

Title: **Granting Dispensations**

Reporting Officer: **Nicola Mathiason – Head of Legal and Democratic Services**

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### **Purpose**

To provide further information relation to the consideration of applications for dispensations and the issues to be taken into account.

### **Background**

The Committee received a report concerning the methodology for granting dispensations at its meeting on 26 April.

### **Information**

It is clear that a dispensation can only be granted if more than 50% of the Councillors entitled or required to participate in the relevant business would not otherwise be able to do so; or the Council would not be able to comply with the political balance principles.

A written application is required giving the reasons why the grant of the dispensation is desirable. The Standards Committee has a discretion, having regard to the terms of the application and all other circumstances of the case, that it is appropriate to grant the application. There is no obligation to grant the application. However there would be an expectation on the part of applicants that the Standards Committee would act consistently and not in an arbitrary fashion.

As previously reported the Committee must look carefully at the facts in each case, and be satisfied that it is appropriate to grant the dispensation requested. It will take into account the general principles underlying the Code of Conduct, including those of selflessness, honesty and integrity, objectivity and accountability. It will also take into account the reasons put forward by members as to why a dispensation should be granted; for example, the importance of being able to act as a community voice on the issue, or the particular local knowledge of a member which s/he wishes to contribute to the discussion. The question of whether a member has a direct financial interest, or a more indirect interest, in the matter under discussion may also be relevant.

The Standards Committee must take all relevant factors into account when deciding whether to grant a dispensation, so it is important for councillors to provide full information as to the reasons why a dispensation is required, and why it should be granted. A model application form is attached at Appendix A and allows all necessary information to be given. Any dispensation will only

cover the specific interests, which are declared, so it is important to describe these fully on the application.

In terms of planning and other applications Councillors need to consider whether they may have a prejudicial interest arising from their personal connection with the applicant. In small communities where most people know each other, councillors sometimes consider that they are all friends, and will all therefore have a prejudicial interest even if they themselves are not affected by the particular matter.

However, this is not necessarily the case. The Standards Board advises that a "friend" can be defined as "someone well known to another and regarded with liking, affection and loyalty by that person. A closer relationship is implied here rather than mere acquaintance." The fact that the members may sit on a District or Parish council together with others, or know each other as neighbours, does not necessarily make them "friends". If they are not friends on this definition, no personal or prejudicial interest will arise, and they can take part in the discussion and vote on the matter. If the "friendship" test is applied properly, there may be no problem in raising a quorum for the meeting.

If more than 50% of the council members do consider that they have a prejudicial interest due to their genuine friendship with an applicant, they are entitled to apply for a dispensation. However, there is a real danger in this situation of a public perception of bias arising, as it may be difficult for members to be seen to be truly objective when deciding on matters affecting their friends. The Standards Committee will need to be satisfied that the benefits of allowing the council to consider the particular matter outweigh any possible conflict with the general principles underlying the Code of Conduct. It will take into account, for example, the importance of the matter to the community.

Timing may sometimes be an issue due to the frequency of meetings of the Standards Committee and Councillors should contact the Monitoring Officer as soon as it becomes clear that a dispensation may be needed. It is sometimes possible to obtain an extension of the deadline, or in urgent cases, a special meeting of the Standards Committee can be arranged. Because the Committee has no power to grant any dispensations unless the council's business would be impeded by more than 50% of members not being able to take part, it is important that all affected members apply together.

The Committee has power to grant dispensations allowing the relevant member to participate fully in the business, or only partially - for example, being allowed to speak but not vote. Some members may only wish to be allowed to speak, and be content to abstain on any vote, and the model application form allows this. It also allows members to state for how long the dispensation will be required - there is a maximum period of 4 years.

When granted, dispensations are open to public inspection at the District Council's offices, together with members' declarations of interest. At meetings, members with dispensations still need to declare their personal and

prejudicial interest, and they should also make it clear that they have received a dispensation allowing them to take part.

**Recommendation**

To note the report

**MODEL APPLICATION FOR DISPENSATION**

I Councillor .....

have a personal and prejudicial interest in the following matter coming before the Council:

.....  
.....

The nature of my interest is as follows: [please give as much detail as possible including documents and maps if relevant.]

.....  
.....  
.....

I do/do not consider that the outcome of this matter will have a direct effect on my financial position. **[delete as applicable]**

I request a dispensation to allow me to [speak] [speak and vote] **[delete as applicable]** on business relating to this matter at meetings of the Council. I consider that the dispensation should be granted for the following reason(s) [please include an explanation here of why it is important to the community that the council should be able to discuss the matter, and why you should be permitted to participate]:

.....  
.....  
.....  
.....

The dispensation is needed for a period of ..... [maximum 4 years] for the following reason:

.....

[Signed] ..... [Date] .....