

Dispensation Policy

Purpose of Report

1. This report asks the Standards Committee to approve an updated version of the Dispensations Policy relating to Member Interests.

Background

2. The Council may grant dispensations under S.33(2) of the Localism Act 2011, to enable Members to take part in business for which they would otherwise be prohibited under the Code of Conduct or by law.
3. The Standards Committee has responsibility for granting dispensations to elected and Co-Opted Members as set out in Paragraph 2.5.7 of Part 3B of the Constitution.
4. At its meeting on 18 October 2022 Full Council adopted a revised Code of Conduct and Guidance. This provided additional categories of disclosable interests, which would necessitate some updates to the Dispensations Policy.

Main Considerations

5. Under present arrangements any requests for a dispensation relating to an interest must be determined by a Dispensation Sub-Committee.
6. Prior to adoption of the revised Code of Conduct, dispensations could only have been requested for Disclosable Pecuniary Interests (DPI), where involvement without a dispensation would be a criminal offence.
7. The new Code defines other categories of interest, namely Other Registerable Interests (ORI) and Non-Registerable Interests (NRI). The Local Government Association advises that a similar process as that provided by S.33 should be applied in respect of these categories of lesser interests. The Policy therefore specified that it applies to all three categories.
8. ORIs includes membership of a city, town or parish council. In the case of Area Boards, all or nearly all Members of some Boards would therefore have such an interest to declare. However, the Code also requires Members to leave the room for final debate and voting for all three categories of interest. Without a dispensation, this would result in many meetings being inquorate.
9. To convene a Dispensation Sub-Committee requires at least 5 clear working days. Given the number of dispensations that may be required or considered reasonable and appropriate, it is proposed that the Dispensations Policy allow instead for the Monitoring Officer to approve requests for ORIs, NRIs, and urgent DPis. This would require

amendment to the current constitution, which is proposed in a separate report also to be taken to this meeting.

10. The remainder of the Policy sets out timescales by which Members are advised or mandated to submit their requests, the reasons by which a dispensation may be granted, considerations to be taken by a Sub-Committee or the Monitoring Officer when determining a request, and the scope of any determination which may be granted.

11. The Policy is included at **Appendix A**.

Overview and Scrutiny Engagement

12. Not applicable.

Safeguarding Implications

13. There are no safeguarding implications.

Public Health Implications

14. There are no public health implications.

Procurement Implications

15. There are no procurement implications at present.

Equalities Impact of the Proposal

16. There are no equalities implications.

Environmental and Climate Change Considerations

17. There are no environmental or climate change implications.

Risks that may arise if the proposed decision is not taken

18. The policy would be out of date and lead to confusion.

Risks that may arise if the proposed decision is taken

19. No risks have been identified.

Finance Implications

20. There are no financial implications arising from this report.

Legal Implications

21. There are no legal implications.

Workforce Implications

22. There are no workforce implications.

Conclusion

23. The proposed revisions update the policy in accordance with recent decisions of council and provide clear guidance on how dispensations should be considered and determined.

Proposal

24. To approve the revised Dispensation Policy as set out in **Appendix A**.

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11 April 2023

Appendices

Appendix A – Dispensation Policy

Background Papers

None

Wiltshire Council Dispensation Policy

Introduction

1. The Standards Committee is responsible for determining requests for dispensation by Members of Wiltshire Council under Section 33(2) of the Localism Act 2011.
2. This note explains:
 - the purpose and effect of dispensations;
 - the procedure for requesting dispensations;
 - the criteria which the Standards Committee apply in determining dispensation requests;

Dispensations

3. In certain circumstances Members may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited under the Code of Conduct or by law.
4. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct.
5. Members may request a dispensation relating to Disclosable Pecuniary Interests, Other Registerable Interests, and Non-Registerable Interests, as defined in Part 12 of the Constitution – Members' Code of Conduct.
6. Under Para 2.5.7 of Part 3B of the Constitution the Standards Committee is responsible for granting dispensations.
7. Under Para 2.5.17 of Part 3B a Dispensation Sub-Committee will determine requests for dispensation relating to Disclosable Pecuniary Interests.
8. Under Paras 2.5.18-2.5.19 of Part 3B the Monitoring Officer has authority to determine requests for dispensation relating to Other Registerable Interests, Non-Registerable Interests, and urgent requests for Disclosable Pecuniary Interests.
9. The Monitoring Officer and any Dispensation Sub-Committee will determine requests for dispensation in accordance with this procedure, which has been approved by the Standards Committee.

Process for Making Requests

10. Any Member who wishes to apply for a dispensation must complete the attached form at Appendix A and submit it for attention of the Monitoring Officer.
11. In order to avoid delay Members must ensure that they give full details of the grounds for their request and are advised to submit it for attention of the Monitoring Officer as soon as they become aware that a dispensation is necessary.
12. For a Disclosable Pecuniary Interest this should be submitted at least 15 clear working

days before the meeting for which the dispensation is required. For other types of interest it is requested that Members submit any request as soon as practical in advance of a meeting, where possible at least 10 clear working days in advance and not later than 3 clear working days in advance. However, the Monitoring Officer may determine urgent requests relating to Other Registerable Interests and Non-Registerable Interests relating to a matter that cannot reasonably be delayed or appropriately determined by another method.

13. The Monitoring Officer will arrange a meeting of the Dispensation Sub-Committee to consider requests relating to Disclosable Pecuniary Interests at the earliest opportunity.
14. In accordance with Para 2.5.19 of Part 3B, in the event a Disclosable Pecuniary Interest dispensation request from a Member is received where there is insufficient time to convene a Dispensations Sub-Committee, and in relation to a matter which is urgent and cannot reasonably be delayed or appropriately determined by another method, the Monitoring Officer will have authority to determine the request.
15. A request for dispensation must be made on an individual basis. Group applications are not permitted.
16. Meetings of the Dispensation Sub-Committee will normally be open to the public, except in the case of a sensitive interest, and any member who has submitted a request will have the opportunity to attend and make representations in support of their application.

Criteria for Determination of Requests

17. In accordance with S33 of the Localism Act 2011 the Dispensation Sub-Committee or Monitoring Officer may grant a dispensation where they:
 - a) considers that without the dispensation the number of persons prohibited 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;
 - b) considers that without the dispensation 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;
 - c) considers that granting the dispensation is in the interests of persons living in the authority's area;
 - d) considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive; or,
 - e) considers that it is otherwise appropriate to grant a dispensation.
18. In reaching a decision on a dispensation request the Dispensation Sub-Committee or Monitoring Officer will consider each request on its own merits and take into account:
 - a) the nature of the member's interest;

- b) the need to maintain public confidence in the conduct of the Council's business:
- c) the need for efficient and effective conduct of the Council's business;
- d) any other relevant circumstances.

Terms of Dispensation

19. The Dispensation Sub-Committee or Monitoring Officer may grant a dispensation:

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

20. Dispensations may be granted to allow the Member:

- a) to participate in discussion of the matter to which the interest relates;
- b) to participate in the vote on the matter to which the interest relates.

21. If a dispensation is granted the Member may remain in the room during consideration of the matter to which the interest relates.

Notification of Decision

22. The Monitoring Officer will notify the Member of their or the Sub-Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the meeting.

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

24. A copy of the dispensation will be retained by the council with the Register of Members' Interests and made publicly available.

Request for a Dispensation

Please complete the following details and give as much information as possible.

- 1. Please summarise the matter to which your interest relates:**

- 2. What is the nature of your interest?**

- 3. For which meeting(s) or period are you seeking a dispensation?**

- 4. Please set out in detail the reason(s) why you consider you should be granted a dispensation.**

Name	Date

When completed this form should be sent for attention of the Monitoring Officer at committee@wiltshire.gov.uk