



To: The Mayor and Members of Newbury Town Council

**Re: NEWBURY TOWN COUNCIL DISPENSATION PROCESS**

**BACKGROUND / SCOPE**

The Code of Conduct defines various interest declarations which may exclude a Member from participation in discussions.

It further states “On a written request made to the Council’s proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council’s area to allow the member to take part or it is otherwise appropriate to grant a dispensation.”

The process needs to cater for legal, effective and transparent decision making on dispensations.

The potential need for a dispensation request may become apparent during agenda setting, between agenda publication and the meeting itself, or during a meeting. It will be a little unwieldy, but even during a meeting, the request must be made in writing.

To avoid repeated requests for similar dispensations, standing dispensations have been deployed. To be legal, members still need to request in writing that the dispensation applies to them.

**DELEGATION**

The law allows dispensations to be granted by Council and also allows that decision making to be delegated to the Council’s Proper Officer. If by Council, that will require either an agenda’d or unagenda’d item at a Council meeting.

This process authorises delegation to the Proper Officer (or their representative) where appropriate.

**PROCESS**

- If a Member believes that a dispensation may be needed, he/she should make that request in writing to the Proper Officer, as soon as practically possible.
- If an Officer believes that potential declarations will mean that a meeting may become inquorate he/she should discuss appropriate action with the Chairperson, as soon as practically possible.
- The Proper Officer (or their representative in a meeting) will decide if a dispensation request is to be decided via an agenda’d item, an unagenda’d item, or by the Proper Officer.

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- If decision is made by Council (via an agenda'd or unagenda'd item) then the appropriate resolution will be made at the meeting and recorded in the minutes.
- If the decision is made by the Proper Officer, then the decision will be stated by the Proper Officer in the meeting and recorded in the minutes.
- In all cases, the reason for granting the dispensation must be recorded.
- In all cases, the period of time (up to a maximum of four years) for which the dispensation takes effect must be defined.
- If the dispensation is to be a standing dispensation, it will be added to the list of standing dispensations contained within this document.

## **STANDING DISPENSATIONS**

1. **Dual-Hatted Members:** It is expected that all dual-hatted Members (and partners of dual-hatted members) will declare Membership of the District Council, which would exclude them from any discussion which impacts on the District Council.

Members should apply for a dispensation for the period up to the next full Council elections in 2019 permitting any 'dual-hatted' Member or a Member who has a partner who is "dual-hatted" to speak and vote on

- any matter relating to any land transactions between Newbury Town Council and West Berkshire Council
- any matters relating to any financial transactions or grants between Newbury Town Council and West Berkshire Council
- any planning application or Local Plan matter where the promoter, applicant or landowner is West Berkshire Council
- any matter (from a Newbury Town Council perspective) on which the "dual-hatted" Member may be called upon to re-discuss in their capacity as a Member of a District Council Committee (e.g. Licensing)

2. **Planning Applications by Newbury Town Council:** It is likely that the Town Council would like to express support for any planning application made in its name, but that Members may feel that this is an item which under the old framework they would have declared a personal and prejudicial interest, or may feel it now falls into the Financial Interest category.

All Members should therefore apply for a dispensation for the period up to the next full Council elections in 2019 permitting any Member to speak and vote on

- any planning application where the promoter, applicant or landowner is Newbury Town Council

3. **Setting Newbury Town Council precept:** Most Members are likely to have land, licence or tenancy interests within the area of the Council and so they would be precluded from discussing setting the precept as that will have a pecuniary impact on them. Without a dispensation, Newbury Town Council would therefore be unable to set a precept.

All Members should therefore apply for a dispensation for the period up to the next full Council elections in 2019 permitting any Member to speak and vote on

- The Newbury Town Council budget and precept

4. Discussions relating to Newbury Town Council services: Most Members are likely to use services provided by Newbury Town Council (e.g. allotments / recreation areas) and if declared under Appendix A (e.g. allotment tenancy) would be precluded from discussing the service. Without a dispensation, Newbury Town Council may not benefit from the knowledge of those who have most knowledge of the service.

All Members should therefore apply for a dispensation for the period up to the next full Council elections in 201 permitting any Member to speak and vote on

- Newbury Town Council services, where the Member is a user of the service.

Dated 29 July 2015