



Standards Committee

Date: FRIDAY, 26 JANUARY 2018
Time: 11.30 am
Venue: COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

4. **MINUTES OF THE ASSESSMENT SUB (STANDARDS) COMMITTEE**

For Information
(Pages 1 - 2)

13. **DISPENSATION REQUESTS**

For Decision
(Pages 3 - 14)

Item received too late for circulation in conjunction with the Agenda.

John Barradell
Town Clerk and Chief Executive

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ASSESSMENT SUB (STANDARDS) COMMITTEE

Wednesday, 10 January 2018

Minutes of the meeting of the Assessment Sub (Standards) Committee held at the Guildhall EC2 at 2.00 pm

Present

Members:

Neil Asten (Independent Person)
Alderman David Graves
Ann Holmes

Deputy Jamie Ingham Clark
Dan Large (Co-opted Member)

Officers:

Michael Cogher	-	Comptroller and City Solicitor
Edward Wood	-	Comptroller and City Solicitor's Department
Martin Newton	-	Town Clerk's Department

1. ELECTION OF CHAIRMAN

The Town Clerk having asked for nominations for a Chairman for the meeting, it was proposed, duly seconded and agreed that Ann Holmes be elected as Chairman.

RESOLVED - That Ann Holmes be elected as Chairman of the Assessment Sub (Standards) Committee for the meeting.

2. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE ASSESSMENT SUB (STANDARDS) COMMITTEE

The Sub Committee noted the circulated reports setting out the complaints process, the code of conduct and guidance on it.

RECEIVED.

3. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT

There was no other urgent business.

4. EXCLUSION OF THE PUBLIC

RESOLVED - That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following item on the grounds that it involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act.

5. COMPLAINT: REPORT OF THE COMPTROLLER AND CITY SOLICITOR

The Sub Committee considered a report and associated papers of the Comptroller and City Solicitor presenting, for assessment by the Sub Committee, a complaint made against a Member of the Court of Common Council.

The Comptroller and City Solicitor provided a brief introduction to his report and reminded Members of the need to ascertain whether they were satisfied that if the complaint was proven it would constitute a breach of the Code of Conduct, along with the current Corporation Assessment Criteria. The Sub Committee noted the requirement to only consider the submitted complaint in relation to the allegations of the breach of the Code of Conduct and not in the context of any related allegations that were not within its jurisdiction.

The Sub Committee then proceeded to discuss the contents of the report and duly considered all relevant matters including hearing the views of the Independent Person that was present. The Sub Committee were of the unanimous view that no breach of the Code of Conduct had occurred in relation to the matters raised by the complainant in his complaint form and that therefore no further action should be taken in relation to the complaint itself.

Members did however express some concern during discussions that the Remembrancer's Department did not have a record of personal guests attending the Silent Ceremony (using an "admit bearer" type ticket) and resolved to invite the Members' Privileges Sub Committee to review the policy and procedure for issuing tickets for the Silent Ceremony and the security implications.

RESOLVED:- That the Assessment Sub (Standards) Committee agree that:-

- (a) no further action should be taken in relation to the complaint itself; and
- (b) in view of concern expressed that the Remembrancer's Department did not have a record of personal guests attending the Silent Ceremony (using an "admit bearer" type ticket), the Members' Privileges Sub Committee be invited to review the policy and procedure for issuing tickets for the Silent Ceremony and the security implications.

The meeting closed at 2.53 pm

Chairman

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Committee: Standards Committee	Date: 26 January 2018
Subject: Request for a Dispensation under the Localism Act 2011	Public
Report of: Comptroller & City Solicitor Report author: Edward Wood, Chief Solicitor	For Decision

Summary

A Member requests a dispensation to speak on planning and licensing matters where she would otherwise have a disclosable pecuniary interest by virtue of her ownership of a flat within her Ward.

Recommendation

Members are asked to determine the application for a dispensation.

Main Report

Background

1. Ann Holmes, a Common Councilman for the Ward of Farringdon Within, has submitted a request for a dispensation. Your Committee has requested that all such applications are accompanied by a covering report.

Disclosable pecuniary interests under the Localism Act 2011

2. Under the Localism Act 2011 and The Relevant Local Authorities (Disclosable Pecuniary Interests) Regulations 2012 there are a number of disclosable pecuniary interests that prevent a Member from participating in any discussion or vote on a connected item of business. The disclosable pecuniary interest that is engaged in this case is:
 - (a) any beneficial interest in land which is within the area of the relevant authority.

3. The Localism Act 2011 does not provide any additional guidance on judging whether a disclosable pecuniary interest is engaged or not. It simply states that the prohibition on speaking or voting on a matter is engaged where a Member:
 - (a) is present at a meeting;
 - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
 - (c) is aware that the condition in paragraph (b) is met.
4. It is up to individual Members to make a judgement whether they have a disclosable pecuniary interest in relation to any particular item of business. This will be the case where a decision would materially affect a Member's interest in land, for example by materially affecting the value of that land, the prospects of selling that land, or the use and enjoyment of that land.
5. A Member commits a criminal offence if, without reasonable excuse, they participate in any discussion or vote on any matter in which they have a disclosable pecuniary interest. For this reason we would always advise a Member to err on the side of caution. A Member who is found guilty of such an offence can be fined up to £5,000 and disqualified from holding office for up to five years. A prosecution may only be instigated by or on behalf of the Director of Public Prosecutions (DPP).

Granting dispensations under the Localism Act 2011

6. A relevant authority may, on a written request made to the proper officer of the authority by a Member of the authority, grant a dispensation relieving the Member from either or both of the restrictions on speaking or voting in cases described in the dispensation. A dispensation must specify the period for which it has effect, which may not exceed four years. The granting of such dispensations is a function of this Committee and its Dispensations Sub-Committee. A relevant authority may only grant a dispensation if, after having had regard to all relevant circumstances, the authority:
 - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular

business would be so upset as to alter the likely outcome of any vote relating to the business;*

- (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
- (d) if it is an authority operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive;* or
- (e) considers that it is otherwise appropriate to grant a dispensation.

* Grounds (b) and (d) are not directly applicable to the City Corporation but are included for completeness and context.

Additional factors

7. Subject to the specific statutory grounds for granting a dispensation, Members may also wish to take into account the following (non-exhaustive) additional factors:
 - (i) whether the nature of the Member's interest is such that to allow them to participate would risk damage to public confidence in the conduct of the City Corporation's business;
 - (ii) whether the interest is common to the Member and a significant proportion of the general public;
 - (iii) whether the Member was elected on a platform that they would specifically address the item or items of business for which the dispensation is sought;
 - (iv) whether the participation of the Member in the business that the interest relates to is justified by their particular role or expertise;
 - (v) whether the request is for a dispensation to (a) speak at the meeting with the same rights as a member of the public; (b) participate fully in the debate as a Member of the decision-making body in question; or (c) participate fully in the debate as a Member of the decision-making body in question and vote on the business.
8. As previously stated, the onus is on individual Members to decide whether they have a disclosable pecuniary interest in any given matter. Therefore your Committee should assume for present purposes that any dispensation being sought is required in order to participate, and you should not refuse a request simply on the basis that a dispensation is not thought to be necessary. Any dispensation granted is entirely permissive

in nature and does not impose any restrictions on speaking or voting where no such restrictions otherwise exist.

The application and specific considerations

9. The request for a dispensation is attached at Appendix 1. Ann Holmes is requesting a dispensation to speak (but not vote) on planning and licensing matters where she would otherwise have a disclosable pecuniary interest by virtue of her joint ownership of a flat within her Ward. As justification she cites the ability to represent her constituents by speaking on their behalf at the Planning & Transportation Committee and Licensing (Hearing) Sub-Committee. A dispensation is sought until the Ward elections in 2021.
10. On 23 September 2014 your Dispensations Sub-Committee granted Ann Holmes a dispensation to speak at meetings of the Planning & Transportation Committee concerning planning developments within her Ward, in accordance with the Planning Protocol and the rules of the Planning & Transportation Committee. The minutes recording the reasoning of the Sub-Committee on that occasion are included for information at Appendix 2. That dispensation was in force until the Ward elections in 2017.
11. At the time of writing this report Ann Holmes is not a Member of the Planning & Transportation Committee or the Licensing Committee. The Planning Protocol and the Licensing Protocol can be viewed on the City Corporation website and copies will also be available at the meeting if requested.

Conclusion

12. The request for a dispensation is similar to a request that was granted to the Member concerned during the previous electoral cycle. Nevertheless your Committee is asked to determine this new application afresh in accordance with the criteria set out under the Localism Act 2011.

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**REQUEST FOR DISPENSATION –
DISPENSATIONS FOR MEMBERS TO SPEAK AND VOTE WHERE THEY
HAVE CERTAIN DISCLOSABLE PECUNIARY INTERESTS**

The new Standards regime does not replicate the former statutory exemptions which allowed Members to vote on a number of matters in which they would otherwise have had a prejudicial interest. However, the City of London Corporation may, following a written request, grant a dispensation for a Member or a Co-opted Member to take part in any discussion and vote on a matter in which they have a disclosable pecuniary interest, in some circumstances:

It is anticipated that the principal matters likely to require dispensations are those relating to the following, where a Member has a beneficial interest in land within the City:-

- Housing (where the Member holds a lease or tenancy from the City, as long as the matter does not relate to their particular lease or tenancy).

However, dispensation may be granted in relation to any matter so long as a relevant criterion is met. The criteria that are relevant to the City of London Corporation are as follows:

- Without the dispensation the proportion of Members and Co-opted Members prohibited from participating in any particular business would be so great as to impede the transaction of the business; or
- Granting the dispensation is in the interests of persons living in the City; or
- It is otherwise appropriate to grant a dispensation.

Please provide the following information if you wish to request a dispensation to allow you to speak and/or vote on a specific matter or matters, either on a specific occasion or at any point until the next Ward elections in 2021.

The following information will be considered by the Standards Committee or its Dispensations Sub Committee.

Name: ANN HOLMES Date: 18/1/18

Signed: P. A. Holmes

I request a dispensation to enable me to speak and/or vote* on the following matter(s):

planning
licensing

(* Please delete as applicable)

Please describe the nature of the disclosable pecuniary interest(s) that would otherwise prohibit you from speaking and/or voting on the above matter(s):

joint ownership of a flat in
Bartholomew Close, which
falls within Farringdon
within, for which I am
a member

Please explain which of the criteria for granting a dispensation you consider to be met, and why:

The ability to represent my constituents by speaking on their behalf at Planning Committee, or Licensing Hearings. It is possible that my joint ownership of a leasehold flat might, on occasion, be viewed as a pecuniary or non pecuniary interest

I require the dispensation for:

- (i) a time limited period from/to:
- (ii) for a specific meeting of:
On:
- (ii) Until the Ward elections in 2021

If your request is urgent, please specify why:

Request considered by the Standards Committee / Dispensations Sub Committee:

Date: ^{PAH} ~~18/07/20~~ Decision taken:

DISPENSATIONS SUB (STANDARDS) COMMITTEE

Tuesday, 23 September 2014

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 8.45am

Present

Members:

Judith Barnes (Co-opted Member)
Nigel Challis

Michael Hudson
Deputy Alastair King

Officers:

Michael Cogher
Lorraine Brook
Gregory Moore

Comptroller and City Solicitor
Town Clerk's Department
Town Clerk's Department

1. APOLOGIES

There were none.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were none.

3. ELECTION OF A CHAIRMAN

The Committee proceeded to elect a Chairman for the meeting in accordance with Standing Order No. 29. Nigel Challis, being the only Member expressing a willingness to serve, was duly elected and took the Chair.

RESOLVED: That Nigel Challis be elected as Chairman for the meeting of the Dispensations Sub Committee.

4. REQUEST FOR A DISPENSATION

The Sub Committee considered a written request for a dispensation from Ms Ann Holmes, a Common Councilman for the Ward of Farringdon Within.

It was noted that the request for a dispensation under Section 33 (2) of the Localism Act 2011 concerned Ms Holmes' disclosable pecuniary interest as the owner of a property within the Ward which was affected by the ongoing Bart's Square property development. Ms Holmes' request to the Sub Committee, to participate in any discussion and vote on matters relating the Bart's Square development and any other planning developments taking place within the Ward of Farringdon Within, was based on the following grounds:-

(i) that the dispensation was in the interests of persons living (or in the City's case, living or working) in the authority's area; and/or

(ii) that it is otherwise appropriate to grant a dispensation.

It was noted that Ms Holmes had submitted the request with a particular view to speaking at a meeting of the Planning & Transportation Committee taking place on 23 September 2014. However, she was also seeking a more general dispensation to cover the period up to the next Ward elections in 2017, to cover both speaking and voting at relevant meetings.

Following confirmation from the Comptroller & City Solicitor regarding the grounds on which a dispensation could be granted, the Sub Committee considered the request. The Sub Committee felt that the various elements of the request would be best considered separately, first considering the request to speak at meetings of the Planning & Transportation Committee as a non-voting attendee, rather than as an elected Member of the Committee.

Members noted that Ms Holmes had campaigned for election partly on the basis of representing the residents of her Ward on local planning issues, particularly the Bart's Square development. It was clarified that the Bart's Square development was substantial and affected a large section of the Ward, and that planning permission had already been granted for the project. Given the scale of the development and the fact that the Planning & Transportation Committee had a clear Protocol with which she would be obliged to comply, Members felt comfortable in granting a dispensation on this basis. It was noted that any member of the public would have such a right, and therefore to prohibit Ms Holmes from speaking would inappropriately disadvantage her. Further, given the robustness of the Planning Protocol in providing guidance on such issues, the Sub Committee was comfortable in extending the dispensation to cover all planning developments within Farringdon Within, provided she declared her interest before speaking on each occasion and remained at all times compliant with the rules governing the Planning & Transportation Committee.

The Sub Committee noted that on occasion planning matters were discussed at other Committees, for instance Property Investment Board, Policy & Resources Committee and The Court of Common Council. As such, it was agreed that any dispensation would be confined to the Planning & Transportation Committee.

Second, the Sub Committee turned to the matter of Ms Holmes being able to vote and speak should she become a Member of the Planning & Transportation Committee in due course. Given the nature of the Committee it was clear that to permit voting rights would not be acceptable; the Planning & Transportation Committee's own Protocol also made clear that Members of the Committee with such interests were able to speak on such matters, but were obliged to leave the room after making their statement so as not to influence debate. Therefore, whilst Ms Holmes would be permitted to speak on such matters as a Member of the Committee, and in line with that Committee's Protocol, she would not be entitled to vote and a dispensation could not be granted to her on that basis.

It was therefore agreed that a dispensation be granted to Ms Holmes to speak at Planning & Transportation Committee meetings on planning matters affecting

the Ward of Farringdon Within, including the Bart's Square development, subject to the Planning Protocol and the rules of the Planning & Transportation Committee which they might impose.

RESOLVED: That the request of Ms Ann Holmes for a dispensation under Section 33 (2) of the Localism Act 2011 in relation to her disclosable pecuniary interest be approved on the following terms:

- A dispensation be granted until the Ward Elections of 2017 for permission to speak at meetings of the Planning & Transportation Committee concerning planning developments in the Ward of Farringdon Within, in accordance with the Planning Protocol and the rules of the Planning & Transportation Committee; and
 - The request for a dispensation to vote on such matters, should she be elected as a Member of the Planning & Transportation Committee, be refused.
-
- **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**
There were no urgent items.

The meeting closed at 9.15 am

Chairman

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