



Leicester
City Council

WARDS AFFECTED
All Wards (Corporate Issue)

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Standards Committee

31 October 2002

Dispensations

Report of the Town Clerk

1. Purpose of Report

- 1.1 To inform the Committee of their power to grant Dispensations to Members of Council and Voting Co-opted Members and the arrangements to ensure adherence to this process.

2. Summary

- 2.1 The Government has issued Regulations which prescribe arrangements for the granting of dispensations to Members including, as a new concept, Co-opted Members with voting rights (attached at **Appendix 1**).
- 2.2 The Regulations provide for the Standards Committee to grant dispensations in the following circumstances:
- The Member has made a written request to the Standards Committee explaining why the dispensation is required.
 - The business of the Council will be impeded if a dispensation is not granted because the restriction prevents the participation of more than 50% of the Members entitled, or required, to participate in the consideration of the matter, or
 - The restriction prevents the Council from maintaining the balance between political groups in considering the matter that is required by Section 15(4) of the Local Government and Housing Act 1989.
- 2.3 The Standards Committee cannot grant a dispensation to allow a Member of a Scrutiny Committee or one of its Sub-Committees to participate in considering a decision made by another Committee or Sub-Committee of which they are also a Member.
- 2.4 Dispensations made under these Regulations will be effective for a maximum period of four years, and the Standards Committee must ensure that a written record of all dispensations granted is kept with the Register of Members' Interests maintained under Section 81(1) of the Local Government Act 2000.

- 2.5 The previous powers of the Secretary of State to grant dispensations has been abolished and sole responsibility for dispensation now rests with the Standards Committee. There are no mechanisms which would allow dispensations to be granted other than by the Standards Committee meeting formerly to approve such action.
- 2.6 All Members, including Co-opted Members, will be circulated with an explanatory leaflet regarding dispensations and the rules which now apply. On past experience, it is envisaged that there will be a number of dispensation applications for the Standards Committee to consider, particularly in the period prior to the annual budget consideration – where non-participation of Members (particularly at full Council) is most likely to affect political balance. Every effort will be made to address these at the earliest possible time, and the issue will appear as a standard item on future Agendas of the Committee. Members of the Committee should however note that there is also a likelihood of urgent meetings of the Committee being requested to consider dispensation applications, should there be a change in Members’ circumstances.

3. Recommendations

3.1 Members are recommended to:

- (i) note the Dispensation Regulations;
- (ii) endorse, for all Members, that they review their potential need for dispensation, notably well in advance of the budget consideration; and
- (iii) note that consideration of dispensation requests will in future appear as a Standard item on the Committee’s Agenda, is likely to form a significant part of the Committee’s agenda for the next (and possibly two) meeting(s) and also that there is a likelihood of urgent meetings being requested to consider dispensation applications should there be a change in Members’ circumstances.

4. Financial, Legal and Other Implications

4.1 There are no financial implications.

4.2 Legal Implications.

A member who has a personal and prejudicial interest but participates in the consideration of a matter giving rise to the interest, without first obtaining a dispensation from the Standards Committee is in breach of the Political Conventions (which incorporates the Model Code of Conduct). This puts them at risk of a complaint to the Standards Board which, in turn, could result in investigation and reference to the Adjudication Panel, possibly leading to disqualification from office.

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	No	

Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	

5. Report Author/Officer to contact:

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Statutory Instrument 2002 No. 339

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

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STATUTORY INSTRUMENTS

2002 No. 339

LOCAL GOVERNMENT, ENGLAND AND WALES

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

<i>Made</i>	<i>18th February 2002</i>
<i>Laid before Parliament</i>	<i>25th February 2002</i>
<i>Coming into force</i>	<i>18th March 2002</i>

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred upon him by sections 53(6), 81(5) and 105(2) of the Local Government Act 2000[1], and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1. - (1) These Regulations may be cited as the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 and shall come into force on 18th March 2002.

(2) These Regulations apply in relation to standards committees of relevant authorities in England^[2], and police authorities in Wales^[3], and references to "authority" shall be construed accordingly.

Interpretation

2. In these Regulations -

"the Act" means the Local Government Act 2000;

"dispensation" shall be construed in accordance with section 81(4) of the Act^[4];

"mandatory provisions" means the mandatory provisions of a model code of conduct which for the time being applies to the authority^[5]; and

"member" means a member or co-opted member^[6] of an authority.

Circumstances in which dispensations may be granted

3. - (1) The authority's standards committee may, subject to paragraph (2) below, grant a dispensation to a member in the following circumstances -

(a) the transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because -

(i) 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

(ii) 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^[7];

(b) the member has submitted to the standards committee a written request for a dispensation explaining why it is desirable; and

(c) the standards committee concludes that having regard to the matters mentioned in paragraph (a) above, the content of the application made pursuant to paragraph (b) above, and to all the other circumstances of the case, it is appropriate to grant the dispensation.

(2) Nothing in sub-paragraph (1) above shall permit a dispensation to be granted -

(a) in respect of participation in business of the authority conducted more than four years after the date on which the dispensation is granted; or

(b) where the effect of the mandatory provisions from which a dispensation is sought

is that -

(i) a member is prohibited from participating in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority, or sub-committee of that committee, where that consideration relates to any decision made or action taken by any other of the authority's committees, sub-committees, joint committees, or joint sub-committees of which he may also be a member; or

(ii) a member of the authority's executive^[8] is prohibited from exercising functions which are the responsibility of the executive of the authority and which would otherwise be discharged by him solely.

Records of dispensations

4. The authority's standards committee must ensure that -

(a) the existence, duration and nature of any dispensation is recorded in writing; and

(b) that such record is kept with the register of interests established and maintained under section 81(1) of the Act.

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

Alan Whitehead

Parliamentary Under Secretary of State, Department for Transport, Local Government and the Regions

18th February 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the circumstances in which a standards committee may grant dispensations to members and co-opted members of relevant authorities in England, and police authorities in Wales. If a member or co-opted member acts in accordance with the

grant of a dispensation, any participation in business prohibited by the mandatory provisions of a model code of conduct issued under section 50(1) of that Act is not a failure to comply with the authority's code of conduct.

Regulations 1 and 2 make provision on citation, commencement and application, and define terms used in the Regulations.

Regulation 3 sets out the circumstances in which standards committees may grant dispensations. Paragraph (1) specifies that dispensations may only be granted if half the members entitled or required to participate in the business of the authority would not otherwise be able to, or the authority would not be able to comply with political balance principles. It specifies further that a member must submit a written request for a dispensation and that the standards committee must conclude that having regard to these matters and all the other circumstances of the case, it is appropriate to grant the dispensation. Paragraph (2) provides that a dispensation cannot be granted in respect of business conducted after four years. It also specifies that the circumstances in which dispensations can be granted do not extend to allowing a member of an overview and scrutiny committee to participate in the scrutiny of the decision of another committee in which he was involved or to allowing an individual to exercise executive functions where he is prohibited by the mandatory provisions from doing so.

Regulation 4 makes provision on keeping records of the dispensations granted.

Notes:

[1] 2000 c. 2. [back](#)

[2] See section 49(6) of the Local Government Act 2000 ("the Act") for the definition of "relevant authority." [back](#)

[3] See section 81(8) of the Act for the power of the National Assembly for Wales to prescribe in regulations the circumstances in which standards committees of relevant authorities in Wales (other than police authorities) may grant dispensations. [back](#)

[4] Section 81(4) of the Act provides that any participation by a member in any business which is prohibited by the mandatory provisions of the model code of conduct applicable to an authority is not a failure to comply with the authority's code of conduct if that member has acted in accordance with a dispensation granted by the authority's standards committee. [back](#)

[5] See the model codes of conduct in the Local Authorities (Model Code of Conduct) (England) Order 2001 (S.I. 2001/3575), the Parish Councils (Model Code of Conduct) Order 2001 (S.I. 2001/3576), the National Park and Broads Authorities (Model Code of Conduct) (England) Order (S.I. 2001/3577) and the Police Authorities (Model Code of Conduct) Order 2001 (S.I. 2001/3578). Under section 51(4)(a) of the Act, a code of conduct adopted by an

authority must incorporate the mandatory provisions of a model code of conduct which for the time being applies to the authority.[back](#)

[6] See section 49(7) of the Act for the definition of "co-opted member". Under section 83(3) and (4) of the Act, references to a member of a relevant authority include references to an elected mayor, an elected executive member, the Mayor of London and a member of the London Assembly.[back](#)

[7] 1989 c. 42. Section 15 has been modified by the Local Government (Committees and Political Groups) Regulations 1990 (S.I. 1990/1552).[back](#)

[8] Part II of the Act makes provision for executive arrangements for county councils, district councils, and London borough councils. Sections 14 to 16 make provision for individuals to exercise functions which are the responsibility of an executive.[back](#)

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