

# **South Hams District Council**

## **Guidance on Dispensation Requests**

### **The Law**

The Localism Act 2011 provides rules on Dispensations from the prohibition of Members from participating in matters in which s/he has a Disclosable Pecuniary Interest.

### **Requests for Dispensations**

#### **Grounds:**

A dispensation can be granted on the following grounds to enable a Member to speak and/or vote where s/he would otherwise have a disclosable pecuniary interest:

1. That so many members of the Council have disclosable pecuniary interests in a matter that it would impede the transaction of the business (i.e. it would otherwise be inquorate).
2. That without the dispensation, the representation of different political groups on the Council would be so upset as to alter the likely outcome of any vote on the matter.
3. That the Council considers that granting the dispensation is in the interests of persons living in the Council's area.
4. That without a dispensation no member of the Executive would be able to participate on the matter
5. That the Council considers that it is otherwise appropriate to grant a dispensation.

#### **How to apply**

A dispensation request must be made to the Monitoring Officer in writing or by email addressed to Catherine Bowen, Monitoring Officer, South Hams District Council, [Catherine.Bowen@swdevon.gov.uk](mailto:Catherine.Bowen@swdevon.gov.uk).

Please submit a dispensation request well in advance of the date of the meeting for which the dispensation is sought and in any event, other than in exceptional circumstances, the dispensation request should be submitted **not less than 10 clear days** prior to the date of the meeting to which the dispensation request relates.

#### **Criteria**

The following **Criteria** will be considered in determining whether to grant dispensation requests:

1. Whether the nature of the Member's interest is such that to allow him/her/them to participate would not damage public confidence in the conduct of the Council's business.

2. Whether the interest is common to the Member and a significant proportion of the general public; *if this is the case a dispensation is more likely to be granted.*
3. Is the participation of the Member in the business that the interest relates to justified by a member's particular role or expertise?
4. Whether the interest is trivial or remote; *if this is the case a dispensation is more likely to be granted.*

### **Procedure for Granting Dispensation Requests**

- (i) Requests under Ground 1 may be granted by the Monitoring Officer
- (ii) Dispensation Requests for any other grounds will be considered by the Overview & Scrutiny Panel
- (iii) Where it is not expedient to wait until the next scheduled Overview & Scrutiny Panel meeting, a Dispensation Request may be granted under (ii) above by:
  - the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Overview & Scrutiny Panel, or
  - an Overview & Scrutiny subcommittee
- (iv) Dispensations may be granted:
  - To speak only
  - To speak and vote
  - For a maximum of four years

### **Bias and Predetermination**

You should note that there may be circumstances where you do not have a Disclosable Pecuniary Interest but where it would be inappropriate for you to speak and vote on any matter by reason that you may be biased (or perceived to be biased) if you were to do so. For example, speaking and voting on a planning application relating to a close family member or neighbour. A dispensation cannot be granted in such circumstances to enable you to speak and vote.

Moreover it is extremely unlikely that a dispensation will be granted in respect of a Disclosable Pecuniary Interest where circumstances of bias or predetermination may arise. For further information please contact the Monitoring Officer.

## **South Hams District Council**

### **General Dispensations to District Councillors**

At its meeting on **28 March 2019** the Overview & Scrutiny Panel granted a **General Dispensation:**

- to all Members of South Hams District Council
- until the **Annual Meeting in May 2020**
- to enable Members to speak and vote at meetings of the Council (as defined in the Code of Conduct) relating to:
  - **Housing:** where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease
  - **Statutory sick pay:** if a councillor receives this or is entitled to receive it
  - An **Allowance**, travelling expense, payment or indemnity for Councillors
  - Any **ceremonial honour** given to Members
  - Setting the **Council Tax or a Precept**

At its meeting on **28 March 2019** the Overview & Scrutiny granted a **General Dispensation to:**

- all dual-hatted Members of South Hams District Council to speak and vote on matters where they are a member of another local authority and in receipt of a Members' Allowance, from the date of this decision **until the Annual Meeting May 2020.**

Where a Member is unsure whether these General Dispensations apply to his/her particular circumstances, s/he is advised to make a specific request to the Monitoring Officer.

**Appendix A**

**Dispensation Request**

<b>Name of Councillor</b>	
<b>Nature and description of interest for which dispensation sought:</b>	
<b>Period for which dispensation is sought.</b>  <b>Note:</b> <ul style="list-style-type: none"><li>• This may be for a maximum period of 4 years.</li><li>• Where a dispensation is sought for a particular meeting, please specify date of meeting.</li></ul>	
<b>Grounds on which the dispensation is sought:</b> <ul style="list-style-type: none"><li>• Please refer to grounds set out in the attached guidance.</li><li>• Please provide supporting reasons as to why you consider the dispensation request should be granted.</li><li>• Please state whether you are seeking a dispensation to <b>speak and to vote</b> or to <b>speak only</b> on the particular matter.</li></ul>	