

BARTON PARISH COUNCIL

DISPENSATION PROCEDURE AND REQUEST FORM

Adopted by a resolution of Barton Parish Council on 2nd July 2024

Introduction

S.33 of the Localism Act 2011, in force on 1 July 2012, permits a parish council to grant a dispensation to a councillor or co-opted councillor to allow him/her to participate in a discussion or vote on a matter in which he/she has a disclosable pecuniary interest. The following sets out some guidance from the National Association of Local Councils (NALC). Further guidance on dispensations is found in the NALC Legal Topic Note (LTN 80) *Members' Conduct & the Registration & Disclosure of their Interests*.

Purpose and effect of a dispensation

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

3. A parish council can reserve decisions to grant a dispensation for its full council or it can delegate authority to a committee or to its clerk. If the parish council decides to delegate the role to the clerk then it will need to make a formal resolution to this effect.

Circumstances in which a parish council can grant a dispensation

4. The following are the circumstances in which a dispensation can be granted:
 - a. 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;
 - b. without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote¹;
 - c. the dispensation is in the interests of persons living in the authority's area;
 - d. that it is otherwise appropriate to grant a dispensation.
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Process for applying for a dispensation

5. A councillor should submit a written request for any dispensation to the parish council's proper officer as soon as possible before the meeting at which they require the dispensation and explain their reasons for applying for a dispensation. The Dispensation Request Form appended at the Appendix is designed for this purpose. Only the councillor can submit the request – no one else can do it on their behalf.

Procedures for granting a dispensation

6. The process for making requests for dispensations, the criteria to apply and the process that the council will follow when a councillor submits a request should be clearly set out and understood by members of the council.
7. Where the full council or a committee has responsibility for considering/granting dispensations, a request for a dispensation can be considered/granted at the meeting at which the dispensation is required. A councillor requesting a dispensation is not prevented from participating in the consideration of their request at a meeting, although they may wish to think about the circumstances of the request and can absent themselves if they believe that such participation would damage public confidence in the conduct of the council's business.
8. In doing this, the parish council should keep in mind the requirement to **clearly** set out the nature of the business on the published agenda. Whilst having a standing item to consider dispensations on the agenda might be useful, this would not set out which councillor had requested the dispensation or their reasons for doing so.
9. The parish council should therefore encourage councillors to submit requests for dispensations well in advance of a meeting. If the agenda has already been published it would be better for the council to consider a councillor's request at its next meeting after the councillor has fully set out their reasons for the dispensation request and which would allow appropriate notice to be included on the agenda.

Period of the dispensation

10. A dispensation, when granted, must specify the period for which it covers which may not exceed 4 years. It will often be appropriate for a dispensation to expire with the member's current term of office.

Issues to consider before deciding to grant a dispensation

11. In deciding on whether to grant a dispensation the council or clerk should 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 the efficient and effective conduct of the council's business
 - e. Any other relevant circumstances
12. The following are some examples that should be considered before deciding to grant a dispensation.

13. **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?** 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. 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 but political substitution is unlikely to apply to the majority of parish councils.
14. **Is the participation of the councillor in the business that the interest relates to justified by the member's particular role or expertise?** 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. 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.

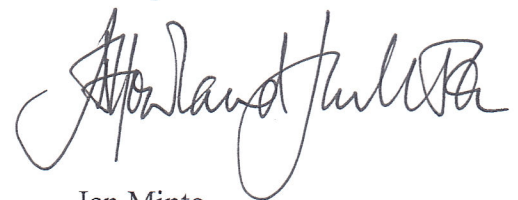
After the decision has been made

15. The decision must be recorded in writing and you should keep a record of the dispensation. If questions arise about a councillor's participation in the matter, confirmation of the dispensation is likely to be sought from the parish council.

approved and adopted by Barton Parish Council on

2nd July 2024

John Howland Jackson
Chairperson



Ian Minto
Clerk

