

DISPENSATIONS

Under Section 31(4), Localism Act, 2011, a member who is present at a meeting of the Council (or committee/sub-committee) who has a Disclosable Pecuniary Interest (DPI) in a matter to be considered, or being considered, may not participate in the discussion or any vote on the matter, unless a dispensation has been granted under S.33.

A Council has the power to grant a dispensation for up to 4 years. The restrictions on members with a DPI do not apply where the business is the taking of a decision about a dispensation (S.33(4) Localism Act 2011).

Councils may resolve to delegate (S.101, LGA 1972) responsibility for considering dispensations to the Clerk, in consultation with the Chairman (or Vice-Chair if it relates to the Chair) so that decisions can be made prior to meetings.

A council should set out in its standing orders the arrangements for applying for, and considering, dispensations.

Grounds

S.33 Localism Act 2012 says:-

A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons prohibited by S.31(4) 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,
- (b) [N/A to local councils]
- (c) considers granting the dispensation is in the interests of persons living in the authority's area,
- (d) [N/A to local councils]
- (e) considers that it is otherwise appropriate to grant a dispensation.

Ground (a) should be objectively applied and could best be interpreted as requiring more than half of the number of councillors, who would be entitled to vote at a meeting, being prohibited from doing so. It would certainly apply where the council would not be quorate.

Ground (c) should be interpreted strictly to ensure that a reasonable person, having regard to all of the circumstances, would consider that the benefit to persons living in the authority's area outweighs the perceived benefit to the members receiving the dispensation and is only what is required to allow business to be transacted and no more.

Ground (e) should be used only where one of the other grounds does not apply, and not as a primary justification. It is difficult to think of a circumstance where it is otherwise appropriate to grant a dispensation when this is not in the interests of persons living in the area.