

APPENDIX 18 (Annex 4)

DISPENSATIONS PROCESS AND FORM

1. Introduction

1.2 This guide explains:

- (a) the purpose and effect of dispensations
- (b) the procedure for requesting dispensations
- (c) the criteria which are applied in determining dispensation requests and the terms of dispensations.

2. Purpose and effect of dispensations

2.1 In certain circumstances Council Members or co-opted Members may be granted a dispensation from restrictions under Section 31(4) of the Localism Act. Section 31 relates to pecuniary interests in matters considered at meetings or by a single Member. Such dispensation then enables Members to take part in Council business where this would otherwise be prohibited by Section 31(4).

3. Process for making requests

3.1 Any Councillor who wishes to apply for a dispensation must fully complete the form at Appendix A to this Annex and submit it to the Monitoring Officer at least 5 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances at the sole discretion of the Monitoring Officer.

3.2 In order to avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.

3.3 A request for dispensation must be made on an individual basis. Group applications are not permitted.

4. Consideration by the Monitoring Officer

4.1 The Monitoring Officer will consider requests for a dispensation in the order in which they are received having regard to the criteria set out in paragraph 6.

4.2 In the case of a Disclosable Pecuniary Interest, the Monitoring Officer, after consultation with the Chair of the Standards Committee and the Independent Person(s), may grant a dispensation if they consider that either:

- (a) without the dispensation the number of persons prohibited by Section 31(4) of the Localism Act 2011 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 (i.e. the meeting would be inquorate);

- (b) considers that without the dispensation, the representation of different political groups on the body transacting any particular business would be so unbalanced as to alter the likely outcome of any vote relating to the business;
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
 - (d) considers that without the dispensation each member of the authority's Executive would be prohibited by Section 31(4) from participating in any particular business to be transacted by the authority's Executive; or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- 4.3 The provisions of paragraph 4.2 shall also apply in the same way in the case of an Ordinary Pecuniary Interest, subject to the substitution of "the Code of Conduct" for "Section 31(4) of the Localism Act 2011" in that paragraph.
- 4.4 The terms of any dispensation shall be in accordance with paragraph 7.
- 4.5 The Monitoring Officer will notify the Councillor of her decision and reasons in writing at the earliest opportunity and in any event within 2 working days of the decision.
- 4.6 If the Monitoring Officer does not fully grant the dispensation requested by the Councillor, she will refer the request to the Standards Committee as soon as is reasonably practicable.
- 5. Consideration by the Standards Committee**
- 5.1 The Standards Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received by the Monitoring Officer, having regard to the criteria set out in paragraph 6.
- 5.2 Meetings of the Standards Committee will normally be open to the public and any Councillor who has submitted a request will have the opportunity to attend and made representations in support of their application
- 5.3 In the case of a Disclosable Pecuniary Interest, the Standards Committee may grant a dispensation if they consider that:
- (a) without the dispensation the number of persons prohibited by Section 31(4) of the Localism Act 2011 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 (i.e. the meeting would be inquorate)
 - (b) without the dispensation the representation of different political groups or the body transacting any particular business would be so unbalanced as to alter the likely outcome of any vote relating to the business
 - (c) granting the dispensation is in the interests of persons living in the Council's area
 - (d) without the dispensation each member of the Council's Executive would be prohibited by Section 31(4) of the Localism Act 2011 from participating in any particular business to be transacted by the Council's Executive; or
 - (e) it is otherwise appropriate to grant dispensation.

- 5.4 The provisions of paragraph 5.3 shall also apply in the same way in the case of an Ordinary Pecuniary Interest, subject to the substitution of “the Code of Conduct” for “Section 31(4) of the Localism Act 2011” in that paragraph.
- 5.5 The terms of any dispensation shall be in accordance with paragraph 7.
- 5.6 The Monitoring Officer will notify the Councillor of the Committee’s decision and reasons in writing at the earliest opportunity and in any event within 2 working days of the decision.
6. **Criteria for determination of requests**
- 6.1 In reaching a decision on a request for a dispensation the Monitoring Officer or the Standards Committee (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 and any other relevant circumstances.
7. **Terms of dispensations**
- 7.1 Dispensations may be granted:
- (a) For one meeting; or
 - (b) For a period not exceeding 12 months.
- 7.2 Dispensations may allow the Councillor:
- (a) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
 - (b) to participate in any vote, or further vote, taken on the matter at the meeting(s).
- 7.3 If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held, unless directed otherwise by the Chair of the meeting or the Councillor wishes to withdraw.
8. **Disclosure of decision**
- 8.1 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.
- 8.2 A copy of the dispensation will be kept with the Councillor’s Register of Interests.

Updated May 2014

**The Borough Council of Newcastle-under-Lyme
Standards Committee
Dispensation Request Form**

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying guidance.

If you need any help completing this form please contact the Monitoring Officer.

Your Name	
Decision-making body in respect of which you require a dispensation	
Details of your membership of that body	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 12 months) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes/No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes/No
Full reasons why you consider a dispensation is necessary (use the continuation sheet if required)	
Continuation sheet	

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Signed: Dated:

Please send your completed form to:

**The Monitoring Officer
The Borough Council of Newcastle-under-Lyme
Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG**

or by email to: liz.j.dodd@newcastle-staffs.gov.uk

You will normally receive notification of the Monitoring Officer’s decision within 2 working days of the decision.