

## **COUNCILLOR CONDUCT COMMITTEE**

**16 FEBRUARY 2022**

### **REQUESTS FOR DISPENSATION**

Report from: Bhupinder Gill, Assistant Director, Governance and Legal

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#### Summary

This report requests the Committee to consider three dispensation requests for two non-voting co-optees and one 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 ("DPis")***

- 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).*

11.2 *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.*

**3. Current position**

3.1. At its meeting on 20 January 2022, full Council made the following appointments to the Children and Young People Overview and Scrutiny Committee:

- Vicky Aspin was appointed to the teacher position on the Committee for a two year term (non-voting).
- Hannah Roberts was appointed as the named substitute for the teacher position on the Committee for a two year term (non-voting).
- Lenny Williams was appointed as the Church of England Diocese representative (representing the Rochester Diocesan Board of Education with voting rights on education issues).

3.2. Vicky Aspin is a teacher from Abbey Court School, Hannah Roberts is a teacher at Warren Wood Primary Academy and Lenny Williams is the Headteacher of St Margaret's Junior School, Rainham. Each are employed at the respective schools and their interest in the relevant schools are therefore Disclosable Pecuniary Interests.

3.3. 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 relating to every school in Medway is provided, including the relevant schools relating to the employment of Vicky Aspin, Hannah Roberts and Lenny Williams.

3.4. The decision whether to grant dispensations is a matter for this Committee.

#### 4. Advice and analysis

4.1. Preventing any of the three co-optees 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 them being part of the Committee is to share their expertise and experiences in their professional roles.

4.2. They have each therefore requested a dispensation to be put in place so that they can participate in the annual school's performance report which is considered by the Children and Young People Overview and Scrutiny Committee annually. It is recommended that the dispensation for Vicky Aspin also cover any reports relating to Special Educational Needs and disabilities, which may refer to her employment at a special school.

4.3. The Monitoring Officer would therefore advise the Committee to consider granting a dispensation under paragraph 14.2 (e) "that it is otherwise appropriate to grant a dispensation." This will enable more informed scrutiny by the Children and Young People Overview and Scrutiny Committee, of school performance in Medway and for the Committee to gain from the professional expertise that each of the co-optees will be able to bring as Committee Members.

4.4. It is recommended that the dispensations be granted for a two year period for Vicky Aspin and Hannah Roberts, as this will cover the duration of their term on the committee. It is recommended that the dispensation for Lenny be granted for the maximum length of 4 years as his position on the committee (a

statutory position with voting rights on education issues) has no fixed end date and he will continue in post until we are advised otherwise by the diocese.

- 4.5. In addition, the Monitoring Officer is recommending that the current delegation, which enables him 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”, be expanded to enable the Monitoring Officer to grant dispensations more generally and to only refer requests for dispensation to this committee in circumstances where the Monitoring Officer is not minded to grant such a request. This would enable a more efficient response to such requests and would avoid the need for a meeting of the Councillor Conduct Committee to be convened routinely to consider and determine requests, for example, those set out in this report.
- 4.6. It is therefore recommended that the delegation, set out at paragraph 6.20 of the Employee Delegation Scheme, within the Council’s constitution, be reworded as follows:

*“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 and to only refer requests for dispensations to the Councillor Conduct Committee for determination where the Monitoring Officer is minded to not grant a dispensation”.*

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk
Reputation	The public may not understand why representatives on committees are not allowed to report on the performance of the organisation they represent at meetings of the Children and Young People Overview and Scrutiny Committee.	Granting the dispensation
The Committee does not benefit from the professional input from the co-optees	There is a statutory duty to include representatives from the diocese on the Committee and in addition the Council has agreed to include the teacher and headteacher positions as non-voting co-optees in order for the Committee to benefit from the professional experience and expertise the co-optees can offer when scrutinising educational issues.	Granting this dispensation

## 6. Financial implications

6.1. There are no financial implications arising from this report.

## 7. Legal implications

7.1. The legal implications are set out within the report.

## 8. Recommendations

8.1. That the Committee grants the dispensations as follows:

8.1.1. grant a dispensation to Vicky Aspin for two years (expiring on 20 January 2024 when her term of office ends) for the reasons set out in section 4 of the report to allow participation in debate on the annual schools performance report and reports relating to Special Educational Needs and Disabilities (which may relate to Abbey Court School) at Children and Young People Overview and Scrutiny Committee meetings in which she has a Disclosable Pecuniary Interest in relation to her employment at Abbey Court School.

8.1.2. grant a dispensation to Hannah Roberts for two years (expiring on 20 January 2024 when her term of office ends) for the reasons set out in section 4 of the report to allow participation in debate on the annual schools performance report on at Children and Young People Overview and Scrutiny Committee meetings in which she has a Disclosable Pecuniary Interest in relation to her employment at Warren Wood Primary Academy.

8.1.3. grant a dispensation to Lenny Williams for four years (expiring 16 February 2026) for the reasons set out in section 4 of the report to allow participation in debate and/or to vote on the annual schools performance report on at Children and Young People Overview and Scrutiny Committee meetings in which he has a Disclosable Pecuniary Interest in relation to his employment at St Margaret's Junior School.

8.2. That the Committee recommends full Council to agree that the delegation set out at 6.20 of the Employee Delegation Scheme, within the Council's constitution, be reworded as follows:

*"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 and to only refer requests for dispensations to the Councillor Conduct Committee for determination where the Monitoring Officer is minded to not grant a dispensation".*

## Lead officer contact

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## Appendices

Appendix 1 – requests for dispensation

## Background papers

None