

Agenda Item No.

TO: STANDARDS COMMITTEE
DATE: 4th AUGUST 2009
SUBJECT: REVISED GUIDANCE ON DISPENSATIONS
BY: CORPORATE SERVICES DIRECTOR AND MONITORING OFFICER
Classification: Unrestricted –.

Summary: The Standards Board for England has recently issued guidance on dispensations. The Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations) revoke the previous regulations.

Dispensations may be granted for speaking only, or for speaking and voting. The 2007 Code of Conduct (the Code) relaxed the provisions for restricting members from speaking. Therefore, the need to request a dispensation in this respect is now limited to circumstances where the public do not have the right to speak, or to where a parish or police authority has not adopted paragraph 12(2) of the Code.

A standards committee may grant a dispensation to a member or co-opted member of an authority in the following circumstances:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting
- OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

There are two **exceptions** to this:

- Members cannot be given a dispensation allowing them to vote in overview and scrutiny committees about decisions made by any body they were a member of at the time the decision was taken
- A dispensation cannot be given to allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

The dispensation granted may apply to just one meeting or it may be applicable on an ongoing basis. However, the dispensation cannot be used to allow participation in the business of the authority if it was granted more than four years ago.

The Standards Board for England recommends that the standards committee consider the need for criteria to be applied to requests for dispensations.

Implications:

Human Resources Implications within existing resources

Finance Implications: not applicable

Legal Implications: changes in regulations

Crime & Disorder Implications (Section 17) not applicable

Equalities & Diversity Implications: the granting of dispensations is designed to ensure the democratic process flows smoothly and does not disenfranchise members unnecessarily.

Sustainability Implications: not applicable

Risk and Health and Safety Implications – not applicable

Corporate Plan Implications High ***performing organisation – corporate governance.***

Decision Required:

Members are asked to note the following:

- Granting dispensations under the new regulations
- Legal requirements for granting dispensations
- Issues and criteria to consider when granting dispensations
- Practical guidance on the process for granting dispensations and recording them

And to agree

- To agree to adopt this guidance as a framework document when considering the granting of dispensations, in particular I would suggest that the four questions set out in the criteria but turned into dispensation criteria. (Para 4 of the report)
- That the document be sent to all Parish and Town Councils to assist them when considering whether to apply for dispensations

1. New guidance on the consideration of dispensations has recently been issued by the Standards Board. The full document is attached at Annex A.

2. I would draw particular attention to the legal requirements:

- *Standards committees can grant a dispensation if more than 50% of members have a prejudicial interest in an item of business to be discussed at a meeting which is covered by their code of conduct. They*

must ignore any members who have already been granted dispensations when doing this.

- *Standards committees can grant a dispensation for an item of business if the political balance of a meeting would be upset enough to prejudice the outcome of the vote. They must ignore any members who have already been granted dispensations when doing this. This means that due to the number of members who are prevented from voting the political balance of the committee is changed. **This does not apply to parish councils as they are not bound by the political balance rules***

3. I would refer also to the key issues for consideration:

- *When an application is received it will need to be considered on its facts and the number of members within political groups could affect the eligibility to apply for a dispensation.*
- *The Standards Board for England recommends that the standards committee consider the need for criteria to be applied to requests for dispensations. The committee will need to balance the prejudicial interest of the member seeking the dispensation to vote on an item of business, against the potential effect on the outcome of the vote if the member is unable to do so.*

4. I would suggest that the Standards Committee adapt the questions contained in the guidance so they become the criteria for consideration:

1. whether the nature of the member's interest and allowing them to participate would or would not damage public confidence in the conduct of the authority's business.
2. whether the interest is common to the member and a significant proportion of the general public.
3. whether the participation of the member in the business that the interest relates to is justified by the member's particular role or expertise.
4. whether the business that the interest relates to about a voluntary organisation or a public body is to be considered by an overview and scrutiny committee and whether the member's interest is a financial one.

Recommendation

5. **Members are asked to note the following:**

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And to agree

- To agree to adopt this guidance as a framework document when considering the granting of dispensations, in particular I would suggest that the four questions set out in the criteria but turned into dispensation criteria.
- That the document be sent to all Parish and Town Councils to assist them when considering whether to apply for dispensations

Reasons for the Recommendation

6. The approach of the Standards Committee to be consistent with the guidance from the Standards Board. Improved awareness amongst town and parish councils of the issues and criteria relating to dispensations will be beneficial.

Author -Mark Radford Ext.7286

Date Friday, 03 July 2009