

# NORTH HORSHAM PARISH COUNCIL CODE OF MEMBERS' CONDUCT DISPENSATION SCHEME

*This Dispensation Scheme is adapted from the Horsham District Council Code of Members' Conduct Dispensation Scheme Constitution issue 39 July 2014 and is in line with Standing Order 13.*

## 1. Introduction

Parish Councils are responsible for determining requests for a dispensation by a Parish Councillor under Section 33 of the Localism Act 2011. This is because they are a "relevant authority" under section 27(6) (d) of the Act. Under Standing Order 13 this responsibility has been delegated to the Parish Clerk.

In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

## 2. Applicability

The following arrangements for seeking dispensations from prohibitions on participation apply from 1<sup>st</sup> July 2012. The statutory basis for the Rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4).

A Member or co-opted Member of the Parish Council can make a written request to the proper officer of the Parish Council who has delegated authority to grant dispensation:-

- (a) relieving the Member or co-opted Member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation and/or
- (b) relieving the Member or co-opted Member from the restrictions in Section 9 of the Code of Conduct in cases described in the dispensation.

## 3. Existing dispensations

All dispensations granted before 1<sup>st</sup> July 2012 have ceased to apply.

## 4. New rules

The old rules for seeking dispensation under the Local Government Act 2000 are now replaced. In future, dispensations may only be granted by the Authority's Proper Officer, acting on a written request from a Member.

## 5. Legal Criteria

- 5.1** If a Member or co-opted Member of the Authority (a) is present at a meeting of the Authority, or of any Committee, sub-Committee, joint Committee of the Authority (b) has a Disclosable Pecuniary Interest or Other Registrable Interest in any matter to be considered, or being considered at the meeting, and (c) is aware that the condition in paragraph (b) is met the Member or co-opted Member may not participate in the matter.

**5.2** These rules apply:

**5.2.1** To either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a Member or co-opted Member has a disclosable interest ; and

**5.2.2** to prohibitions from participation concerning a matter in which a Member or co-opted Member has an Other Registrable Interest. Section 31(4) of the Localism Act 2011 provided in relation to Disclosable Pecuniary Interests –

“(4) The Member or co-opted Member may not -

- (a) participate or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting but this is a subject to section 33”

Paragraph 5 of Appendix B of the Code of Member’s Conduct provides in relation to Other Registrable Interests:

1) Where you have an Other Registrable Interest in any business of your Authority -

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence; (ii) in any other case, when it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your Authority.”

**5.3.** A dispensation can only be granted if after having had regard to all relevant circumstances the Proper Officer:-

**5.3.1** Considers that without the dispensation the number of persons prohibited by section 31(4) from participation 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

**5.3.2** Considers that granting the dispensation is in the interest of persons living in the Authority’s area, or

**5.3.3** Considers that it is otherwise appropriate to grant a dispensation.

**6. Maximum period**

A dispensation will specify the period for which it has effect and the period specified may not last for more than four years from the date of the giving of the dispensation.

**7. How to apply for a dispensation**

If a Member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the provisions of section 31(4) of the Localism Act 2011 or the Code, he or she should write to or email the Clerk a request for a dispensation explaining why it is desirable for a dispensation to be granted as soon as possible before the

meeting, or failing that, at the start of the meeting for which the dispensation is required.

## **8. Records**

The Proper Officer will formally notify the Councillor of their decision and reasons in writing at the earliest opportunity and in any event within five working days of the decision. The Proper Officer will keep a formal record with the Register of Members' interests and provide a copy to the District Council's Monitoring Officer.

## **9. Consideration of an application for dispensation**

The following is a summary of what might be regarded as good practice in considering and application for a dispensation:-

**9.1** Dispensations should be granted only in exceptional circumstances.

**9.2** Dispensations cannot be granted other than in the circumstances set out in the Localism Act 2011 section 33(2) set out in paragraph 4.3 above

**9.3** A dispensation cannot authorise a Member to act unlawfully.

**9.4** Any dispensation that has already been granted will be ignored when applying the legal criteria in paragraph 4.

**9.5** The interest of the Member seeking the dispensation will be balanced against the potential effect of the outcome of the vote if the Member is unable to participate.

**9.6** A dispensation may be granted to enable a Member to speak only or to speak and vote.

**9.7** A dispensation should not be granted when the dispensation would conflict with the general principles which underlie the Code of Members' Conduct :-

**9.7.1** Selflessness - Holders of public office should act solely in terms of the public interest.

**9.7.2** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try to inappropriately influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**9.7.3** Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**9.7.4** Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- 9.7.5** Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
- 9.7.6** Honesty - Holders of public office should be truthful.
- 9.7.7** Leadership - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 9.8** Dispensation should not be granted where the nature of the Member's interest would damage public confidence in the conduct of the Authority's business were the dispensation to be granted.
- 9.9** If a dispensation is granted it should usually be for one specific item of business at one meeting of the Authority.
- 9.10** Consideration must take account of any legal requirement or statutory guidance issued by Department for Communities and Local Government.
- 9.11** Section 31(4) of the Localism Act 2011 does not apply in relation to anything done for the purposes of deciding whether to grant a dispensation under this section.

## **10. 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.

## **11. Help**

Further assistance can be obtained from the Parish Clerk.

### **Adoption/ Review**

Adopted July 2012

Reviewed January 2017

Reviewed May 2019

Reviewed July 2022

Reviewed May 2024

Next review May 2026 unless there are changes that necessitate bringing the review date forward.