

Part 6 Appendix 7:

Procedure for dealing with dispensation requests:

Introduction

1. Section 33 of the Localism Act 2011, in force on 1 July 2012, permits a council to grant a dispensation to a Councillor to allow him/her to participate in a discussion or vote on a matter in which he/she has a disclosable pecuniary interest.
2. The Council has also adopted the Code of Conduct which has extended the granting of a dispensation to a Councillor to allow him/her to participate in a discussion or vote on a matter in which he/she has another registerable interest and/or non-registerable interest.

Purpose and effect of a dispensation

3. A dispensation allows a Councillor to take part in council business when they have a disclosable pecuniary interest.
4. 3. Section 31(4) of the Localism Act 2011 states that a dispensation may allow a Councillor to:
 - a. participate, or participate further, in any discussion of the matter at the meeting(s) and/or
 - b. participate in any vote, or further vote, taken on the matter at the meeting(s).
5. If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is taking place and if the dispensation allows, they may also vote.

Who can grant a dispensation?

6. The Monitoring Officer as the proper officer would take on responsibility for granting dispensations.

Circumstances in which the Monitoring Officer can grant a dispensation

7. The following are the circumstances in which the Monitoring Officer can grant a dispensation:
 - a. That so many members of the decision making body have disclosable pecuniary interests in a matter that it would "impede the transaction of the business".
 - b. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter;

- c. That the authority considers the dispensation is in the interests of persons living in the authority's area;
- d. That, without the dispensation, no member of the Cabinet would be able to participate on this matter; or
- e. That the authority considers that it is otherwise appropriate to grant a dispensation.

Process for applying for a dispensation

- 8. A Councillor must submit a written request using the dispensation request form, to request a dispensation to the Monitoring.
- 9. The dispensation request form must be sent to the Monitoring Officer 5 days prior to the meeting at which the dispensation is required, setting out the Councillors reasons for applying for a dispensation.
- 10. Only the Councillor can submit the request, they should not ask somebody else to do it on their behalf.

Procedures for granting a dispensation

- 11. The Monitoring Officer will consider a request.

Period of the dispensation

- 12. A dispensation, when granted, must specify the period for which it has effect, and the period specified may not exceed four years and may not extend beyond the Councillor's term of office. It will often be appropriate for a dispensation to expire with the Councillor's current term of office.

Issues to consider before deciding to grant a dispensation

- 13. In reaching a decision on whether to grant a dispensation the Monitoring Officer will take into account:
 - a. The nature of the Councillor's pecuniary interest, other registerable interest and non-registerable interest;
 - b. The need to maintain public confidence in the conduct of the council's business;
 - c. The possible outcome of the proposed vote;
 - d. The need for efficient and effective conduct of the council's business;
 - e. Any other relevant circumstances.

- 14. The following are some examples that should be considered before deciding to grant a dispensation.

Is the nature of the Councillor's interest such that allowing them to participate would damage public confidence in the conduct of the council's business?

- 15. For instance, it is unlikely that it would be appropriate to grant a dispensation to a councillor who has a disclosable pecuniary interest arising as a result of an effect on their personal financial position, for example through their employment.

16. The adverse public perception of the personal benefit to the councillor would probably outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially true where a council has well established processes for members on committees to be substituted by members from the same political party.

Is the participation of the Councillor in the business that the interest relates to justified by the member's particular role or expertise?

18. For instance, a Councillor might have a contract with the authority and have particular expertise that the council would benefit from in making its decision.

19. Therefore it may be appropriate for that Councillor to address the decision-making body before leaving the room whilst the debate and voting take place. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

After the decision has been made

20. The Monitoring Officer will retain a copy of the decision with the Councillor's register of interests.