

Newborough and Borough Fen Dispensation Policy

The introduction of the Localism Act 2011 changed the procedure for dealing with dispensations.

Section 27(6)(d) of the Localism Act 2011 defines a Parish Council as a 'relevant authority'. As such Parish Councils have a responsibility for determining requests for dispensations made by their own elected or co-opted Councillors.

This policy sets out: The effect of disclosable pecuniary and non-pecuniary interests on participation; The purpose and effect of dispensations; The consideration of dispensation requests; The procedure for requesting a dispensation; Terms of dispensations; Notification and disclosure of decision.

The effect of disclosable pecuniary and non-pecuniary interests on participation

A Councillor may not participate in any discussion of, or vote on, any matter in which they have a disclosable pecuniary interest (DPI) as specified by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Councillors declare such disclosable pecuniary interests as set out in the adopted Councillors Code of Conduct (section 9) and the statutory register of DPIs is held by Peterborough City Council.

If a Councillor participates in a meeting or votes on a matter in which they have a disclosable pecuniary interest and have not been granted a dispensation, they will be committing a criminal offence under Section 34 Localism Act 2011. A person found guilty of such a criminal offence can be fined up to £5,000 and disqualified from holding office as a Councillor for up to five years.

The Council has adopted a Code of Conduct which prevents a Councillor from speaking or voting on matters where they have a particular interest which is other than a disclosable pecuniary interest, such as a non-pecuniary interest. The same restrictions would apply regarding discussion and voting, and a dispensation would be required to enable a Councillor with an interest to participate. Without a dispensation, a Councillor who participates in a meeting or votes on a matter in which they have such an interest would be in breach of the Code of Conduct.

The purpose and effect of dispensations

Section 33 of the Localism Act allows a relevant authority (the Council) to grant a dispensation to allow a Councillor to participate in the business of the authority even where that Councillor has a disclosable pecuniary interest; for example, to allow the Council to decide to send a response on a matter even if a formal decision on the Council's position could not be made at that time.

A dispensation may be granted by the Council which would allow a Councillor to: a. participate, or participate further, in any discussion of the matter; and/or b. participate in any vote, or further vote, taken on the matter.

A dispensation would also be required where the Council has placed specific restrictions in respect of participation and voting on additional disclosable pecuniary and non-pecuniary interests over and above those within the Code of Conduct.

Where the Council's standing orders also require a Councillor to leave the room, such as on planning matters, the dispensation may also allow the Councillor to remain in the room where the meeting considering the business is being held.

Consideration of dispensation requests The Council can only grant dispensations by a decision of the proper officer (as per section 13 of Council Standing orders).

Dispensation may be granted to a Councillor who has a disclosable pecuniary (or nonpecuniary) interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter if it is considered that –

- a. without the dispensation so great a proportion of the Council would be prohibited from participating in that business as to impede the Council's transaction of that business (i.e. the meeting would be inquorate),
- b. without the dispensation the representation of different political groups on the Council (if these exist) would be so upset as to alter the likely outcome of any particular vote,
- c. the granting of the dispensation is in the interests of people living in the Council's or authority's area, or
- d. it is otherwise appropriate to grant a dispensation.

The procedure for requesting a dispensation.

Any Councillor who wishes to apply for a dispensation must do so in writing. A template Dispensation Request Form is attached to this policy at Appendix A.

Guidance is attached as Appendix B.

The written request must be made to the Proper Officer of the Council (the Clerk) as soon as possible before the meeting at which the dispensation is required (at least 5 clear days).

Dispensation applications should be discouraged from being made at the Council meeting at which the business itself is to be discussed unless the nature of the interest only become apparent to the Councillor at that meeting. In any event, unless the Council has a standing item on its agenda to consider dispensation requests then it will not be possible to consider a dispensation application at the meeting at which the need for it has been identified.

Terms of dispensations

Dispensations may be granted: - for one or more meetings of the council, or for a period not exceeding four years. - in either case, the dispensation must specify the period for which it has effect. - dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates. –

The Clerk will notify the Councillor as soon as possible of the decision taken.

Any Councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

ADOPTED: 9th May 2024

Date of Review: As required.

**Newborough and Borough Fen Parish Council
PARISH COUNCIL DISPENSATION REQUEST FORM**

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying 'Dispensations Guidance'. If you need any help completing this form, please contact the parish clerk.

Your name	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought.	
Dispensation requested to participate, or participate further, in any discussion of that business by that body.	Yes/No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes/No
Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)	

Signed: _____ Dated: _____

Please give your completed form to the parish clerk. You will receive written notification within 5 working days of the decision.

DISPENSATIONS PROCEDURE GUIDE FOR PARISH COUNCILS



1. Introduction

Parish Councils are responsible for determining requests for a dispensation by a parish councillor to speak or vote on a matter in which they have a disclosable pecuniary interest (DPI).

2. Purpose and effect of Dispensations

Councillors may be granted a dispensation to take part in Council business where this would otherwise be prohibited because they have a DPI. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Please note: If a parish councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and does not have a dispensation, they may be committing a criminal offence under s34 Localism Act 2011.

3. Who can grant a dispensation?

The Parish Council can either delegate the authority to grant dispensations to the parish clerk or reserve such decisions for the full parish council. If the parish council decides to delegate this role to the parish clerk then it will need to make a formal resolution to this effect, on the lines of:

“RESOLVE that the Council delegates the power to grant dispensations to the Clerk. The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2). ”

4. **Process for making requests**

Any Councillor who wishes to apply for a dispensation should complete a Dispensation Request form and submit it to the proper officer of the parish council (ie. the parish clerk) as soon as possible before the meeting.

If the parish council thinks it appropriate, applications may be made at the parish council meeting itself (if parish councils have a standing item on the agenda to deal with dispensation requests) and the nature of the interest has only become apparent to a councillor at the meeting itself.

Suggested wording for a new standing agenda item on declaration of interests and dispensations is as follows:

Declarations of interest and dispensations

2.1 To receive declarations of interest from councillors on items on the agenda

2.2 To receive written requests for dispensations for disclosable pecuniary interests (if

any)

2.3 To grant any requests for dispensation as appropriate.

A request for dispensation must be made on an individual basis.

5. The parish clerk or the parish council may grant a dispensation to either
 - Speak and/or
 - Vote

6. The clerk or the parish council must consider that a dispensation is justified on one of the following grounds:

- (a) so many members of the decision-making body have disclosable pecuniary interests that it would impede the transaction of the business (ie. the meeting would be inquorate); or
 - (b) the authority considers that 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. The parish clerk or parish council should formally notify the Councillor of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

8. Criteria for Determination of Requests

In reaching a decision on a request for a dispensation the parish council or the parish clerk (as appropriate) should take into account:

- (a) the nature of the Councillor's 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.

9. Terms of Dispensations

Dispensations may be granted:

- (a) for one meeting; or
- (b) for a period not exceeding 4 years.

10. **Disclosure of Decision**

In the interests of openness and transparency the parish council may amend standing orders to ensure that any Councillor who has been granted a dispensation should declare the nature and existence of the dispensation before the commencement of any business to which it relates.