

# Borrowdale Parish Council

## Dispensation Procedure

### 1. Introduction

The Localism Act 2011 ('the Act'), allows for a Member of 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 he/she has first obtained a dispensation from the 'relevant authority'. A Parish Council is 'relevant authority' under the Act, and as such are now responsible for determining requests for a dispensation by a Member under S.33.

### 2. Purpose and Effect of Dispensations

In certain circumstances Councillors maybe 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. As long as Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Dispensations can allow the Councillor to participate in any:

- a) Discussion of the matter at the meeting(s) and/or
- b) 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.

\*\*If a Councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and he/she does not have a dispensation, he/she maybe be committing a criminal offence under S.34 of the Localism Act 2011.

### 3. Procedure for requesting dispensations

Any councillor who wishes to apply for a dispensation must complete a Dispensation Request Form and submit it to the Parish Clerk before the meeting for which the dispensation is required, giving the Clerk as much notice as possible.

### 4. Criteria for determining dispensation requests

Borrowdale Parish Council delegates authority to the Parish Clerk to determine requests for dispensations under the criteria a) below. Determination of requests under b) and c) are to be determined by the Full Council.

A dispensation maybe granted to a Councillor who has a Disclosable Pecuniary Interest to participate in any discussion of a matter at a meeting and/or to vote on the matter if it is considered that:

- a) So many Councillors have Disclosable Pecuniary Interests that it would otherwise impede the transaction of the business (i.e. the meeting would be inquorate), or
- b) The dispensation is in the interests of people living in Borrowdale Parish
- c) It is otherwise appropriate to grant a dispensation

If the Council's Code of Conduct prevents a Councillor from speaking/voting where they have an interest other than interest other than a Disclosable Pecuniary Interest, the Council will extend the provision of the above paragraph to apply in the same way to those interests.

The Parish Clerk should formally notify the Councillor of his/her decision and the reasons in writing at the earliest opportunity.

### 5. Factors in determining dispensation requests

The following are examples of factors that maybe appropriate in determining requests for dispensations, but it is not an exhaustive list:

- a) The nature of the Councillor's interests (trivial or remote);
- b) The need to maintain public confidence in the conduct of the Council's businesses;

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

## **6. Terms of dispensation**

Dispensation may be granted:

- a) For a limited period not exceeding 4 years
- b) For one meeting
- c) To participate in any discussion of the matter and/or
- d) To participate in any vote on the matter

## **7. Disclosure of the decision**

Any councillor who has been granted a dispensation by the Clerk must disclose the nature & 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.

## **8. General Dispensations**

The Council may grant a general dispensation to all Councillors in situations where every Member is likely to have a Disclosable Pecuniary Interest.

Date of policy: April 2020

Review: Annually, for the most recent review date please visit [www.borrowdale.org.uk](http://www.borrowdale.org.uk)