/FULL (Barbican Estate) at the Planning and Transportation Committee on 9 April 2018; (iii) partially granted (speaking rights only) under delegated authority (Standing Order No. 41(b)) in May 2018 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; (iv) partially granted (speaking rights only) by the Dispensations Sub (Standards) Committee in June 2018 to speak only at Barbican Residential Committee on 21 June 2018 on charging policy for car parking and stores, Barbican Estate.

William Pimlott

30. William Pimlott is a Common Councilman for the Ward of Cripplegate Within and a Member of a number of committees including Barbican Residential Committee and Community and Children's Services Committee. The request is to speak and vote on all Barbican matters that are considered until the next ward elections in 2021. No specific meeting dates are identified. Details of membership and quorum for those

committees are set out in paragraph 12. Dispensation requests from other members on those committees are also set out above.

31. The outcome of William Pimlott's previous dispensation requests are (i) partially granted (speaking rights only) by the Standards Committee in May 2017 until ward elections in 2021 to speak at meetings where parking for Barbican residents is under consideration; (ii) partially granted under delegated authority 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; (iii) in view of Dispensations Sub (Standards) Committee, William Pimlott could not have a disclosable pecuniary interest in car park and store pricing in the Barbican and therefore it would not be appropriate to grant him a dispensation. However, the Committee's guidance was 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.

Conclusion

32. Your Committee is asked to determine this application in accordance with the criteria set out under the Localism Act 2011.

Contacts:

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