

## NORTH YORKSHIRE COUNTY COUNCIL

### STANDARDS COMMITTEE

11 February 2013

#### **Dispensation Issue**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To present to the Committee, for consideration, a request from a County Councillor for a dispensation from the Standards Committee.

#### **2.0 BACKGROUND**

- 2.1 County Councillor Mulligan has made a request for a dispensation from the Standards Committee to enable him to fully participate in County Council, Executive, Committee and Sub-Committee business which may relate to the Police or the Police and Crime Commissioner in those circumstances where the impact of any decision by the Council/Committee on an item of business would not, in any event, bring any personal advantage or disadvantage to Councillor Mulligan or his wife.

#### **3.0 DELEGATED POWERS**

- 3.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written dispensation requests.
- 3.2 The power to grant dispensations to Members and Co-opted Members under the new ethical framework was delegated by the Council to this Committee, after consultation with the Independent Person.
- 3.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

#### **4.0 INTERESTS ISSUES**

- 4.1 Councillor Mulligan's wife, Julia Mulligan, was recently elected to the office of Police and Crime Commissioner. Councillor Mulligan has sought advice from the Monitoring Officer as to any potential effect upon his ability to participate in County Council (and Committee) business that may relate to the Police or the office of Police Commissioner.
- 4.2 Interests issues arise as Councillor Mulligan's wife's office as Police and Crime Commissioner, being 'for gain', appears in Councillor Mulligan's Register of Interests as a disclosable pecuniary interest of Councillor Mulligan. He will therefore have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting of the Council, Executive, Committee or Sub-Committee of the County Council affecting the office of Police and Crime Commissioner. The implication of this is that Councillor Mulligan would have to declare an interest and leave the meeting room: he may not, in the normal course of events, participate in any discussion of the item of business or participate in any vote at the meeting.

- 4.3 There may well be occasions where items of business refer to the Police and Crime Commissioner or her role, and where, if Councillor Mulligan had to leave because of his interest, his absence would mean that those he represents in his division would be without representation at the meeting.
- 4.4 After discussing the issues, the Monitoring Officer invited Councillor Mulligan to apply to the Standards Committee for a dispensation from non-participation in those circumstances where the impact of any decision by the County Council, Executive, Committee or Sub-Committee on an item of business would not bring any personal advantage or disadvantage to Councillor Mulligan or his wife.
- 4.5 Applications for a dispensation must be in writing. Councillor Mulligan's written application is attached at **Appendix 1** to this report.

## **5.0 DISPENSATION PROCESS**

- 5.1 Under the Localism Act 2011 and delegated power from the Council, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary interest where the Committee concludes that:
- (a) without the dispensation the number of persons prohibited from participating in particular business would be so great a proportion that the body transacting the business as to impede the transaction of the business;
  - (b) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (c) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - (d) granting the dispensation is in the interests of persons living in the authority's area;
  - (e) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
  - (f) considers that it is otherwise appropriate to grant a dispensation.
- 5.2 It may be argued in the circumstances above that a dispensation in this particular case would be viewed as being in the interests of persons living in the Authority's area and that it would be otherwise appropriate to grant a dispensation (criteria (d) and (f)), although it is entirely a matter for the Standards Committee to make that decision. Members must decide whether it is appropriate to grant the dispensation in these circumstances, after balancing the public interest in preventing a Member with a disclosable pecuniary interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.
- 5.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration of it. Dispensations may be granted for a maximum period of 4 years. Members may feel in this case that it would be appropriate to grant a dispensation for the maximum period or they may wish to grant a short term dispensation until the date of the local government elections (2 May 2013), which is consistent with end dates for other dispensations granted to other Councillors in the past.

- 5.4 Any dispensation granted will allow Councillor Mulligan to fully participate in the relevant business, including speaking and voting upon it. The dispensation will be recorded in writing and kept with Councillor Mulligan's interests form in the Council's Register of Members' Interests.

## **6.0 RECOMMENDATIONS**

- 6.1 That the Committee consider and determine the application for a dispensation by Councillor Mulligan to enable him to speak, vote and be included within the quorum at County Council, Executive, Committee and Sub-Committee meetings when the Council/Executive/Committee/Sub-Committee is considering business which may relate to the Police and/or the Police Commissioner where the impact of any decision by the Council/Executive/Committee/Sub-Committee on the item of business would not, in any event, bring any personal advantage or disadvantage to Councillor Mulligan or his wife.
- 6.2 That, should the Committee be minded to grant the dispensation requested, the Committee determine the duration of the dispensation.

CAROLE DUNN  
Monitoring Officer

### Background Papers:

- The Localism Act 2011

County Hall  
NORTHALLERTON

30 January 2013

## Moira Beighton

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**From:** Carole Dunn  
**Sent:** 30 January 2013 12:26  
**To:** Moira Beighton  
**Subject:** FW: Dispensation

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**From:** Cllr.Patrick Mulligan  
**Sent:** 30 January 2013 07:36  
**To:** Carole Dunn  
**Subject:** RE: Dispensation

Dear Carole

Thank you for the guidance concerning my "disclosable pecuniary interest" in relation to my wife's role as North Yorkshire Police and Crime Commissioner. I would like to formally request a dispensation from the Standards Committee so that I am allowed to participate in discussions and vote in matters related to the police. I believe it is in the interests of persons living in the Authority's area that I receive such a dispensation. This is particularly true for the residents of the Airedale Division, whom I represent at North Yorkshire County Council.

I hope the Standards Committee will consider this matter at their next meeting on February 11th.

Kind regards

Patrick

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**From:** Carole Dunn  
**Sent:** 29 January 2013 18:03  
**To:** Cllr.Patrick Mulligan  
**Cc:** Moira Beighton  
**Subject:** Dispensation

Dear Councillor Mulligan

I refer to our recent discussion relating to the recent election of your wife Julia Mulligan to the office of Police Commissioner, and any potential effect upon your ability to participate in County Council (and Committee) business that may relate to the police or the Police Commissioner.

*Interest:* The issues arise in that your wife's office as Police Commissioner, being for gain, appears in your Register of Interests as your disclosable pecuniary interest. You will therefore have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting of the Council, Executive, Committee or Sub-Committee of the County Council affecting the office of Police Commissioner. The implication of this is that you would have to declare an interest, and may not in the normal course of events participate in any discussion of the item of business, or in any vote at the meeting.

There may well be occasions where items of business refer to the Police Commissioner or her role, and where if you have to leave because of your interest your absence would mean that those you represent in your division would be without representation at the meeting. We therefore discussed whether you might be able to apply for a

dispensation from non-participation in those circumstances where the impact of any decision by the Council on an item of business would not in any event bring any personal advantage or disadvantage to you or your wife.

*Dispensations:* Under the County Council's ethical framework you can apply for a dispensation by making a request to the Proper Officer. The Standards Committee usually deals with such with the requests and there is an opportunity for any application you may wish to make to be considered at their next meeting on 11 February.

Dispensations can be granted only if, after having regard to all the relevant circumstances, the Standards Committee concludes that:

- (a) without the dispensation the number of persons prohibited from participating in particular business would be so great a proportion that the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (c) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (d) granting the dispensation is in the interests of persons living in the authority's area;
- (e) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
- (f) considers that it is otherwise appropriate to grant a dispensation.

It may be argued in the circumstances above that a dispensation would be viewed as in the interests of persons living in the Authority's area, though it is entirely a matter for the Standards Committee to make that decision. If you wish to apply for a dispensation will you please respond to this email indicating that you do, as the application must be in writing. If the Standards Committee are minded to grant a dispensation, it will be for a period of up to four years.

Please contact me if you have any difficulties with this.

Kind regards

Carole

Carole Dunn  
Assistant Chief Executive (Legal and Democratic Services)  
and Monitoring Officer