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WEST DEVON STANDARDS COMMITTEE - TUESDAY, 24TH JANUARY, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 6)

2. **Reports**

Reports to Standards:

a) Item 5 - Applications for Dispensations from Gulworthy Parish Council (Pages 7 - 18)

3. **Minutes** (Pages 19 - 20)

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AGENDA - STANDARDS COMMITTEE - 24th JANUARY 2012

PART ONE - OPEN COMMITTEE

1. **Apologies for Absence**
2. **Declarations of Interest**
Members are reminded to declare any personal or prejudicial interests they may have in any item on this agenda.
3. **Items Requiring Urgent Attention**
To consider items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

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4. **Confirmation of Minutes**
Meeting held on 25th October 2011 (previously circulated)
5. **Applications for Dispensations from Gulworthy Parish Council**
Report of the Deputy Monitoring Officer 7
6. **Update on Standards Complaints**
Verbal update by the Deputy Monitoring Officer
7. **Future of Standards**
Verbal update by the Deputy Monitoring Officer

PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any)

If any, the Committee is recommended to pass the following resolution:-

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act”.

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West Devon Borough Council Members' Code of Conduct

Declarations of interest

If you are in any doubt about what to do, please seek advice

Do you have an interest in any item?



Is it a **Personal** interest?



A **Personal** interest is one that:

- you should include on your Register of Interests or
- where well-being or financial position of you, members of your family or someone with whom you have a close association is likely to be affected by the interest more that it affects:
- majority of inhabitants of the ward or electoral division affected by the decision, or
- inhabitants of the Council's area

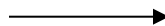
If you have a **Personal** interest you must **declare** it (and **the nature of the Interest**) at the meeting before the matter is discussed or as soon as you become aware of it, unless an exemption applies (see over page).



If you have a **Personal** interest you may still take part in the meeting and vote **unless** the interest is also **Prejudicial**. A **Prejudicial** interest is a matter for you to decide



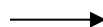
Do you have **Prejudicial** interest?



Your personal interest will also be **prejudicial** if all these conditions are met:

- Matter is not **exempt** (see over page)
- Matter affects your financial interests or relates to a **licensing or regulatory** matter, and
- a member of the public, who knows the relevant facts, would **reasonably think that your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

If you have a **Prejudicial** interest you must **declare** it (and **the nature** of the interest) as soon as it becomes apparent to you, and **withdraw** from the room where the meeting is being held (unless you are allowed to make representations – see over page).



West Devon Borough Council Members' Code of Conduct (see part 5 of the Constitution)

Personal Interests - You will have a **personal interest** in a matter if:

- anything that you should have mentioned in your Register and/or
- the well-being or financial position of you, members of your family, or people with whom you have a close association

is likely to be affected by the business of the Council more than it would affect the **majority of the inhabitants** of the ward or electoral division affected by the decision, or the inhabitants of the Council's area.

Exemption - An exemption applies where your **personal interest** arises solely from your membership (or position of control/management) on any body to which you were appointed/nominated by the Council or any other body exercising functions of a public nature. In such cases (unless you have a prejudicial interest) you only need to declare your interest if and when you speak on a matter.

Personal Interests include:

- Your membership/position of control/management in bodies to which the Council appointed/nominated you, or any bodies exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union;
- Your job(s) or business(es), and the name of your employer;
- Name of any person who has made a payment towards your election expenses or expenses you have incurred in carrying out your duties;
- The name of any person, company/other body which has a place of business/land in the Council's area and in which you have a shares of more than £25,000/stake of more than 1/100th of the share capital of the company;
- Any contracts with the Council between you, your firm or a company (of which you a paid director) for goods, services or works.
- Any gift/hospitality estimated to > £25 and the name of the person who gave it to you;
- Any land/property in the Council's area in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use.

Definitions

- "**Well-being**" - condition of happiness and contentedness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.
- "**Member of your family**" means a partner (i.e. your spouse/civil partner/someone you live with in a similar capacity), parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner, brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece, or the partners of any of these persons.
- Person with whom you have a "**close association**" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour/ disadvantage when discussing a matter which affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

Prejudicial Interests - your personal interest will also be **prejudicial** if you meet conditions set out overleaf.

Exempt categories - you will **not have a Prejudicial** interest in a matter if it relates to:

(a) any **tenancy/lease** you hold with the Council (unless relating to your particular tenancy/lease); (b) **Schools** (meals/transport/travelling expenses): if parent/guardian of child in full time education or parent governor (unless relating to the school your child attends); (c) if you are receiving/entitled to **statutory sick pay**; (d) An **allowance/payment/indemnity** for members; (e) ceremonial honour given to members and (f) setting the council tax or precept.

Making representations - if you have a **Prejudicial** interest, you must declare that you have an interest and the nature of that interest as soon as the interest becomes apparent. You should leave the room unless members of the public are allowed to make representations, give evidence, or answer questions about the matter. If that is the case, then you can also attend the meeting for that purpose. However you must leave the room immediately you have finished and you cannot take part in the debate or vote.

Sensitive information

You may be exempt from having to declare sensitive information on your Register of interests in which case, although you must declare that you have an interest, you don't have to give any details about that interest on the register or to the meeting (please speak to the Monitoring Officer about this first).

Revised May 2007

Standards Committee

Composition

- (a) **Membership.** The Standards Committee will comprise up to :
- three Borough Councillors
 - two independent/lay members i.e. persons who are not Councillors or officers of the Council or any other body having a Standards Committee
 - two parish members being members of a parish/town council in the Borough
- (b) **Independent/lay members** will be entitled to vote at meetings.
- (c) **Parish members** will be entitled to vote at meetings.
- (d) **Length of office:** the independent/lay and parish members will be appointed for the same length of office as the Borough Councillors.
- (e) **Chairman and Vice Chairman:** The Chairman and Vice Chairman of the Committee will be elected by the Council and will be the independent/lay members.
- (f) The Committee will meet at least four times a year, and additionally as and when required.

Quorum of the Standards Committee

A meeting of the Standards Committee will not be quorate unless at least three members of the Committee are present for its duration, and

- (a) at least one independent/lay member is present for its duration; and
- (b) at least one Borough Member is present for its duration, and
- (c) at least one parish/town council representative is present for the duration of a matter where it relates to a parish/town council matter.

Roles and functions

1. To promote and maintain high standards of conduct by Councillors and co-opted Members;
2. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
3. To advise the Council on the adoption or revision of the Members' Code of Conduct;

4. To advise the Council generally on matters relating to the ethical conduct of the Council and its Members;
5. To monitor the operation of the Members' Code of Conduct;
6. To advise, train or arrange to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
7. To grant dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
8. To assess and review complaints alleging members' breach of the Code of Conduct;
9. To receive Investigation Reports and carry out Determination Hearings in respect of allegations of misconduct;
10. To grant exemptions for politically restricted posts;
11. To exercise 1 to 10 above in relation to the parish/town councils within the West Devon Borough and the members of those parish/town councils;
12. Overview of complaints handling and Ombudsman investigations;
13. Review of the Constitution of the Council.
14. Monitoring of member development and training against the development plan and reporting annually on the plan to the full Council.

Sub-committees of the Standards Committee

- **Membership:**
 - a minimum of three members to include at least one independent/lay Member, one borough member and one parish/town council representative if the matter relates to a parish or town council
 - in relation to a Hearing Sub-committee, all members of the Standards Committee are entitled to attend
- **Quorum:** three members for the duration of the meeting
- **Chairman:** one of the independent/lay members
- Members of an Assessment sub-committee cannot be members of a Review sub-committee when it considers a complaint on which an Assessment sub-committee decided to take no action.

Role and function of the sub-committees

- To grant dispensations to parish/town councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- To assess (Assessment Sub-committee) and review (Review Sub-committee) complaints alleging members' breach of the Code of Conduct;
- To receive reports and carry out Determination Hearings in respect of allegations of misconduct (Hearing Sub-committee);

Budget

To have authority for spending within the allocated budget.

Annual Review

The Standards Committee shall report annually to Council on its performance and achievements.

AGENDA
ITEM

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WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Standards Committee
DATE	24 January 2012
REPORT TITLE	Application for Dispensations from Gulworthy Parish Council
REPORT OF	Deputy Monitoring Officer
WARDS AFFECTED	Gulworthy

Summary of report:

To consider the 5 applications from Gulworthy Parish Councillors for a dispensation from the Standards Committee in order that they can participate in matters relating to Gulworthy Parish Hall.

Financial implications:

There are none

RECOMMENDATIONS:

That the Standards Committee considers the applications attached in Appendix A and decides whether to grant the dispensations to the members of Gulworthy Parish Councillors, and on what terms and for what period.

Officer contact:

(Catherine Bowen, Deputy Monitoring Officer
cbowen@westdevon.gov.uk 01822 813666

1. BACKGROUND

- 1.1 Under the Standards Committee (Further Provisions) (England) Regulations 2009, the Standards Committee has power to grant dispensations to borough and parish councillors allowing them to speak and vote at a meeting when they have a prejudicial interest.
- 1.2 A dispensation may be granted for speaking only or for speaking and voting.
- 1.3 The regulations allow for only two situations where the Standards Committee grant dispensations:
 - Where more than 50% of the members who would be entitled to vote a meeting are prohibited from taking part in the meeting because of a prejudicial interest, or

- The number of members who cannot take part in the meeting would upset the political balance rules to the extent that the outcome of the voting would be prejudiced.

1.4 Applications may be granted in respect of one meeting or it may be applicable on an ongoing basis up to maximum of four years.

1.5 Regard should be had to the guidance given in the Standards Board's Guidance on Dispensations issued June 2009 which can be found at:

http://www.standardsforengland.gov.uk/Guidance/TheLocalStandardsFramework/StandardsCommittees/Dispensations%20FINAL_for%20web1.pdf

2. APPLICATION BY GULWORTHY PARISH COUNCILLORS

2.1 Applications for dispensations have been received from five Gulworthy Parish Councillors, and these are attached at Appendix A (together with a covering letter from the Parish Clerk).

2.2 Gulworthy Parish Council has a total of seven councillors. Only two of the members are not on the Parish Hall Committee. Two of the five members who are on the Parish Hall Committee, are also trustees of the Parish Hall Committee.

2.3 A prejudicial interest affecting five councillors would affect more than 50% of the Parish Council, and therefore satisfy the criteria in paragraph 1.3 above.

2.4 The applications relate to Parish Hall Committee issues and the dispensations are requested in order to deal with grants and planning applications in respect of the Parish Hall.

2.5 The requests are for dispensations for 4 years.

3. LEGAL IMPLICATIONS

3.1 The power for Standards Committees to grant Dispensations is set out in the Standards Committee (Further Provisions) (England) Regulations 2009.

3.2 The decision whether or not to grant a dispensation is entirely a matter for the Standards Committee depending on whether members think it "appropriate" having regard to the particular circumstances of each case.

3.3 A dispensation allows a councillor to participate in a meeting without being in breach of the Members' Code of Conduct.

3.4 If a councillor does not have a dispensation from the Standards Committee, then the rules on prejudicial interests contained in the Code of Conduct mean that the councillor concerned must withdraw from the meeting. This would leave the Parish Council inquorate and unable to determine such matters.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications to this report, as the applications were received in time for a scheduled Standards Committee meeting.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
To grant a dispensation to allow members to participate in a meeting when otherwise they would be in breach of the Code	Complying with the Regulations and enabling, where appropriate, members to legally take part in meetings where they would otherwise have a prejudicial interest.
Issues/Obstacles/Threats	Control measures/mitigation
Failure to apply for a dispensation (or the Standards Committee exercises its discretion not to grant a dispensation) will mean that the member cannot participate in the meeting on the item in which s/he has a prejudicial interest	Apply for dispensation in a timely manner

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	3.1 Standards Committee (Further Provisions) (England) Regulations 2009.
Considerations of equality and human rights:	N/a
Biodiversity considerations:	N/a
Sustainability considerations:	N/a
Crime and disorder implications:	N/a
Background papers:	
Appendices attached:	Appendix a: applications for dispensation from 5 Gulworthy Parish Councillors

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GULWORTHY PARISH COUNCIL

E-mail cole922@btinternet.com

Lower Chaddlehanger
TAVISTOCK
Devon
PL19 0LG

3 January 2012

Catherine Bowen
West Devon Borough Council
Kilworthy Park
TAVISTOCK

Dear Catherine

Re: Dispensations for Gulworthy Parish Council

Further to my telephone conversation with you, I enclose applications for a dispensation regarding Gulworthy Parish Hall from Councillors:

Jim Chalcraft, committee member.
Winston Lake, committee member and trustee.
Keith Parsons, committee member and trustee.
Sarah Sampson, committee member.
Rosemary Steer, committee member.

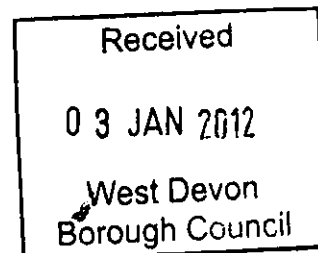
There are seven members of Council which leaves only two other members (Stella Rasdell and Robin Pike) who are not on the Parish Hall committee. This leaves the Council inquorate when it comes to matters relating to the Parish Hall.

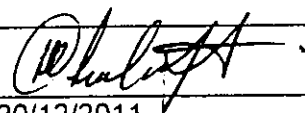
Should you require any further information please let me know.

Yours sincerely



Miss A Cole
Clerk



Your Name	JIM CHALCRAFT
Name of Parish/Town Council	GULWORTHY PARISH COUNCIL
Reason for application (See footnotes 1 and 2)	To take part in items relating to grants and planning applications in relation to Gulworthy Parish Hall because the Councillor is also a member of the Gulworthy Parish Hall Committee.
Extent and nature of Dispensation (See footnote 3)	To speak and vote on matters relating to grants and planning applications in relation to Gulworthy Parish Hall.
Length of Dispensation required (No more than 4 years)	4 years
Signature	
Date	20/12/2011

Important: Please see notes on reverse

NOTE 1 Please provide as much information as you can in this box as to *why* you are seeking a dispensation

NOTE 2 The Standards Committee may grant a dispensation where *more than 50%* of the Council (or a particular Committee) would not be able to participate in the business of the Council (or Committee) because of a prejudicial interest (i.e. the councillor would

STANDARDS COMMITTEE
WEST DEVON BOROUGH COUNCIL

APPLICATION FOR DISPENSATION BY PARISH/TOWN COUNCILS

The Standards Committee (further Provisions)(England) Regulations 2009

Your Name	CLR WINSTON GEORGE LAKE
Name of Parish/Town Council	GULLWORTHY PARISH COUNCIL
Reason for application (See footnotes 1 and 2)	TO TAKE PART IN ITEMS RELATING TO GRANT AND PLANNING APPLICATIONS RELATING TO GULLWORTHY PARISH HALL & ALSO BEING CHAIRMAN OF TRUSTEES FIVE OUT OF SEVEN MEMBERS BEING HALL & PARISH MEMBERS
Extent and nature of Dispensation (See footnote 3)	TO SPEAK & EXPLAIN HALL MATTERS & THEN WITHDRAW FROM THE MEETINGS
Length of Dispensation required (No more than 4 years)	4 YEARS
Signature	W G Lake
Date	7-12-11

Important: Please see notes on reverse

STANDARDS COMMITTEE
WEST DEVON BOROUGH COUNCIL

APPLICATION FOR DISPENSATION BY PARISH/TOWN COUNCILS

The Standards Committee (further Provisions)(England) Regulations 2009

Your Name	CLLR ALFRED KEITH PARSONS
Name of Parish/Town Council	GULWORTHY PARISH COUNCIL
Reason for application (See footnotes 1 and 2)	To take part in items relating to grants and planning applications in relation to Gulworthy Parish Hall because the councillor is also a member and trustee of the Gulworthy Parish Hall Committee five Parish Council members out of seven are also members of the Parish Hall Committee
Extent and nature of Dispensation (See footnote 3)	To speak only but to then withdraw from the meeting (and to neither take part in the debate or vote) on matters relating to grants and planning applications in relation to Gulworthy Parish Hall
Length of Dispensation required (No more than 4 years)	
Signature	A K Parsons
Date	6.12.11

Important: Please see notes on reverse

STANDARDS COMMITTEE

WEST DEVON BOROUGH COUNCIL

APPLICATION FOR DISPENSATION BY PARISH/TOWN COUNCILS

The Standards Committee (further Provisions)(England) Regulations 2009

Your Name	MRS SARAH GAMPSON
Name of Parish/Town Council	GULWORTHY PARISH COUNCIL
Reason for application (See footnotes 1 and 2)	To take part in items relating to grants & planning applications in relation to Gulworthy Parish Hall because I am also a member of the Gulworthy Parish Hall Committee. five Parish Councillors out of a total of six are members of the Parish Hall Committee.
Extent and nature of Dispensation (See footnote 3)	To speak + vote a matters relating to grants + planning applications in relation to Gulworthy Parish Hall.
Length of Dispensation required (No more than 4 years)	Until May 2015.
Signature	Sarah J. Gampson
Date	5-12-2011.

Important: Please see notes on reverse

STANDARDS COMMITTEE

NOTE 1 Please provide as much information as you can in this box as to **why** you are seeking a dispensation

NOTE 2 The Standards Committee may grant a dispensation where **more than 50%** of the Council (or a particular Committee) would not be able to participate in the business of the Council (or Committee) because of a prejudicial interest (i.e. the councillor, would otherwise be in breach of the Code of Conduct). More than half of your Council (or Committee) must therefore be affected by the interest.

NOTE 3 - Please describe the extent and nature of the dispensation applied for. For example, if the dispensation is in relation to a matter affecting a village hall committee, is the application in respect of a planning application, financial matters etc

Member of Council

Ward

Date

Signature

Name

Job


Address

STANDARDS COMMITTEE

WEST DEVON BOROUGH COUNCIL

APPLICATION FOR DISPENSATION BY PARISH/TOWN COUNCILS

The Standards Committee (further Provisions)(England) Regulations 2009

Your Name	ROSEMARY JOY STEER
Name of Parish/Town Council	GULWORTHY
Reason for application (See footnotes 1 and 2)	To take part in items relating to grants & planning applications relating to Gulworthy Parish Hall.
Extent and nature of Dispensation (See footnote 3)	Parish hall committee member
Length of Dispensation required (No more than 4 years)	4 years
Signature	
Date	2.1.12

Important: Please see notes on reverse

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Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **24th** day of **JANUARY 2012** at **10.00 am**.

Present: **West Devon Borough Council**

Mr A Leech
Miss D Moyse
Mr D Whitcomb

Parish Council Members

Mrs M Morgan

Independent Members

Dr R Meyrick – Vice-Chairman
Mrs V Spence – Chairman

Head of Corporate Services
Solicitor & Monitoring Officer
Solicitor & Deputy Monitoring Officer
Committee & Ombudsman Link Officer

S 12 APOLOGY FOR ABSENCE

An apology for absence was received from Mrs W Eldridge.

S 13 CONFIRMATION OF MINUTES

The Minutes of the Meeting held on 25th October 2011, were confirmed and signed by the Chairman as a correct record.

***S 14 APPLICATION FOR DISPENSATIONS FROM GULWORTHY PARISH COUNCIL**

The Deputy Monitoring Officer presented a report (page 7 to the Agenda) on a request from Gulworthy Parish Council for dispensations for five of its seven Members to enable their participation in matters relating to the Parish Hall whilst keeping the Parish Council quorate. Under the Standards Committee (Further Provisions)(England) Regulations 2009, the Standards Committee had the power to grant dispensations to Borough and Parish Councillors allowing them to speak and vote at a meeting when they had a prejudicial interest. A dispensation could be granted for speaking and voting or just for speaking.

The request from Gulworthy Parish Council related to five of its seven Members and their participation on the Parish Hall Committee. Of the five co-serving Members, two were Trustees of the Parish Hall. A similar request received from the Parish Council in 2009/2010 excluded the Trustees from voting.

It was **RESOLVED** that:

- (i) the Gulworthy Parish Councillors named below be given a dispensation to enable them to speak, debate and vote on matters relating to Gulworthy Parish Hall in respect of planning applications and grant applications until the next Parish Council elections in May 2015:

Cllr James Chalcraft
Cllr Sarah Sampson
Cllr Rosemary Steer

- (ii) because they are trustees, the Gulworthy Parish Councillors named below be given a dispensation to enable them to speak on and to withdraw from the meeting before the debate and to not vote on matters relating to Gulworthy Parish Hall in respect of planning applications and grant applications until the next Parish Council elections in May 2015:

Cllr Winston Lake
Cllr Keith Parsons

***S 15 UPDATE ON STANDARDS COMPLAINTS**

The Deputy Monitoring Officer reported that two complaint Hearings were pending, one relating to a former Parish Council Member and relating to a current Borough Council Member and that two investigations were drawing to a conclusion for draft reports to be prepared for consideration.

***S 16 FUTURE OF STANDARDS**

The Deputy Monitoring Officer tabled a paper detailing the programme to be followed once the Standards Board and the Standards regime cease on 1st July 2012. The paper showed how the Standards Board would close down and the proposals currently being considered locally to take up the Standards mantle.

It was **RESOLVED** that the Committee's agenda for its Meeting in March 2012, contain an item on the Future of Standards and that all Members of the Borough Council be invited to attend.

(The Meeting terminated at 11.08 am.)