UPLYME PARISH COUNCIL – Dispensations to Council members

This policy was approved by the Council at its Meeting held on 10th October 2012.

Introduction

Parish Councils are now responsible for determining requests for a dispensation by a parish councillor under Section 33 of the Localism Act 2011. The dispensation allows a decision to be made where the Council/Committee would otherwise be inquorate, by virtue of the number of Councillors having an interest and unable to take part.

A dispensation enables Councillor(s) to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or another interest. Provided Councillors act within the terms of their dispensation there is no breach of the Code of Conduct or the law.

Please note: If a Parish Councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and he/she does not have a dispensation, he/she may be committing a criminal offence under s34 of the Localism Act 2011.

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 Parish Council (i.e. the Parish Clerk) as soon as possible *before* the meeting which the dispensation is required. Applications may also be made at the meeting itself (if the Council has a standing item on the agenda to deal with dispensation requests) and the nature of the interest has only become apparent to a Councillor at the meeting itself.

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

Consideration by the Parish Council

The Parish Council can either delegate to the Parish Clerk the authority to grant dispensations or reserve such decisions for the full Council. If the Council decides to delegate this role to the Clerk then it will need to make a formal resolution to this effect, on the lines of:

"RESOLVE that the Council delegates the power to grant dispensations to the 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 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 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 wish to extend the provisions of the above paragraphs to apply in the same way in the case of a "non-disclosable pecuniary interest" or an "other interest", as defined in the Code of Conduct, but this is at the discretion of the Council.

The Clerk or 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.

Criteria for Determination of Requests

In reaching a decision on a request for a dispensation the Council or the Clerk (as appropriate) 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.

Terms of Dispensations

Dispensations may be granted:

(a)   for one meeting; or

(b)   for a period not exceeding 4 years.

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.