

STANDARDS COMMITTEE – 24TH MARCH 2006

**REPORT OF THE HEAD OF LEGAL SERVICES/
MONITORING OFFICER**

ITEM 1

1. Grant/Regrant of Dispensations under The Code of Member Conduct

1(a) Local Councillors as School Governors

Members will recall in previous years Committee considered the granting of a general dispensation to Councillors of Neath Port Talbot County Borough Council to speak and to vote on matters where those members have an interest as governors, as a nominee or an appointee of Neath Port Talbot County Borough Council and where in conducting Councils business

- (a) the political balance of the authority is upset; or
- (b) more than 50% of councillors are affected by the declaration of interests.

The granting of the dispensation in such circumstances allows all members to fully take part in debate and decision making to deal with education and governing bodies issues.

Standards Committee will recollect that I reported fully on the consideration to be applied to such dispensations in my main report to the Standards Committee in 2003. I quote as follows:-

“The Code of Conduct provides that where a member holds a position of general control or management in a body about which a decision is being made by the Council, or where it relates to a body to which they have been appointed by the authority as a representative, then the member must declare an interest. The Code allows the member to speak but not vote in these circumstances. Members generally feel vulnerable if they do speak. The situation is very difficult to handle especially when Neath Port Talbot County Borough Council is dealing with whole authority education issues e.g. the annual budget for Schools.

Hence it is clear that the position of school governors is causing problems in authorities across Wales resulting in school governors having to withdraw from decisions which affect a large number of schools across the authority's area, because of the nature of the interest. On authority-wide issues or issues which affect a large number of schools this declaration of interest has the potential either of upsetting the political balance of the authority or preventing more than 50% of the authority's membership from taking part. This runs counter to the principles of good administration and could in extreme situations prevent the authority from taking a decision at all."

I remind Committee that it is of course felt not appropriate to grant a dispensation to an individual Member where either:-

(a) the proposal under discussion relates to his or her school, or to a small group of schools which include his or her school;

or (b) where the decision would benefit the member, one of the member's family, a friend or any person with whom the member has a close personal association;

and also (c) where the member has a financial interest i.e. an interest usually set out in paragraphs 13 and 14 of The Code

Standards Committee has previously granted a general dispensation to vote to all Councillor Governors who have previously applied. These dispensations expire on 31st March 2006.

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 are to take these changes into account.

| | |
|---------------|---------------|
| Crowley CJ. | Miller Mrs. S |
| Davies APH | Morgan C |
| Davies DW | Morgan JD |
| Hopkins Mrs J | Penry Mrs SM |
| James ML | Rawlings HG |

| | |
|-------------|-------------|
| Jones E | Rees P A |
| Jones MI | Richards PD |
| Latham EV | Taylor A |
| Lewis AS | Thomas PM |
| Llewelyn A | Walters WD |
| Lloyd PG | Woolcock AN |
| Loaring E | Vaughan D |
| Miller J *1 | |

Changes Indicated

- *1 Councillor J Miller is no longer Governor for Melyn Infants School and is now Governor of Ysgol Gymraig Castell Nedd.

Recommended

I recommend that the above dispensations be re-granted for a year to expire on 31st March 2007 to enable further reconsideration by this Committee of same in the light of any National Assembly for Wales guidance that may be received.

The dispensations re-granted be not only to speak but also to vote in any matter affecting schools where:-

- (a) the declaration of interest affects the political balance of the authority or of the body considering the matter; or
- (b) where more than 50% of the membership of the body considering the matter has declared an interest relating to that business.

Provided that:-

- (a) this does not apply to any member where the proposed decision could benefit or disadvantage the member, one of the member's family or a friend or any person with whom the member has a close personal association; or is a unique benefit to his/her School
- (b) or where the member has an additional code interest and/or financial interest.

This recommendation is made in order to secure compliance with the Council's adopted Code of Conduct, 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.”

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 me of that interest together with the relevant details. Unless an asterix appears next to a Members name on the List that member has confirmed that they wish to have their dispensation renewed and have no changes to their position since Committee granted the such dispensation. As referred to above those who have indicated a change in position are marked with an * and the change is set out in the footnote to the List. None of these changes are material to the nature of the interest – they are all the same category of paragraph 12 interests. It is recommended that all dispensations requested be regranted.

Committee’s decision is requested hereon.

1(b) **Applications for Grant of Dispensation – Councillors as School Governors**

The following Councillors are making an application for Dispensation to not only speak but vote in the same circumstances as outlined in 1(a) above. The same considerations should apply as notified to Committee in Item 1(a) above. The Councillors are:

| | |
|--------------|--|
| Dinham J | |
| Dudley Mrs J | |

I recommend that these dispensations be granted on the same basis, with the relevant exceptions, and for the same period of time as the renewals considered in Item 1(a) aforesaid.

Committee’s decision is requested hereon.

2(a) **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

2(a)(i) **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 P. Rees | Neath Port Talbot Governors Association | Speak and Vote |
| Councillor P. Rees | Swansea Bay Race Equality Council Membership | Speak and Vote |
| Councillor A Llewellyn | Trothry Cyf Housing Association (Officer) | Speak (only) |
| Councillor A Llewellyn | Ystalyfera Development Trust (Member) | Speak and Vote |
| Councillor J. Miller | AMICUS | Speak (on O/S Committee) |
| Councillor Colin Morgan | Health Board Membership (Non Council Nominee) | Speak (only) |
| Councillor A N Woolcock | Health Board Membership (NPTCBC Nominee) | Speak and Vote |

2(a)(ii) **Community Councillors**

Renewal of dispensations in respect of applications from Community Councillors:

A. **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)

Councillor A P H Davies No Change Speak and Vote
(Councillor APH Davies is no longer a member of Standards Committee he is a Neath Port Talbot County Borough Councillor and a Coedffranc Community Councillor)

B. 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

C. 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 2007.

Committee's decision is requested hereon.

2(c) **Applications for Grant of Dispensations – Specific to Individual Members**

2(c) (i) Applications From Neath Port Talbot County Borough Council Members for Grants of Dispensations relative to Specific Individual Members

A. Melyn Community Conference – Councillors J and S Miller

2 Councillors are making application for Dispensation relative to the above. They are Councillor J Miller and Councillor S Miller both applied for dispensation to speak and vote. Both belong to the same organisation

which is a voluntary organisation and their position with each is unpaid. Hence their interests are not financial but both are likely to be considered paragraph 14 interests so that in order to deal with them with an appropriate dispensation they would not be able to speak or vote if these organisations or issues relating to them were part of the business of Council at any of its meetings.

They make these applications on the basis that there would be no damage to public confidence and as membership of this organisation is open to the Community at large, both claim a common interest with the general public. They believe it is also in the interests of the inhabitants of the area for them to be able to fully partake in Neath Port Talbot County Borough Council when relevant issues are under discussion involving this organisation.

I will report further orally on these 2 applications as I am currently enquiring into the status of the above organisation.

Committee's decision will be requested hereon.

B. Youth Offending Panel Neath Port Talbot CVS

Councillor Richards has applied to speak and vote on business before Neath Port Talbot County Borough Council regarding the above body or when issues relevant to the same are under discussion by this Council.

This activity is a voluntary activity. It is unpaid. The Councillor feels that his experiences gained in this organisation would assist Council in dealing with policy making relevant to Youth Offending issues.

This interest would be a paragraph 14 interest under the code and unless a dispensation was granted he would be unable to speak or vote on issues concerning the body.

He claims there would be no damage to public confidence and it would be in the interests of the inhabitants of the area for him to be able to do this. It is a voluntary organisation and not a financial interest and it is justified due to special expertise he has gained by his service on the body.

I will report orally herein to Committee as I am making enquiries about the status of this body as far as Council business is concerned.

Committee's decision will be requested hereon

2(c)(ii) Applications From Community Councillors

A. Councillor Redfers Davies of Resolven Community Council has made application for dispensation for 3 interests under the Code of Member Conduct. Each application is to vote on his Community Council as each application is a paragraph 12 interest (which allows the Member to ‘speak’ without a dispensation). Each application is made on the basis that the positions are unpaid and there will be no damage to public confidence and will be in the interests of the inhabitants of the area for the Councillor to be allowed to have the right to vote on the matters listed below:

1. WAG Training Advisory Council
Councillor Redfers Davies is a ‘One Voice Wales’ representative on the above WAG organisation. Nominated by One Voice Wales.
2. Community Health Council – WAG Nominee
3. Swansea Trust Local Health Board

Subject to confirmation of the manner of appointment to 3 above I would recommend that Committee grant these dispensations on the basis that the dispensation will not cover any other specific personal interest other than what is declared, and that it can not be exercised to benefit or disbenefit, financially advantage or disadvantage the organisations named.

Committee’s decision will be requested hereon

B. Dyffryn Clydach Community Council Members – 7 Applications Received

The following Dyffryn Clydach Members are all applying for a dispensation to speak and vote with regard to the letting of an out house to Dyffryn Clydach Environmental Group.

Martyn Peters
Hugh Thomas
Jennifer Davies
Margaret Smith
Lyn Thomas
Harry Thomas
Graham Phillips

The Community Council have received a request from this group for the use of an unused store/pump house at the Longford Memorial Hall, the Council will also have to determine the terms of occupancy, including fixing a rent for the premises. The 7 members named are active in the group. The Clerk informs me that there are 13 members of The Community Council and hence more than 50% of the Council are affected. The 7 members apply on this basis, together with the fact that there is no damage to public confidence, its in the interests of the inhabitants for them to be able to deal with this and membership is of a voluntary organisation and not a financial interest. I have requested additional information from The Clerk and will give oral advices at Committee.

Committee's decision will be requested hereon

3. **Applications for Dispensations By Councillors who are members of Neath Port Talbot County Borough Council Overview and Scrutiny Committees.**

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.

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 often no 'voting' in the accepted sense in the overview function because topics are wide ranging, often members are finding that they have to make declarations of interest that although strictly legally necessary, would not usually of themselves damage public confidence if the Member were to continue to speak or take part in the decision reviewing or 'calling in' the report before them.

I feel the regulations dealing with dispensations recognises this as one of the statutory grounds for seeking dispensation is that the interest relates to the Overview/Scrutiny Committee and is not a 'pecuniary' interest (the word pecuniary is now interpreted as 'financial').

I have hence drafted a form of application for dispensation to be used by Members who want to be able to speak and vote in appropriate circumstances but may currently not do so.

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 Members family.

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 Councils area, or be such that a member of the public might reasonably conclude it would significantly affect the Members 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.

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.

Any dispensations granted are to be for 1 year and to expire on 31st March 2007.

I have grouped the applications together for each of the Overview and Scrutiny Committees concerned.

I will comment on each application as necessary orally at Committee and make recommendations accordingly.

Children's Services

| |
|-------------------------|
| Councillor D. W. Davies |
| Councillor M.L. James |
| Councillor J. Dudley |
| Councillor J. Miller |

Children, Young People and Education

| |
|---------------------------|
| Councillor D. W. Davies |
| Councillor M.L. James |
| Councillor Mrs. J. Dudley |
| Councillor E. V. Latham |
| Councillor J. Miller |

Economic and Community Regeneration

| |
|--------------------------|
| Councillor M. I. Jones |
| Councillor H.G. Rawlings |
| Councillor J. Dinham |
| Councillor M.L. James |
| Councillor E. Jones |
| Councillor A.S. Lewis |
| Councillor A. Llewelyn |

Environment and Highways

| |
|----------------------------|
| Councillor A. P. H. Davies |
| Councillor E. Loaring |

Policy and Resources

| |
|-----------------------------|
| Councillor C. Morgan |
| Councillor Mrs. S. Miller |
| Councillor H. Bebell |
| Councillor D. W. Davies |
| Councillor Mrs. L. H. James |
| Councillor M. I. Jones |
| Councillor A. Llewelyn |
| Councillor J.D. Morgan |

Social Care, Health and Housing

| |
|-----------------------------|
| Councillor Mrs. S. M. Penry |
| Councillor J. Miller |
| Councillor H.G. Rawlings |
| Councillor P. D. Richards |
| Councillor W. D. Walters |

Committee's decision will be requested hereon

4. **Applications received relative to Employment – Neath Port Talbot County Borough Council Members in respect of members of their family employed by Council**

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 Code of Member Conduct. There is often disruption particularly in full Council Meetings when Members make declarations of interest in this respect.

I have been considering how to assist the smooth running of meetings and have drafted a form of application for dispensation to try to cover the situation when, although strictly required in law under the Code of Member Conduct, serial declarations affect the smooth running of Committee business in circumstances where I am sure the general public would not draw any inference from the relationships being declared.

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. Often, 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 I am required to keep.

I have hence tried as I have said to find a solution for Members and have drafted a form of application for dispensation to be used by Members who want to be able to speak and vote in appropriate circumstances but may currently fear to do so if they have a family member employed by Council.

Hence all the enclosed 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 Council'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.

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 Councils area, or be such that a member of the public might reasonably conclude it would significantly affect the Members 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.

The appropriate interest must still be declared in the usual way at any 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.

A separate form is to be completed for each family member with the information required as shown on the application for dispensation. Any other information a Member wishes to give is also put on this application.

All dispensations granted are to be for 1 year and to expire on 31st March 2007.

1. Councillor P. Rees

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

2. 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 applies for a dispensation to speak and vote.

3. Councillor L. H. James

Her daughter-in-law is a special needs assistant at Sandfields Comprehensive School.

She applies for a dispensation to speak and vote on Policy and Resources Overview and Scrutiny Committee on the business of that Committee

4. Councillor J. Rogers

His son has a temporary contract in administration in the Social Services and Housing Directorate. He applies for a dispensation to speak and vote.

5. Councillor J. Hopkins

Her husband is employed by Neath Port Talbot County Borough Council as an ICT Support and Research Officer in the Directorate of Environment. She applies for a dispensation to speak and vote.

I will give oral advices at Standards Committee with respect to the above as I am seeking additional information in respect of these applications.

Committee's decision to be requested herein.

5. Training for Standards Committee Members

Since the last meeting I have commenced a cycle of training for updates on declaration of interests, registration of same and dealing with Gifts/Hospitality for Neath Port Talbot County Borough Council Members. Standards Committee Members will be invited to attend the next event, a date for which is still awaited.

I have also carried out induction training for Councillor Tallamy who was elected for the Baglan Ward in the recent By-election.

I have had requests for refresher training from a few Community Councils and their Clerks which I am currently timetabling.

I have been notified that WAG's review of The Code of Member Conduct is currently on hold and will not be dealt with until later in the year. Hence training will have to continue on a refresher basis only for all members this year.

Recommended

That the above be noted for information purposes only.

6. **Consultation on – The Standards Committee (Wales) (Amendment) Regulations 2006**

WAG have published the above draft Regulations for consultation (see attached to this report Appendix 1 refers). The consultation process requires a response by 22nd March 2006. In view of this I have responded saying I am satisfied with these Regulations (see my letter also attached in Appendix 1) and requested that in view of the date of our Committee that WAG make provision for receipt of any formal observations Members want to make to be received after Committee on 24th March 2007.

Committee's decision is requested hereon

7. **Proposed Changes to the Neath Port Talbot County Borough Council Employee Code of Conduct – Receipt of Gifts.**

Report to follow.

Officer Contact

For further information on this report please contact:-

Mrs. Carole John, Monitoring Officer and Head of Legal Services
Tel. No. 763658 or e-mail c.a.john@neath-porttalbot.gov.uk