

**READING BOROUGH COUNCIL**  
**REPORT BY MONITORING OFFICER**

<b>TO:</b>	<b>STANDARDS COMMITTEE</b>		
<b>DATE:</b>	<b>17 OCTOBER 2011</b>	<b>AGENDA ITEM:</b>	<b>2</b>
<b>TITLE:</b>	<b>APPLICATIONS FOR DISPENSATION</b>		
<b>SERVICE:</b>	<b>LEGAL AND DEMOCRATIC SERVICES</b>	<b>WARDS:</b>	<b>BOROUGH-WIDE</b>
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**1. PURPOSE AND SUMMARY OF REPORT**

- 1.1 The Head of Legal and Democratic Services has received individual applications from members of the Cabinet requesting that they are each granted a dispensation to enable them to consider and vote on the Berkshire-wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment.
- 1.2 The applications for dispensations have been submitted because of the requirement, in the Members' Code of Conduct ("the Code"), for Councillors to declare a personal and prejudicial interest in any matter where the decision could affect their financial position or the financial position of a person described in paragraph 8(2) of the Code.
- 1.3 In the absence of a dispensation, the Councillors who are seeking to take the decision will need to consider whether they have a personal interest in this item, which they will need to declare at the relevant Cabinet meeting. They will then have to decide whether their personal interest amounts to a "prejudicial interest" under the Code. A councillor without a personal interest in a matter of business cannot have a prejudicial interest.
- 1.4 The Code states that a councillor has a personal interest in business of the authority where it relates to, or is likely to affect, any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority (Paragraph 8(1)(i)). This also applies if a member of your family or any person with whom you have a close association is a member of the body (see Paragraphs 8(1)(b) and 2(a)).
- 1.5 When considering whether or not to declare a personal and prejudicial interest in an item a councillor should be mindful of the contents of Paragraph 10(1), which states "...where you have a personal interest in any item of business of your authority you also have a prejudicial interest where the interest is one which a member of the

public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of public interest.”

- 1.6 The advice is that members of the Credit Union would have a financial interest in the outcome of a report before Cabinet, which asks the Cabinet to consider the principle of investing in the Credit Union. As the decision would be likely to affect the financial position of Credit Union members it would establish a prejudicial interest amongst Councillors who had directly invested in the Union or whose relatives or close associates had done so.
- 1.7 The consequence of this would be they would have to leave the meeting whilst the item was being considered. Cabinet has a membership of 9 and a quorum of four, and so their departure could mean that the meeting would not have sufficient members for a quorum and therefore it would not be possible to transact this item of business.

## **2. RECOMMENDED ACTION**

- 2.1 That the Committee consider the applications for dispensations from each of the five Councillors to enable them to attend the Cabinet and to consider and vote on an item about the Berkshire-wide Credit Union.

## **3. POLICY CONTEXT**

- 3.1 The Council adopted the national Code of Conduct on 23 April 2002.

## **4. CURRENT POSITION**

- 4.1 At Cabinet on 26 September 2011 (Minute 54 refers), the agenda item on Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment was deferred because as members of the Berkshire-wide Credit Union, some Lead Councillors would need to declare a personal and prejudicial interest in the item. Without a dispensation from the Standards Committee, those Councillors with a prejudicial interest would have to leave the meeting and potentially reduce the number of members able to participate in the item to below the required quorum for the meeting.
- 4.2 Five Members of the Cabinet have submitted letters requesting a dispensation in respect of Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment item. These have been received from Councillors Eden, Ennis, Lovelock, Page, and Tickner. The model letter is appended to the report at **Appendix A**.
- 4.3 At the time of writing this report, the Standards Committee therefore has five requests for dispensation to consider in respect of the Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd item.

## 5. LEGAL IMPLICATIONS

### 5.1 Code of Conduct

- 5.1.1 The Code of Conduct states that Members must regard themselves as having a personal interest in any matter affecting, to a greater extent than other Council Tax payers or inhabitants of the authority's area, the well-being or financial position on themselves, a relative or person with whom they have a "close association". The Code defines both "relative" and "partner", but does not define the term "friend" or "close associate".
- 5.1.2 Where Members have a personal interest, the Code then requires them to consider whether or not they have a prejudicial interest in the matter in question. The definition here is that a prejudicial interest will exist where "a member of the public with knowledge of the relevant facts would reasonably regard [it] as so significant that it is likely to prejudice the Member's judgement of the public interest"
- 5.1.3 The quorum for Cabinet is four Lead Councillors, one of whom must be the Leader or Deputy Leader - however where neither the Leader nor the Deputy Leader is able to act as Leader (Cabinet Procedure Rule 2.1), the Cabinet can elect another Lead Councillor to chair the meeting.

### 5.2 Dispensations

- 5.2.1 Where a Member has a prejudicial interest, the Code (Paragraph. 12) requires him/her to withdraw from the room where the meeting is being held, unless s/he has obtained a dispensation from the authority's Standards Committee.
- 5.2.2 The Committee can grant dispensations under the provisions of the Relevant Authorities (Standards Committee)(Dispensation) Regulations 2002.

### 5.3 Definition of "Friend" and "Close Association"

- 5.3.1 The Standards Board has issued guidance on how to interpret the term "friend". It states that mutual membership of an organisation, including a political group on an authority, is unlikely by itself to establish the existence of a friendship between two people, and it goes on to suggest other factors which should be taken into consideration to demonstrate a closer relationship.
- 5.3.2 The Standards Committee's local definition of the term "friend", which appeared (undefined) in the pre-2008 version of the Code was made on 24 March 2004, in relation to Councillors attending Planning Applications Committee to consider a planning application from a fellow Councillor:
  - (a) The fact that Councillors knew each other and frequently attended the same functions in their position as Councillors, did not in itself constitute a friendship insofar as the need to declare an interest under the Code of Conduct was concerned;

(b) To establish whether their relationship went beyond that in (a) above, Councillors should consider issues such as:

- ❑ Whether they knew each other's families
- ❑ Whether they visited one another's homes on a regular basis
- ❑ Whether they were close, or there were any other particular connections;

and if having done this, they were in any doubt about whether their relationship could be considered a "friendship", then they should declare a personal and prejudicial interest, and take no part in the particular process under consideration.

5.3.3 Similarly, there is no formal definition of "close associate" in the Code; however the Standards Board for England has offered advice, which is set out below:

- Person with whom you have regular or irregular contact over a period of time - who is more than an acquaintance;
- Someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter affecting them;
- Friend, colleague, business associate or someone you know from general social contact.

## **6. CONTRIBUTION TO STRATEGIC AIMS**

6.1 To support the participation of Reading people in local democracy.

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

7.1 None

## **8. FINANCIAL IMPLICATIONS**

8.1 None direct, except in terms of the time spent in considering individual applications for dispensations.

## **9. BACKGROUND PAPERS**

9.1 Councillors' requests for dispensations from the Standards Committee

APPENDIX A

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4 October 2011

To all Members of Cabinet

Your contact is: Chris Brooks, Head of Democratic and Legal Services

Dear

**APPLICATION FOR DISPENSATION**

I am a Member of the Cabinet which will shortly be considering a report on the Berkshire-wide Credit Union Community Savings & Loans (CSL) Ltd in respect of which I shall have to declare a prejudicial interest and leave the meeting because *I am a member of the Credit Union/ or I have a relative/ or close associate who is a member of the Credit Union (delete as necessary) within the meaning of the Council's approved Code of Conduct.*

It is likely that a significant number of other Members of the Cabinet will also have to declare a prejudicial interest and leave the meeting, which could mean the meeting would be without the required number present to meet the quorum requirements and the matter would not be able to be determined.

In the circumstances, I wish to apply for a dispensation in accordance with the Relevant Authorities (Standard Committee) (Dispensations) Regulations 2002 to enable me to attend and consider and vote on occasions when this matter comes before the Cabinet.

Yours sincerely