



ST IVES TOWN COUNCIL

Dispensations Policy And Procedure

APRIL 2022

Policy / File Status

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Oversight Committee	Council	Review Date	May 2023

Version History

Date	Version	Author/Editor	Comments
April 2022	0.1 Draft	Town Clerk / St Ives Town Council	New Policy to standardise policy and procedure

Review Record

Date	Type of Review Conducted	Summary of Actions Taken or Decisions Made	Completed By

1. Introduction

Parish and Town Councils are responsible for determining requests for a dispensation under Section 33 of Localism Act 2011.

This is because they are a 'relevant authority' under section 27(6) (d) of the Act.

This policy and procedure explain:

- a) the purpose and effect of dispensations
- b) the procedure for requesting dispensations
- c) the criteria which are applied in determining dispensation requests
- d) the terms of dispensations

2. Purpose and Effect of Dispensations

In certain circumstances Councillors may be granted a dispensation which means they will be allowed to take part in Council business where this would otherwise be prohibited because they have a *Disclosable Pecuniary Interest*¹ Provided Councillors act within the terms of their dispensation, there is deemed to be no breach of the Code of Conduct or the law.

Section 31 (4) of the Localism Act states that dispensations may allow 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)

If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

Please Note: If a Town Councillor participates in a meeting where he/she has a *Disclosable Pecuniary Interest* and they do not have a dispensation, they may be committing a criminal offence under s34 Localism Act 2011

Disclosable Pecuniary Interests are dealt with under part 5A of the Cornwall code of conduct, and are therefore sometimes referred to as part 5A interests.

5B - Non-Registerable Interests

The legal requirements on dispensations only relate to *disclosable pecuniary interests*. However, there are other kinds of conflict of interest which can arise and are defined under the Cornwall Code of Conduct under part 5B as non-registerable interests. These are where a decision in relation to a matter being determined or to be determined:

- i) might reasonably be regarded as affecting the financial position or well being of you; a member of your family or any person with whom you have a close association; or any body or group which you are a member of more than it might affect the majority of council tax payers, rate payers or inhabitants in your

¹ These are specifically defined within the Cornwall Code of Conduct for Members but in broad terms include financial, legal or contractual interests, which they or their spouse/civil partner or person they are living with as a spouse are legally required to declare under the Code of Conduct for Members.

- electoral division or area; and
- ii) the interest is such that a reasonable person with knowledge of all the relevant facts would consider your interest so significant that it is likely to prejudice your judgement of the public interest. There are certain exceptions which are defined in the code (for example a number in relation to schools and education).

This type of interest, therefore may easily extend to voluntary or un-paid roles and to members of the Town Council who sit as Council representatives on outside bodies, charities, community groups etc. Councils may, at their discretion apply the same rules to both kinds of interest and it is best practice to do so. The Dispensations Policy of St Ives Town Council applies in the same way in the case of 'Non-disclosable Pecuniary Interest' or a 'Non-pecuniary Interest' as defined in the Cornwall Code of Conduct.

3. Process for Making Requests

Any Councillor who wishes to apply for a dispensation must complete a Dispensation Request Form, in full, and submit it to the proper officer of the Council (the Town Clerk) as soon as possible before the meeting where the dispensation is required. If the nature of the interest has only become apparent to a Councillor at the meeting itself, applications may also be made at the relevant Committee meeting itself (at the standing item on the agenda to deal with dispensation requests). Applications must be made on an individual basis.

Requests will be itemised on the meeting Agenda as follows:

Declarations of Interest

- i) To receive written requests for dispensations for disclosable pecuniary interests
- ii) To receive written requests for dispensations for non-registerable interests
- iii) To grant any requests for dispensation as appropriate

4. Consideration by the Town Council

A decision will be taken by majority vote at the relevant Committee meeting. During consideration of the request, The Councillor shall, if present, withdraw from the meeting. Where the request relates to the Committee Chairman, the Chairman shall declare that interest, hand over the chairmanship to the vice-chairman and withdraw from the meeting.

The Committee may grant a dispensation to a Councillor, who has a disclosable pecuniary interest or a non-registerable interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above) if they consider that:

- a) So many members of the decision making body have interests that it would impede the transaction of the business (i.e. the meeting would be inquorate)
- b) The Committee considers that the dispensation is in the interest of persons living in the parish of St Ives; or
- c) It is otherwise appropriate to grant a dispensation.

Although it is possible to grant a dispensation for up to a period, not exceeding 4 years, the policy of St Ives Town Council is to grant a request for one meeting

at a time. Any consideration of a longer term constitutes a variation to this policy and should be referred to full Council for final decision.

The Town Clerk will formally notify the Councillor of the Committee's decision, giving its reasons, in writing at the earliest opportunity and in any event within 5 working days of the decision.

5. Criteria for Determination of Requests

In reaching a decision on a request for a dispensation the Committee shall 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

The Committee shall determine both, whether to grant a dispensation to permit a Councillor to remain in the room and participate in the discussion, and also whether they can participate in the vote.

6. 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 Councillor's Interests

Agreed:

DISPENSATION REQUEST FORM

Please give full details of the following in support of your application for a dispensation. If you need any help completing this form, please contact the Town Clerk.

Your name		
The council / committee business/matter for which you require a dispensation (refer to agenda item number if appropriate)		
Details of your Disclosable Pecuniary Interest (5A) in that business/matter		
Details of your Non-registerable Interest (5B) in that business/matter		
Date of the meeting for which dispensation is sought (if known)		
Are you likely to request further dispensations to participate, in any discussion of that committee business/matter by that body		
Dispensation requested to participate in the discussion of that business / matter	Yes	No
Dispensation requested to participate in the discussion and in any vote(s) of that business / matter	Yes	No
REASON(S) FOR DISPENSATION 33a) without the dispensation the number of persons unable to participate in the transaction of Council business/matter would be so great as to impede the transaction of the council business/matter		
33b) without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote		
33c) the dispensation is in the interests of persons living in the authority's area		

33e) that it is otherwise appropriate to grant a dispensation
Reason :

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Signed:

Dated:

DECISION :

Dispensation Given : YES / NO

LENGTH OF DISPENSATION :

Date:

Minute Reference

Signed :

Clerk to the Council