
REPORT TO:	STANDARDS COMMITTEE (SPECIAL)	AGENDA ITEM: 4
DATE OF MEETING:	12TH FEBRUARY 2010	CATEGORY: DELEGATED/
REPORT FROM:	MONITORING OFFICER	OPEN
MEMBERS' CONTACT POINT:	ANDREA McCASKIE, HEAD OF LEGAL & DEMOCRATIC SERVICES (TEL: 595831)	DOC: U:\JAYNE\Committee COMMREP\Dispensations.doc
SUBJECT:	REQUEST FOR DISPENSATIONS – SOUTH DERBYSHIRE DISTRICT COUNCIL	REF: AGM/JB

1.0 Reason for Exempt (if appropriate)

1.1 Not applicable.

2.0 Recommendation

2.1 The Committee's instructions are requested.

3.0 Purpose of Report

3.1 To consider requests for South Derbyshire District Councillors to be granted dispensations, as they would otherwise be unable to take part in authority business because of a prejudicial interest, under the Standards Committee (Further Provisions) (England) Regulations 2009 ("the Regulations").

4.0 Detail

4.1 Members will recall that the Regulations which came into force on 15th June 2009 revoked the earlier dispensation regulations and replaced them with new provisions to clarify the rules which apply to Standards Committee when granting dispensations to local authority Members.

4.2 The circumstances where a Standards Committee may grant a dispensation to a Member or Co-opted Member of an authority are:

- where more than 50% of the Members who would, but for the granting of any dispensations in relation to that business, be entitled to vote at a meeting, are prohibited from voting; or
- where the number of Members prohibited from voting at a meeting, but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

- 4.3 In order to obtain a dispensation, a Member must submit a written request for a dispensation to his or her authority's Standards Committee and that Standards Committee must conclude that having regard to the above circumstances and all other circumstances of the case, it is appropriate to grant the dispensation.
- 4.4 Clearly, when considering whether to grant a dispensation, there is a difference between being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted.
- 4.5 When looking at an application under the political balance criteria, 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.
- 4.6 A Standards Committee has the discretion to decide the nature of any dispensation. For example, the Committee may consider that it is appropriate that the dispensation allows the Member to speak and not vote, or to participate fully and vote.
- 4.7 The Standards Committee can also decide how long the dispensation should apply for, although it cannot be longer than four years. Standards Committees are not allowed to issue general dispensations to cover Members for any situation where a prejudicial interest may occur. In the main, the majority of dispensations will cover a specific item of business.
- 4.8 The decision of the Standards Committee on each application must be recorded in writing and must be kept with the Register of Interests of the subject Member, established and maintained under Section 81(1) of the Local Government Act 2000.
- 4.9 Standards Committees can refuse to grant a dispensation, as the Regulations are clear that the Standards Committee can use their discretion on each application and they are not obliged to grant dispensations. However, it should be noted that there is no right of appeal against a Standards Committee decision whether to grant a dispensation or not.
- 4.10 Standards for England have produced a guidance document on dispensations aimed at Standards Committees. Whilst this guidance is not mandatory, it has been written to help describe when Standards Committees can grant dispensations to Members, allowing them to speak and vote at a meeting when they have a prejudicial interest. A copy of the guidance is attached at **Annexe 'A'**.
- 4.11 On 2nd and 4th February 2010, applications for dispensation were received from Members of South Derbyshire District Council. The requests relate to two issues that are initially being considered at the forthcoming Finance & Management Committee on 16th February 2010. Copies of the applications for dispensations are attached at **Annexe 'B'**.

4.12 In order to assist Members, the first issue relates to:

Land at Church Gresley

- 4.13 In accordance with the Council's Disposal Policy, this land was deemed surplus to Council requirements at Finance & Management Committee in April 2009. A disposal strategy was, therefore, approved at this Committee which would maximise the land value, secure grant funding and deliver Affordable Housing through a sale for residential development.
- 4.14 The site is subject to potential mineral rights and the legal status of these rights and their impact upon development have been investigated. Officers have concluded that these rights must be terminated to progress a disposal at the site's optimum development value.
- 4.15 The Council's Corporate Asset Manager has, therefore, negotiated terms for the termination of these rights, with a view to minimising the cost and deferring payment.
- 4.16 The negotiated terms have been referred to the Government's Valuation Office and, with the benefit of this independent advice, they have been recommended for approval by Officers within the Finance & Management Committee report.
- 4.17 The second issue relates to:

Land at Swadlincote

- 4.18 In October 2008, Committee approval was granted to sell the Council's land and buildings to a selected Housing Association for the development of an Extra Care project.
- 4.19 This development proposes that part of the Council land will be used for street parking. This land is subject to a restrictive covenant and right of pre-emption to a private individual. The Housing Association, therefore, need the Council to obtain a release from these restrictions.
- 4.20 A release has been negotiated at nil cost to the Council and the transaction is to be processed under delegated Officer authority.
- 4.21 As part of their further site assembly, the Housing Association also wish to purchase a 125 year lease for the provision of a second site access. The Association will subsequently grant a right of way to the Council out of this lease, at nil cost.
- 4.22 This transaction will also be processed under delegated Officer authority.

5.0 Corporate Implications

- 5.1 Article 8.02 of the Council's Constitution provides that a role of the Standards Committee is to grant dispensations to Councillors and Co-opted Members following requirements relating to interests set out in the Members' Code of Conduct.

6.0 Community Implications

- 6.1 The Council's Standards Committee plays a vital role in promoting and maintaining the highest standards of conduct by councillors of South Derbyshire District Council and all the parishes in its area.

7.0 Background Papers

The Standards Committee (Further Provisions) (England) Regulations 2009