

Guide for Members and Co-opted Members on Dispensations

A guide to the Council's process for granting dispensations to Councillors in certain circumstances.

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1.0 Introduction

- 1.1 The Localism Act 2011 (“the Act”) requires all Members (Councillors) and Co-opted Members to register any Disclosable Pecuniary Interests in a public register of interests maintained by the Monitoring Officer.
- 1.2 The Local Government Association’s Model Code of Conduct (“the LGA Code”) which the Council adopted from 1 December 2022 requires that all Members and Co-opted Members to register any Other Registerable Interests in the public register maintained by the Monitoring Officer and to declare any Non-registerable Interests when they arise.
- 1.3 The Act enables a Member or Co-opted Member to participate in Council business in circumstances where they would otherwise be precluded due to a Disclosable Pecuniary Interest recorded in their register of interests if they act in accordance with a dispensation granted by the Authority.
- 1.4 The LGA Code enables a Member or Co-opted Member to participate in Council business in circumstances where they would otherwise be precluded due to an Other Registerable Interest recorded in their register of interests or a Non-registerable Interest if they act in accordance with a dispensation granted by the Authority.
- 1.5 If a Member or Co-opted Member acts in accordance with a dispensation granted to them, any participation in business of the Council that would otherwise be prohibited:
 - (a) by the Act i.e. the Member has a Disclosable Pecuniary Interest, is not treated as a criminal offence under the Act; or
 - (b) by the LGA Code, is not treated as a failure to comply with the LGA Code.

2.0 In what circumstances may the Authority grant a dispensation?

- 2.1 The Act provides that a dispensation may be granted to a Member or a Co-opted Member who has a Disclosable Pecuniary Interest, only if after having had regard to all relevant circumstances, the Authority considers: –
 - (a) so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that without the dispensation it would “impede the transaction of the business” i.e. not be quorate;
 - (b) that without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter;
 - (c) that the granting of the dispensation is in the interests of persons living in the Authority’s area;
 - (d) that without the dispensation, no member of the Cabinet would be able to participate on the matter; or

- (e) that it is otherwise appropriate to grant a dispensation.

The same criteria is applied by the LGA Code but in relation to Other Registerable Interests and Non-registerable Interests.

3.0 How will the Authority consider a request for a dispensation?

- 3.1 When determining a request, the Authority must have due regard to the matters mentioned in paragraph 2.1 above, the Member's or Co-opted Member's written request, and to all relevant circumstances of the case as to whether it is appropriate to grant the dispensation.
- 3.2 The granting of a dispensation is discretionary and there is no obligation on the Authority to grant one.
- 3.3 If granted, the details of the dispensation will be entered into a register of dispensations which will be maintained by the Monitoring Officer on behalf of the Governance and Audit Committee and will be open to public inspection. This register will be kept with the Register of Members Interests also maintained by the Monitoring Officer.
- 3.4 Full Council at its meeting on 25 June 2012 agreed that:-
- Requests for dispensations relating to grounds (a) and (d) referred to at paragraph 2.1 above will be considered by the Monitoring Officer (or by an officer duly authorised by the Monitoring Officer in that regard); and
 - Requests for dispensations relating to grounds (b) (c) and (e) will be considered by the Governance and Audit Committee.

4.0 Circumstances in which the Authority may not grant a dispensation

- 4.1 The Authority cannot grant a dispensation to:-
- (a) allow a member of an Overview and Scrutiny Committee to participate in the scrutiny of a decision made by any body of which that person was a member at the time the decision was taken; or
- (b) allow an individual Cabinet member to exercise executive functions solely; i.e. where a portfolio holder makes a decision pursuant to the Cabinet Scheme of Delegation.

5.0 How long will a dispensation last?

- 5.1 Once granted, a Member or a Co-opted Member can rely on the dispensation for the period specified by the Authority up to a maximum of four years from the date of its grant.

6.0 Declaring the existence of a dispensation

- 6.1 Following the granting of a dispensation, it is the responsibility of the individual Member or Co-opted Member to declare the existence and nature of the dispensation at every meeting of the Authority where the business to be transacted relates to the dispensation.

7.0 How to apply for a dispensation

- 7.1 All requests for a dispensation must be made individually in writing by a Member or Co-opted Member and must specify why the Authority should consider granting a dispensation and must address the points mentioned at paragraph 2.1 above. A form is attached to this Guidance for Members use.
- 7.2 All requests for a dispensation in relation to grounds (a) and (d) referred to in paragraph 2.1 above must be made at least one clear working day ahead of the meeting for which it is requested. This is to enable the appropriate officer to consider the request.
- 7.3 All requests for a dispensation in relation to grounds (b) (c) and (e) referred to in paragraph 2.1 above must be made at least ten clear working days ahead of the meeting for which it is being requested. This is to enable the Governance and Audit Committee itself to be convened in accordance with the statutory notice requirements under the Local Government Act 1972.
- 7.4 All requests for a dispensation must be emailed to the Monitoring Officer andrew.weavers@colchester.gov.uk

Colchester Borough Council Governance and Audit 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 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 4 years) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	
Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)	

Signed: Dated:

Please send completed form to the Monitoring Officer by e-mail at andrew.weavers@colchester.gov.uk