



CLAPHAM PARISH COUNCIL DISPENSATIONS PROCEDURE/POLICY

BACKGROUND

Under the Localism Act 2011 (“the Act”), a Councillor (Member or Co-opted Member) who has a Disclosable Pecuniary Interest in a matter that is under consideration, may not participate in the consideration of that matter unless they have first obtained a dispensation from the ‘relevant authority’.

Parish Councils are defined as a ‘relevant authority’ under the Act, and are responsible for determining requests for a dispensation by a Parish Councillor under Section 33.

PURPOSE AND EFFECT OF DISPENSATIONS

In certain circumstances Councillors may be granted a dispensation that enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest.

Clapham Parish Council may extend the provisions of the above paragraph to apply in the same way in the case of other types of interest, as set out in its Code of Conduct, at its discretion.

The procedure adopted by Clapham Parish Council may therefore also be applied to personal/prejudicial interests as confirmed by reference to Arun District Council’s Monitoring Officer, November 1st 2022.

Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

S31(4) of the Act states that dispensations allows the Councillor:

- a. to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- b. to participate in any vote, or further vote, taken on the matter at the meeting(s).

N.B. If a Parish Councillor participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under Section 34 of the Localism Act 2011.

PROCEDURE FOR MAKING REQUESTS

Any Councillor who wishes to apply for a dispensation must, if possible, submit a written request to the Parish Clerk at least two working days before the meeting for which the dispensation is required.

If a dispensation requirement arises during a meeting, that will be dealt with by that meeting under the direction of the Clerk.



A dispensation may be granted 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 Council/Committee have Disclosable Pecuniary Interests that it would impede the transaction of the business (i.e. the meeting would be inquorate) (S33 (2) (a)); or
- b. the dispensation is in the interests of persons living in the authority's area (S33 (2) (c)); or
- c. it is otherwise appropriate to grant a dispensation (S33 (2) (e)).

CRITERIA FOR DETERMINATION OF REQUESTS

The following are examples of criteria that may be applied in determining a request for a dispensation:

- 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 need for efficient and effective conduct of the Council's business.
- d. The Councillor has a particular expertise or knowledge in the matter that may be useful to its consideration (e.g. a Councillor could be allowed to speak, but not vote).
- e. The interest is common to the Councillor(s) and a significant proportion of the general public.
- f. It is in the interest of persons living in the parish.
- g. Any other relevant considerations.

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 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). "

The parish clerk or the parish 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.



TERMS OF DISPENSATIONS

Dispensations may be granted:

- a. to participate in any discussion of the matter; and/or
- b. to participate in any vote on the matter.
- c. for one meeting, or
- d. for a limited 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 Council's Dispensation Register.

Dispensations granted for one meeting only to be recorded within the minutes of that meeting.

GENERAL DISPENSATIONS

The Council may wish to consider granting a general dispensation to all Councillors in situations where every Member is likely to have a Disclosable Pecuniary or Prejudicial Interest.

This policy was considered and adopted at the Parish Council's meeting on December 6th 2022 (Minute 65 (i) refers) and will be reviewed annually or sooner should legislation dictate.

This policy/procedure is consistent with the Council's current Code of Conduct and Standing Orders (as amended for delegated responsibility to the Clerk, point 13 (e))