

Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS/HLS

Title: GRANTING OF DISPENSATIONS

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To remind the Committee of the provisions relating to the granting of dispensations, to enable the Committee to consider a number of applications that have been received, and to consider future arrangements for the consideration of applications for dispensations.

RECOMMENDATIONS

- 1. The Committee is asked to consider applications for dispensations from Councillors S. Bibby, M. Hornshaw, P. Quick, A. Stalker and M. Stalker of Thurnham Parish Council.**
- 2. The Committee is asked to consider applications for dispensations from members of the City Council's Cabinet.**
- 3. The Committee is asked to consider whether it wishes to establish a sub-committee with delegated authority to consider requests for dispensations.**

REPORT

Introduction

Members will be aware that, under the Code of Conduct, a member who has a prejudicial interest (that 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 the member's judgment of the public interest), must withdraw from the meeting when the matter is being considered, must not exercise executive functions in relation to that matter, and must not seek improperly to influence a decision about the matter, unless the member has obtained a dispensation from the Standards Committee.

The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 set out the circumstances in which Standards Committees may grant dispensations.

The Regulations provide that dispensations may only be granted if: -

- half the members entitled or required to participate in the business of the authority would not otherwise be able to do so; or
- the authority would not be able to comply with the political balance principles.

The first of these situations would apply for example when more than 50% of the membership of the Cabinet or a Committee or Sub-committee, or a parish council are prohibited from participating in an item of business which comes before that body.

The second applies to situations where the political balance on the City Council or a Committee or Sub-committee would be upset as a result of a member being unable to participate. This is unlikely to arise given the substitution arrangements operated by the City Council.

Any member requiring a dispensation must submit an application to the Standards Committee in writing, explaining why it is desirable. In considering such an application, the Standards Committee must decide whether it is appropriate to grant the dispensation, having regard to the basis upon which a dispensation may be granted, as set out above, the content of the application and all the other circumstances of the case.

The Regulations prohibit Standards Committees from granting a dispensation:-

- for more than four years;
- allowing a member of an Overview and Scrutiny Committee to participate in the scrutiny of the decision of another committee in which the member was involved; or
- allowing an individual member of the Cabinet to exercise executive functions.

The Standards Committee must ensure that the existence, duration and nature of any dispensation is recorded in writing and that such a record is kept within the Register of Members' Interests.

Request from Councillors from Thurnham Parish Council

Requests have been received from Councillors S. Bibby, M. Hornshaw, P.Quick, A. Stalker and M. Stalker of Thurnham Parish Council for a dispensation to participate in matters relating to Glasson Dock Bowling Club of which they are all members. Copies of the requests for dispensations are attached at Appendix A.

Thurnham Parish Council has seven members, and accordingly the five members who have applied for dispensations constitute more than 50% of those who would be entitled to participate in the business of the parish council. If dispensations were not granted, it would be impossible for the Council to consider issues relating to the Bowling Club.

The Committee is asked to consider the requests for dispensations.

If it is minded to grant the applications, the Committee may wish to do so for the maximum period of four years.

Request from Cabinet Members of the City Council

Elsewhere on this agenda the Committee has considered new Regulations on the provision of indemnities for members.

In the absence of any statutory indication to the contrary, the matter of indemnities is an executive function of the Council, and, as such is to be exercised by the Cabinet.

Clearly all members of the Cabinet (and indeed all members of the Council) would have a personal and prejudicial interest in the matter, and it is likely that the Cabinet members will therefore be submitting requests to this Committee for dispensations to enable them to consider the matter of indemnities. Without such dispensations, the matter could not be considered at all, and the appropriate arrangements for dealing with indemnities could not be dealt with.

Because the indemnities issue has only just been brought to the attention of Cabinet members, their requests for dispensations will be circulated at the meeting.

The Committee is asked to consider the requests for dispensations, and, if it is minded to grant them, to consider doing so for the maximum period of four years.

Future Arrangements for dealing with Dispensation Applications

These are the first applications for dispensations that have been received since the Regulations came into force in 2002, and it is not anticipated that there will be large numbers of applications in the future. However, timing may be an issue, as an application for a dispensation must be determined before the meeting to which it relates. Whilst parish council clerks and members of the City Council can be reminded of the need to submit an application in good time, it may still be necessary for an application to be considered at a time when no meeting of the Standards Committee is scheduled.

Section 54A of the Local Government Act 2000 does provide for a Standards Committee to appoint one or more sub-committees for the purpose of discharging any of the Committee's functions, and members may wish to consider appointing a sub-committee to deal with applications for dispensations. Whilst the size and membership of such a sub-committee would be for the Committee to decide, members may feel that a sub-committee of three would be appropriate, comprising perhaps the Chairman, the Vice-Chairman, and the parish council representative, or one of the other independent members. A sub-committee of this size should be relatively easy to convene where a decision on a dispensation application is required quickly.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no direct financial implications from this report, and the Section 151 officer has no further comments.

LEGAL IMPLICATIONS/MONITORING OFFICER'S COMMENTS

The comments of Legal Services and the Monitoring Officer have been incorporated in the report, which has been prepared jointly.

BACKGROUND PAPERS

None.