

	<p><b>COUNCIL</b></p> <p><b>15 July 2014</b></p>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Dispensations – Disclosable Pecuniary Interests</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Assurance Director (Monitoring Officer)</p>
<p style="text-align: right;"><b>Wards</b></p>	<p>All</p>
<p style="text-align: right;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: right;"><b>Enclosures</b></p>	<p>None</p>
<p style="text-align: right;"><b>Officer Contact Details</b></p>	<p>Maryellen Salter, Assurance Director  <a href="mailto:Maryellen.salter@barnet.gov.uk">Maryellen.salter@barnet.gov.uk</a></p>

<p><b>Summary</b></p>
<p>This report recommends a general dispensation to be granted to all Members on matters that may affect so many Councillors that the Council or relevant Committee would be impeded if the dispensation were not granted.</p> <p>It also deals with the possibility of allowing members a dispensation to stay, speak and vote at a meeting where the member has a DPI.</p>

<p><b>Recommendations</b></p>
<p><b>Council is requested to:</b></p> <ol style="list-style-type: none"> <li><b>1. Consider and if appropriate grant the requests for dispensations to remain, speak and vote on specified matters as set out in the report in paragraphs 2.4 and 3.1, with the dispensations being effective until the next Council elections for paragraph 2.4 and for this meeting only for paragraph 3.1.</b></li> <li><b>2. Delegate authority to the Monitoring Officer to grant dispensations in future, with any dispensation granted being reported to the relevant Committee where the dispensation is relevant.</b></li> </ol>

**3. Delegate authority to the Monitoring Officer to make changes to the Code of Conduct after paragraph 12.5 to reflect these decisions.**

**1. WHY THIS REPORT IS NEEDED**

- 1.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules on dispensations as part of the new conduct arrangements.
- 1.2 It is a criminal offence for Members to fail to register a Disclosable Pecuniary Interest or to speak and/or vote where they have a Disclosable Pecuniary Interest unless they have obtained a dispensation.

**2. REASONS FOR RECOMMENDATIONS**

- 2.1 Section 31(4) of the Localism Act provides that a member who has a disclosable pecuniary interest in any matter to be considered at a meeting may not participate in any discussion, or vote on the matter. However, by virtue of section 33, an authority may, on a written request by a member, grant a dispensation relieving the member from either or both of the restrictions in Section 31(4).
- 2.2 Section 33(2) provides that a dispensation may be granted where 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 areas, or
  - (d) considers that it is otherwise appropriate to grant a dispensation.
- 2.3 Council has not specifically delegated to a Committee or an Officer the power to grant dispensations to Councillors or co-opted members in accordance with section 33 of the Localism Act 2011. It has however been assumed it is for Council to decide on dispensations in the absence of a specific delegation. A dispensation allows Councillors or co-opted members to be present, take part in debate and vote on any item in which they have a Disclosable Pecuniary Interest.

- 2.4 In order to protect Members it is recommended that a General Dispensation is granted to all Members to be present, speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:
- 2.4.1 Housing: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease;
  - 2.4.2 Housing Benefit: where the Councillor (or spouse or partner) directly receives housing benefit in relation to their own circumstances;
  - 2.4.3 An allowance, travelling expense, payment or indemnity for Councillors;
  - 2.4.4 Council Tax: Setting the Council Tax or a Precept; and
  - 2.4.5 Decisions in relation to Council Tax Benefit.
- 2.5 Members' allowances are included in this general dispensation for the avoidance of doubt and for completeness even though they are not a Disclosable Pecuniary Interest.
- 2.6 It is recommended that the general dispensation applies until the next election.
- 2.7 To note that dispensations for Council Tax relate to Members' disclosable pecuniary interests, and do not affect a Member's obligation under Section 106 of the Local Government Finance Act 1992 to declare and not vote if they are two months or more in arrears with their Council Tax when voting on setting the Council's budget.

### 3. Specific dispensation to stay, speak and vote on any matter

- 3.1 On the 15<sup>th</sup> July there is a motion to Full Council that will engage a disclosable pecuniary interest for a number of Councillors. To that end the following Members have requested dispensation:

Councillor	Matter to be considered by the Council	Dispensation requested in writing for (a) to be present & participate in the debate and or (b) to vote
Councillor Peter Zinkin	Agenda Item 14.1	A and b

Councillor Melvin Cohen	Agenda Item 14.1	A and b
Councillor Dean Cohen	Agenda Item 14.1	A and b
Councillor Brian Salinger	Agenda Item 14.1	A and b
Councillor Helena Hart	Agenda Item 14.1	A and b
Councillor Tom Davey	Agenda Item 14.1	A and b
Councillor Hugh Rayner	Agenda Item 14.1	A and b

- 3.2 It is recommended that this dispensation for these Members to remain in the room, participate in the debate and vote applies for this Council meeting only. This is due to aspects of paragraph 2.2 of this report being met.

#### **4. Delegation of dispensations**

- 4.1 Currently the delegation to offer dispensations has not been given to a Committee or an officer, it has however been assumed it is for Council to decide in the absence of a specific delegation.
- 4.2 It is now recommended that the granting of dispensations outlined in this report requested after this meeting be delegated to the Monitoring Officer.

#### **5. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 5.1 None.

#### **6. POST DECISION IMPLEMENTATION**

- 6.1 Following agreement of the dispensations Members will be able to remain in the room, participate and vote on items listed. General dispensations will be added to the Code of Conduct. The delegation to the Monitoring Officer will be amended to include dispensations under the Officer Scheme of Delegation if approved.

#### **7. IMPLICATIONS OF DECISION**

##### **7.1 Corporate Priorities and Performance**

- 7.1.1 The ability of Members to participate in the council decision making process affects all Corporate Plan priorities.

##### **7.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 7.2.1 There are no financial implications resulting from this decision.

##### **7.3 Legal and Constitutional References**

- 7.3.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations.

7.3.2 Section 33(4) of the Localism Act disapples the rules about disclosable pecuniary interests when deciding whether to grant a dispensation.

7.3.3 The Members Code of Conduct states under paragraph 12.5 “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. You should leave the room.”

#### **7.4 Risk Management**

7.4.1 There are no risk management considerations as a result of this decision.

#### **7.5 Equalities and Diversity**

7.5.1 These proposals do not adversely compromise the Council’s public sector equalities duty under the 2010 Equality Act.

#### **7.6 Consultation and Engagement**

7.6.1 There is none.

### **8. BACKGROUND PAPERS**

8.1 Openness and Transparency on Personal Interests: A guide for Councillors:  
<http://www.communities.gov.uk/documents/localgovernment/pdf/2193362.pdf>