

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

21 September 2015

Dispensation Issue**1.0 PURPOSE OF REPORT**

- 1.1 To ask the Committee to consider the potential of a dispensation issue with regard to traffic regulation orders and Area Committees.

2.0 BACKGROUND

- 2.1 Area Committees from time to time will be consulted on issues relating to parking within their area with regard to traffic regulation orders.
- 2.2 For example, it is understood that a report will be considered at a future Harrogate Area Committee regarding a proposal for the introduction of on-street pay and display charges in Harrogate town centre. The outcome of consultation will be reported to the Area Committee for comments. The ultimate decision regarding the proposed traffic regulation order will potentially be taken by the Corporate Director Business and Environmental Services, in consultation with the relevant Executive Member.
- 2.3 The Standards Committee have given previous dispensations to potential conflicts of interests in another part of the County to allow members to take part in the decision making process for traffic regulation orders regarding parking as it is considered that local members with local knowledge should be allowed to contribute to the discussion on the decision making process.
- 2.4 At this stage, whilst the Committee has not received a request for a dispensation, it is considered appropriate for the Standards Committee to consider whether it wishes to formally grant a dispensation to Councillors to enable them to speak, vote and be included within the quorum at meetings of the County Area Committee when it is considering issues relating to the introduction of on-street pay and display charges in Harrogate town centre.

3.0 POWER TO GRANT DISPENSATIONS

- 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 ethical framework adopted under the Localism Act 2011 was delegated by the Council to this Committee, after consultation with the Independent Person for Standards.
- 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 If any of the Members of an Area Committee live or work in an area affected by the proposed traffic regulation order, then they would have declared their residence or their work place as a Disclosable Pecuniary Interest (DPI). This will then potentially prevent them from taking part in a discussion at a formal meeting about the issue in question. The Council's Code of Conduct states that a Member with a DPI about the issue being discussed has to withdraw from the meeting room.
- 4.2 It should be noted that where charges are proposed to be introduced, some members, as local residents may be eligible for parking permits so will not be personally affected by any new charges, some will park on their own land and some who work in the Town Centre will have access to their own private parking. However as they have declared their home and work addresses it is considered that the Standards Committee should consider this issue in in the interests of transparency.
- 4.3 It is clear that the intention of the Council in allowing area committees to comment on Traffic Regulation Orders is to allow all Councillors the ability to discuss, comment and make a recommendation at a formal meeting of the Council so that the views of local Councillors can be taken into account. It is noted that if any Members had to leave because of their interests, their absence would mean that those they represent in their divisions would be without representation at the Area Committee meeting.
- 4.4 The Standards Committee is asked to consider whether in these circumstances it wishes to grant a dispensation to clarify that all Councillors can take part in discussions about TROs at Area Committees. Dispensations can be granted to enable a Member with a DPI to participate in the discussion and vote only if, after having had regard to all the relevant circumstances, the authority is satisfied that one or more of the criteria set out in the Act is met. Applications for a dispensation must be in writing.

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 it is appropriate to grant a dispensation under paragraphs (d) and (f) to avoid any suggestion that local members cannot take part in the discussion on local Traffic Regulation Orders. Members must decide whether it is appropriate to grant any dispensation requests 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 until the date of the next local government elections which is consistent with end dates for other dispensations granted to other Members in the past.
- 5.4 Any dispensations granted will allow the Members concerned to fully participate in the relevant business, including speaking and voting upon it. The dispensation will be recorded in writing and kept with their interests forms in the Council's Register of Members' Interests.

6.0 RECOMMENDATIONS

- 6.1 That the Committee considers whether it wishes to grant a dispensation for Members of Area Committees to discuss traffic regulation orders when their interest simply relates to their home or working address.
- 6.2 That, should the Committee be minded to grant any dispensations, the Committee determine the duration of the dispensations.

BARRY KHAN
Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

11 September 2015