

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Dispensation Issues**1.0 PURPOSE OF REPORT**

- 1.1 To inform the Committee about a dispensation granted to a County Councillor by the Monitoring Officer under delegated powers.
- 1.2 To present to the Committee, for determination, a request from a County Councillor for a dispensation from the Standards Committee.

2.0 BACKGROUND

- 2.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written requests by Members/voting Co-opted Members for a dispensation under section 33 Localism Act 2011 relieving them from either or both of the restrictions on participating in the discussion and vote on a matter where they have a disclosable pecuniary interest (DPI).
- 2.2 The power to grant dispensations to Members and voting Co-opted Members under the new ethical framework was delegated by the Council to this Committee, after consultation with the Independent Persons.
- 2.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Persons) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

3.0 DISPENSATION GRANTED BY MONITORING OFFICER

- 3.1 On 4 July 2017, a dispensation was granted by the Monitoring Officer, under delegated powers, to County Councillor David Chance to enable him to speak, vote and be included within the quorum at meetings of the Yorkshire Coast and Moors County Area Committee when it is considering business relating to the Whitby Park and Ride Scheme and parking zone arrangements for Whitby. The dispensation does not allow the Councillor to vote on the matter at the Executive as a decision making body.
- 3.2 The matter could not await the next scheduled meeting of the Standards Committee as an item regarding the consideration of seasonal operation for the Whitby Controlled Parking Zone was on the agenda for the meeting of the Yorkshire Coast and Moors Area Committee the following day, 5 July 2017.
- 3.3 Councillor Chance has a disclosable pecuniary interest in items relating to the Scheme and parking zone arising out of the employment of his partner at a business in Whitby. There is the potential for that business to be affected if it is included within a parking zone.

- 3.4 The dispensation was granted as it was in the interests of persons living in the Authority's area and it was appropriate to grant the dispensation in all the circumstances, as the Area Committee was not the decision taker. An almost identical dispensation was previously granted to Councillor Chance by the Standards Committee in 2013, which expired at the date of the local elections in May this year. The dispensation will last until the date of the local government elections in 2021.

4.0 DISPENSATION REQUEST TO THE COMMITTEE

- 4.1 County Councillor Patrick Mulligan's wife, Julia Mulligan, is the Police and Crime Commissioner for North Yorkshire. Interests issues arise as this office, being 'for gain', appears in Councillor Mulligan's Register of Interests as a disclosable pecuniary interest. He will therefore have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting of the Council, Executive, Committee or Sub-Committee of the County Council affecting the Police or the office of Police and Crime Commissioner. The implication of this is that Councillor Mulligan would have to declare an interest and leave the meeting room: he may not, in the normal course of events, participate in any discussion of the item of business or participate in any vote at the meeting. This would mean that those he represents in his division would be without representation at the meeting.
- 4.2 On 11 February 2013, a dispensation was granted by the Standards Committee to County Councillor Mulligan to enable him to speak, vote and be included within the quorum at County Council, Executive, Committee and Sub-Committee meetings when the Council/Executive/Committee/Sub-Committee is considering business which may relate to the Police and/or the Police Commissioner where the impact of any decision by the Council/Executive/Committee/Sub-Committee on the item of business would not, in any event, bring any personal advantage or disadvantage to Councillor Mulligan or his wife. The dispensation was granted as the dispensation was in the interests of persons living in the authority's area and it was appropriate to grant the dispensation. The dispensation lapsed on the date of the local government elections in 2013.
- 4.3 On 10 June 2013, following re-election, Councillor Mulligan made a request for a similar dispensation. The next scheduled meeting of the Standards Committee at that time was not until 30 September 2013. In order to reach a timely decision on the dispensation application, the then Monitoring Officer considered the dispensation application under delegated powers and on 20 June 2013 granted a dispensation to Councillor Mulligan in identical terms as before. The dispensation was granted as the dispensation was in the interests of persons living in the authority's area and it was appropriate to grant the dispensation. The dispensation lapsed at the date of the local government elections earlier this year.
- 4.4 Following re-election in May this year, Councillor Mulligan sought a further dispensation in similar terms. Due to the timing of the next scheduled meeting of the Standards Committee, the Monitoring Officer considered Councillor Mulligan's application under delegated powers. On 7 June 2017, the Monitoring Officer emailed all Members of the Standards Committee and the Independent Persons for Standards regarding Councillor Mulligan's application to renew his dispensation.
- 4.5 Since the granting of the first dispensation to Councillor Mulligan, the Police and Crime Commissioner has consulted on her current business case for the Police and Crime Commissioner to assume responsibility for the governance of the North Yorkshire Fire and Rescue Authority. The Council's Corporate and Partnerships Overview and Scrutiny Committee and Executive have considered the Council's response to the proposals.

- 4.6 Not all available Standards Committee Members consulted by the Monitoring Officer agreed to the granting of the dispensation. In light of comments received from Members, Councillor Mulligan withdrew his application for a dispensation at that time.
- 4.7 Recently, Councillor Mulligan has indicated that he would wish to apply to the full Standards Committee for a new dispensation to allow him to participate in discussions regarding general policing issues. Applications must be in writing and Councillor Mulligan's written application will be circulated to Standards Committee Members once received.
- 4.8 Attached at **Appendix 1** to this report is an updated draft proforma dispensation application form, for Members' approval.

5.0 DISPENSATION PROCESS

- 5.1 Under the Localism Act 2011 and delegated power from the Council, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary interest where the Committee concludes, after having had regard to all relevant circumstances, that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - (c) granting the dispensation is in the interests of persons living in the authority's area;
 - (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- 5.2 The Committee must decide whether the application fulfils any of the criteria set out in paragraph 5.1 and, if so, whether it is appropriate to grant the dispensation in the circumstances, after balancing the public interest in preventing a Member with a disclosable pecuniary interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.
- 5.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration of it. Dispensations may be granted for a maximum period of 4 years.
- 5.4 Any dispensation granted will be recorded in writing and kept with Councillor Mulligan's interests form in the Council's Register of Members' Interests.
- ## **6.0 CONCLUSION**
- 6.1 That the Committee determines the application by Councillor Mulligan for a dispensation.

7.0 RECOMMENDATIONS

- 7.1 That the Committee notes the dispensation granted by the Monitoring Officer under delegated powers to County Councillor Chance on 4 July 2017.
- 7.2 That the Committee consider and determine the application for a dispensation by Councillor Mulligan.
- 7.3 That, should the Committee be minded to grant the dispensation requested, the Committee determine the duration of the dispensation.
- 7.4 That, subject to any comments Members may have, the Committee approves the updated proforma dispensation application form set out in **Appendix 1**.

BARRY KHAN
Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

7 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Request for a Dispensation

Name of Member seeking dispensation:

In respect of which meeting(s)? *(Include dates, where possible)*

In respect of what business? *(If applicable, include full details of the agenda item or other matter)*

Name of the Relevant Officer: *(Please indicate the name of the officer who usually presents reports on the matter for which a dispensation is sought).*

Desired length of dispensation: *(Please note the maximum length of a dispensation is four years)*

Ground(s) for application: *(Please tick the relevant box)*

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area; or
- (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive;
- (e) it is otherwise appropriate to grant a dispensation.

Details of your disclosable pecuniary interest:

Please set out full details of your interest in the business concerned. Please continue on a separate sheet if necessary:

Reasons for seeking a dispensation:

Please set out full reasons why it is desirable for the Standards Sub-Committee to grant you a dispensation in respect of the above prejudicial interest. Please continue on a separate sheet if necessary:

PLEASE REMEMBER THAT WHEN ACTING UNDER A DISPENSATION, MEMBERS MUST AT ALL TIMES ACT, AND APPEAR TO ACT, IN THE AUTHORITY'S BEST INTERESTS.

Signed:

Dated:

TO: **BARRY KHAN**, Monitoring Officer, North Yorkshire County Council