



# BRACKNELL TOWN COUNCIL

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# Dispensations Procedure

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Reviewed December 2016  
Next review date December 2019

## 1. **Introduction**

The Town Council is now responsible for determining requests for a dispensation by a Councillor under Section 33 of Localism Act 2011. This is because we are a “relevant authority” under section 27(6) (d) of the Act.

This guide explains the:-

- (a) purpose and effect of dispensations
- (b) procedure for requesting dispensations
- (c) criteria which are applied in determining dispensation requests
- (d) 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 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 complete a Dispensation Request form and submit it to the proper officer of the Council (the Town Clerk) as soon as possible before the meeting which the dispensation is required. Applications may also be made at a full Council meeting.

There will be a standing item on the agenda to deal with dispensation requests where the nature of an interest has only become apparent to a Councillor at the meeting itself.

The amended wording for the agenda item on declaration of interests and dispensations will be as follows:

## **Declarations of interest and dispensations**

- 3.1 To receive declarations of interest from Councillors on items on the agenda
- 3.2 To receive written requests for dispensations for disclosable pecuniary interests (if any)
- 3.3 To grant any requests for dispensation as appropriate

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

## **4. Consideration by the Town Council**

The Town Clerk will have authority to grant dispensations and decisions can be made at a full Council meeting. For the Town Clerk to do this, the Town Council will need to make a formal resolution:

“RESOLVE that the Council delegates the power to grant dispensations to the Town 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 Town Clerk or the 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 paragraph 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 (i.e. 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 Council may 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 will be in accordance with paragraph 6.

The Town Clerk or the 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 Town Clerk or the Council 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.

REQUEST FOR DISPENSATION

Under Section 33 of the Localism Act 2011

Name of Applicant: \_\_\_\_\_

Description and  
Nature of Interest: \_\_\_\_\_

\_\_\_\_\_

Dispensation  
Required For:                   **DISCUSSION ONLY**  
Please delete  
As appropriate               **DISCUSSION AND A VOTE**

Date of Meeting: \_\_\_\_\_

**OR**

Period for which Dispensation is sought (not exceeding 4 years) \_\_\_\_\_

Explanation as to  
Why dispensation  
Is sought \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

This form, once completed should be sent to the Town Clerk not less than 1 clear day prior to the meeting (not including Saturday Sundays and Bank Holidays)