

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

1 October 2007

**Requests for Dispensations**

**1.0 PURPOSE OF REPORT**

- 1.1 To present, for Members' consideration, requests from certain County Councillors for a dispensation, in almost identical terms and in respect of the same issue, from the Standards Committee.

**2.0 BACKGROUND**

- 2.1 The following County Councillors have been invited to consider making a request for a dispensation from the Standards Committee:

- a) six (out of seven) County Councillors sitting on Craven Area Committee;
- b) eight (out of eleven) County Councillors sitting on the County Committee for Hambleton;
- c) five (out of six) County Councillors sitting on Richmondshire Area Committee; and
- d) ten (out of fourteen) County Councillors sitting on the Yorkshire Coast and Moors County Area Committee.

A full list of Members affected and invited to consider submitting a dispensation request is set out at Appendix 1, along with copies of actual requests received.

- 2.2 The County Councillors who have been invited to submit a dispensation application are also members of District/Borough Councils. Those who have submitted a request are seeking a dispensation to enable them to speak, vote and be included within the quorum at meetings of the Area Committee on which they sit, when that Committee is determining applications submitted by the District/Borough Council on which they also serve, for funding from the County Community Fund allocation for that district area.
- 2.3 To date, many Members in this situation declare a prejudicial interest and take no part in the decision on that particular allocation. This can, however, lead to Area Committee meetings becoming inquorate: at one recent meeting, the Committee concerned became inquorate for this reason and the applications in question had to be referred to the Executive for decision, causing a delay in the decision-making process.
- 2.4 It was therefore thought sensible to ascertain all County Councillors potentially affected in this way, to invite them to consider making a dispensation request and for the Committee to deal with all requests received at the same time.
- 2.5 At the time of writing this report, one County Councillor has only provided an incomplete, faxed application and I have yet to hear from 3 of the other

Councillors contacted, although it is likely they will wish to make such a dispensation request. Given that any request made will be in the same form as those being considered today, the Committee is therefore requested to consider granting a dispensation to those Councillors on the proviso that they subsequently submit a complete, signed application form to the Monitoring Officer.

### **3.0 INTERESTS ISSUES**

3.1 The County Councillors affected will have a personal interest in such applications and in such circumstances as described in paragraph 2.2 above, as they are also members of other local authorities and have a duty under the Code of Conduct to register such membership in the Register of Members' Interests. Members have a personal interest in any business of the County Council where it relates to or is likely to affect a registrable interest.

3.2 There is the potential for such personal interests to be viewed as prejudicial in certain circumstances, for example if there are competing bids from other sources for Community Fund allocation in that particular area or if there is some significant doubt about the merits of a bid judged against the relevant criteria for Fund allocation. The Monitoring Officer has provided detailed written advice on these issues to the Members affected; a copy of the advice is attached to each dispensation request form.

### **4.0 DISPENSATION PROCESS**

4.1 In accordance with paragraph 12 of the Code, and subject to his/her right to speak (where appropriate), a Member with a prejudicial interest in a matter must withdraw from the room or chamber where a meeting is being held UNLESS s/he has obtained a dispensation from the Standards Committee.

4.2 Under Section 81 of the Local Government Act 2000 and the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002, the Standards Committee has power to grant a dispensation to a Member with a prejudicial interest in certain circumstances only:

- a) the transaction of business would otherwise be impeded because:
  - (i) more than 50% of the Members entitled or required to participate would not be able to; or
  - (ii) the County Council would not be able to comply with "any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989" (ie political balance principles);
- b) the Member has submitted to the Standards Committee a written request for a dispensation, explaining why it is desirable; and
- c) the Standards Committee concludes, having regard to the above, the content of the application in (b) and all the other circumstances of the case, that it is appropriate to grant the dispensation.

Given the number of Members affected at each area committee (as set out in paragraph 2.1 above), the Committee will see that limb a) (i) above is satisfied, as is limb b) by virtue of the written applications included at Appendix 1. It is now for Members to decide, in accordance with c) above, whether it is appropriate to grant the dispensation in these circumstances.

- 4.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration and scope of it. A dispensation cannot be granted for more than four years. The applications in Appendix 1 request that the dispensation be granted until the date of the local government elections in 2009.
- 4.4 Any dispensation granted will allow the Member to fully participate in the matter concerned, including speaking and voting upon it. The dispensation will be recorded in writing and kept with the Register of Members' Interests.

## **5.0 NYCC DISPENSATION REQUEST PROCEDURE**

- 5.1 Whilst considering the issues raised in this report, the Council's Dispensation Request Procedure has been consulted. The Procedure requires updating in light of the introduction of the new Code of Conduct for Members and suggested amendments are set out in Appendix 2 for Members' consideration. These incorporate the Standards Board guidance on dispensations as set out in the Board's Guide for Members May 2007.

## **6.0 CONCLUSION**

- 6.1 Members are requested to consider whether it is appropriate to grant a dispensation to the County Councillors listed in Appendix 1, who regard themselves as having a prejudicial interest in meetings of the Area Committees on which they sit when considering Community Fund allocation applications from other authorities on which they also serve.
- 6.2 Members are further requested to consider the suggested amendments to the Council's Dispensation Request Procedure, as set out in Appendix 2.

## **7.0 RECOMMENDATIONS**

- 7.1 That dispensations be granted to the County Councillors listed at Appendix 1 to enable them to speak, vote and be included within the quorum at meetings of the Area Committee on which they sit, when that Committee is determining applications submitted by the District/Borough Council on which they also serve, for funding from the County Community Fund allocation for that district area.
- 7.2 That the dispensations be granted until the date of the local government elections in 2009.
- 7.3 That, subject to any comments Members may have, the Council's Dispensation Request Procedure be amended as set out in Appendix 2.

CAROLE DUNN  
Monitoring Officer

Presenting Officer: Carole Dunn

Author of report: Moira Beighton  
Telephone: 01609 532458  
Room 15

Background documents:  
Section 81 Local Government Act 2000

The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

County Hall  
NORTHALLERTON

20 September 2007

## NYCC Standards Committee

1 October 2007

**Dispensation Applications – County Community Fund Allocations**

<b>Name</b> <i>(invited to apply)</i>	<b>Committee</b>	<b>Application received?</b>
David Heather	Craven Area Committee	3.9.07
David Ireton	Craven Area Committee	9.8.07
Mark Wheeler	Craven Area Committee	23.8.07
Philip Barrett	Craven Area Committee	30.7.07
Polly English	Craven Area Committee	20.8.07
Robert Heseltine	Craven Area Committee	31.7.07
Arthur Barker	County Committee for Hambleton	29.8.07
Peter Brown	County Committee for Hambleton	30.7.07
Gareth Dadd	County Committee for Hambleton	20.9.07
John Fletcher	County Committee for Hambleton	7.9.07
Tony Hall	County Committee for Hambleton	31.7.07
Peter Sowray	County Committee for Hambleton	11.9.07
Timothy Swales	County Committee for Hambleton	1.8.07
John Weighell	County Committee for Hambleton	20.9.07
John Blackie	Richmondshire Area Committee	30.7.07
Roger Harrison-Topham	Richmondshire Area Committee	
Michael Heseltine	Richmondshire Area Committee	3.8.07
Stuart Parsons	Richmondshire Area Committee	10.8.07
Melva Steckles	Richmondshire Area Committee	31.7.07
Andrew Backhouse	Yorkshire Coast and Moors County Area C/tee	12.9.07
David Billing	Yorkshire Coast and Moors County Area C/tee	27.7.07
John Blackburn	Yorkshire Coast and Moors County Area C/tee	31.7.07
Eric Broadbent	Yorkshire Coast and Moors County Area C/tee	Yes
Rob Broadley	Yorkshire Coast and Moors County Area C/tee	31.7.07

<b>Name</b> <i>(invited to apply)</i>	<b>Committee</b>	<b>Application received?</b>
David Jeffels	Yorkshire Coast and Moors County Area C/ttee	
Jane Kenyon	Yorkshire Coast and Moors County Area C/ttee	10.8.07
Patricia Marsburg	Yorkshire Coast and Moors County Area C/ttee	21.8.07
Brian Simpson	Yorkshire Coast and Moors County Area C/ttee	
Herbert Tindall	Yorkshire Coast and Moors County Area C/ttee	Incomplete fax received 13.9.07. Awaiting complete version in post.

# Guidance to Members seeking a Dispensation from the Standards Committee

## 1.0 Introduction

1.1 Under paragraph 10 of the Code of Conduct for Members, and in accordance with the supporting statutory Guidance, a Member with a personal interest in any business of the authority also has a prejudicial interest if all the following conditions are met:

- a) the business is not exempt;
- b) the business affects the Member's financial position (or a regulatory matter affecting them) or that of any person or body through whom the Member has a personal interest; and
- c) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgment of the public interest.

1.2 Under paragraph 12 of the Code, a Member with a prejudicial interest in certain business must withdraw from the room or chamber where a meeting is being held either after making representations (where appropriate and if s/he wishes to do so) or, in any other case, whenever it becomes apparent that the business is being considered at that meeting UNLESS s/he has obtained a dispensation from the Standards Committee.

## 2.0 Scope

### 2.1 Circumstances where a dispensation may be granted

2.1.1 Under Section 81 of the Local Government Act 2000 and the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002, the Standards Committee has power to grant a dispensation to a Member with a prejudicial interest in a matter, in certain circumstances (see below).

2.1.2 Any dispensation granted will allow the Member to fully participate in the matter, including speaking and voting upon it.

2.1.3 The law prescribes that the Standards Committee may only grant a dispensation where:

- a) the transaction of business would otherwise be impeded because:
  - (i) more than 50% of the Members entitled or required to participate would not be able to; or

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(ii) the County Council would not be able to comply with "any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989" (**NB: see paragraph 3.1.2 below**);

b) the Member has submitted to the Standards Committee a written request for a dispensation, explaining why it is desirable; and

c) the Standards Committee concludes, having regard to the above, the content of the application in (b) and all the other circumstances of the case, that it is appropriate to grant the dispensation.

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2.1.4 The Standards Committee will need to balance the public interest in preventing Members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of Members of the authority (Standards Board Guidance May 2007).

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## 2.2 Restrictions on the granting of a dispensation

2.2.1 A dispensation cannot be granted, in respect of participation in business, for more than four years.

2.2.2 Dispensations cannot be granted to allow:

- a Member of an Overview and Scrutiny Committee to participate in the scrutiny of a decision of, or action taken by, another committee of which they are also a Member; nor
- an individual Member of the Executive to exercise executive functions solely, where they are prohibited by the Code from doing so.

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## 3.0 Guidance to Members Requesting a Dispensation

3.1 If a Member believes she has a personal interest in a matter which is also prejudicial she cannot take part and vote without a dispensation.

3.1.1 Members can seek a dispensation if they think that more than 50% of the particular decision making body eg 3 members of full Council or 5 Members of the Executive, would be prevented from taking part.

3.1.2 A dispensation can also be sought if the Council would be unable to allocate seats in accordance with the rules relating to political balance: this would, however, only occur at the time that allocations were made to political groups and thereafter committees and not simply that political balance would not be maintained thereafter. This was not, however, the intention behind the Dispensation Regulations. The Standards Board noted in its Guidance (May 2007) that:

.... there is currently a problem with the drafting of the Dispensation Regulations. The political balance criterion is linked to an authority being unable to comply with its duty under section 15(4) of the Local Government and Housing Act 1989. This duty requires the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings either of the authority or its committees. For this reason it is difficult to envisage circumstances in which



*the criterion would be met. Until such time as the appropriate amendments are made to the Regulations it is not likely that dispensations would be granted on the basis of the political balance criterion.*

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3.1.3 If either of the above criteria applies then a Member may wish to consider applying for a dispensation from the Standards Committee. In those circumstances it would be advisable to discuss the proposed application with either the Monitoring Officer or the Head of Committee Services.

3.2 Requests for a dispensation should be made individually, using the form attached as Appendix 1, which is available from the Monitoring Officer or the Head of Committee Services. If the Member does not make an application the Standards Committee cannot consider a dispensation to that Member. This is so even if several other Members are affected by the same issue. Should each such Member wish to receive a dispensation then they must each submit an application on their own behalf using the form.

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#### 4.0 Completing the Application Form

4.1 The Standards Committee must be satisfied that there is a reason for dispensation ie that more than 50% of Members or the allocation of seats to political groups will be affected if a dispensation is not granted. They must also be satisfied that a Member has made an application in accordance with the Regulations. The Committee will then consider the content of the application and all the other circumstances of the case. In order for the Committee to properly consider these issues the Member should provide the following information:

- Details of the personal interest of the Member; if it involves the membership of another body, Members should outline the purpose of the body and its relationship, if any, with the County Council;
- Details of the decision or decisions in respect of which the Member will have a prejudicial interest;
- If appropriate, the date of the meeting and the item number of any particular decision due for consideration;
- The name of the relevant Council Officer who usually advises Members about the matter under consideration;
- Members should indicate the length and scope of the dispensation being sought: a dispensation cannot be longer than four years and it can be limited to a particular decision or apply to a number of decisions relating to the same issue;
- Finally, the Member will need to indicate why he or she considers that a dispensation should be given.

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#### 5.0 Submitting the Application

- 5.1 Once completed, the form should be sent to the Monitoring Officer and the Head of Committee Services.
- 5.2 The Head of Committee Services will then arrange for the Standards Committee to consider the application at its next meeting or, if the matter is urgent and will not wait until then, at a specially convened meeting of the Standards Committee.
- 5.3 The Member will be notified by the Head of Committee Services of the date upon which the Standards Committee will consider the request.

**6.0 Consideration of the Dispensation Request by the Standards Committee**

- 6.1 At the appointed meeting, the completed application form will be considered by the Standards Committee, along with any other relevant information, in deciding whether or not to grant a dispensation to the Member.
- 6.2 The Standards Committee may seek information from the relevant Officer and may request the attendance of the Member to assist in understanding the nature of the relevant interest.
- 6.3 Once the Standards Committee has decided whether or not to grant a dispensation, the Head of Committee Services shall inform the Member as to the outcome of his/her application.

**7.0 Recording a Dispensation**

- 7.1 If the Standards Committee decides to grant a dispensation to the Member, then the Head of Committee Services will record, in writing, its existence, duration and nature.
- 7.2 The Monitoring Officer will ensure that a copy of the record is kept with the relevant Member’s entry in the Register of Members’ Interests.

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NORTH YORKSHIRE COUNTY COUNCIL

Request to the Standards Committee for a Dispensation

Name of Member seeking dispensation: .....

In respect of which meeting(s)? .....  
(include dates, where possible)

In respect of what business? (If applicable, include full details of the agenda item or other matter)

NB: PLEASE NOTE that dispensations cannot be granted to allow:

- a Member of an Overview and Scrutiny Committee to participate in the scrutiny of a decision of, or action taken by, another committee of which they are also a Member; nor
- an individual portfolio holder to take executive decisions where they have delegated powers to do so but are prevented from taking the decision because of a prejudicial interest.

[Empty box for details]

Name of the Relevant Officer: (Please indicate the name of the officer who usually presents reports on the matter for which a dispensation is sought).

[Empty box for name of officer]

Desired length of dispensation: .....days/weeks/months/years  
(Please note the maximum length of a dispensation is four years)

Ground(s) for application: (Please tick the relevant box)

- (a) more than 50% of the Members entitled to participate affected:
- (b) allocation of seats to committees under political balance principles affected:

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**Details of your prejudicial interest:**

*Please set out full details of your personal interest in the business concerned and why you believe that interest to be prejudicial. Please continue on a separate sheet if necessary:*

**Reasons for seeking a dispensation:**

*Please set out full reasons why it is desirable for the Standards Committee to grant you a dispensation in respect of the above prejudicial interest. Please continue on a separate sheet if necessary:*

Signed: .....

Dated: .....

TO: **Carole Dunn**, Monitoring Officer  
**Stephen Knight**, Head of Committee Services

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