

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Standards Committee
Date: 8 December 2020
Reporting officer: Perry Holmes, Monitoring Officer
Subject: Request for Dispensation

Purpose and summary of report:

This report informs the Committee of a dispensation request that has been received by the Monitoring Officer for a dispensation in relation to Waterside Parents' Centre at all Committees including Full Council.

Recommendations:

1. To grant a dispensation to Councillor Jenny Wallace for 4 years for the reasons set out in paragraph 4 of the report to allow participation in debate and any vote taken on any item relating to Waterside Parents' Centre at all Committee meetings including Full Council and Cabinet in which she has an Other Significant Interest by virtue of being a Trustee of the Centre.

1. Budget and Policy Framework

- 1.1 Upholding high standards of conduct are a matter for the Standards Committee.
- 1.2 The Standards Committee's terms of reference allow for the granting of dispensations to Councillors and co-opted Members to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.

2. The Members' Code of Conduct and Dispensations

- 2.1 The Council's Members' Code of Conduct (Annex 3.1) includes provisions for the granting of dispensations.
- 2.2 The relevant sections read as follows:
 - 2.2.1 Disclosable Pecuniary Interest & Other Significant Interests (page 6)

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) Your interest; or
- (b) An interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Other Significant Interest” means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) May reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of:
 - i. Other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - ii. (in other cases) other council tax payers, ratepayers or inhabitants of the Authority’s area; or
- (b) Relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

2.2.2 Declaring Interests and Participation in Meetings (Page 8)

5 (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the Meeting, you must:

- (a) Disclose the interest; and
- (b) Explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 6 below); and unless you have been granted a dispensation or are acting under paragraph 5(4); and
- (c) Not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- (d) Withdraw from the Meeting room in accordance with the Authority’s Procedure Rules whenever it becomes apparent that the business is being considered; and
- (e) Not seek improperly to influence a decision about that business.

5 (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must;

- (a) Notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
- (b) Not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
- (c) Not seek improperly to influence a decision about the matter.

5(4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:

- (a) Not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- (b) Withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

2.2.3 Dispensations

8(1) The Standards Committee, or any sub-committee of the Standards Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

(2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee, its sub-committee, or the Monitoring Officer (where authorised) considers 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; or
- (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 or any vote relating to the business; or
- (c) granting the dispensation is in the interests of persons living in the Authority's area; or
- (d) Without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or

(e) It is otherwise appropriate to grant a dispensation.

(3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

3. Current Position

- 3.1 Councillor Jenny Wallace is an Elected Member and Cabinet Member of Gravesham Borough Council.
- 3.2 Councillor Jenny Wallace wrote to the Monitoring Officer on 25 September 2020 requesting a dispensation, a copy of the request is set out in Appendix 2 to this report.
- 3.3 Councillor Jenny Wallace is a Trustee of Waterside Parents' Centre which is therefore an Other Significant Interest.

4. Advice and Analysis

- 4.1 If a dispensation is not granted to Councillor Jenny Wallace in relation to Waterside Parents' Centre for all Committees, including Council and Cabinet, she would be required to declare an OSI and leave each and every Meeting when any item relating to the Centre appeared on the Agenda of that Meeting which would curtail Councillor Jenny Wallace in fulfilling her role as a GBC Councillor due to her role as Trustee of the Waterside Parents' Centre.
- 4.2 The recommendation at paragraph 1 of this report suggests that dispensation should be granted in respect of specific Other Significant Interests only in relation to one named Councillor. Should any Disclosable Pecuniary Interests or Other Significant Interests arise in future for the named Councillor they will need to seek a separate dispensation or ensure that they do not speak or vote on a relevant matter and leave the room for that agenda item.
- 4.3 For those reasons the Monitoring Officer would advise the Committee to consider granting a dispensation under paragraph 8(1) "it is otherwise appropriate to grant a dispensation."
- 4.4 The decision whether to grant dispensation on request is a matter for this Committee.

5. BACKGROUND PAPERS

- 5.1 None.

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
Legal	The legal implications are contained in the body of the report.
Finance and Value for Money	There are no specific financial implications.
Risk Assessment	The granting of a dispensation in these circumstances poses a low risk given the duty upon the Councillor to comply with the Council's Members' Code of Conduct.
Data Protection Impact Assessment	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data ? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk . N/A
Equality Impact Assessment	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	People, Place and Progress
Climate Change	No impact.
Crime and Disorder	No impact.
Digital and website implications	No impact.
Safeguarding children and vulnerable adults	No impact.