

STANDARDS COMMITTEE

ITEM OF URGENT BUSINESS REQUEST FOR DISPENSATION – YEALAND REDMAYNE PARISH COUNCIL

20th January 2011

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider a request for a dispensation from a member of Yealand Redmayne Parish Council.

This report is public

RECOMMENDATIONS

- (1) That the Committee consider the request from parish councillor Glyn Harmer of Yealand Redmayne, and determine whether or not to grant a dispensation to enable him to speak and vote at parish council meetings on matters relating to the Klargester drainage system. If granted, the dispensation should be effective until the parish council elections in May 2011.

1.0 Introduction

- 1.1 The Standards Committee (Further Provisions) (England) Regulations 2009 include provisions clarifying the grounds on which standards committees may grant dispensations to local authority members.
- 1.2 If a member acts in accordance with a dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct will not constitute a failure to comply with the Code.
- 1.3 The circumstances where a standards committee may grant a dispensation to a member or co-opted member are:
- where more than 50% of the members who would, but for the granting of any dispensations in relation to that business, be entitled to vote at a meeting, are prohibited from voting; or
 - where the number of members that are prohibited from voting at a meeting would, but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

1.4 A request for a dispensation must be submitted in writing to the standards committee. A dispensation can only be granted in respect of business arising in the period of four years following the grant of the dispensation.

1.5 At its meeting on the 1st October 2009, the Standards Committee considered its procedure for considering requests for dispensations, and resolved as follows:

“That the Committee agree that each request for dispensation be considered on its merits, taking account of the Standards Board Guidance.

That the Committee delegate to an ad hoc sub-committee of three members, chaired by an independent member, the authority to determine applications for dispensations and that such sub-committees be convened by the Head of Democratic Services in the same way as Assessment Sub-Committees

That applications for dispensations be submitted in writing and that the applicant be permitted to attend before the sub-committee to make representations and be required to attend if so requested by the sub-committee to provide further information.”

2.0 Details

2.1 A request for a dispensation was received from Councillor Harmer of Yealand Redmayne Parish Council on the 17th January 2011. The written request is appended to this report. The Monitoring Officer has clarified with the clerk to the parish council that there is an ongoing dispute over bills relating to the Klargester system, which the parish council wishes to pursue. Whilst the Committee has delegated to a Sub-Committee the authority to grant dispensations, this delegation does not prevent the full Committee from exercising the power itself, and given the date of this meeting and the date of the next parish council meeting, the Chairman has agreed that it would be reasonable for the request to be dealt with as an item of urgent business at this meeting.

2.2 The request is similar to one from three other Yealand Redmayne parish councillors which was considered and granted by a sub-committee in January 2010, enabling them to participate in and vote on any item of business before the parish council relating to the Klargester system. This is a private sewage system which serves a number of properties in Yealand Redmayne, including the properties of those three parish councillors and the current applicant. Their well-being may therefore be perceived as being affected to a greater extent than the majority of other inhabitants of the parish, and they would therefore have a personal interest in any discussion of the Klargester system by the parish council. Because this is a private sewage system, and the current dispute relates to its cost, any consideration by the parish council of the system is likely to affect the financial position of the councillors, and a member of the public with knowledge of the facts might reasonably regard this interest as so significant that it would be likely to prejudice their judgment of the public interest.

2.3 This means that the councillors would have prejudicial interests in the item of business and under the Code of Conduct, without a dispensation, would be required to withdraw from the meeting. The parish council has only five members.

2.4 The dispensations already granted, mean that the three councillors are able to participate in any discussions and participate in any vote or decision making, without

fear of any complaint that they have been in breach of the Code of Conduct. Granting the current request would allow parish councillor Harmer to do the same.

- 2.5 A copy of the Standards for England Guidance on Dispensations is appended to this report for Members' consideration. Members will note that in considering a request for a dispensation, and establishing whether more than 50% of members of the council have a prejudicial interest, there is a requirement to ignore any previous dispensations that have previously been granted. This means that the Committee may grant the current application notwithstanding that the other three councillors already have dispensations enabling them to participate.
- 2.6 In considering the request in the light of the Guidance, the Committee may wish to note that the interest is common to a number of the residents of Yealand Redmayne. On this basis, the Committee may take the view that the participation of this councillor would not damage public confidence in the conduct of the parish council's business. This was the view taken by the Sub-Committee when the three previous applications were granted.
- 2.7 To grant the current request would be consistent with the earlier decision, and it is recommended that if a dispensation is granted, it should enable the councillor both to speak and vote at any meeting of the parish council where the Klargester drainage system is discussed. As this is an ongoing issue, rather than one which is to be dealt with at one meeting only, the Committee is recommended to grant the dispensation until the next parish council elections in May 2011.
- 2.8 Any request for an extension of the dispensations after May 2011 would need to be considered afresh at that time in the light of the composition of the parish council following the elections. Looking further ahead, the provisions relating to dispensations may be amended once the Localism Bill is enacted.

3.0 Details of Consultation

- 3.1 There has been no consultation, and in the light of the previous decision it was not felt necessary for the councillor to be invited to attend the meeting.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The options available to the Committee are to grant the request or not to grant the requests. Given the previous decision to grant similar dispensations to three other parish councillors, it would seem consistent and reasonable for the Committee to grant the current request, to cover both speaking and voting on the issue of the Klargester system at parish council meetings until the next parish council elections in May 2011.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

The provisions of the relevant Regulations are set out in the report and in the appended Standards Board Guidance.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee. The Monitoring Officer advises that the granting of this request would fall squarely within the scope of the Regulations. Not to grant the request would be inconsistent with the previous decision.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk