

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Standards Committee

14 March 2012

**AUTHOR/S:** Executive Director (Corporate Services) / Legal and Democratic Services Manager

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### GAMLINGAY PARISH COUNCIL: REQUEST FOR DISPENSATIONS

#### Purpose

1. Councillor Colin Smith, of Gamlingay Parish Council, has applied formally for dispensation to enable him to remain in meetings and vote on matters concerning the Community Centre's financial affairs or which relate to regulatory issues such as planning permission, licensing or contracts. This is not a key decision, but has been brought to this meeting of the Standards Committee due to the matters described below at paragraph 5.

#### Recommendations and Reasons

2. That the Standards Committee grant a dispensation until 1 July 2012, to Gamlingay Parish Councillor Colin Smith, with the reminder that he is still to declare an interest in any matters concerning Gamlingay Community Centre as described below, and to declare that he has received a dispensation for that interest.

#### Background

3. Under *The Standards Committee (Further Provisions) (England) Regulations 2009*, the Standards Committee may grant a dispensation to a member in the following circumstances:
  - (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;
  - (b) the member has submitted to the standards committee a written request for a dispensation explaining why it is desirable; and
  - (c) the standards committee concludes that having regard to the matters mentioned in sub-paragraph (a) above, the written request made pursuant to sub-paragraph (b) above, and to any other relevant circumstances of the case, it is appropriate to grant the dispensation.
4. Nothing in paragraph 3 above shall permit a dispensation to be granted
  - (a) in respect of participation in business of the authority conducted more than four years after the date on which the dispensation is granted; or

- (b) where the effect of the mandatory provisions from which a dispensation is sought is that
  - (i) a member is prohibited from voting on a matter at a meeting of an overview and scrutiny committee of an authority relating to a decision made by any body of which that person was a member at the time the decision was taken; or
  - (ii) a member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive of the authority and which would otherwise be discharged by that member solely.
  
- 5. The parish councillor has noted on his application form that, "The Parish Council is seeking to enhance community facilities within the village with a major refurbishment project for the Community Centre, transforming it into an Eco-Hub. This will involve financial input from the Parish Council, grant applications to external bodies and potentially borrowing money. Planning applications for the Hub will be considered by the Parish Council planning committee and its Finance committee will consider the impact of spending. Members need clarification that they are all entitled to discuss and vote on all issues pertaining to the Community Centre / Hub." The Parish Clerk has advised that the Community Centre is a standing agenda item at all full council meetings.

### **Considerations**

- 6. The Deputy Monitoring Officer advised the Parish Council prior to the December 2009 Standards Committee meeting that, as the parish council as a whole is the holding / custodian trustee, all councillors would have a personal interest in the community centre but it is likely that they would have a prejudicial interest only in matters concerning the financial affairs of the centre or which involve any regulatory issue such as planning permission, licensing, or contracts. The Parish Council has been further advised that, while holding a position of authority on the management committee increases the chance of the public perception being that the councillor has a prejudicial interest, it does not mean that those councillors who are just trustees and not members of the management committee do not also have a prejudicial interest. For this reason, the Deputy Monitoring Officer recommended that all members of the Parish Council apply for dispensations.
  
- 7. The Standards Committee, at its meeting of 9 December 2009, having heard that there were two vacancies then on Gamlingay Parish Council, granted dispensations to the ten current members of Gamlingay Parish Council, and advised the Parish Council that any newly-elected or co-opted members to the two vacancies should apply for similar dispensations upon election or co-option. The Standards Committee has received such applications on four further occasions since it first granted dispensations in 2009.
  
- 8. Dispensations granted by the Standards Committee will cease to have effect upon the expected commencement of the Localism Act 2011 on 1 July 2012, at which time the new categories of interests will become law. The Standards Committee newsletter of March 2012 has advised all parish councils with current dispensations that they will need to reconsider their interests and whether they still need dispensations, then re-apply to the Standards Committee for dispensations under the new regime if required.

### **Options**

- 9. Not to grant a dispensation is unlikely to leave the Parish Council unable to discuss any regulatory matters relating to Gamlingay Community Centre, as more than 50%

of the Parish Council would have a dispensation and be able to participate. It would, however, leave Councillor Smith unable to participate, and would be seen as unfairly discriminating against him when his fellow councillors had received dispensations for the same issue.

### Implications

10. Financial	None.
Legal	Parish Council members must still declare an interest in matters in which they have been granted a dispensation. As a matter of good practice, members should also state that they have been granted a dispensation, by stating that, "I declare an interest as a member of the holding / custodian trust for Gamlingay Community Centre, for which I have been granted a dispensation by the Standards Committee".
Staffing	None.
Risk Management	None.
Equal Opportunities	None.
Climate Change	None.

### Consultations

11. Ms L Bacon, Gamlingay Parish Clerk.

### Effect on Strategic Aims

12. Commitment to being a listening council, providing first class services accessible to all: The Standards Committee has already granted thirteen dispensations to the members of Gamlingay Parish Council, and these further requests have been made based on the Committee's own advice that any new elected or co-opted members apply for a similar dispensation upon election or co-option.
13. Commitment to making South Cambridgeshire a place in which residents can feel proud to live: Gamlingay Community Centre is a village amenity for which the Parish Council, as the holding / custodian trust, has responsibility.
14. Commitment to providing a voice for rural life: The Standards Committee has the power to grant a dispensation upon request from a parish council.

**Background Papers:** the following background papers were used in the preparation of this report:

The Standards Committee (Further Provisions) (England) Regulations 2009  
 Agendas and Minutes of Standards Committee 3 October 2002, 7 June 2007, 11 March 2009, 17 June 2009, 9 September 2009, 9 December 2009, 10 March 2010, 16 June 2010, 19 August 2010, 4 October 2010  
 Dispensation Application from Gamlingay Parish Councillor Colin Smith

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