

SOUTHWATER PARISH COUNCIL

MEMBERS' CODE OF CONDUCT DISPENSATION SCHEME



Reviewed:	February 2022
Approved:	April 2018
Review Period:	3 years
Next Review Date:	February 2025

INDEX

Contents

1. Applicability	2
2. Existing Dispensations	2
3. New Rules.....	2
4. Legal Criteria.....	2
5. Development Control.....	3
6. Maximum Period	3
7. When Dispensation Should Never be Given.....	3
8. How to Apply for a Dispensation.....	4
9. Records.....	4
10. The Authority’s HR Committee’s Consideration of an Application for Dispensation	4
11. Help	6

1. Applicability

- 1.1. The following arrangements for seeking dispensations from prohibitions on participation apply from 1 July 2012. The statutory basis for the rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4).
- 1.2. The authority may on a written request made to the proper officer by a member or co-opted member of the authority grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation.

2. Existing Dispensations

- 2.1. All dispensations granted before (25th July, 2012) have ceased to apply.

3. New Rules

- 3.1 The old rules for seeking dispensation under the Local Government Act 2000 are now replaced. In future, dispensations may only be granted by the authority (Southwater Parish Council) (the authority's HR Committee) acting on a written request from a member.

4. Legal Criteria

- 4.1 If a member or co-opted member of the authority (a) is present at a meeting of the authority, or of any committee, sub-committee, joint committee of the authority (b) has a disclosable pecuniary interest in any matter to be considered, or being considered at the meeting, and (c) is aware that the condition in paragraph (b) is met the member or co-opted member may not participate in the matter.
- 4.2 These rules apply;
 - i. to either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a member or co-opted member has a disclosable pecuniary interest; and
 - ii. to prohibitions from participation concerning a matter in which a member or co-opted member has a prejudicial interest.
- 4.3 A dispensation can only be granted if after having had regard to all relevant circumstances the authority:

- i. considers that without the dispensation the number of persons prohibited by section 31(4) from participation in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or
- ii. considers that without the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or
- iii. considers that granting the dispensation is in the interests of persons living in the authority's area, or
- iv. if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating Executive Officer arrangements considers that without the dispensation each member of the authority's Executive Officer would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's Executive Officer, or
- v. considers that it is otherwise appropriate to grant a dispensation.

5. Development Control

- 5.1 The political balance requirements have been disapplied to Development Control Committees and accordingly the criterion in paragraph 4.3(ii), for dispensation does not apply to the consideration of development control matters.

6. Maximum Period

- 6.1 A dispensation will specify the period for which it has effect and the period specified may not last for more than 4 years from the date of the giving of the dispensation.

7. When Dispensation Should Never be Given

- 7.1 A dispensation should never be given where:-
- 7.2 A member is prohibited from voting on a matter at a meeting of the overview and scrutiny committee of the authority relating to a decision made by any body of which that person was a member at the time the decision was taken; or
- 7.3 A member of the authority's Executive Officer is prohibited from exercising functions which are the responsibility of the Executive Officer and which would otherwise be discharged solely by that member.

8. How to Apply for a Dispensation

- 8.1 If a member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the provisions of section 31(4) of the Localism Act 2011 or the Code, he or she should write to or Email the Monitoring Officer a request for a dispensation explaining why it is desirable for a dispensation to be granted. At least twenty-eight (28) days' notice must be given before the dispensation is required to enable (a) consideration of the matter by the Monitoring Officer together with all necessary consultations to be undertaken or (b) at the absolute discretion of the Monitoring Officer the convening of a meeting of the Standards Committee or sub-committee set up by the Standards Committee to consider the matter.

9. Records

- 9.1 The authority will record the existence, duration and nature of any dispensation and the record is to be kept with the register of members' interests.

10. The Authority's HR Committee's Consideration of an Application for Dispensation

- 10.1 Dispensations should be granted only in exceptional circumstances.
- 10.2 Dispensations cannot be granted other than in the circumstances set out in the Localism Act 2011 Section 33(2) set out in paragraph 4.3 above.
- 10.3 A dispensation cannot authorise a member to act unlawfully.
- 10.4 Dispensations should not be granted in the two circumstances set out in paragraph 7 above.
- 10.5 Any dispensation that has already been granted will be ignored when applying the legal criteria in paragraph 4.
- 10.6 The interest of the member seeking the dispensation will be balanced against the potential effect of the outcome of the vote if the member is unable to participate.
- 10.7 A dispensation may be granted to enable a member to speak only or to speak and vote.
- 10.8 A dispensation should not be granted where the dispensation would conflict with the general principles which underlie the Code of Members' Conduct:

- i. Selflessness—holders of public office should act solely in terms of the public interest.
 - ii. Integrity—holders of public office must avoid placing themselves under any obligation to people or organisations that might try to inappropriately influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
 - iii. Objectivity—holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.
 - iv. Accountability—holders of public office are accountable to the public or their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - v. Openness—holder of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
 - vi. Honesty – holders of public office should be truthful.
 - vii. Leadership – holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 10.9 A dispensation should not be granted where the nature of the member’s interest would damage public confidence in the conduct of the authority’s business were the dispensation to be granted.
- 10.10 If a dispensation is granted it should usually be for one specific item of business at one meeting of the authority.
- 10.11 Consideration must take account of any legal requirement or statutory guidance issued by the Department for Communities and Local Government.
- 10.12 Section 31(4) of the Localism Act 2011 does not apply in relation to anything done for the purposes of deciding whether to grant a dispensation under this section.

11. Help

- 11.1 Further assistance can be obtained from the Executive Officer to the Council, Southwater Parish Council, Beeson House, 26 Lintot Square, Fairbank Road, Southwater, West Sussex RH13 9LA (Telephone 01403 733 202, Email enquiry@southwater-pc.gov.uk).