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1 July 2010

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 Friday 9 July 2010 at 4.00 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.

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 S M Le Chevalier		

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 – SCD001** (Pages 12–19)

To consider the attached report of the Monitoring Officer.

6. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD002** (Pages 20–27)

To consider the attached report of the Monitoring Officer.

7. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD003** (Pages 28–35)

To consider the attached report of the Monitoring Officer.

8. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD004** (Pages 36–43)

To consider the attached report of the Monitoring Officer.

9. **APPLICATION FOR CODE OF CONDUCT DISPENSATION – SCD005** (Pages 44–51)

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 – 9 JULY 2010

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD001  
COUNCILLOR S C MANION (GREAT MONGEHAM PARISH COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from a member of Great Mongeham Parish 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 B Knight, P Hambrook, T Madgwick, S C Manion and P Swales of Great Mongeham Parish 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 an application by the Great Mongeham Society to the parish council for grant funding. Councillor S C Manion has a personal and prejudicial interest in the grant application by the Great Mongeham Society, as he is a member of both bodies. Accordingly, he is unable to speak or vote in relation to the grant application.
3. However, as in total five of the seven members of the parish council are members of the Great Mongeham Society, the parish council finds itself inquorate and unable to make a decision in respect of the grant application. The Monitoring Officer has spoken to the Clerk to Great Mongeham Parish Council 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 taking a decision in respect of the grant application.
4. Councillor S C Manion has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Great Mongeham Society for a single meeting to enable Great Mongeham to make a quorate decision in respect of the grant 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 Stephen Charles Manion to participate and vote at one meeting only of Great Mongeham Parish Council in respect of the grant application from the Great Mongeham Society

7. This is the recommended option as it enables the business of the authority to be transacted. If the Sub-Committee agrees this option it must also determine for how long the dispensation granted should be in effect. It is recommended that this be for a single meeting only 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.
8. **Option Two:** That no dispensation be granted to Councillor S C Manion respect of the Great Mongeham Society's grant application. This is not the recommended option, as it does not permit the authority to consider the application.

#### Considerations for dealing with dispensation requests

9. 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.
10. 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.*

11. 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.

12. 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

13. 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.

14. 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.

15. 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.

16. In the case of the application from the Great Mongeham Parish Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.

17. Councillor S C Manion's personal interest arises by Paragraph 8(1)(a)(ii)(bb) 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 directed to charitable purposes of which you are a member or in a position of general control or management."*

18. Councillor S C Manion may be considered to have a prejudicial interest in keeping with Paragraph 10(2)(a) as the grant application relates to the business of his authority where

*"That business affects the financial position of a person or body described under Paragraph 8 of the Code of Conduct".*

19. As the Great Mongeham Society would be unable to proceed with the acquisition of a locally significant historical document without the grant funding of Great Mongeham Parish Council, it would seem to fulfil the requirements of Paragraph 10(2)(a) of the Code of Conduct.

20. Furthermore, in such a circumstance, Councillor S C Manion would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.
21. In accordance with the provisions of Paragraph 13(1) of the Code of Conduct, Councillor S C Manion has declared his membership of the Great Mongeham Society in his Register of Interests form dated 9 September 2007.

#### **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 S C Manion'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.

# Dover District Council

## The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

### APPLICATION TO THE STANDARDS COMMITTEE FOR A DISPENSATION

I, the undersigned of whom particulars are given in the Schedule wish to apply to the Standards Committee for a dispensation to be issued under Regulation 3(a)(i) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.

The circumstances upon which I am applying for the dispensations are that:

The transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, the need for members to declare personal and prejudicial interests in accordance with the Code of Conduct because—

**A.** the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate;

or

**B.** the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989. (n.b. this means the political balance requirement could not be complied with)

Delete either box A or box B – whichever is not applicable

### THE SCHEDULE

<b>Name of Applicant Councillor:</b> Stephen MANIOT
<b>Address of Applicant Councillor:</b>  
Telephone number..... evening. email address:
<b>Please Specify the Local Authority in respect of which the application is made.</b> Great Marnegham Parish Council



Please state whether this application is made in respect of your inability to participate in a meeting of your full council or any particular committee. If a committee, please specify.

Full Parish Council

Please specify the dates of Council meetings or Committee meetings in respect of which this application is made.

July 10

Please specify what business of the authority your personal and prejudicial interest precludes you from participating in.

grant to Great Manseham Society

Please specify why you believe that you have a personal and prejudicial interest in this business in sufficient detail to enable the Standards Committee to understand the nature and extent of that interest (continue on a separate sheet if necessary).

Prejudicial

I am a member of  
Great Manseham Society

Please specify how your inability to take part in this business will impede the transaction of that business by the Council or Committee concerned. Please include details of the total membership of the Council or Committee concerned and the number of members precluded from participation by reason of personal and prejudicial interests (continue on a separate sheet if necessary).

I believe 5 members  
out of 7 are  
affected

Please provide details of the reasons why any other members of the Council or Committee concerned will be unable to take part in the consideration of the business at the meetings in question if those reasons relate to matters not connected with the Code of Conduct.

Please specify any means of which you are aware, by which the Council or Committee concerned could transact its business if this Application was not granted e.g. by referring the business to a different committee of the Council or by delegating the decision to an officer.

N/A

Please specify any other circumstances to which you would wish the Standards Committee to have regard to in determining your application.

N/A

Would you like to appear before the meeting of the Standards Committee determining your application in order to speak in favour of it and answer members question?

YES

*(Please circle your choice)*

NO

*Please note that you will be notified of a time a date and a time at which your application will be determined. It is not possible to arrange meetings of the Standards Committee to accommodate the convenience of the Applicant.*

Under normal circumstances the law requires meetings of the Standards Committee to be held in public, subject to certain exceptions laid down by statute. If you consider that the nature of your application is such that either this application form or the discussion of the application by the Standards Committee is likely to result in the disclosure to the public of information which should properly be exempt from public disclosure and, you would therefore wish your application to be considered with the public excluded from that part of the meeting, please set out your reasons here.

Please note that if you request that the public be excluded and the Monitoring Officer does not consider it possible or likely that your request can be granted, you will be notified of the view of the Monitoring Officer and given the opportunity to withdraw your application.

Signed:

S MANN

Name (BLOCK CAPITALS):

Stephen MANNING

Dated:

8/6/10

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 9 JULY 2010

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD002  
COUNCILLOR B KNIGHT (GREAT MONGEHAM PARISH COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from a member of Great Mongeham Parish 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 B Knight, P Hambrook, T Madgwick, S C Manion and P Swales of Great Mongeham Parish 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 an application by the Great Mongeham Society to the parish council for grant funding. Councillor B Knight has a personal and prejudicial interest in the grant application by the Great Mongeham Society, as he is a member of both bodies. Accordingly, he is unable to speak or vote in relation to the grant application.
3. However, as in total five of the seven members of the parish council are members of the Great Mongeham Society, the parish council finds itself inquorate and unable to make a decision in respect of the grant application. The Monitoring Officer has spoken to the Clerk to Great Mongeham Parish Council 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 taking a decision in respect of the grant application.
4. Councillor B Knight has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Great Mongeham Society for a single meeting to enable Great Mongeham to make a quorate decision in respect of the grant 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 Brian Knight to participate and vote at one meeting only of Great Mongeham Parish Council in respect of the grant application from the Great Mongeham Society. This is the recommended option as it enables the business of the authority to be transacted.

7. If the Sub-Committee agrees this option it must also determine for how long the dispensation granted should be in effect. It is recommended that this be for a single meeting only 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.
8. **Option Two:** That no dispensation be granted to Councillor B Knight respect of the Great Mongeham Society's grant application. This is not the recommended option, as it does not permit the authority to consider the application.

#### Considerations for dealing with dispensation requests

9. 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.
10. 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.*

11. 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.

12. 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

13. 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.
14. 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.
15. 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.
16. In the case of the application from the Great Mongeham Parish Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.
17. Councillor B Knight's personal interest arises by Paragraph 8(1)(a)(ii)(bb) 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 directed to charitable purposes of which you are a member or in a position of general control or management."*
18. Councillor B Knight may be considered to have a prejudicial interest in keeping with Paragraph 10(2)(a) as the grant application relates to the business of his authority where

*"That business affects the financial position of a person or body described under Paragraph 8 of the Code of Conduct"*.
19. As the Great Mongeham Society would be unable to proceed with the acquisition of a locally significant historical document without the grant funding of Great Mongeham Parish Council, it would seem to fulfil the requirements of Paragraph 10(2)(a) of the Code of Conduct.
20. Furthermore, in such a circumstance, Councillor B Knight 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

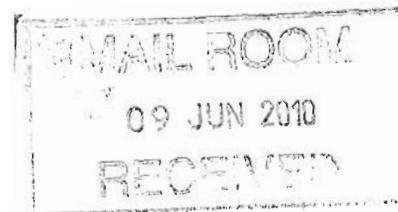
Councillor B Knight's Application for Dispensation Form

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.

# Dover District Council



## The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

### APPLICATION TO THE STANDARDS COMMITTEE FOR A DISPENSATION

I the undersigned of whom particulars are given in the Schedule wish to apply to the Standards Committee for a dispensation to be issued under Regulation 3(a)(i) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.

The circumstances upon which I am applying for the dispensations are that:

The transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, the need for members to declare personal and prejudicial interests in accordance with the Code of Conduct because—

**A.** the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate;

or

**B.** the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989. (n.b. this means the political balance requirement could not be complied with)

Delete either box A or box B – whichever is not applicable

### THE SCHEDULE

<b>Name of Applicant Councillor:</b> BRIAN KNIGHT
<b>Address of Applicant Councillor:</b> [REDACTED] [REDACTED] [REDACTED]
<b>Telephone number:</b> [REDACTED] evening. <b>email address:</b> [REDACTED]
<b>Please Specify the Local Authority in respect of which the application is made.</b> Great Mingeham Parish Council



Please state whether this application is made in respect of your inability to participate in a meeting of your full council or any particular committee. If a committee, please specify.

Full Parish Council

Please specify the dates of Council meetings or Committee meetings in respect of which this application is made.

3<sup>rd</sup> June 2010

Please specify what business of the authority your personal and prejudicial interest precludes you from participating in.

A member of the Great Mangelham Society

Please specify why you believe that you have a personal and prejudicial interest in this business in sufficient detail to enable the Standards Committee to understand the nature and extent of that interest (continue on a separate sheet if necessary).

As above

Please specify how your inability to take part in this business will impede the transaction of that business by the Council or Committee concerned. Please include details of the total membership of the Council or Committee concerned and the number of members precluded from participation by reason of personal and prejudicial interests (continue on a separate sheet if necessary).

Total membership of Council is 7 of whom 5 are members of the Great Mangelham Society

**Please provide details of the reasons why any other members of the Council or Committee concerned will be unable to take part in the consideration of the business at the meetings in question if those reasons relate to matters not connected with the Code of Conduct.**

No reason.

**Please specify any means of which you are aware, by which the Council or Committee concerned could transact its business if this Application was not granted e.g. by referring the business to a different committee of the Council or by delegating the decision to an officer.**

The Great Mongeham Society has insufficient funds to purchase this document.

**Please specify any other circumstances to which you would wish the Standards Committee to have regard to in determining your application.**

The purchase of an important historical document.

**Would you like to appear before the meeting of the Standards Committee determining your application in order to speak in favour of it and answer members question?**

YES

NO

*(Please circle your choice)*


*Please note that you will be notified of a time a date and a time at which your application will be determined. It is not possible to arrange meetings of the Standards Committee to accommodate the convenience of the Applicant.*

**Under normal circumstances the law requires meetings of the Standards Committee to be held in public, subject to certain exceptions laid down by statute. If you consider that the nature of your application is such that either this application form or the discussion of the application by the Standards Committee is likely to result in the disclosure to the public of information which should properly be exempt from public disclosure and, you would therefore wish your application to be considered with the public excluded from that part of the meeting, please set out your reasons here.**

*Please note that if you request that the public be excluded and the Monitoring Officer does not consider it possible or likely that your request can be granted, you will be notified of the view of the Monitoring Officer and given the opportunity to withdraw your application.*

**Signed:**

Name (BLOCK CAPITALS):

 B. KNIGHT

Dated:

7 Jun 10

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 9 JULY 2010

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD003  
COUNCILLOR T MADGWICK (GREAT MONGEHAM PARISH COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from a member of Great Mongeham Parish 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 B Knight, P Hambrook, T Madgwick, S C Manion and P Swales of Great Mongeham Parish 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 an application by the Great Mongeham Society to the parish council for grant funding. Councillor T Madgwick has a personal and prejudicial interest in the grant application by the Great Mongeham Society, as he is a member of both bodies. Accordingly, he is unable to speak or vote in relation to the grant application.
3. However, as in total five of the seven members of the parish council are members of the Great Mongeham Society, the parish council finds itself inquorate and unable to make a decision in respect of the grant application. The Monitoring Officer has spoken to the Clerk to Great Mongeham Parish Council 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 taking a decision in respect of the grant application.
4. Councillor T Madgwick has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Great Mongeham Society for a single meeting to enable Great Mongeham to make a quorate decision in respect of the grant 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 Terence Neil Madgwick to participate and vote at one meeting only of Great Mongeham Parish Council in respect of the grant application from the Great Mongeham Society. This is the recommended option as it enables the business of the authority to be transacted.

7. If the Sub-Committee agrees this option it must also determine for how long the dispensation granted should be in effect. It is recommended that this be for a single meeting only 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.
8. **Option Two:** That no dispensation be granted to Councillor T Madgwick respect of the Great Mongeham Society's grant application. This is not the recommended option, as it does not permit the authority to consider the application.

#### Considerations for dealing with dispensation requests

9. 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.
10. 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.*

11. 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.

12. 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

13. 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.
14. 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.
15. 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.
16. In the case of the application from the Great Mongeham Parish Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.
17. Councillor T Madgwick's personal interest arises by Paragraph 8(1)(a)(ii)(bb) 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 directed to charitable purposes of which you are a member or in a position of general control or management."*
18. Councillor T Madgwick may be considered to have a prejudicial interest in keeping with Paragraph 10(2)(a) as the grant application relates to the business of his authority where

*"That business affects the financial position of a person or body described under Paragraph 8 of the Code of Conduct"*.
19. As the Great Mongeham Society would be unable to proceed with the acquisition of a locally significant historical document without the grant funding of Great Mongeham Parish Council, it would seem to fulfil the requirements of Paragraph 10(2)(a) of the Code of Conduct.
20. Furthermore, in such a circumstance, Councillor T Madgwick would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

21. In accordance with the provisions of Paragraph 13(1) of the Code of Conduct, Councillor T Madgwick has declared his membership of the Great Mongeham Society in his Register of Interests form dated 7 May 2010.

#### **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 T Madgwick'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.

# Dover District Council

## The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

### APPLICATION TO THE STANDARDS COMMITTEE FOR A DISPENSATION

I the undersigned of whom particulars are given in the Schedule wish to apply to the Standards Committee for a dispensation to be issued under Regulation 3(a)(i) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.

The circumstances upon which I am applying for the dispensations are that:

The transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, the need for members to declare personal and prejudicial interests in accordance with the Code of Conduct because—






A. the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate;

or

B. the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989. (n.b. this means the political balance requirement could not be complied with)

Delete either box A or box B – whichever is not applicable

### THE SCHEDULE

Name of Applicant Councillor: <i>TERENCE MADGWICK</i>
Address of Applicant Councillor:  
Telephone number:  (day)  evening. <i>(both)</i> email address: 
Please Specify the Local Authority in respect of which the application is made. <i>GREAT MONGEHAM PARISH COUNCIL (DOVER DISTRICT COUNCIL)</i>



Please state whether this application is made in respect of your inability to participate in a meeting of your full council or any particular committee. If a committee, please specify.

FULL PARISH COUNCIL

Please specify the dates of Council meetings or Committee meetings in respect of which this application is made.

1st JULY 2010

Please specify what business of the authority your personal and prejudicial interest precludes you from participating in.

DISCUSSION OF A GRANT APPLICATION FROM  
THE GREAT MONGEHAM SOCIETY

Please specify why you believe that you have a personal and prejudicial interest in this business in sufficient detail to enable the Standards Committee to understand the nature and extent of that interest (continue on a separate sheet if necessary).

I AM A MEMBER OF THE SOCIETY AND  
HENCE HAVE AN INTEREST IN OBTAINING  
THE GRANT

Please specify how your inability to take part in this business will impede the transaction of that business by the Council or Committee concerned. Please include details of the total membership of the Council or Committee concerned and the number of members precluded from participation by reason of personal and prejudicial interests (continue on a separate sheet if necessary).

5 OF THE 7 MEMBERS OF THE PARISH  
COUNCIL ARE ALSO MEMBERS OF THE  
SOCIETY, THE REMAINING 2 MEMBERS  
DO NOT CONSTITUTE A ~~FORUM~~ QUORUM

Please provide details of the reasons why any other members of the Council or Committee concerned will be unable to take part in the consideration of the business at the meetings in question if those reasons relate to matters not connected with the Code of Conduct.

SEE LAST SECTION

Please specify any means of which you are aware, by which the Council or Committee concerned could transact its business if this Application was not granted e.g. by referring the business to a different committee of the Council or by delegating the decision to an officer.

THERE ARE NO SUBCOMMITTEES OR OFFICERS

Please specify any other circumstances to which you would wish the Standards Committee to have regard to in determining your application.

NONE

Would you like to appear before the meeting of the Standards Committee determining your application in order to speak in favour of it and answer members question?

YES

(Please circle your choice)

NO

UNLESS ESSENTIAL

Please note that you will be notified of a time a date and a time at which your application will be determined. It is not possible to arrange meetings of the Standards Committee to accommodate the convenience of the Applicant.

Under normal circumstances the law requires meetings of the Standards Committee to be held in public, subject to certain exceptions laid down by statute. If you consider that the nature of your application is such that either this application form or the discussion of the application by the Standards Committee is likely to result in the disclosure to the public of information which should properly be exempt from public disclosure and, you would therefore wish your application to be considered with the public excluded from that part of the meeting, please set out your reasons here.

Please note that if you request that the public be excluded and the Monitoring Officer does not consider it possible or likely that your request can be granted, you will be notified of the view of the Monitoring Officer and given the opportunity to withdraw your application.

Signed:



Name (BLOCK CAPITALS):

T.W. MAGWICK

Dated:

8/6/10

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 9 JULY 2010

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD004  
COUNCILLOR P SWALES (GREAT MONGEHAM PARISH COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from a member of Great Mongeham Parish 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 B Knight, P Hambrook, T Madgwick, S C Manion and P Swales of Great Mongeham Parish 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 an application by the Great Mongeham Society to the parish council for grant funding. Councillor P Swales has a personal and prejudicial interest in the grant application by the Great Mongeham Society, as she is a member of both bodies. Accordingly, she is unable to speak or vote in relation to the grant application.
3. However, as in total five of the seven members of the parish council are members of the Great Mongeham Society, the parish council finds itself inquorate and unable to make a decision in respect of the grant application. The Monitoring Officer has spoken to the Clerk to Great Mongeham Parish Council 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 taking a decision in respect of the grant application.
4. Councillor P Swales has therefore requested that she be granted a dispensation from her personal and prejudicial interest in relation to the Great Mongeham Society for a single meeting to enable Great Mongeham to make a quorate decision in respect of the grant 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 Penelope Elizabeth Swales to participate and vote at one meeting only of Great Mongeham Parish Council in respect of the grant application from the Great Mongeham Society. This is the recommended option as it enables the business of the authority to be transacted.

7. If the Sub-Committee agrees this option it must also determine for how long the dispensation granted should be in effect. It is recommended that this be for a single meeting only 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.
8. **Option Two:** That no dispensation be granted to Councillor P Swales in respect of the Great Mongeham Society's grant application. This is not the recommended option, as it does not permit the authority to consider the application.

#### Considerations for dealing with dispensation requests

9. 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.
10. 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.*

11. 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.

12. 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

13. 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.
14. 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.
15. 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.
16. In the case of the application from the Great Mongeham Parish Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.
17. Councillor P Swales' personal interest arises by Paragraph 8(1)(a)(ii)(bb) 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 directed to charitable purposes of which you are a member or in a position of general control or management."*
18. Councillor P Swales may be considered to have a prejudicial interest in keeping with Paragraph 10(2)(a) as the grant application relates to the business of her authority where:
- "That business affects the financial position of a person or body described under Paragraph 8 of the Code of Conduct".*
19. As the Great Mongeham Society would be unable to proceed with the acquisition of a locally significant historical document without the grant funding of Great Mongeham Parish Council, it would seem to fulfil the requirements of Paragraph 10(2)(a) of the Code of Conduct.
20. Furthermore, in such a circumstance, Councillor P Swales would be required to withdraw from the meeting without speaking or voting in accordance with Paragraph 12(1)(a) of the Code of Conduct.

21. In accordance with the provisions of Paragraph 13(1) of the Code of Conduct, Councillor P Swales has declared her membership of the Great Mongeham Society in her Register of Interests form dated 6 July 2009.

#### **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 P Swales' 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.

# Dover District Council

## The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

### APPLICATION TO THE STANDARDS COMMITTEE FOR A DISPENSATION

I the undersigned of whom particulars are given in the Schedule wish to apply to the Standards Committee for a dispensation to be issued under Regulation 3(a)(i) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.

The circumstances upon which I am applying for the dispensations are that:

The transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, the need for members to declare personal and prejudicial interests in accordance with the Code of Conduct because—

A. the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate;

or

B. ~~the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989. (n.b. this means the political balance requirement could not be complied with)~~

Delete either box A or box B – whichever is not applicable

### THE SCHEDULE

<b>Name of Applicant Councillor:</b> Penelope Snales
<b>Address of Applicant Councillor:</b> [REDACTED] [REDACTED]
<b>Telephone number:</b> .....(day).....evening. <b>email address:</b> [REDACTED]
<b>Please Specify the Local Authority in respect of which the application is made.</b> Great Mongeham Parish Council.



Please state whether this application is made in respect of your inability to participate in a meeting of your full council or any particular committee. If a committee, please specify.

full council.

Please specify the dates of Council meetings or Committee meetings in respect of which this application is made.

Please specify what business of the authority your personal and prejudicial interest precludes you from participating in.

Decision on grant application from  
Great Mongeham Society.

Please specify why you believe that you have a personal and prejudicial interest in this business in sufficient detail to enable the Standards Committee to understand the nature and extent of that interest (continue on a separate sheet if necessary).

I am a member of Great Mongeham  
Society.

Please specify how your inability to take part in this business will impede the transaction of that business by the Council or Committee concerned. Please include details of the total membership of the Council or Committee concerned and the number of members precluded from participation by reason of personal and prejudicial interests (continue on a separate sheet if necessary).

7. parish councillors,  
5 are members of the society  
Remaining 2 not generate.

Please provide details of the reasons why any other members of the Council or Committee concerned will be unable to take part in the consideration of the business at the meetings in question if those reasons relate to matters not connected with the Code of Conduct.

as above.

Please specify any means of which you are aware, by which the Council or Committee concerned could transact its business if this Application was not granted e.g. by referring the business to a different committee of the Council or by delegating the decision to an officer.

wla

Please specify any other circumstances to which you would wish the Standards Committee to have regard to in determining your application.

—

Would you like to appear before the meeting of the Standards Committee determining your application in order to speak in favour of it and answer members question?

YES

(Please circle your choice)

NO

*Please note that you will be notified of a time a date and a time at which your application will be determined. It is not possible to arrange meetings of the Standards Committee to accommodate the convenience of the Applicant.*

**Under normal circumstances the law requires meetings of the Standards Committee to be held in public, subject to certain exceptions laid down by statute. If you consider that the nature of your application is such that either this application form or the discussion of the application by the Standards Committee is likely to result in the disclosure to the public of information which should properly be exempt from public disclosure and, you would therefore wish your application to be considered with the public excluded from that part of the meeting, please set out your reasons here.**

Please note that if you request that the public be excluded and the Monitoring Officer does not consider it possible or likely that your request can be granted, you will be notified of the view of the Monitoring Officer and given the opportunity to withdraw your application.

**Signed:**

*P. Swales*

Name (BLOCK CAPITALS): P. E. SWALES

Dated:

21/6/10.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE: DISPENSATIONS SUB-COMMITTEE – 9 JULY 2010

**APPLICATION FOR CODE OF CONDUCT DISPENSATIONS – SCD005  
COUNCILLOR P HAMBROOK (GREAT MONGEHAM PARISH COUNCIL)**

**Recommendation**

*That the Standards Committee: Dispensation Sub-Committee consider the application for dispensation from the relevant provisions of the Code of Conduct from a member of Great Mongeham Parish 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 B Knight, P Hambrook, T Madgwick, S C Manion and P Swales of Great Mongeham Parish 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 an application by the Great Mongeham Society to the parish council for grant funding. Councillor P Hambrook has a personal and prejudicial interest in the grant application by the Great Mongeham Society, as he is a member of both bodies. Accordingly, he is unable to speak or vote in relation to the grant application.
3. However, as in total five of the seven members of the parish council are members of the Great Mongeham Society, the parish council finds itself inquorate and unable to make a decision in respect of the grant application. The Monitoring Officer has spoken to the Clerk to Great Mongeham Parish Council 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 taking a decision in respect of the grant application.
4. Councillor P Hambrook has therefore requested that he be granted a dispensation from his personal and prejudicial interest in relation to the Great Mongeham Society for a single meeting to enable Great Mongeham to make a quorate decision in respect of the grant 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 Peter Hambrook to participate and vote at one meeting only of Great Mongeham Parish Council in respect of the grant application from the Great Mongeham Society. This is the recommended option as it enables the business of the authority to be transacted.

7. If the Sub-Committee agrees this option it must also determine for how long the dispensation granted should be in effect. It is recommended that this be for a single meeting only 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.
8. **Option Two:** That no dispensation be granted to Councillor P Hambrook respect of the Great Mongeham Society's grant application. This is not the recommended option, as it does not permit the authority to consider the application.

Considerations for dealing with dispensation requests

9. 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.
10. 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.*

11. 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.

12. 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

13. 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.
14. 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.
15. 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.
16. In the case of the application from the Great Mongeham Parish Councillors, the dispensation relates to where more than 50% of the membership of the parish council would be prohibited from voting.
17. Councillor P Hambrook's personal interest arises by Paragraph 8(1)(a)(ii)(bb) 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 directed to charitable purposes of which you are a member or in a position of general control or management."*
18. Councillor P Hambrook may be considered to have a prejudicial interest in keeping with Paragraph 10(2)(a) as the grant application relates to the business of his authority where

*"That business affects the financial position of a person or body described under Paragraph 8 of the Code of Conduct"*.
19. As the Great Mongeham Society would be unable to proceed with the acquisition of a locally significant historical document without the grant funding of Great Mongeham Parish Council, it would seem to fulfil the requirements of Paragraph 10(2)(a) of the Code of Conduct.
20. Furthermore, in such a circumstance, Councillor P Hambrook 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 P Hambrook's Application for Dispensation Form

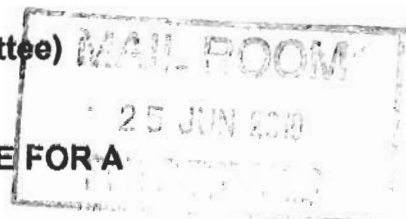
DAVID RANDALL

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.

# Dover District Council

The Relevant Authorities (Standards Committee)  
(Dispensations) Regulations 2002



## APPLICATION TO THE STANDARDS COMMITTEE FOR A DISPENSATION

I the undersigned of whom particulars are given in the Schedule wish to apply to the Standards Committee for a dispensation to be issued under Regulation 3(a)(i) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.

The circumstances upon which I am applying for the dispensations are that:

The transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, the need for members to declare personal and prejudicial interests in accordance with the Code of Conduct because—

**A.** the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate;

or

**B.** the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989. (n.b. this means the political balance requirement could not be complied with)

Delete either box A or box B – whichever is not applicable

### THE SCHEDULE

<b>Name of Applicant Councillor:</b> <i>Rev. P. Hambrook</i>
<b>Address of Applicant Councillor:</b> [Redacted] [Redacted] [Redacted]
<b>Telephone number:</b> .....(day).....evening. <b>email address:</b>
<b>Please Specify the Local Authority in respect of which the application is made.</b> <i>St. Margerite Parish Council</i>



Please state whether this application is made in respect of your inability to participate in a meeting of your full council or any particular committee. If a committee, please specify.

Yes

Please specify the dates of Council meetings or Committee meetings in respect of which this application is made.

3-6-10

Please specify what business of the authority your personal and prejudicial interest precludes you from participating in.

Member of the gl. Mangocham Society

Please specify why you believe that you have a personal and prejudicial interest in this business in sufficient detail to enable the Standards Committee to understand the nature and extent of that interest (continue on a separate sheet if necessary).

I am a member of the Society's  
committee

Please specify how your inability to take part in this business will impede the transaction of that business by the Council or Committee concerned. Please include details of the total membership of the Council or Committee concerned and the number of members precluded from participation by reason of personal and prejudicial interests (continue on a separate sheet if necessary).

5 out of 7 members of the  
Council are members  
of the Society

Please provide details of the reasons why any other members of the Council or Committee concerned will be unable to take part in the consideration of the business at the meetings in question if those reasons relate to matters not connected with the Code of Conduct.

5 out of 7 of Council are members of the Society

Please specify any means of which you are aware, by which the Council or Committee concerned could transact its business if this Application was not granted e.g. by referring the business to a different committee of the Council or by delegating the decision to an officer.

None

Please specify any other circumstances to which you would wish the Standards Committee to have regard to in determining your application.

If the money is not granted the valuable document will be lost to the village

Would you like to appear before the meeting of the Standards Committee determining your application in order to speak in favour of it and answer members question?

YES

(Please circle your choice)

NO

Please note that you will be notified of a time a date and a time at which your application will be determined. It is not possible to arrange meetings of the Standards Committee to accommodate the convenience of the Applicant.

Under normal circumstances the law requires meetings of the Standards Committee to be held in public, subject to certain exceptions laid down by statute. If you consider that the nature of your application is such that either this application form or the discussion of the application by the Standards Committee is likely to result in the disclosure to the public of information which should properly be exempt from public disclosure and, you would therefore wish your application to be considered with the public excluded from that part of the meeting, please set out your reasons here.

*Please note that if you request that the public be excluded and the Monitoring Officer does not consider it possible or likely that your request can be granted, you will be notified of the view of the Monitoring Officer and given the opportunity to withdraw your application.*

**Signed:** *Peter P Hambrook*

**Name (BLOCK CAPITALS):** *PETER HAMBROOK*

**Dated:** *18-6-10*