

**Report of the City Solicitor**

**Report to the Chief Executive**

**Date: May 2017**

**Subject: Application for dispensation under Section 33 of the Localism Act 2011**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- In accordance with the Localism Act 2011 and the Members Code of Conduct adopted by Leeds City Council, Members are prevented from participating in the discussion in relation to any matter in which they have a disclosable pecuniary interest.
- This prevents Leeds City Councillors from taking part in any discussion and voting in relation to any office they hold within Leeds City Council for which they receive a taxable income, and any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income.
- The Members listed on the attached schedules now make application to the Chief Executive to grant a dispensation to enable Members affected in this way to participate in the decision making process in relation to such matters.

**Recommendations**

- The Chief Executive is recommended to grant a dispensation, for a period of four years, to those Leeds City Councillors who are signatories to the attached application schedules, with a disclosable pecuniary interest arising through:
  - Any office held within Leeds City Council for which they receive a taxable income; and

- Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income,
  - from both restrictions in section 31(4) to allow them to take part in any decision relating to one of these positions.

## **1 Purpose of this report**

- 1.1 This report seeks a dispensation for Leeds City Councillors allowing them to take part in any discussion and vote relating to any office they hold within Leeds City Council for which they receive a taxable income, and any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income. It is proposed that this dispensation be granted for a period of four years.

## **2 Background information**

- 2.1 All elected Members are obliged to notify the Monitoring Officer of their disclosable pecuniary interests so that they can be entered into the Register of Interests. Furthermore, Members must not take part in any decision in which they have a disclosable pecuniary interest. One of the categories of disclosable pecuniary interests is:

“Any employment, office, trade, profession or vocation carried on for profit or gain.”

- 2.2 Prior to the Localism Act 2011, Members were able to rely on a specific exemption which allowed them to take part in any matter relating to an allowance, payment or indemnity for Members. In accordance with the new Standards regime, and the Members’ Code of Conduct adopted by Leeds City Council interests arising from members’ allowances are no longer exempt.

## **3 Main issues**

- 3.1 The Monitoring Officer has previously brought to the attention of the Chief Executive a letter written by Mr Brandon Lewis MP (Parliamentary under Secretary of State for the Department of Communities and Local Government) to Mr Desmond Swayne MP on 4th January 2013, which states as follows:-

“a member being in receipt of taxable members’ allowances may be considered to give rise to a disclosable pecuniary interest under the subject of ‘Employment, office, trade or vocation’ set out in the regulations. Whether a Councillor who wishes to participate in the discussion or voting on an item of council business related to the other authority of which he is a member needs to apply for a dispensation will depend on what is to be discussed, but if a councillor is concerned because they have registered their membership of the other authority as a disclosable pecuniary interest, they may wish to apply for a dispensation, and have one granted, to put the matter beyond doubt.”

- 3.2 The letter further suggests that councils could consider granting “standing dispensations’ for the whole of the member’s term of office for certain recurring items of council business where it is foreseen that one of the grounds for granting a dispensation set out in the Act will be met.”
- 3.3 As a result of this letter Members of Leeds City Council routinely include such positions in their register of interests.

- 3.4 On 10<sup>th</sup> May 2013 the Chief Executive will recall granting each elected Member a dispensation to allow them to take part (including voting) in any decision relating to one of these positions. Similar dispensations were granted to each new Member of Council following the 2014, 2015 and 2016 elections. These dispensations are due to expire on 9<sup>th</sup> May 2017.
- 3.5 The Monitoring Officer therefore recommends that new dispensations are granted for a further period of four years enabling Members continued participation in the discussion and voting in relation to these matters.

#### Application for dispensation

- 3.6 Section 31(4) of the Localism Act 2011 sets out that where a Member is present at a meeting of the authority and has a disclosable pecuniary interest in any matter to be considered, they may not:
- Participate, or participate further, in any discussion of the matter at the meeting, or
  - Participate in any vote, or further vote, taken on the matter at the meeting.
- 3.7 If a Member fails to comply with these requirements, they would potentially commit a criminal offence.
- 3.8 However, a relevant authority may, following a written request made to the proper officer by the Members concerned, grant a dispensation relieving the Members from either or both of the restrictions set out in Section 31(4). The Schedules to this report form an application from those Leeds City Councillors who are signatories requesting a dispensation in relation to this issue.
- 3.9 In Leeds the responsibility for granting dispensations has been delegated to the Head of Paid Service. The Head of Paid Service may grant a dispensation only if certain conditions are met. The following conditions would apply in this case:
- Without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of that business; and
  - Granting the dispensation is in the interests of persons living in the authority's area.
- 3.10 The dispensation must specify the period for which it has effect, which must not be greater than four years. It is proposed that in this case a dispensation is granted for a period of four years.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 In accordance with Article 12 of the Council's Constitution, the Chair of the Standards and Conduct Committee has been consulted on this matter by the

Deputy Monitoring Officer, and agrees that it is appropriate to grant a dispensation in the circumstances.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no issues for equality and diversity or cohesion and integration.

## **4.3 Council policies and City Priorities**

4.3.1 There are no implications for Council policies or City Priorities.

## **4.4 Resources and value for money**

4.4.1 There are no implications for resources or value for money.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The legal implications on this report are set out in section 3.

## **4.6 Risk Management**

4.6.1 If a dispensation is not granted Members would not be able to vote on issues such as the Members' Allowances Scheme, or on appointments to internal or external positions. This could particularly present a problem at the Area Committee meetings due to be held in May where a new Chair will be elected.

4.6.2 There is also a risk that if Members decide not to declare a disclosable pecuniary interest in the decision and continue to take part in the discussion and vote without a dispensation, any decisions taken may be open to legal challenge and the Members themselves may be at risk of having committed a criminal offence.

## **5 Recommendations**

5.1 The Chief Executive is recommended to grant a dispensation, for a period of four years, to those Leeds City Councillors who are signatories to the attached application schedules, with a disclosable pecuniary interest arising through:

- Any office held within Leeds City Council for which they receive a taxable income; and
- Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income,

from both restrictions in section 31(4) to allow them to take part in any decision relating to one of these positions.

## **6 Background documents<sup>1</sup>**

6.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.