

Committee:	Standards Committee
Date:	1 October 2018
Title:	Review of the procedure for applications for dispensations
Author:	Monitoring Officer
Action:	To decide whether or not to amend the procedure

1. Background

1.1 When a member has a prejudicial interest under the Code of Conduct, he or she must disclose that interest and leave the meeting. He/she must not make any oral or written representations or try to influence the decision regarding the matter. The exception to this is when the member has been granted a dispensation by the Standards Committee.

1.2 The Standards Committee is entitled to grant a dispensation if the situation falls within one (or more) of the situations listed in the relevant regulations.

1.3 It is a matter for the committee to determine whether or not the application should be allowed in the circumstances and the Ombudsman offers the following guidance regarding what the committee should consider when reaching its decision:

“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.”

2. Applications to this Committee

2.1 **Appendix 1** provides a breakdown of the applications submitted to the Standards Committee since May 2008. A copy of the current form is attached at **Appendix 2**

3. The Committee’s Existing Arrangements

3.1 There are no statutory procedures in place for dealing with applications and every Standards Committee implements its own arrangements. This Committee operates based on a written report by the Monitoring Officer which contains a copy of the application form as well as any additional information obtained by officers after contacting the applicant.

4. Allowing an applicant to attend

4.2 At its meeting on 7 Ebrill 2014 the Committee considered the principle of allowing councillors to appear before the Committee to submit applications in person. It was suggested that having the opportunity to question candidates would be a way for the Committee to obtain more information regarding an application. However, the committee felt that this was not the best use of anyone's time, and that applicants should be requested to submit information in advance. It was decided to ask officers to consider whether adequate information has been included in the application prior to placing it on the agenda.

4.3 For this review, the practices of other standards committees in Wales were examined. It was observed that many of them allowed applicants to attend the meeting to submit their application or answer questions. An example was also found of a community council clerk attending a meeting to provide information and answer questions regarding an application made by several members of his council. Not all applicants attend, but when it does happen, officers feel that it is beneficial for the committee by allowing members to ask questions directly to the applicant in order to have a better understanding of the background and the reason for making the application. As any member appearing before the committee would have a prejudicial interest in the matter, the Ceredigion Standards Committee has granted a general dispensation for all members to appear for the purpose of submitting an application for a dispensation. A distinction can also be drawn between attending the Committee to present the application and being available to answer questions.

4.5 It is considered that having the applicant present would provide the following advantages:

- Allowing the committee to make decisions based on all the relevant facts i.e. the nature of the interest, the matter under consideration and the reason for making the application
- Transparency and accountability in the way in which decisions are made
- Ensuring that the applicant has had an opportunity to submit his/her application in full.

4.6 The disadvantages of the system would be:

- Travelling time and costs for the applicant
- The time and location of meetings would not suit everyone
- Committee meetings would last longer
- Presenting additional information on the date of the meeting that has not been sufficiently scrutinised.

- A danger that the discussion could digress to discuss the matter which is the subject of the interest rather than whether or not a dispensation should be allowed

4.7 Should this committee decide to allow applicants to attend, the following points could be considered as a basis to the procedure:

- The applicant would be entitled to attend (but this would not be mandatory)
- The applicant would need to fill the form in all cases
- The applicant would be required to confirm in advance whether or not he/she intends to attend
- Committee members to ask questions of the applicant regarding the application
- The applicant would not have the right to ask questions of the Committee
- The applicant to leave the room
- The Committee to discuss and reach a decision in the applicant's absence
- The applicant would be notified of the decision by being called back to the room, or by letter from officers

A general dispensation would be needed for members to be present to answer questions.

5. Town and Community Councils

When applications are made by members of Gwynedd Council it is usually possible to verify the context of the application. However, currently although the clerk is contacted this has not been formalised. It is suggested therefore that applications by members of Town or Community Councils include a letter from the clerk confirming the context of the application. This is not a letter of support or objection rather an objective summary of the context of the application.

6. Recommendation

6.1 The Committee is asked to:

- (a) Consider whether applicants should be allowed to attend meetings to answer questions in relation to their application.
- (b) Revise the arrangements for Town and Community Councils to require the Clerk to provide a letter explaining the context.
- (c) Subject to (a) allow a dispensation for members to be present to answer questions on their application.

APPENDIX 1

Dispensations – Statistics

May 2012 – April 2018

Applications from county councillors	9
Allowed/partially allowed	9
Refused	0

Applications from town/community councillors	7
Allowed/partially allowed	3
Refused	4

Total of all applications received	16
Allowed/partially allowed	12
Refused	4

May 2008 – April 2012

Applications from county councillors	20
Allowed/partially allowed	16
Refused	4

Applications from town/community councillors	8
Allowed/partially allowed	3
Refused	5

Total of all applications received	28
Allowed/partially allowed	19
Refused	9