

REPORT TO:	ETHICS COMMITTEE 9 February 2022
SUBJECT:	DISPENSATION APPLICATIONS FOR MEMBERS
LEAD OFFICER:	JOHN JONES INTERIM MONITORING OFFICER
CABINET MEMBER:	N/A
WARDS:	ALL
PUBLIC/EXEMPT:	PUBLIC

SUMMARY OF REPORT:

Following statutory amendments to the ethics regime, full Council adopted a new Code of Conduct in 2011 and delegated to the Monitoring Officer and the Ethics Committee the power to consider dispensations under the new ethics regime.

The Council has further agreed to adopt a new Code of Conduct at its meeting on Monday 11 October 2021. That Code is based on the new national Model Member Code of Conduct produced by the Local Government Association.

The Council currently does not have any outstanding applications for dispensations, however should any be received following the dispatch of the agenda they will be circulated on the evening for consideration.

COUNCIL PRIORITIES 2020-2024

The Committee is empowered to consider any applications for a grant of dispensation in the circumstances set out in paragraph 2.2 (8) of Part 3 of the Constitution.

[Council's priorities](#)

FINANCIAL IMPACT:

There are no additional costs arising from the recommendations in this report.

RECOMMENDATIONS:

In the event that any new applications for dispensations are received, the Committee is asked to:

- 1.1. Consider any new applications from Members and determine whether to grant the dispensation, and if so, the grounds upon which to grant the dispensation and the length of time for which such dispensation is to be granted.

- 1.2. Note Appendix 1 setting out the updated information about the categories of interests and the criteria for considering dispensations as set-out in the constitution at Part 5I.

1. DETAIL

- 1.1. Under Section 31 of the Localism Act 2011 (“the Act”), a Member or co-opted Member who has a disclosable pecuniary interest (DPI) in a matter to be considered or being considered at a meeting of the authority at which that Member or co-opted Member is present and the DPI is one which the Member or co-opted Member is aware of, the Member or co-opted Member may not participate or participate further in any discussion or vote on the matter at the meeting unless he/she has first obtained a dispensation in accordance with the Council’s dispensation procedure.
- 1.2. Under the Council’s new Code of Conduct adopted on 11th October 2021, when a matter arises at a meeting that directly relates to the financial interest or wellbeing of the Member or co-opted Member’s Other Registrable Interests (as set out in Table 2 of Appendix B to the Code), the Member or co-opted Member must disclose the interest and not vote on the matter unless they have first obtained a dispensation in accordance with the Council’s dispensation procedure. This in summary would be a dispensation request for Other Registrable Interests (ORIs).
- 1.3. Where a matter arises at a meeting which directly relates to the Member or co-opted Member’s financial interest (and is not a DPI) or a financial interest or wellbeing of a relative or close associate, the Member or co-opted Member must disclose the interest. They may only speak on the matter if members of the public are also allowed to speak at the meeting: otherwise they may not participate or vote on the matter unless they have first obtained a dispensation in accordance with the Council’s dispensation procedure. This in summary would be a dispensation request for Non-Registrable Interests (NRIs).
- 1.4. The Council’s dispensation criteria set-out at Appendix 1 outlines the 5 circumstances in respect of which a dispensation may be granted to either participate and/or vote when the Member has a DPI, ORI or NRI. These are namely:
- i) That so many members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would “impede the transaction of the business”;
 - ii) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - iii) That the authority considers that the dispensation is in the interests of persons living in the authority’s area;

- iv) That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
 - v) That the authority considers that it is otherwise appropriate to grant a dispensation.
- 1.5. The Council has determined that in respect of grounds (i) and (iv) above, which involve an objective assessment of whether the requirements are met, it is appropriate to delegate dispensations on these grounds to the Monitoring Officer for determination. The Monitoring Officer is permitted, but not required, to consult with the Ethics Committee prior to determining an application for dispensation on grounds (i) or (iv).
- 1.6. In respect of grounds (ii), (iii) and (v) above, assessment of these grounds involve a value judgement and are less objective and Council has therefore considered it appropriate that the discretion to grant dispensations on these grounds is delegated to the Ethics Committee, after consultation with the Independent Person.
- 1.7. The Council currently does not have any outstanding applications for dispensations, however should any be received following the dispatch of the agenda they will be circulated on the evening for consideration.
- 1.8. In considering the matter, the Ethics Committee is required to assess whether, in light of the contents of the application, the reasons for excluding a Member from participating and/or from voting where a DPI, ORI or NRI exists is outweighed by the considerations set out in the application which supports the Member being able to participate and/or vote at the meeting.
- 1.9. The Committee is also asked to set out the time period in respect of which it is appropriate to grant the dispensation. In this regard, Members should be mindful of the fact that any dispensation may not be granted for a period exceeding four calendar years, nor is it recommended that a dispensation be granted for a period longer than the remaining term of office of the relevant Member.

2. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 2.1 There are no direct financial implications arising from this report.

Approved by: Richard Ennis, Interim Deputy s151 Officer.

3. LEGAL CONSIDERATIONS

- 3.1. The Head of Head of Litigation & Corporate Law comments on behalf of the Interim Director of Law and Deputy Monitoring Officer that following the revised Member's Code of Conduct adopted on 11th October 2021 the attached appendix sets out the dispensation criteria for Members wishing to request a dispensation when they feel any of the three types of categories of interests, also set-out in the appendix, apply to them.
- 3.2. The requirement to disclose a pecuniary interest arises from section 30 of the Localism Act 2011 ('the 2011 Act'). Section 31 of the 2011 Act, as set-out in paragraph 1.1 of the report, states that a Member or co-opted Member may not participate or participate further in any discussion or vote in a meeting unless he/she has first obtained a dispensation in accordance with the Council's dispensation procedure.
- 3.3. The grounds for seeking a dispensation for a pecuniary interest are set-out in Section 33(2)(a) – (e) of the 2011 Act, which is currently outlined within the Council's constitution at paragraph 2.2(8) of Part 3 for all dispensation requests.
- 3.4. Therefore, having adopted the revised Member's Code of Conduct, as outlined above, the grounds as highlighted in paragraph 3.3 equally apply to Other Registerable interests (ORIs) and Non-Registrable Interests (NRIs), as they do for Disclosable Pecuniary Interests (DPIs).
- 3.5. As with DPI dispensation requests, an ORI and a NRI request can be granted to allow the requestor to participate and/or vote at a meeting.

Approved by Sandra Herbert, Head of Litigation & Corporate Law on behalf of the Interim Director of Law & Deputy Monitoring Officer.

4. HUMAN RESOURCES IMPACT

- 4.1 There are no direct human resources impacts for Croydon Council employees or staff as a consequence of this report and its recommendations.

Approved by: Gillian Bevan, Head of HR - Resources.

5. EQUALITIES IMPACT

- 5.1 The revised Members' Code of Conduct includes a commitment to promote equalities. The associated guidance facilitates fairness in decision making when Members are seeking a dispensation.

Approved by: Denise McCauseland, Equalities Manager

6. ENVIRONMENTAL IMPACT

6.1 There is no environmental impact arising from this report.

7. CRIME AND DISORDER REDUCTION IMPACT

7.1. There is no crime and disorder impact arising from this report.

8. DATA PROTECTION IMPLICATIONS

8.1. WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

No.

8.2. HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

No: the subject matter of this report does not directly have any data protection implications. The process of administering dispensation applications may have data protection implications: these will be assessed on a case by case basis when requests are made, in accordance with the protocol.

Approved by: John Jones, Interim Monitoring Officer

9. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

9.1 To support the Council to implement actions within the Croydon Renewal Plan, and to be a transparent, open and honest council.

CONTACT OFFICER:

John Jones
Interim Monitoring Officer

APPENDICES TO THIS REPORT:

Appendix 1 – Dispensation Criteria

BACKGROUND DOCUMENTS:

There are no unpublished documents upon which this report has been based