

Title of Report:	Guidance on Granting Dispensations for Prejudicial Interests
Report to be considered by:	Standards Committee
Date of Meeting:	21 June 2010
Forward Plan Ref:	S2101

Purpose of Report: To set out clear guidance on granting dispensations to parish councillors where a number of prejudicial interests exist which would otherwise prevent a decision being taken.

Recommended Action: To adopt the guidance for use by the Council's Standards Committee in the circumstances described above.

Reason for decision to be taken: To clarify circumstances in which the Standards Committee can grant dispensations to Members allowing them to speak and vote at a meeting when they have a prejudicial interest.

Other options considered: None.

Key background documentation: Advice from Standards Board for England on Dispensations.
Advice from Standards Board for England on Code of Conduct 2007 (Chapter 3.3, Dispensations).
West Berkshire Council Code of Conduct.

The proposals will also help achieve the following Council Plan Theme(s):

- CPT4 - High Quality Planning**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Making it clear to interested parties how and why dispensations can be granted for prejudicial interests which supports transparent and accountable decision-making procedures in the District.

Portfolio Member Details	
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Date Portfolio Member agreed report:	

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Implications

Policy:	N/a - the report simply clarifies existing legislation.
Financial:	None.
Personnel:	None.
Legal/Procurement:	Policy takes into account changes resulting from the Standards Committee (Further Provisions) (England) Regulations 2009.
Property:	None.
Risk Management:	Clearer advice likely to reduce the risk of complaints logged over Members with interests participating in decision making.
Equalities Impact Assessment:	None.
Corporate Board's Recommendation:	N/a. to be completed after the Corporate Board meeting

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Summary

1. Introduction

- 1.1 Parish Councils are often faced with situations where more than half of their members have a prejudicial interest. An application for a dispensation to participate in business to which this interest relates can therefore be made to the local Standards Committee.
- 1.2 This report outlines the circumstances in which a dispensation may be sought, the criteria for the Standards Committee to consider when assessing the case for a dispensation and the process to be followed when the dispensation is either granted or refused.

2. Proposals

- 2.1 That the guidance outlined the body of the report is adopted and circulated to members of both the Standards Committee and Parish Councils.
- 2.2 That regard is had to this guidance when the Standards Committee considers applications for dispensations.

3. Conclusion

- 3.1 The Standards Committee has discretion to either grant or refuse applications for dispensations on prejudicial interests. This guidance aims to set out a clear process to be followed to arrive at their decision in each case.

Executive Report

1. Introduction

- 1.1 Legislation has provided for Standards Committees to grant dispensations for Members to speak and vote at a meeting in which they have a prejudicial interest.
- 1.2 Following concerns raised by local authorities, the legislation was altered in 2009 to form the Standards Committee (Further Provisions) (England) Regulations 2009.
- 1.3 These regulations revoke previous legislation and offer clearer advice on when dispensations for the circumstances in 1.1 above may be granted.
- 1.4 Dispensations can be granted for speaking only, or for speaking and voting.
- 1.5 The 2007 Code of Conduct relaxed the restrictions preventing Members with prejudicial interests from speaking. This report therefore deals with instances where Parish Councils have not adopted paragraph 12(2) of the Code.
- 1.6 Given the nature of Parish Councils covering a small area it is quite common for Parish Councillors to hold a common prejudicial interest which may affect the decision making ability of the Council. This guidance seeks to provide a clear route by which the Standards Committee can grant dispensations to deal with these situations when they arrive.

2. Circumstances where dispensations may be granted

- 2.1 The Standards Committee may grant a dispensation to a Parish Council Member or co-opted Member in the following circumstances:
 - a. if more than half the Members entitled to vote at the meeting in question are prevented from doing so. (NB. The legal formula relation to political balance under the Local Government & Housing Act 1989 does not apply to parish councils).
- 2.2 The dispensation granted may apply for just the meeting in question, or as an ongoing dispensation. It is therefore important that the Standards Committee is clear on the length of time a dispensation is valid for when granting it.
- 2.3 A dispensation granted more than four years ago cannot be used to participate in business of the parish council. A new dispensation must be sought in this circumstance.

3. Granting a dispensation for parish council members

- 3.1 The Standards Committee may grant a dispensation if more than 50% of members have a prejudicial interest in an item of business to be discussed at a meeting which is covered by their Code of Conduct.
- 3.2 The Standards Committee must ignore any members who have already been granted a dispensation(s) when doing this.

The example given by the Standards Board for England is:

“If there were ten Members on a committee, six of whom may not be able to vote on an item of business, all six can claim a dispensation. If previously granted dispensations were not disregarded, once two people had been granted dispensations, the remaining four would become ineligible because at that point 50% of the committee would be able to vote.”

3.3 The meetings to which this applies are listed in paragraph 1(4) of the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007: meetings of the authority, its executive, its committees, its sub-committees, any other committees, sub-committees, joint committees or area committees of that authority.

4. Considerations in granting a dispensation

4.1 The Standards Committee should weigh up the effect of Members’ prejudicial interest(s) against the outcome of the vote if they are not participating in the vote.

4.2 The Standards Committee should consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that member were allowed to vote.

4.3 The Standards Committee should look at whether the interest in question is one that is common to both the member and to a significant proportion of the population.

4.4 Account should also be taken of the expertise and knowledge of the member and whether this justifies their participation in the item in question. For example, if members of police and/or fire authorities would be able to bring their expertise by addressing the meeting.

4.5 Standards Committee members should have regard to whether the business in question relates to a voluntary or public body which is to be considered by an overview and scrutiny committee, and additionally whether the interest is a financial one.

4.6 If a dispensation not being granted would mean the meeting was not quorate, this might be a reason to grant the dispensation.

5. Granting and recording a dispensation

5.1 The process of requesting, considering, granting and recording dispensations is clearly set out below:

a. A member must apply in writing to the Monitoring Officer for a dispensation as soon as possible, setting out why it is required. The Monitoring Officer will then arrange for the Standards Committee to consider the request. Only written requests are acceptable, and cannot be made by someone else on behalf of the member. Group and joint requests are not permitted. Each member should apply individually.

b. A meeting of the Standards Committee must be then convened to consider the application. In the case of urgent items if it is possible to convene a virtual meeting of the committee, an urgent dispensation may still be granted.

- c. The Standards Committee should then consider the legal implications for the dispensation set out at 4.1 to 4.5 as well as at 2.1.a above. This consideration may also take account of any other relevant circumstances or local criteria.
- d. Members of the Standards Committee should determine whether the applicant should be permitted to make oral representations to the meeting of the Standards Committee or whether written applications only will be allowed.
- e. The Standards Committee should then determine the nature of any dispensation they are minded to grant:
 - i) whether the applicant can speak and not vote; or
 - ii) whether the applicant can participate fully and vote.

Additionally the Committee can also decide the length of the dispensation (not more than four years).

- f. It should be noted that the Regulations do not allow for the Standards Committee to grant a general dispensation to cover any situation where a prejudicial interest may arise.
- g. If the Committee grants a dispensation it should do so in writing and before the meeting in question is held.
- h. The Standards Committee may decide to refuse an application for a dispensation. This is within their discretion under the Regulations.
- i. A written record of the decision taken must be kept and placed with the register of interests maintained under Section 81(1) of the Local Government Act 2000.

5.2 Finally, it should be noted that the Standards Board for England cannot provide advice on granting dispensations and that all queries should be directed to the Monitoring Officer.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: -

Officers Consulted: Moira Fraser

Trade Union: -