

EPPING FOREST DISTRICT COUNCIL

Committee: Standards **Date:** 24 April 2008
Report of: Deputy Monitoring Officer **Item:** 4a
Subject: Code of Conduct - Applications for Dispensation (Waltham Abbey Town Council)

Recommendation:

To consider the applications from all members of Waltham Abbey Town Council for dispensations as follows:

- (a) to determine whether the applications are properly made;**
- (b) to determine whether the existence of the prejudicial interests is accepted or whether further information is required to adjudicate on each request;**
- (c) if appropriate, to determine the applications in accordance with paragraph 8(a)(i) of this report and notify the Town Council accordingly;**
- (d) to determine the period to which any dispensation is to apply.**

Requests for Dispensation

1. The Waltham Abbey Town Council comprises 11 members. All 10 serving members have submitted applications to the Monitoring Officer for dispensations in respect of a commonly-held prejudicial interest.
- ... 2. Copies of the application letters from each of the 10 members are attached to this report, the members in question being:

Councillor P Brooks, A Clark, J Collier, R Gadsby, A James, S Pryde, W Pryor, S Stavrou, A Watts, E Webster.
- ... 3. Also attached is a covering letter from Mr R James, Town Clerk.

Description of Prejudicial Interests

4. The letters received from the Councillors concerned refer to a planned meeting of the Town Council at which it is intended to select a member of the public from five applicants to be co-opted onto the Council. The prejudicial interest arises because one of the applicants for co-option has disclosed a political affiliation to a national political party which means that all members of the Town Council feel that they have a prejudicial interest either as a result of being members of another political party or in the same political party as the applicant.
5. In normal circumstances the declaration of this prejudicial interest would require those members to leave the Chamber and not participating in the meeting until that matter had been dealt with.

Waltham Abbey Town Council

6. The quorum for Town Council meetings is two thirds, namely 7 Councillors.

Electoral Background

7. When a vacancy occurs on a local authority, the procedure requires that a notice is posted indicating that the vacancy has occurred. Such a notice was posted in Waltham Abbey on 3 January 2008. Within a predetermined period 10 local authority electors for the area may request that an election is held. In this case, such a request had to be made by 22 January 2008. Once the election is requested, the timetable then requires that a by-election must be held within the statutory period. In this case a by-election would have been held in late February 2008. No request for an election was made however.

8. Once the period for requesting a by-election has passed, the only option open to the Town Council is to co-opt a person to fulfil the role of Councillor. This co-option applies for the balance of the term of office concerned. The term of office of the late Councillor Spinks expires in May 2011.

Applications for Dispensations

9. Any Councillor with a prejudicial interest can apply in writing to the Standards Committee for a dispensation to allow them to take part in the consideration of any matter before the Council.

Circumstances in which Dispensations may be granted

10. A Standards Committee may grant a dispensation in the following circumstances:

(a) the transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by or as a result of the mandatory provisions of the Code of Conduct because -

(i) the number of members of the authority prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to participate; or

(ii) the authority is not able to comply with any duty which applies to it under Section 15(4) of the Local Government and Housing Act 1989 (Political Balance in Committee Memberships);

11. The Councillor must submit to the Standards Committee a written request for a dispensation explaining why it is desirable. The Committee may then conclude that, having regard to the matters mentioned in paragraph 8(a) or (b) above, the content of the application made and all other circumstances of the case that it is appropriate to grant the dispensation. For the purposes of these applications, 8(a)(ii) is not a relevant ground for approval of a dispensation as this relates to the statutory responsibility of the District Council to achieve political balance on some Committees.

Records of Dispensations Granted

12. A Standards Committee must ensure that the existence, duration and nature of any dispensation is recorded in writing. This record is kept with the Register of Interests established and maintained under the Local Government Act 2000.

Other Considerations

13. In July 2007, the Standards Committee previously considered a similar application from District Councillors who serve on the Cabinet. In that case, of the 8 members of the Cabinet, 5 responded stating that they had a prejudicial interest in the matter concerned. The Committee noted at that time that the quorum for the Cabinet was a minimum of 5 of the 8 members. The approach taken by the Committee was to consider each application for a dispensation on an individual basis. As the result, two dispensations were granted because the nature of the prejudicial interests was considered less substantial than the three other cases. The remaining three applications were refused as all the interests were considered to be substantial and directly bearing on a Councillor whose tender for a contract was due to be considered by the Cabinet.

14. In the current case, there are 10 applications all submitted on the same grounds. Based on previous practice, it is for the Committee to decide whether they have sufficient information based on the letters submitted to adjudicate on these applications individually. If not, the options open are to seek further clarification of their letters either by correspondence or in person. The Committee also need to consider whether, in practical terms, there is another way of dealing with the co-option issue.

The Timetable

15. The only method now available to the Town Council to fill the vacancy is to co-opt a suitable person. It is clear that the Town Council wishes to do so but at present the Council doubts whether it will have a quorum to do so. This would then leave the Council with a vacancy with no immediate prospect of being filled.

16. The Standards Committee's role is to look carefully at the applications for dispensation to ensure that they are properly made so that the prejudicial interest is clear. If the Committee is satisfied it has the full information on which to base decisions, it may indicate to Town Councillors whether the dispensation is granted or refused.

Alternative Action

17. In the event of the Town Council being unable to achieve a quorum after consideration by this Committee of the requests for dispensation, the District Council may have a role to play in resolving the issue. Officers will report further at the meeting.

18. In accordance with section 100(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council's Procedure rules, the Chairman has permitted on grounds of urgency, the inclusion of this item of business so that the vacancy on the Town Council can be filled without further delay.