

**REPORT OF THE PRINCIPAL SOLICITOR AND
DEPUTY MONITORING OFFICER**

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

- 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.
- 1.2. 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.
- 1.3. The form of the report will generally set out the dispensation, the circumstances in which it may be granted, details of the applicant for the dispensation and whether it is a re-application or a new application.
- 1.4. I will first deal with three standard categories of dispensation relating to school governors, employment issues and Scrutiny Committee issues. I will then deal with individual applications based on particular circumstances.
- 1.5. 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. In accordance with previous practice, it is suggested that all dispensations be granted until the end of March 2008.

2. School Governors

2.1. Standard Dispensation

2.1.1. “To vote on all education/schools/governing body business in Neath Port Talbot County Borough Council except when issues under discussion relate to matters unique to the governing body or bodies which the Member is a member of or where there would be a benefit to the Member, a member of their family or friend or someone with whom they have a close personal association or where there is a pecuniary interest”

2.1.2. Note: Under the Members’ Code, Members may speak and therefore the dispensation does not need to mention this.

2.2. Circumstances in which Dispensations may be granted

The circumstances are:-

2.2.1. “(a) no fewer than half 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”

2.2.2. “(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”

2.2.3. Note: these paragraphs derive from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and were the circumstances under which applications for dispensations of this sort were previously approved.

Re-applications

2.3. Listed below are the names of the Neath Port Talbot Councillors who at the date of preparation of this Report have applied to have a regrant of Standards Committee dispensations previously granted so that they may not only speak but also vote. Those whose positions have changed are marked * and their application for a regrant is to take these changes into account.

Councillor H.M. Bebell	Councillor J. Dinham
Councillor Mrs. C. Edwards	Councillor J. D. Edwards
Councillor A. H. Evans	Councillor Mrs. J. Hopkins
Councillor H.N. James	Councillor M.L. James
Councillor E. Jones	Councillor Mrs. J. Jones
Councillor Mrs O. Jones	*Councillor E. V. Latham
Councillor A. S. Lewis	Councillor Mrs. M. A. Lewis
Councillor A. Llewelyn	Councillor E. Loaring
Councillor J. Miller	Councillor S. Miller
Councillor C. Morgan	Councillor J. D. Morgan
Councillor W. E. Morgan	Councillor J. Myers
Councillor Mrs. S. Penry	Councillor D.M. Peters
Councillor P. A. Rees	Councillor C. E. Richards
Councillor P. D. Richards	Councillor Mrs. P. E. Spender
Councillor T. J. Sullivan	*Councillor A. Taylor
Councillor Mrs. P. J. Thomas	Councillor A. J. Tutton
Councillor D. Vaughan	Councillor D. L. Williams
Councillor I. D. Williams	Councillor Mrs. L. G. Williams
Councillor A. N. Woolcock	<i>Councillor H. Thomas</i>
<i>Councillor R. Davies</i>	

Councillors H. Thomas and R. Davies are Community Councillors and also Community Committee Member and Substitute Member respectively, on the Standards Committee.

2.4. **Changes Indicated(*)**

Councillor E.V. Latham is now Vice Chair of Tywyn Junior School
Councillor A. Taylor is now The Chairperson of Sandfields Primary School. The changes are not considered material to the application.

2.5. **Recommendation**

It is **recommended** that the above dispensations be re-granted for a year to expire on 31st March 2008.

2.6. This recommendation is made in order to secure compliance with the Council's adopted Members' Code of Conduct and to ensure the proper dispatch of the Council's business, this Committee being satisfied that the members' participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority business.

2.7. **New Applications for Grant of Dispensation**

The following Member is making an application for dispensation to not only speak but vote in the same circumstances as outlined above. The same considerations should apply as notified to Committee in this item above. The Member is:

*Councillor Mrs L. G. Williams	
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**This is treated as a new application because an additional school has been added*

2.8. It is **recommended** that this dispensation be granted on the same basis, with the relevant exceptions, and for the same period of time as the renewals.

3. **Employment**

3.1. Council is probably the largest employer in the County Borough. Hence, 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 especially for members who have to act under the Members' Code of Conduct. There is often disruption particularly in full Council Meetings when Members make declarations of interest in this respect.

3.2. 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 inference from the relationships being declared.

3.3. 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. The latter also affects the need for numerous changes to be made to the standing declarations of interest in the section 81 register that the Monitoring Officer is required to keep.

- 3.4. Hence all the applications for dispensations request the ability to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council, including personnel matters, when the same 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 reasons given for this is that the person employed is not a senior manager of Council (i.e. by that I mean not an Accountable Manager or above) and is not charged with being involved in assisting with the determination of Council Policy.
- 3.5. The Member using the form appreciates that the dispensation 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.

3.6. **Standard form of Dispensation**

“To speak and vote on issues relating to the business of Neath Port Talbot County Borough Council including relevant personnel matters which 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 provided that the employment is not as a senior manager nor is it 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 officer or Accountable Manager lower or equivalent and above.

3.7. **Circumstances for granting the Dispensation**

- 3.7.1. The circumstances are:-
- 3.7.2. “(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”

3.7.3. 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.

3.8. **Reapplications**

Dispensations previously granted for which reapplications are now made are listed below setting out the circumstances of employment in each case.

Councillor Mrs. J. Hopkins

Her husband is employed by NPTCBC as an ICT Support and Research Officer in the Directorate of Environment. She applies for a dispensation to speak and vote.

Councillor E. Jones

His daughter-in law is employed by Neath Port Talbot County Borough Council as an Admin Assistant in the Directorate of Social Services. He re-applies for a dispensation to speak and vote

Councillor Mrs. O. Jones

(i) Her niece is employed by Neath Port Talbot County Borough Council as a Teacher in Central Infants School Port Talbot. She re-applies for a dispensation to speak and vote.

(ii) Her brother is employed by Neath Port Talbot County Borough Council as a Street Cleaner in the Directorate of Environment. She re-applies for a dispensation to speak and vote.

Councillor E.V. Latham

His son is employed by Neath Port Talbot County Borough Council as a Grounds Maintenance Worker in the Directorate of Environment. He re-applies for a dispensation to speak and vote.

Councillor A. Llewelyn

His wife is employed by Neath Port Talbot County Borough Council as a Teacher in the Directorate of Education, Leisure and Lifelong Learning. He re-applies for a dispensation to speak and vote.

Councillor J.D. Morgan

His wife is employed by Neath Port Talbot County Borough Council as a Classroom Assistant in the Directorate of Education, Leisure and Lifelong Learning. He re-applies for a dispensation to speak and vote.

Councillor W. E. Morgan

His two daughters are employed by Neath Port Talbot County Borough Council as

(i) Clerk on a permanent basis in the Directorate of Education, Leisure and Lifelong Learning. Her duties involve administrative duties at Blaengwrach School.

(ii) Classroom Assistant on a permanent basis in the Directorate of Education, Leisure and Lifelong Learning. Her duties involve supporting the teaching staff.

He re-applies for a dispensation to speak and vote.

Councillor J. Myers

His daughter is employed by Neath Port Talbot County Borough Council as a Care Officer in the Directorate of Social Services. Her duties involve care for the elderly and disabled and supervision of staff. He re-applies for a dispensation to speak and vote.

Councillor P.A. Rees

His daughter in law is employed by Neath Port Talbot County Borough Council as a temporary secretary in the Directorate of Education, Leisure and Lifelong Learning. Her duties involve general secretarial work. He re-applies for a dispensation to speak and vote.

Councillor C. E. Richards

His wife is employed by Neath Port Talbot County Borough Council as a Nursery Nurse in the Directorate of Education, Leisure and Lifelong Learning. He re-applies for a dispensation to speak and vote.

Councillor P. D. Richards

His wife is employed by Neath Port Talbot County Borough Council as a specialist behavioural worker in the Directorate of Social Service, Health and Housing. He re-applies for a dispensation to speak and vote.

Councillor L. J. Davies

His son is employed by Neath Port Talbot County Borough Council as an apprentice surveyor in the Directorate of Environment. He re-applies for a dispensation to speak and vote.

Councillor Mrs. M. A. Lewis

(i) Her daughter-in-law is employed by Neath Port Talbot County Borough Council as a support teacher and dinner lady in the Directorate of Education, Leisure and Lifelong Learning. She re-applies for a dispensation to speak and vote.

(ii) Her niece is employed by Neath Port Talbot County Borough Council as a physical education teacher at Dwr-y-Felin in the Directorate of Education, Leisure and Lifelong Learning. She re-applies for a dispensation to speak and vote.

Councillor D. Vaughan

His wife is employed by Neath Port Talbot County Borough Council as a training adviser in the Directorate of Education, Leisure and Lifelong Learning. He re-applies for a dispensation to speak and vote.

3.9. Recommendation

- 3.9.1. It is **recommended** that the above dispensations be regranted for a year to expire on 31st March 2008.
- 3.9.2. This recommendation is made in order to secure compliance with the Council's adopted Members' Code of Conduct and to ensure the proper dispatch of the Council's business, this committee being satisfied that the Members participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority business.

4. Members of Neath Port Talbot County Borough Council Overview and Scrutiny Committees.

- 4.1. Most members of Neath Port Talbot County Borough Council, with the exception of Executive Members, are also members of one or more Overview and Scrutiny Committees. The task of such Committees is to scrutinise the decisions of the Executive and its Boards, with a view to the calling in decisions for reconsideration if appropriate. Decisions are made by the Executive and its Cabinet Boards.
- 4.2. As this is an essential role in the modernisation of the Local Government process Members need to be able to carry out this function as fully as possible. Unfortunately, whilst there is sometimes no ‘voting’ in the accepted sense in the overview function because topics are wide ranging, often Members find that they have to make declarations of interests and sometimes leave in circumstances where it would not damage public confidence if the Member were to remain.
- 4.3. The Regulations dealing with dispensations provide that one of the statutory grounds for seeking dispensation is that the interest relates to the Overview/Scrutiny Committee business and is not a ‘pecuniary’ interest (the word pecuniary is now interpreted as ‘financial’).
- 4.4. Hence all the listed applications for dispensations request the ability to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council as described above, when the same do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to the Member or the Member’s family.
- 4.5. The Member using the form appreciates that the dispensation cannot be used if the matter under consideration would confer a greater benefit on him or herself or their family 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.
- 4.6. The appropriate interest must still be declared in the usual way at the relevant overview and scrutiny meeting where the interest is relevant, but unless the above considerations apply, the dispensation, when given, could be claimed and the Member will then be able to speak and vote accordingly.
- 4.7. Any dispensations granted are to be for a year and to expire on 31st March 2008.

4.8. Standard Dispensation

“The general dispensation to speak and vote on business considered at an Overview and Scrutiny Committee of Neath Port Talbot County Borough Council where any interest of the Member is not a pecuniary interest. The dispensation cannot be used if the matter under consideration would confer a greater benefit on the Member or their family 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.”

4.9. Circumstances for granting Dispensation

The circumstances are:-

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

4.9.2. 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.

4.10. Reapplications

4.11. All the below applications for dispensations are recommended for approval in the terms of the standard dispensation. The dispensation will expire on 31st March 2008.

Environment and Highways

Councillor Mrs. J. Hopkins, Councillor E. Loaring, Councillor J. D. Edwards

Economic and Community Regeneration

Councillor J. Dinham, Councillor E. Jones, Councillor A. S. Lewis, Councillor A. Llewelyn, Councillor C. E. Richards, Councillor Mrs. P. J. Thomas, Councillor D. L. Williams

Policy and Resources

Councillor H. Bebell, Councillor A. Llewelyn, Councillor S. Miller (vice Chair), Councillor J. D. Morgan, Councillor W. E. Morgan, Councillor J. Myers, Councillor J. D. Edwards, Councillor Mrs. P. E. Spender, Councillor Mrs. J. Jones

Children, Young People and Education

Councillor J. Miller, Councillor M. L. James (Chairperson), Councillor L. J. Davies, Councillor H. N. James (Vice Chair), Councillor I. D. Williams, Councillor Mrs. M. A. Lewis, Councillor Mrs. L. G. Williams, Councillor Mrs. J. Jones, Councillor E. V. Latham

Children's Services

Councillor J. Miller, Councillor M. L. James (Chairperson), Councillor L. J. Davies, Councillor Mrs. L. G. Williams, Councillor Mrs. J. Jones

Social Care, Health and Housing

Councillor J. Miller, Councillor Mrs. S. M. Penry (Vice Chair), Councillor P.D. Richards, Councillor A. Taylor, Councillor H. N. James, Councillor Mrs. P. J. Thomas.

4.12. New Applications

Children, Young People and Education

Councillor A. H. Evans

Policy and Resources

Councillor M. L. James

Environment and Highways

Councillor I. D. Williams

Economic and Community Regeneration

Councillor Mrs. C. Edwards

Social Care, Health and Housing

Councillor Mrs. C. Edwards

Children's Services

Councillor H. N. James (Vice Chair)

4.13. **Recommendation**

All the above applications for dispensations are recommended for approval in the terms of the standard dispensation. The dispensation will expire on 31st March 2008.

5. **Individual Non Standard Dispensations**

5.1. **Specific individual Member applications for re-grant of dispensations**

The following Members have applied for specific grants of dispensations previously awarded by Standards Committee to be re-granted. These Members have also confirmed that their personal circumstances have not changed since this Committee considered and awarded the original dispensation. The circumstances, i.e. the grounds for the grant of dispensation were specified in each case.

5.2. Neath Port Talbot County Borough Councillors

<u>Name</u>	<u>Subject Matter</u>	<u>Dispensation</u>
Councillor H Bebell	M.R.E.C (premises affected)	Speak only
Councillor Mrs C. Edwards	Local Health Board Membership (financial interest by way of Employment NPTCBC nominee)	Speak only
Councillor Mrs O. Jones	Local Health Board Membership (NPTCBC nominee)	Speak and Vote
Councillor A Llewelyn	Trothwy Cyf Housing Association (Officer)	Speak (only)
Councillor A Llewelyn	Ystalyfera Development Trust (Member)	Speak and Vote
Councillor J. Miller	AMICUS	Speak (on O/S Committee)
	Melyn Community Conference	Speak and Vote
Councillor Mrs S. Miller	UNISON	Speak only
	Melyn Community Conference	Speak and Vote
Councillor C Morgan	Health Board Membership (Non Council Nominee)	Speak (only)
Councillor P. Rees	Neath Port Talbot Governors Association	Speak and Vote
Councillor P. Rees	Swansea Bay Race Equality Council Membership	Speak and Vote
Councillor A. N. Woolcock	Health Board Membership (NPTCBC Nominee)	Speak and Vote
Councillor J. Dinham	Integrated Children's Centre (Now The Chairperson)	Speak and Vote
Councillor P. D. Richards	Youth Offending Panel Neath Port Talbot CVS	Speak and Vote Speak and Vote
Councillor D. Vaughan	Interests on Outside bodies (as previously listed)	Some Speak only Some Speak and Vote

5.3. Community Councillors

Renewal of dispensations in respect of applications from Community Councillors:

5.3.1. Membership and Management of One Voice Wales Dispensation to Speak and Vote in NPTCBC Standards Committee and own Community Council

Councillor R. J. Davies No Change Speak and Vote
(a member of Resolven Community Council and Neath Port Talbot County Borough Council Standards Committee)

He also re-applies for dispensations for the following:-

- | | | |
|---|--|---------------------|
| 1. WAG Training Advisory Council | | Speak and Vote |
| 2. Community Health Council – WAG Nominee | | on all three bodies |
| 3. Swansea Trust Local Health Board | | at meetings of RCC |

5.3.2. Dispensation granted in respect of Amman Awel Tawe Windfarm – Officers of the Association

Councillor E. Page No Change Speak (only)
(Chair of Rhiwfawr Action Group)

Councillor P. Newman No Change Speak (only)
(Secretary of Rhiwfawr Action Group)

Both the above Community Councillors are members of Cwmllynfell Community Council and may speak on issues relating to Amman Awel Tawe/Mynydd y Gwrhyd.

5.3.3 Dispensation granted in respect of membership of Friends of the Earth

Councillor B Jones No Change Speak and Vote
(Friends of The Earth (Membership))

This Councillor is a member of Cilybebyll Community Council

Recommended

All the above applications for dispensation are recommended to be re-granted as set out as requested upon the terms and conditions originally specified by Standards Committee. This dispensation be granted to expire on 31st March 2008.

6. **Review of Code of Conduct**

I would draw Members' attention to the following timetable which sets out the intentions of the Welsh Assembly Government to progress to conclusion the review of the Members' Code of Conduct

Pre-Christmas	Final policy steer from Minister
January – February	Instruct and work with Assembly lawyers on revised draft statutory instrument and code of conduct
February – March	Consult reconvened Code of Conduct Review Group on terms of draft revised code
March – April	Finalise statutory instrument
May	Submit statutory instrument to Minister for approval
June-July	Approval of statutory instrument by National Assembly (if required)
or late September/ October	
Early autumn or end 2007	Code comes into force

The general view with which the Assembly Government received from Standards Committees Monitoring Officers and the Standards Committees Conference in September of last year is that the preference was for the revised Code to be introduced in 2007 rather than waiting until after local elections in May 2008.

Further reports will follow as matters progress

7. **Officer Contact**

For further information on this report please contact:-
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