

# CHESHIRE EAST COUNCIL

## REPORT TO: STANDARDS COMMITTEE

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**Date of Meeting:** 21<sup>st</sup> September 2009

**Report of:** Deputy Monitoring Officer

**Subject/Title:** Handing of Requests for Dispensations

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### **1.0 Report Summary**

- 1.1 The report relates to whether requests for dispensations should continue to be dealt with by full Standards Committee, or delegated to a sub-committee of the Standards Committee.

### **2.0 Recommendations**

- 2.1 The Committee is asked to make a decision whether or not the function of dealing with dispensation applications should be delegated to a sub-committee; if so, the factors set out in 11 below must be considered.

### **3.0 Reasons for Recommendations**

- 3.1 The legislative provisions described in this report enable sub-committees of Standards Committees to determine dispensation requests should the Standards Committee so require.

### **4.0 Wards Affected**

- 4.1 All.

### **5.0 Local Ward Members**

- 5.1 Potentially all may be affected, should they apply for a dispensation at any time; there are however no specific ward issues for the time being.

### **6.0 Policy Implications including**

- 6.1 None; the Regulations described in this report set out the criteria to be taken into account.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None identified.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 None identified.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The relevant legislative provisions are set out in this report.

**10.0 Risk Management**

10.1 Not applicable.

**11.0 Background and Options**

11.1 Part 4 of the Standards Committee (Further Provisions) (England) Order 2009 sets out the provisions which now govern the handling of applications for dispensations under the Code of Conduct.

11.2 Additionally, S54A(1) of the Local Government Act 2000 allows this function to be dealt with by a Sub-Committee of the Standards Committee. This is not a matter which has so far been delegated to any of the existing Sub-Committees of the Standards Committee, but, if the Committee so wished, this function could be delegated. Membership of a sub-committee would need to be drawn from the membership of the committee, and would need to include at least one independent member, and at least one parish/town council member, and if considering a town/parish application, the parish/town member would need to be present.

11.3 The Standards Committee, or its sub-committee can grant dispensations if it is satisfied that –

(a) where the transaction of business of the Authority would, but for the grant of any other dispensation in relation to that business, 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 prohibited from voting on the business of the Authority at a meeting exceeds 50% of those Members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or

- (ii) the number of Members prohibited from voting on the business of the Authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting.

11.4 Standards for England (formerly the Standards Board for England) Guidance gives more detail about how dispensation applications should be considered and determined. The Guidance acknowledges the Standards Committee's power to sub-delegate the function to a sub-committee of itself. There is an advantage to doing this, as this enables applications to be dealt with more quickly, as a sub-committee can be set up at relatively short notice after an application is received (subject to the need to comply with Access to Information requirements) whereas if full committee continues to deal with these applications, either the applications must wait until the next scheduled committee, or a special full committee, involving all its members, will need to be convened. So far, only one batch of applications has been received, which fortunately were not so urgent that a special committee meeting was required, and could wait until a scheduled meeting, but future applications may well be more urgent if they are sought in relation to business to be transacted at other council meetings which are more imminent. Although applications for dispensations are expected to be relatively rare, they can arise at any time, and may be urgent, so it is necessary to have a process which is as efficient as possible for dealing with them as and when they arise.

11.5 If the Committee is minded to delegate this function to a sub-committee, it is suggested that this should be called the "Dispensations Sub-Committee" and that, like the Assessment and Review sub-committees, the quorum should be three, and membership selected from the full pool of Standards Committee members available at the time, subject to compliance with the criteria set out in 11.2 above. The Terms of Reference should be "Considering and making decisions in relation to requests for dispensations".

## **12.0 Overview of Year One and Term One Issues**

12.1 This is the first occasion on which the Standards Committee has been required to determine a dispensation request. Arrangements for future cases are dealt with in a separate report.

## **13.0 Access to Information Background papers:**

The background papers relating to this report can be inspected by contacting the report writer:

Standards Committee (Further Provisions) (England) Order 2009  
Standards for England Guidance document "Dispensations"

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