



Littlehampton Town Council

Councillor Code of Conduct – Dispensation Scheme

1. Introduction

This policy outlines the arrangements for councillors seeking dispensations from prohibitions on participation and the process by which decisions are made on such applications. The statutory basis for the rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4). The aim of the policy is to ensure transparency and fairness in council.

The Town Council may, on a written request made to the Town Clerk by a member or co-opted member of the Council grant a dispensation (a) relieving the member or co-opted member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation and/or (b) relieving the member or co-opted member from the restrictions in Appendix 2, Section 4 of the Councillor Code of Conduct in cases described in the dispensation..

Dispensations may only be granted by the authority's Governance and Audit Committee on a written request from a member to the Town Clerk.

2. Legal Criteria

2.1. If a member or co-opted member of the Town Council

- (a) is present at a meeting of the Council, or of any committee, sub-committee, joint committee of the Council
- (b) has a disclosable pecuniary interest and/or a prejudicial interest in any matter to be considered, or being considered at the meeting, and
- (c) is aware that the condition in point (b) is met; the member or co-opted member may not participate in the matter.

2.2. These rules apply

2.2.1 to either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a member or co-opted member has a disclosable pecuniary interest and

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2.2.2 to prohibitions from participation concerning a matter in which a member or co-opted member has a prejudicial interest.

- Section 31(4) of the Localism Act 2011 provides in relation to disclosable pecuniary Interests:

“(4) The member or co-opted member may not -

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting but this is subject to section 33”

- Appendix 2, Section 4 of the Councillor Code of Conduct provides in relation to prejudicial interests:

4.1. *Where you have a personal interest in any business of the authority, you also have a prejudicial interest in that business where the 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 your judgement of the public interest (unless the matter falls within one of the exempt categories referred to at paragraph 9) and where that business:*

4.1.1 *affects your financial position or the financial position of a person or body defined as a ‘relevant person’; or*

4.1.2 *relates to the determining of any approval, consent licence, permission or registration in relation to you or any person or body defined as a ‘relevant person’.*

4.2 *Where you have a prejudicial interest:*

4.2.1 *you must make a verbal declaration of the existence and nature of any such interest at any meeting at which you are present when an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item or as soon as the interest becomes apparent.*

4.2.2 *you must not:*

(i) *participate, or participate further, in any discussion of the matter at the meeting;*

(ii) *remain in the meeting whilst the matter is being debated;*

(iii) *participate in any vote taken on the matter at the meeting;*

unless you have obtained a dispensation from the Governance and Audit Committee

4.3 The only exception is that you may attend a meeting for the purpose of making representations, answering questions or giving evidence relating to the business being considered, provided that the public are also allowed to attend the meeting for the same purpose, whether under statutory right or otherwise. You must leave the meeting immediately after making the representations, answering questions or giving questions.

4.4 Where, as a Mayor, Deputy Mayor, Committee Chair or Vice-Chair, you may discharge a function, and you become aware of a prejudicial interest in a matter being dealt with you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

2.3. A dispensation can only be granted if after having had regard to all relevant circumstances the authority:

2.3.1. considers that without the dispensation the number of persons prohibited by section 31(4) from participation 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

2.3.2. considers that without the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or

2.3.3. considers that granting the dispensation is in the interests of persons living in the authority's area, or

2.3.4. considers that it is otherwise appropriate to grant a dispensation.

3. Maximum period

A dispensation will specify the period for which it has effect and the period specified may not last for more than 4 years from the date of the giving of the dispensation.

4. How to apply for a dispensation

If a member of the Council wishes to seek dispensation to enable them to participate in the consideration of a matter from which they would be excluded

by the provisions of section 31(4) of the Localism Act 2011 or the Code, they should complete the dispensation request form (Appendix 1) and return it to the Town Clerk explaining why it is desirable for a dispensation to be granted. At least fourteen days' notice must be given before the dispensation is required to enable the convening of a meeting of the Governance and Audit Committee, together with all necessary consultations to be undertaken.

5. Records

The authority will record the existence, duration and nature of any dispensation and the record is to be kept with the register of members' interests and a copy provided to the principal authority's monitoring officer and published on the Littlehampton Town Council website.

6. The Governance and Audit Committee's consideration of an application for dispensation

The following is a summary of what might be regarded as good practice in considering an application for a dispensation:

- 6.1 Dispensations should be granted only in exceptional circumstances.
- 6.2 Dispensations cannot be granted other than in the circumstances set out in the Localism Act 2011 Section 33(2) set out in paragraph 4.3 above.
- 6.3 A dispensation cannot authorise a member to act unlawfully.
- 6.4 Any dispensation that has already been granted will be ignored when applying the legal criteria in paragraph 4.
- 6.5 The interest of the member seeking the dispensation will be balanced against the potential effect of the outcome of the vote if the member is unable to participate.
- 6.6 A dispensation may be granted to enable a member to speak only or to speak and vote.
- 6.7 A dispensation should not be granted where the dispensation would conflict with the general principles which underlie the Councillor Code of Conduct:
 - 6.7.1 Selflessness— Holders of public office should act solely in terms of the public interest.
 - 6.7.2 Integrity— Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence

them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

- 6.7.3 Objectivity— Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias..
 - 6.7.4 Accountability— Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - 6.7.5 Openness—Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - 6.7.6 Honesty – Holders of public office should be truthful.
 - 6.7.7 Leadership – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 6.8 A dispensation should not be granted where the nature of the member’s interest would damage public confidence in the conduct of the authority’s business were the dispensation to be granted.
- 6.9 If a dispensation is granted it should usually be for one specific item of business at one meeting of the authority.
- 6.10 Consideration must take account of any legal requirement or statutory guidance issued by the Department for Communities and Local Government.
- 6.11 Section 31(4) of the Localism Act 2011 does not apply in relation to anything done for the purposes of deciding whether to grant a dispensation under this section.

7 Help

Further assistance can be obtained from the Town Clerk (email: lrc@littlehampton-tc.gov.uk).

Appendix 1

Dispensation Request Template

Your name	
The business for which you require a dispensation (refer to agenda item number if known)	
Details of your interest in that business (continue on a separate sheet if necessary)	
Date of meeting or time period (up to four years*) for which you are seeking a dispensation	
<p>Tick one of the following</p> <p><input type="checkbox"/> I require a dispensation to participate, or participate further, in any discussion of the business, or</p> <p><input type="checkbox"/> I require a dispensation to participate, or participate further, in any discussion of the business and to vote, or further vote on that business</p>	
<p>Reason(s) for requiring a dispensation</p> <p>Tick one or more of the following boxes relating to paragraphs from S.33 of the Localism Act 2011:</p> <p><input type="checkbox"/> 33a) without the dispensation the number of persons unable to participate in the transaction of business would be so great as to impede the transaction of the business;</p> <p><input type="checkbox"/> 33b) without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote;</p> <p><input type="checkbox"/> 33c) the dispensation is in the interests of persons living in the authority's area;</p> <p><input type="checkbox"/> 33d) that, without the dispensation, no member of the committee would be able to participate on the matter;</p> <p><input type="checkbox"/> 33e) that it is otherwise appropriate to grant a dispensation. Reason:</p>	
Signature	
Date	

*A dispensation cannot extend beyond your current term of office.