

STANDARDS & ETHICS COMMITTEE: 22 NOVEMBER 2017

**REPORT OF THE DIRECTOR OF GOVERNANCE & LEGAL
SERVICES AND MONITORING OFFICER**

PERSONAL AND PREJUDICIAL INTEREST DISPENSATIONS

Reason for this Report

1. To enable the Committee to consider proposed changes to the arrangements for discharging its functions in relation to personal interest dispensation applications submitted under the Members' Code of Conduct, specifically:
 - (i) minor amendments to the Committee's Policy on Dispensations and the Dispensations Application Form; and
 - (ii) the establishment of a Standards and Ethics sub-committee to determine dispensation applications in accordance with the Committee's approved Policy on Dispensations.

Background

2. The Standards & Ethics Committee's terms of reference include authority for the Committee:
 - (f) To grant or refuse requests for dispensations in respect of Members' interests under the Members Code of Conduct in accordance with the relevant statutory provisions.
3. A member with a personal and prejudicial interest in a matter may apply to the Standards and Ethics Committee for a dispensation using the Dispensation Application Form.
4. The circumstances in which the Committee may grant a dispensation are prescribed by law – the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001.
5. The Committee has adopted a Dispensations Policy, which sets out the factors to be taken into account when considering applications for dispensation. The Policy was last amended in June 2016 to reflect minor changes to the relevant statutory provisions (considered by the Committee in March 2016).
6. A dispensation granted by the Standards and Ethics Committee will allow a member with a prejudicial personal interest in a matter to participate in that

Council business (pursuant to section 81(4) of the Local Government Act 2000). However, the Member must declare their personal interest and the fact that a dispensation has been granted, and must provide written notification giving details of their interest and the dispensation (pursuant to the Members' Code of Conduct, paragraphs 11 and 14).

Issues

7. 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”*.
8. The Committee's Policy on Dispensations is attached as **Appendix A**; and the Application Form is attached as **Appendix B**, with a number of recommended minor amendments shown.
9. The recommended amendments are intended to generally make the Policy and Application Form clearer and easier to understand, to clarify the relevant statutory provisions and elicit more information to better inform the Committee's consideration of applications.
10. The timescale for applications has also been amended as it will often not be practical for a member to submit an application at least 10 days before a Standards and Ethics Committee meeting, bearing in mind that the Committee usually only meets 4 or 5 times every year and that often members will not be aware that they have a personal and prejudicial interest in a matter until the agenda and reports for a meeting are published three clear working days ahead of a meeting. It is suggested that Members should submit any application as soon as they realise that they need a dispensation and that a subcommittee be set up to deal with any applications made so that it is possible to deal with them at short notice if necessary.
11. Although dispensation applications are not received frequently (the last application was received approximately 5 years ago), it is important that when applications are received, they are determined reasonably promptly. Any delay in determining applications may result in a Member being prevented from participating in Council business or delay the Council's decision making process. To address this issue, it is recommended that the Committee establish a sub-committee (pursuant to powers under section 54A of the Local Government Act 2000) with delegated authority to consider dispensation applications (as given the attendance requirements a sub-committee meeting may be convened more quickly at short notice than a full Committee meeting).
12. The sub-committee must comprise of at least 2 members including the Chair (or Vice-Chair) and one other Independent member, as the quorum for a Standards sub-committee requires at least 2 members, at least half of whom must be independent members, including the Chair (or Vice-Chair), pursuant to the Standards Committee Regs (SI 2001/2283, Reg 24(2)). It is recommended that the sub-committee should comprise of 3 members – 2 Independent

Members (to include the Chair / Vice-Chair) and one elected Member; to be convened as and when required.

13. For urgent applications, where it is not possible to convene a sub-committee meeting in time, it is recommended that the Monitoring Officer be given delegated authority, in consultation with the Chair (or Vice-Chair) to determine such applications.

Legal Implications

14. The relevant legal implications are set out in the body of this report.

Financial Implications

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

RECOMMENDATION

The Committee is recommended to:

- I. Consider and approve the proposed amendments to the Dispensations Policy (**Appendix A**) and Application Form (**Appendix B**), subject to any agreed further changes;
- II. Approve the establishment of a Dispensations Sub-Committee, comprised of 2 Independent Members (to include the Chair or Vice-Chair) and one elected Member;
- III. Delegate authority to the Dispensations Sub-Committee established under recommendation II above to consider and determine any dispensation applications received; and
- IV. For urgent dispensation applications, where it is not possible to convene a Dispensations Sub-Committee in time, authorise the Monitoring Officer, in consultation with the Chair (or Vice-Chair) to determine such applications.

Davina Fiore

Director of Governance & Legal Services and Monitoring Officer

15 November 2017

APPENDICES

Appendix A	Standards & Ethics Committee, Policy on Dispensations (with proposed amendments)
Appendix B	Dispensations Application Form (with proposed amendments)

Background papers

Report to Standards & Ethics Committee, 'Minor Amendments to Members' Code of Conduct and Ethical Framework, 22 March 2016; and minutes thereof