

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STANDARDS COMMITTEE

At: Committee Room 5, Guildhall, Swansea

On: Friday, 20 January 2017

Time: 9.35 am

Chair: Jill Burgess

Membership:

Councillors: J A Hale, C E Lloyd and L G Thomas

Co-opted Members: G Evans and M Williams

Community Council Representative: P Crayford

AGENDA

	Page No.
1 Apologies for Absence.	
2 Disclosures of Personal and Prejudicial Interests. www.swansea.gov.uk/disclosuresofinterests	
3 Minutes. To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 3
4 Review of Dispensations.	4 - 11
5 Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW).	12
6 Workplan 2016-2017.	

Next Meeting: Friday, 3 March 2017 at 9.35 am



Huw Evans
Head of Democratic Services
Friday, 13 January 2017

Contact: Democratic Services – (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STANDARDS COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON FRIDAY, 7
OCTOBER 2016 AT 9.35 AM

PRESENT:

Councillor(s)

C E Lloyd

Councillor(s)

L G Thomas

Councillor(s)

Co-opted Member(s)

J Burgess

Co-opted Member(s)

G Evans

Co-opted Member(s)

M Williams

Community / Town Council Representative:

P Crayford

Officer(s)

Huw Evans

Allison Lowe

Tracey Meredith

Head of Democratic Services

Democratic Services Officer

Interim Head of Legal & Democratic Services and
Monitoring Officer

Apologies for Absence

Councillor(s): J A Hale

Independent Member(s): J Gomes

10 **ELECTION OF CHAIR.**

RESOLVED that Jill Burgess be elected Chair.

(JILL BURGESS PRESIDED)

11 **ELECTION OF VICE CHAIR.**

RESOLVED that Margaret Williams be elected Vice Chair.

12 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the provisions of the Code of Conduct adopted by the City & County of Swansea, no interests were declared.

13 **MINUTES.**

RESOLVED that the minutes of the Standards Committee held on 3 June 2016 and the Special Standards Committee held on 12 July 2016 be signed and approved as a correct record.

14 **PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL REPORT AND ANNUAL LETTER 2015-2016.**

The Interim Head of Legal and Democratic Services / Monitoring Officer updated the Committee on Code of Conduct complaints contained within the Ombudsman Annual Report and Letter 2015-2106.

She outlined that in his introduction of his 10th Annual Report, the Ombudsman had re-emphasised his intent that his Office is devoted to issues of real concern and not trivial complaints about the Councillors Code of Conduct. He is therefore particularly concerned that the number of Code of Conduct complaints rose by 19%. This is solely attributable to Community and Town Councils, where complaints rose by 49%.

In addition, the new two stage test introduced has assisted the Ombudsman in dealing with these complaints in an effective manner.

She went on to detail the top 5 subjects of complaints received by the Ombudsman and that the vast majority were closed after initial consideration, ie no prime facie evidence of breach of the Code or breach was insufficiently serious to warrant an investigation.

The statistical breakdown of outcomes by Local Authority in Annex C was also highlighted.

The Ombudsman had also stated in his letter the following: *"I am only too aware that we are in the run-up to the local elections where historically there is a spike in code of conduct complaints against local authority members. I have spoken previously about vexatious complaints and I would be most disappointed to see an increase in complaints of a trivial matter over the next 12 months when my office is dealing with issues of real concern across public services in my jurisdiction."*

RESOLVED that report be noted.

15 **THE CODE OF CONDUCT CASEBOOK.**

The Interim Head of Legal and Democratic Services / Monitoring Officer presented a "for information" report in relation to the Public Services Ombudsman for Wales Code of Conduct Casebook for July 2016 and The Ombudsman's Casebook July 2016.

The Code of Conduct Casebook outlined 4 cases, which all related to Community / Town Councils, the majority of which were in relation to promotion of equality and respect.

It also outlined 3 cases where the Ombudsman had utilised the 2 stage test and decided that no action was necessary.

The Committee discussed Code of Conduct training sessions that are provided to all Councillors following Local Government Elections and also offered to Community / Town Councillors via the Community / Town Council Forum.

The Head of Democratic Services outlined a scheme currently being undertaken by Wales Academy which would be utilising the NHS e-learning platform in relation to e-learning for all Public Sector staff, Councillors and Co-Opted Members. The scheme would likely be rolled out in time for the Local Government Elections in May 2017.

16 **ATTENDANCE AT COMMUNITY / TOWN COUNCIL MEETINGS BY MEMBERS OF STANDARDS COMMITTEE - PROTOCOL.**

The Head of Democratic Services provided guidance to Members of the Standards Committee should they attend and observe Community / Town Council meetings.

The Head of Democratic Services had liaised with a number of Welsh Authorities in order to establish how they dealt with such attendance. As a result the "Attendance at Community / Town Council Meetings by Members of the Standards Committee – Protocol" had been drafted, which outlined the remit, scope and the procedure for feedback to the Standards Committee.

RESOLVED that the Attendance at Community / Town Council Meetings by Members of the Standards Committee – Protocol be adopted.

17 **WORKPLAN 2016-2017.**

The Head of Democratic Services provided an updated Work Programme for 2016-2017 as follows:

Date	Issue
20 January 2017	Review of Dispensation Regime
TBC	Annual Meetings with Political Group Leaders and Chairs of Committees
When published	PSOW Code of Conduct Casebook

RESOLVED that the Work Programme be noted.

The Interim Head of Legal & Democratic Services / Monitoring Officer suggested that the date of the next meeting be altered, due to diary commitments. This unfortunately would result in the new meeting date falling outside of the term of office dates for Jennifer Gomes, whose term of office would cease on 4 December 2016.

The Chair expressed her thanks to Jennifer Gomes, whose contribution to the Standards Committee had proved invaluable over the years. The Committee wished her all the very best for the future.

The meeting ended at 10.21 am

CHAIR

Agenda Item 4

Report of the Interim Monitoring Officer

Standards Committee – 20 January 2017

REVIEW OF DISPENSATIONS

Purpose:	To update the Standards Committee on the dispensation regime and legislative update
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Finance, Legal.
Recommendation:	It is recommended that:
1)	The report be noted;
2)	The Proposed - Councillors Request for Dispensation Form - Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 (as amended) be adopted and used from 4 May 2017.
Report Author:	Huw Evans / Tracey Meredith
Finance Officer:	Ben Smith
Legal Officer:	Tracey Meredith
Access to Services Officer:	Phil Couch

1. Introduction

- 1.1 Local Authorities are required to adopt a Code of Conduct for Members and to maintain a register of Members' interests. The Code also provides that a member who has an interest in a matter must disclose that interest before taking part in any business of the authority which relates to that interest. Depending on whether the interest is personal or prejudicial members may be prevented/restricted from taking part in the matter.
- 1.2 The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 allows a Standards Committee to consider applications for dispensations from members allowing them to participate in business where that participation would otherwise be a breach of the provisions of the Code of Conduct.
- 1.3 The Regulations prescribe the circumstances in which the Standards Committee may grant dispensations. The circumstances are set out below:
- (a) no fewer than half of the members of the authority or of a committee by which the business is to be considered has an interest which relates to that business

(b) no fewer than half of the members of a leader and cabinet executive of the authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies

(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be effected

(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business

(e) the interest is common to the member and a significant proportion of the general public

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise

(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest

(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in a vote with respect to that business; or

(i) it appears to the Committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

2. Amendments to Legislation

2.1 Regulation 4 of the Local Government (Standards Committees, Investigation, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 provides that an application by a member for a dispensation can be referred to the Standards Committee of another authority for determination. This is to overcome any potential conflict of interest and possibly expedite an urgent application.

- 2.2 Regulation 4 also makes provision for an additional category of general dispensation – (j). This will enable a Standards Committee to grant a dispensation if “it appears to the committee or otherwise appropriate to grant a dispensation”. A dispensation granted under this category is subject to annual review.
- 2.3 A Standards Committee would need to weigh carefully whether to grant a dispensation under the general category against the potential risk of external challenge to a decision taken by the authority in which that member had participated in reliance upon that dispensation.

3. Review of Councillors Request for Dispensation Form

- 3.1 Dispensations are valid until the next Local Government Election (4 May 2017) or for a period of time specified by the Standards Committee (which ever ends sooner). All dispensations granted by the Standards Committee of the City and County of Swansea cease on 4 May 2017.
- 3.2 Should a Member require a dispensation; they should complete the Councillors Request for Dispensation Form which is appended as **Appendix 1**. That form is then presented to the Standards Committee for consideration.
- 3.3 As part of this Review of Councillors Dispensation, the form has been reviewed and an amended form is appended as **Appendix 2**. The amended form seeks to simplify the request for dispensations for members by improving and updating the guidance notes to reflect the legislative changes.

3. Dispensations Granted 2012 - To Date

- 3.1 The Standards Committee granted 37 dispensations to 25 Councillors during the current members term of office (2012-2017). The vast majority of dispensations granted by the Standards Committee relate to employment. The Council is one of the largest employers in Swansea and therefore it is not uncommon for members to have family employed by the Council. Often the family member may not be directly affected by a decision and may play no role in decision making themselves.
- 3.2 The dispensations which have been granted are to stay, speak and vote on any item relating to general staff employment, on budget matters other than matters that directly affect the family member by specific reference to their post. The ground relied upon would be (d) above.
- 3.2 It is important that the Standards Committee is clear in its decision so that the Councillor and the public are clear in what the dispensation allows the Councillor to do.

3.3 When Councillors seek to use their dispensation; they should inform the relevant Committee of the actual wording used by the Standards Committee when granting the dispensation. It is therefore helpful that plain and clear language is used.

3.4 An example of a clear dispensation is as follows:

Councillor Ann Example has dispensation to Stay, Speak and Vote on any item relating to general staff Employment, on budget matters and any other matters that affect the Welsh Translation Unit in the Education Department, other than matters that directly affect his wife by specific reference to her post.

3.5 The Standards Committee are asked to consider these points when considering Councillor Dispensation Requests post May 2017.

4. Equality and Engagement Implications

4.1 There are no equality and engagement implications associated with this report.

5. Financial Implications

5.1 There are no financial implications associated with this report..

6. Legal Implications

6.1 The proposals identified in the report are in accordance with relevant legislation.

Background Papers: None.

Appendices:

Appendix 1	Current - Councillors Request for Dispensation Form - Standards Committee (Grant of Dispensations) (Wales) Regulations 2001
Appendix 2	Proposed - Councillors Request for Dispensation Form - Standards Committee (Grant of Dispensations) (Wales) Regulations 2001as amended

CURRENT - Councillors Request for Dispensation - Standards Committee (Grant of Dispensations) (Wales) Regulations 2001

The Regulations above outline the circumstances in which the Standards Committee of a relevant Authority may grant dispensations (**Appendix A**).

Note: All Grey areas MUST be completed.

1.	Personal Details	
Name:		
e-mail address:		
2.	Dispensation Sought	
		Please Select (Yes / No)
Request to Stay and Speak in the meeting		
Request to Stay, Speak & Vote in the meeting		
3.	Reason Dispensation is Sought	
4.	Identify Paragraph(s) under which Dispensation is sought (see Appendix A)	
5.	Signature & Date	
6.	Please Return form to the Interim Monitoring Officer (Interim Head of Legal & Democratic Services, Civic Centre or e-mail tracey.meredith@swansea.gov.uk	

Note: All Dispensations either cease at a Local Government Election or as indicated by the Standards Committee (whichever comes first).

EXTRACT FROM THE REGULATIONS
Circumstances in which dispensations may be granted

2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where:
 - (a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
 - (b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
 - (c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
 - (d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
 - (e) the interest is common to the member and a significant proportion of the general public;
 - (f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;
 - (g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
 - (h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or
 - (i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

PROPOSED - Councillors Request for Dispensation - Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as amended

The Regulations above outline the circumstances in which the Standards Committee of a relevant Authority may grant dispensations (**Appendix A**). **Note: All Grey areas MUST be completed.**

1.	Personal Details	
	Name:	
	e-mail address:	
2.	Identify Paragraph(s) under which Dispensation is sought (Appendix A)	
3.	Reason Dispensation is Sought	
	Please set out below the reasons why you consider that the Standards Committee should grant a dispensation in this case outlining the issue / matter and your interest in it.	
4.	Dispensation Sought. Are you applying for dispensation to:	
		Please Select (Yes / No)
	Exercise Executive Powers	
	Request to Stay and Speak in the meeting	
	Request to Stay, Speak & Vote in the meeting	
	Make Written Representations	
5.	Signature & Date	
6.	Return form to: Interim Monitoring Officer (Interim Head of Legal & Democratic Services, Civic Centre or tracey.meredith@swansea.gov.uk	

Note: All Dispensations either cease at a Local Government Election or as indicated by the Standards Committee (whichever comes first). Any dispensation granted under section (j) must be reviewed by the Standards Committee once in every 12 month period from the date on which the dispensation is first granted.

Guidance Notes

Please read through the Code of Conduct. Which paragraph(s) are most appropriate to your case. Brief details of the relevant paragraphs are noted below. If unsure, contact the Monitoring Officer.

Para.	Type of Personal Interest
10(2)(a)	Council business which relates to or is likely to affect: <ul style="list-style-type: none"> • Your employment or business; • Your employer, firm or company; • A contract made between the Council and you; • Any land, lease or licence in which you have an interest; • A public body or other association in which you have membership or hold a position of general control or management.
10(2)(b)	Council business in which there may be a conflict between your decision making role and your role in representing constituents in your ward.
10(2)(c)	Council business which affects your well-being or financial position, or the well-being, financial position or other interests of a person with whom you live or have a close personal association.
13	Council business which is being considered by an Overview and Scrutiny Committee and which relates to a decision of the Cabinet or another Committee of which you were a member at the time [County Council only].

The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where:

- 2(a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
- 2(b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- 2(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- 2(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
- 2(e) the interest is common to the member and a significant proportion of the general public;
- 2(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;
- 2(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
- 2(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- 2(i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.
- 2(j) it appears to the committee to be otherwise appropriate to grant a dispensation.

Breach of Code of Conduct

Complaints made to the Public Services Ombudsman for Wales (PSOW) – 20 January 2017

Name	Date Received	Ombudsman Reference	Description	Current Status	Update
Mumbles Community Council	09 August 2016	201602617	Alleged Breach of the Code of Conduct	Ombudsman Investigating	
Mumbles Community Council	09 August 2016	201602620	Alleged Breach of the Code of Conduct	Ombudsman Investigating	
Mumbles Community Council	09 August 2016	201602621	Alleged Breach of the Code of Conduct	Ombudsman Investigating	
City & County of Swansea	30 November 2016	201605187	Alleged Breach of the Code of Conduct	Initial letter received 30 November 2016	
City & County of Swansea	12 January 2017	12477/201605699 & 201605704 & 201605698 & 201605703 & 201605697 & 201605702 & 201605694 & 201605701	Alleged Breach of the Code of Conduct	Ombudsman not investigating	