

STANDARDS DISPENSATION SUB-COMMITTEE

MINUTES of the STANDARDS DISPENSATION SUB-COMMITTEE held at COUNTY HALL, TROWBRIDGE on FRIDAY 8th January 2010.

PRESENT:

Independent Member	-	Mrs J Bayley (Chairman)
Town/Parish Member	-	Mr C McCallum
Wiltshire Council Member	-	Councillor N Carter

1. Election of Chairman

Mrs Bayley was elected as Chairman for one meeting only.

2. Declarations of Interest

None.

3. Consideration of Dispensation Request (A)

The Monitoring Officer introduced a report presenting a dispensation request received from Councillor Peter Fuller on 22 October 2009. This matter had been deferred from a previous meeting as one of the Sub-Committee members had declared an interest. Councillor Fuller is a member of Trowbridge Town Council and Trowbridge Area Board. The request related to future items of the Trowbridge Area Board involving Trowbridge Town Council.

The Monitoring Officer explained the law and guidance relevant to this request and advised, in particular, that in his view a prejudicial interest would not arise in all items of business involving Trowbridge Town Council. A dispensation could not be granted where there was no prejudicial interest.

The Sub-Committee considered the nature of the member's prejudicial interest and concluded that as a member of Trowbridge Town Council, Councillor Fuller has a personal interest in any business of the Trowbridge Area Board that relates to or is likely to affect Trowbridge Town Council (paragraph 8 (1)(a)(ii)(aa) of

Wiltshire Council's Code of Conduct for Members).

As a member of Trowbridge Town Council, Councillor Fuller has a prejudicial interest only in items of business of the Area Board where a member of the public with knowledge of the relevant facts would reasonably regard Councillor Fuller's interest as a member of the Town Council as so significant that his judgment of the public interest is likely to be prejudiced (paragraph 10 (1) of the Code of Conduct). Further, a prejudicial interest will only arise if the matter affects the financial position of the Town Council, or concerns the determination of any approval, consent, licence, permission or registration in relation to the Town Council (paragraphs 10 (2)(a) and (b) of the Code). Councillor Fuller would be unable to participate and vote on such items (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

Members of the Sub-Committee discussed the legal criteria for the granting of a dispensation and noted that six of the nine members of Trowbridge Area Board are also members of Trowbridge Town Council, which represents 66% of the Area Board membership. Having regard to the Standards Committee's criteria for determination of dispensation requests, the Sub-Committee was satisfied that Councillor Fuller's request met the necessary legal criteria, in that the transaction of the Area Board's business would otherwise be impeded, because more than 50% of the members who would be entitled to vote on items affecting the financial position of Trowbridge Town Council or in the determination of regulatory matters affecting the Town Council, would be prohibited from doing so under the Code of Conduct. The Sub-Committee also recognised that unless the dispensation request were granted the efficient and effective conduct of Wiltshire Council's business through the Trowbridge Area Board would be impeded.

The Sub-Committee was concerned that there had been no other requests for a dispensation from other 'dual-hatted' members of the Trowbridge Area Board and expressed wider concern about the position of dual-hatted members on area boards generally.

Resolved:

- 1. To grant Councillor Fuller a dispensation in respect of any item of business of Trowbridge Area Board relating to Trowbridge Town Council, which affects the financial position of Trowbridge Town Council (e.g. applications for grant by the Town Council) or concerns the determination of any approval, consent, licence, permission or registration in relation to the Town Council (e.g. planning applications by the Town Council).**
- 2. To agree that the dispensation in 1 above is effective until 30 April 2013, but is subject to review in the event of any material change of circumstances.**

3. **To ask the Monitoring Officer to explore why similar requests for dispensation have not been received from other dual-hatted members on Trowbridge Area Board.**
4. **To ask the Monitoring Officer to undertake a wider review of the position of dual-hatted members on Area Boards, to include the distribution of grants to town and parish councils, by Area Boards and to report to the Standards Committee at the earliest opportunity.**

4. Consideration of Dispensation Request (B)

The Monitoring Officer introduced a report presenting a dispensation request from Mrs Jane Clark, the Chairman of Seagry Parish Council, dated 9th December 2009. The request involved an item on the agenda of the Parish Council in January 2010 regarding the setting of the precept for Seagry, Startley and Great Somerford Village Hall Trust. Mrs Clark's husband is a member of the Trust.

The total number of Parish Councillors is seven, two other Councillors are themselves Trustees and, of the four remaining members, one is suffering ill health and may not be able to attend the meeting, another is frequently overseas. The dispensation is requested for four years as the erection of a new village hall is an ongoing matter.

The Sub-Committee considered firstly whether Mrs Clark's position gave rise to a personal or prejudicial interest. The Sub-Committee concluded, on advice from the Monitoring Officer, that as Mrs Clark was not herself a member of the Seagry, Startley and Great Somerford Village Hall Trust, she has no personal, nor, therefore, any prejudicial interest in any items regarding the Village Hall and therefore no dispensation is required.

Resolved:

1. **Not to grant a dispensation to Mrs Clark because her circumstances, as outlined in her request, do not give rise to a prejudicial interest and, consequently no dispensation is required or available under the criteria.**

5. Consideration of Dispensation Request (C)

The Monitoring Officer introduced a report presenting a dispensation request from Mr John Crosland of Seagry Parish Council, dated 2nd December 2009. The request involved an item on the agenda of the Parish Council for January 2010 regarding the setting of the precept for Seagry, Startley and Great Somerford Village Hall Trust.

The total number of Parish Councillors is seven. Mr Crosland is a Trustee along with another member of the Parish Council. As to the remaining councillors, one is suffering ill health and may not be able to attend the meeting, another is

frequently overseas. The dispensation is requested for four years as the erection of a new village hall is an ongoing matter.

The Sub-Committee considered firstly whether Mr Crosland had a prejudicial interest for which a dispensation may be granted. The Monitoring Officer referred the Sub-Committee to paragraph 10 (2)(c)(vi) of the Code of Conduct which provides an exemption for business relating to the setting of the precept so that a prejudicial interest does not arise in such circumstances. Therefore no dispensation is required and Mr Crosland may participate and vote on this matter.

However, the Sub-Committee noted that the erection of a new village hall is an ongoing matter and it was apparent that a dispensation was being requested to cover such business for a period of four years. Where the Parish Council is conducting business, other than the setting of the precept, which affects the financial position of the Village Hall Trust or the determination of any regulatory matter in relation to the Trust, Mr Crosland would have a prejudicial interest and would be unable to participate and vote (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

The Sub-Committee then considered the application of the legal criteria for granting dispensations, in particular, whether or not the transaction of the Council's business would otherwise be impeded because more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting because of a prejudicial interest arising under the Code of Conduct. Two members of the Parish Council are Village Hall Trustees and would be prohibited on this basis from voting. The Chairman, Mrs Clark does not have a prejudicial interest by virtue of her husband being a trustee. Therefore 5 out of the 7 Parish Councillors would, in the absence of any other personal circumstances, still be able to vote. The legal criteria of more than 50 % of those eligible to vote being prohibited is not met and no dispensation can therefore be granted.

Resolved:

- 1. Not to grant a dispensation to Mr Crosland in the case of the specific business relating to the setting of the precept at the January meeting of the Parish Council, as no prejudicial interest arises by virtue of the statutory exemption in paragraph 10 (2)(c)(vi) of the Code of Conduct.**
- 2. Not to grant a dispensation in the case of other business which affects the financial position of the Village Hall Trust or concerns the determination of regulatory matters in relation to the Trust, as the legal criteria is not met for the reasons stated above.**
- 3. To ask the Monitoring Officer to write to Mr Crosland with advice on his position in relation to the conduct of business relating to the Village Hall Trust at meetings of the Parish Council.**

6. Consideration of Dispensation Request (D)

This item concerned a dispensation request from Ms Clare Cliverd of Seagry Parish Council dated 3rd December 2009. This request was identical in nature to that considered under item 5. Adopting the same approach the Sub-Committee:

Resolved:

- 1. Not to grant a dispensation to Ms Cliverd in the case of the specific business relating to the setting of the precept at the January meeting of the Parish Council, as no prejudicial interest arises by virtue of the statutory exemption in paragraph 10 (2)(c)(vi) of the Code of Conduct.**
- 2. Not to grant a dispensation in the case of other business which affects the financial position of the Village Hall Trust or concerns the determination of regulatory matters in relation to the Trust, as the legal criteria is not met for the reasons stated above.**
- 3. To ask the Monitoring Officer to write to Ms Cliverd with advice on her position in relation to the conduct of business relating to the Village Hall Trust at meetings of the Parish Council.**

(Duration of meeting: 10.30am – 11.30am)

The officer who has produced these minutes is Janice Green, Democratic Services Officer, direct line (01225) 718380, janice.green@wiltshire.gov.uk

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