

REPORT TO AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 8 March 2023

Report of: Director Corporate Services

Title: General Dispensations to Members

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

In accordance with the provisions of section 33 of the Localism Act 2011, the Monitoring Officer may grant a dispensation to a Member to remain, speak and/or vote at a Council meeting. These powers are granted to the Monitoring Officer and the provisions of the Act are reflected in the Council's Constitution.

This report addresses two issues:

- 1.1 The application form and guidance to Members for Dispensation requests; and
- 1.2 The General Dispensations which are to be granted by the Monitoring Officer.

2. Recommendations:

That Audit and Governance note:

- 2.1 The application form and guidance to Members for Dispensation requests at Appendix 1 to this report; and

- 2.2 The General Dispensations set out in this paragraph at (a) to (g) and in paragraph 2.3 below which have been granted by the Monitoring Officer to all Councillors to allow them to stay, speak and vote in relation to consideration and decisions for the following categories of business allowing them to participate in consideration of these matters at meetings of Exeter City Council, its Executive or any Committee, Sub-Committee, Joint Committee, joint sub-committee or Working Group or Working Party of the authority until **7 March 2027** where the matter relates to any of the following functions of the City Council:

- (a) Any allowance, travelling expenses, payment or indemnity for Members of the Council;
- (b) Any ceremonial honour to be given to members;
- (c) Any and all Housing matters including financial matters where a Member (or their Spouse or Partner) holds a tenancy or lease with the Council provided that the matter does not relate to the Member's particular tenancy or lease;

- (d) Overarching budget reports where a Member (or their Spouse/Partner) receives Housing Benefit;
 - (e) Setting the Council Tax or a Precept in accordance with the Local Government Finance Act 1992 by virtue, for example, of a Member (or their Spouse of Partner) being a land or property owner in the administrative area of the City Council;
 - (f) Where a Member is a representative of the City Council on any City Council wholly owned, controlled or joint local authority company or Joint Venture Company or Partnership on any matter relating thereof unless it relates to any personal remuneration or personal involvement therein;
 - (g) Deciding upon the grant funding of external organisations where a Member has been appointed to that external organisation by the Council;
- 2.3 A general dispensation to all Members to allow them to stay and speak, but not to vote, in relation to consideration and decisions on Council Tax Support where a Member (or their Spouse or Partner) is in receipt of Council Tax support.

Reasons for the recommendation:

The reason for this report is to inform Members of the following:

- 2.2 The general dispensations granted by the Monitoring Officer to Members in relation to certain matters and to provide clarity as to when Members are able to remain, speak and vote on matters, notwithstanding any interests which would be disclosable under the provisions of the Localism Act 2011;
- 2.3 Provide guidance to Members on requests to the Monitoring Officer for Dispensations;
- 2.4 To provide a precedent Application Form for Members to apply to the Monitoring Officer for Dispensations.

3. What are the resource implications including non financial resources?

There are no resource implications arising from this matter.

4. Section 151 Officer comments:

There are no financial implications contained within this report.

5. What are the legal aspects?

The legal aspects are set out in the report details below.

6. Monitoring Officer's comments:

This purpose of this report is to update the general dispensations granted to members and as such the content is recommended to members.

7. Report details:

The Localism Act 2011 and the Code of Conduct for Members contained in Exeter City Council's Constitution requires Members to register certain interests. Where those

interests are engaged, a Councillor may have to leave the meeting and not take part in the discussion or vote.

The obligations imposed upon Members to disclose their interests in accordance with the Localism Act 2011 will remain. However, by granting Members a general dispensation in relation to certain matters, clarity is provided as to when Members are able to remain, speak and vote on matters, notwithstanding any registerable/disclosable interests.

The consequences of a Member failing to register a Disclosable Pecuniary Interests are summarised below:

- (a) The member could be prosecuted with the consent of the Director of Public Prosecutions;
- (b) The Member may receive a fine of up to £5,000; and
- (c) The Magistrates' Court may disqualify the Member or prevent them from being re-elected for a period of up to five years.

The Monitoring Officer has taken the view that it would be prudent to issue a General Dispensation to all Members relating to matters where it may be perceived that there is a lack of clarity as to whether a Disclosable Pecuniary Interest (DPI) exists.

In relation to the setting of Council Tax, members will note that Section 106 of the Local Government Finance Act 1992 provides that any Councillor who has undischarged arrears of at least two months in respect of their Council Tax cannot vote when Council sets the Council Tax. This will remain the case and the dispensation set out above in relation to setting Council tax has no effect on the application of section 106.

8. How does the decision contribute to the Council's Corporate Plan?

The proposals will support the aim of good governance in the context of leading a well-run Council. The general dispensation will enable a more inclusive approach to decision making and will provide clarity to Members.

9. What risks are there and how can they be reduced?

This is an exercise of the powers the Monitoring Officer. The proposals provide clarity on when members may attend, discuss and vote on matters.

10. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority

from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act. The report applies to all Members equally and the proposals have no bearing on protected characteristics. Accordingly, no Equality Impact Assessment has been prepared for the purposes of this report.

11. Carbon Footprint (Environmental) Implications:

12.1 The recommendations in this report have no direct or indirect carbon/environmental impact on delivering our carbon reduction target (carbon neutral by 2030).

12. Are there any other options?

12.1 The alternative option is that the proposed general dispensations are not granted by the Monitoring Officer. Members will then be required to obtain individual dispensations from the Monitoring Officer in accordance with the Localism Act 2011.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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