



**Council**  
11 July 2022

**Report from the Director of Legal, HR,  
Audit & Investigations**

## General Dispensations under the Code of Conduct

<b>Wards Affected:</b>	N/A
<b>Key or Non-Key Decision:</b>	N/A – Council Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Debra Norman, Director of Legal, HR, Audit and Investigations E: Debra.norman@brent.gov.uk T: 0208 937 1578

### 1.0 Summary

1.0 This report proposes 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. 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.

### 2.0 Recommendations

2.0 To agree 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.

### 3.0 Background

3.0 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.

3.1 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 Although this has not been the case previously in Brent, 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 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) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) 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.

- (vii) 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 matter];

- (viii) Housing Benefit in relation to overarching budget reports: where the Councillor (or spouse or partner) receives housing benefit;
- (ix) Adult Social Care in relation to overarching budget reports: where the Councillor (or spouse or partner) receives adult social care support.
- (x) For a Member in receipt of Council Tax Benefit in relation to Local Council Tax Support.

3.5 Guidance issued by 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 DPI 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 2 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 agreed until the Annual Meeting following the next local elections.

3.8 Each Member will need to make a written request to the Monitoring Officer that the dispensation be applied to them.

3.9 This proposal has been the subject of discussion at the Constitution Working Group and was given the support of the group.

#### **4.0 Legal implications**

4.1 These are contained in the body of the report

#### **5.0 Financial Implications**

5.1 No specific financial implications arise from this report.

#### **6.0 Diversity Implications**

- 6.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising their functions to have 'due regard' to the need:
- a) to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
  - b) advance equality of opportunity; and
  - c) foster good relations between those who share a "protected characteristic" and those who do not.

This is the Public Sector Equality Duty (PSED). The 'protected characteristics' are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation

6.2 No diversity implications arise from this report.

## **7 Background Papers**

7.1 None

**Report sign off:**

***Debra Norman***

Director of Legal, HR, Audit and  
Investigations