

PORTISHEAD TOWN COUNCIL DISPENSATION POLICY

This policy falls under the remit of section 33 of the Localism Act 2011.

1. 'Disclosable pecuniary interests' (DPIs) must be dealt with at meetings. The rules apply where a member attends a meeting of the Town Council or any committee and a matter is considered in which the member has a DPI.
2. The rules are:
 - If the DPI is not entered in the register of interests kept by the Monitoring Officer at North Somerset Council the member must disclose the interest to the meeting.
 - The member must not participate in any discussion of, or vote on, the matter.
 - In accordance with the Town Council's adopted Code of Conduct the member must withdraw from the meeting during consideration of the matter.
 - If the DPI is not entered in the register of interests the member must notify the Monitoring Officer of the interest within 28 days of the meeting.
3. There is no equivalent of the former rule for prejudicial interests, in that an interest was prejudicial only if a reasonable member of the public with knowledge of the relevant facts might think it so significant as likely to prejudice a member's judgment. The rule on non-participation applies as soon a member has a DPI in an item on the agenda.
4. A 'dispensation' allows a member with a DPI in an item on the agenda either to participate in discussion of the item, or to vote on the item, or both. The member must still disclose the interest, and notify the Monitoring Officer, if the interest is not entered in his or her register of interests.
5. Under the Localism Act 2011 consideration of dispensations is a matter for the Town Council. An application for a dispensation must be made in writing to the Clerk as Proper Officer and the Town Council has power to determine the application. There is no requirement for an application to be made in advance of the meeting. Provided it is in writing it could be made just before or even during a meeting.
6. The power to determine an application for a dispensation is delegated to the Clerk or appointed Deputy. A dispensation must specify the period for which it has effect, which may not exceed four years. All dispensations will expire in May 2015 (the date of the next ordinary elections) at the latest. It may be appropriate to grant a dispensation only for a particular meeting.
7. The Clerk on behalf of the Town Council may grant a dispensation only if, after having had regard to all relevant circumstances, considers that:
 - without the dispensation the number of members or co-opted members prohibited from participating in any particular business would be so great a proportion of the

meeting as to impede the transaction of the business (in other words the meeting would be inquorate unless a dispensation was granted); or

- granting the dispensation is 'in the interests of persons living in the authority's area' (in other words the member could not properly represent their constituents if they were not permitted to participate); or
- it is otherwise 'appropriate' to grant a dispensation.

8. A member can take part in discussion of, and vote on, whether to grant him or her a dispensation.

9. The Town Council may take into account whether an interest is prejudicial under the old regime, when determining whether it is 'appropriate' to grant a dispensation. Members must always bear in mind the duty of the Town Council to promote and maintain high standards of conduct among its members and in particular how its decisions are likely to be perceived by the public.

10. Recent legal advice has suggested that members who are council tax payers in the parish may have a DPI in any matter related to precept setting, including consideration of the Town Council budget (precept setting was specifically excluded from the old rules but this exclusion has not been included in the 2011 legislation). While this is patently ridiculous, and I expect that the Government will soon move to reassure local authorities, I suggest that to be on the safe side members resolve to grant a dispensation to all members to enable them to participate in discussion of, and vote on, any matter relating to the setting of a precept.

11. The rules on DPIs apply only to behaviour at meetings. There is no equivalent of the former rule that a member with a prejudicial interest must not seek to 'improperly influence' a decision. However attempts to improperly influence a decision outside a meeting might be a breach of the Town Council's Code of Conduct.

12. Dispensations do not apply to interests other than DPIs, for example membership of outside organisations or the interests of family members other than the member's spouse or civil partner. It is entirely a matter for an individual member, having regard to the principles set out in the Town Council's Code of Conduct, whether they participate in discussion of, or vote on, a matter in which they have an interest other than a DPI, or whether they disclose such an interest. Any disclosure, or decision to participate or not to participate, or to leave the room, will be minuted in the interests of transparency. There is no requirement to register interests other than DPIs.

- a) The Council agreed that as a general rule a dispensation will not be granted where a DPI would have been prejudicial under the old regime except that a dispensation may be granted to permit the member to speak in public participation (as was permitted by paragraph 12(2) of the 2007 Code of Conduct)

- b) The Council agreed that as a general rule dispensations should expire in May 2015 at the latest
- c) The Council agreed that the power to grant dispensations should be delegated to the Clerk or appointed Deputy and that in the event that the Town Council disagrees with the decision of the Officer, this may be put to the vote of the Council to overrule the advice.
- d) The Council will review the policy on dispensations in 12 months