

Birmingham City Council
Standards Committee
28 March 2024



Report of: Interim Director of Law & Governance and Monitoring Officer

Subject: General Dispensations

Does the report contain confidential or exempt information? Yes No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :

1 Executive Summary

- 1.1. To propose that a general dispensation be granted to all councillors in relation to a limited range of interests that they may have in matters coming before the council's decision- making bodies.
- 1.2. This will enable them to participate in meetings where these interests may be thought to arise but their position is shared with a significant proportion of other members of the council and/or in the community and transaction of council business might otherwise be impeded.

2 Recommendation(s)

- 2.1 To recommend that Council agrees the dispensations contained in paragraphs 3.3 and 3.4 of this report, in respect of participation in discussion and voting at meetings, with effect until the Annual Meeting following the next full local elections.

3 Background

- 3.1 Section 31(4) of the Localism Act 2011 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) if criteria set out in section 33(2) of the Act are satisfied. Dispensations may also be granted in relation to the personal interests set out in the Code of Conduct.

3.2 The relevant criteria are that:

- (a) 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) 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) Granting the dispensation is in the interests of persons living in the authority's area; or
- (d) it is otherwise appropriate to grant a dispensation.

3.3 It is common practice in many other local authorities for a set of general dispensations for all members to be agreed for each administration, based on those that were included in the nationally applicable Code of Conduct that applied prior to the Localism Act 2011. These applied in respect of matters where the interest arose in the following circumstances:

- (i.) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii.) school meals, extra-curricular activities, school organisation issues or school transport, and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii.) an allowance, payment or indemnity given to members;
- (iv.) setting council tax or a precept under the Local Government Finance Act 1992.

3.4 A review of practice elsewhere suggests that it may also be appropriate to provide dispensations in respect of the following additional circumstances :

- (v.) Setting of Council Housing rent levels and approving the Housing Revenue Account (HRA): where the Councillor (or spouse or partner) holds a tenancy or lease with the Council [by way of clarification as these may be regarded as financial rather than Housing matters];
- (vi.) Housing benefit in relation to overarching budget reports: where the Councillor (or spouse or partner) receives housing benefit;
- (vii.) Adult Social Care in relation to overarching budget reports: where the Councillor (or spouse or partner) receives adult social care support.

(viii.) For a Member in receipt of Council Tax Benefit in relation to Local Council Tax Support.

(ix.) Government grants and related support and including cost of living grants .

(x.) Non Domestic Rates and Discretionary Rate Relief except where it affects the member's individual property.

3.5 Guidance issued by the Department for Communities in Local Government (DCLG) in September 2013 (Openness and Transparency on personal interests) states that the DCLG view is that Members do not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support because this is a decision affecting the generality of the public in the area rather than Members as individuals. Nonetheless, it seems prudent to include these matters in the proposed general dispensations.

3.6 The dispensation for Council Tax relates to a Member's disclosable pecuniary interest and does 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.

3.7 It is proposed that any dispensation agreed be in place until the Annual Meeting following the next local elections in 2026.

3.8. The City Solicitor and Monitoring Officer will arrange for each member to make a written request that the dispensation be applied to them as necessary.

4. IMPLICATIONS

4.1. Legal Implications -
These are contained in the body of the report.

4.2. Financial Implications -
No specific financial implications arise from this report.

Environmental Implications and contribution to achieving a net zero carbon Birmingham by 2030

4.3. No specific environmental implications arise from this report.

Equalities Impact Assessment

4.4 No equalities implications arise from this report.

5 Conclusion and reasons for recommendations

That a general dispensation be granted to all councillors in relation to a limited range of interests that they may have in matters coming before the council's decision-making bodies, for the reasons stated above.

6. Background Papers

NONE

7. Appendices

NONE