

CITY OF CARDIFF COUNCIL
STANDARDS AND ETHICS COMMITTEE

Policy on Dispensations

Policy Background and Objectives

1. Guidance from the National Assembly for Wales regarding dispensations states that *“the dispensation regime is necessary to perform three functions: to deal with interests that Members share with a large proportion of the public, to allow the proper conduct of business, and to enable the participation rules to be applied to take account of individual circumstances”*.
2. The Standards & Ethics Committee wishes to secure maximum participation in democratic debate by its management of the dispensations process, while maintaining public confidence in the conduct of elected representatives.
3. The Committee has established a policy framework which it will take into account when considering applications for dispensations as follows:
 - a To safeguard the ability of councillors and co-opted members to properly represent their community;
 - b To enable councillors in particular to be able to participate in the workings of relevant outside bodies, including school governors, community associations, companies and trusts formed with the specific purpose of furthering council objectives;
 - c To distinguish between interests that are of a more technical nature and those which are likely to substantially influence the judgement and objectivity of individual councillors or co-opted members; and
 - d To recognise that, when Members have a personal, financial or other pecuniary interest in an issue, it will rarely be possible to grant dispensation when the matter under discussion impacts directly upon that interest.

Statutory Framework

4. Part III of the Local Government Act 2000 covers the conduct of Members, and section 81(4) the Act states that – *“Any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee in accordance with regulations made under subsection (5)”*.
5. The Standards & Ethics Committee has power to grant dispensations to Members to participate in Council business, but these are limited by (among other provisions) the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. In these regulations, regulation 2 sets out the following circumstances in which the Standards & Ethics Committee, under section 81(4) of the Local Government Act 2000, may grant dispensations:
 - 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;
- 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; or
- j. it appears to the committee to be otherwise appropriate to grant a dispensation¹.

Procedures

- 6. Applications for dispensation may be made to the Monitoring Officer by completing and submitting the **Application Form** attached. The request for a dispensation should be made as soon as you realise you need a dispensation for a particular matter. All applications must be accompanied by details of the member's interest, together with relevant details, including the matter in respect of which dispensation is sought. Joint applications may be made where more than one member of the authority seeks dispensation to speak or vote on the same matter. Dispensation may be given to either speak and vote or to speak only.
- 7. The Monitoring Officer is authorised to make any minor amendments to this Policy, as may be required from time to time.

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¹ Under the Regulations, a dispensation granted under this ground and which remains in effect, must be reviewed by the Committee once in every 12 month period from the date on which the dispensation is first granted, to determine whether the dispensation should continue to have effect.

8. Further advice may be obtained from the Monitoring Officer (Davina Fiore on x78360), Deputy Monitoring Officer (David Marr on x72497) or Governance Solicitor (Kumi Ariyadasa on x72498) Community Councillors should initially seek the advice of their Clerk.