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DISPENSATION POLICY

1. INTRODUCTION

This policy sets out the general guidelines about the circumstances in which a dispensation will be granted which includes the requirement to use the appropriate form.

2. PRELIMINARY

The Localism Act 2011, section 31(4) states if a member of a parish council is aware that they have a Disclosable Pecuniary Interest (DPI) in a matter being considered at a meeting, they are barred from participating in any discussion or voting on it unless they have obtained a dispensation.. Without a dispensation, a member's participation in the discussion or voting on a matter in which they have a DPI is a criminal offence under s.34 of the 2011 Act. No criminal offence is committed by a member who participates in a discussion or votes at a meeting on the question of whether or not to grant them a dispensation which relieves them of the restrictions which apply to the matter in which they hold a DPI (s.33(4)).

Under ss. 31(2) and (3), if a member is aware of a DPI in a matter under consideration at a meeting but such interest is not already on the authority's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member must disclose the DPI to the meeting and register it within 28 days of the meeting at which the relevant business is considered. Failure to disclose or register the DPI is a criminal offence under s.34. A member with a sensitive interest that has not already been notified to the monitoring officer must simply confirm at the meeting that they have a DPI, rather than giving details of that interest (s.32(3)).

S.31(10) provides that a relevant authority's standing orders may require a member with a DPI in a matter being considered at a meeting to withdraw from the meeting room while any discussion or vote on it takes place. The parish council has adopted such standing orders.

Should the member with a DPI fail to withdraw from a meeting as required by the council's standing orders, the council may consider sanctioning the member with a DPI for not leaving the meeting room and vote to exclude the member from the meeting.

3. TYPES OF DISPENSATIONS

The Council may grant one of the following dispensations to a member:

- Partial dispensation – allow member to make a representation before leaving the meeting before the council debate and vote
- Full dispensation – take part in the debate and vote

4. RELEVANT PERIOD

Dispensations (under S33 of the Act) can be given for an item, meeting or period of up to 4 years (term of office).

5. DELEGATED AUTHORITY

If a member has a disclosable pecuniary interest in a matter, they may, before the meeting apply in writing to the Clerk as the Council's Proper Officer for a dispensation. This policy under s101(1) of the 1972 Act delegates authority for this to be determined by the Clerk, in consultation with the Chair of the Council (or Vice-Chair if the Chair is applying for the dispensation) so that a decision can be made before a meeting. Under this form of delegation, the decision is the Clerk's, but he/she must take into account the views of the Chair or the Vice-Chair, if applicable.

It is recommended that a member's request for a dispensation, ideally should be submitted on the adopted form, includes the following information:

- a) the name of the applicant;
- b) the description (e.g. DPI or other) and the nature of the interest;
- c) whether the dispensation is for the member to participate in a
- d) discussion only or a discussion and a vote.
- e) the date of the meeting or the period (not exceeding four years) for
- f) which the dispensation is sought and
- g) an explanation as to why the dispensation is sought

6. GROUNDS

Under s33 (2) of the Localism Act 2011, a relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority:

- a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business or
- b) considers that granting the dispensation is in the interests of persons living in the authority's area or
- c) it is otherwise appropriate to grant a dispensation.

7. CRIMINAL OFFENCES

it is a criminal offence for a member to participate and vote at a meeting on a matter in which they are deemed to have a DPI.

If a member is unsure if they hold a DPI in a matter being considered at a meeting and they want to participate in a discussion and vote on the matter, the safest course of action would be for them to seek a dispensation. A dispensation will ensure that the member is not at risk of prosecution.

Under s.34, a failure to register a DPI within 28 days of election or co-option (or re-election or re-appointment), or the deliberate or reckless provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which the member has a DPI will be criminal offences, potentially carrying a Scale 5 fine of £5000 and/or disqualification for up to five years. Prosecution is at the instigation of the Director of Public Prosecutions.