

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

STANDARDS & ETHICS COMMITTEE 27 NOVEMBER 2007

APPLICATIONS FOR DISPENSATION AGENDA ITEM 8

Background

1. The Committee has statutory authority to grant dispensations to Members of a relevant authority with a personal interest in a matter, allowing them either to speak and vote or to vote (depending on the nature of the interest).
2. The Committee's agreed policy for granting such dispensations is attached for information at **Appendix A**. This Policy recites the grounds on which dispensations may be granted by the Committee.

Issues

3.
 - i) A number of applications for dispensation have been received from the Clerk to Radyr and Morganstown Community Council on behalf of Members of Radyr and Morganstown Community Council; and
 - ii) An application has been received from County Councillor Gareth Neale in respect of his interest as a Council nominated Board Member of Cardiff Bus.

The applications are shown in the table attached at **Appendix B**, together with recommendations, for the Committee's consideration.

Legal Implications

4. The Committee has approved a general policy on the grant of dispensations and may wish to refer to this policy, but is not bound by it in any particular case and the policy may not fetter the proper exercise of Committee's discretion. Each individual case must be considered on its own facts and merits. The recommendations contained in the attached table are legally achievable.

Financial Implications

5. There are no financial implications arising from this report.

Recommendation

That the recommendations for dispensations in relation to the interests set out in the table at Appendix B be accepted.

Kate Berry
City and County Solicitor
16th November 2007

Appendices

Appendix A – Council Policy on Dispensations
Appendix B – Table of Recommendations for Dispensations

CITY AND COUNTY OF CARDIFF
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 identified a policy framework which it will take into account when considering applications for dispensations as follows: -
 - a Safeguarding the ability of councillors and co-opted members to properly represent their community;
 - b The need for 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 The ability 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;
 - d When Members are appointed by the Council to outside bodies, for example to school governing bodies, they can speak but not vote on matters. The Standards & Ethics Committee welcomes requests for dispensation to allow Members to vote in these

circumstances to enable full participation, subject to there being any personal pecuniary interest.

e When Members have a personal financial or other pecuniary interests in an issue, it will rarely be possible to grant dispensations 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; 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.

Procedures

- 6. Applications for dispensation may be made to the Monitoring Officer by using the form available, not less than ten days before the date of a meeting of the Standards & Ethics Committee. A standard form has been prepared for this purpose and is attached. The request for a dispensation 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. Currently, as the old legislation referring to dispensations has not been repealed, if an interest is a pecuniary interest, then it will still be necessary for the Member to apply to the National Assembly for

Wales for dispensation, to abide by the old legislation, as well as applying to the Standards and Ethics Committee. This situation will continue until the old legislation is repealed.

8. Further advice may be obtained from the Monitoring Officer or (in the case of Cardiff Council Members or co-opted Members), any Solicitor in the Council's Legal Services area. Community Councillors should initially seek the advice of their Clerk.

APPENDIX B

No.	Member	Personal Interest	Dispensation Sought	Relevant Ground/s	Recommendation that the following dispensations be granted provided that the dispensations shall not apply where the Member concerned has an interest other than the one referred to in this Appendix B
1	Community Councillor David Silver (Radyr and Morganstown Community Council)	Co-opted Governor for Bryn Deri County Primary School; and Councillor Silver's daughter previously attended this school.	To speak and vote at meetings of the Community Council on matters relating to Bryn Deri County Primary School.	d and f	A dispensation be granted to Community Councillor David Silver to speak and vote at meetings of the Radyr and Morganstown Community Council on matters relating to Bryn Deri County Primary School.
2	Community Councillor Rachel Granger (Radyr and Morganstown Community Council)	LEA Governor for Bryn Deri County Primary School.	To speak and vote at meetings of the Community Council on matters relating to Bryn Deri County Primary School.	d and f	A dispensation be granted to Community Councillor Rachel Granger to speak and vote at meetings of the Radyr and Morganstown Community Council on matters relating to Bryn Deri County Primary School.
3	Community Councillor Rachel Granger (Radyr and Morganstown Community Council)	LEA Governor for Radyr Comprehensive School.	To speak and vote at meetings of the Community Council on matters relating to Radyr Comprehensive School.	d and f	A dispensation be granted to Community Councillor Rachel Granger to speak and vote at meetings of the Radyr and Morganstown Community Council on matters relating to Radyr Comprehensive School.
4	Community Councillor Helen Lloyd (Radyr and Morganstown Community Council)	Member of Morganstown Village Hall Committee (Community Council appointee)	To speak and vote at meetings of the Community Council on matters relating to Morganstown Village Hall.	d and f	A dispensation be granted to Community Councillor Helen Lloyd to speak and vote at meetings of the Radyr and Morganstown Community Council on matters relating to Morganstown Village Hall.
5	Community Councillor Judith Marsh (Radyr and Morganstown Community Council)	Member of Taffs Well Quarry Liaison Committee (Community Council appointee)	To speak and vote at meetings of the Community Council on matters relating to Taffs Well Quarry.	d and f	A dispensation be granted to Community Councillor Judith Marsh to speak and vote at meetings of the Radyr and Morganstown Community Council on matters relating to Taffs Well Quarry.

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6	County Councillor Gareth Neale	Board Member of Cardiff Bus (Council Nominee)	To speak and vote at meetings of the County Council on matters relating to Cardiff Bus.	d and f	A dispensation be granted to County Councillor Gareth Neale to speak and vote at meetings of the Council or any of its committees or sub-committees on matters relating to Cardiff Bus.