

STANDARDS COMMITTEE
5TH JUNE 2014

FINANCE AND CORPORATE SERVICES

REPORT OF THE HEAD OF LEGAL SERVICES AND
MONITORING OFFICER

INDEX OF REPORT ITEMS

PART 1 – Doc. Code: STDS-050614-REP-FS-DM

SECTION A – MATTERS FOR DECISION		
Report Item	Page Nos	Wards Affected
1. Grant of Dispensations under Section 81(4) Local Government Act 2000	2-13	All
2. Local Resolution Procedure	14-20	All

ITEM 1
PART 1 SECTION A

Grant of Dispensations renewals under Section 81(4) Local Government Act 2000

1.1. General

- 1.1.1. Under Section 81(4) of the Local Government Act 2000 Standards Committees may grant dispensations to a Member of a relevant authority (including a Community Council) allowing the Member to participate in any business where that participation would otherwise be prohibited by the mandatory provisions of the Members' Code of Conduct.
- 1.1.2. The National Assembly for Wales in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI No: 2279) sets out the circumstances in which these dispensations may be granted. The Standards Committee may only grant dispensations in the circumstances set out in the Regulations. In the report which follows, I set out the circumstances or grounds on which dispensations may be granted in each case.
- 1.1.3. The form of the report will generally set out the dispensation, the circumstances in which it may be granted and details of the applicant for the dispensation.
- 1.1.4. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) The Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the Monitoring Officer of that interest together with the relevant details.
- 1.1.5. In accordance with previous practice, it is suggested that all dispensations be granted until the first meeting of the Standards Committee following the Council Annual General Meeting in 2015 in order to ensure that they all come up for renewal at the same time.

1.2. Employment

- 1.2.1. The Council is probably the largest employer in the County Borough and it is not uncommon for both Officers and Members to have family members employed by Council. Unfortunately, this can cause some problems in dealing with Council business. The Standards Committee has previously granted dispensations to cover this situation.
- 1.2.2. The form of application for dispensation is intended to try to cover the situation when, although strictly required in law under the Members' Code of Conduct, serial declarations affect the smooth running of Committee business in circumstances where the general public would not draw any adverse inference from the relationships being declared.
- 1.2.3. Often Members have family whose employment position within the organisation puts them far away from the ability to influence Council Policy and are certainly not considered decision makers. Sometimes, family members are in relatively low paid jobs which are part time or temporary in nature.
- 1.2.4. Hence all the applications for dispensations request permission to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council, (including personnel matters), provided these matters do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to a member of a Councillor's family who is employed by Council. The dispensation will not apply where the person employed is a senior manager of Council (i.e. by that I mean an Accountable Manager or above) or is otherwise charged with assisting in the determination of Council Policy.
- 1.2.5. The Member using the dispensation will understand that it cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect the Member's ability to act purely on the merits of the case and in the public interest if the Member were to take part in the discussion.

Standard form of Dispensation: Employment

1.2.6. “To speak and vote on issues relating to the business of Neath Port Talbot County Borough Council including relevant personnel matters provided that (a) they do not directly financially advantage or disadvantage or give other direct benefit or disbenefit to a Member or the Member’s family who is employed by the County Borough Council or (b) that the employment is not as a senior manager nor is involved in assisting with the determination of Council policy. This dispensation will not apply in circumstances where a member of the public might reasonably conclude that the employment would significantly affect the Councillor’s ability to act purely on the merits of the case and in the public interest.”

Note: A Senior Manager is an Accountable Manager or equivalent and above.

Circumstances for granting the Dispensation: Employment

1.2.7. The circumstances are:-

“(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”

Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and was the circumstance under which applications for dispensations of this sort were previously approved.

1.2.8. The Applications received are as follows:-

Councillor	Employment Dispensation
H. M. Bebell	His niece is employed in Environment Services as a Project Co-ordinator
P. Bebell	Her niece is employed in Environment Services as a Project Co-ordinator
D. W. Davies	His sister-in-law is employed as a Nursery Nurse.
I. B. James	His wife is employed as a permanent parking attendant.
Mrs. L. H. James	Her daughter in law is employed as a parking attendant
Mrs. M. A. Lewis	Her daughter in law is employed as a Support Teacher
A. Llewelyn	His wife is employed as a Teacher.
P. A. Rees	His daughter-in-law is employed as a School Clerk.
Mr. P. D. Richards	His wife is employed as a Specialist Behavioural Outreach Worker.
J. Rogers	<ol style="list-style-type: none"> 1. His daughter is employed as a Teaching Assistant 2. His son is employed as an Support Officer Route 16
D. Whitelock	His wife is employed as a mobile cleaner in the Environment Directorate.
A. N. Woolcock	His niece is employed as a Training and Development Support Officer

Recommendation

- 1.2.9. That the applications for dispensation set out in paragraph 1.2.8. be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 1.2.6. to speak and vote and that the dispensations run to the Standards Committee which follows the Annual Meeting 2015.

1.3. Miscellaneous Dispensations

The Standards Committee has previously approved various dispensations to Members where they are members of voluntary organisations or organisations carrying out public functions where it is the wish of those Members to speak on Council business relating to those organisations and also, in some cases vote. The subject of the dispensation and its extent varied in each case and therefore I have summarised the applications in the table which appears below.

Circumstances for granting the Dispensations: Miscellaneous

- 1.3.1. The circumstances are:-

“(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”

Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and was the circumstance under which applications for dispensations of this sort were previously approved.

1.3.2. Applications for Dispensations: Miscellaneous

Member	Subject of Dispensation	Extent of Requested Dispensation	Circumstances
A. P. H. Davies	When One Voice Wales is under consideration in Coedffranc Community Council or NPTCBC meetings	Speak and Vote	Reg 2 (d)
A. Llewelyn	1) Ystalyfera Development Trust. 2) Strategic housing matters even when they relate to housing association.	Speak and Vote Speak only	Reg 2 (d) Reg 2 (d)
J. Miller	1) Employment in ABMU - LHB 2) Melyn Community Conference	Speak Speak and Vote	Reg 2 (d)
Mrs. S. Miller	1) Employment in ABMU - LHB 2) Board Secretary Melyn Community Conference	Speak Speak and Vote	Reg 2 (d) Reg 2 (d)
P. D. Richards	Matters of general, commercial and retail development, subject to the condition that the dispensation will not apply to any planning application by or transaction with the Co-operative Group, or with any subsidiary or related enterprise.	Speak only	Reg 2 (d)
Mrs. P. Bebell	Membership of ABMU Community Health Council	Speak only	Reg 2 (d)
P. Rees	Items relating to the programme of educational improvements at Hillside Secure Unit provided that they do not relate to contractual terms between the Council and Cefn Saeson Comprehensive School	Speak and Vote	Reg. 2 (d)
H. Bebell	Items relating to a personal interest in residential development. Request for County Borough and Community Council.	Speak only	Reg 2 (d)

- 1.3.3. The last three applications in paragraph 1.3.2. are new applications. That from Cllr. Mrs. P. Bebell arises out of the fact that she has been appointed to the ABMU Community Health Council. In those circumstances she could be said to have an interest in respect of both ABMU Health Board and the Community Health Council. Her application is to speak only. Cllr. Peter Rees is the Cabinet member for Education and also a Governor of Cefn Saeson School. A contract is to be put in place between the Council and the School to provide support to Hillside Secure Unit as part of a programme for educational improvements in that unit. Cllr. Rees applies for a dispensation to speak and vote on that programme but not the contractual terms between the Council and the School.
- 1.3.4. Cllr. H. Bebell resides at Elba Crescent Crymlyn Burrows which is adjacent to a proposed residential development which affect his property but also other residents in his ward. He seeks a dispensation to speak but not vote on this issue on the basis that his interest is equal to that of many of the residents in the locality and that the local residents are losing their “voice” in the matter if he is not able to speak. He requests the dispensation for both the County Borough and Coedffranc Community Council.

Recommendations

- (1) That the applications for renewals of dispensations set out in paragraph 1.3.2. be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak or to speak and vote as set out in the Schedule above and that the dispensations run to the Standards Committee which follows the Annual Meeting 2015.
- (2) That the new applications be considered.

1.4. Grant of General Dispensation: School Governors

- 1.4.1. Previously the Standards Committee has granted a general dispensation to allow all Members to speak and vote on education matters generally but more particularly the Strategic Schools Improvement Programme. This dispensation was granted under Regulation 2 (d), (f) and (g) until the Annual Standards Committee following the Annual Meeting 2014.

1.4.2. 2 (f) and 2 (g) are as follows:-

2 (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise.

2 (g) the business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant authority and the Members interest is not a pecuniary interest.

Recommendation

It is recommended that this general dispensation be further granted until the Standards Committee which follows the Annual meeting 2015.

1.5. School Reorganization matters

1.5.1. Last year Standards Committee granted applications for dispensation from a number of members regarding School Reorganization/School Transport matters. Since the School Transport issue has been resolved I place the application before Committee for consideration only in relation to School improvement i.e. school reorganization. Some of the Councillors may in future have a role in deciding school reorganization matters due to changes in the statutory regime.

Standard form of Dispensation: School Reorganization

1.5.2. The standard form of dispensation used in these cases would be:-

“To speak but not vote on issues which relate to school reorganization”.

Circumstances for granting a Dispensation: School Reorganization

1.5.3. The circumstances under which the dispensations were granted were as follows:-

“(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.”

Note: This paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and was the circumstances under which applications for dispensations of this sort were previously approved.

1.5.4. The application for dispensations are as follows:-

Name	Nature of Interest	Issue	Speak or Vote
Cllr. Sandra Miller	Governor – Grandchildren of school age	School Reorganization	Speak only
Cllr. John Miller	Governor – Grandchildren of school age	School Reorganization	Speak only
Cllr. Sheila Penry	Governor – Grandchildren of school age	School Reorganization	Speak only
Cllr. Arthur Davies	School Governor	School Reorganization	Speak only
Cllr. Alun Llewellyn	School Governor and child of School Age	School Reorganization	Speak only
Cllr. John Rogers	Grandchildren of school/college age	School Reorganization	Speak only
Cllr. Anthony J. Taylor	Children of school age	School Reorganization	Speak only
Cllr. Alan Carter	School Governor	School Reorganization	Speak only
Cllr. Eirion Richards	School Governor	School Reorganization	Speak only
Cllr. Hugh James	School Governor	School Reorganization	Speak only
Cllr. J. D. Morgan	Grandchild of School Age	School Reorganization	Speak only

1.5.5. Recommendation

That the applications for dispensations set out in paragraph 5.5.4. be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 2.5.2. to speak but not vote and that the dispensations run to the Standards Committee with follows the Annual meeting 2015.

1.6. Grant of Dispensations: Third Sector Review

1.6.1. The Policy and Resources Overview and Scrutiny Committee has scrutinised a proposed decision in relation to the funding of “third sector” bodies. Some Members have interests in respect of various of the bodies covered by that review. For reasons which I shall explain at the meeting I think that it would be prudent to retain these dispensations in place for the moment.

1.6.2. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) The Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the Monitoring Officer of that interest together with the relevant details.

1.6.3. Some Members requested the Standards Committee to grant a dispensation allowing them to participate in meetings relating to the review. Members who are appointed to bodies by the Council are required to declare the appointment but their personal interest is not a prejudicial interest under the Members’ Code of Conduct. Other Members however are members of such organisations in their own right or have other interests. Their interests may be both personal and prejudicial requiring them to leave the meeting.

1.6.4. The interests in relation to which a dispensation is sought are as follows:-

<u>Name of Member</u>	<u>Nature of Interest</u>
1. Cllr. Lella James	Cllr. James' daughter works for Christian Aid.
2. Cllr. Linet Purcell	Cllr. Purcell is a member of the National Trust and Wildfowl and Wetlands Trust.
3. Cllr. Andrew Jenkins	Cllr. Jenkins is a member of Neath Port Talbot Credit Union.

1.6.5. The circumstances in which Standards Committee may grant dispensations are set out in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. The circumstances are set out below:-

- (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;
- (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;

1.7. Recommendation

That Standards Committee considers the applications for dispensation set out in paragraph 1.1.6. in the circumstances set out in Regulation 2 (c), (d), (g) and (h) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak only and that the dispensations cover all matters related to the review.

1.8. Background Papers

Details of applications.

1.9. Wards Affected

All

1.10. Officer Contact

For further information on this report please contact:-

Mr. D. Michael,

Head of Legal Services and Monitoring Officer

Tel. No. 763368

E-mail d.michael@npt.gov.uk

ITEM 2
PART 1 SECTION A

Local Resolution Procedure

2.1. Purpose of Report

To obtain the approval of Standards Committee for a Local Resolution Procedure.

2.2. Background

2.2.1. I have previously reported to Standards Committee that the Welsh Government, the WLGA and the Public Services Ombudsman for Wales all encourage local authorities to adopt Local Resolution Procedures with a view to locally resolving complaints of a breach of the Members' Code of Conduct

2.2.2. We have very few of these complaints but I would suggest that we need to adopt a procedure to comply with the guidance which has been issued.

2.2.3. I circulated previously some different models of procedure drawn from other Local Authorities. Following a steer from Members about the general nature of the procedure, I prepared a document for the Councils modernisation group. This is an informal group of Members used as a general sounding board for proposed amendments to the Constitution. A slightly revised version of that document appears as the annex to this report. The procedure follows the preferences of Members of Standards Committee expressed when the matter was discussed previously.

2.3. Recommendation

That Standards Committee adopt the Procedure contained in the Annex and it be submitted to full Council for approval.

2.3. Background Papers

Local Resolution Procedure

2.4. Wards Affected

All

2.5. Officer Contact

For further information on this report please contact:-
Mr. D. Michael, Head of Legal Services and Monitoring Officer
Tel. No. 763368 or e-mail d.michael@npt.gov.uk

LOCAL RESOLUTION PROCEDURE
MEMBER COMPLAINTS OF BREACHES
OF THE
CODE OF CONDUCT FOR MEMBER

Scope of Procedure

Neath Port Talbot County Borough Council Members have adopted this Protocol which is supplemental to the Protocol on Member/Employee Relations and the Code of Conduct requirements of the Constitution. The Welsh Government and the Public Services Ombudsman for Wales (“PSOW”) have indicated that Member against Member complaints should be dealt with locally and informally by the Council.

This Procedure recognises that the freedom of expression enjoyed by Members is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation and other rights of other Members and preventing unauthorised disclosure of information. The freedom to express their political opinions is not restricted by agreeing to this Protocol.

This Local Resolution Procedure may be utilised for low level disputes by a Member before a complaint is referred to the PSOW. The PSOW indicated that where a Local Resolution Process has been adopted by a council, he may not accept a complaint for consideration of an investigation until the LR from a member relating to a low level complaint.

This is an informal process and no indemnity will be granted to any Member for representation at the Local Resolution Panel.

Standards of Behaviour

1. Members should:
 - 1.1. Show personal respect to each other: when disagreeing with another Member's views, opinions or councillor actions, e.g. as Mayor, Cabinet Member or Committee Chairman. A Member should not engage in abusive, insulting or improper personal comments about other Members or their family but, having regard to the Code of Members' Conduct ("the Code") requirement that decisions are made on the merits of the circumstances, should focus on the arguments put forward by other Members or the effectiveness of their actions. It is accepted that feelings can run high in debate but should the standards of behaviour have been breached, the culpable Member should apologise to the meeting when the breach is brought to their attention when the matter will be considered closed.
 - 1.2. Not publish malicious or false allegations or information or insulting personal comments against a Member: The growing propensity for personal comments to be made electronically to the world at large require a greater degree of control by the author, as once made it is difficult for the comments to be rescinded. The truth is only a defence if it is the whole truth and puts matters in context.
 - 1.3. Not release confidential information to the press or members of the public: there is no defence of public interest in the Code and there are avenues that should be explored to provide transparency in decision-making that would not disclose confidential/personal information which may cause harm to an individual or a company/organisation. The Council is a regulatory body but also has powers to enhance the prospects of the community which may be harmed by unauthorised disclosure.
2. Member's Representative behaviour:
 - 2.1. Members should seek to work with Members of adjoining electoral divisions for the benefit of the locality.
 - 2.2. A Member who becomes involved in matters specifically related to another electoral division or representing a constituent in another electoral division should:

- 2.2.1. Explain to the members of the public that they are not the Local Member for that electoral division and identify who is. However, it is the member of the public's choice as to who they wish to represent their interests.
- 2.2.2. If the Member continues to act in the matter, inform the Local Member of their involvement (but not disclose any confidential information without authorisation) and if possible seek to work with the Local Member if the objective is shared.
3. The behaviour described in the paragraphs above are examples or illustrations of behaviour which may constitute a breach of the Code of Members' Conduct; they are not additional to the Code.

Local Resolution Procedure

- 4.1. In the event of a dispute arising, a Member who complains that another has breached the Code will be provided with the contact details of a Mediator appointed by the Monitoring Officer.
- 4.2. The complainant Member will notify the Member who is the subject of the complaint of his intention to seek mediation of the dispute. Both Members will supply the Mediator with dates of availability, but with the intent that the mediation meeting will within six weeks from the complaint being made.
- 4.3. The mediation meeting(s) will be confidential. It is hoped that this process will encourage the Members to attain consensus on resolving the complaint. Whatever is agreed will be confirmed by them to the Mediator but will not be further published unless agreed by both the Members.
- 4.4. If the mediation stage does not resolve the complaint, then the complaining Member may request that the matter to be referred to the Local Resolution Panel within six weeks of the last mediation meeting. The Mediator will be asked to confirm whether resolution was attained but nothing further.

- 4.5. The Local Resolution Panel will comprise three members, namely: an independent Member of the Standards Committee and elected Members appointed by the Leader of Council and the Leader of the largest non-executive political group. No Member shall serve who has had a previous involvement with the matter. The Panel will meet in private.
- 4.6. Both the complaining Member and the Member subject of the complaint will be entitled to appear and/or produce written or oral information relevant to the facts of the matter complained of. Either Member may be accompanied by a friend but shall not be represented by a Solicitor or Barrister.
- 4.7. The Local Resolution Panel will consider the information and have discretion to determine the facts and if they consider it appropriate to make such recommendation as would redress the low level complaint, either there is:
 - 4.7.1. No basis for the complaint
 - 4.7.2. A basis for the complaint but no further action is necessary or
 - 4.7.3. A basis for the complaint and an apology should be provided to the complainant Member in an appropriate manner or such other action that is within the power of the Council.
- 4.8. The complainant Member may refer the matter to the PSOW and the PSOW will consider whether to investigate.
- 4.9. The Local Resolution Panel may also make recommendations to the Standards Committee regarding training or changes to any procedures which may have contributed to the complaint arising.
- 4.10. If the complaint is referred to the PSOW and an investigation report is produced the independent Member on the Standards Committee who was appointed to the Local Resolution Panel will not take part in any proceedings relating to that investigation report.