

## STANDARDS DISPENSATION SUB-COMMITTEE

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### MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE MEETING HELD ON 11 MAY 2010 AT COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE.

#### Present:

Cllr Nigel Carter, Mr Gerry Robson and His Hon David MacLaren Webster QC

#### Also Present:

Mr William Bailey and Cllr Francis Morland

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#### 1. Election of Chairman

As the independent member Mr Gerry Robson OBE was confirmed by the Sub-Committee as the Chairman of the Meeting.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Consideration of a request for a dispensation by Councillor Helen Osborn of Wiltshire Council

The Chairman invited the Monitoring Officer to outline the facts of the Dispensation request by Councillor Helen Osborn, who as a Trowbridge Town Councillor and a Wiltshire (unitary) Councillor is a dual-hatted (voting) member of the Trowbridge Community Area Board.

The members considered the facts of the request and the Monitoring Officer's advice on their options and on the Standards for England guidance. In the discussion that followed several key questions were asked, and areas of common concern established.

Councillor Francis Morland, also present, wished to speak on the matter, and was invited to do so at this point. He felt that when dispensations were granted, they should not be given lightly, and that there was a high threshold set out in guidance and criteria for doing so. Councillor Morland further outlined a series of concerns surrounding the granting of dispensations, which were germane also to the requests being considered at the meeting: namely that the structure

of Area Boards with executive power that had been established by Wiltshire Council, was creating a conflict of interests due to members dual-roles.

It was established that in the case of non-financial matters it would be unlikely that the Councillor's interest would be both personal and prejudicial. However given that the dispensation request was to enable voting on a body which decides where grant funds are allocated – i.e. a financial matter, it was **AGREED** that Councillor Osborn had a prejudicial interest as a result of her position on an Area Board.

Nevertheless the panel were aware, and highlighted the fact that a key function of dispensations was to allow the Council to discharge its functions effectively. By common agreement the Committee felt they were able to let issues of precedence shape their opinions, but they could not have an overbearing influence on individual applications for a dispensation – which should be decided as per the guidelines, on a case-by-case basis.

The group were concerned that principles in the case of dispensations were in conflict with the structure of Area Boards that the Council had set up. It was especially unfortunate that a prejudicial interest could arise directly from a member's position as an elected officer.

It was **AGREED** by the sub-committee that the Council's business would be impeded if no dispensation were awarded, so there were grounds for a dispensation.

There were thus legitimate grounds to grant a dispensation,

Councillor Carter speculated that the future development of Community Area Boards was highly likely to involve exercising executive control over the direction of more substantial amounts of money/funding, for more specific projects. In the current situation and even more in the possible future scenario the make-up of particular Area Boards could impact upon decision-making – for example a group of Parish Councils representing an urban area on an area board, voting for funding for their Town, at the expense of other rural parishes. This eventuality or even a perception of this happening or being able to happen would be unwelcome. The Chair agreed that he believed the question of giving Dispensations is part of a wider public confidence issue.

The Monitoring Officer added that he felt that procedures and custom would of course evolve with developments, in principle staying in keeping with the way current decisions were made, but there is a risk that the public could see this [future Dispensations] as an immunity to vote in a biased manner.

The Sub-Committee took advice that it could grant a dispensation for a time period limited from one item of business up to 4 years of service.

None of the committee were in favour of Grants being withheld from consideration at Area Boards due to issues around dual-hatted members or the

idea that alternatively such grant decisions could be referred up to a 'higher' executive level when such issues arose.

Councillor Carter suggested that a dispensation for a period of **one** Year would cover around 5 rounds of Community area boards and that would be enough time to gauge whether the dispensation scheme was working as hoped, had the effects required and also a suitable period of time given that the Area Boards structure is beginning to mature, and there may be further material changes in its operation.

There was concern about the enforceability of conditions which ask for a review of the dispensation if there are material changes in the situation, if they were to grant a dispensation in a similar manner to the preceding example.

**RESOLVED:**

**1. That Councillor Helen Osborn be granted a dispensation limited to Grant funding and the transfer of Community Assets to the Trowbridge Town Council. The dispensation commences from the present date and is valid until the 30<sup>th</sup> April 2011.**

**RESOLVED:**

**2. That a note be added to the minutes of the meeting expressing the members of the sub-Committee's concern and protest at the need for dispensation brought on by the structures of Wiltshire Council, rather than being an example in keeping with the situation the dispensations procedure was set up for.**

**3. That the sub-committee recommends that an Annual Paper Review of all granted dispensations should be a recommendation as part of the report on dispensations and dual-hatted members soon to go to the Standards Committee.**

**4. Consideration of a request for a dispensation by Councillor Jeffrey Osborn of Wiltshire Council**

The members felt the circumstances and motivation surrounding the dispensation request were near identical to the previous case, and that the arguments outlined under Item No.3, applied equally to this case.

Therefore the sub-Committee **AGREED** a decision namely:

That a dispensation be granted to Councillor Jeff Osborn on the grounds that he did have a personal AND *prejudicial* interest when voting on the Trowbridge Area Board on certain financial matters as a result of his membership of

Trowbridge Town Council. The efficient and correct exercise of the Council's business would be impeded without such a dispensation.

**RESOLVED**

**That Cllr Jeffrey Osborn be granted a dispensation limited to Grant funding and the transfer of Community Assets to the Trowbridge Town Council.**

**Commencing from the present date and valid until the 30<sup>th</sup> April 2011.**

5. **Consideration of a request for a dispensation by Councillor Rod Eaton of Wiltshire Council**

The members again felt the circumstances and motivation surrounding the dispensation request were similar and equivalent to the previous two cases, and that the general arguments outlined under Item No.3 and No.4, applied equally to this case. In the interests of consistency their decision should be the same.

Therefore the sub-Committee **AGREED** a decision namely:

That a dispensation be granted to Councillor Rod Eaton on the grounds that he did have a personal AND *prejudicial* interest when voting on the Melksham Area Board on certain financial matters as a result of his membership of Melksham Town Council. The efficient and correct exercise of the Council's business would be impeded without such a dispensation.

**RESOLVED**

**That Councillor Rod Eaton be granted a dispensation limited to Grant funding and the transfer of Community Assets to the Melksham Town Council.**

**Commencing from the present date and valid until the 30<sup>th</sup> April 2011.**

6. **Consideration of a request for a dispensation by Councillor Simon Killane of Wiltshire Council**

The Monitoring Officer outlined the circumstances surrounding the dispensation request and explained that he had spoken to Councillor Killane, and advised him that the sub-Committee would not consider his dispensation request as in the Monitoring officer's view the arguments outlined don't satisfy the legal criteria to enable the sub-Committee to grant a dispensation.

Therefore the sub-Committee **AGREED** a decision namely:

That although there was a possible prejudicial interest involved that there were no grounds to grant a dispensation in this case.

**RESOLVED**

**That no Dispensation be granted.**

(Duration of meeting: 2.05 - 3.10 pm)

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