

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All
<b>REPORT TITLE</b> General Dispensation for Members	
<b>REPORT OF</b> Borough Solicitor	
<b>FOR SUBMISSION TO</b> Standards Committee	<b>DATE</b> 21 October 2024
<p><b>SUMMARY OF REPORT</b></p> <p>This report invites the Committee to readopt the existing range of standard dispensations available to Members in discharging Council functions, with the addition of making local arrangements for council tax support, in accordance with the Localism Act 2011 and the Councillor Code of Conduct.</p> <p><b>Local Government Act 1972 – Access to Information</b></p> <p>No documents that require listing have been used in the preparation of this report.</p> <p><b>Contact Officer:</b> Cheryl Hardman Principal Committee Officer Camden Town Hall Judd Street London WC1H 9JE 020 7974 1619 <a href="mailto:cheryl.hardman@camden.gov.uk">cheryl.hardman@camden.gov.uk</a></p>	
<p><b>RECOMMENDATIONS</b></p> <p>The Committee is asked to:</p> <p>(i) Delegate authority to the Borough Solicitor to, upon application by Members, grant a dispensation for four years from the date of this Committee, for Members to participate and vote in the following matters, irrespective of them otherwise having a Statutory Disclosable Pecuniary Interest:</p> <p>a) housing, where the Member is a tenant of Camden or a housing association tenant, provided that any function/decision does not relate particularly to the Member's tenancy or lease;</p>	

- b) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless the matter relates particularly to the school which the child attends;
  - c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of, such pay;
  - d) an allowance, payment or indemnity given to Members;
  - e) any ceremonial honours given to Members; and
  - f) setting council tax or precept under the Local Government Finance Act 1992 or local arrangements for council tax support.
- (ii) Note that such dispensation does not relieve the Member of the obligation to declare the interest or have such interest registered in accordance with the Councillor Code of Conduct.

Signed: 

Borough Solicitor

Date: 9 October 2024

## **1. Purpose of Report**

- 1.1. Members are required to declare under the Localism Act 2011 ('the Act') and Councillor Code of Conduct ('the Code') their Statutory Disclosable Pecuniary Interests in relation to matters discussed at formal Council meetings. Ordinarily when this situation arises a Member will:
- i) declare the interest at the meeting;
  - ii) ensure the interest is registered on the Members' Register of Interests;
  - iii) withdraw from the meeting and not take part in any discussion or in a vote on the matter; and
  - iv) not take any steps or any further steps in relation to the matter (except where a Cabinet Member acting in a single Member capacity is required to pass the matter to another Member).
- 1.2 The Act also gives the Council the power to grant dispensations from the prohibition on Members participating in or voting on those matters where they have a disclosable pecuniary interest. Since 2012 the Standards Committee has agreed dispensations in certain categories for three four-year periods. The last dispensation was agreed in November 2020 to end in November 2024.
- 1.3 This report seeks the agreement of the Standards Committee to grant in principle (because of the statutory mechanism) a dispensation to all Members for a list of categories of otherwise Statutory Disclosable Pecuniary Interests for a further four-year period.
- 1.4 Such dispensations do not relieve the Member of the obligation to declare and register such interests, although on those occasions where something impacts on a majority of Members, the Borough Solicitor will usually make that declaration on behalf of all those affected Members.

## **2. The 2012 Dispensation**

- 2.1 The 2007 Model Code of Conduct included a general dispensation for Members from having a prejudicial interests for specific business of the Council when discharging its functions relating to:
- i) housing (except where a member's individual tenancy is affected);
  - ii) school meals or school transport and travelling expenses (for parents of children at local schools and parent governors of local schools);
  - iii) statutory sick pay (where a councillor is in receipt);
  - iv) councillors' allowances and ceremonial honours given to councillors; and
  - v) setting council tax.
- 2.2 When the local government standards regime was changed in 2012, the Act prescribed no set categories of dispensation for Members. Noting that there was some debate as to whether all of the categories prescribed in the 2007 Model Code were strictly speaking pecuniary interests, and that taking part in an item whilst having a pecuniary interest is a criminal offence, the Committee in October 2012 agreed to permit dispensations for the same categories as in

the 2007 Model Code. So for example, while the relevance of having a dispensation for statutory sick pay seems unclear, considering it was in the Model Code, and there is a sickness payment element to the Members' allowances scheme it seems appropriate to continue to include it.

2.3 Officers considered that the rationale for the blanket dispensation under the 2007 Model Code remained relevant in granting the existing dispensation, particularly noting that:

- i) although these are decisions that may impact on Members' private interests and therefore may theoretically affect Members' views, there is no strong reason to deviate from the same conclusion for the 2007 Code, namely that for these issues it is overall in the public interest that Members participate in such decisions;
- ii) these are important decisions affecting the borough and it is important that as many Members are able to participate and represent their constituents as possible, especially as most of the decisions are reserved for full Council.

2.4. The Act specifies a number of grounds on which a dispensation may be granted. In reapplying the 2007 Model Code dispensations it was felt that two of those grounds applied, namely that the authority:

- i) "Considers that granting the dispensation is in the interests of persons living in the authority's area;"
- ii) "Considers that it is otherwise appropriate to grant a dispensation."

2.5. It was however considered advisable to caveat some of the provisions to ensure Members cannot participate in decisions where their individual interest is the subject matter of the decision, for example their tenancy or lease.

2.6. The Committee also noted that Members may voluntarily choose not to participate in a decision even where they have a relevant dispensation.

2.7. Taking into account of the above, it was considered that granting the dispensation for the categories under the 2007 Model Code, with minor revisions, represented a reasonable balance between democratic decision-making and probity. The Committee therefore agreed to grant the dispensation for four years – the maximum permitted time allowed under the Act – as follows:

- (a) housing, where the Member is a tenant of Camden, provided that any function/decision does not relate particularly to the Member's tenancy or lease;
- (b) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless the matter relates particularly to the school which the child attends;

- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to Members;
- (e) any ceremonial honours given to Members;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

### **3. Housing associations tenancies**

- 3.1. In July 2015 the Standards Committee agreed to extend the category of dispensation in respect of housing to also include tenants of housing associations. This was done to take into account the large amount of housing association stock in the Borough, and therefore likelihood of some Members being housing association tenants, and the increasing work the Council does with housing associations.
- 3.2. While noting that matters coming before Members involving housing associations are likely to be infrequent there may be, for example, housing strategies or similar which indirectly engage housing associations. In such an example it may not be clear whether a Member holds an interest – pecuniary, non-pecuniary or otherwise – and therefore it was considered prudent to extend the dispensation to cover housing association tenants.
- 3.3. It was concluded that the same rationale for the dispensation for Council tenants therefore applied to housing association tenants and as such the dispensation should be extended, with the same two grounds specified in the Act for the original dispensation again being relevant.

### **4. Council Tax setting and dispensations**

- 4.1. In 2013, the Government issued [guidance](#) on whether a Member has a pecuniary interest in respect of setting the Council Tax or a precept. This specifies that:

“Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence 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.”
- 4.2. While therefore it is not necessary to apply for the dispensation in order for Members to discuss and vote upon Council Tax, as there is ambiguity in the legislation which necessitated the Government guidance, it is considered advisable to continue to include the setting of Council Tax or any precept as one of the dispensation categories for the avoidance of doubt.
- 4.3. The Government guidance also indicates that a dispensation is not needed to vote on Localised Council Tax Schemes as a decision would affect the generality of the public in the area rather than the councillors as individuals. However, a councillor directly benefiting financially from a Localised Council

Tax Scheme through making a claim would need to declare an interest and withdraw unless they had received a dispensation. It is proposed that the dispensation to participate and vote on council tax matters be extended to include local arrangements for council tax support.

## **5. The 2024 Dispensation**

- 5.1. It is felt that the above reasons and grounds for these current categories of dispensation remain relevant, and therefore it is proposed to readopt them for a further four year period, with the addition of making local arrangements for council tax support as described in section 4.3.

## **6. Applications for dispensations**

- 6.1. The Act does not allow a blanket dispensation to be granted by a local authority, only citing individual Members seeking dispensations as follows:

“A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) (being that on having a pecuniary interest the member can neither take part or vote and as a result of our standing orders must leave the room) in cases described in the dispensation.”

- 6.2. As technically no written request from a Member is being presented, the Committee cannot directly grant the dispensation to Members; this is the same position as with previous reports. It is therefore recommended that the same mechanism be used for granting the dispensation, namely that the Committee delegates authority to the Borough Solicitor to grant the dispensation for the categories specified, upon application by individual Members.
- 6.3. Should the Committee agree to the dispensation being granted in principle, then the Borough Solicitor will write to all Members outlining that it is proposed to grant the agreed categories of dispensation upon application, with Members able to respond via email confirming that they wish to apply for such dispensation. These responses will then be logged. Although Members will be invited to apply for the dispensation via email, this will not preclude any form of written application being granted by the Borough Solicitor.
- 6.4. A dispensation may be granted for up to 4 years and it is suggested the renewed dispensation be granted for the full 4 year period, subject to any further decisions on dispensations or review of this decision by the Committee.
- 6.5. For clarity any Member seeking a dispensation to vote and participate on any matter where they have a Statutory Disclosable Pecuniary Interest not covered under the categories agreed by the Committee, would have their case referred to the Borough Solicitor for a decision.

**7. Finance Comments of the Executive Director Corporate Services**

7.1. There are no financial impacts resulting from this report.

**8. Legal Comments of the Borough Solicitor**

8.1. This is a report of the Borough Solicitor and there are no other legal comments.

**9. Environmental Implications**

9.1. There are no environmental implications.

**REPORT ENDS**