

MONMOUTHSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

FORM FOR APPLICATION FOR DISPENSATION

Section 81 of the Local Government Act 2000 sets out the law relating to Members' interests. It directs that a register be maintained, that a Code of Conduct directs Members to register their interests and that the Code require interests be declared and make provisions for preventing or restricting participation of Members in any business relating to those interests.

The model Code of Conduct was set out in The Local Authorities (Model Code of Conduct) (Wales) Order 2008 and amended in 2016 and it is adopted in full and without amendment in MCC's Constitution. The Code sets out the rules relating to interests at paras 10-16. The rules are directed at Members.

s81(4) of the Local Government Act 2000 makes provision for the above rules to be waived by a Local Authority's Standards Committee and the criteria for doing so are set out in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 as amended in 2016. That criteria is set out below.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer who will request the Standards Committee convene as soon as practicable to discuss the matter.

Responsibility for considering whether there is a possible interest in any business of the authority is the Member's and early understanding of the forward work plan and submission of an application if necessary is crucial to having a timely response from the Standards Committee.

1.	Member's name:	County Councillor Tudor Thomas Co-opted Member of CYP Select Maggie Harris
2.	What is the matter which is shortly to be considered and in respect of which you seek a dispensation?	The provision of a new school in Abergavenny that will replace both King Henry VIII secondary school and Deri View Primary School and create a new all age provision, with subsequent impact on Ysgol Y Fenni.
3.	What body (Council, Cabinet, a Committee or Sub-Committee) is due to consider this matter?	This matter arose in relation to the Children and Young People Select Committee's planned consideration of the subject but it has a wider impact on all Council bodies and so the dispensation request is made accordingly to apply across all Council business for Cllr Thomas.

4.	What is the nature of your prejudicial interest?	<p>Para 12(2)(a)(iv) of the Code of Conduct.</p> <p>The MO's advice is attached and the report expands on the issue. However the crux of the matter is that while School Governors would typically be exempt from being regarded as having a prejudicial interest because of their position, this is qualified by the phrase "<i>unless it relates particularly to the school of which you are a governor</i>".</p> <p>Further, in this matter the exemption at (iii) of the above para does not apply as neither affected Members have been appointed to their Governor roles by MCC.</p>
5.	What is the date of the meeting at which this matter is to be considered?	<p>Full Council 22 Jul 21 and all subsequent meetings that could consider the matter described at 2 for Councillor Thomas.</p> <p>All CYP Select Committee meetings for Maggie Harris.</p>
6.	Under which of the following grounds do you seek the dispensation (delete/highlight as applicable):	
<p>The standards committee of a relevant authority may grant dispensations where:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(e) the interest is common to the member and a significant proportion of the general public;</p> <p>(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;</p> <p>(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;</p> <p>(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;</p>		

(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;

(j) it appears to the committee to be otherwise appropriate to grant a dispensation.

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.	The dispensation is sought for a year.
8.	Making reference to the criteria you have highlighted in Q6, please set out below the reasons why you consider that the Standards Committee should grant you this dispensation:	

Dispensation is sought from the Standards Committee for the disapplication of the caveat to the exemption to the prejudicial interests rules at Para 12(2)(a)(iv) of the Code of Conduct, namely the line "*unless it relates particularly to the school of which you are a governor*".

This dispensation is sought for one year.

The purpose of this dispensation request is fundamentally to safeguard the ability of Councillors and co-opted Members to represent their communities properly and to avoid any disenfranchisement of the electorate most closely affected by the matter in question. It also seeks to level the imbalance created by the wording of the Code of Conduct that distinguishes between LA appointed Governors and others. It is considered that this is an unintended consequence of the Code.

In relation to the criteria set out at 6:

(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;

It is felt in this matter that the opposite would be true. That to exclude the representatives of the local population on the basis of their voluntary and unpaid roles on the boards of Governors of those schools would have a deleterious effect on the confidence of the public in the ability of their elected Members to represent their interests and thus influence the decision making process of the Council.

It would be fundamentally unfair, and it would cause considerable damage to confidence in not just the processes of the Council, but also the construct of the Code of Conduct and the ethical framework that it provides.

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

Councillor Thomas was a teacher for 18 years, primarily as a Head of Department, and has

worked for WJEC for 20 years both as a subject officer and senior officer.

(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;

None of the interests are of a pecuniary nature as Governor work is unpaid and Maggie Harris's involvement in particular is specific only to her Membership of the CYP Select Committee and no other MCC body.

(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;

This matter will have a specific impact on the children, and the parents/guardians of those children of a wide area of the County and for a considerable period of time, such that those not yet of school age etc will be impacted by this current process.

Councillor Thomas is by the nature of his elected status required to act in the interests of the inhabitants of his Ward and of the County. Furthermore, Councillor Thomas is currently the Mayor of Abergavenny and is duty bound to represent the interests of the entire town. His inability to do so should be considered a significant issue for the inhabitants of a large and populous area on a matter of long lasting importance.

(j) it appears to the committee to be otherwise appropriate to grant a dispensation.

It is hard to define what the personal interest would be in this matter, let alone why it would be deemed prejudicial by the Code of Conduct nor why there would be a difference between LA appointed Governors and others. It is a matter for the Standards Committee, but they may wish to seek to feedback to the Welsh Government the issue that this particular part of the code raises in matters of significant and far reaching community interest and impact.

The application of this rule as it is written would not meet the public interest in decisions being taken by a reasonably representative group of Members of the authority, and certainly not of the most affected wards and the town.

Further, the existence of the caveat to the standing exemption could result in the dissuasion of County Councillors from volunteering their time and commitment to school Governing Boards or from being appointed by bodies other than MCC, which would have a considerable impact both on the schools but also the connection between the elected representative and their communities in a fundamental way.

Fundamentally, this is an issue relating to the representation of all residents of electoral wards regardless of political inclination, on matters of significant, wide reaching and long lasting importance and the caveat to the exemption, and the impact that it has on participation and representation, is undemocratic and fundamentally unsound.

Signed: Councillor Tudor Thomas and Co-opted Member Maggie Harris

Date: 10 Jul 21