

Notes on petition and feedback from Chair of Standards Committee

The petition was signed by 1122 residents, approximately 95% of whom gave addresses which made it possible to analyse by area. Of these 72% of signatories came from residents on the Barbican Estate and 23% from residents on the Golden Lane Estate.

The only comments received in response to the letter sent to petitioners came from the Chairs of the Barbican Association and the Golden Lane Residents' Association¹. Comments and suggestions relevant to the petition and the review of our dispensations policy are summarised at appendix 1.

Both Estates fall within the Aldersgate and Cripplegate wards. The Barbican estate straddles both wards, whilst the Golden Lane Estate falls within Cripplegate. All members for these two wards live in one of them. Each ward has just one member who is not resident in the Barbican Estate, and just one of the nine members for Cripplegate lives in the Golden Lane Estate. Along with the Middlesex Street Estate, these estates differ from other parts of the City in that all freeholds are owned by the City. This means a residential DPI will tend to be engaged by any matter, such as service charge rates, which affects the entire estate, and voting on housing matters is prohibited under Section 618 of the Housing Act 1985.

Given 14 of the 16 members for the two wards are Barbican residents, it is unsurprising that there is considerable concern that resident members are able to ensure that the interests of their constituents are represented.

Members represent their constituents in a number of ways - most commonly by taking account of their concerns in policy making, by writing in support of, or objection to, licensing and planning applications, by monitoring ward matters, including construction projects, and environmental issues, by pursuing a constituent's individual concerns, and by lobbying other members or officers or

¹ The first email was sent to me and copied to all members for Aldersgate and Cripplegate, and the second sent to all members of the Standards Committee.

external agencies, on behalf of constituents. Other than speaking or voting in policy making, none of these activities are limited by having an engaged DPI.

For most resident members, with engaged DPIs, the need for dispensations arises primarily in relation to speaking and/or voting on planning or licensing applications. It is recognised that members living in the areas they represent will tend to be particularly well placed to inform debate and, under current policy, non members of these two committees, with engaged DPIs, will usually be given a dispensation to speak as a member of the public, for up to four years. They and members of the committees, with engaged DPIs, alike will also usually be given dispensations to speak, as members, at a particular meeting. Petitioners would like to see a blanket dispensation for all members, to be able to speak, throughout their term of office, on any matter, in which they have an engaged DPI, other than where their property is uniquely affected or more affected than other properties.

In terms of voting, members of the Licensing Committee are not allowed to sit on panels considering applications in the wards they represent, so the opportunity, for members with an engaged DPI, to vote will rarely arise.

Petitioners are requesting the ability of committee members (in practice most likely to be of the Planning and Transportation Committee (P&TC), Community and Children's Services Committee (C&CS) and the Barbican Residential Committee (BRC) to be able to vote, other than where their property is uniquely affected or more affected than other properties.

The P&TC and C&CS are ward committees, currently with 35 and 31 members, respectively. Each ward, depending on its size, can nominate one or two members to these committees². Should members, with an engaged DPI, be able to vote, their vote would only tend to be significant if there were a relatively close division of

² Some wards choose not to use their allocation and places become available to other members. C&CS currently has a number of vacancies and has six members from Aldersgate and Cripplegate, one of whom is a resident of Golden Lane and five of Barbican. P&TC has no vacancies and four members from Aldersgate and Cripplegate, one of whom is a resident of Golden Lane and three of Barbican.

opinion amongst members of that committee. By the same token, in this situation, members with an engaged DPI could be seen to be determining the outcome.

The same situation could arise with most committees, on which it is unusual to have other than a small proportion of members from any given ward.

The only major exception is the BRC³. Currently 9 out of 14 members of the committee are both Barbican residents, and members for Aldersgate or Cripplegate⁴. Section 618 prevents voting on any housing matters. If section 618 were to be removed, however, a general dispensation to vote would mean that those with an engaged DPI could form the majority vote in deciding policies, including in regard to charges impacting all residents.

³ The BRC is responsible for overseeing the management of the estate and ancillary facilities. In doing so it has to take account of the views of the Residents Consultation Committee.

⁴ BRC has an allocation of nine residents and eleven non residents, but there are usually non resident vacancies - currently six. Two of the current five non resident members are the two Aldersgate and Cripplegate members who do not live on the Barbican Estate.

Appendix 1 - Comments and suggestions received from Chairs of Barbican Association and Golden Lane Residents Association*

1- When is a dpi engaged?

The City has put a very broad interpretation on whether a dpi is engaged “in a matter.” The decision rests with individual members whether they think they have a dpi in a matter, but the atmosphere has been chilled by Standards Committee actions that imply that dpis are engaged when in fact they have not been proved to be so.

We also do not understand why there does “not have to be a financial impact on a member in order for that member to be prohibited from participating in a particular item of business.” (para 4).

On the one hand, the Localism Act is about pecuniary interests. So why is the City extending it beyond pecuniary effects? On the other hand, if the Standards Committee is serious about making the Localism Act’s prohibitions against speaking and voting apply when no financial effects are envisaged, then that opens up the possibility of infinite challenges to all members’ “interests”.

2 - The Law allows speaking and voting where a dpi is engaged

The City should trust members to act in accordance with the law – and assume that they will. We are aware of no cases in which a residential councillor in the City has used their office to speak or vote on a matter in order to obtain financial advantage for themselves – and be assured their electors would criticise them heavily were they to do so.

The dispensations policy should acknowledge that the law does allow members to be granted dispensations to both speak and vote on matters in which they have a pecuniary interest. It is the City’s decision not to allow members to vote in these circumstances, not the requirement of the law and not the expectation of the public.

So the policy should enable a member, on application, to be granted a dispensation for their term of office to speak and vote on any matter that affects their constituents

where they have a pecuniary interest as long as it does not affect them uniquely or more than any other of their constituents (and isn't prevented (for voting) by section 618 of the Housing Act 1985 until that is repealed).

We would like to understand more about how the policy was developed and the reasons for some elements in it. For example, at the Court meeting in December, an amendment was submitted "Amendment – That the Motion be altered to include the words "when the DPI is a lease or tenancy from the City Members may vote when the matter does not relate particularly to the Members' lease or tenancy"." This was withdrawn on the understanding that this proposal "be considered by the Standards Committee as part of their review." We have seen no evidence in the minutes of Standards Committee meetings or in their reports that the Standards Committee did consider this matter. We would like to understand why not, even though this point would be covered by a "general" dispensation.

If the Standards Committee is unwilling to consider this, then we would ask the City to set up a separate inquiry, with external experts, to draw up a reasonable policy and process.

3- The need to behave selflessly

The Chair of the Standards Committee says the legislation is to ensure that members behave selflessly. That is a very broad test –much broader than the legislation. Arguably, if councillors were to behave selflessly, there would be no members on the planning committee who worked in any business to do with property development – because in general promoting development will promote the businesses of those who develop property, construct buildings, and provide legal and financial services to those who develop property, etc.

The approach taken to members having those sorts of interests (so long as the planning application does not relate to that individual's own property company or supporting services) should be that they do not have to seek dispensations to speak or vote on such matters. Yet the activity is not entirely selfless.

So what applies to business should apply also to residents. The Chair says that the working party has given a great deal of attention to the position where members live in the ward they represent.

4 - What other authorities do

Most ward councillors throughout the UK live in the ward they represent (it is the City that is odd in having a majority of councillors who do not live in the ward they represent), and it does not cause problems. Dispensations are routinely and widely granted (in some cases en bloc at the beginning of a councillors' terms of office). Of course, if a member's specific property is particularly affected, they have a "dpc in a matter" – but if the matter is one that affects a generality of their constituents and not them particularly, and their interest is declared – then they can and should be able to represent their members by speaking and voting on the matter

Ironically, the conclusion of the informal meeting of the Standards Committee that "The Standards Committee is concerned that the public criticism and lack of support shown it by the Court, could lead to a significant reputational risk to the Corporation" has to be correct. But not, as the committee thinks, because the Court has not backed it (rightly or wrongly) – but because the Standards Committee has shown no sign of understanding the criticism and why residents still feel disenfranchised. If City residents have fewer democratic rights than those who live elsewhere in the UK, that has to put the City at some reputational risk.

5- Section 618 of the Housing Act 1985

This section specifically excludes Barbican and Golden Lane members from voting on housing matters. As we understand it, this was introduced to soften a more draconian prohibition that existed at the time under the legislation that preceded the Localism Act 2011. The Localism Act 2011 should have made this section redundant, but repealing it seems to have been overlooked. Thus a more receptive response from your committee would be to undertake to seek to repeal that section. It is redundant legislation and uniquely affects City residents – and does constitute disenfranchisement compared with the rest of the country. An undertaking from your committee that it would explore how to get section 618 repealed would go some way toward restoring the confidence your committee has lost among residential voters.

6- Process

We would like the City to adopt a much less elaborate policy and process in relation to granting dispensations to residential councillors to speak and vote on matters in which they may have a pecuniary interest.

*** The first email, sent in May in response to my original letter, which it was agreed I should send, at the May meeting of the Standards Committee, suggested I meet with the two Chairs. I responded saying I thought meetings with residents were best held after we'd reviewed the policy's first six months, but that all feedback was welcome. At that stage I could not know which other petitioners might respond, or the nature of the views they might express. I had sight of no further emails till the one sent to all members of the Standards Committee on 9 August. As you will all be aware, there was criticism of my not having met with the Chairs and you will also be aware that, at this point, I was away on holiday for the rest of the month. As I indicated in my reply, I think the Chairs had made their points very clearly and trust the summary here accurately reflects their comments and concerns.**