

## CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Community Sub- Committee  
23<sup>rd</sup> June 2011

**REPORT BY:** Strategic Director – Law and Governance  
**SUBJECT:** Matters appertaining to Standards Issues

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**REPORT FOR:** Decision, Information and Discussion

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**A. Referral of Councillors to Public Services Ombudsman****A1. Town and Community Councillor Referrals**

No new referrals have been received.

**B. Dispensations****B1. Applications - Town and Community Councillors**

An application has been received from Ms P Smith from Llanidloes Town Council. A copy of the application and notes are attached at **Appendix 1**.

**B2 Renewable Energy Issues (Electricity Sub Station, Pylons, Overhead Power Lines, Wind Farms etc**

- 1.1 At the last meeting on 27<sup>th</sup> April the Standards Committee and the Sub-Committee discussed at length issues concerning proposals for a large electricity sub-station (hub), pylons and associated overhead power lines in north Powys.
- 1.2 The minutes of the meetings of the main Committee and the Sub-Committee (which are included in the papers for this meeting) contain a relatively extensive account of the matters considered and the decisions arrived at and accordingly are not repeated in the body of this report.
- 1.3 Details of the debate and decisions arrived at by the Standards Community Sub-Committee at the last meeting were conveyed to Town and Community Councils under cover of a letter sent out on Wednesday 8<sup>th</sup> June 2011. A copy of that letter is attached as **Appendix 2**.
- 1.4 The Sub-Committee is asked to consider extending the range of matters covered by the dispensation given to Town and Community Councillors to include wind farm applications, road network issues and policy type matters (including TAN 8).

1.5 The report to the main Committee contains the background to the emergence of these additional related matters and is not repeated in this report.

**C. Standards Conference**

To be discussed at the Standards Committee.

**D. Meeting Dates.**

**D1.** To note dates of future meetings as follows:

29<sup>th</sup> June, 2011  
7<sup>th</sup> September, 2011  
30<sup>th</sup> November, 2011

1<sup>st</sup> February 2012  
4<sup>th</sup> April 2012  
4<sup>th</sup> July 2012  
5<sup>th</sup> September 2012  
5 December 2012

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

Contact Officer Name:	Tel:	Fax:	Email:
<i>Clarence Meredith, Strategic Director – Law and Governance.</i>	01597 826395	01597 826220	<a href="mailto:Clarence@powys.gov.uk">Clarence@powys.gov.uk</a>

POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE

APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST

I, Councillor FAM SMITH

of LLANIDLOES TOWN 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.

*Any item on the agenda Regarding Powys County Council other than those relating to Llanidloes Museum.  
Items Regarding LLANI Ltd.*

(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

*CCAWI Ltd. is a company limited by guarantee working in the voluntary sector that aims to contribute to the economic viability and social vitality of the wider Cardiff area. I am a voluntary - unpaid director of CCAWI Ltd.*

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

*NO*

### 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.

## 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

*Llani Ltd. aims to work with all members of the community in the Llanidloes area. This includes discussing projects with Llanidloes Town Council and explaining the relevance of the organisation's aspirations for the benefit of the electorate.*

Applicant's home address:	<i>Flat 2, The Hollies, Short Bridge St., Llanidloes Powys SY18 6AD</i>
Applicant's telephone number:	<i>01686 412 708</i>
Applicant's fax number:	
Applicant's E Mail address:	

SIGNED: *PA Smith*

DATED: *4<sup>th</sup> June 2011*

**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](mailto:Elizabeth.patterson@powys.gov.uk)**

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

Application by	Councillor P Smith
Council	Llanidloes Town Council
Involvement With	(i) Matters relating to Powys County Council (ii) Llani Ltd
Business To Be Considered	Funding; Planning; Land; Management / Operation of the Organisation; and General Matters
<b>Background</b>	<p>Councillor Smith is employed by Powys County Council at the Llanidloes Museum.</p> <p>She is also an unpaid Director of Llani Ltd which is a company limited by guarantee. The organisation is not a registered charity.</p> <p>She has not been appointed by the Town Council to Llani Ltd.</p> <p>Llani Ltd works in the voluntary sector that aims to contribute to the economic viability and social vitality of the wider Llanidloes area. The organisation primarily seeks funding for its own projects and does benefit from some service agreements with the County Council. It also does receive small amounts of grant funding from the Town Council.</p> <p>The organisation is also registered as an environmental body with Entrust and therefore can draw down funding for other organisations who do not have the capacity to be registered with Entrust. The organisation works with such bodies as the Sports Centre committee. The organisation has worked with the Town Council to establish projects on land in its ownership and with developmental projects e.g. Community Centre, Town Hall renovations.</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 Meetings</li> <li>(iv) Seek to influence a decision on the matter</li> <li>(v) Make written representations</li> <li>(vi) Make oral representations.</li> </ul>
<b>STEP 1</b> Personal Interest(s) under paragraph 10 of the Code.	<p>Councillor Smith has a personal interest in relation to matters relating to her employment with Powys County Council under paragraphs 10(2)(a)(i) and 10(2)(c)(ii)(aa) of the Code:</p> <p>“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>“(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</p>

	<p>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>Therefore any matters relating to Llanidloes Museum, and which impacts on her employment, would be caught under this paragraph.</p> <p>There is also a Personal Interest relating to her directorship of Llani Ltd. She has not been appointed by the Town Council to this body. Therefore Paragraph 10(2)(a)(viii) will not apply.</p> <p>Paragraph 10(2)(a)(ix)(bb) would appear to be relevant as would paragraph 10(2)(c)(v)(aa):</p> <p>“(bb) company, industrial and provident society, charity, or body directed to charitable purposes in which (in all cases) the Councillor holds a position of general control or management or is a member.”</p> <p>“(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 body listed in paragraphs 10 (2) (ix) (aa) to (ee) in which persons as described in 10 (2) (c) (i) hold a position of general control or management 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>Therefore any matters relating to contracts with the County Council, or relating to the Sports Centre Committee, matters relating to land or properties owned by the Town Council, or grant funding from the Town Council would be caught under these paragraphs.</p>
<p><b>STEP 2</b> Exemptions under paragraph 12 (2) &amp; (3) of the Code.</p>	<p>In relation to Councillor Smith and her membership of Llani Ltd, the exemption in Paragraph 12(2)(c) would apply in relation to the personal interest existing under Paragraph 10(2)(a)(ix).</p> <p>“(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.”</p> <p>However for grant funding above £500 no exemption would apply and therefore in relation to that situation further consideration as detailed in step 3 below needs to take place.</p> <p>She would also have an exemption under paragraph 12(2)(a)(i) in relation to matters relating to the Town Council i.e. the Council’s land or properties as she is a member of the Council.</p>



	<p>“Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business relates to another relevant authority of which you are also a member.”</p> <p>The above exemption does not apply if the business relates to the determination of an approval, consent, licence, permission or registration.</p> <p>In relation to non-financial matters the Sub-Committee similarly needs to consider the application as detailed in step 3 below.</p>
<p><b>STEP 3</b> Application of “public perception” test under paragraph 12 (1) of the Code.</p>	<p><b><u>Financial.</u></b></p> <p>In applying the Paragraph 12(1) test in relation to grant funding it may be helpful for the Sub-Committee to approach the issue in this way i.e. to ask itself :</p> <p>“Is it reasonable to suppose that public perception would regard the Councillor’s personal interest, as so significant that whenever a proposal to grant aid Llani Ltd in excess of £500 was discussed at the Town Council 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 Town Councillor?”</p> <p>It is difficult to conclude that the Sub-Committee would answer this question otherwise than in the affirmative given the amount of money involved i.e. that a prejudicial interest would exist in this situation.</p> <p><b><u>Non-Financial.</u></b></p> <p>In applying the Paragraph 12(1) test in relation to non-financial type business involving this / these organisation(s) it is suggested that the Sub-Committee approach the issue by asking itself a similar question to that posed above.</p> <p>Again it is difficult to conclude that the Sub-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 involving the organisation(s) 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>The Sub-Committee is therefore required to consider a dispensation for grant funding above the maximum of £500 for the organisation(s).</p> <p>The Sub-Committee is also required to consider a dispensation in relation to non-financial matters concerning this / these organisation(s) other than business which would be of such a nature that it would be categorised as trivial, insignificant or uncontentious.</p>

	<p>In relation to the Councillor's employment with the County Council the ground which could be considered for matters not relating directly to her employment would be ground (d), 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>In relation to Councillors sitting on voluntary / charitable type local bodies other than by way of appointment by their own Council ground (h) of the 2001 Regulations is normally the ground which would be considered:</p> <p>(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 Councillor 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..</p> <p>However this ground only enables the grant of dispensation to speak and not vote.</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 of the Town Council, to speak, vote, seek to influence a decision on a matter, and have the ability to make written and oral representations on all matters relating to Llani Ltd and on Powys County Council matters not relating to Llanidloes Museum.</p> <p>Other than the exemption to speak and vote on grant funding of a maximum of £500, and other non-financial business which would be of such a nature that it would be categorised as trivial, insignificant or uncontentious, as well as matters relating to Llani Ltd which involves land or property in the ownership of Llanidloes Town Council, the Sub-Committee is requested to consider this application on the basis of grounds (d) and (h) of the 2001 Regulations which would result in the Councillor being eligible for dispensations to speak and / or vote in respect of Powys County Council matters and speak only in relation to Llani Ltd. In addition there is a need to consider the request to be able to influence and make written representations.</p> <p>There is no exemption in relation to funding for Llani Ltd, thus the issue of granting a dispensation above the £500 maximum does not apply.</p>

	<p>However in relation to non-financial matters relating to Llani Ltd and Powys County Council the Sub-Committee is requested to consider a dispensation under grounds (d) and (h) which would result in the Councillor being eligible to speak and / or vote on such non-financial matters which were not otherwise categorised as trivial, insignificant or uncontentious</p> <p>In the event of the Sub-Committee granting a dispensation it would also need to consider whether that dispensation should be limited to exclude the regulatory type matters set out in Paragraph 12(3) of the Code.</p> <p>The Sub-Committee is reminded that at a previous meeting it was decided in another case not to grant a dispensation in respect of regulatory type matters.</p>
<b>RECOMMENDATION:</b>	<p>In relation to Councillor Smith's employment with Powys County Council, taking into account her role with the Council it is suggested that it would not damage public confidence if Councillor Smith were granted a dispensation to speak and vote on all matters relating to Powys County Council excluding those specifically relating to Llanidloes Museum. Therefore she should be granted a dispensation under paragraph (d)</p> <p>In relation to Councillor Smith's role as a director of Llani Ltd, it suggested that it would be appropriate under ground (h) that Councillor Smith be granted a dispensation to speak but not vote on all matters relating to Llani Ltd except those matters relating to grant funding by the Town Council of over £500.</p> <p>Neither of these dispensations would apply to any regulatory type matters i.e. planning or licensing matters.</p>

**Clarence Meredith**  
**Cyfarwyddwr Strategol – Y Gyfraith a**  
**Llywodraethu.**  
**Strategic Director – Law and Governance,**

To all Town and Community Council  
Chairmen

**Atebwch os gwelwch yn dda /Please reply to:**

Gwasanaethau Craffu / Scrutiny Services  
Cyngor Sir Powys County Council  
Neuadd y Sir/ County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

*Ffôn/ Tel:* 01597-826980

*Ffacs/ Fax:* 01597-826220

*E-bost/Email:* [elizabeth.patterson@powys.gov.uk](mailto:elizabeth.patterson@powys.gov.uk)

*Eich cyf/Your ref:*

*Ein cyf / Our ref:*

*Dyddiad/Date:* 08 June 2011

*Os yn galw gofynnwch am / If calling please ask for:*

*Liz Patterson*

Dear Chairman

### **Scottish Power Energy Networks proposal to connect windfarms to the National Grid**

The Standards Community Sub-Committee have recently considered Code of Conduct issues relating to the above proposal. A dispensation has been granted to all Town and Community Councillors to speak and vote on matters relating to the hub and pylons. This is in the nature of a preliminary decision by the Sub-Committee who will be reviewing the matter in more detail at the meeting on 29<sup>th</sup> June 2011. An extract from the minutes of the meeting on 27<sup>th</sup> April 2011 are copied below:

#### ***B1.3 Scottish Power Energy Networks proposal to connect windfarms to the National Grid***

*The Strategic Director explained that there is a proposal in Montgomeryshire to build an electricity sub-station ('Hub') at either Abermule or Cefn Coch to collect electricity from proposed windfarms in the area and convert it to a higher voltage which will then be sent down the Severn Valley by overhead pylons to join the National Grid in Shropshire. The planning application to build the Hub will be dealt with by the Planning Committee at Powys County Council whereas the planning application to build the pylons will be dealt with by the IPC (Infrastructure Planning Commission). Powys County Council will be a consultee for the Pylons planning application.*

*The Sub-Committee noted that there were a number of Town and Community Councillors who were also County Councillors. The issues relating to County Councillors had been addressed separately at the Standards Committee.*

*The Sub-Committee was advised that in relation to planning applications regarding the hub and pylons, Town and Community Councils would operate as a consultee in the process. It was therefore agreed that a blanket dispensation be granted to all Town and Community Councillors, irrespective of any potential interests, to speak and vote in relation to these matters. The issue of pre-determination was also raised and the Strategic Director – Law and Governance advised that this was less of an issue for Town and Community Councillors as they were not final decision makers.*

<i>RESOLVED THAT</i>	<i>REASON FOR RESOLUTION</i>
<i>All Town and Community Councillors with Personal and Prejudicial interests in the electricity hub, power lines and pylons development in North Powys be granted a dispensation to speak and vote on matters relating to the hub/pylons, subject to the disclosure of the reliance of a dispensation to be able to speak and vote.</i>	<i>To allow all Town and Community Councillors as consultees to take part in any discussion, debate or meeting relating to the hub/pylons.</i>

I would be grateful if you could bring this to the attention of all Members of your Town/Community Council.

Members should be reminded to disclose their interest which should be recorded in the minutes together with the fact that they are relying on a dispensation enabling them to take part in the discussion.

If you have any queries regarding the above please do not hesitate to contact me.

Yours sincerely

Mrs Liz Patterson  
Clerc Pwyllgorau