

St Austell Town Council



Dispensations Procedure

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1. Introduction

1.1 St Austell Town Council is responsible for determining requests for a dispensation by a Councillor under Section 33 of the Localism Act 2011. The Town Council is a 'relevant Authority' under Section 27 (6) (d) of the Act.

1.2 This Procedure explains the: -

- i) purpose and effect of dispensations;
- ii) procedure for requesting dispensations;
- iii) criteria which are applied in determining dispensation requests; and
- iv) terms of dispensations.

2. Purpose and Effect of Dispensations

2.1 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 or Non-registerable 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.

2.2 Section 31 (4) of the Localism Act 2011 states that dispensations may allow the Councillor: -

- i) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- ii) to participate in any vote, or further vote, taken on the matter at the meeting(s).

2.3 If a dispensation is granted, the Councillor may remain in the room when the business is being considered.

Please note: If a 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.

3. Procedure for Requesting Dispensations

3.1 Any Councillor who wishes to apply for a dispensation must complete a Dispensation Request Form (Appendix A) and submit it to the Town Clerk as soon as possible before the meeting at which the dispensation is required. Applications may also be made at a Committee or Full Council meeting.

3.2 There will be a standing item on the Full Council and Committee agendas to consider dispensation requests.

3.3 A request for dispensation will be made on an individual basis.

3.4 The Full Council or Committee may grant a dispensation to a Councillor who has a Disclosable Pecuniary Interest or Non-registerable 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:

- i) so many members of the decision-making body have a Disclosable Pecuniary Interest that it would impede the transaction of the business (i.e. the meeting would be inquorate);
- ii) the Council considers that the dispensation is in the interests of persons living in the parish; or
- iii) it is otherwise appropriate to grant a dispensation.

3.5 The Minute of the decision must include statutory reference and length of time.

3.6 The Councillor will receive confirmation of the Council's or Committee's decision in writing.

4. Criteria for Determination of Requests

4.1 In reaching a decision on a request for a dispensation the Council will take into account:

- i) the nature of the Councillor's interest
- ii) the need to maintain public confidence in the conduct of the Council's business
- iii) the possible outcome of a proposed vote
- iv) the need for efficient and effective conduct of the Council's business

v) any other relevant circumstances

5. Terms of Dispensations

5.1 Dispensations may be granted:

- i) for one meeting; or
- ii) an agreed period not exceeding four years

5.2 The Monitoring Officer shall be notified of dispensations awarded and a copy of the form filed with the Councillor's Register of Interests.

6. Disclosure of Dispensations

6.1A Councillor that has been granted a dispensation must declare the existence and nature of the dispensation before the commencement of any business to which it relates.

7. Requests for a Dispensation at Meetings which become Inquorate

7.1 In the event of the number of Members declaring an interest in an item during a Council/Committee meeting would result in the meeting becoming inquorate, the Town Clerk (or their representative) has delegated authority to grant a dispensation to as many Councillors as necessary to enable the business to be transacted.

7.2 The Town Clerk (or their representative) shall award a dispensation to the Councillor who, in their opinion, has the least interest and their decision shall be final. This process shall continue until the meeting is quorate.

8. Review

8.1 This Procedure will be reviewed regularly and amended as necessary to reflect best practice.

Appendix A

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 parish clerk.

Your name	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes / No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes / No
REASON(S) FOR DISPENSATION	
33 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	
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 Number:
Signed : Clerk to the Council	