

Rother District Council

Report to: Audit and Standards Committee

Date: 4 December 2023

Title: Dispensation Policy

Report of: Linda Walker, Interim Monitoring Officer

Purpose of Report: To consider the proposed dispensation policy.

Officer

Recommendation(s): **Recommendation to COUNCIL:** That the proposed Dispensation Policy be approved and adopted and incorporated into the Council's Constitution at Part 5, Codes and Protocols.

Introduction

1. Following the adoption of a new Code of Conduct (CoC) based on the Local Government Association's model Code in May this year, the adoption of a Dispensation Policy is required, as the provisions around the granting of dispensations are not included within the Code, as had previously been the case.
2. Currently, the Council's Monitoring Officer has the power to grant a Member or Co-opted Member a dispensation from the restriction on speaking and/or voting when any matter in which that person has a disclosable pecuniary interest is to be considered at a meeting of the Council or any of its committees, sub-committees, joint committees or joint sub-committees.
3. The Localism Act only provides that an authority *may* grant a dispensation (to allow a Councillor with a Disclosable Pecuniary Interest (DPI) to participate in discussion of the matter at the meeting and/or to participate in any vote taken on the matter at the meeting) rather than that it *will* grant a dispensation. Therefore, it is helpful for the Council to consider in advance the circumstances in which a dispensation is likely to be granted or refused and agree a policy in this regard.

Proposed Policy

4. The proposed policy is attached at Appendix 1 and is essentially the same as that previously contained within the old CoC, together with the additional clause that no Member will be granted a dispensation to speak to and /or vote on any regulatory matter in which they have a DPI, such as their own planning / licensing application.

Conclusion

5. Members are asked to consider the proposed dispensations policy, suggest any amendments thereto and recommend to Council its approval and adoption.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Risk Management	No	Exempt from publication	No

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Appendices:	Appendix 1 – Dispensation Policy
Relevant Previous Minutes:	AS23/24
Background Papers:	None
Reference Documents:	LGA Code of Conduct Guidance Localism Act

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Dispensation Policy

1. Where a Member is prohibited from voting on or participating in discussions on matters in which they have a disclosable pecuniary interest or other registerable interest or non-registerable interest, a Member may on written notice to the Monitoring Officer (by letter or email) request the grant of a dispensation to permit them to participate in the voting or discussions on such matters. A proforma is attached for this purpose.
2. Any written notice given by a Member to the Monitoring Officer in accordance with paragraph 1 above must:
 - (a) Be given:
 - (i) At least five working days before a meeting at which the relevant matter falls to be discussed; or
 - (ii) At least 24 hours before a meeting at which the relevant matter falls to be discussed, exceptionally, where circumstances require, and at the absolute discretion of the Monitoring Officer.
 - (b) Provide details of the matter to be voted on or discussed at a meeting and the nature of the Member's interest in that matter;
 - (c) Specify the grounds on which the dispensation is applied for in accordance with paragraph 3 below;
 - (d) Specify whether a dispensation is requested for a single meeting or on an on-going basis (up to a maximum of four years).
3. A dispensation requested under paragraph 1 may be granted only if, after having regard to all relevant considerations, the Monitoring Officer is satisfied that one of the following grounds for the grant of dispensations applies:
 - (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 (quoracy); or
 - (b) 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 (political balance); or
 - (c) Granting the dispensation is in the interests of persons living in the authority's area; or
 - (d) Without the dispensation, each Member of the authority's executive would be prohibited by Section 31(4) of the act from participating in any particular business to be transacted by the authority's executive; or

- (e) Considers that it is otherwise appropriate to grant a dispensation.
4. For the avoidance of doubt, a dispensation will not be granted to any Member to speak to and/or vote on any regulatory matter in which they have a Disclosable Pecuniary Interest, such as their own planning / licensing application.
 5. A dispensation granted in accordance with this policy must:
 - (a) Specify the period for which it is granted which must not exceed four years; and
 - (b) Specify whether the dispensation allows the Member to take part in discussions on and/or vote on the matter in which they have a disclosable pecuniary interests or other registerable interest or non-registerable interest.
 6. Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which the dispensation relates.
 7. A copy of the dispensation shall be kept with the Register of Members' Interests and reported to the next Audit and Standards Committee meeting which considered standards-related matters.

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Application for a Dispensation

Councillor:			
Date applied:		Date / Meeting required:	
State the details of the matter / and nature of your interest:			
Specify the grounds you believe apply:	<p>I believe I should be granted a dispensation on the following grounds (delete those that do not apply):</p> <ul style="list-style-type: none"> (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 (quoracy); or (b) 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 (political balance); or (c) Granting the dispensation is in the interests of persons living in the authority's area; or (d) Without the dispensation each member of the authority's executive would be prohibited by Section 31(4) of the act from participating in any particular business to be transacted by the authority's executive; or (e) Considers that it is otherwise appropriate to grant a dispensation - give reasons here: 		
Period:	<p>I would like the dispensation to apply (please delete):</p> <ul style="list-style-type: none"> (a) For the whole term of my current office (maximum 4 years); OR (b) For the meeting stated above only. 		