

EAST RIDING AND NORTHERN LINCOLNSHIRE LOCAL COUNCILS ASSOCIATION

Following the adoption of the new codes of conduct in 2012, parish and town councillors may be granted a dispensation to participate in a discussion or vote on a matter in which they have a disclosable pecuniary interest or, where your council's code so stipulates, a prejudicial interest. A process is needed to enable councillors to lawfully make such an application and for the decision to be recorded. Previously Monitoring Officers have co-ordinated such activity but the legal advice ERNLLCA has received is that this is now a local responsibility for each member council.

The authority to grant dispensations now rests with the Clerk to the Council and a councillor who wishes to apply for a dispensation must do so, in writing, to the Clerk.

Councils should acknowledge this approach by including in their minutes a record that it is aware of the approach to be adopted.

A parish or town councillor may be granted a dispensation by the Clerk if, having had regard to all relevant circumstances, he or she considers that:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
- (b) without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote; or
- (c) granting the dispensation is in the interests of persons living in the Council's area;
or
- (d) without the dispensation each member of the Council's executive would be prohibited from participating in the business; or
- (e) it is otherwise appropriate to grant a dispensation.

Reasons (b) and (d) may have limited implications for parish and town councils.

A dispensation, when granted, must specify the period for which it has effect, and this may not exceed 4 years. Therefore ERNLLCA would recommend that dispensations are granted not to exceed the date of the parish council elections to be held in 2015 at which point they can be reviewed.

Councillors should be reminded that an application for dispensation cannot be made at a meeting, a written application must be submitted to the Clerk before the meeting. Each council or committee agenda should contain a standing item to enable applications for dispensations to be made public. The minutes should then record that information.

Where a councillor has a sensitive interest, and this has been agreed by the Monitoring Officer, an application for a dispensation could then bring that sensitive interest into the public domain. In such circumstances a councillor may wish to approach the Monitoring Officer for a legal opinion.

Councillors should bear in mind that they maintain an interest in the matter until such time as a dispensation is granted.

All applications should be received on a standard form and a suggested model is attached to this Advisory Note. Councillors should be aware that applications for dispensations are a matter of public record (sensitive interests probably withstanding).

Councillors should be reminded that they cannot exert, or attempt to exert, any influence over the Clerk as regards the granting of a dispensation.

Finally this Advisory Note reiterates that applications for a dispensation must be made in writing, and the council should have a specific form for this purpose, and that it is not possible to verbally seek a dispensation at a meeting.

Code of Conduct Dispensation Request

This form must be submitted to the Clerk by councillors who would like to apply for a dispensation to participate at any meeting of the Council, its Committees, or Sub-Committees, on any item in which they will declare an interest. This form must be presented to the Clerk before the meeting has commenced.

A dispensation may be granted if the Council considers that:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
- (b) without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote; or
- (c) granting the dispensation is in the interests of persons living in the Council's area; or
- (d) without the dispensation each Member of the Council's executive would be prohibited from participating in the business; or
- (e) it is otherwise appropriate to grant a dispensation.

Name of Member:

Meeting of:

On which date:

Agenda Item:

Reason for request:

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Signature of councillor applying for a dispensation

Date of application

