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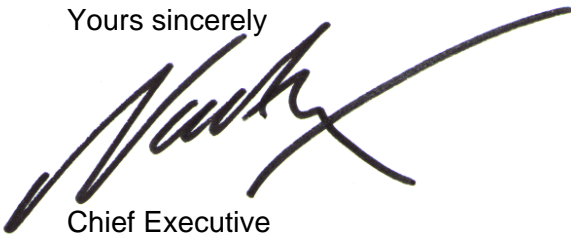
8 March 2011

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **STANDARDS COMMITTEE: DISPENSATION SUB-COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 17 March 2011 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Rebecca Brough on (01304) 872304 or by e-mail at [rebeccabrough@dover.gov.uk](mailto:rebeccabrough@dover.gov.uk).

Yours sincerely



Chief Executive

Standards Committee: Dispensation Sub-Committee Membership:

Mr A M Hayes	(Chairman)	(Independent Member)
Mr K C Atkinson		(Independent Member)
Mr B A C Curtis		(Parish Representative)
Councillor L A Keen		
Councillor D R Lloyd-Jones		

DECLARATIONS OF INTEREST

Members are required to disclose the existence and nature of a personal interest at the commencement of the item of business to which the interest relates or when the interest becomes apparent. An explanation in general terms of the interest should also be given to the meeting. If the interest is also a prejudicial interest, the Member should then withdraw from the room or chamber.

AGENDA

1. **APOLOGIES**
2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3. **DECLARATIONS OF INTEREST**

To receive any declarations of interest from Members of the Sub-Committee.

4. **STANDARDS FOR ENGLAND GUIDANCE ON DISPENSATIONS** (Pages 4–11)

To note the Guidance from Standards for England.

5. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD006** (Pages 12-21)

To consider the attached report of the Monitoring Officer.

6. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD007** (Pages 22-31)

To consider the attached report of the Monitoring Officer.

7. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD008** (Pages 32-41)

To consider the attached report of the Monitoring Officer.

8. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD009** (Pages 42-51)

To consider the attached report of the Monitoring Officer.

9. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD0010** (Pages 52-61)

To consider the attached report of the Monitoring Officer.

**Access to Meetings and Information**

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.

- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Democratic Support Officer, telephone: (01304) 872304 or email: [rebeccabrough@dover.gov.uk](mailto:rebeccabrough@dover.gov.uk) for details.

Large print copies of this agenda can be supplied on request.

# DISPENSATIONS



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# introduction

This guidance on dispensations is aimed at standards committees. It is not mandatory but has been written to help describe when standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest.

# dispensations

## Granting dispensations under the new regulations

The legislation states standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest. The criteria for granting these dispensations changed in June 2009

Concerns were raised by some authorities, as well as the Standards Board for England, about the provisions of previous dispensation regulations. Due to these concerns, the Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations) revoke the previous regulations. They replace them with new provisions to clarify the grounds on which standards committees may grant dispensations to local authority members.

Under Section 54A(1) of the Local Government Act 2000 an authority's standards committee can set up a sub-committee to consider requests for dispensations. Any reference in this guidance to the standards committee includes any sub-committee which has this function.

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.

Part 4 of the regulations sets out the

circumstances in which a standards committee can grant dispensations to members of relevant authorities in England, and police authorities in Wales. If a member acts in accordance with the granting of a dispensation, taking part in business otherwise prohibited by an authority's code of conduct would not result in a failure to comply with that 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.

**Note:** Although the Regulations are not explicit, political balance is a legal formula, set out in the Local Government and Housing Act 1989 and associated regulations. It applies only to relevant authorities and places an obligation on them to reflect the political balance of their elected members when determining who should sit on certain committees. It does not apply to parish councils.

Standards committees must ignore any dispensations that have already been given to others at the meeting to decide whether either of these criteria apply.

There are two **exceptions** to this:

- Members cannot be given a dispensation allowing them to vote in

# dispensations

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.

## Legal requirements for granting dispensations

- 1) 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 (see paragraph [\*]). The list of meetings is set out in paragraph 1(4) of the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007. These are meetings of:

- the authority
- its executive and its committees and sub-committees
- any other committees, sub-committees, joint committees, joint sub-committees or area committees of the authority.

- 2) 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 (see paragraph [\*]). This means that due to the number of members who are prevented from voting the political balance of the committee is changed. This is similar to a provision that has been in existence in Wales for some time. As before, this does not apply to parish councils as they are not bound by the political balance rules.

[\*]The requirement to ignore any members who have already been granted dispensations means that standards committees should disregard any previously granted dispensations in order to work out whether the two circumstances above apply.

So, if there were ten members on a committee, six of whom would not be able to vote on some business, all six can claim a dispensation. If previously granted dispensations were not disregarded, once two people had been granted dispensations, the remaining four would be ineligible because at that point 50% of the committee would be able to vote.

In addition it is necessary to consider if any of the exceptions set out above apply.

# dispensations

## Issues and criteria to consider when granting dispensations

The number of members in each political group on an authority could affect the eligibility to apply for a dispensation.

In situations where one political party has a large majority on an authority, and therefore on its committees, members of that political party will not be eligible to apply for a dispensation frequently under the criterion for political balance (see page 3). Where an authority has two or more political parties, and the number of members that each party has is fairly evenly balanced, the eligibility to apply for a dispensation will rise.

Clearly there is a difference between being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. We recommend that the standards committee considers 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.

## Considerations for dealing with dispensation requests

**Q. Is the nature of the member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

For instance, it is unlikely that it would be appropriate to grant a dispensation

to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative. The adverse public perception of the personal benefit to the member would probably outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially where an authority has well-established processes for members on committees to be substituted by members from the same political party.

However, the prejudicial interest could arise from the financial effect the decision might have on a public body of which they are a member. In such cases, it is possible that any public interest in maintaining the political balance of the committee making the decision might be given greater prominence.

**Q. Is the interest common to the member and a significant proportion of the general public?**

For example, the member might be a pensioner who is considering an item of business about giving access to a local public facility at reduced rates for pensioners. Some cautious members might regard this as a possible prejudicial interest. However, as a significant proportion of the population in the area are also likely to be pensioners, it might be appropriate to grant a dispensation in these circumstances.

# dispensations

**Q. Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

For instance, a member might represent the authority on another public body – such as a fire or police authority – and have particular expertise in the work of that body. Therefore it may be appropriate for that member to be allowed to address the decision-making body, even where there is no right for the public to do so. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

**Q. Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee? And is the member's interest not a financial one?**

In circumstances such as these, the standards committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

**Practical guidance on the process for granting dispensations and recording them**

The process for making requests for dispensations, the criteria that will be applied and the process that will be followed when the request is considered should all be clearly understood by those

concerned. Therefore, standards committees should set all this out and make it available to members.

A member must submit an application in writing explaining why a dispensation is desirable. Only the member can do this – they can't ask somebody else to do it on their behalf. It is sensible to send that application to the monitoring officer so that they can arrange for it to be considered by their standards committee.

A standards committee meeting must be convened to consider the application for a dispensation. Therefore, it is not possible to grant a dispensation as a matter of urgency to deal with emergency business.

The committee must consider the legal criteria set out on pages 3–4, including the exceptions. They must also consider any other relevant circumstances. These can include any local criteria they have adopted.

The committee will need to consider whether the member making the request will be allowed to make oral representations to the committee or whether the application will be dealt with only through written representations.

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 fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

# dispensations

It is our view that the regulations do not allow standards committees to issue general dispensations to cover members for any situation where a prejudicial interest may arise. The regulations refer to circumstances that arise at “a meeting”. Therefore, we would expect most dispensations to cover a specific item of business at one meeting of the authority.

The decision must be recorded in writing and must be kept with the register of interests established and maintained under Section 81 (1) of the Local Government Act 2000.

Standards committees can refuse to grant a dispensation. The regulations allow for standards committees to use their discretion rather than impose an obligation for them to grant dispensations.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 17 MARCH 2011

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD006 COUNCILLOR W GARDNER (DEAL TOWN COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from Councillor W Gardner, a member of Deal Town Council.*

Contact Officer: Rebecca Brough, extension 2304.

**Reasons why a decision is required**

1. The Monitoring Officer has received separate requests for dispensation from Councillors W Gardner, B Henderson, W Elliott, C Stickler and J Cronk of Deal Town Council. These dispensation requests have been submitted on the appropriate forms as per the Standards Committee's policy.
2. The dispensation requests all relate to a planning application requiring listed building consent made by Deal Town Council (DOV/11/00117) to the planning authority (Dover District Council). The application concerns internal and external alterations to Deal Town Hall including the erection of a flag pole. The Planning Committee of Deal Town Council is due to consider the application at a special meeting to be held on 21 March 2011.
3. All five members of Deal Town Council's planning committee have advised that they have a personal and prejudicial interest arising by virtue of considering their own authority's application and that the committee would not be quorate to make a decision. The Monitoring Officer has spoken to the Deputy Clerk to Deal Town Council and is satisfied that all other feasible alternatives to applying for a dispensation have been explored and that this is the only option open to the parish council other than not making a recommendation to the planning authority in respect of Deal Town Council's application. Deal Town Council is a statutory consultee in addition to being the applicant.
4. Councillor W Gardner has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Deal Town Council for a single meeting (21 March 2011) to enable Deal Town Council's Planning Committee to make a quorate decision in respect of the Council's planning application.

**Options available to the Council with assessment of preferred option**

5. There are two options available to the Sub-Committee as follows:
6. **Option One:** That a dispensation be granted under the provisions of Section 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009 to permit Councillor W Gardner to participate and vote at the meeting of Deal

Town Council's Planning Committee to be held on 21 March 2011 for the purpose of considering planning application DOV/11/00117. This is the recommended option as it enables the business of the authority to be transacted and is in keeping with Standards for England guidance that suggests in most instances the dispensation should cover a specific item of business at one meeting of the authority.

7. **Option Two:** That no dispensation be granted to Councillor W Gardner in respect of the Deal Town Council's planning application DOV/11/00117. This is not the recommended option, as it does not permit the authority to consider the application unless an alternative measure of achieving a quorum can be achieved.

#### Considerations for dealing with dispensation requests

8. The members of the Sub-Committee should be mindful of the distinction between a Member being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. In particular, the Sub-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.
9. It is recommended by Standards for England, that a Standards Committee (or Sub-Committee) consider the following questions in making its decision:

- (a) **Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

*For example, it is unlikely that it would be appropriate to grant a dispensation to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative.*

- (b) **Is the interest common to the member and a significant proportion of the general public?**

*Where a significant proportion of the population in the area are also likely to be affected by the same interest, it might be appropriate to grant a dispensation in such circumstances.*

- (c) **Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

*For instance, a Member may represent the authority on another public body and have particular expertise in the work of that body.*

- (d) **Is the business that the interest relates to about a voluntary organisation or a public body, which is to be considered by an overview and scrutiny committee? Moreover, is the member's interest not a financial one?**

*In circumstances such as these the Standards Sub-Committee might believe that it is in the interest of the authority's inhabitants to remove the incapacity from speaking or voting.*

10. The Sub-Committee has the discretion to decide on the nature of any dispensation. It may for example, decide that it is appropriate for the Member concerned to be

allowed to speak on a matter in which they have a prejudicial interest but not vote on it. Alternatively, it may allow the Member to fully participate and vote on the matter.

11. The Sub-Committee also has the discretion to determine how long the dispensation should apply. This can range from a single instance to up to four years. The guidance from Standards for England suggests that in most instances the dispensation should apply to a single meeting of the authority unless there were factors to suggest otherwise.

#### Information to be considered in taking the decision

#### **Dispensation Criteria**

12. The Standards Committee: Dispensations Sub-Committee may grant a dispensation to individual elected or co-opted Members enabling them to speak and vote at a meeting when they have a prejudicial interest. The Sub-Committee has been set up under Section 54A(1) of the Local Government Act 2000 for this purpose.
13. Under Section 17 of The Standards Committee (Further Provisions)(England) Regulations 2009, the Standards Committee, or a Sub-Committee formed by the Standards Committee, may award a dispensation to elected or co-opted Members in very specific circumstances.
14. These specific circumstances are:
  - (a) Where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
  - (b) 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.
15. In the case of the application from the Deal Town Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

#### **Personal and Prejudicial Interest Tests**

16. For an interest to be prejudicial, it must first be a personal interest. There are two categories of personal interest that arise for Members, as follows:
  - (a) Where the business of the authority to which the member belongs relates to a registerable interest on their declaration of registerable interests.
  - (b) Where the business of the authority to which the member belongs relates to an interest that is not on the Member's register but the interest is such that it would affect the well-being or financial position of the Member, their family or people with whom they have a close association to a greater degree than the majority of the inhabitants of their electoral area.
17. A prejudicial interest arises where a Member has a personal interest that meets all of the following criteria:
  - (a) The matter does not fall within one of the exempt categories of decisions (see paragraph 10(2)(c) of the Code of Conduct for details).

- (b) The matter affects the Members financial interests or relates to a licensing or regulatory matter.
- (c) A member of the public who knows the relevant facts would reasonably think that the Member's personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Application of Dispensation Criteria and Personal and Prejudicial Interest Test**

18. Councillor W Gardner's personal interest may be considered to arise by virtue of Paragraph 8(1)(a)(i) of the Code of Conduct which states:

*"You have a personal interest in any business of your authority where it relates to or is likely to affect **any body of which you are a member** or in a position of general control or management and to which you are appointed or nominated by your authority."*

19. Councillor W Gardner may be considered to have a prejudicial interest in keeping with Paragraph 10(1):

*"Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."*

20. As the planning application relates to the offices of the Town Council it would seem to fulfil the requirements of Paragraph 10(1) of the Code of Conduct.
21. Furthermore, in such a circumstance, Councillor W Gardner would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

### **Background Papers**

The Local Government Act 2000  
The Standards Committee (Further Provisions)(England) Regulations 2009  
The model Code of Conduct for Town and Parish Council's  
Standards for England – Dispensations Guidance

### **Resource Implications**

None

### **Consultation Statement**

In compiling this report consideration has been given to the available guidance from Standards for England.

### **Impact on Corporate Objectives and Corporate Risks**

The promotion of effective governance arrangements is essential to the core activities and performance of the Council.

### **Customer Access Review**

The granting of dispensations by the Standards Committee is subject to provisions set out in legislation.

### **Attachments**

Councillor W Gardner's Application for Dispensation Form

DAVID RANDALL

Director of Governance and Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2304.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 17 MARCH 2011

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD007  
COUNCILLOR B HENDERSON (DEAL TOWN COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from Councillor B Henderson, a member of Deal Town Council.*

Contact Officer: Rebecca Brough, extension 2304.

**Reasons why a decision is required**

1. The Monitoring Officer has received separate requests for dispensation from Councillors W Gardner, B Henderson, W Elliott, C Stickler and J Cronk of Deal Town Council. These dispensation requests have been submitted on the appropriate forms as per the Standards Committee's policy.
2. The dispensation requests all relate to a planning application requiring listed building consent made by Deal Town Council (DOV/11/00117) to the planning authority (Dover District Council). The application concerns internal and external alterations to Deal Town Hall including the erection of a flag pole. The Planning Committee of Deal Town Council is due to consider the application at a special meeting to be held on 21 March 2011.
3. All five members of Deal Town Council's planning committee have advised that they have a personal and prejudicial interest arising by virtue of considering their own authority's application and that the committee would not be quorate to make a decision. The Monitoring Officer has spoken to the Deputy Clerk to Deal Town Council and is satisfied that all other feasible alternatives to applying for a dispensation have been explored and that this is the only option open to the parish council other than not making a recommendation to the planning authority in respect of Deal Town Council's application. Deal Town Council is a statutory consultee in addition to being the applicant.
4. Councillor B Henderson has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Deal Town Council for a single meeting (21 March 2011) to enable Deal Town Council's Planning Committee to make a quorate decision in respect of the Council's planning application.

**Options available to the Council with assessment of preferred option**

5. There are two options available to the Sub-Committee as follows:
6. **Option One:** That a dispensation be granted under the provisions of Section 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009 to permit Councillor B Henderson to participate and vote at the meeting of Deal

Town Council's Planning Committee to be held on 21 March 2011 for the purpose of considering planning application DOV/11/00117. This is the recommended option as it enables the business of the authority to be transacted and is in keeping with Standards for England guidance that suggests in most instances the dispensation should cover a specific item of business at one meeting of the authority.

7. **Option Two:** That no dispensation be granted to Councillor B Henderson in respect of the Deal Town Council's planning application DOV/11/00117. This is not the recommended option, as it does not permit the authority to consider the application unless an alternative measure of achieving a quorum can be achieved.

#### Considerations for dealing with dispensation requests

8. The members of the Sub-Committee should be mindful of the distinction between a Member being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. In particular, the Sub-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.
9. It is recommended by Standards for England, that a Standards Committee (or Sub-Committee) consider the following questions in making its decision:

- (a) **Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

*For example, it is unlikely that it would be appropriate to grant a dispensation to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative.*

- (b) **Is the interest common to the member and a significant proportion of the general public?**

*Where a significant proportion of the population in the area are also likely to be affected by the same interest, it might be appropriate to grant a dispensation in such circumstances.*

- (c) **Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

*For instance, a Member may represent the authority on another public body and have particular expertise in the work of that body.*

- (d) **Is the business that the interest relates to about a voluntary organisation or a public body, which is to be considered by an overview and scrutiny committee? Moreover, is the member's interest not a financial one?**

*In circumstances such as these the Standards Sub-Committee might believe that it is in the interest of the authority's inhabitants to remove the incapacity from speaking or voting.*

10. The Sub-Committee has the discretion to decide on the nature of any dispensation. It may for example, decide that it is appropriate for the Member concerned to be

allowed to speak on a matter in which they have a prejudicial interest but not vote on it. Alternatively, it may allow the Member to fully participate and vote on the matter.

11. The Sub-Committee also has the discretion to determine how long the dispensation should apply. This can range from a single instance to up to four years. The guidance from Standards for England suggests that in most instances the dispensation should apply to a single meeting of the authority unless there were factors to suggest otherwise.

#### Information to be considered in taking the decision

#### **Dispensation Criteria**

12. The Standards Committee: Dispensations Sub-Committee may grant a dispensation to individual elected or co-opted Members enabling them to speak and vote at a meeting when they have a prejudicial interest. The Sub-Committee has been set up under Section 54A(1) of the Local Government Act 2000 for this purpose.
13. Under Section 17 of The Standards Committee (Further Provisions)(England) Regulations 2009, the Standards Committee, or a Sub-Committee formed by the Standards Committee, may award a dispensation to elected or co-opted Members in very specific circumstances.
14. These specific circumstances are:
  - (a) Where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
  - (b) 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.
15. In the case of the application from the Deal Town Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

#### **Personal and Prejudicial Interest Tests**

16. For an interest to be prejudicial, it must first be a personal interest. There are two categories of personal interest that arise for Members, as follows:
  - (a) Where the business of the authority to which the member belongs relates to a registerable interest on their declaration of registerable interests.
  - (b) Where the business of the authority to which the member belongs relates to an interest that is not on the Member's register but the interest is such that it would affect the well-being or financial position of the Member, their family or people with whom they have a close association to a greater degree than the majority of the inhabitants of their electoral area.
17. A prejudicial interest arises where a Member has a personal interest that meets all of the following criteria:
  - (a) The matter does not fall within one of the exempt categories of decisions (see paragraph 10(2)(c) of the Code of Conduct for details).

- (b) The matter affects the Members financial interests or relates to a licensing or regulatory matter.
- (c) A member of the public who knows the relevant facts would reasonably think that the Member's personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Application of Dispensation Criteria and Personal and Prejudicial Interest Test**

18. Councillor B Henderson's personal interest may be considered to arise by virtue of Paragraph 8(1)(a)(i) of the Code of Conduct which states:

*"You have a personal interest in any business of your authority where it relates to or is likely to affect **any body of which you are a member** or in a position of general control or management and to which you are appointed or nominated by your authority."*

19. Councillor B Henderson may be considered to have a prejudicial interest in keeping with Paragraph 10(1):

*"Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."*

20. As the planning application relates to the offices of the Town Council it would seem to fulfil the requirements of Paragraph 10(1) of the Code of Conduct.
21. Furthermore, in such a circumstance, Councillor B Henderson would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

### **Background Papers**

The Local Government Act 2000  
The Standards Committee (Further Provisions)(England) Regulations 2009  
The model Code of Conduct for Town and Parish Council's  
Standards for England – Dispensations Guidance

### **Resource Implications**

None

### **Consultation Statement**

In compiling this report consideration has been given to the available guidance from Standards for England.

### **Impact on Corporate Objectives and Corporate Risks**

The promotion of effective governance arrangements is essential to the core activities and performance of the Council.

### **Customer Access Review**

The granting of dispensations by the Standards Committee is subject to provisions set out in legislation.

### **Attachments**

Councillor B Henderson's Application for Dispensation Form

DAVID RANDALL

Director of Governance and Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2304.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 17 MARCH 2011

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD008 COUNCILLOR W ELLIOTT (DEAL TOWN COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from Councillor W Elliott, a member of Deal Town Council.*

Contact Officer: Rebecca Brough, extension 2304.

**Reasons why a decision is required**

1. The Monitoring Officer has received separate requests for dispensation from Councillors W Gardner, B Henderson, W Elliott, C Stickler and J Cronk of Deal Town Council. These dispensation requests have been submitted on the appropriate forms as per the Standards Committee's policy.
2. The dispensation requests all relate to a planning application requiring listed building consent made by Deal Town Council (DOV/11/00117) to the planning authority (Dover District Council). The application concerns internal and external alterations to Deal Town Hall including the erection of a flag pole. The Planning Committee of Deal Town Council is due to consider the application at a special meeting to be held on 21 March 2011.
3. All five members of Deal Town Council's planning committee have advised that they have a personal and prejudicial interest arising by virtue of considering their own authority's application and that the committee would not be quorate to make a decision. The Monitoring Officer has spoken to the Deputy Clerk to Deal Town Council and is satisfied that all other feasible alternatives to applying for a dispensation have been explored and that this is the only option open to the parish council other than not making a recommendation to the planning authority in respect of Deal Town Council's application. Deal Town Council is a statutory consultee in addition to being the applicant.
4. Councillor W Elliott has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Deal Town Council for a single meeting (21 March 2011) to enable Deal Town Council's Planning Committee to make a quorate decision in respect of the Council's planning application.

**Options available to the Council with assessment of preferred option**

5. There are two options available to the Sub-Committee as follows:
6. **Option One:** That a dispensation be granted under the provisions of Section 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009 to permit Councillor W Elliott to participate and vote at the meeting of Deal

Town Council's Planning Committee to be held on 21 March 2011 for the purpose of considering planning application DOV/11/00117. This is the recommended option as it enables the business of the authority to be transacted and is in keeping with Standards for England guidance that suggests in most instances the dispensation should cover a specific item of business at one meeting of the authority.

7. **Option Two:** That no dispensation be granted to Councillor W Elliott in respect of the Deal Town Council's planning application DOV/11/00117. This is not the recommended option, as it does not permit the authority to consider the application unless an alternative measure of achieving a quorum can be achieved.

#### Considerations for dealing with dispensation requests

8. The members of the Sub-Committee should be mindful of the distinction between a Member being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. In particular, the Sub-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.
9. It is recommended by Standards for England, that a Standards Committee (or Sub-Committee) consider the following questions in making its decision:

- (a) **Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

*For example, it is unlikely that it would be appropriate to grant a dispensation to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative.*

- (b) **Is the interest common to the member and a significant proportion of the general public?**

*Where a significant proportion of the population in the area are also likely to be affected by the same interest, it might be appropriate to grant a dispensation in such circumstances.*

- (c) **Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

*For instance, a Member may represent the authority on another public body and have particular expertise in the work of that body.*

- (d) **Is the business that the interest relates to about a voluntary organisation or a public body, which is to be considered by an overview and scrutiny committee? Moreover, is the member's interest not a financial one?**

*In circumstances such as these the Standards Sub-Committee might believe that it is in the interest of the authority's inhabitants to remove the incapacity from speaking or voting.*

10. The Sub-Committee has the discretion to decide on the nature of any dispensation. It may for example, decide that it is appropriate for the Member concerned to be

allowed to speak on a matter in which they have a prejudicial interest but not vote on it. Alternatively, it may allow the Member to fully participate and vote on the matter.

11. The Sub-Committee also has the discretion to determine how long the dispensation should apply. This can range from a single instance to up to four years. The guidance from Standards for England suggests that in most instances the dispensation should apply to a single meeting of the authority unless there were factors to suggest otherwise.

#### Information to be considered in taking the decision

#### **Dispensation Criteria**

12. The Standards Committee: Dispensations Sub-Committee may grant a dispensation to individual elected or co-opted Members enabling them to speak and vote at a meeting when they have a prejudicial interest. The Sub-Committee has been set up under Section 54A(1) of the Local Government Act 2000 for this purpose.
13. Under Section 17 of The Standards Committee (Further Provisions)(England) Regulations 2009, the Standards Committee, or a Sub-Committee formed by the Standards Committee, may award a dispensation to elected or co-opted Members in very specific circumstances.
14. These specific circumstances are:
  - (a) Where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
  - (b) 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.
15. In the case of the application from the Deal Town Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

#### **Personal and Prejudicial Interest Tests**

16. For an interest to be prejudicial, it must first be a personal interest. There are two categories of personal interest that arise for Members, as follows:
  - (a) Where the business of the authority to which the member belongs relates to a registerable interest on their declaration of registerable interests.
  - (b) Where the business of the authority to which the member belongs relates to an interest that is not on the Member's register but the interest is such that it would affect the well-being or financial position of the Member, their family or people with whom they have a close association to a greater degree than the majority of the inhabitants of their electoral area.
17. A prejudicial interest arises where a Member has a personal interest that meets all of the following criteria:
  - (a) The matter does not fall within one of the exempt categories of decisions (see paragraph 10(2)(c) of the Code of Conduct for details).

- (b) The matter affects the Members financial interests or relates to a licensing or regulatory matter.
- (c) A member of the public who knows the relevant facts would reasonably think that the Member's personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Application of Dispensation Criteria and Personal and Prejudicial Interest Test**

18. Councillor W Elliott's personal interest may be considered to arise by virtue of Paragraph 8(1)(a)(i) of the Code of Conduct which states:

*"You have a personal interest in any business of your authority where it relates to or is likely to affect **any body of which you are a member** or in a position of general control or management and to which you are appointed or nominated by your authority."*

19. Councillor W Elliott may be considered to have a prejudicial interest in keeping with Paragraph 10(1):

*"Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."*

20. As the planning application relates to the offices of the Town Council it would seem to fulfil the requirements of Paragraph 10(1) of the Code of Conduct.
21. Furthermore, in such a circumstance, Councillor W Elliott would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

### **Background Papers**

The Local Government Act 2000  
The Standards Committee (Further Provisions)(England) Regulations 2009  
The model Code of Conduct for Town and Parish Council's  
Standards for England – Dispensations Guidance

### **Resource Implications**

None

### **Consultation Statement**

In compiling this report consideration has been given to the available guidance from Standards for England.

### **Impact on Corporate Objectives and Corporate Risks**

The promotion of effective governance arrangements is essential to the core activities and performance of the Council.

### **Customer Access Review**

The granting of dispensations by the Standards Committee is subject to provisions set out in legislation.

### **Attachments**

Councillor W Elliott's Application for Dispensation Form

DAVID RANDALL

Director of Governance and Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2304.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 17 MARCH 2011

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD009 COUNCILLOR C STICKLER (DEAL TOWN COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from Councillor C Stickler, a member of Deal Town Council.*

Contact Officer: Rebecca Brough, extension 2304.

**Reasons why a decision is required**

1. The Monitoring Officer has received separate requests for dispensation from Councillors W Gardner, B Henderson, W Elliott, C Stickler and J Cronk of Deal Town Council. These dispensation requests have been submitted on the appropriate forms as per the Standards Committee's policy.
2. The dispensation requests all relate to a planning application requiring listed building consent made by Deal Town Council (DOV/11/00117) to the planning authority (Dover District Council). The application concerns internal and external alterations to Deal Town Hall including the erection of a flag pole. The Planning Committee of Deal Town Council is due to consider the application at a special meeting to be held on 21 March 2011.
3. All five members of Deal Town Council's planning committee have advised that they have a personal and prejudicial interest arising by virtue of considering their own authority's application and that the committee would not be quorate to make a decision. The Monitoring Officer has spoken to the Deputy Clerk to Deal Town Council and is satisfied that all other feasible alternatives to applying for a dispensation have been explored and that this is the only option open to the parish council other than not making a recommendation to the planning authority in respect of Deal Town Council's application. Deal Town Council is a statutory consultee in addition to being the applicant.
4. Councillor C Stickler has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Deal Town Council for a single meeting (21 March 2011) to enable Deal Town Council's Planning Committee to make a quorate decision in respect of the Council's planning application.

**Options available to the Council with assessment of preferred option**

5. There are two options available to the Sub-Committee as follows:
6. **Option One:** That a dispensation be granted under the provisions of Section 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009 to permit Councillor C Stickler to participate and vote at the meeting of Deal

Town Council's Planning Committee to be held on 21 March 2011 for the purpose of considering planning application DOV/11/00117. This is the recommended option as it enables the business of the authority to be transacted and is in keeping with Standards for England guidance that suggests in most instances the dispensation should cover a specific item of business at one meeting of the authority.

7. **Option Two:** That no dispensation be granted to Councillor C Stickler in respect of the Deal Town Council's planning application DOV/11/00117. This is not the recommended option, as it does not permit the authority to consider the application unless an alternative measure of achieving a quorum can be achieved.

#### Considerations for dealing with dispensation requests

8. The members of the Sub-Committee should be mindful of the distinction between a Member being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. In particular, the Sub-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.
9. It is recommended by Standards for England, that a Standards Committee (or Sub-Committee) consider the following questions in making its decision:

- (a) **Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

*For example, it is unlikely that it would be appropriate to grant a dispensation to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative.*

- (b) **Is the interest common to the member and a significant proportion of the general public?**

*Where a significant proportion of the population in the area are also likely to be affected by the same interest, it might be appropriate to grant a dispensation in such circumstances.*

- (c) **Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

*For instance, a Member may represent the authority on another public body and have particular expertise in the work of that body.*

- (d) **Is the business that the interest relates to about a voluntary organisation or a public body, which is to be considered by an overview and scrutiny committee? Moreover, is the member's interest not a financial one?**

*In circumstances such as these the Standards Sub-Committee might believe that it is in the interest of the authority's inhabitants to remove the incapacity from speaking or voting.*

10. The Sub-Committee has the discretion to decide on the nature of any dispensation. It may for example, decide that it is appropriate for the Member concerned to be

allowed to speak on a matter in which they have a prejudicial interest but not vote on it. Alternatively, it may allow the Member to fully participate and vote on the matter.

11. The Sub-Committee also has the discretion to determine how long the dispensation should apply. This can range from a single instance to up to four years. The guidance from Standards for England suggests that in most instances the dispensation should apply to a single meeting of the authority unless there were factors to suggest otherwise.

#### Information to be considered in taking the decision

#### **Dispensation Criteria**

12. The Standards Committee: Dispensations Sub-Committee may grant a dispensation to individual elected or co-opted Members enabling them to speak and vote at a meeting when they have a prejudicial interest. The Sub-Committee has been set up under Section 54A(1) of the Local Government Act 2000 for this purpose.
13. Under Section 17 of The Standards Committee (Further Provisions)(England) Regulations 2009, the Standards Committee, or a Sub-Committee formed by the Standards Committee, may award a dispensation to elected or co-opted Members in very specific circumstances.
14. These specific circumstances are:
  - (a) Where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
  - (b) 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.
15. In the case of the application from the Deal Town Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

#### **Personal and Prejudicial Interest Tests**

16. For an interest to be prejudicial, it must first be a personal interest. There are two categories of personal interest that arise for Members, as follows:
  - (a) Where the business of the authority to which the member belongs relates to a registerable interest on their declaration of registerable interests.
  - (b) Where the business of the authority to which the member belongs relates to an interest that is not on the Member's register but the interest is such that it would affect the well-being or financial position of the Member, their family or people with whom they have a close association to a greater degree than the majority of the inhabitants of their electoral area.
17. A prejudicial interest arises where a Member has a personal interest that meets all of the following criteria:
  - (a) The matter does not fall within one of the exempt categories of decisions (see paragraph 10(2)(c) of the Code of Conduct for details).

- (b) The matter affects the Members financial interests or relates to a licensing or regulatory matter.
- (c) A member of the public who knows the relevant facts would reasonably think that the Member's personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Application of Dispensation Criteria and Personal and Prejudicial Interest Test**

18. Councillor C Stickler's personal interest may be considered to arise by virtue of Paragraph 8(1)(a)(i) of the Code of Conduct which states:

*"You have a personal interest in any business of your authority where it relates to or is likely to affect **any body of which you are a member** or in a position of general control or management and to which you are appointed or nominated by your authority."*

19. Councillor C Stickler may be considered to have a prejudicial interest in keeping with Paragraph 10(1):

*"Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."*

20. As the planning application relates to the offices of the Town Council it would seem to fulfil the requirements of Paragraph 10(1) of the Code of Conduct.
21. Furthermore, in such a circumstance, Councillor C Stickler would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

### **Background Papers**

The Local Government Act 2000  
The Standards Committee (Further Provisions)(England) Regulations 2009  
The model Code of Conduct for Town and Parish Council's  
Standards for England – Dispensations Guidance

### **Resource Implications**

None

### **Consultation Statement**

In compiling this report consideration has been given to the available guidance from Standards for England.

### **Impact on Corporate Objectives and Corporate Risks**

The promotion of effective governance arrangements is essential to the core activities and performance of the Council.

### **Customer Access Review**

The granting of dispensations by the Standards Committee is subject to provisions set out in legislation.

### **Attachments**

Councillor C Stickler's Application for Dispensation Form

DAVID RANDALL

Director of Governance and Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2304.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 17 MARCH 2011

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD010  
COUNCILLOR J CRONK (DEAL TOWN COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from Councillor J Cronk, a member of Deal Town Council.*

Contact Officer: Rebecca Brough, extension 2304.

**Reasons why a decision is required**

1. The Monitoring Officer has received separate requests for dispensation from Councillors W Gardner, B Henderson, W Elliott, C Stickler and J Cronk of Deal Town Council. These dispensation requests have been submitted on the appropriate forms as per the Standards Committee's policy.
2. The dispensation requests all relate to a planning application requiring listed building consent made by Deal Town Council (DOV/11/00117) to the planning authority (Dover District Council). The application concerns internal and external alterations to Deal Town Hall including the erection of a flag pole. The Planning Committee of Deal Town Council is due to consider the application at a special meeting to be held on 21 March 2011.
3. All five members of Deal Town Council's planning committee have advised that they have a personal and prejudicial interest arising by virtue of considering their own authority's application and that the committee would not be quorate to make a decision. The Monitoring Officer has spoken to the Deputy Clerk to Deal Town Council and is satisfied that all other feasible alternatives to applying for a dispensation have been explored and that this is the only option open to the parish council other than not making a recommendation to the planning authority in respect of Deal Town Council's application. Deal Town Council is a statutory consultee in addition to being the applicant.
4. Councillor J Cronk has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Deal Town Council for a single meeting (21 March 2011) to enable Deal Town Council's Planning Committee to make a quorate decision in respect of the Council's planning application.

**Options available to the Council with assessment of preferred option**

5. There are two options available to the Sub-Committee as follows:
6. **Option One:** That a dispensation be granted under the provisions of Section 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009 to permit Councillor J Cronk to participate and vote at the meeting of Deal Town

Council's Planning Committee to be held on 21 March 2011 for the purpose of considering planning application DOV/11/00117. This is the recommended option as it enables the business of the authority to be transacted and is in keeping with Standards for England guidance that suggests in most instances the dispensation should cover a specific item of business at one meeting of the authority.

7. **Option Two:** That no dispensation be granted to Councillor J Cronk in respect of the Deal Town Council's planning application DOV/11/00117. This is not the recommended option, as it does not permit the authority to consider the application unless an alternative measure of achieving a quorum can be achieved.

#### Considerations for dealing with dispensation requests

8. The members of the Sub-Committee should be mindful of the distinction between a Member being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. In particular, the Sub-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.
9. It is recommended by Standards for England, that a Standards Committee (or Sub-Committee) consider the following questions in making its decision:

- (a) **Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

*For example, it is unlikely that it would be appropriate to grant a dispensation to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative.*

- (b) **Is the interest common to the member and a significant proportion of the general public?**

*Where a significant proportion of the population in the area are also likely to be affected by the same interest, it might be appropriate to grant a dispensation in such circumstances.*

- (c) **Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

*For instance, a Member may represent the authority on another public body and have particular expertise in the work of that body.*

- (d) **Is the business that the interest relates to about a voluntary organisation or a public body, which is to be considered by an overview and scrutiny committee? Moreover, is the member's interest not a financial one?**

*In circumstances such as these the Standards Sub-Committee might believe that it is in the interest of the authority's inhabitants to remove the incapacity from speaking or voting.*

10. The Sub-Committee has the discretion to decide on the nature of any dispensation. It may for example, decide that it is appropriate for the Member concerned to be

allowed to speak on a matter in which they have a prejudicial interest but not vote on it. Alternatively, it may allow the Member to fully participate and vote on the matter.

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#### Information to be considered in taking the decision

#### **Dispensation Criteria**

12. The Standards Committee: Dispensations Sub-Committee may grant a dispensation to individual elected or co-opted Members enabling them to speak and vote at a meeting when they have a prejudicial interest. The Sub-Committee has been set up under Section 54A(1) of the Local Government Act 2000 for this purpose.
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15. In the case of the application from the Deal Town Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

#### **Personal and Prejudicial Interest Tests**

16. For an interest to be prejudicial, it must first be a personal interest. There are two categories of personal interest that arise for Members, as follows:
  - (a) Where the business of the authority to which the member belongs relates to a registerable interest on their declaration of registerable interests.
  - (b) Where the business of the authority to which the member belongs relates to an interest that is not on the Member's register but the interest is such that it would affect the well-being or financial position of the Member, their family or people with whom they have a close association to a greater degree than the majority of the inhabitants of their electoral area.
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  - (a) The matter does not fall within one of the exempt categories of decisions (see paragraph 10(2)(c) of the Code of Conduct for details).

- (b) The matter affects the Members financial interests or relates to a licensing or regulatory matter.
- (c) A member of the public who knows the relevant facts would reasonably think that the Member's personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Application of Dispensation Criteria and Personal and Prejudicial Interest Test**

18. Councillor J Cronk's personal interest may be considered to arise by virtue of Paragraph 8(1)(a)(i) of the Code of Conduct which states:

*"You have a personal interest in any business of your authority where it relates to or is likely to affect **any body of which you are a member** or in a position of general control or management and to which you are appointed or nominated by your authority."*

19. Councillor J Cronk may be considered to have a prejudicial interest in keeping with Paragraph 10(1):

*"Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."*

20. As the planning application relates to the offices of the Town Council it would seem to fulfil the requirements of Paragraph 10(1) of the Code of Conduct.
21. Furthermore, in such a circumstance, Councillor J Cronk would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

### **Background Papers**

The Local Government Act 2000  
 The Standards Committee (Further Provisions)(England) Regulations 2009  
 The model Code of Conduct for Town and Parish Council's  
 Standards for England – Dispensations Guidance

### **Resource Implications**

None

### **Consultation Statement**

In compiling this report consideration has been given to the available guidance from Standards for England.

### **Impact on Corporate Objectives and Corporate Risks**

The promotion of effective governance arrangements is essential to the core activities and performance of the Council.

### **Customer Access Review**

The granting of dispensations by the Standards Committee is subject to provisions set out in legislation.

### **Attachments**

Councillor J Cronk's Application for Dispensation Form

DAVID RANDALL

Director of Governance and Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2304.