



STANDARDS COMMITTEE

22 JANUARY 2009

Report of the Interim Head of Civic Democratic and Legal Services

DISPENSATION REQUESTS

Summary

1. This report requests a number of dispensations for members allowing them to speak at Ward committee meetings when they may have a prejudicial interest.

Background

2. The Standards Committee has the responsibility for considering the grant of dispensations under the Local Government Act 2000.
3. As members of the Standards Committee are aware, where a member has a prejudicial interest in a matter they may not speak and vote when that matter is being considered by the authority (except that they may speak in circumstances where a member of the public also has the right to speak). In some circumstances this may mean that decisions cannot be taken.
4. The City of York Council has Ward Committees in each ward. These are technically area committees within the Local Government Act 1972 so are formal committees of the authority and subject to the same rules as other committees (save for the political balance requirements).
5. The membership of each ward committee is made up of the relevant ward councillors. Each ward committee has a budget which it can use to fund organisations in the ward.
6. The problem in respect of prejudicial interests arises where ward councillors are also members of an organisation in receipt of funding from the ward committee. This will include membership of Parish Councils, trustees of ward based organisations and so on. In this situation the ward councillor is very likely to have a prejudicial interest which will exclude them from decision making. In most instances this would mean that the ward committee was unable to make a decision.

Dispensations

7. The Local Government Act 2000 gave power to the Standards Committee to grant dispensations which would allow members to participate when they had a prejudicial interest. Dispensations may be granted for speaking only or for speaking and voting.
8. A Standards Committee may grant a dispensation to a member in the following circumstances
 - where more than 50% of the members who would 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 upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.
9. Clearly the second of these is irrelevant for ward committees. Some ward committees only have two members and since a single member is unable to make a decision at a ward committee, my advice is that it is appropriate for the Standards Committee to use the first reason as that is within the spirit of the legislation.
10. It is for the Standards Committee to decide what criteria to apply when considering a request.
11. By law, a member must submit an application in writing for consideration by the standards committee. It is up to the standards committee whether or not to grant a dispensation and there is no right of appeal from that decision.
12. A standards committee can decide the nature of any dispensation it grants. For example, the dispensation may allow a member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years. After four years has elapsed since a dispensation was granted, it can no longer be used.
13. The decision must be recorded in writing and must be kept with the register of interests maintained by the monitoring officer.

Options

14. This issue only came to light very recently. This is the reason why this report was a late addition to the agenda for the Standards Committee meeting. It has to come to this meeting of the Standards Committee as the Ward Committees will shortly be considering their budgets for the coming year.
15. All members have been asked to submit written requests for dispensations if they believe that one is required in relation to budget setting and grant giving at their ward committee. These written requests are not yet available but will be circulated before the meeting

if possible and certainly at the meeting, together with the precise wording of the recommendation to the Committee as this will have to specify each member and relevant ward committee.

16. The Standards Committee has the option of granting or denying each request. If it is minded to grant the request it can decide how long the exemption should last and whether it is for speaking or for full participation. There would be little point in granting any dispensation which did not allow for full participation.
17. In reaching a decision the Standards Committee will need to balance the prejudicial interest of the member seeking the dispensation to vote against the potential effect on the outcome of the vote (if any) if the member is unable to do so. In exercising this balancing act the Committee needs to consider factors such as whether allowing the member to participate would damage public confidence in the conduct of business; whether the member concerned has a direct financial interest; does the member's participation justified by the member's particular role or expertise.

Corporate Priorities

18. The Standards Committee has a responsibility to consider any requests made. Ward Committees are a part of the Council's decision making process and ensuring that this is done properly is an essential part of the 'Effective Organisation' strand of the Corporate Strategy.

Implications

19. The legal implications have been covered in the report as a whole. There are financial implications if dispensations are not granted as the ward committees will be unable to carry out their responsibilities as set out in the Council's constitution. There are no other implications.

Risk Management

20. There are evident risks associated with not granting the dispensation risks which might mean that the ward committees or some of them were unable to set a budget. There are on the other hand risks of allowing members to participate where they have a prejudicial interest and concern that this might damage the council's reputation. On balance the first risk seems to be the greater one.

Recommendations

- 21 That the Standards Committee grants dispensations to participate fully in ward committees for the purpose of agreeing the budget and for funding decisions. The detailed recommendation will be circulated at a later date and will consist of the names of each councillor and the relevant ward committee.

22 That the Standards Committee grants these dispensations for a period which ends with the local elections in May 2011.

Contact Details

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		Report Approved	√	Date 14/01/10
Specialist Implications Officer(s) None				
Wards Affected: <i>List wards or tick box to indicate all</i>				All x
For further information please contact the author of the report				

Background Papers:

All relevant background papers must be listed here.

There are no documents which are required to be listed which have been used in the preparation of this report.

Annexes

None