

Dear Councillor

Re: Application for Dispensations

I have received your request for a dispensation to speak and vote on matters before Anytown Parish Council relating to the Anytown Allotments, and to PCC matters.

The situation regarding your interest differs in these two matters, so I will go through each in turn and set out the position regarding the nature of your interests, their effect on your ability to participate in parish council meetings where these matters are to be discussed and the consequences for the granting of dispensations.

The Allotments

I will first address the position regarding the allotments.

You are not, as I understand it, an allotment holder, but a trustee of the Anytown Allotments.

You have a personal interest in any matters coming before the Parish Council relating to the allotments by virtue of that trusteeship. However, the existence of a personal interest does not prevent you from either speaking or voting on matters relating to the allotments. You need only declare the existence of the personal interest at any meeting where the business is discussed.

You do not, therefore, require a dispensation for conducting the general business of the allotments when it comes before the parish council.

However, you do have a prejudicial interest where those matters relate to the financial affairs of the allotment trust. Notwithstanding the fact that you personally would not be affected, the prejudicial interest arises because the financial position of a body over which you are in a position of management or control would be affected, and the Code of Conduct is clear that this would constitute a prejudicial interest.

It would be appropriate for the Standards Committee to consider whether they would wish to grant you a dispensation to speak and vote on those matters relating to the financial position of the allotments. In the meantime, there is no need for a dispensation for you to speak and vote more generally on matters relating to the allotments.

The PCC

I turn now to the question of a dispensation for you to speak and vote at the parish council on matters relating to the PCC.

You have sent in a separate dispensation request asking for a dispensation allowing you to speak and vote on matters relating to the PCC. The situation regarding whether or not you may be granted a dispensation to speak and vote on PCC matters that come before the parish council is different from that arising from your position as a trustee of the allotments. I cannot put your dispensation application regarding the PCC matters forward to the Standards Dispensation Sub-Committee for consideration because your circumstances do not meet the criteria that would permit them to grant a dispensation.

The first criterion they must consider is whether 50% or more of the parish council members are prevented from speaking and voting on a matter because they have a personal and prejudicial interest in the agenda item. There are 7 members of Anytown Parish Council and only 3 of them are members of the PCC. This means that this criterion is not met, and the PCC members of the Parish Council cannot be granted a dispensation. The first criterion for granting a dispensation has not been met.

The effect of this is that you must consider whether you have a personal and prejudicial interest in agenda items relating to the PCC. The fact that you are a PCC member means that you have a personal interest in PCC matters that come before the parish council. If your interest is only a personal interest you must declare that interest, but may remain in the meeting and speak and vote on the matter. Most PCC matters that come before the parish council are unlikely to affect the PCC's financial position, and a reasonable member of the public in possession of all the facts would probably not conclude that you would be unable to take a proper view of the public interest when voting. That means that most of the time you could, if you wished, declare the existence of the personal interest but stay in the meeting, participate in the debate and vote.

However, if the matter before the parish council would affect the PCC's financial position your interest in the matter becomes prejudicial. An example would be where the PCC applies to the parish council for a grant. The Code of Conduct is very clear on this point. The test is not only whether your own financial position would be affected by a parish council's decision, but whether the financial position of any body of which you are in a position of control or management would be affected. The effect of this prejudicial interest is that you may not remain in the meeting, speak or vote on any matter before the parish council that relates to the financial situation of the PCC.

I will write to you when the Assessments Sub-Committee has determined your application to let you know the outcome. If, in the meantime, you have any questions or require any clarification on the nature of your interests and how these may affect your ability to speak and/or vote on parish council business, please do not hesitate to contact me.

Yours sincerely

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