

NORTH YORKSHIRE COUNCIL
STANDARDS AND GOVERNANCE COMMITTEE

15 July 2024

Dispensation Request from Councillor Peacock

1.0 PURPOSE OF REPORT

- 1.1 To present to the Committee, for determination, a request from Councillor Yvonne Peacock for a dispensation from the Standards and Governance Committee.

2.0 BACKGROUND

- 2.1 The Assistant Chief Executive Legal and Democratic Services and Monitoring Officer was designated by the Council as Proper Officer to receive written requests by Members/voting Co-opted Members for a dispensation under section 33 Localism Act 2011 relieving them from either or both of the restrictions on participating in the discussion and vote on a matter where they have a disclosable pecuniary interest (DPI).
- 2.2 Under North Yorkshire Council's standards regime, Members holding an other registrable interest (ORI) or non-registrable interest (NRI) may also seek a dispensation in relation to that interest.
- 2.3 The power to grant dispensations to Members and voting Co-opted Members under the new ethical framework was delegated by the Council to this Committee, after consultation with the Independent Persons.
- 2.4 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Persons) where the timescales are such that a Standards and Governance Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards and Governance Committee, all of whom consent to the granting of the dispensation.

3.0 DISPENSATION PROCESS

- 3.1 Under the Localism Act 2011 and delegated power from the Council, where a written request has been made to the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer as Proper Officer, the Standards and Governance Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary (and other) interests where the Committee concludes, after having had regard to all relevant circumstances, that:
- (a) 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;
 - (b) 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;
 - (c) granting the dispensation is in the interests of persons living in the authority's area;

- (d) 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
 - (e) it is otherwise appropriate to grant a dispensation.
- 3.2 The Committee must decide whether the application fulfils any of the criteria set out in paragraph 3.1 and, if so, whether it is appropriate to grant the dispensation in the circumstances, after balancing the public interest in preventing a Member with an 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.
- 3.3 If the Standards and Governance Committee is minded to grant a dispensation, it must consider the scope (for example whether the dispensation will allow the Member to speak, discuss and vote on the item or speak and discuss only) and the duration of it. Dispensations may be granted for a maximum period of 4 years.
- 3.4 Any dispensation granted will be recorded in writing.

4.0 DISPENSATION REQUEST BY COUNCILLOR PEACOCK

- 4.1 Councillor Peacock has emailed the Monitoring Officer to request a dispensation for 4 years from the Standards and Governance Committee, to enable her to speak, fully participate and vote on matters at meetings of the Housing and Leisure Overview and Scrutiny Committee and full Council regarding community led housing and the 'policy on second home extra council tax to spend on housing'. A copy of Councillor Peacock's application is attached at **Appendix 1** to this report. She believes the application would satisfy criteria (c) set out in paragraph 3.1 above, namely that the granting of the dispensation would be in the interests of persons living in the authority's area.
- 4.2 Councillor Peacock states that she is a Director on the Upper Dales Community Land Trust which covers the Upper Dales which has over 640 second homes. She states that she has been heavily involved in delivering the building of homes in the Upper Dales and has detailed knowledge of the difficulties and barriers facing the delivery of affordable homes in rural areas. Councillor Peacock feels she could usefully inform any debate on these issues and is seeking a dispensation to enable her to fully participate in council business relating to these issues. In her application, Councillor Peacock has stated in her application that should anything arise at a meeting necessitating a vote on direct funding to the Upper Dales Community Land Trust then she would leave the meeting.
- 4.3 Upper Dales Community Land Trust is included in Councillor Peacock's registration of interests form under 'unpaid directorships' and 'charitable bodies', which are other registrable interests (not disclosable pecuniary interests). The interests form indicates that Councillor Peacock receives no financial benefit from her directorship of the Trust.
- 4.4 If there is an item of business due to be considered at a meeting which **directly relates** to the financial interest or wellbeing of the Trust, then, without a dispensation, Councillor Peacock would need to declare the existence and nature of her interest to the meeting, speak if the public can but then not participate in any vote on the matter and withdraw from the meeting room for that item unless she has a dispensation.

4.5 If the item of business doesn't directly relate to the Trust, but could more indirectly **affect** the Trust's finances or wellbeing, then Councillor Peacock may have a Non-Registrable Interest in the agenda item. She would need to declare the existence and nature of her interest to the meeting, and consider whether the matter affects the Trust's financial interest/wellbeing more than it affects that of the majority of inhabitants of the division affected and, if so, whether a reasonable member of the public knowing all the facts would believe it would affect Councillor Peacock's view of the wider public interest:

- if yes, then Councillor Peacock may speak if the public can but must otherwise take no part in the discussion or vote and must leave the meeting room unless she has a dispensation;
- if no, the matter does not so affect the Trust's financial interest/wellbeing, then Councillor Peacock can speak and vote in the usual way after declaring the interest.

4.6 The LGA guidance on the code of conduct states:

Other registerable interests

... The second category of interests are 'other registerable interests' or ORIs.

If you have an 'Other Registerable Interest' – that is an interest which falls within the categories in Table 2 in Annex B - the Code says you should not participate in the relevant business in two circumstances:

1. *when a matter directly relates to the finances or wellbeing of that interest.
... or*
2. *when a matter affects the finances or wellbeing of that interest to a greater extent than it affects the majority of inhabitants; and a reasonable member of the public would thereby believe that your view of the public interest would be affected ...*

An interest 'directly relates' to an outside body where the local authority is taking a decision which directly relates to the funding or wellbeing of that organisation.

For example, under a) if you are a member of a group which has applied for funding from the local authority, or if you are a member of an organisation which has submitted a planning application, the decision directly relates to that organisation.

In such a case you must not take part in any discussion or vote on the matter. You can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. For example, you may want to put forward the organisation's case as to why it has applied for funding, but representatives from competing organisations would also need to be able to make their case.

If the public are not allowed to address the meeting on that item, you would need, if necessary, to get another councillor who did not have an ORI to make any relevant case.

If the local authority is simply discussing that outside organisation but not making a decision which relates to its finances or wellbeing – for example discussing the annual report from the organisation – that does not directly relate to the organisation as there is no direct impact on the organisation which would give rise to a conflict of interest.

Under b) if you are on the committee of the local village hall and an application for a licence for another venue in the village is made which may take trade away from the village hall then the matter would affect the village hall and a reasonable person would believe that would affect your view of the public interest so those two tests are met.

You would not have an interest if the local authority was discussing early planning for an event, which may or may not be held in the village hall as there would be no direct financial impact at that time. When the plans crystallised then an interest would arise as a decision would be made which would have financial implications.

There will also be circumstances where you do not need to declare an interest even though the matter may be relevant to the wider aims of an organisation of which you are a member. For example, if you are a member of a charity such as the Royal Society for the Protection of Birds (RSPB), you do not need to declare an interest every time the local authority might discuss matters relating to habitats or conservation issues. Those issues may reflect the wider aims of RSPB, but they do not directly relate to or affect the organisation and your mere membership of the organisation has no bearing on the matter.

If you were in a position of control or general management in that body and the organisation was campaigning actively on the specific issue being discussed or you personally were campaigning actively on that specific issue the situation would be different. In those circumstances you may have an interest and there is a risk of predetermination. Where there is doubt you should always seek advice from the monitoring officer (or clerk if you are a parish councillor).

As with DPIs you can be granted a dispensation (see below) and if the interest has not been registered or notified to the monitoring officer you should do so within 28 days of the meeting

Non-registerable interest

*... A **Non-registerable Interest** arises where the interest is that of yourself or your partner which is not a DPI or of a relative or close associate (see definition below).*

As a councillor you are not expected to have to register the interests of your relatives or close associates but under the Code you are expected to declare them as and when relevant business occurs which affects their finances or wellbeing. The Code says you should not participate in the relevant business in two circumstances:

- **a.** *when a matter directly relates to that interest. Or*
- **b.** *when a matter affects that interest to a greater extent than it affects the majority of inhabitants and*
 - *a reasonable member of the public would thereby believe that your view of the public interest would be affected*

For example, under a) if your son has submitted an application for a licence to open a bar, the matter directly relates to your relative. You must not take part in any discussion or vote on the matter.

For example, under b) there has been an application made to build several units of housing on a field adjacent to your business partner's home. It is not their

application, but they will be more affected by the application than the majority of people so again you would be expected to declare the interest and withdraw.

Similarly, an application for the property next door to you does not directly relate to your property so it is not a DPI, but you would instead need to declare a Non-Registerable Interest.

In all of these cases you can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. If the public are not allowed to address the meeting on that item, you would need if necessary, to get another councillor who did not have an NRI to make any relevant case or to represent the wider views of constituents.

As with DPIs you can be granted a dispensation (see below).

What is the difference between ‘relates to’ and ‘affects’?

Something relates to your interest if it is directly about it. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you or an outside body you have registered has a financial interest.

‘Affects’ means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing your property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

- 4.7 Should the Committee be minded to consider granting a dispensation, the relevant grounds may be:
- (c) granting the dispensation is in the interests of persons living in the authority’s area;
 - (e) it is otherwise appropriate to grant a dispensation.

Even if a dispensation is granted by the Committee, the interest would still need to be declared by Councillor Peacock and she would need to state to the meeting that she is relying on a dispensation to fully participate.

- 4.8 The Committee is therefore requested to consider and determine the dispensation request from Councillor Peacock to enable her to participate in business at meetings of the Housing and Leisure Overview and Scrutiny Committee and full Council regarding matters relating to community led housing and the policy re the council tax premium on second homes. Councillor Peacock has indicated that she is seeking the dispensation in order to inform relevant debate and would not participate in any vote required on direct funding to the Trust.

- 4.9 Should Members be minded to grant a dispensation, they must also determine:
- the scope of the dispensation, for example whether it covers speaking only or speaking and voting;
 - in respect of what business, for example any relevant items of business *affecting* the Trust only or also those *directly relating* to the Trust (although

Councillor Peacock has indicated that she would not participate in any vote required on directing funding to the Trust);

- the grounds for granting the dispensation; and
- how long it should last (the maximum is four years).

5.0 FINANCIAL IMPLICATIONS

5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

6.1 The legal implications are set out in the body of this report.

7.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS

7.1 There are no significant environmental/climate change implications arising from this report.

8.0 EQUALITIES IMPLICATIONS

8.1 There are no equalities implications arising from this report.

9.0 CONCLUSION

9.1 That the Committee determines the submitted application by Councillor Peacock for a dispensation.

10.0 RECOMMENDATIONS

10.1 That the Committee considers and determines the application for a dispensation by Councillor Peacock.

10.2 That, should the Committee be minded to grant the dispensation requested, the Committee determine the scope, grounds and duration of the dispensation.

BARRY KHAN

Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

4 July 2024