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**Report of: Head of Legal and Democratic Services**

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**SUBJECT: DISPENSATIONS**

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Wards affected: Borough wide.

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To seek approval to grant a dispensation to members to allow them to continue to speak and vote at Council meetings in relation to relevant lines in the budget and specific functions of the Council.

## **2.0 RECOMMENDATIONS**

- 2.1 That a dispensation be granted, until 13 September 2028, to all members who have disclosable pecuniary or pecuniary interests in relation to relevant lines in the budget to allow them to participate and vote in budget debates.
- 2.2 That a dispensation in the following terms be granted until 13 September 2028 to all members and co-opted members of the Borough Council and all members of the Parish Councils in West Lancashire (insofar as it is applicable and within the Committee's powers):

"Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a disclosable pecuniary or pecuniary interest that relates to the functions of the council in respect of:-

- (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 parent or guardian of a child in full time education, or are a parent governor of a school, and its does not relate 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 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.”
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### **3.0 BACKGROUND**

- 3.1 The Localism Act 2011 introduced a new standards regime including the declaration of disclosable pecuniary interests. The Act also included the introduction of a new criminal offence for not declaring a disclosable pecuniary interest. The Act requires that a member who has a disclosable pecuniary interest must not participate or vote at a meeting at which the relevant interests apply. The Council also has a Code of Conduct which applies similar provisions in relation to pecuniary interests (as defined in the Code). Dispensations may be granted under the Act, under specific circumstances, to allow members who have a disclosable pecuniary interest to still participate and vote at meetings.
- 3.2 Council has delegated authority to the Standards Committee to grant dispensations.

### **4.0 CURRENT POSITION – GENERAL DISPENSATIONS**

- 4.1 On 15 September 2020 Standards Committee, pursuant its powers under the Localism Act, granted a 4 year dispensation to all members who have disclosable pecuniary or pecuniary interests in relation to relevant lines in the budget, allowing them to participate and vote in the budget debate.
- 4.2 At the same meeting Standards Committee granted a dispensation to all members and co-opted members of the Borough Council (and all members of the Parish Councils in West Lancashire insofar as it is applicable and within the Committee’s powers) in the following terms for a period of 4 years:

*“Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a disclosable pecuniary or pecuniary interest that relates to the functions of the council in respect of:-*

- (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 parent or guardian of a child in full time education, or are a parent governor of a school, and its does not relate 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 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.”*

## **5.0 DISPENSATIONS – STATUTORY POSITION**

- 5.1 Section 33 of the Localism Act enables the Council to grant dispensations in any of the following circumstances:
- (a) that without the dispensation the number of persons prohibited from participating in the business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (b) that without the dispensation the representation of the different political groups on the body transacting the business would be so upset as to alter the outcome of any vote relating to the business;
  - (c) that granting the dispensation is in the interests of persons living in the authority's area;
  - (d) in the case of an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers without the dispensation each member of the authority's executive would be prohibited by section 31(4) (restrictions on participation and voting) from participating in any particular business to be transacted by the authority's executive, or
  - (e) that it is otherwise appropriate to grant a dispensation
- 5.2 A dispensation under this section must specify the period for which it has effect, and the period specified must not exceed four years.
- 5.3 Section 33(4) also states that Section 31(4) (restrictions on participation and voting) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under Section 33.
- 5.4 Whilst it is open to any member to apply for a dispensation in accordance with the criteria set out above, it is proposed to regard all members as so applying unless they specifically request otherwise.

## **6.0 PROPOSALS**

- 6.1 It is proposed that the general dispensations granted by Standards Committee on 15 September 2020 be extended for a further four years in accordance with the recommendations at paragraphs 2.1 and 2.2 for the reasons set out below.
- 6.2 With regard to budget debates members who have disclosable pecuniary or pecuniary interests in relation to relevant lines in the budget have for a number of years declared such interests, but in reliance on the dispensation, have been able to participate and vote in the budget debate (subject to declaring that if there is a detailed debate on the items declared which affect the financial position of the Body in question they will leave the meeting room for that element of the discussion but return for the rest of the debate and then vote, unless it is a vote affecting the financial position of the Body in question). This approach is consistent with former guidance from the then Department of the Transport, Local Government and the Regions which used to issue dispensations for members who had pecuniary interests in lines in the budget to enable them to participate and vote in the budget debate. Similarly, with regard to the Council functions listed at listed at 2.2 (i) – (vi), members have, subject to disclosing any relevant interest,

been able to participate in votes concerning those functions, for example in relation to housing matters where they hold a Council tenancy (providing the matter does not relate particularly to their tenancy or lease).

- 6.3 Accordingly, it is proposed that maintaining the current dispensations ensures openness and transparency whilst maximising full and balanced member involvement in the interests of local democracy in accordance with Section 33(a),(b),(c) and (e) of the Localism Act 2011.

## **7.0 SUSTAINABILITY IMPLICATIONS**

- 7.1 There are no significant sustainability impacts associated with this report and in particular no significant impact on crime and disorder.

## **8.0 HEALTH & WELLBEING IMPLICATIONS**

- 8.1 There are no health and wellbeing implications arising from this report.

## **9.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 9.1 There are no resource implications arising from this report. A record of dispensations granted is kept with the Register of Members Interests and maintained by the Monitoring Officer.

## **10.0 RISK ASSESSMENT**

- 10.1 Section 31 of the Localism Act 2011 and the Code of Conduct set out what a member must do if he or she has a disclosable pecuniary or pecuniary interest in a matter which is to be considered at a meeting. Dispensations under Section 33 of the Act permits members to speak and vote to avoid breaching the Act and Code of Conduct in appropriate circumstances.

## **11 HEALTH & WELLBEING IMPLICATIONS**

- 11.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees and stakeholders, however there is a direct impact on elected members. Therefore an Equality Impact Assessment (EIA) is attached as Appendix 1 to this report.

## **Appendices**

Appendix 1      EIA