

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Dispensations Sub-Committee **Date:** Wednesday, 2 July 2008

Place: Committee Room 2, Civic Offices, **Time:** 5.00 - 6.00 pm
High Street, Epping

Members Present: Ms M Marshall, G Weltch and Mrs D Borton

Other Councillors:

Apologies:

Officers Present: C O'Boyle (Monitoring Officer), I Willett (Deputy Monitoring Officer) and G Lunnun (Allegations Determination Manager)

1. CHAIRMAN OF THE MEETING

The nomination of Ms M Marshall as Chairman of the meeting having been formally moved and seconded, it was:

RESOLVED:

That Ms M Marshall be elected Chairman of the meeting.

2. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

3. CODE OF CONDUCT - APPLICATIONS FOR DISPENSATION - WALTHAM ABBEY TOWN COUNCIL

The Deputy Monitoring Officer reported that the Waltham Abbey Town Council comprised 11 members. There were currently 10 serving members and there was 1 vacancy. In accordance with electoral law, when a casual vacancy occurred on a local council, the procedure required that a notice be posted indicating that the vacancy had occurred. In response to that notice, 10 local authority electors for the area could request an election be held. Once an election had been requested, the timetable then required that a bye-election be held within the statutory period. The Sub-Committee noted that an initial notice had been posted in Waltham Abbey on 3 January 2008 but no request for an election had been received.

The Deputy Monitoring Officer reported that after the period for requesting a bye-election had passed, the only option available to the Town Council had been to co-opt a person to fulfil the role of councillor. The co-option applied for the balance of the term of office concerned which in this case was May 2011.

The Sub-Committee noted that the Town Council had invited residents to apply for co-option to fill the vacancy and this had resulted in the receipt of five applications. As a result it would be necessary to make a selection at a special meeting of the

Town Council. Letters have been received from all 10 serving members of the Town Council seeking dispensations in respect of a commonly-held prejudicial interest. The prejudicial interest arose because one of the applicants for co-option had disclosed a political affiliation to a national political party and as a result all members of the Town Council felt that they had a prejudicial interest either as a result of being members of another political party or in the same political party as that of the applicant. In normal circumstances the declaration of a prejudicial interest would require those members to leave the Council Chamber and not participate in the meeting until the matter had been resolved. However, the quorum for Town Council meetings was two-thirds, namely 7 Councillors and this could not be achieved. Hence the applications for dispensation.

The Deputy Monitoring Officer advised that a dispensation could be granted 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 exceeded 50% of those members that were entitled or required to participate; or

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

The Deputy Monitoring Officer also reported that only the Dispensations Sub-Committee following authorisation from the Standards Committee could grant dispensations and that it did so at its discretion. In considering applications for dispensation it needed to balance the public interest in preventing members with a prejudicial interest from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority.

The Committee considered the applications for dispensation and additional information supplied by 5 members of the Town Council. The Sub-Committee noted that some of the additional information provided revealed that some of the other applicants were affiliated to a political party.

The Sub-Committee took account of the fact that co-option to a Parish or Town Council was a regular occurrence in order to fill a casual vacancy but did not normally attract so many applicants. The Sub-Committee expressed surprise that a bye-election had not been requested in view of the response to the request for applicants for co-option. In coming to their decision the Sub-Committee took account of the fact that many decisions were taken by local authorities about people known to be affiliated to a particular political party. Whilst considering each application individually on the information provided, the Sub-Committee determined that the decision of the Town Council should be taken by a reasonably representative group of members of the authority.

RESOLVED:

(1) That the applications submitted by Town Councillors Mrs P Brooks, A Clark, J Collier, Mrs R Gadsby, A James, S Pryde, W Pryor, Mrs S Stavrou, A Watts and Mrs E Webster be agreed;

- (2) That the duration of the dispensations be for a period expiring 31 August 2008;
- (3) That the decisions on these applications do not set a precedent for any future similar applications;
- (4) That the Town Council be advised that in the event of any future casual vacancy on the Town Council, the election of a member following a bye-election is considered to a better and more transparent way of filling the vacancy; and
- (5) That the Town Council be requested to report back on how they proceeded following notification of the granting of the dispensations, when they held their meeting to co-opt a member and details of the outcome of that meeting.

CHAIRMAN