Ansty & Staplefield Parish Council

DISPENSATIONS PROCEDURE GUIDE FOR ANSTY & STAPLEFIELD PARISH COUNCIL

1. Introduction

Parish Councils are now responsible for determining requests for a dispensation by a parish councillor under Section 33 of Localism Act 2011. This is because they are a "relevant authority" under section 27(6) (d) of the Act.

This guide explains:-

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 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.

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 parish councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and he/she does not have a dispensation, they may be committing a criminal offence under s34 Localism Act 2011.

3. Process for making requests

Any Councillor who wishes to apply for a dispensation must fully complete a Dispensation Request form and submit it to the proper officer of the parish council (i.e., the parish clerk) as soon as possible before the meeting which the dispensation is

required. Applications may also be made at the parish council meeting itself (if parish councils have a standing item on the agenda to deal with dispensation requests) and the nature of the interest has only become apparent to a councillor at the meeting itself.

Suggested wording for a new standing agenda item on declaration of interests and dispensations is as follows:

Declarations of interest and dispensations

1. To receive declarations of interest from councillors on items on the agenda
2. To receive written requests for dispensations for disclosable pecuniary interests (if any)
3. To grant any requests for dispensation as appropriate

A request for dispensation must be made on an individual basis.

4. Consideration by the Parish Council

The Parish Council can either delegate to the parish clerk the authority to grant dispensations or reserve such decisions for the full parish council. If the parish council decides to delegate this role to the parish clerk then it will need to make a formal resolution to this effect, on the lines of:

"RESOLVE that the Council delegates the power to grant dispensations to the Clerk. The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2)."

The parish clerk or the parish council may grant a dispensation 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 (as per para. 2 above) if they consider that:

a. so many members of the decision-making body have disclosable pecuniary interests that it would impede the transaction of the business (ie. the meeting would be inquorate); or
b. the authority considers that the dispensation is in the interests of persons living in the authority's area; or
c. it is otherwise appropriate to grant a dispensation.

The parish council may wish to extend the provisions of the above paragraph to apply in the same way in the case of a "non-disclosable pecuniary interest" or a "non-pecuniary interest", as defined in the Code of Conduct, but this is at the discretion of the council.

The terms of any dispensation shall be in accordance with paragraph 6.

The parish clerk or parish council should formally notify the Councillor of their decision and 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 parish council or the parish clerk (as appropriate) will 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.

6. Terms of Dispensations

Dispensations may be granted:

a. for one meeting; or
b. for a period not exceeding 4 years.

7. 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 Councillors' Interests.