

STANDARDS COMMITTEE

29 JULY 2009

REQUEST FOR DISPENSATION

Report from: Deborah Upton, Monitoring Officer

Summary

To enable the Committee to consider a request from three members of St Mary Hoo Parish Council for a dispensation from the requirement of the Members' Code of Conduct to withdraw from a meeting when matters in which they have a prejudicial interest are considered.

1. Budget and Policy Framework

1.1 This is a matter for the Standards Committee to decide.

2. Background

2.1 A request has been received from three Parish Councillors from St Mary Hoo Parish Council, for dispensation to speak and vote on matters relating to the Parish Council's Area, which lies within the vicinity of the Councillors' properties, notwithstanding that the Councillors have a prejudicial interest. The letters of request received from Councillors Beckey, Budd and Hassell are attached at Appendix 1. The requests are unsigned as these requests were received at short notice, signed copies of the requests will be available at the meeting.

2.2 The request is made due to the number of Councillors having prejudicial interests in this matter in that their properties lie within the vicinity of the proposed planning application to construct a roundabout at the junction of the A228 and Fenn Street, St Mary Hoo at Fenn Corner. With three members of the Parish Council having prejudicial interests in the matter, due to the proximity of their properties to the area, the Parish Council would not be able to discuss the matter (due to there being no quorum) unless a dispensation were to be granted.

3. Advice and analysis

- 3.1 Following adoption of the Code of Conduct the Standards Committee of this Council is responsible for granting dispensations to members who have personal or prejudicial interests who wish to participate in meetings of this Council or Parish Council. Members could apply to the Standards Committee to seek a dispensation to allow that member to speak and vote on the matter at meetings.
- 3.2 The Standards Committee (Further Provisions) (England) Regulations 2009 came into force on 15 June 2009, which deals with the granting of dispensations.
- 3.3 The 2009 Regulations set out the circumstances in which Standards Committees may now grant dispensations to Members and Co-opted Members who would otherwise be prohibited from engaging in the business of the Authority (including Town and Parish Councils).
- 3.4 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 in the Members Code of Conduct 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; and
 - (b) The member has submitted to the Standards Committee a written request explaining why a dispensation is desirable.

The Standards Committee must ignore any dispensations that have already been given to others at the meeting to decide whether the above apply.

- 3.4 The Standards Committee must conclude that the above criteria are met, and it is appropriate to grant a dispensation. The Standards Committee is required to weigh the public interest in members with prejudicial interests being involved in decisions against the public interest in decisions being taken by a reasonably representative group

of members. Standards Board guidance states that “if failure to grant a dispensation will result in an authority or committee not achieving the minimum number of members required for the group, this may be sufficient grounds for granting a dispensation”.

- 3.5 Provided that a Member or Co-opted member acts in accordance with a dispensation granted to them, their participation in the business of the Authority that would otherwise be prohibited by the mandatory provisions in the Members Code of Conduct is not treated as a failure to comply with the Members Code of Conduct.
- 3.6 The Standards Committee has the discretion to decide upon the nature of the dispensation. Where a dispensation is granted, the Member can only rely upon it for a period of 4 years from the date on which it was granted.
- 3.7 The 2009 Regulations provide that dispensations cannot be granted to allowing a member of an overview and scrutiny committee to participate in the scrutiny of a decision in which the member was involved or to allow an individual member of the executive of an authority to exercise executive functions solely.
- 3.8 For information, the Standards Board for England strongly recommends that Members relying on a dispensation in order to participate in consideration of a matter, in which they have a prejudicial interest, state this publicly at the same time as they declare the existence of the nature of the interest.
- 3.8 If the Council’s Standards Committee grants a dispensation they must:
 - Keep a written record of the existence, duration and nature of any dispensations granted; and
 - Keeps the record of Dispensations with the Members’ Registers of Interests.
- 3.9 Members are requested to use their discretion on deciding whether to agree to the dispensation requested and if so, for what duration.

4. Financial and legal implications

- 4.1 The legal implications are contained in the body of the report. There are no financial implications

5. Recommendations

- 5.1 That the Committee considers whether or not a dispensation is granted and if so, for what duration.

Lead officer contact

Deborah Upton

Monitoring Officer
Gun Wharf, Dock Road, Chatham, Kent ME4 4RT
01634 332133; Deborah.upton@medway.gov.uk

Background papers

Letters from Councillors ...