

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.
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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.