



BRINSWORTH PARISH COUNCIL DISPENSATION POLICY

1. Introduction

- 1.1 The introduction of the Localism Act 2011 changed the procedure for dealing with dispensations.
- 1.2 Section 27(6)(d) of the Localism Act 2011 defines a Parish Council as a 'relevant authority'. As such Parish Councils have a responsibility for determining requests for dispensations made by their own elected or co-opted Councillors.
- 1.3 This policy sets out:

The effect of disclosable pecuniary and non-pecuniary interests on participation;
The purpose and effect of dispensations;
The consideration of dispensation requests;
The procedure for requesting a dispensation;
Terms of dispensations;
Notification and disclosure of decision.

2. The effect of disclosable pecuniary and non-pecuniary interests on participation

- 2.1 A Councillor may not participate in any discussion of, or vote on, any matter in which they have a disclosable pecuniary interest (DPI) as specified by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Councillors declare such disclosable pecuniary interests as set out in the adopted Councillors Code of Conduct and the statutory register of DPis is held by Rotherham Borough Council.
- 2.2 If a Councillor participates in a meeting or votes on a matter in which they have a disclosable pecuniary interest and have not been granted a dispensation, they will be committing a criminal offence under Section 34 Localism Act 2011. A person found guilty of such a criminal offence can be fined up to £5,000 and disqualified from holding office as a Councillor for up to five years.
- 2.3 The Council has adopted a Code of Conduct which prevents a Councillor from speaking or voting on matters where they have a particular interest which is other than a disclosable pecuniary interest, such as a non-pecuniary interest. The same restrictions would apply regarding discussion and voting, and a dispensation would be required to enable a Councillor with an interest to participate. Without a dispensation, a Councillor who participates in a meeting or votes on a matter in which they have such an interest would be in breach of the Code of Conduct.

3. The purpose and effect of dispensations

- 3.1 Section 33 of the Localism Act allows a relevant authority (the Council) to grant a dispensation to allow a Councillor to participate in the business of the authority even where that Councillor has a disclosable pecuniary interest; for example, to allow the Council to decide to send a response on a matter even if a formal decision on the Council's position could not be made at that time.



3.2 A dispensation may be granted by the Council which would allow a Councillor to:

- a. participate, or participate further, in any discussion of the matter; **and/or**
- b. participate in any vote, or further vote, taken on the matter.

3.3 A dispensation would also be required where the Council has placed specific restrictions in respect of participation and voting on additional disclosable pecuniary and non-pecuniary interests over and above those within the Code of Conduct.

3.4 Where the Council's standing orders also require a Councillor to leave the room, such as on planning matters, the dispensation may also allow the Councillor to remain in the room where the meeting considering the business is being held.

4. Consideration of dispensation requests

4.1 The Council can only grant dispensations by a decision of the full Council.

4.2 A dispensation may be granted to a Councillor who has a disclosable pecuniary (or non-pecuniary) interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter if it is considered that -

- a. without the dispensation so great a proportion of the Council would be prohibited from participating in that business as to impede the Council's transaction of that business (i.e. the meeting would be inquorate),
- b. without the dispensation the representation of different political groups on the Council (if these exist) would be so upset as to alter the likely outcome of any particular vote,
- c. the granting of the dispensation is in the interests of people living in the Council's or authority's area, or
- d. it is otherwise appropriate to grant a dispensation.

4.3 In addition to the statutory relevant considerations detailed in (a) to (d) above, the Council may wish to consider the following factors when determining requests for dispensations:

- the nature of the Councillor's interest, e.g., is it substantial or remote?
- the need to maintain public confidence in the conduct of the Council's business, the need for efficient and effective conduct of the Council's business.
- the Councillor's particular expertise or knowledge in the matter that may be useful in its consideration (e.g., the Councillor could be granted a dispensation to speak but not to vote);
- the interest is common to the Councillor and a significant proportion of the inhabitants of the authority's area.
- any other relevant circumstances.

5. The procedure for requesting a dispensation

5.1 Any Councillor who wishes to apply for a dispensation must do so in writing. A template Dispensation Request Form is attached to this policy at Appendix A.

5.2 The written request must be made to the Proper Officer of the Council (i.e., the Clerk) as soon as possible before the meeting at which the dispensation is required.

5.3 Dispensation applications should be discouraged from being made at the Council meeting at which the business itself is to be discussed unless the nature of the interest has only become apparent to the Councillor at that meeting. In any event, unless the Council has a standing item on its agenda to consider dispensation requests then it will not be possible to consider a dispensation application at the meeting at which the need for it has been identified.



5.4 Where a dispensation request is being considered by a meeting of the Council, the Councillor making the request may participate and vote on the business of whether to grant the dispensation.

6. Terms of dispensations

Dispensations may be granted:

- for one or more meetings of the council, or for a period not exceeding four years.
- in either case, the dispensation must specify the period for which it has effect.
- dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.
- A copy of any dispensation granted will be forwarded to the Monitoring Officer of Rotherham Borough Council and kept with the Register of Councillors' interests.

7. Notification and disclosure of decision

7.1 The Council or Clerk will notify the Councillor as soon as possible of the decision taken.

7.2 A sample dispensation decision notice is attached to this policy at Appendix C.

7.3 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.

7.4 A copy of any dispensation granted will be forwarded to the Monitoring Officer of Rotherham Borough Council and kept with the Register of Councillors interests.

ADOPTED: 9TH SEPTEMBER 2021



Brinsworth Parish Council

Appendix A

Please give full details of the following in support of your application for a dispensation and return to 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 request:	
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	
b) without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote	
c) the dispensation is in the interests of persons living in the authority's area, or	
d) that it is otherwise appropriate to grant a dispensation	

Signed: _____ Dated: _____



Dispensation Decision

Brinsworth Parish Council

Appendix B

Date Dispensation Request considered (by full Council / Committee / Clerk)	
Name of Councillor requesting dispensation	
Details of your interest in that business	
Reason for the decision (if granted, also specify on what grounds the decision was made, i.e. the dispensation is in the interests of persons living in the authority's area)	
The business of the Council for which the dispensation has been given (if appropriate)	
Length of dispensation	

Signed: _____ Dated: _____