MIDDLETON STONEY PARISH COUNCIL

Dispensations Procedure

Under the Localism Act 2011("the Act"), a 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 he/she has first obtained a dispensation from the 'relevant authority'.

Previously dispensations were issued by the Standards Committee of the District Council, but as Parish Councils are defined as a 'relevant authority' under the Act, they are responsible for determining requests for a dispensation by a Parish Councillor under Section 33.

This guide explains -

- the purpose and effect of dispensations;
- the procedure for making requests;
- the criteria which are applied in determining dispensation requests;
- the terms of dispensations;
- disclosure of decision;
- general dispensations.

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.

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 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 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, complete and submit a Dispensation Form 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)).

Additionally, it is possible that the Parish Council would like to express support for any planning application made in its name, but that Councillors may feel that this is an item which under the old framework they would have declared a prejudicial interest. The Council therefore grants a dispensation for the period up to the next full Council elections in 2020 permitting any Member to speak and vote on any planning application where the promoter, applicant or landowner is Shipton-On-Cherwell & Thrupp Parish Council.

CRITERIA FOR DETERMINATION OF REQUESTS

The following are examples of criteria that may be appropriate in determining a request for a dispensation, but the Council will need to determine the factors they consider relevant:

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 and a significant proportion of the general public;
f. any other relevant considerations.

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.

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 Interest.