

## CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee  
7<sup>th</sup> September 2015

REPORT BY: Solicitor to the Council

SUBJECT: Matters appertaining to Standards Issues

REPORT FOR: Decision, Information and Discussion

**A1. Applications - County Councillors**

An application for dispensation has been received from County Councillor Aled 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.

**B. Appointment of Independent Member**

The term of office of Independent Member Ralph Miller comes to an end on 26<sup>th</sup> January 2016. Mr Miller was appointed on 27<sup>th</sup> January 2006 for a term of six years. This term was extended for a period of four years and Mr Miller has now served the maximum permitted term. It is intended to commence the appointment process after a meeting of County Council on 21<sup>st</sup> October 2016 to allow time for advertisement, shortlisting and interview ahead of a meeting of County Council on 20<sup>th</sup> January 2016 which will formalise the appointment.

The appointment panel will comprise of the following representatives:

Independent (Lay) Chair	High Sheriff
Chair of Standards Committee	Mrs Helen Rhydderch-Roberts
Independent Member of Standards Committee	To be appointed
County Councillor Representative from Standards Committee	To be appointed
Community Councillor Representative from Standards Committee	To be appointed

It will also be necessary to identify substitute Members in the event one of the representatives becomes unavailable or there is a conflict of interest e.g. a Panel Member and Candidate know each other well.

It would usually be the case that the Vice-Chair of the Standards Committee sits on the panel but as this role is currently held by Mr Miller it will be necessary to appoint another Independent Member in this role.

The next meeting of the Standards Community Sub-Committee is not due to be held until 25<sup>th</sup> November 2015. It is likely that the appointment process will

be underway by that date. To enable a Town or Community Council representative to be appointed it is proposed that this appointment is delegated to the Chair of Standards Committee and Monitoring Officer. A copy of the provisional timetable is attached at **Appendix 2**.

The Committee is asked to appoint an Independent Member representative, a County Councillor representative to the Appointment Panel and delegate the appointment of the Town and Community Council representative to the Chair and Monitoring Officer.

**C. Meeting Dates**

**C1** To note dates of future meetings as follows:

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>



- 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 was elected to PowysCC and Leader of Conservative Group and as leader of the largest opposition group I am currently Leader of the Opposition.  
Appointed to Llanfyllin High School Governors  
My wife teaches at Llanfyllin High School, however the review of schools does not impact on her employment

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

N/A

### **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.**

**All councillors currently have been given dispensation where there is no pecuniary interest**

## 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	- X
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	- x
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	- x
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 have been advised to seek the view of the standards committee regarding my 'interests' in Llanfyllin High School where I am a LA appointed governor and my wife is a RE teacher and teaches across the school, both Welsh and English language years 7 to 11. I have been assured that the future of the High School is not in question. The cabinet is the decision making body, I seek the right to speak, as Leader of the Opposition on an issue that has no impact on the future of my wife's earnings and the public would reasonably accept that my views are not influenced by any personal advantage

Applicant's home address:	Glanogeu, Rhiwlas, Oswestry, Shropshire, SY10 7JJ
Applicant's telephone number:	01691 600 235
Applicant's fax number:	
Applicant's E Mail address:	Cllr.aled.davies@powys.gov.uk

SIGNED: \_\_\_\_\_ AWD \_\_\_\_\_

DATED: \_\_\_\_\_ 24 July 2015 \_\_\_\_\_

**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 W Davies
Council	Powys County Council
Involvement With / Business To Be Considered	All Matters relating to the review of schools in Montgomeryshire.
<b>Background</b>	<p>Councillor Davies' wife teaches (Religious Education, both in Welsh and English language from years 7 to 11) at Llanfyllin High School which is within the area currently being reviewed by the Council.</p> <p>Councillor Davies is also Leader of the Conservative Group and as the Conservative Group is currently the largest opposition group on the Council is in addition the Leader of the Opposition.</p> <p>The Standards Committee on 4<sup>th</sup> July 2012 (revised on 25<sup>th</sup> February, 2015) granted a general dispensation to all County Councillors to enable them to take part in discussions regarding school modernisation, except in circumstances where that Member has a pecuniary interest. An extract of the dispensation is set out below which details the exemptions to the dispensation:</p> <p style="text-align: center;"><b>“(h) for the avoidance of all doubt:-</b></p> <p style="padding-left: 40px;"><b>(ii) other than where a specific PECUNIARY prejudicial interest exists, as detailed above, the dispensation applies to all other types of prejudicial interests such as those arising from being a school governor or being the parent, grandparent, guardian, carer or having parental responsibility for a child at a school;</b></p> <p style="padding-left: 40px;"><b>(iii) the dispensation does not apply where directly or through someone with whom the member lives or has a close personal association a pecuniary prejudicial interest exists;”</b></p> <p>It is paragraph (iii) above which is relevant for Councillor Davies.</p> <p>County Councillor Davies is in addition a governor at Llanfyllin High School appointed by the Council.</p> <p>Councillor Davies argues that he has been assured that the future of the High School is not in question, and therefore the review of schools will not impact on his wife's employment.</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) Vote at a meeting.</li> <li>(iv) Seek to influence a decision on the matter.</li> <li>(v) Make written representations.</li> </ul>

	(vi) Make oral representations.
<p><b>STEP 1</b> Personal Interest(s) under paragraph 10 of the Code.</p>	<p>Councillor Davies has the following personal interests:</p> <p>10 (2) (a) (viii) - 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 body to which you have been elected appointed or nominated by 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 Councillor Davies, the only exemptions in Paragraph 12(2) that would apply in relation to the personal interests detailed above is in relation to his role as LEA governor at the school:</p> <p>12 (2) (a) (iii) - Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business relates to a body to which you have been elected, appointed or nominated by your authority</p> <p>12 (3) - The exemptions in subparagraph (2) (a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration</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 the review of schools in Montgomeryshire [relating to the personal interests listed above] it is suggested that the Committee approach the issue in this way by considering the following:</p> <p>“Is it reasonable to suppose that the public perception would regard the Councillor’s personal interest, as so significant that</p>



	<p>whenever the matter regarding the review of schools in Montgomeryshire was discussed the potential conflict of interest would 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>It is also necessary to reiterate at this point that whilst the Standards Committee has previously granted a dispensation to County Councillors to be involved with matters relating to school modernisation, that exemption does not extend to circumstances where the Councillor has a pecuniary interest. Councillor Davies can be argued to have a pecuniary interest associated with his personal interest under paragraphs 10 (2) (c) (i) (aa) and 10 (2) (c) (ii) (aa) as set out above.</p> <p>Finally in this section the Committee should consider any potential impact on the "public perception" of Councillor Davies' role as Leader of the Opposition and the responsibility of that role in making comments to the Cabinet on behalf of all the opposition groups in the Council.</p>
<p><b>STEP 4</b> Ground(s) on which dispensation could be granted</p>	<p>In relation to the 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><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>The applicant has requested a dispensation to attend, speak and vote at meetings, to seek to influence and to make written and oral representations relating to the review of schools in Montgomeryshire.</p> <p>The questions which the committee may wish to discuss with Councillor Davies are:</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>(i) Where have you gained the assurance regarding the future of the school, and how certain are you that this outcome (no change) can be guaranteed?</p> <p>(ii) How significant is the role of Opposition Leader in making the comments of opposition groups known to the Cabinet? Can that be undertaken by a Deputy Opposition Group Leader / another Group Leader of an opposition group?</p> <p>Questions for the Committee to consider:</p> <p>(i) Does Councillor Davies have a personal interest?</p> <p>(ii) Does Councillor Davies have in addition a prejudicial / pecuniary interest?</p> <p>(iii) Does the role of Opposition Leader have an impact on the public perception of Councillor Davies' ability to take part in this debate?</p> <p>(iv) Can the personal / prejudicial / pecuniary interest and the role of Leader of the Opposition be split in considering the possible granting of a dispensation?</p>
<p><b>RECOMMENDATION:</b></p>	<p>The Committee will need to consider the questions under Step 5 above in determining whether to grant a dispensation.</p>

## **Provisional Timetable for Appointments Panel 2016**

Agree process at Council	Wed	21 <sup>st</sup> October 2015
Red Kite digital copy – when link to internet is available		Monthly - first week
Press Notice to papers	Fri	23 <sup>rd</sup> October 2015
Notice in the papers	w/c	26 <sup>th</sup> October 2015
News release and publication on the Council's website / social media	w/c	19 <sup>th</sup> October 2015
Re-issue of press release (if necessary)	w/c	2 <sup>nd</sup> November 2015
Closing date for applications	Fri	13 <sup>th</sup> November 2015
Shortlisting (left longer after closing date to give time to copy pack for selection panel)	w/c	23 <sup>rd</sup> November 2015
Panel Sitting	w/c	30 <sup>th</sup> November 2015
County Council	Fri	20 <sup>th</sup> January 2016

Term of office starts 26<sup>th</sup> January 2016