



# Penrith Town Council

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## DISPENSATIONS PROCEDURE GUIDE

### 1. INTRODUCTION

Under the Localism Act 2011("the Act"), a Member or Co-opted Member who has a Disclosable Pecuniary Interest in a matter that is under consideration, may not participate in the consideration of that matter unless he/she has first obtained a dispensation from the 'relevant authority'.

Previously dispensations were issued by the Standards Committee of the District Council, but as Town/Parish Councils are defined as a 'relevant authority' under the Act, they are now responsible for determining requests for a dispensation by a Town/Parish Councillor under Section 33.

This guide explains -

- the purpose and effect of dispensations;
- the procedure for requesting dispensations;
- the criteria which are applied in determining dispensation requests;
- the terms of dispensations;
- general dispensations.

### 2. PURPOSE AND EFFECT OF DISPENSATIONS

In certain circumstances Councillors may be granted a dispensation that 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.

Dispensations may allow the Councillor to participate in any -

- (a) discussion of the matter at the meeting(s); and/or
- (b) 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 Town 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 Section 34 of the Localism Act 2011**

### **3. PROCEDURE 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 Town Council, the Town Clerk, as soon as possible before the meeting for which the dispensation is required.

### **4. CONSIDERATION BY THE TOWN COUNCIL**

The Town Council can either delegate authority to the Town Clerk to grant dispensations, or reserve such decisions for the Town Council. Alternatively, the Council might wish to delegate the power to grant dispensations for certain grounds to the Clerk e.g. ground (a) below, which is fairly objective, but deal with other applications through a meeting of the Council, or possibly by delegating to the Clerk, after consultation with the Chairman of the Council, or Vice-Chairman in cases of conflict of interest. A dispensation may be granted 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 if it is considered that -

- so many Members of the Council/Committee have Disclosable Pecuniary Interests that it would impede the transaction of the business (i.e. the meeting would be inquorate); or
- 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;
- the dispensation is in the interests of persons living in the authority's area; or
- it is otherwise appropriate to grant a dispensation.

If the adopted Code prevents a Councillor speaking or voting where they have an interest other than a Disclosable Pecuniary Interest, the Council may wish to extend the provisions of the above paragraph to apply in the same way to those interests, but this is at the discretion of the Council.

The Town Clerk should formally notify the Councillor of their decision and reasons in writing at the earliest opportunity.

## **5. CRITERIA FOR DETERMINATION OF REQUESTS**

The following are examples of criteria that may be appropriate in determining a request for a dispensation, but the Council will need to determine the factors they consider relevant. -

- the nature of the Councillor's prejudicial interest, e.g. is it trivial or remote?
- the need to maintain public confidence in the conduct of the Council's business;
- in certain circumstances, the possible outcome of the proposed vote;
- the need for efficient and effective conduct of the Council's business;
- the Member has a particular expertise or knowledge in the matter that may be useful to its consideration (e.g. a Member could be allowed to speak, but not vote);
- the interest is common to the Member and a significant proportion of the general public;
- any other relevant considerations.

## **6. TERMS OF DISPENSATIONS**

Dispensations may be granted -

- (a) to participate in any discussion of the matter; and/or
- (b) to participate in any vote on the matter;
- (c) for one meeting; or
- (d) for a limited 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 Council's Dispensation Register.

## 8. GENERAL DISPENSATIONS

The Council should consider granting a general dispensation to all Councillors in situations where every Member is likely to have a Disclosable Pecuniary Interest. For example, at a meeting setting the Council's precept. The members hold a disclosable pecuniary interest (arising from holding a beneficial interest in land or a licence to occupy land in the parish) and will, without a dispensation, be subject to the statutory restriction which prevent them from participating in or voting at a meeting on such business.

All current members of the Town Council have dispensation to consider the annual precept.

### NOTE:

Section 106 of the Local Government Act 1992 prohibits a local councillor in tax arrears for at least three months, from voting on the setting of the precept or any recommendation, resolution or other decision which might affect the calculation of the precept. If a councillor in such a position fails to notify the Council of the fact or votes on a prohibited matter, then on prosecution and conviction they can be subject to a fine.

**Approved: May 2015**

**Reviewed: May 2016 no change**

**Reviewed – 2017 – refer to supporting document Dispensation Protocol for membership term to 2019**