

APPENDIX 2

Westminster City Council Standards Committee

DRAFT Protocol for the Grant of Dispensations from the Code of Conduct

1. Legislation allows the Standards Committee, or its Sub-Committees, to grant dispensations to members allowing them to speak and vote at a meeting when they have a prejudicial interest. This protocol sets out how requests for dispensations should be made, the process that will be followed when the request is considered, and the criteria that will be applied when the request is determined. This protocol has been approved by the Standards Committee having regard to guidance on dispensations given by the Standards Board for England.
2. A member seeking a dispensation should submit an application in writing to the Head of Legal Services. The application should explain the reasons why a dispensation is desirable. The application should be submitted as early as possible, and (where the meeting date is known) in any event no later than fifteen working days before the meeting in question is due to take place. Because a Standards Sub-Committee must be convened to consider the application it may not be possible to grant a dispensation if shorter notice is given.
3. An application for dispensation will be considered on paper by a meeting of the Standards Sub-Committee. Oral representations to the Sub-Committee will not normally be considered. In deciding whether to grant the dispensation the Sub-Committee will consider
 - (a) whether the legal criteria for the grant of a dispensation are met (see paragraph 4 below)
 - (b) the reasons why a dispensation is desirable as put forward in the written application
 - (c) the criteria referred to below and in the guidance issued by the Standards Board for England
 - (d) any other relevant circumstances
4. The Standards Sub-Committee may grant a dispensation only 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.

The Sub-Committee will ignore any dispensations that have already been granted to other members at the meeting when deciding whether either of these criteria apply.

A dispensation may not be granted:

- To allow a member to vote at a Policy and Scrutiny Committee about a decision taken by him or by any body they were a member of at the time the decision was taken
- To allow a Cabinet member with a prejudicial interest in a matter to take an executive decision about it on his own

A dispensation may be granted for just one meeting or on an ongoing basis. However it cannot be used to allow participation in the business of the authority if it was granted more than four years ago.

5. Where the criteria set out in paragraph 4 apply, the Standards Sub-Committee will take into account the following criteria in addition to the reasons put forward in the application and any other relevant circumstances:
 - 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? A dispensation is unlikely to be granted where the decision is one having a direct and significant financial effect on the applicant or a relative.
 - Can the decision be readily taken in an alternative way without damage to public confidence in the conduct of the authority's business? It may not be in the public interest if the decision, in the absence of dispensations being granted, could be taken only by a small number of members, or by members of one political party only, or by an officer under delegated powers. But if a member with a prejudicial interest could be readily substituted by another member from the same political party that may be preferable to the grant of a dispensation.
 - Is the interest common to member and to a significant proportion of the general public?
 - Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?
 - Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by a Policy and Scrutiny Committee? And is the member's interest not a financial one?
6. In cases where a dispensation is granted the Standards Sub-Committee will consider the nature of the dispensation – ie whether the dispensation should allow the member to speak and not vote, or to fully participate and vote. In most cases where the dispensation is granted in the light of the above criteria, it will be appropriate to grant a dispensation allowing full participation. The Sub-Committee will also consider how long the dispensation should apply. In some cases, an application for a dispensation may be made before it is known exactly when the meeting will be. In those cases the Sub-Committee will normally grant the dispensation for a three month period, to permit flexibility.

7. The decision of the Standards Sub-Committee will be recorded in writing and kept with the register of interests established and maintained under Section 81(1) of the Local Government Act 2000.

Standards Committee 14.7.09