

## CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee  
24<sup>th</sup> September 2014

REPORT BY: Solicitor to the Council

SUBJECT: Matters appertaining to Standards Issues

REPORT FOR: Decision, Information and Discussion

**A. General Standards Issues for County Councillors and Co-opted Members****A1 Code of Conduct Training**

All Members and Co-opted Members in post have received Code of Conduct training. Two vacancies exist for Parent Governor Representatives on the People Scrutiny Committee. Elections for these vacancies will be undertaken in the second half of the autumn term and new co-opted members will receive Code of Conduct training upon appointment.

A mid-term refresher training event for all Members and Co-opted Members has been arranged for Friday 10<sup>th</sup> October 2014. Members of the Committee have received an invitation to attend this training.

**A2 Member Development**

The recommendations from the Standards Committee which were accepted by the Member Development Working Group will be considered by the Democratic Services Committee.

**B. Referral of Councillors to Public Services Ombudsman****B1. County Councillor Referrals**

**B1.1** Since the last meeting the Ombudsman has advised of the following Code of Conduct complaints:

1/14/CC	Received – is investigating
2/14/CC	}
3/14/CC	} received – deciding whether or not to investigate
4/14/CC	}
5/14/CC	}

The Ombudsman then notified the Council of one further case which he has decided to investigate as a result of an existing investigation in which he considered a County Councillor has failed, or may have failed to comply with the Members' Code of Conduct namely:

6/14/CC	Received - Is investigating
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Finally for this period a further case was recently received:

7/14/CC Received – deciding whether not to investigate

(NB. Cases 2/14/CC through to 5/14/CC and 7/14/CC relate to the same issue.)

## **C. Other Standards Issues**

### **C1.1 Local Resolution Process**

The draft Local Resolution Process agreed on at the last meeting was approved by the Democratic Services Committee in July and will be considered by the County Council as part of the new Constitution.

## **D Dispensations**

### **D1. Applications - County Councillors**

Applications for dispensation have been received from County Councillor Aled Davies and County Councillor Gwynfor Thomas. A copy of the applications and comments and observations thereon are attached at **Appendix 1**.

Councillor Davies and Thomas have been invited to Committee to present their applications.

### **D2. Blanket Dispensation**

At the meeting of Council on 22<sup>nd</sup> October 2014 Members are due to consider an item regarding Council Tax Discount for unoccupied dwellings. A significant number of Members may have a personal and prejudicial interest which will mean that they cannot take part in consideration of the item. The Committee is therefore requested to consider whether the granting of a dispensation is appropriate. Further details will be circulated.

## **E. Late payment of expenses**

Claims for payment of expenses have been submitted by the following Members:

Councillor Gareth Morgan – a claim for mileage expenses submitted on 10<sup>th</sup> July 2014 for March 2014.

Councillor Williams Evans – a claim for mileage expenses submitted on 5<sup>th</sup> June 2014 for March 2014.

Councillor Susan McNicholas – a claim for mileage expenses submitted on 10<sup>th</sup> June 2014 for the period February and March 2014.

Councillor Gareth Ratcliffe – a claim for mileage expenses submitted on 2<sup>nd</sup> September for June 2014.

Details will be provided at the meeting and the Members have been invited to attend.

**F. Unacceptable Behaviour by Service Users Policy**

A verbal update on the progress of this policy will be provided.

**G. Whistleblowing Policy**

The draft Whistleblowing Policy which was agreed by the Committee was further amended by the Democratic Services Committee and the Wales Audit Office and will be considered by the County Council as part of the new Constitution.

**H. Ombudsman's Annual Report**

The Public Services Ombudsman for Wales has published her Annual Report 2013-14 which can be accessed from the website [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk).

**I. Gifts and Hospitality Register**

The Gifts and Hospitality Register for the period May 2012 to April 2014 is attached at **Appendix 2**.

**J. Meeting Dates**

**J 1** To note dates of future meetings as follows:

Wednesday 3<sup>rd</sup> December 2014  
Wednesday 25<sup>th</sup> February 2015  
Wednesday 15<sup>th</sup> April 2015  
Wednesday 17<sup>th</sup> June 2015  
Wednesday 16<sup>th</sup> September 2015  
Wednesday 25<sup>th</sup> November 2015

All meetings to commence at 10.00am with the option of training available afterwards.

Contact Officer Name:	Tel:	Fax:	Email:
<i>Clive Pinney – Solicitor to the Council</i>	01597 826746	01597 826220	<a href="mailto:clive.pinney@powys.gov.uk">clive.pinney@powys.gov.uk</a>

POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE

APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST

I, Councillor ALAN DAVIES

of \_\_\_\_\_ Powys County Council \_\_\_\_\_ COUNCIL

hereby apply to the Powys Standards Committee/Community Sub-Committee for a Dispensation to participate, as described in Section 1 below, in that business of the Council described in Section 2 below notwithstanding that I have the Prejudicial Interest(s) detailed in Section 3 below.

I make this application on the ground(s) set out in Section 4 below which I submit apply because of the reasons detailed in Section 5 below.

SECTION 1

How you wish to participate – please tick all relevant categories below:

Attend a meeting	<input checked="" type="checkbox"/>
Speak at a meeting	<input checked="" type="checkbox"/>
Vote at a meeting	<input checked="" type="checkbox"/>
Seek to influence a decision on a matter	<input checked="" type="checkbox"/>
Make written representations	<input checked="" type="checkbox"/>
Make oral representations	<input checked="" type="checkbox"/>
Exercise Board functions (County Councillor only)	<input type="checkbox"/>

SECTION 2

(A) Describe in the box below:

- i) the business in which you wish to participate;
- ii) how your Council will deal with the matter;
- iii) how many Members there are on your Council;
- iv) what meetings will be held to consider it, when and where they will be held; and
- v) those taking part.

I want to put a motion before council regarding the control of bovine TB

(B) If the business relates to or affects an organisation(s) please detail below:

- o how were you appointed to that organisation (i.e. by appointment by the Town or Community Council or by other means), and

- what is the nature of the business:
  - A Funding
  - B Planning – applications, building improvement/changes
  - C Licences – liquor/entertainment
  - D Land
  - E Management/operation of the organisation
  - F General matters

I am an elected member,  
and farmer (beef & sheep)

(C) Is the organisation a registered charity? If so, are you a Trustee of the charity?

### SECTION 3

Detail the PREJUDICIAL interest(s) you have in the business referred to in Section 2 above. Please refer to the attached Guidance Notes (Attached) and include the relevant category reference e.g C.4 if the matter concerns a good friend of yours who stands to benefit as a result of a decision on the matter.

I am a beef & sheep farmer

## SECTION 4

**Set out the GROUND(S) upon which you rely by placing a tick in the right hand column against the relevant category/ies below.**

Eligible Applicant	Ground		
County Councillors and Town and Community Councillors	(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;	Speak and Vote Speak only	-
County Councillors only	(b) No fewer than half of the Members of a leader and cabinet executive of the relevant Authority by which the business is to be considered has an interest which relates to that business and either Paragraph (d) or (e) also applies;	Speak and Vote Speak only	-
County Councillors only	(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(d) The nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business;	Speak and Vote Speak only	✓
County Councillors and Town and Community Councillors	(e) The interest is common to the Member and a significant proportion of the general public;	Speak and Vote Speak only	✓
County Councillors and Town and Community Councillors	(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;	Speak and Vote Speak only	✓
County Councillors only	(g) The business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant Authority and the Member's interest is not a pecuniary interest.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose Management Committee or Board the Member is a Member otherwise than as a representative of the relevant Authority and the Member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or	Speak only	
County Councillors and Town and Community Councillors	(i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant Authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.	Speak and Vote Speak only	-

**SECTION 5**

**Detail in full the reasons why you submit the grounds selected in Section 4 apply in the case of your application and justify the grant of the dispensation you seek**

I am a cattle farmer and there are a large number of people involved in Agriculture in Powys.

Applicant's home address:	CLANORON RHUWLAS OSWESTRY SY10 7JJ
Applicant's telephone number:	01691 600 235
Applicant's fax number:	
Applicant's E Mail address:	cllr.abul.dun@powys.gov.uk

SIGNED: 

DATED: 7 Aug 14

**This form fully completed, signed and dated should be returned to:**

**Mrs Elizabeth Patterson, Committee Clerk, Legal, Scrutiny and Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG.**

**Tel No: 01597 826980**

**Fax No: 01597 826220**

**E-Mail: Elizabeth.patterson@powys.gov.uk**

**From whom further information and advice may be obtained.**

Application by	County Councillor A. Davies
Council	Powys County Council
Involvement With	(i) Matters relating to a motion before Council from Councillors A. Davies and G. Thomas regarding bovine tuberculosis.
Business To Be Considered	All Matters relating to the motion before Council from Councillors A. Davies and G. Thomas regarding bovine tuberculosis.
<b>Background</b>	<p>County Council received a motion proposed by Councillor Aled Davies, and seconded by County Councillor Gwynfor Thomas at the July 2014 meeting as follows:</p> <p><i>“Powys dairy and beef farmers are under extreme pressure. There has been a significant fall in the beef price at the farm gate over the last 12 months and TB outbreaks continue to have a devastating effect on both dairy and beef farms. Powys County Council calls on the Welsh Government to conduct a joint trial throughout Powys on the eradication of TB. This trial would be at no cost to the Welsh Government. The trial would only involve the Welsh Government issuing a licence to farmers who have suffered a TB outbreak. The aim of the trial would be to establish if there is an effect on TB incidents on Powys farms when a farm is issued with a licence that permits the farmer to control the badger population on that farm on the same day the Livestock Movement Restriction is issued due to a TB outbreak. Powys County Council would monitor the success of the trial by recording the incidents of TB over the period of the trial. The aim of the trial is to have a very focused targeted approach to the incidents of TB.”</i></p> <p>Both the proposer and seconder to the motion have disclosed that they have personal and prejudicial interests in the motion as they both have dairy and beef cattle on their farms. Therefore neither could present the motion to Council or speak in support of it.</p> <p>Therefore the motion was withdrawn pending an application for a dispensation being made to the Standards Committee by the proposer and seconder, and depending on the outcome of that application, it is intended that the motion will be resubmitted to Council for debate.</p> <p>The County Council in July was also advised that at least one quarter of the Council Members could be affected as they are either beef or dairy farmers or have relatives or friends who are beef or dairy farmers.</p> <p>The applicant is seeking a dispensation to:</p> <ul style="list-style-type: none"> <li>(i) Attend a meeting.</li> <li>(ii) Speak at a meeting.</li> <li>(iii) Seek to influence a decision on the matter.</li> <li>(iv) Make written representations.</li> </ul>



<p><b>STEP 1</b> Personal Interest(s) under paragraph 10 of the Code.</p>	<p>(v) Make oral representations.</p> <p>Councillor Davies has the following personal interests:</p> <p>10. (2) (a) (i) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any employment or business carried on by you</p> <p>10 (2) (c) (i) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p> <p>10 (2) (c) (ii) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting any employment or business carried on by persons as described in 10 (2) (c) (i) to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p>
<p><b>STEP 2</b> Exemptions under paragraph 12 (2) &amp; (3) of the Code.</p>	<p>In relation to County Councillor Davies, none of the exemptions in Paragraph 12(2) would apply in relation to the personal interests detailed above:</p>
<p><b>STEP 3</b> Application of “public perception” test under paragraph 12 (1) of the Code.</p>	<p>In applying the Paragraph 12(1) test in relation to the business involving consideration of the motion relating to bovine tuberculosis [relating to the personal interests listed above] it is suggested that the Committee approach the issue in this way i.e. to ask itself:</p> <p>“Is it reasonable to suppose that the public perception would regard the Councillor’s personal interest, as so significant that whenever the motion regarding bovine tuberculosis was discussed the potential conflict of interest would be so significant as to be likely to prejudice his / her judgement of the public interest in performing his / her role as a County Councillor?”</p> <p>In applying the Paragraph 12(1) test in relation to this matter (and particular interest) it is difficult to conclude that the Committee would answer this question otherwise than in the affirmative i.e. that a prejudicial interest would exist in this situation, unless the business under discussion is of such a nature that it would be categorised as trivial, insignificant or uncontentious.</p>

<p><b>STEP 4</b> Ground(s) on which dispensation could be granted</p>	<p>In relation to the County Councillor the grounds which could be considered for this matter would be grounds (d), (e) and (f), namely:</p> <p>(d) The nature of the Member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(e) The interest is common to the Member and a significant proportion of the general public;</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p>
<p><b>STEP 5</b> Determine the application:-</p> <p>(i) Refuse</p> <p>(ii) Approve:-</p> <p>(a) attend</p> <p>(b) speak</p> <p>(c) vote</p> <p>(d) exercise Board Function</p> <p>(e) seek to influence</p> <p>(f) make written communications</p> <p>(g) make oral representations</p>	<p>The applicant has requested a dispensation to attend meetings and to speak, seek to influence and make oral and written representations and vote, on matters relating to the motion regarding bovine tuberculosis.</p> <p>The issue for consideration is to what extent (if any) can Councillor Davies be involved in presenting the motion and in discussions on this matter (undertaking his representational role as a County Councillor) which can have a material effect on his own wellbeing / financial position.</p> <p>The Committee is reminded that at its meeting on 6<sup>th</sup> November, 2013, it agreed the following principles in respect of matters relating to lobbying:</p> <p><b>Outcome:</b></p> <p><b>The Committee agreed that a dispensation to speak and vote should be granted if the following general principles were met:-</b></p> <p>(1) <b>That the motion/decision involves lobbying for a revocation or variation or the influencing of a decision or proposed decision that has been made or is to be made by a body other than Powys County Council; and</b></p> <p>(2) <b>Where the matter affects a significant proportion of the Council/ Cabinet/Committee so as either (a) no fewer than half of the</b></p>

	<p><b>members of the Council/Cabinet/Committee which is to consider the business has a personal and prejudicial interest in that business or (b) the inability of member(s) to participate would upset the political balance of the Authority or committee or Cabinet such that the outcome would be likely to be affected; and</b></p> <p><b>(3) The issue is not one in which the Council is being consulted upon by an outside body (as those matters will be dealt with by officers and/or portfolio holders and influence/lobbying occurs as part of the consultation process).</b></p>
<p><b>RECOMMENDATION:</b></p>	<p>It is difficult to make a recommendation and the committee will need to consider whether a dispensation or partial dispensation can be granted to Councillor Davies under paragraphs (d), (e) and (f) and under which circumstances.</p> <p>If the Committee is minded to grant a dispensation, the Committee is asked to consider whether this dispensation would also be extended to other Members of the Council who are likely to have a personal and prejudicial interest in this matter and would therefore be unable to take part in the debate.</p>

**POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE**  
**APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL**  
**INTEREST**

I, Councillor ROBERT GWYNFOR THOMAS  
of Powys COUNCIL

hereby apply to the Powys Standards Committee/Community Sub-Committee for a Dispensation to participate, as described in Section 1 below, in that business of the Council described in Section 2 below notwithstanding that I have the Prejudicial Interest(s) detailed in Section 3 below.

I make this application on the ground(s) set out in Section 4 below which I submit apply because of the reasons detailed in Section 5 below.

**SECTION 1**

How you wish to participate – please tick all relevant categories below:

Attend a meeting	✓
Speak at a meeting	✓
Vote at a meeting	✓
Seek to influence a decision on a matter	✓
Make written representations	✓
Make oral representations	✓
Exercise Board functions (County Councillor only)	

**SECTION 2**

(A) Describe in the box below:

- i) the business in which you wish to participate;
- ii) how your Council will deal with the matter;
- iii) how many Members there are on your Council;
- iv) what meetings will be held to consider it, when and where they will be held; and
- v) those taking part.

I WOULD LIKE TO SECOND A MOTION  
BEFORE COUNCIL AS REGARD BOVINE TB

(B) If the business relates to or affects an organisation(s) please detail below:

- how were you appointed to that organisation (i.e. by appointment by the Town or Community Council or by other means), and

- what is the nature of the business:
  - A Funding
  - B Planning – applications, building improvement/changes
  - C Licences – liquor/entertainment
  - D Land
  - E Management/operation of the organisation
  - F General matters

I AM AN ELECTED MEMBER AND  
A DAIRY FARMER

(C) Is the organisation a registered charity? If so, are you a Trustee of the charity?

### SECTION 3

Detail the PREJUDICIAL interest(s) you have in the business referred to in Section 2 above. Please refer to the attached Guidance Notes (Attached) and include the relevant category reference e.g C.4 if the matter concerns a good friend of yours who stands to benefit as a result of a decision on the matter.

I AM A DAIRY FARMER

## SECTION 4

**Set out the GROUND(S) upon which you rely by placing a tick in the right hand column against the relevant category/ies below.**

Eligible Applicant	Ground		
County Councillors and Town and Community Councillors	(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;	Speak and Vote Speak only	-
County Councillors only	(b) No fewer than half of the Members of a leader and cabinet executive of the relevant Authority by which the business is to be considered has an interest which relates to that business and either Paragraph (d) or (e) also applies;	Speak and Vote Speak only	-
County Councillors only	(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(d) The nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business;	Speak and Vote Speak only	✓
County Councillors and Town and Community Councillors	(e) The interest is common to the Member and a significant proportion of the general public;	Speak and Vote Speak only	✓
County Councillors and Town and Community Councillors	(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;	Speak and Vote Speak only	✓
County Councillors only	(g) The business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant Authority and the Member's interest is not a pecuniary interest.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose Management Committee or Board the Member is a Member otherwise than as a representative of the relevant Authority and the Member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or	Speak only	
County Councillors and Town and Community Councillors	(i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant Authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.	Speak and Vote Speak only	-

**SECTION 5**

**Detail in full the reasons why you submit the grounds selected in Section 4 apply in the case of your application and justify the grant of the dispensation you seek**

TO HIGHLIGHT THE MATTER  
DUE TO THE HIGH NUMBER OF  
PEOPLE WITHIN POWYS CONNECTED TO  
AGRICULTURE

Applicant's home address:	PONTYDENTRE LLANSANTFRAN POWYS SY22 6XP
Applicant's telephone number:	01691828103
Applicant's fax number:	
Applicant's E Mail address:	chr.gwynfor.thomas@powys.gov.uk

SIGNED: 

DATED: 16 / 9 / 14

**This form fully completed, signed and dated should be returned to:**

**Mrs Elizabeth Patterson, Committee Clerk, Legal, Scrutiny and Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG.**

**Tel No: 01597 826980**

**Fax No: 01597 826220**

**E-Mail: Elizabeth.patterson@powys.gov.uk**

**From whom further information and advice may be obtained.**

Application by	County Councillor G Thomas
Council	Powys County Council
Involvement With	(i) Matters relating to a motion before Council from Councillors A. Davies and G. Thomas regarding bovine tuberculosis.
Business To Be Considered	All Matters relating to the motion before Council from Councillors A. Davies and G. Thomas regarding bovine tuberculosis.
<b>Background</b>	<p>County Council received a motion proposed by Councillor Aled Davies, and seconded by County Councillor Gwynfor Thomas at the July 2014 meeting as follows:</p> <p><i>“Powys dairy and beef farmers are under extreme pressure. There has been a significant fall in the beef price at the farm gate over the last 12 months and TB outbreaks continue to have a devastating effect on both dairy and beef farms. Powys County Council calls on the Welsh Government to conduct a joint trial throughout Powys on the eradication of TB. This trial would be at no cost to the Welsh Government. The trial would only involve the Welsh Government issuing a licence to farmers who have suffered a TB outbreak. The aim of the trial would be to establish if there is an effect on TB incidents on Powys farms when a farm is issued with a licence that permits the farmer to control the badger population on that farm on the same day the Livestock Movement Restriction is issued due to a TB outbreak. Powys County Council would monitor the success of the trial by recording the incidents of TB over the period of the trial. The aim of the trial is to have a very focused targeted approach to the incidents of TB.”</i></p> <p>Both the proposer and seconder to the motion have disclosed that they have personal and prejudicial interests in the motion as they both have dairy and beef cattle on their farms. Therefore neither could present the motion to Council or speak in support of it.</p> <p>Therefore the motion was withdrawn pending an application for a dispensation being made to the Standards Committee by the proposer and seconder, and depending on the outcome of that application, it is intended that the motion will be resubmitted to Council for debate.</p> <p>The County Council in July was also advised that at least one quarter of the Council Members could be affected as they are either beef or dairy farmers or have relatives or friends who are beef or dairy farmers.</p> <p>The applicant is seeking a dispensation to:</p> <ul style="list-style-type: none"> <li>(i) Attend a meeting.</li> <li>(ii) Speak at a meeting.</li> <li>(iii) Seek to influence a decision on the matter.</li> <li>(iv) Make written representations.</li> </ul>



<p><b>STEP 1</b> Personal Interest(s) under paragraph 10 of the Code.</p>	<p>(v) Make oral representations.</p> <p>Councillor Thomas has the following personal interests:</p> <p>10. (2) (a) (i) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any employment or business carried on by you</p> <p>10 (2) (c) (i) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p> <p>10 (2) (c) (ii) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting any employment or business carried on by persons as described in 10 (2) (c) (i) to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p>
<p><b>STEP 2</b> Exemptions under paragraph 12 (2) &amp; (3) of the Code.</p>	<p>In relation to County Councillor Thomas, none of the exemptions in Paragraph 12(2) would apply in relation to the personal interests detailed above:</p>
<p><b>STEP 3</b> Application of “public perception” test under paragraph 12 (1) of the Code.</p>	<p>In applying the Paragraph 12(1) test in relation to the business involving consideration of the motion relating to bovine tuberculosis [relating to the personal interests listed above] it is suggested that the Committee approach the issue in this way i.e. to ask itself:</p> <p>“Is it reasonable to suppose that the public perception would regard the Councillor’s personal interest, as so significant that whenever the motion regarding bovine tuberculosis was discussed the potential conflict of interest would be so significant as to be likely to prejudice his / her judgement of the public interest in performing his / her role as a County Councillor?”</p> <p>In applying the Paragraph 12(1) test in relation to this matter (and particular interest) it is difficult to conclude that the Committee would answer this question otherwise than in the affirmative i.e. that a prejudicial interest would exist in this situation, unless the business under discussion is of such a nature that it would be categorised as trivial, insignificant or uncontentious.</p>

<p><b>STEP 4</b> Ground(s) on which dispensation could be granted</p>	<p>In relation to the County Councillor the grounds which could be considered for this matter would be grounds (d), (e) and (f), namely:</p> <p>(d) The nature of the Member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(e) The interest is common to the Member and a significant proportion of the general public;</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p>
<p><b>STEP 5</b> Determine the application:-</p> <p>(i) Refuse</p> <p>(ii) Approve:-</p> <p>(a) attend</p> <p>(b) speak</p> <p>(c) vote</p> <p>(d) exercise Board Function</p> <p>(e) seek to influence</p> <p>(f) make written communications</p> <p>(g) make oral representations</p>	<p>The applicant has requested a dispensation to attend meetings and to speak, seek to influence and make oral and written representations and vote, on matters relating to the motion regarding bovine tuberculosis.</p> <p>The issue for consideration is to what extent (if any) can Councillor Thomas be involved in presenting the motion and in discussions on this matter (undertaking his representational role as a County Councillor) which can have a material effect on his own wellbeing / financial position.</p> <p>The Committee is reminded that at its meeting on 6<sup>th</sup> November, 2013, it agreed the following principles in respect of matters relating to lobbying:</p> <p><b>Outcome:</b></p> <p><b>The Committee agreed that a dispensation to speak and vote should be granted if the following general principles were met:-</b></p> <p>(1) <b>That the motion/decision involves lobbying for a revocation or variation or the influencing of a decision or proposed decision that has been made or is to be made by a body other than Powys County Council; and</b></p> <p>(2) <b>Where the matter affects a significant proportion of the Council/ Cabinet/Committee so as either (a) no fewer than half of the</b></p>

	<p><b>members of the Council/Cabinet/Committee which is to consider the business has a personal and prejudicial interest in that business or (b) the inability of member(s) to participate would upset the political balance of the Authority or committee or Cabinet such that the outcome would be likely to be affected; and</b></p> <p><b>(3) The issue is not one in which the Council is being consulted upon by an outside body (as those matters will be dealt with by officers and/or portfolio holders and influence/lobbying occurs as part of the consultation process).</b></p>
<p><b>RECOMMENDATION:</b></p>	<p>It is difficult to make a recommendation and the committee will need to consider whether a dispensation or partial dispensation can be granted to Councillor Thomas under paragraphs (d), (e) and (f) and under which circumstances.</p> <p>If the Committee is minded to grant a dispensation, the Committee is asked to consider whether this dispensation would also be extended to other Members of the Council who are likely to have a personal and prejudicial interest in this matter and would therefore be unable to take part in the debate.</p>

**Gifts and Hospitality Record May 2012 – April 2013**

Cllr G. Banks	8 tickets to Presteigne Music Festival for Chairman and High Sheriff from Grants Officer at PCC
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**Gifts and Hospitality Record May 2013 – April 2014**

Cllr D. Mayor	1 day motocross and trials experience (£200)
Cllr G. Ratcliffe	Hospitality at launch of Hay Festival (£100)
Cllr J. Jones	4 tickets for Theatr Hafren (£40)

Application by	Blanket Dispensation Application for Members of Powys County Council
Council	Powys County Council
Involvement With	(i) Matters relating to a change to the level of Council Tax Discount applied for unoccupied and substantially unfurnished properties in Powys.
Business To Be Considered	All Matters relating to a change to the level of Council Tax Discount applied for unoccupied and substantially unfurnished properties in Powys.
<b>Background</b>	<p>The County Council will be considering a report on 22<sup>nd</sup> October, 2014 in relation to amending the level of Council Tax discount which is applied to unoccupied and substantially unfurnished properties in Powys, effectively reducing the level of discount from 50% to Zero. A copy of the report on this issue taken to Cabinet on 9<sup>th</sup> September 2014 is attached.</p> <p>Comments received from Members at a meeting of Radnorshire on 17<sup>th</sup> September, 2014 indicate that a significant number of Members may have a personal and prejudicial interest in this matter as they own properties which they rent or have family and friends who own and rent properties. Therefore this proposal could directly affect them, to the extent that a significant number of Members would be ruled out from taking any part in the debate under the Members Code of Conduct 2008.</p> <p>The Solicitor to the Council therefore asks Standards Committee to consider whether they would be prepared to consider granting a general dispensation to all Members or to a defined group of Members.</p> <p>A brief review of Members Interests Forms indicates that 25 out of 73 Members could be affected. However, if you add Members who have friends or family in a similar position the numbers affected could be more than half of the Council.</p> <p>It is anticipated that a significant number of Members would require the following dispensation to enable them to participate in the debate:</p> <ul style="list-style-type: none"> <li>(i) to attend a meeting.</li> <li>(ii) to speak at a meeting.</li> <li>(iii) to seek to influence a decision on the matter.</li> <li>(iv) to make written representations.</li> <li>(v) to make oral representations.</li> </ul>
<b>STEP 1</b> Personal Interest(s) under paragraph 10 of the Code.	<p>Members are likely to have the following personal interests in respect of this matter:</p> <p>10. (2) (a) (i) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any employment or business carried on by you</p> <p>10 (2) (a) (vi) - You must regard yourself as having a personal interest in any business of your authority if it</p>

	<p>relates to, or is likely to affect any land in which you have a beneficial interest and which is in the area of your authority</p> <p>10 (2) (c) (i) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p> <p>10 (2) (c) (ii) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting any employment or business carried on by persons as described in 10 (2) (c) (i) to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision</p>
<p><b>STEP 2</b> Exemptions under paragraph 12 (2) &amp; (3) of the Code.</p>	<p>In relation to Members, none of the exemptions in Paragraph 12(2) would apply in relation to the personal interests detailed above:</p>
<p><b>STEP 3</b> Application of “public perception” test under paragraph 12 (1) of the Code.</p>	<p>In applying the Paragraph 12(1) test in relation to the business involving consideration of the motion relating to Council Tax Discounts [relating to the personal interests listed above] it is suggested that the Committee approach the issue in this way i.e. to ask itself:</p> <p>“Is it reasonable to suppose that the public perception would regard the Councillor’s personal interest, as so significant that whenever the motion regarding Council Tax Discounts was discussed the potential conflict of interest would be so significant as to be likely to prejudice his / her judgement of the public interest in performing his / her role as a County Councillor?”</p> <p>In applying the Paragraph 12(1) test in relation to this matter (and particular interest) it is difficult to conclude that the Committee would answer this question otherwise than in the affirmative i.e. that a prejudicial interest would exist in this situation, unless the business under discussion is of such a nature that it would be categorised as trivial, insignificant or uncontentious.</p>
<p><b>STEP 4</b> Ground(s) on which dispensation could be granted</p>	<p>In relation to Members the grounds which could be considered for this matter would be grounds (d), and (e), namely:</p>

	<p>(d) The nature of the Member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(e) The interest is common to the Member and a significant proportion of the general public;</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>Dependent on the extent of the numbers affected, grounds (a) and (c) could also be applicable, namely:</p> <p>(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p> <p>(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.</p> <p>(This ground enables the grant of dispensation to speak and vote or to speak only).</p>
<p><b>STEP 5</b> Determine the application:-</p> <p>(i) Refuse</p> <p>(ii) Approve:-</p> <ul style="list-style-type: none"> <li>(a) attend</li> <li>(b) speak</li> <li>(c) vote</li> <li>(d) exercise Board Function</li> <li>(e) seek to influence</li> <li>(f) make written communications</li> <li>(g) make oral representations</li> </ul>	<p>If they are to participate in the debate a significant number of Members will require a dispensation to attend meetings and to speak, seek to influence and make oral and written representations and vote, on matters relating to the motion regarding Council Tax Discounts.</p> <p>The issue for consideration is to what extent (if any) can Members be involved in discussions on this matter (undertaking their representational role as a County Councillor) which can have a material effect on their own wellbeing / financial position.</p> <p>The Committee is reminded that in considering previous applications for a blanket dispensation, it has set a precedent that it has allowed a dispensation to apply for all other types of prejudicial interest EXCEPT where the Member directly, or through someone with whom the Member lives or has a close personal association there is a pecuniary prejudicial (financial) interest.</p>

	The Committee may (or may not) wish to draw a distinction between Members who currently have properties vacant and benefit from the relief and Members who own properties and do not currently benefit from the relief.
<b>RECOMMENDATION:</b>	It is difficult to make a recommendation and the Committee will need to consider whether a dispensation or partial dispensation can be granted to Members under paragraphs (d) and (e) [and potentially ground (a) and (c)] and under which circumstances.



CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE  
9<sup>th</sup> September 2014

REPORT AUTHOR: County Councillor D Davies  
Portfolio Holder for Finance

SUBJECT: Council Tax Discount – unoccupied and substantially  
unfurnished

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REPORT FOR: DECISION

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1. **Introduction**

- 1.1 Section 12 of the Local Government Finance Act, 1992 (Discounts: special provision for Wales) as substituted by Section 75(2) of the Local Government Finance Act 2003 provides the power for National Assembly for Wales to prescribe classes of dwellings in Wales for certain purposes.
- 1.2 The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004 prescribed a new class of dwelling (Class C) which was introduced from 1<sup>st</sup> April 2004.
- 1.3 Class C comprises every chargeable dwelling which is both unoccupied and substantially unfurnished.
- 1.4 The effect of the prescription of Class C is that Billing Authorities in Wales may, from 1<sup>st</sup> April 2004 reduce or end the Council Tax discount of 50% for chargeable dwellings which are both unoccupied and substantially unfurnished.
- 1.5 It has been the policy of the Council since 2004 to award the 50% discount on chargeable dwellings that are unoccupied and substantially unfurnished.
- 1.6 The Housing (Wales) Bill which is currently at plenary stage in National Assembly for Wales proposes that Billing Authorities by determination will have the ability to determine a premium amount of Council Tax be payable of up to 100% for long term empty dwellings. This is predicted to become an option from 1<sup>st</sup> April 2016. See separate report for information, **Cabinet Report - Housing (Wales) Bill** for more details on this.

## 2. Background/Proposal

- 2.1 A 100% exemption is granted from the date a dwelling becomes unoccupied and unfurnished for a maximum period of six months or 12 months in the case of properties in need of or undergoing major structural repair. Currently a 50% discount is then granted after the six or 12 month exemption period expires, and continues whilst the property remains unoccupied and substantially unfurnished.
- 2.2 The Regulations give the discretionary powers to reduce or end only this 50% Council Tax discount for chargeable dwellings which are unoccupied and substantially unfurnished.
- 2.3 The Council currently has 1,577 dwellings that are in receipt of the 50% discount, the length of vacancy and banding are detailed below:

<b>period empty</b>	<b>No:</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
3 Years +	450	112	63	77	73	64	36	20	3	2
2 Years +	140	25	21	28	17	28	16	4	1	0
1 Year +	242	47	41	28	43	49	17	14	1	2
> 1 Year	745	100	125	155	125	126	75	33	5	1
<b>Total</b>	<b>1577</b>	<b>284</b>	<b>250</b>	<b>288</b>	<b>258</b>	<b>267</b>	<b>144</b>	<b>71</b>	<b>10</b>	<b>5</b>
<b>%</b>		<b>18.0%</b>	<b>15.9%</b>	<b>18.3%</b>	<b>16.4%</b>	<b>16.9%</b>	<b>9.1%</b>	<b>4.5%</b>	<b>0.6%</b>	<b>0.3%</b>

- 2.4 The granting of a 50% discount has a direct impact on the Council Tax base which plays an integral part in the annual budget setting and determination of the Council Tax charges. For 2014-15 the 50% discount impacted on the Tax-base by 791.
- 2.5 Any increase in the Council Tax base will impact on monies received via the Revenue Support Grant due to the fact that the Council Tax base is contained within the Revenue Support Grant formula.
- 2.6 The removal of the 50% discount will place a greater reliance on revenue raised through Council Tax with less dependency upon the Revenue Support Grant but also with accompanied collection risks.
- 2.7 Based on 2014-15 figures the removal of the 50% discount would have increased the Tax base by 791 equating to additional revenue raised through Council Tax of £783,000, with a £779,000 reduction in the monies received via the Revenue Support Grant.
- 2.8 Following the passing of the Housing (Wales) Bill later in 2014, the Council will have the option in future years to charge a premium on Council Tax for unoccupied and unfurnished premises of up to 100%.

Therefore removing the current 50% discount now will provide the way for the Council to consider this premium in future years. A separate report for information is to come before Cabinet at the same time as this report (**Cabinet Report - Housing (Wales) Bill**) that will explain this further.

- 2.9 On another discount variation within the Council Tax rules, Powys Council decided previously that unoccupied second/holiday homes that are furnished receive no discount and are subject to a 100% charge for Council Tax.

### **3. One Powys Plan**

- 3.1 There are no known implications to the One Powys Plan

### **4. Options Considered/Available**

- 4.1 Option One – to continue granting a 50% Council Tax discount to dwellings that are unoccupied and substantially unfurnished.
- 4.2 Option Two – to end the 50% Council Tax discount to dwellings that are unoccupied and substantially unfurnished, with effect from the 1<sup>st</sup> April 2015, thus instigating a 100% charge.

### **5. Preferred Choice and Reasons**

- 5.1 Option Two is the preferred choice as this may incentivise owners of unoccupied premises to sell or rent out properties increasing available housing stock which will derive economic benefits to local businesses within the community.
- 5.2 Potential Increased numbers in the citizens of Powys, including numbers of school children which are key factors within the Standard Spending Assessment calculation.
- 5.3 Whilst the removal of the discount will not generate additional revenue in itself, it will then provide the Council with the flexibility in future years to charge empty and unfurnished properties (once the Housing Bill is enacted) which will provide a new income stream to the Council.

### **6. Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc**

- 6.1 There is no impact on the above

### **7. Children and Young People's Impact Statement - Safeguarding and Wellbeing**

7.1 There is no impact on children and young people

**8. Local Member(s)**

8.1 The Policies will apply equally throughout the County

**9. Other Front Line Services**

9.1 There is no impact on front line services

**10. Support Services (Legal, Finance, HR, ICT, BPU)**

10.1 Legal Comments: The recommendations can be agreed from a legal perspective

10.2 Finance comments: The potential RSG implications will need to be confirmed but are anticipated to be cost neutral. It is important that this is introduced in advance of the proposals contained within the Housing (Wales) Bill in relation to council tax changes for the various property types.

**11. Local Service Board/Partnerships/Stakeholders etc**

11.1 Not applicable

**12. Communications**

12.1 There is a requirement to publicise the decision in local media within 21 days of a determination being made.

**13. Statutory Officers**

13.1 The Strategic Director Resources (Section 151 Officer) commented that the proposed changes offer the potential to shift the balance of funding from revenue support grant to council tax in the future. This approach has already been adopted by some local authorities in England to help reduce dependency on central government funding. Given the scale of the reductions being faced by Powys County Council over the coming years it is appropriate that this potential area of income is kept under review.

13.2 The Monitoring Officer commented " I have nothing to add to the report"

**14. Members' Interests**

14.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should

declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<ul style="list-style-type: none"> <li>• For Cabinet to             <ul style="list-style-type: none"> <li>a) consider the information</li> <li>b) approve the principle of the change</li> <li>c) agree that a report goes to full council to seek agreement that for the year 2015-16, in accordance with Section 12 Local Government Finance 1992 (as amended) and The Council Tax (prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004 the discount for Prescribed Class C – a chargeable dwelling that is unoccupied and substantially unfurnished shall not apply and that this decision shall remain effective each financial year unless rescinded</li> </ul> </li> </ul>	<p>The Council is required to make a determination when a discount shall not apply for a financial year and publish the decision under section 12 (6) of the Act. Given the impact of the changes Cabinet approval should be sought before recommending to full council.</p>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	Y	<b>Within Budget:</b>	Y

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	<b>David Morris</b>
<b>Date By When Decision To Be Implemented:</b>	

Contact Officer Name:	Tel:	Fax:	Email:
David Morris	01597 826687		David.morris@powys.gov.uk

**Background Papers used to prepare Report:**

**The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2004. No: 452 (W.43)**

