



<b>Title:</b>	<b>Constitution of the Council (Part 4M: Standards – Dispensations Process and Form)</b>
<b>Owner:</b>	<b>Angela Wakefield</b>
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**Adopted by Full Council on 20<sup>th</sup> June 2016**



# DISPENSATIONS PROCESS AND FORM

## 1 INTRODUCTION

- 1.1 The Standards Committee is responsible for determining requests for dispensation by Councillors of East Staffordshire Borough Council under Section 33(2) Localism Act 2011. The Committee is not responsible for dispensations for members of parish or town councils.
- 1.2 This note explains:
  - 1.2.1 the purpose and effect of dispensations;
  - 1.2.2 the procedure for requesting dispensations;
  - 1.2.3 the criteria which are applied in determining dispensation requests;
  - 1.2.4 the 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 under the Code of Conduct. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct.

## 3 PROCESS FOR MAKING REQUESTS

- 3.1 Any Councillor who wishes to apply for a dispensation must fully complete the attached form at Appendix 1 and submit it to the Monitoring Officer at least 15 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.

- 3.2 In order to avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.
- 3.3 A request for dispensation must be made on an individual basis. Group applications are not permitted.

## 4 CONSIDERATION BY THE MONITORING OFFICER

- 4.1 The Monitoring Officer will consider requests for a dispensation in the order in which they are received having regard to the criteria set out in paragraph 6.
- 4.2 In the case of a Disclosable Pecuniary Interest, the Monitoring Officer may grant a dispensation if they consider that either:
  - 4.2.1 without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 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 (i.e. the meeting would be inquorate);
  - 4.2.2 without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive;
  - 4.2.3 the business relates to the consideration of any allowance, payment or indemnity to be given to members of the Council;
  - 4.2.4 the business relates to any office, position and/or ceremonial honour to be given to members of the Council; or
  - 4.2.5 the business relates to the setting of council tax or a precept under the Local Government Finance Act 1992.
- 4.3 The provisions of paragraph 4.2 shall also apply in the same way in the case of an Ordinary Interest, subject to the substitution of “the Code of Conduct” for “Section 31(4) Localism Act 2011” in that paragraph.
- 4.4 The terms of any dispensation shall be in accordance with paragraph 7.
- 4.5 The Monitoring Officer will 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.

- 4.6 If the Monitoring Officer does not fully grant the dispensation requested by the Councillor, they shall refer the request to the Standards Committee as soon as is reasonably practicable.

## 5 CONSIDERATION BY THE STANDARDS COMMITTEE

- 5.1 The Standards Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received by the Monitoring Officer having regard to the criteria set out in paragraph 6.
- 5.2 Meetings of the Standards Committee will normally be open to the public and any Councillor who has submitted a request will have the opportunity to attend and make representations in support of their application.
- 5.3 In the case of a Disclosable Pecuniary Interest, the Standards Committee may grant a dispensation if they consider that:
- 5.3.1 without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 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 (i.e. the meeting would be inquorate);
  - 5.3.2 without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - 5.3.3 granting the dispensation is in the interests of persons living in the Council's area;
  - 5.3.4 without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive; or
  - 5.3.5 it is otherwise appropriate to grant a dispensation.
- 5.4 The provisions of paragraph 5.3 shall also apply in the same way in the case of an Ordinary Interest, subject to the substitution of “the Code of Conduct” for “Section 31(4) Localism Act 2011” in that paragraph.
- 5.5 The terms of any dispensation shall be in accordance with paragraph 7.

- 5.6 The Monitoring Officer will notify the Councillor of the Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

## 6 CRITERIA FOR DETERMINATION OF REQUESTS

- 6.1 In reaching a decision on a request for a dispensation the Monitoring Officer or the Standards Committee (as appropriate) will take into account:
- 6.1.1 the nature of the Councillor's prejudicial interest;
  - 6.1.2 the need to maintain public confidence in the conduct of the Council's business;
  - 6.1.3 the possible outcome of the proposed vote;
  - 6.1.4 the need for efficient and effective conduct of the Council's business;
  - 6.1.5 any other relevant circumstances.

## 7 TERMS OF DISPENSATIONS

- 7.1 Dispensations may be granted:
- 7.1.1 for one meeting; or
  - 7.1.2 for a period not exceeding 4 years.
- 7.2 Dispensations may allow the Councillor:
- 7.2.1 to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
  - 7.2.2 to participate in any vote, or further vote, taken on the matter at the meeting(s).
- 7.3 If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

## 8 DISCLOSURE OF DECISION

- 8.1 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.
- 8.2 A copy of the dispensation will be kept with the Register of Councillors' Interests.





**Appendix 1**  
**East Staffordshire Borough Council**  
**Standards Committee**  
**Dispensation Request Form**

*Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying guidance "Dispensations Process and Form".*

*If you need any help completing this form please contact Angela Wakefield, Monitoring Officer on 01283 508267 or by e-mail [monitoring.officer@eaststaffsbc.gov.uk](mailto:monitoring.officer@eaststaffsbc.gov.uk).*

Your name		
Decision-making body in respect of which you require a dispensation		
Details of your membership of that body		
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	
Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)		

Signed: ..... Dated: .....

***Please send your completed form to Monitoring Officer, East Staffordshire Borough Council, The Maltsters, Wetmore Road, Burton upon Trent, Staffordshire DE141LS or by fax (01283 535412) or by email to [monitoring.officer@eaststaffsbc.gov.uk](mailto:monitoring.officer@eaststaffsbc.gov.uk). You will receive notification of the Monitoring Officer's decision within 5 days of their decision.***