

South Oxfordshire and Vale of White Horse District Councils: procedure for dealing with dispensation requests

Introduction

1. S.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.

Purpose and effect of a dispensation

2. A dispensation allows a councillor to take part in council business when they have a disclosable pecuniary interest.
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).
4. 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?

5. In July 2012 Council agreed to designate the Monitoring Officer as the proper officer for receipt of requests for dispensations and that the Audit and Corporate Governance Committee (South)/ Audit and Governance Committee (Vale) would take on responsibility for granting dispensations.

Circumstances in which the committee can grant a dispensation

6. The following are the circumstances in which the committee 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

7. A councillor should submit a written request for a dispensation to the Monitoring Officer as soon as possible before the meeting at which they require the dispensation allowing time to convene a Dispensation Panel to meet to consider the request.
8. A councillor should explain their reasons for applying for a dispensation. The attached form is designed for this purpose.
9. Only the councillor can submit the request – they should not ask somebody else to do it on their behalf.

Procedures for granting a dispensation

10. The Monitoring Officer will convene a panel of three members of the committee (a Dispensation Panel) to consider a request.
11. Whilst legislation does not prevent a councillor from taking part in considering their own request for a dispensation, the Monitoring Officer will aim to convene a panel so that a councillor does not consider their own request.
12. These procedures are subject to the Access to Information Procedure Rules in the council's Constitution.

Period of the dispensation

13. 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

14. In reaching a decision on whether to grant a dispensation the committee will take into account:
 - a. The nature of the councillor's pecuniary 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.
15. 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?

16. 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.
17. 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 clerk to the Dispensation Panel will record the panel's decision in the minutes of the panel meeting. The Monitoring Officer will retain a copy of the decision with the councillor's register of interests.

Dispensation request form

You should give full details below in support of your application for a dispensation. If you need help completing the form please contact democratic services.

| | |
|--|--|
| Your name | |
| The business for which you require a dispensation (refer to agenda item number if known) | |
| Details of your interest in that business <i>(continue on a separate sheet if necessary)</i> | |
| Date of meeting or time period (up to four years ¹) 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 in any vote, or further vote, taken 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:</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 Cabinet would be able to participate on the matter;</p> <p><input type="checkbox"/> 33e) that it is otherwise appropriate to grant a dispensation.</p> <p>Reason:</p> | |

Signed: _____ Date: _____

1. A dispensation cannot extend beyond the your term of office



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