

CYNGOR SIR POWYS COUNTY COUNCIL.**Standards Committee
3rd December 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**

64 Members attended the mid-term refresher training on 10th October 2014. (55 County Councillors and 9 Co-opted Members). This leaves 18 County Councillors and 3 Co-opted Members to receive this refresher training and a second date will be arranged in the New Year. All Members and Co-opted Members have received initial training and the only outstanding training requirements will be for the two Parent Governor Representatives of the People Scrutiny Committee who have yet to be appointed.

A2 Member Development

The recommendations from the Standards Committee which were accepted by the Member Development Working Group has been considered by the Democratic Services Committee. An implementation process will be developed with the anticipated implementation date from the Annual Meeting of Council in May 2015.

A.3 Approval of Mandatory Training

Following the October 2014 County Council officers were asked to arrange training for all Councillors on webcasting. This has been arranged for December. Consideration was given as to whether the training should be Mandatory and as there was no meeting of the Committee where the matter could be discussed the Chair's view was sought. The Chair approved that this training should be Mandatory and the Committee is asked to note this approval.

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:

7/14/CC decided not to investigate

For this period a further case has been received:

8/14/CC decided not to investigate

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 by County Council in October. The Protocol will be included in both the current and new Constitutions.

D Dispensations

D1. Applications - County Councillors

Applications for dispensation have been received from County Councillor Dai Davies. A copy of the application and comment and observation thereon are attached at **Appendix 1**.

Councillor Davies has been invited to Committee to present his application.

E. Late payment of expenses

There are no late expense claims.

F. Unacceptable Behaviour by Service Users Policy

The draft policy was considered by County Council in October and approved, subject to some minor amendments and consideration by the Management Team as to how to implement and monitor the policy.

G. Whistleblowing Policy

The Solicitor to the Council will report verbally on this item.

H Standards Conference

Cardiff Council have given advance notice that they are planning to host the next Standards Conference in September 2015. Confirmation of the date will be provided when it has been agreed.

I. Meeting Dates

I 1 To note dates of future meetings as follows:

Wednesday 25th February 2015

Wednesday 15th April 2015

Wednesday 17th June 2015

Wednesday 16th September 2015

Wednesday 25th 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 | clive.pinney@powys.gov.uk |

POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE

APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST

I, Councillor DAI DAVIES

of POWYS COUNTY 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 type="checkbox"/> |
| Vote at a meeting | <input type="checkbox"/> |
| Seek to influence a decision on a matter | <input type="checkbox"/> |
| Make written representations | <input type="checkbox"/> |
| Make oral representations | <input 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.

Any matters relating to transfer of leisure centres to trust, in particular The Flash and Maldwyn leisure centres.

(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

E + F.

Effects on Staff due to possible transfer of
leisure Centres.

(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 know 2 managers very well due to membership at Lakeside Golf Club. I am currently Captain of Club and the 2 managers in question hold positions of Lady Captain and Handicap Secretary.

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

As portfolio holder for finance I feel it very important to remain in meeting, even if I'm not allowed to speak or vote!

| | |
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| Applicant's home address: | |
| Applicant's telephone number: | |
| Applicant's fax number: | |
| Applicant's E Mail address: | |

SIGNED: _____

DATED: 4th Nov. 2014

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.

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| Application by | County Councillor D. Davies |
| Council | Powys County Council |
| Involvement With | (i) All Matters relating to the transfer of leisure centres to a trust. |
| Business To Be Considered | All Matters relating to the transfer of leisure centres to a trust, in particular The Flash and Maldwyn Leisure Centres. |
| Background | <p>Councillor Davies is the Cabinet Portfolio Holder for Finance and any decisions regarding the transfer of the Council's leisure centres to a trust would be undertaken at meetings of the Cabinet and / or Council where Councillor Davies would be present.</p> <p>Councillor Davies knows 2 of the leisure centre managers well due to membership of the same golf club. Councillor Davies is currently captain of the golf club and the two managers in question hold positions of Lady Captain and Handicap Secretary. Therefore due to this close personal association Councillor Davies believes that he has a personal and prejudicial interest and therefore cannot take part in the discussion on this matter.</p> <p>However as Portfolio Holder for Finance he considers that it would be an advantage for him to attend the meeting to hear the debate, even if he does not take part in the matter itself.</p> <p>The applicant is seeking a dispensation to:</p> <p>(i) Attend a meeting.</p> |
| STEP 1 Personal Interest(s) under paragraph 10 of the Code. | <p>Councillor Davies has the following personal interests:</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> |
| STEP 2 Exemptions under paragraph 12 (2) & (3) of the Code. | In relation to County Councillor Davies, none of the exemptions in Paragraph 12(2) would apply in relation to the personal interests detailed above. |

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| <p>STEP 3 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 the transfer of the leisure centres to a trust [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 matter regarding leisure centre transfers 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>STEP 4 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), 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>(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>STEP 5 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 only when matters relating to the transfer of the Council’s leisure centres to a trust are being considered so that he is informed of what is happening as the Portfolio Holder for Finance.</p> <p>The question to be asked is what greater information Councillor Davies will gain by attendance at meetings of the Cabinet and / or Council than he already has access to as a Member of the Council.</p> <p>All Members of the Council have access to all the reports which are presented to committees, whether they are confidential or not, and this has been the case for a number of years.</p> |

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| | <p>Therefore in respect of any reports relating to the transfer of leisure centres to a trust, Councillor Davies will be able to read those reports even if he did not attend the meeting. In addition all Members have access to the Cabinet and Council minutes once they have been agreed and so again he will not be restricted in obtaining both the background information as well as the decision taken at a meeting.</p> <p>It is difficult to argue that Councillor Davies will be inhibited in gaining information regarding the matter by other means rather than having to attend a meeting.</p> |
| RECOMMENDATION: | <p>It is difficult to recommend that the Committee grant a dispensation to Councillor Davies in this respect as there are other means of gaining the required information thus negating the need for a dispensation.</p> |