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Friday, 2 June 2017

Notice of Reports Received following Publication of Agenda.

Standards Committee

Monday, 12th June, 2017 at 10.00 am,
Council Chamber - Council Chamber

Attached are reports that the committee will consider as part of the original agenda but were submitted to democratic services following publication of the agenda.

Item No	Item	Pages
6.	Granting of Dispensations to Members	1 - 4

Paul Matthews
Chief Executive

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Discussion Paper 2

Dispensations

Following the Council elections in May 2017 it is likely that we may receive applications for dispensation from new Councillors. It is important therefore that we understand why dispensations may be requested, how we as a Committee should respond and whether we have the necessary procedures agreed and in place for dealing with applications.

When I joined the Standards Committee in 2011 it was quite usual to have a number of applications for dispensation to consider at each meeting. For the past few years however we have only received one application for renewal of an annual dispensation, and that was refused.

Applicants seeking a dispensation are currently required to complete a pro-forma by hand and send it to the Monitoring Officer not less than two weeks before the date when the matter is to be discussed. In the application form they must answer the following questions:

1. *Member's name*
2. *What is the matter which is shortly to be considered and in respect of which you seek a dispensation?*
3. *What body (Council, Cabinet, Committee, Sub Committee, working group, etc) is due to consider this matter?*
4. *What is the nature of your personal interest?*
5. *What is the date of the meeting at which the matter is to be discussed?*
6. *Under which of the following grounds do you seek dispensation [the relevant paragraph a – i from the SI above]?*
7. *Do you seek a dispensation just for the one meeting or for a longer period? If longer, please state a period not exceeding one calendar year.*
8. *Please set out the reasons why you consider that the Standards Committee should grant you this dispensation.*

To determine whether a dispensation should be granted we were referred to The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001*, which states that:

2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Local Government Act 2000 where —

(a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;

(b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or

(e) also applies;

(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;

(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;

(e) the interest is common to the member and a significant proportion of the general public;

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;

(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or

(i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

[*Please note that the SI has been amended since 2001]

We also received a copy of the MCC's policy framework for considering applications for dispensation, which states:

When considering applications for dispensation, the Council's Standards Committee will take into account the following matters:-

- (a) Safeguarding the ability of Councillors and co-opted members to represent their community properly.*
- (b) The need for Councillors in particular to be able to participate in the working of relevant outside bodies, including School Governors, Community Associations, Companies and Trusts formed with the specific purpose of furthering Council objectives.*
- (c) The ability to distinguish interests that are of a more technical nature and those which are likely to substantially influence the judgement and objectivity of individual Councillors or co-opted members.*
- (d) When members have a personal financial or other pecuniary interest in an issue, it will rarely be possible to grant dispensation when the matter under discussion impacts directly upon that interest.*

And the following guidance to Councillors from the Public Services Ombudsman for Wales:

You [Councillors] can apply for a dispensation individually and, in certain circumstances, you can make joint applications where a number of members want to obtain a dispensation to speak or vote on the same matter. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible. Only the Standards Committee can grant the dispensation and will do so at its discretion. 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. If failure to grant a dispensation will result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation. Where you hold a dispensation, you can also make written representations but you must provide details of the dispensation in any correspondence. If you make oral representations, whether in person or by phone, you must refer to the dispensation and confirm this in writing within 14 days. [August 2016]

In practice, however, we have relied heavily upon the expert guidance of the Monitoring Officer.

Issues to discuss

1. Are we clear on the reasons why a dispensation may be requested?
2. Is the current application for dispensation fit for purpose?
3. Should we request that every application for dispensation is completed on line? [In my experience handwritten copies have proved very difficult to read]
4. Should the minimum period for an application for dispensation be reduced?
5. Should the maximum period for a dispensation to be in force be reduced from one calendar year?
6. Should we accept a last-minute application for dispensation and, if so, how should we process it?
7. Should the granting of a dispensation be the end of the matter for the Standards Committee? Should we require every applicant who is granted a dispensation to report back to the Standards Committee, through the Monitoring Officer, advising when, where and how the dispensation was used and whether or not it was effective?

Trevor Auld

Independent member

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