

Can you bestow an Honorary Freedom posthumously?

(Short answer – No)

Whilst I'm not a lawyer my understanding is as follows:

Section 249(5) of the LGA72* provides power to enable a relevant council to hold a specially convened meeting at which a resolution may be passed by not less than two thirds of the members voting at that meeting to:

“ admit to be honorary freemen of the city, borough or royal borough persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the city etc...”

The interpretation of the section hangs on the definition of the word “persons”. The meaning of “person” was considered in the case of *R v Newham London Borough Council. Ex p Dada* [1995]. Glidewell LJ stated that it was necessary to interpret the relevant section according to the normal rules of construction, looking first at the ordinary and natural meaning of the word, and secondly interpreting it within the context of the statute. The normal and natural meaning of “person”, is “a person who is alive at the time (that the offer is made)”

The context of section 249(5) is about admitting someone to enjoy the privilege of having the honorary freedom of a city etc. in recognition of their services. Section 249(6) allows the council to spend a reasonable sum “for the purpose of presenting an address or a casket containing an address to a person admitted to be an honorary freeman of the city etc.”

Accordingly if the word “person” is ordinarily taken to mean someone who is alive and put it into the context of sub-sections (5) and (6) of section 249, it seems reasonable to conclude that the intention of the section was to convey the honour and address upon a living person. If Parliament had intended for this civic honour to be capable of posthumous grant, it would have provided for this expressly. In view of this, it is unlikely a Court would imply such a wider power within the context of the provisions.

As I say, I'm not a lawyer and I would be interested if anyone has anything that either updates this advice or refutes it.

*This has been amended to allow more councils the privilege of creating Honorary Freedoms