

## **What happened at the Dispensations Subcommittee meeting 3 July 2019**

*[account provided by Graeme Harrower]*

This sub-committee considered test dispensation requests made by four resident councillors from three wards.

### **What was the test?**

On 7 June, Mark Bostock, a resident councillor for Cripplegate ward, made a dispensation request to the Standards Committee. The text of his email is set out in the document pack for the sub-committee meeting today. The terms of the general dispensation he was seeking reflected what City residents had called for in their petition two months ago. His request was therefore a perfect test of the current dispensations policy.

Three other resident councillors subsequently submitted dispensation requests in terms similar to Mark's, reinforcing this test of the policy.

### **How was the test failed?**

The Dispensations Sub-Committee refused to grant any of the general dispensations sought.

At the beginning of the meeting, the City Solicitor advised the sub-committee that "policy is a relevant matter, but you can depart from it". The sub-committee, though, showed no inclination to depart from the current dispensations policy.

Most of that policy goes far beyond what the law requires, and can be justified only on the basis that it "maintains public confidence in our decision making". When the petition was presented two months ago, however, it was clear that the policy had the opposite effect, as Mark pointed out in his email (below). The petition contained a declaration of no confidence in the current standards regime, and indicated what dispensations policy would maintain public confidence. That indication was reflected in the four test dispensation requests.

The sub-committee refused these requests because they did not comply with a policy that had been shown to be fundamentally flawed two months earlier. That is as logical as it would have been for the owner of the Titanic to have taken bookings two months after the ship had sunk.

A member of the public sitting next to me observed at the end of the meeting that the sub-committee had not addressed most of the points made in the requests for general dispensations. Members of the sub-committee referred to these requests as having "no parameters" and being for a "blank cheque", but that was plainly not so. None of the four councillors sought a dispensation for a matter that affected them uniquely or more than any of their constituents, but this fundamental point was not discussed by the sub-committee at all.

The chair of the sub-committee remarked twice that representing constituents was not a "sufficient" reason for a councillor to be granted a dispensation. That does not seem to accord with the statutory ground for a dispensation being granted "in the interest of persons living in the authority's area".

Another member was concerned about granting a general dispensation because that would involve a judgment being made by an individual councillor, and not by the Dispensation Sub-Committee. On this point I refer to the final paragraph of Mark's email (below).

### **What should happen next?**

The chair of the Standards Committee has refused to take any action in response to the petition until the scheduled meeting of that committee on 4 October, for two reasons:

- (a) to allow time for the current dispensations policy to be "tested"; and
- (b) to receive a report from officers at that meeting.

Regarding (a), the policy was tested even before it formally took effect on 1 March, and failed. The refusal to grant a dispensation to a resident councillor to vote on a planning matter concerning three trees owned by a local authority was ridiculed by several councillors at the relevant Planning Committee meeting. The policy was today comprehensively tested against what the public want, as expressed in the petition, and failed comprehensively. There is no point in repeating the pattern of test and failure over the next three months.

Regarding (b), what is relevant to the dispensations policy is public confidence, not officers' confidence. In any case, the dispensations policy is - in the words of the City Solicitor - "a political issue to be determined by members within the legal framework" [which is permissive for the sake of democracy]. So there is no point in waiting three months for an officers' report.

The obvious next step is one that should have been taken two months ago, namely, for the Standards Committee to meet and address the residents' demands for "immediate and fundamental reform".

### **How was the Dispensations Sub-Committee composed?**

A Dispensations Sub-Committee is convened to consider requests for dispensations, and is composed of:

- three of the twelve elected members of the Standards Committee; and
- one of the (currently) three co-opted (i.e. unelected) members of that committee.

The Dispensations Sub-Committee that was convened for the purposes of today's meeting included two elected members, Caroline Addy and Jeremy Simons, and one co-opted member, Judith Barnes, who did not attend. All three had sat on the Standards Committee when the current dispensations policy was developed. They were part of a committee that saw nothing wrong with denying resident councillors the right even to speak on matters which affected their constituents and in which they might have a declared interest. The committee was compelled by the Court to change this aspect of the policy last December, but the rest of the policy remained largely in place, based on a misperception of "public confidence".

The third elected member of the Dispensations Sub-Committee was Mary Durcan, a resident councillor for Cripplegate ward, who joined the Standards Committee after the current dispensations policy had been introduced. At the Cripplegate ward mote in March, when the petition was signed by all her constituents present, she signed it herself. At the meeting of the Dispensations Sub-Committee today, however, she voted

to refuse the general dispensation requests, although they reflected precisely what the petition called for.

### **Why was the Dispensations Sub-Committee so composed?**

Three of the new members of the Standards Committee who have consistently supported standards reform - Randall Anderson, Barbara Newman and Henry Colthurst - were deemed not to be eligible to be members of the Dispensations Sub-Committee that met today, because:

(a) the terms of reference of the sub-committee (approved last October) exclude from its membership any member of the Standards Committee who sits on a committee that will consider matters to which the dispensation request relates; and

(b) they sit on the Planning Committee.

The rule in (a) goes beyond both law and reason. Why should a member of the Standards Committee be excluded from membership of the Dispensations Sub-Committee merely because he or she happens to sit on another committee, and the dispensation request happens to relate to a matter that will be considered by that other committee?

This rule operates mainly against resident members of the Standards Committee, because dispensation requests are invariably made by resident councillors, and resident councillors tend to sit on committees - like Community and Children's Services and Barbican Residential - that are particularly relevant to their constituents. It is another example of anti-resident bias in the current standards regime.

Even if one accepts that this rule should be followed until it is abolished, it was not followed in this case. The three members mentioned do sit on the Planning Committee, but the dispensation requests were of a general nature, and not just for planning matters. The requests covered matters considered by any committee, including the Community and Children's Services Committee and the Barbican Residential Committee. Mary Durcan sits on both of them, so if the rule had been followed, she too would have been excluded from membership of the Dispensations Sub-Committee. So also would its other two elected members, because they both sit on the Port Health and Environmental Services Committee, which regularly considers matters of particular relevance to residents (like noisy construction work on Saturdays, and air quality).

A standards regime that has flawed dispensation rules which are followed selectively is in obvious need of "immediate and fundamental reform", to quote the petition.