

# DRAYCOTT AND CHURCH WILNE PARISH COUNCIL DISPENSATION POLICY

## Introduction

### Pecuniary Interests in Matters Considered at Meetings

Section 31 of the Localism Act 2011 sets out what a member must do if he or she has (and is aware that he or she has) a disclosable pecuniary interest<sup>1</sup> in a matter which is to be considered or is being considered at a meeting at which the member is present. Section 31 applies, to elected councillors and to councillors who have been co-opted onto the full council. But section 31 also applies to the very few co-opted members of committees who are not councillors but who are allowed (by law) to vote on certain committee decisions.<sup>2</sup>

Section 31 says that, if a member<sup>3</sup> is present at a meeting of the authority, or at a meeting of any committee, sub-committee, joint committee or joint sub-committee of the authority, and is aware that he or she has a disclosable pecuniary interest in any matter to be considered or being considered at the meeting and that interest is not in the register of members' interests, he or she must disclose that interest to the meeting

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<sup>1</sup> A pecuniary interest will be a "disclosable pecuniary interest" if:

- it of a description specified in regulations (ie one specified in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464); and
- it is an interest of:

**either**

- the member or co-opted member;

**or**

- the member's or co-opted member's spouse or civil partner; or
- a person with whom the member or co-opted member is living as husband and wife; or
- a person with whom the member or co-opted member is living as if they were civil partners;

and the member or co-opted member is aware that that other person has the interest. (Section 30(3))

<sup>2</sup> Section 27(4) says that in this context a "co-opted member" means:

"a person who is not a member of the relevant authority but who

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

<sup>3</sup>Or a co-opted member - i.e. a councillor or a voting committee co-optee

(or, in the case of a sensitive interest, disclose the fact of there being a disclosable pecuniary interest, but not details of the interest itself).<sup>4</sup>

If the interest is not the subject of a pending notification, the member must also notify the monitoring officer of the interest before the end of twenty eight days beginning with the date of disclosure.<sup>5</sup> The monitoring officer must ensure that the interest so notified is entered in the council's register (whether or not the interest is a disclosable pecuniary interest).

The section then goes on to state that the member may not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting, unless a dispensation has been granted<sup>6</sup>, and standing orders may provide for the exclusion of a member while any such discussion or vote on a matter takes place.<sup>7</sup>

### Dispensations

So, in what circumstances may a dispensation be granted to a member<sup>8</sup> to remove from that member the prohibition on taking part in a discussion and or a vote on a matter in which he or she has a disclosable pecuniary interest?

Section 33 says that the Council may grant a dispensation relieving the member from either or both of the restrictions in section 31(4) in cases described in the dispensation. But, it may only do so in response to a written request made to the proper officer of the authority by the member concerned.<sup>9</sup>

Draycott and Church Wilne Parish Council may grant a dispensation under section 33 only if, after having had regard to all relevant circumstances, the authority considers that<sup>10</sup>:

- without the dispensation, the number of members or co-opted members 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; or
- 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; or

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<sup>4</sup> Section 31(1), (2), section 32(3)

<sup>5</sup> Section 31(3)

<sup>6</sup> Section 31(4), section 33

<sup>7</sup> Section 31(10)

<sup>8</sup> Or to a voting co-opted member (see Footnotes 2 and 3 above)

<sup>9</sup> Section 33(1)

<sup>10</sup> Section 33(2)

- granting the dispensation is in the interests of persons living in the authority's area; or
- it is otherwise appropriate to grant a dispensation.

A dispensation granted under section 33 must specify the period for which it has effect, and that period may not exceed four years.<sup>11</sup>

Finally, section 33(4) says that the restriction in section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under section 33. So,

- a member may request a dispensation (by putting his or her request in writing to the clerk) and
- a council may discuss and vote on the issue of whether that member should be granted a dispensation in relation to a particular matter in which that member has a disclosable pecuniary interest; and
- the member can take part in that decision-making process.

### Process for making requests

Any Councillor who wishes to apply for a dispensation must complete a Dispensation Request form and submit it to the proper officer of the Parish Council (i.e. the Parish Clerk) as soon as possible *before* the meeting which the dispensation is required. Applications may also be made at the meeting itself (if the Council has 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.

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

### Consideration by the Parish Council

The Parish Council can either delegate to the Parish Clerk the authority to grant dispensations or reserve such decisions for the full Council. If the Council decides to delegate this role to the 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). "

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<sup>11</sup> Section 33(3)

The Clerk or the Council may grant a dispensation to a councillor who has a Disclosable Pecuniary Interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter if they consider that:

- (a) so many members of the decision-making body have disclosable pecuniary interests that it would impede the transaction of the business (i.e. 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.

The Council may wish to extend the provisions of the above paragraphs to apply in the same way in the case of a "non-disclosable pecuniary interest" or an "other interest", as defined in the Code of Conduct, but this is at the discretion of the Council.

The Clerk or 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.

### Criteria for Determination of Requests

In reaching a decision on a request for a dispensation the Council or the Clerk (as appropriate) will take into account:

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

### Terms of Dispensations

Dispensations may be granted:

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

### Disclosure of Decision

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.

A copy of the dispensation will be kept with the Register of Councillors' Interests.