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G/JInfo/Manuals/Disp

08 January 2007

Dear Mr Guthrie

**Dispensation Note to Regional Transport Partnerships**

I enclose a Dispensation Note to all Regional Transport Partnerships to come into effect on 09 January 2007.

For your information, the background to the issue of this Dispensation Note is that the Commission was, in the course of discussions with Regional Transport Partnerships throughout Scotland, invited to consider issuing a general dispensation in respect of non-councillors in certain limited circumstances to enable them to contribute as fully as possible to business dealt with by the Regional Transport Partnerships. Having considered the matter carefully, the Commission has decided to issue a general dispensation in respect of non-councillor members in order to allow them – in certain circumstances and subject to appropriate conditions and qualifications – to participate in Regional Transport Partnership business dealing with matters where they might otherwise require to declare an interest and withdraw from discussion on the business in question.

I would be grateful if you would familiarise yourself with the terms of the Dispensation Note, including the circumstances under which the dispensation will apply, and ensure that the Note is copied to all members.

The Commission is interested to learn how often and under what circumstances the dispensation will be applied and, accordingly, I will be writing to you in six months to request details of its application during the first six months of operation. I would, therefore, be grateful if you could ensure that appropriate records are kept.

If you have any queries about the Dispensation Note, please do not hesitate to contact me.

Yours sincerely



JANET NIXON  
Secretary to the Commission

**Enc.**

# **THE STANDARDS COMMISSION FOR SCOTLAND**

## **ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND**

### **DISPENSATIONS NOTE TO REGIONAL TRANSPORT**

#### **PARTNERSHIPS IN RESPECT OF FINANCIAL**

#### **AND NON-FINANCIAL INTERESTS**

<b>CONTENTS</b>	<b>PARAGRAPHS</b>
Introduction	1-8
Non-Councillor Members of Regional Transport Partnerships	9-12
Coming into Effect	13
Individual Dispensations	14-16
Circulation	17

# THE STANDARDS COMMISSION FOR SCOTLAND

## ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND

### DISPENSATIONS NOTE TO REGIONAL TRANSPORT

### PARTNERSHIPS IN RESPECT OF FINANCIAL

### AND NON-FINANCIAL INTERESTS

#### INTRODUCTION

1. The Regional Transport Partnerships' Codes of Conduct ("the Codes"), made by all Regional Transport Partnerships ("RTPs") under section 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the Act") have been approved by the Scottish Ministers who fixed 31 May 2006 as the date from which the Codes have effect. All the Codes are in substantially the same terms.
2. RTPs have been established in terms of section 1 of the Transport (Scotland) Act 2005 ("the 2005 Act") in order to bring a regional approach to strategic transport planning. The 2005 Act and the Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005 ("the 2005 Order") provide for the appointment of members to the RTPs.
3. The majority of members of RTPs comprise councillor members who have been nominated by the local authorities who together make up each RTP area. Other

members (“non-councillor members”) are appointed on a personal basis, primarily to assist in the strategic work of the RTPs and not to engage in representational activities.

4. Whilst it is anticipated that most decisions taken by RTPs will be reached by consensus, there will be occasions when decisions require to be taken by vote.
5. All councillor members have a vote but each RTP can decide whether to allow non-councillor members to vote on any matter. (Non-councillor members are also prohibited from voting on any matter relating to the amount of funding to be requisitioned by the RTP from each constituent council or the making of a request to the Scottish Ministers for the conferring of additional functions on the RTP.)
6. Section 5 of the Codes deals with Declaration of Interests and paragraph 5.20 provides for the granting of dispensations by the Standards Commission for Scotland (“the Commission”) to members to allow them to participate in discussion and voting on certain matters where, due to financial or non-financial interests, they would otherwise be prohibited from such participation.
7. The Commission has, in the course of discussion with RTPs throughout Scotland, been invited to consider issuing a general dispensation in respect of non-councillors in certain limited circumstances to enable them to contribute as fully as possible to business dealt with by the RTPs.

8. Having considered the matter carefully, the Commission has decided to issue a general dispensation in respect of non-councillor members in order to allow them – in certain circumstances and subject to appropriate conditions and qualifications – to participate in RTP business dealing with matters where they might otherwise require to declare an interest and withdraw from discussion on the business in question.

## **NON-COUNCILLOR MEMBERS OF REGIONAL TRANSPORT PARTNERSHIPS**

9. Non-councillor members have been appointed on their own merit and having regard in a number of cases to their interest in transport matters. Some non-councillor members can be employees or directors of companies in the transport industry or of bodies representative of parts or sections of the industry. The knowledge and expertise which these members have on transport issues are intended to be available to the RTPs so that they can benefit from the contributions these members can make in relation to a whole range of policy and other matters.
  
10. Where a non-councillor member has a material interest in the transport industry (as described in paragraph 9 above), such a member may, under the specific provisions set out in section 5 of the relevant Code, be obliged to declare that interest when matters - which may affect the company or body with whom the member is associated – come before the RTP. The member may also be required not to take part in the discussion or voting on such matters.
  
11. Having given careful consideration to the issues involved, the Commission is of the view that the public interest would be served if – in certain circumstances – non-councillor members should be allowed to participate in discussion - but not to vote - on matters where the non-councillor members might otherwise require to declare an interest and withdraw from the discussion.

12. (1) Accordingly, in terms of paragraph 5.20 of the relevant Code, the Commission grants a dispensation to any non-councillor member, who has been appointed as a member having regard to the fact (amongst others) that the member is an employee, director or member of a particular company or body with transport interests so as to enable the member to take part in the consideration and discussion of any matter notwithstanding that the company or body may have a clear and substantial financial or non-financial interest (direct or indirect) in the matter at issue, subject always to the following conditions and provisions:-
- (a) the member must have registered his or her interest in the company or body in the Register of Interests in terms of section 4 of the Code,
  - (b) the member must declare his or her interest in the company or body at all meetings where matters in which the company or body have an interest are to be discussed and
  - (c) the dispensation is subject also to the whole other provisions set out in subparagraphs (2) to (5) below.
- (2) The dispensation does not apply in respect of any matter of a quasi-judicial or regulatory nature where the company or body in question is applying to the RTP for a licence, a consent or an approval, is making an objection or representation or has a material interest concerning such a licence, consent or approval or is the subject of a statutory order of a regulatory nature, made, or proposed to be made, by the RTP.

- (3) The dispensation does not apply where the matter at issue relates wholly or mainly to the company or body in question, unless the RTP in relation to a specific item of business resolves otherwise.
- (4)
  - (a) Where any decision on the matter at issue is to be determined by a vote, the member may not vote on the matter. The Chairperson of the RTP may require the non-councillor member to leave the meeting room until voting has been concluded.
  - (b) The dispensation is without prejudice to the provisions set out in section 1 (2) (e) of the Act and paragraph 3 (2) of schedule 2 to the 2005 Order.
- (5) The dispensation applies to meetings of the RTP and to meetings of any committee or sub-committee of the RTP.

## COMING INTO EFFECT

13. The dispensation referred to in paragraph 12 above comes into effect as from 09 January 2007.

## INDIVIDUAL DISPENSATIONS

14. In addition to the general dispensation described above, individual members may wish to apply for a dispensation to allow them to take part in the discussion of, and voting on other matters where, in terms of the Code, they might otherwise be prohibited from taking part.
15. In such circumstances, applications should be submitted to The Secretary, Standards Commission for Scotland, Forsyth House, Innova Campus, Rosyth Europarc, Rosyth, KY11 2UU, setting out in detail all relevant information, including the reasons why a dispensation is sought.
16. The Commission will respond as soon as it reasonably can after receipt of all information.

## CIRCULATION

17. Copies of this Dispensations Note should be given to all councillor members and non-councillor members as soon as practicable. Copies should also be given to all constituent councils of the RTP as soon as practicable.

The Standards Commission for Scotland

Forsyth House

Innova Campus

Rosyth Europarc

Rosyth

KY11 2UU

08 January 2007