

## COUNCILLOR CONDUCT COMMITTEE

13 MARCH 2019

### REQUESTS FOR DISPENSATION

Report from/Author: Perry Holmes, Monitoring Officer

#### Summary

This report informs the Committee of dispensations that have been granted by the Monitoring Officer for:

- A Member of the Medway Health and Wellbeing Board
- A Member who substituted at the Medway Health and Wellbeing Board meeting held on 19 February 2019
- A Voting Co-optee of the Children and Young People Overview and Scrutiny Committee

#### 1. Budget and Policy Framework

- 1.1 Upholding high standards of conduct are a matter for the Councillor Conduct Committee.
- 1.2 The Councillor Conduct Committee's terms of reference allow for the granting of dispensations to Councillors and co-optees to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.

#### 2. Background

- 2.1 The Council's Code of Conduct includes provisions for the granting of dispensations.
- 2.2 The relevant sections read as follows:

##### 8. ***Disclosable Pecuniary Interests ("DPs")***

- 8.1 *"DPI" means those disclosable pecuniary interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Schedule One to (the Member's Code of Conduct).*

- 8.2 You will have a DPI in a matter being considered at a Council meeting where your DPI is closely aligned to the business of the Council agenda item and where the interest is:
- i) your interest, or;
  - ii) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

**11. Participation in Meetings or Decision Making when you have a DPI.**

- 11.1 Unless a dispensation has been granted, if you are present at a meeting and you have a DPI in a matter to be considered you must::

- a) not take part in any discussion of the matter
- b) not take part in any vote on the matter
- c) leave the meeting room (including the public gallery).

- 13.4 Where you are discharging a function of the authority (acting alone) and you have a DPI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else).

**14. Dispensations**

- 14.1 Where you have a Disclosable Pecuniary Interest or other significant interest you may still be able to participate and/or vote at a meeting if you have obtained a dispensation from the Councillor Conduct Committee. A dispensation request form is attached to the Code (Appendix 1).

- 14.2 There are 5 circumstances in respect of which a dispensation may be granted, namely:

- (a) that so many members of the decision-making body have disclosable pecuniary interests or OSIs in a matter that it would impede the transaction of the business;
- (b) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- (c) that the dispensation is in the interests of persons living in Medway;
- (d) that without a dispensation, no member of the Cabinet would be able to participate in this matter, or
- (e) that it is otherwise appropriate to grant a dispensation.

- 2.3 Dr Peter Green is a Member of Medway's Health and Wellbeing Board and is also the Clinical Chair of NHS Medway CCG. Stuart Jeffery, who is Deputy Managing Director of NHS Medway CCG, substituted for another colleague/Board Member at the Health and Wellbeing Board on 19 February 2019. Both NHS Medway CCG representatives wrote to the Monitoring Officer asking for a dispensation.
- 2.4 Fay Cordingley is a voting co-optee of the Children and Young People Overview and Scrutiny Committee, representing the Church of England Rochester Diocese Board of Education and is also employed at two Medway schools.
- 2.5 Their requests are set out at Appendix 1 to this report.

### **3. Current position**

#### Health and Wellbeing Board Members

- 3.1 Both Dr Green and Stuart Jeffery hold paid positions at NHS Medway CCG and therefore their interest in NHS Medway CCG is a Disclosable Pecuniary Interest.
- 3.2 Part 2, Section 14Z16 of the National Health Service Act 2006 states that the NHS Commissioning Board must conduct a performance assessment of each Clinical Commissioning Group in respect of each financial year. A performance assessment is an assessment of how well the Clinical Commissioning Group has discharged its functions during that year.
- 3.3 In conducting a performance assessment, the NHS Commission Board must consult each relevant Health and Wellbeing Board as to its views on the Clinical Commissioning Group's contribution to the delivery of any Joint Health and Wellbeing Strategy to which the group was required to have regard under section 116B(1)(b) of that Act of 2007.
- 3.4 In compliance with this, a report seeking the Board's view on the contribution of the NHS Medway CCG to the Board's Joint Health and Wellbeing (JHWS) Strategy was presented to the Health and Wellbeing Board on 19 February 2019. However, without a dispensation, both Dr Peter Green and Stuart Jeffery would have been unable to participate in the discussion of this item and therefore would have also been unable to answer any questions that other Members of the Board may have raised. In addition, without NHS Medway CCG representation, the Health and Wellbeing Board is inquorate.

#### Children and Young People Overview and Scrutiny Committee member

- 3.5 Fay Cordingley is Acting Head Teacher of St James' Church of England Primary Academy and Deputy Head Teacher at St Margaret's Junior School, Rainham and therefore, as she is employed at these two Medway Schools, her interest in these schools is also a Disclosable Pecuniary Interest.

- 3.6 Each year, the Children and Young People Overview and Scrutiny Committee consider an annual report on performance across Medway schools and within that report, performance details of every school in Medway is provided, including the relevant schools relating to Fay Cordingley's employment.
- 3.7 The decision whether to grant dispensations on request is a matter for this Committee. However, section 6.17 of the Employee Delegation Scheme, within the Council's Constitution provides the Chief Legal Officer with a delegation to:

*“consider and determine any requests for dispensations from Medway Members and voting and non-voting co-opted Members in cases where the timing of a request would make it impractical to convene a meeting of the Committee”.*

#### **4. Advice and Analysis**

##### Health and Wellbeing Board

- 4.1 Preventing Members of the Health and Wellbeing Board from speaking about the organisations they represent at the Board meetings seems counter-intuitive as they would be unable to answer questions about the relevant organisation's performance. In addition, without a representative from NHS Medway CCG, the Board would not be quorate for that item.
- 4.2 Dr Peter Green and Stuart Jeffery requested a dispensation to be put in place so that they could participate in the annual report on NHS Medway CCG's contribution to the Board's JHWS which was being considered by the Health and Wellbeing Board on 19 February 2019. This meant there was insufficient time for the dispensation request to be considered by the Councillor Conduct Committee.
- 4.3 The Monitoring Officer therefore exercised his delegation and granted a dispensation for Dr Peter Green and Stuart Jeffery on 19 February 2019 ahead of the meeting of the Health and Wellbeing Board that day.
- 4.4 The dispensation in respect of Dr Peter Green was granted for a four year term to enable him to participate in debate and/or to vote on the annual report on NHS Medway CCG's contribution to the Board's JHWS at Health and Wellbeing Board meetings in which he has a Disclosable Pecuniary Interest in relation to his employment by NHS Medway CCG.
- 4.5 As Stuart Jeffery was acting as a substitute at the Health and Wellbeing Board meeting on 19 February 2019, the Monitoring Officer exercised his delegation and granted a dispensation for Stuart Jeffery for that meeting only. This enabled him to participate in debate and/or to vote on the annual report on NHS Medway CCG's contribution to the

Board's JHWS at that particular Health and Wellbeing Board meeting in which he has a Disclosable Pecuniary Interest in relation to his employment by NHS Medway CCG.

Children and Young People Overview and Scrutiny Committee

- 4.6 Preventing Fay Cordingley from speaking at the Children and Young People Overview and Scrutiny Committee meetings on the annual schools performance report seems counter-intuitive as the purpose of her being part of the Committee is to share her expertise and experiences in her professional roles and representing the diocese.
- 4.7 Fay Cordingley requested a dispensation to be put in place so that she could participate in the annual school's performance report which was being considered by the Children and Young People Overview and Scrutiny Committee on 7 March 2019. This meant there was insufficient time for the dispensation request to be considered by the Councillor Conduct Committee.
- 4.8 The Monitoring Officer therefore exercised his delegation and granted a dispensation for Fay Cordingley on 5 March 2019. The dispensation was granted for a four year term to enable her to participate in debate and/or to vote on the annual schools performance report at Children and Young People Overview and Scrutiny Committee meetings in which she has a Disclosable Pecuniary Interest in relation to her employment at St James' Church of England Academy and St Margaret's Junior School.

**5. Risk management**

- 5.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>
Reputation	The public will not understand why representatives on committees are not allowed to report on the performance of the organisation they represent at meetings of the Medway Health and Wellbeing Board and the Children and Young People Overview and Scrutiny Committee.	Granting the dispensation

**6. Financial and Legal Implications**

- 6.1 This report contains no specific financial implications.
- 6.2 The legal implications are contained in the body of the report.

## **7. Recommendations**

7.1 The Committee is recommended to note:

- 7.1.1 that the Monitoring Officer granted a dispensation to Dr Peter Green for four years for the reasons set out in paragraphs 4.1 – 4.5 of the report to allow participation in debate and/or to vote on the annual report on NHS Medway CCG's contribution to the Board's Joint Health and Wellbeing Strategy at Health and Wellbeing Board meetings in which he has a Disclosable Pecuniary Interest in relation to his paid position at NHS Medway Clinical Commissioning Group.
- 7.1.2 that the Monitoring Officer granted a dispensation to Stuart Jeffery for the meeting of the Health and Wellbeing Board on 19 February 2019 for the reasons set out in paragraphs 4.1 – 4.5 of the report to allow participation in debate and/or to vote on the annual report on NHS Medway CCG's contribution to the Board's Joint Health and Wellbeing Strategy at the meeting in which he had a Disclosable Pecuniary Interest in relation to his employment at NHS Medway Clinical Commissioning Group.
- 7.1.3 that the Monitoring Officer granted a dispensation to Fay Cordingley for four years for the reasons set out in paragraphs 4.6 – 4.9 of the report to allow participation in debate and/or to vote on the annual schools performance report at Children and Young People Overview and Scrutiny Committee meetings in which she has a Disclosable Pecuniary Interest in relation to her employment at St James' Church of England Academy and St Margaret's Junior School.

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### **Appendices:**

Appendix 1 – Requests for Dispensation

### **Background Papers:**

None