

Dispensations for Disclosable Pecuniary Interests, Other Pecuniary Interests and Personal Interests

1. Purpose of Report

1.1. To consider whether dispensations should be granted to all members and co-opted members of Woodham Walter Parish Council in certain circumstances which would enable them to take part in the business of the Council even if the member or co-opted member has a disclosable pecuniary interest, other pecuniary interest or a personal interest relating to that particular business.

2. Recommendation

2.1. To agree that the following dispensations be granted to all members and co-opted members of Woodham Walter Parish Council until May 2023 to enable them to participate in debates and to vote on any such matter, notwithstanding that they may have a Disposable Pecuniary Interest, Other Pecuniary Interest or a Personal Interest in the business being transacted:

- (a) Housing – where a member is a tenant of the council provided that the decision did not relate particularly to his tenancy or lease.
- (b) School meals or school transport and travelling expenses – where a member is a parent or guardian of a child in full time education, or where a member is a parent governor of a school, unless the decision relates particularly to the school which his child attends
- (c) An allowance, payment or indemnity given to members
- (d) Any ceremonial honour given to members
- (e) Setting council tax or precept under the Local Government Finance Act 1992
- (f) Where the decision to be made does not affect the member's financial position or the financial position of a person or body described in paragraph 8 (i) and (ii) of the Code of Member Conduct
- (g) Where the decision to be made does not relate to the determination of any approval, consent, licence, permission or registration in relation to the member or a person or body described in paragraph 8 (i) and (ii) of the Code of Member Conduct

3. Declaration of Interests at Meetings

3.1. The Code requires that where a member or co-opted member is present at a meeting and has a disclosable pecuniary interest, other pecuniary interest or a personal interest in a matter to be considered at that meeting then the existence and nature of that interest must be disclosed to that meeting.

3.2 The effect of having an interest is dependent upon its type.

Disclosable Pecuniary Interest

3.3. The statutory requirements are that the member or co-opted member must not:

- (a) participate in any discussion of the business at the meeting, or
- (b) if they become aware of their disclosable pecuniary interest during the meeting, participate further in any discussion of the business, or
- (c) participate in any vote or further vote taken on the matter at the meeting.

3.4. These prohibitions apply to any form of participation, including speaking as a member of the public.

Other Pecuniary Interest

3.5. The Code of Member Conduct requires that if a member or co-opted member has an Other Pecuniary Interest then, after disclosing to that meeting the existence and nature of that interest, the member must not participate in any consideration of or voting on the matter and must withdraw from the room or chamber where the meeting considering the matter is being held.

Non Pecuniary Interest

3.6. The Code of Member Conduct provides that if a member or co-opted member is present at a meeting of the council or its committees etc and has a Non Pecuniary Interest in a matter to be considered then, after disclosing to that meeting the existence and nature of that interest the member may participate in any discussion of the business at the meeting and participate in any vote on that business.

3.7. However if the Non Pecuniary Interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest, the member must withdraw from the room or chamber where the meeting considering the business is being held and not participate in any consideration of, or voting on, the matter.

4. Granting Dispositions

4.1. Section 33 of The Localism Act 2011 enables a council, in certain circumstances, to grant dispensations to permit members to take part in the business of the council even if the member has a Disclosable Pecuniary Interest relating to that business.

4.2. These circumstances are where the council considers that:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the council or committee etc transacting that business that it would impede the transaction of that business,
- (b) without the dispensation the representation of different political groups on the council or committee etc transacting that business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) the granting of the dispensation is in the interests of people living in the council's area, or

(d) it is otherwise appropriate to grant a dispensation.

4.3. A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

4.4. The previous standards regime recognised that, in certain circumstances, even if a member had a prejudicial interest in the business being transacted at the meeting, there should be an absolute exemption for members so that they could take part in the democratic process.

4.4. These absolute exemptions related to the decisions of councils in respect of:

- (a) Housing – where a member was a tenant of a council provided that the decision did not relate particularly to his tenancy or lease.
- (b) School meals or school transport and travelling expenses – where a member is a parent or guardian of a child in full time education, or where a member is a parent governor of a school, unless the decision relates particularly to the school which his child attends
- (c) An allowance, payment or indemnity given to members
- (d) Any ceremonial honour given to members
- (e) Setting council tax or precept under the Local Government Finance Act 1992

4.5. The Code of Member Conduct does not set out any exemptions and section 33 of the Localism Act 2011, which deals with Disclosable Pecuniary Interests only, anticipates that applications from members for a dispensation should be dealt with by councils on a case by case basis.

4.6 An effective way of ensuring that members can deal with business relating to the matters referred to in paragraph 4.4 above is for the Council to grant a dispensation to all members in respect of those matters. This will cover both Disclosable Pecuniary Interests and Other Pecuniary Interests.

4.7. It is also recommended that, for the same reasons, a dispensation is granted in respect of Non Pecuniary Interests where:

- (a) the decision to be made does not affect the member's financial position or the financial position of a person or body described in paragraph 8.(i) and (ii) of the Code of Member Conduct and
- (b) the decision to be made does not relate to the determination of any approval, consent, licence, permission or registration in relation to the member or a person or body described in paragraph 8 (i) and (ii) of the Code of Member Conduct

4.7. It is recommended that the period for which these dispensations shall have effect until the next ordinary election of the council in May 2023.