

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD AT COUNTY HALL, LLANDRINDOD WELLS ON WEDNESDAY 27TH APRIL 2011

PRESENT: P. Swanson (Chair)

Mrs M. Harris, Mrs S. Jarman, R. Miller and Mrs H. Rhydderch-Roberts, County Councillors F. Barker, K. Curry, Miss V. E. Evans and M. Hodges.

Observers: Community Councillors Ms C. Evans and H. Evans.

Officers in attendance: C. Meredith (Strategic Director – Law and Governance), W. Richards (Scrutiny Services Manager) and Mrs E. Patterson (Committee Clerk).

1.	APOLOGIES	S6– 2011
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Apologies were received from Community Councillor Revd A. Jevons.

2.	MINUTES	S7– 2011
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The Chair was authorised to sign the minutes of the meeting held on 2nd February 2011 as a correct record.

3.	DECLARATIONS OF INTEREST	S8 – 2011
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Cllr Miss Evans declared a Personal but not Prejudicial interest in Item 5 in relation to the Scottish Power Energy Network proposal to connect the windfarms to the National Grid on the grounds that one of the proposed routes for the pylons passes through her ward which will also be affected by construction traffic if the Cefn Coch site is chosen for the Hub. Cllr Miss Evans is also a Town Councillor for Llanfair Caereinion.

4.	CORRESPONDENCE	S9 – 2011
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No correspondence was received. However, the Chairman brought to the attention of the Committee a letter which had been drafted subsequent to the last meeting of the Standards Committee. The letter was addressed to Assembly Members and outlined the concerns of the Standards Committee that the Ombudsman was not allowing the Committee to consider cases where he had determined a breach had occurred on the basis that Standards Committees were unlikely to impose a sanction. It was agreed that the letter would be sent to Assembly Members after the May election. The letter would be copied to the Chairs of the Standards Committees in the other 21 authorities in Wales and a more detailed letter be sent to the Minister responsible for the Ombudsman again after the election.

5.	REPORT OF THE STRATEGIC DIRECTOR – LAW AND GOVERNANCE	S10 – 2011
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The Committee received the report of the Strategic Director – Law and Governance. (Copy filed with signed minutes).

A. General Training for Members

A1 Training of County Council Members – Member Development Strategy/Programme

The notes of the meeting of the Member Development Working Group held on 13th January 2011 and 11th March 2011 were received for information. (Copy filed with signed minutes). It was noted that the recent training session on Leisure and Recreation Services was particularly well organised with a variety of activities on offer. It was unfortunate that only 27 Members had attended this session.

B. Referral of Councillors to the Public Services Ombudsman

B1 County Councillor referrals

The Ombudsman has advised that he has received a Code of Conduct complaint against one Member of Powys County Council (ref 1/11CC).

C. Other Standards Issues

C1.1 Use of laptops and electronic media during Council meetings

This would be included in the work on the revisions to the Constitution when the proposed Local Government (Wales) Measure comes into force over the next twelve months.

C1.2 Social Media Protocol

The Member Development Working Group have considered an initial draft of this Protocol which, following further revisions, will be considered by this Committee.

D. Minutes of Meetings

D1. Meeting of Chairs and Vice Chairs of Scrutiny, Audit and Standards Committees

The notes of the meeting held on 28th January 2011 were received. (Copy filed with signed minutes).

D2. Joint Meeting of Powys County Council and Brecon Beacons National Park Standards Committee

The notes of the Joint meeting held on 1st December 2010 were received. (Copy filed with signed minutes).

E. Dispensations

E1.1 Applications – County Councillors

No applications had been received.

E1.2 Scottish Power Energy Networks proposal to connect windfarms to the National Grid

Cllr Miss Evans declared an interest in this matter. Cllr Curry advised the Committee that he was a Member of the Planning Committee.

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 (which has yet to be submitted) will be dealt with by the Planning Committee of Powys County Council (provided it is not called in by WAG) whereas the planning application to build the pylons (which has yet to be submitted) will be dealt with by the IPC (Infrastructure Planning Commission). Powys County Council will be a consultee for the Pylons planning application.

Given the extent to which these proposals affect a large part of Montgomeryshire and Northern Radnorshire, and the position in which very many County Councillors for the area find themselves, the Committee was being asked to consider the desirability of granting some, or all, of these Councillors (in their various roles) a blanket dispensation or dispensations to speak or speak and vote at meetings (including both formal meetings and meetings under the Members Code involving another Member and/or officer); to make representations in writing and orally and generally to play a full role (subject to compliance with the general law and the Council's Constitution – e.g. Planning Protocol) in representing their constituents in relation to this matter.

It was suggested that the County Councillors affected by this development could be considered to fall into three categories in relation to this matter, (i) those that are on the Planning Committee or Board / Cabinet and can be classed as "Decision Makers" (Planning Committee members in relation to the Hub; and Board / Cabinet members in relation to the Pylon Consultation); (ii) those who are "Local Members" and (iii) the relevant Portfolio Holder. It was further noted that some County Councillors were also Town or Community Councillors.

In their deliberations the Committee took note of the following:

- That this development affected a very large area of North Powys;
- It had generated a considerable amount of local interest much of which opposed the development;

- It was perceived that constituents would wish their local County Councillor to be free to put forward the views of the local communities in relation to this development and to clearly articulate and make public their own view irrespective of any personal and prejudicial interest a member may have under the Members Code of Conduct;
- The likelihood was, given the wide spread impact of this development, that many Members would be directly and indirectly affected whether adversely or possibly beneficially resulting in them having personal and prejudicial interests under the Members' Code of Conduct;
- Those Members in areas affected who wish to act as Decision Makers on either the Board/Cabinet or Planning Committee would find difficulty in playing any significant "constituency role" in their elected division due to the difficulties caused by paragraph 10 (2) (b) of the Members Code of Conduct and also the likely perception that as a consequence of their role locally they had formed a "closed mind" and were "predetermined"; and
- The different types of personal and prejudicial interests that could arise appeared to be diverse and it would be difficult, if not impossible, to categorise all such interests in terms of those which ought to be the subject of dispensations and those which should not.
- The uncertainty around the timescale relating to the submission of the formal planning applications might result in there being changes to the current membership of the Cabinet and Planning Committee by the time the applications are actually considered.
- The benefit of providing an initial view/decision on the matter to provide a steer and assistance to members and for this to be reviewed at the next meeting

The Standards Committee were firmly of the view that a member of the Planning Committee who had a personal and prejudicial interest in this development within the terms of the Members' Code of Conduct should not be given a dispensation to take part in the Planning Committee process regarding the Hub as "Decision Makers". Whilst it was considered neither appropriate or justified to consider granting dispensations to members of the Planning Committee in respect of their decision making role the Standards Committee were of the view that if a Planning Committee Member elected to step aside from their decision making role to undertake a "Local Member" role in relation to this development such a Member should be granted a dispensation to attend meetings, speak, make representations etc. in order to effectively represent their constituents notwithstanding the existence of any personal and prejudicial interest. Additionally and irrespective of any dispensation such a Member would the Standards Committee noted, also remain free under the Council's Planning Protocol to play the role of Local Member in addressing the Planning Committee under the public speaking provisions of that protocol.

It was further agreed that it would be helpful for the Monitoring Officer to offer to

discuss with each individual member of the Planning Committee affected by this development their own particular circumstances so as to provide advice specifically tailored to that Member. Given the uncertainty around the timing of the Hub planning application it needed to be borne in mind that some or all of the membership of that Committee may be different, in whole or part when the application is determined to that of the current membership.

Similarly where a Board/Cabinet Member had a personal and prejudicial interest in respect of this development the Standards Committee were of the view that (as with Planning Committee Members) such a Member should not be granted a dispensation of any sort so as to enable him/her to undertake a decision making role. If a Board/Cabinet Member elected to step aside from their decision making role to undertake a "Local Member" role such a Member should be granted a dispensation to attend meetings, speak, make representations etc. in order to effectively represent their constituents. Additionally and irrespective of any dispensation such a Member would, the Standards Committee noted, also remain free under the Council's Planning Protocol to play the role of Local Member in addressing the Planning Committee under the public speaking provisions of that protocol.

The Standards Committee were also mindful of the requirements of paragraph 10(2)(b) of the Members' Code of Conduct which in essence attributed a personal interest to a "Decision Maker" where there was a perceived conflict between that Member's ward or electoral division and the County Council as a whole. This also, in the view of the Standards Committee justified the stance that granting dispensations to members of the Planning Committee and Board / Cabinet Members to undertake decision making roles was not appropriate in this situation.

In relation to Councillors who have a personal and prejudicial interest in this development but are neither a Board/Cabinet Member or a Planning Committee Member the Standards Committee were of the view that to avoid all doubt they should be granted dispensations in line with those referred to above for Members of the Board/Cabinet and Planning Committee who opted to stand aside from their decision making role and play the role of "Local Member". That is to say they should be granted dispensations in respect of all and any personal and prejudicial interests under the Members' Code of Conduct arising directly or indirectly as a result of this proposed development to enable them to speak and vote at meetings, make oral and written representations and generally to play a full role (subject to compliance with the general law and the Council's Constitution – e.g. Planning Protocol) in representing their constituents in relation to this matter. Members need to be aware however that whilst they may not currently be members of the Board/Cabinet or Planning Committee if they were subsequently to become members their position on the Cabinet or Planning Committee in so far as a decision making role in relation to this development was concerned might be compromised by their previous Local Member role activities.

By way of completeness and to summarise it was emphasised that in so far as a Planning Committee Member was concerned if he/she concluded (at any point in time) that he/she had a personal and prejudicial interest in this matter then the

Standards Committee's stance was they should not sit as a decision maker and should not be granted a dispensation to do so. That Councillor could however step aside as a decision maker and declare himself/herself as acting as "Local Member" in respect of this development. This would allow him/her (on the basis of a blanket dispensation granted by the Standards Committee) to play a full role in their local electoral division and, with the permission of the person presiding, to address the Board/Cabinet when it discussed the Pylon representations to be made on behalf of the Council. Having addressed the Board/Cabinet he/she would then leave the room and take no part in the debate. Furthermore under the public speaking protocol the Councillor could make representations to the Planning Committee on the matter and then leave the meeting room.

In the case of a Board/Cabinet Member concluding (at any point in time) that he/she had a personal and prejudicial interest the Standards Committee's view was that such a Member should not sit as a decision maker in relation to the consultation on the pylons and should not be granted a dispensation to do so. Such a Member could however step aside as a Decision Maker and declare himself/herself as acting as "Local Member" in respect of this development. This would allow him/her (on the basis of a blanket dispensation granted by the Standards Committee) to play a full role in their local electoral division and, with the permission of the person presiding, to address the Board/Cabinet when it discussed the Pylon representations to be made on behalf of the Council. Having addressed the Board/Cabinet he/she would then leave the room and take no part in the debate or vote. Additionally under the public speaking protocol he/she could make representations to the Planning Committee on the matter and then leave the meeting room.

The Standards Committee concluded that given all of the circumstances outlined above it was appropriate and would not damage public confidence in the conduct of the Council's business to grant a blanket dispensation to Councillors with personal and prejudicial interests under the Members' Code of Conduct arising out of this development to enable them to play a non decision making role. Such a dispensation would apply to all Councillors who are not Members or the Board/Cabinet or Planning Committee or, if they were, had decided to step aside as decision makers as solely play the role of local Member in relation to this matter. This matter would be reviewed at the next meeting of the Standards Committee on 29th June 2011 and in the meantime information would be gathered from relevant Members as to their respective interests in this development

Finally the position of the Portfolio Holder for Regeneration and Development was outlined. This role concerns acting in the best interests of the whole of Powys but the current portfolio holder finds himself in difficult position given the fact that one of the proposed sites of the hub is in his electoral division. This falls under paragraph 10 (2) (b) of the Members' Code of Conduct. He had agreed to step aside from acting as Portfolio Holder and any decision making role in relation to this development in North Powys. Consequently he could now act as "Local Member" and avoid any perceived conflict in his role. A blanket dispensation for non decision makers granted by the Standards Committee would also assist his position in this regard. The Strategic Director – Law and

Governance advised that he was preparing a report for the Board in relation to the Portfolio Holder's position in this matter.

RECOMMENDED THAT	REASON FOR RECOMMENDATION
<p>i) That no dispensations in respect of undertaking a decision making role be granted to Councillors sitting on the Board/Cabinet or Planning Committee with personal and prejudicial interests under the Members' Code of Conduct in relation to this development.</p> <p>ii) That a blanket dispensation to attend and speak at meetings (including both formal meetings and meetings under the Members' Code of Conduct involving another Member/Officer); to make representations in writing and orally and to generally play a full role in representing their constituents in relation to this matter be granted to Councillors with personal and prejudicial interests under the Members' Code of Conduct in relation to this matter who sit on the Board/Cabinet and the Planning Committee but who decide to step aside from a decision making role and solely undertake the role of Local Member.</p> <p>iii) That a blanket dispensation to attend and speak at meetings (including both formal meetings and meetings under the Members' Code of Conduct involving another Member/Officer); to make representations in writing and orally and to generally play a full role in representing their constituents in relation to this matter be granted to Councillors with personal and prejudicial interests under the Members' Code of Conduct in relation to this matter who do not sit on the Board/Cabinet or the Planning Committee.</p>	<p>i) That the grant of such dispensations would damage public confidence in the conduct of the Council's business</p> <p>ii) & iii) That the grant of such dispensations would not damage public confidence in the conduct of the Council's business and would enable non decision making Councillors to fully represent their constituents notwithstanding the existence of any personal and prejudicial interests and would remove any doubt as to their ability to undertake a Local Member role.</p>

<p>iv) That the dispensations granted in ii and iii above are subject to :-</p> <p>(a) Compliance with any legislative requirement or common law rule;</p> <p>(b) Compliance with the Council's own Constitution including the Planning Protocol which, inter alia, provides that a "Local Member" must never seek to lobby or improperly influence a Decision Maker.</p> <p>(c) Compliance with the requirements in the Members' Code of Conduct as to the disclosure of personal interests;</p> <p>(d) The dispensations being granted in the first instance for an initial period until the next meeting of the Standards Committee on 29th June, 2011 when the position will be reviewed in the light of the information gained following the process outlined below in (v).</p> <p>v) Information be sought from all Members regarding the types of interest which Members may have on the Hub/Pylon issue.</p> <p>vi) The Monitoring Officer offer to discuss with affected Members of the Planning Committee their individual situation under the Members' Code of Conduct in relation to this development.</p>	<p>iv) To define the grant of the dispensations.</p> <p>v) To provide Members of the Standards Committee with information on the matter.</p> <p>vi) To facilitate advice to relevant Planning Committee Members.</p>
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F. Raising the profile of the Standards Committee/Sub-Committee

F1. Standards in Local Government

A copy of the draft document was considered. (Copy filed with signed minutes). A few amendments were suggested and noted and would be made before the document would be published on the Powys County Council website.

G. Standards Conference

The draft programme for the Standards Conference was considered. Suggestions to alter the running order of the programme were made along with a request that note takers be appointed for each of the workshop sessions and the

notes be written up and photocopied during the day for delegates to take home.

H. Observing other Committees

Mr Miller had attended the meeting of Brecknockshire held on 23 March 2011 in Ystradgynlais. Mrs Rhydderch-Roberts and Mrs Harris had attended the Board meeting on 12th April 2011 and Mrs Jarman had attended the meeting of the Principal Scrutiny and Crime and Disorder Scrutiny Committee on 7th April 2011. All Members had been made to feel welcome by the Chairs and confirmed that Members were declaring interests and leaving the room appropriately.

Details of the committees available for observation after the summer would be presented to the next meeting of the Standards Committee to take into account the changes to the Scrutiny Committees and Board/Cabinet in May.

I. Standards Committee meeting room

Members observed Committee Room B and decided that the Chamber was the most suitable room for the Standards Committee out of the suite of rooms available at County Hall.

J. Whistleblowing

The revised Whistleblowing Policy was being considered by the Wales Audit Office and the Audit Committee after which it would be brought to the Standards Committee for consultation.

K. Meeting dates

The following dates for the Standards Committee were confirmed:

Wednesday 29th June, 2011
Wednesday 7th September, 2011
Wednesday 30th November, 2011

P.SWANSON
Chairman