

Ludgvan Parish Council

Dispensation Policy

Approved by Council – January 2025

Review January 2027 (or as required)

Version 1

1. Introduction

Ludgvan Parish Council is responsible for determining requests for a dispensation by a Councillor under Section 33 of the Localism Act 2011.

The Parish Council is a “relevant Authority” under Section 27 (6)(d) of the Act.

This Policy explains the: -

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

2. Purpose and Effect of Dispensations

In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or Non-Registerable 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. Section 31(4) of the Localism Act 2011 states that dispensations may allow the Councillor: -

- a) to participate, or participate further, in any discussion of the matter at the Council/Committee meeting(s); and/or
- b) to participate in any vote, or further vote, taken on the matter at the Council/Committee meeting(s).

If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

It is for individual Councillors to decide whether they have a Disclosable Pecuniary Interest. Individual Councillors can seek the advice of Cornwall Council's Monitoring Officer.

Important note: If a Councillor participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under Section 34 of the Localism Act 2011.

This policy relates to Disclosable Pecuniary Interests (see part 5A of the Councillors Code of Conduct) and also to Non-registerable Interests (see part 5B of the Councillors Code of Conduct). These are where a decision in relation to a matter being determined or to be determined:

- a) Might reasonably be regarded as affecting the financial position or wellbeing of you; a member of your family or any person with whom you have a close association; or any body or group which you are a member of, more than it might affect the majority of council-taxpayers, rate payers or inhabitants of the parish; and
- b) The interest is such that a reasonable person with knowledge of all the relevant facts would consider your interest so significant that it is likely to prejudice your judgement of the public interest. There are certain exceptions defined in the code (e.g. in relation to schools and education).

This type of interest may include voluntary or unpaid roles and to members of the parish council who sit as Council representatives on outside bodies, charities, community groups, etc. Councils may, at their discretion, apply the same rules to both kinds of interest and it is best practice to do so. This policy applies to both types of Interest set out above.

3. Procedure for Requesting Dispensations

Any Councillor who wishes to apply for a dispensation must fully complete a Dispensation Request Form (Appended to this Policy) and submit it to the Parish Clerk (Proper Officer) as soon as possible before the meeting at which the dispensation is required. Applications may also be made at a Full Council meeting. There will be a standing item on the Full Council agenda to consider dispensation requests. The wording for the agenda will be as follows:-

Declarations of Interests and Dispensations

- a) Members to declare interests in respect of any item on this Agenda
- b) To consider written requests from Members for dispensations.

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

The request must be made in writing and include:

- The agenda item
- Which criteria apply
- The period to be covered
- Whether the Member is requesting to take part in the discussion, or to take part in the discussion and vote.

4. Consideration by the Parish Council

A decision will be made by majority vote at the relevant meeting. During consideration of the request, the Councillor shall, if present, withdraw from the meeting. Where the request relates to the Chair, the Chair shall declare the interest, hand over the Chair to the Vice-Chair and withdraw from the meeting.

The Parish Council may grant a dispensation to a Councillor who has a Disclosable Pecuniary Interest or Non-Registerable Interest to participate in the discussion of a matter at a Council/Committee 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 a Disclosable Pecuniary Interest that it would impede the transaction of the business (ie the meeting would be inquorate) and there is no time to defer the item or the interest relates to a charity where all the Members have the same interest;
- b) the Council considers that the dispensation is in the interests of persons living in the Parish (for example if the interest relates to an outside body and the council would benefit from the Member's knowledge and input beyond that permitted in part 3.5a of the Code of Conduct); or
- c) it is otherwise appropriate to grant a dispensation. This should be a sound reason and this element should not be used if there is no benefit to the wider community of the parish.

The Minute of the decision must include statutory reference and length of time. The Councillor will receive confirmation of the Council's decision in writing.

The Council/Committee shall determine:

- whether to grant a dispensation to permit a Councillor to remain in the room and participate in the discussion
- whether the dispensation will also permit a Councillor to vote on the matter.

5. Criteria for Determination of Requests

In reaching a decision on a request for a dispensation the Council will consider:

- a) the nature of the Councillor's interest
- b) the need to maintain public confidence in the conduct of the Council's business
- c) the possible outcome of a proposed vote
- d) the need for efficient and effective conduct of the Council's business
- e) whether the item of business could be deferred to a future meeting, or if a dispensation is necessary due to timescales and inaccuracy
- f) any other relevant circumstances.

Considerations to take into account

- When granting a dispensation, Council should consider it necessary or beneficial to the community
- Once granted a dispensation can only be removed by the Monitoring Officer after a breach of the Councillor's Code of Conduct
- Where the Chair is granted a dispensation they also resume chairmanship of the item and the casting vote. If members are requesting a dispensation to restore the quorum, consideration should be given to retaining the impartial majority and whether it is appropriate to award a dispensation to the Chair of the meeting.
- Dispensations should not be used for the benefit of an individual Member, e.g. the Member's planning application or to overcome member bias and predetermination.

6. Terms of Dispensations

Dispensations may be granted:

- a) for one meeting; or
- b) an agreed period not exceeding four years

Although it is possible to grant a dispensation for a period not exceeding 4 years, the policy of Ludgvan Parish Council is to grant a request for one meeting at a time. Any consideration of a longer term constitutes a variation to this policy and should be referred to full Council for final decision.

A copy of the form will be filed with the Councillor's Register of Interests.

7. Disclosure of Decision

A Councillor that has been granted a dispensation must declare the existence and nature of the dispensation before the commencement of any business to which it relates.

8. Dispensation request from a number of Members

In the event of the number of Members declaring an interest in an item during a Committee meeting would result in the meeting becoming inquorate, the Council/Committee may decide to grant a dispensation to as many Councillors as necessary to enable the business to be transacted. The Council/Committee shall award a dispensation to the Councillor who, in their opinion, has the least interest. This process shall continue until the meeting is quorate.

9. Review

This procedure will be reviewed regularly and amended as necessary to reflect best practice.

Ludgvan Parish Council Dispensation Request Form

Please give full details of the following in support of your application for a dispensation. If you need any help completing this form, please contact the Parish Clerk.

Your name	
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 4 years) 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
REASON(S) FOR DISPENSATION 33a) without the dispensation the number of persons unable to participate in the transaction of business would be so great as to impede the transaction of the business	
33c) the dispensation is in the interests of persons living in the authority's area	
33e) that it is otherwise appropriate to grant a dispensation. Reason :	

Guidance

Part 5A – Disclosable Pecuniary Interests (Code of Conduct)

In this Part of the Code the expressions in the middle column have the meanings

attributed to them in the right-hand column

(a)(i)	“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
(a)(ii)	“director”	includes a member of the committee of management of an industrial and provident society
(a)(iii)	“land”	includes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
(a)(iv)	“relevant authority”	means the authority of which you are a member
(a)(v)	“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
(a)(vi)	“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

The following table sets out the disclosable pecuniary interests that have been prescribed by the Secretary of State for the purposes of the Code of Conduct and the Localism Act, 2011

Interest		Description
(b)(i)	Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
(b)(ii)	Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards the election expenses of you. This includes any payment or financial benefit from a trade union (as defined above)
(b)(iii)	Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods and services are to be provided or works are to be

		executed and which has not been fully discharged
(b)(iv)	Land	Any beneficial interest in land which is within the area of the relevant authority
(b)(v)	Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
(b)(vi)	Corporate tenancies	Any tenancy where, to your knowledge the landlord is the relevant authority and the tenant is a body in which the relevant person has a beneficial interest
(b)(vii)	Securities	Any beneficial interest in securities of any body where that body, to your knowledge, has a place of business or land in the area of the relevant authority and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total of the issued share capital of that body or if the share capital of that body is of more than one class the total nominal value of the shares in any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

Part 5B – Non-registerable interests (Code of Conduct).

You have a non-registerable interest where a decision in relation to a matter being determined or to be determined:

- (i) might reasonably be regarded as affecting the financial position or well being of you; a member of your family or any person with whom you have a close association; or any body or group which you are a member of more than it might affect the majority of council tax payers, rate payers or inhabitants in your electoral division or area; and
- (ii) the interest is such that a reasonable person with knowledge of all the relevant facts would consider your interest so significant that it is likely to prejudice your judgement of the public interest

save that business relating to the following functions will not give rise to non-registerable interests:

- (iii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iv) statutory sick pay under, where you are in receipt of, or are entitled to the receipt of, such pay;
- (v) an allowance, payment or indemnity given to members;
- (vi) any ceremonial honour given to members;

- (vii) setting of the council tax; and
- (viii) the administration of the Cornwall Council Pension Scheme and related matters discharged by the Pensions Committee or such other formal body as may discharge those functions.

and for the avoidance of doubt the above exceptions to the definition of non-registerable interests do not negate the requirements arising from having a disclosable pecuniary interest.