

Wolverhampton City Council

**OPEN DECISION ITEM**

**STANDARDS COMMITTEE**

Date **8 SEPTEMBER 2011**

Originating Service Group(s)

**DELIVERY**

Contact Officer(s)/

**S KEMBREY / F DAVIS**

Telephone Number(s)

**4910 / 4932**

Title

**REQUEST FOR DISPENSATION – EQUAL PAY**

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**RECOMMENDATION**

Standards Committee is recommended to consider the request for a dispensation for Members with a prejudicial interest in Single Status/Equal Pay matters, detailed in this report, to participate in Council business relating to Single Status/Equal Pay.

## **REQUEST FOR DISPENSATION – EQUAL PAY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To consider whether a dispensation for Members with a prejudicial interest in Single Status/Equal Pay matters, should be granted, to allow Members to participate in Council business dealing with Single Status/Equal Pay.

### **2.0 BACKGROUND TO REPORT**

- 2.1 The Code of Conduct for Members which is contained at Part 5 of the Council's Constitution, contains provisions relating to the declaration of Member interests at meetings and the effect of such declarations. Under the code, interests can be either Personal or Prejudicial.
- 2.2 Personal interests are defined in paragraph 8 of the Code and prejudicial interests are defined in paragraph 10.
- 2.3 A personal interest includes an interest, in any business of the Authority, which relates to, or, is likely, to affect any body, of which a Member, is a Member or in a position of general control or management, and bodies to which a Member is appointed or nominated by the Authority. It includes any body exercising functions of a public nature; directed to charitable purposes; or is one of whose principal purposes includes the influence of public opinion or policy (including any political party or trades union), of which the Member, is a Member, or in a position of general control or management; any employment or business carried on by a Member; and any person or body who employs or has appointed a Member. Members who are governors of schools will have a personal interest under these provisions, in that, as a governor they are in a position of general control or management of school governing bodies.
- 2.4 Under paragraph 8(2) of the Code a personal interest arises, not only when it affects the Member, but also, a family member or any person with whom the Member has a close association; any person or body who employs or has appointed such persons, any firm in which they are a partner; or any company of which they are directors.
- 2.5 The effect of a personal interest is contained in paragraph 9 of the code, which prescribes that once the interest is declared, the Member can still take part in meetings dealing with matters to which the interest relates.
- 2.6 A prejudicial interest arises under paragraph 10 of the code, when a Member has a personal interest in any business of the authority and that interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant, that it is likely to prejudice the Member's judgement of the public interest.
- 2.7 A prejudicial interest does not arise where the business, does not affect the Member's financial position or the financial position of a person or body described in paragraph 8 of the code by the bodies and persons listed in paragraphs 2.3 and 2.4 of this report.
- 2.8 Under paragraph 10(2)(ii) of the Code a prejudicial interest will, also not arise, in a matter dealing with school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or a parent governor of a school, unless it relates particularly to the school which the child attends.

- 2.9 The effect of a prejudicial interest on participation at meetings is contained in paragraph 12 of the code, which prescribes that if a prejudicial interest exists, the Member must declare the interest and take no part in the decision.
- 3.0 **SINGLE STATUS/EQUAL PAY**
- 3.1 The Council is currently working towards the implementation of Single Status and the implementation of a new pay and grading model for employees of the council, which includes some employees based in schools. The new pay and grading model will address historic pay inequalities. Further to previous pay inequalities the Council is also defending a class action of equal pay claims in the Employment Tribunal and potential equal pay claims from former employees in the High Court.
- 3.2 As far as the equal pay Employment Tribunal claims are concerned, a hearing in the Birmingham Employment Tribunal is listed to commence on 1 November 2011 for 25 days. As far as the potential High Court claims are concerned, a hearing is listed for 7 October 2011 involving Birmingham City Council. This hearing represents a milestone for considering whether or not to defend or settle claims. Decisions on whether to settle or defend claims will be required, in relation, to both classes of claim in the run up to the two judicial hearings. Decisions with regard to Single Status will be necessary, in advance of implementation.
- 3.3 Under the council's Constitution the implementation of single status is delegated to the Cabinet. Formulation of the budget is a function of Council as part of its budget considerations. It will be necessary to seek Council approval to the allocation of funds to address the financial implications of implementing new pay grades under single status and of responding to equal pay claims. The Cabinet and Council will, in particular, be considering equal pay matters at their meetings on 12 and 21 September, respectively.
- 3.4 All political groups have been requested to inform the Monitoring Officer of Member interests which are likely to be raised in relation to single status/equal pay matters with a view to managing the decision making process, if 50% or more Members will be declaring an interest which may be prejudicial.
- 3.5 Single Status affects a large number of council employees and school staff. The main groups excluded are teachers, youth workers, craft workers and those on Soulbury grades. It will impact on a person's financial position, with some posts potentially being subject to a detriment financially and others being subject to a benefit. A prejudicial interest is likely, therefore, to arise for any Members who are employed by the Council or schools or who have family and/or close associates employed by the authority or schools.
- 3.6 The implementation of new pay scales and responding to equal pay claims will have financial implications for both the Council and for schools proportionate to the numbers of staff employed and the number of equal pay claims. On this basis, individual schools will be affected by Single Status and equal pay, and therefore Members who are school governors will ostensibly have a prejudicial interest in Single Status/Equal Pay matters.
- 3.7 The potential interests of Members in Single Status and equal pay are still being collated and will be circulated at the meeting.
- 3.8 Councillor Johnson who has a personal interest due to his employment, has stated he will be declaring a prejudicial interest in Single Status/Equal Pay matters, notwithstanding any dispensation which may be granted.

## **Request for a Dispensation**

- 3.8 Under Regulation 3 of the relevant authority's (Standards Committee) (Dispensations) Regulations 2002 a dispensation can be obtained from the Standards Committee when at least 50% of those entitled to participate are prevented from doing so by a prejudicial interest.
- 3.9 Dispensations are not granted as a matter of course. The Standards Committee must be satisfied, in the light of all the circumstances of the case, that it is appropriate to grant the dispensation.
- 3.10 Dispensations must be obtained by written application made to the Standards Committee. The power to grant a dispensation cannot be delegated either to individual members of the Standards Committee or to officers.
- 4.0 Regulation 3(2)(a) effectively allows the Standards Committee to grant a dispensation for a period of up to four years. The Standards Committee needs to be satisfied that the criteria for granting a dispensation would be met for the whole period. The Standards Board for England considers that such circumstances will be rare.
- 4.1 A dispensation does not excuse a Member from the need to declare an interest. Standards for England also advises that a Member should publically declare that they are relying on a dispensation. This should be declared at the same time as a Member states the existence and nature of their interest at the meeting in question.
- 4.2 The Standards Committee is asked to consider the request for a dispensation and consider the interests of Members which will be available at the meeting and grant dispensations to the Members involved, on the basis, that although particular schools and the financial position of Members and/or their families/close associates are affected, the effect is so widespread i.e. affecting all schools and employees of the council and school support staff that the dispensation should be granted.
- 4.3 On the basis a dispensation is granted, it is recommended the dispensation be granted for twelve months initially.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 The legal implications are stated throughout this report.  
[FD/01092011/E]

## **6.0 FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications arising from this report.  
[PM/01092011/V]

## **7.0 EQUAL OPPORTUNITIES IMPLICATIONS**

- 7.1. The implementation of single status and the defence/settlement of equal pay claims support the implementation of pay and regarding across the authority and schools in accordance with the Equal Pay Act 1970/Equality Act 2010.

## **8.0 ENVIRONMENTAL IMPLICATIONS**

- 8.1 There are no direct environmental implications arising from this Report.

9.0 **SCHEDULE OF BACKGROUND PAPERS**

9.1 File Ref: GP29/11 held in Legal Services.

No other background papers.