

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD AT HYBRID MEETING - ZOOM - COUNTY HALL ON MONDAY, 5 DECEMBER 2022

PRESENT: Mr S Hays (Chair)

Independent Members: Mrs C Moore, Mr J Goolden, Mr R Stafford-Tolley and Mr N Steward

County Councillors: County Councillors I McIntosh and L Rijnenberg

1. APOLOGIES

Apologies were received from County Councillor Beecham.

2. MINUTES

The Chair was authorised to sign the minutes of the meeting held on 17 November 2022 as a correct record.

3. DECLARATIONS OF INTEREST

No declarations were received.

4. REPORT OF THE HEAD OF LEGAL AND MONITORING OFFICER

The Committee received the report of the Head of Legal Services and Monitoring Officer (copy filed with signed minutes).

A. General Standards Issues for County Councillors and Co-opted Members

A1. Code of Conduct Training

The Committee noted that all County Councillors and co-opted/ lay members had completed the Code of Conduct training.

B. Referral of Councillors to the Public Services Ombudsman

B1. County Council Referrals

The current position regarding matters with the Ombudsman is as follows:

02/CC/2020 Ombudsman referred to Standards Committee

01/CC/2021 Ombudsman not investigating

04/CC/2021 Ombudsman investigating

05/CC/2021 Ombudsman not investigating

06/CC/2021 Ombudsman not investigating

07/CC/2021 Ombudsman not investigating

08/CC/2021 Ombudsman not investigating

01/CC/2022 Ombudsman not investigating

02/CC/2022 Ombudsman not investigating

In response to comments the Head of Legal Services and Monitoring Officer acknowledged the time the Ombudsman takes to consider complaints but advised this was outside the Council's control. The Chair commented that with the establishment of the National Forum the time for complaints to be considered by the Ombudsman could be discussed at this.

C. Dispensations

C1. General Dispensations

The Committee considered general dispensations which had been previously agreed by the Committee during the last term of the Council.

The Head of Legal Services and Monitoring Officer advised that the delegation of non-controversial applications for dispensations had not been used during the last Council term. A question was raised whether the delegation to the Chair and Vice Chair was correct and whether it complied with the 1972 Act. The Head of Legal Services and Monitoring Officer advised that the delegation to the Chair and Vice Chair, with advice from the Monitoring Officer was correct. In response to a question he advised that the Chair and Vice Chair would consider if an issue was non-controversial, with advice from the Monitoring Officer. If agreement could not be reached a meeting of the Committee would be arranged to consider such an application.

The Committee agreed the following dispensations which would continue until the first meeting of the Committee after the election in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation.

School Modernisation and School Transport Reviews:

RESOLVED THAT:	REASON FOR DECISION
<p>a blanket dispensation (the dispensation) in relation to school modernisation and any school transport issue be granted to all county councillors in accordance with and, subject to, the following provisions of this resolution:</p> <p>(a) the dispensation shall relate to all prejudicial interests under the Members Code of Conduct PROVIDED ALWAYS that the dispensation shall not apply where the councillor (irrespective of whether or not he/she is a member of the Cabinet or Scrutiny Committee) has a pecuniary prejudicial interest other than one that relates to out of school transport costs;</p> <p>(b) "school modernisation" means any modernisation proposal being undertaken by or for the Cabinet in relation to both primary, secondary and special schools but does not include non-modernisation issues (e.g. the</p>	<p>To enable members to represent their constituents in matters of great significance for Powys where they do not have a conflict of interest which is pecuniary; the committee being of the view that the grant of this blanket dispensation will not damage public confidence</p>

<p>budget, inspection, employment matters, ICT, catering, cleaning, refurbishment, repair or property items);</p> <p>(c) “school transport issue” means any issue relating to the planning, commissioning and procurement of transport for pupils attending primary, secondary and special schools both in and outside of Powys where the Council has a duty to provide such transport but does not include interests which are specific to a particular school, route or pupil unrelated to such review;</p> <p>(d) “pecuniary prejudicial interest” means a prejudicial interest under the Members Code of Conduct which results in financial gain, or financial loss, either immediately, or in the foreseeable future, arising (in the case of school modernisation) from employment as a teacher or otherwise at a school or, (in the case of the school transport) from the Council’s provision of school transport, to:</p> <p>(i) the councillor in question; or</p> <p>(ii) someone with whom the councillor lives or has a close personal association e.g. close friends, close relatives, colleagues with whom the councillor has particularly strong connections, business associates and someone with whom the councillor has been in dispute with (NB1 Councillors should note however that “close personal association” does not include casual acquaintances, distant relatives or people you simply come into contact with through your role as member or your work in the local community) (NB2 Pecuniary Prejudicial Interest does not include the additional out of school transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility);</p> <p>(e) the dispensation extends to:</p> <p>(i) attending any meeting formal or informal (as defined in the Members Code of Conduct) including meetings of the full County Council, Cabinet, Scrutiny or other Committee or Project Board;</p> <p>(ii) speaking and voting at such meetings; and</p> <p>(iii) making oral or written representations and generally playing a full role in representing constituents;</p> <p>(f) the dispensation is subject to compliance with:</p>	<p>in the conduct of the Council’s business.</p>
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| <ul style="list-style-type: none">(i) any legislative requirement;(ii) any common law rule including bias/predetermination;(iii) the council's constitution;(g) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation;(h) for the avoidance of all doubt:<ul style="list-style-type: none">(i) the dispensation applies to all members including those who are Decision Makers;(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 person having parental responsibility for a child at a school;(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 as defined above;(iv) it is always a matter for the individual member to decide whether the interest is prejudicial;(v) a member who takes advantage of the dispensation must continue to comply with the Members' Code of Conduct including the requirements in relation to:-<ul style="list-style-type: none">(a) the disclosure of his/her personal and prejudicial interest at meetings and in discussions indicating the nature of such interest and confirming that he/she is participating with the benefit of the dispensation; and(b) the giving of the requisite written notification in connection with these disclosure requirements;(vi) the dispensation, whilst it does not apply to any member (irrespective of whether or not he/she is a member of the Cabinet) with a pecuniary prejudicial interest, does not affect the right (under the Members' Code of Conduct) of a member who has a | |
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pecuniary prejudicial interest to speak and then withdraw from a meeting where the public are accorded the right to speak at such meeting.

Renewable Energy:

RESOLVED THAT	REASON FOR DECISION
<p>a blanket dispensation (the dispensation) in relation to renewable energy issues be granted to all county councillors in accordance with and, subject to, the following provisions of this resolution:</p> <p>(a) the dispensation shall relate to all prejudicial interests under the Members Code of Conduct PROVIDED ALWAYS that the dispensation shall not apply in respect of a specific planning application or site specific matter where the councillor (irrespective of whether or not he/she is a member of the Cabinet or Regulatory Committee) has a pecuniary prejudicial interest;</p> <p>(b) “renewable energy issues” means any question, motion, report, notification, communication, discussion, consultation, proposal, application, appeal, process or proceedings, development or works, involving, related to, concerning, or connected with, a renewable energy development including any associated :</p> <p>(i) Turbines, solar panels, hydro schemes, substations, pylons, overhead or underground cables or wires or any other infrastructure;</p> <p>(ii) Infrastructure transport, highway, tourism and regeneration issues:</p> <p>(iii) community benefits; and</p> <p>(iv) national or local policy, plan or guidance, white or green paper;</p> <p>(c) “pecuniary prejudicial interest” means a prejudicial interest under the Members Code of Conduct which results in financial gain or financial loss either immediately or in the foreseeable future to:</p> <p>(i) the councillor in question; or</p> <p>(ii) someone with whom the councillor lives or has a close personal association e.g. close friends, close relatives, colleagues with whom the councillor has particularly strong connections, business associates</p>	<p>To enable members to represent their constituents in matters of great significance for Powys where they do not have a conflict of interest which is pecuniary; the committee being of the view that the grant of this blanket dispensation will not damage public confidence in the conduct of the Council’s business.</p>

and someone with whom the councillor has been in dispute with (NB Councillors should note however that “close personal association” does not include casual acquaintances, distant relatives or people you simply come into contact with through your role as member or your work in the local community);

- (d) the dispensation extends to:
- (i) attending any meeting, formal or informal (as defined in the Members Code of Conduct), including meetings of the full County Council, Cabinet, Scrutiny, Regulatory or other Committee;
 - (ii) speaking and voting at such meetings; and
 - (iii) making oral or written representations and generally playing a full role in representing constituents;
- (e) the dispensation is subject to compliance with:
- (i) any legislative requirement;
 - (ii) any common law rule including bias / predetermination;
 - (iii) the council’s constitution including the Planning Protocol which, inter alia, provides that a “Local Member” must never seek to lobby or improperly influence a “Decision Maker”;
- (f) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation;
- (g) for the avoidance of all doubt:
- (i) the dispensation applies to all members including those who are Decision Makers such as those members who sit on the Cabinet or the Regulatory Committee;
 - (ii) 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;
 - (iii) other than where a specific PECUNIARY prejudicial interest exists, as detailed above, the dispensation applies in the case of all other types of prejudicial interests;

<p>(iv) it is always a matter for the individual member to decide whether the interest is prejudicial;</p> <p>(v) the dispensation does not affect a member's ability to exercise the right not to be a Decision Maker but, instead, play the role of Local Member;</p> <p>(vi) a member who takes advantage of the dispensation must continue to comply with the Members Code of Conduct including the requirements in relation to:</p> <ol style="list-style-type: none"> 1. the disclosure of his/her personal and prejudicial interest at meetings and in discussions indicating the nature of such interest and confirming that he/she is participating with the benefit of the dispensation; and 2. the giving of the requisite written notification in connection with these disclosure requirements; <p>(vii) the dispensation, whilst it does not apply to any member (irrespective of whether or not he/she is a member of the Cabinet or the Regulatory Committee) with a pecuniary prejudicial interest, does not affect the right (under the Members Code of Conduct) of a member who has a pecuniary prejudicial interest to speak and then withdraw from a meeting where the public are accorded the right to speak at such meeting (as is the case currently with the Regulatory Committee).</p>	
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School Governors:

RESOLVED THAT	REASON FOR DECISION
<p>(i) a blanket dispensation be granted to councillors who are school governors appointed otherwise than by the Council to participate, speak and vote in connection with council business relating particularly to the schools where they are governors (unless that business relates to the determination of any approval, consent, licence, permission or registration).</p> <p>(ii) this blanket dispensation only relates to a prejudicial interest arising from the councillors role as a school governor and does not confer a dispensation in respect of any other type of prejudicial interest. (A Pecuniary Prejudicial Interest does not include the additional out of school</p>	<p>(i) To place all councillors who are school governors on an equal footing with regard to prejudicial interests so as to facilitate the democratic process and assist council business; the Committee being of the view that to do so will not damage public confidence in the conduct of the council's business.</p> <p>ii), iii) and iv) To define the dispensation and its duration.</p>

<p>transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility)</p> <p>(iii) this dispensation is subject to the existing blanket dispensation granted by the Committee in respect of school modernisation and school transport</p> <p>(iv) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation.</p>	
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Membership of Voluntary Organisations:

RESOLVED THAT	REASON FOR DECISION
<p>a blanket dispensation be granted to all County Councillors who are elected, appointed or nominated otherwise than by the County Council as:</p> <p>(a) trustees of registered charities (including where they are directors of limited companies running the charities); and</p> <p>(b) members (at whatever level) of Voluntary Organisations to participate, speak and vote in connection with council business relating to the charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member (at whatever level) including:</p> <p>(i) regulatory matters concerning the registered charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member; and</p> <p>(ii) the grant, loan or other form of financial assistance of more than £500 to the registered charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member but subject to the following:</p> <p>(1) that the registered charity or Voluntary Organisation must be non-</p>	<p>1 To place all councillors who are trustees of registered charities or members (of whatever level) of Voluntary Organisations (howsoever elected, appointed or nominated) on an equal footing with regard to prejudicial interests so as to facilitate the democratic process and assist council business; the Standards Committee being of the view that to do so will not damage public confidence in the conduct of the council's business and therefore the Standards Committee is satisfied that the grounds in Paragraph (d) of Regulation 2 of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 are met.</p>

<p>profit making and the Councillor (or a close personal associate) must not be in receipt of any financial reward or remuneration from the registered charity or Voluntary Organisation</p> <p>(2) this blanket dispensation only relates to a prejudicial interest arising from the Councillor's role as a trustee of the registered charity or member or as a member of the Voluntary Organisation and does not confer a dispensation in respect of any other type of prejudicial interest such as a pecuniary prejudicial interest.</p> <p>(3) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation.</p>	
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Lobbying:

RESOLVED THAT:

A dispensation to speak and vote should be granted if the following general principles were met:

- (1) 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**
- (2) Where the matter affects a significant proportion of the Council / Cabinet / Committee so as either (a) no fewer than half of the 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**
- (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).**
- (4) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in**

2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation

Spare Room Subsidy (“Bedroom Tax”):

RESOLVED THAT	REASON FOR RESOLUTION
<p>(i) a dispensation be granted to all Members, irrespective of any interest (including pecuniary interest) to speak on matters relating to the Spare Room Subsidy, and</p> <p>(ii) a dispensation be granted to all Members to vote on matters relating to the Spare Room Subsidy <u>EXCEPT</u> in the following circumstances:</p> <p>(a) if the Member is a private landlord and knowingly has a tenant who has moved into the private sector from the public sector due to the impact of the Spare Room Subsidy, and</p> <p>(b) if the Member is a tenant who has been affected by the Spare Room Subsidy.</p> <p>(iii) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation</p>	<p>i) that no fewer than half of the Members of the Authority or of a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>ii) that 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>

Single Farm Payments:

RESOLVED THAT	REASON FOR DECISION
<p>(i) a dispensation be granted to those Members who are in direct receipt of a single farm payment (including Members whose spouse or partner is in receipt of the payment) to speak but not vote on matters relating to Single Farm Payments and having spoken to leave the room.</p> <p>(ii) a dispensation be granted to those</p>	<p>i) due to the rural nature of the county a significant proportion of the Council was affected and unable to take part in a discussion on this matter, and</p> <p>ii) that no fewer than half of the Members of the Authority or of</p>

<p>Members who are not directly in receipt of a Single Farm Payment but whose family or close personal associates are in receipt of the payment, to speak and vote on matters relating thereto.</p> <p>(iii) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation</p>	<p>a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>iii) that 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>
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Wool Production:

RESOLVED THAT	REASON FOR DECISION
<p>(i) a dispensation be granted to those Members who are sheep farmers, (including close personal associates involved in sheep farming) to speak but not vote on matters relating to Wool Production and having spoken to leave the room</p> <p>(ii) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation.</p>	<p>i) due to the rural nature of the county a significant proportion of the Council was affected and unable to take part in a discussion on this matter, and Council thereby would lose their expertise</p> <p>ii) that no fewer than half of the Members of the Authority or of a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>iii) that 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>

Farming and agriculture:

RESOLVED THAT	REASON FOR DECISION
<p>(i) a dispensation be granted to allow Members to speak but not vote and /or make written representations in relation to any matters relating to or likely affect farming and agriculture.</p> <p>(ii) the dispensation shall continue in</p>	<p>i) due to the rural nature of the county a significant proportion of the Council was affected and unable to take part in a discussion on this matter, and Council thereby would lose their expertise</p>

<p>force until the first meeting of the Standards Committee after the next ordinary council elections in 2027 unless before those elections the Standards Committee revokes, amends or alters the dispensation.</p>	<p>ii) that no fewer than half of the Members of the Authority or of a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>iii) that 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>
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Delegation of non-controversial applications for dispensations:

RESOLVED THAT	REASON FOR DECISION
<p>Committee delegate non-controversial applications for dispensation to the Chair and Vice-Chair of the Standards Committee in consultation with the Monitoring Officer to grant a temporary dispensation subject to confirmation at Standards Committee.</p>	<p>To allow applications for dispensation to be decided in a timely manner but confirmed at a meeting of the Standards Committee.</p>

Resolved:

That details of the number of times the dispensations are used be collated and presented to the Committee.

C2. Applications - County Councillors

No applications for dispensation have been received from County Councillors.

D. Ombudsman's Casebook

The Committee noted that the Ombudsman had replaced the Code of Conduct Casebooks, which were published on a Quarterly basis, with [Ombudsman Wales - Our Findings](#)

A new report was issued last week after the agenda had been circulated. A link to this would be sent to the Committee and included in the next agenda.

E. National Standards Forum

The Head of Legal Services and Monitoring Officer advised that the meeting scheduled for 8 December 2022 had been cancelled as 50% of the Standards Committee Chairs are unable to attend. A new date would be arranged in January 2023.

It was noted that the recording of the Standards Committee Conference held in February 2022 had been circulated. It was agreed that this would be circulated to the new committee members.

F. Standards Committee for Mid Wales Corporate Joint Committee (“CJC”)

The Committee noted the need to make appointments to the Standards Committee for the Mid Wales Corporate Joint Committee. It was noted that the Terms of Reference for this new Committee was based on the Powys Standards Committee’s Terms of Reference.

Resolved:

That the following be appointed to the Standards Committee of the Mid Wales Corporate Joint Committee:

- **Independent Members – Stephan Hays and Russell Stafford-Tolley**
- **County Councillor Liz Rijnenberg**

G. Meeting Dates

To note dates of meetings in 2023 as follows:

8 February at 2pm

14 June at 2pm

25 October at 2pm

The Head of Legal and Monitoring Officer, with the Chair’s permission, referred the Committee to the Whistleblowing Policy which had been emailed to them the previous day. The Policy was being revised and he asked the Committee to forward comments to him by email.

The Chair, having briefly looked at the document, made the following comments:
8.3 – states “a manager with no prior involvement” but he wondered if this should be “senior manager with no connection”

8.5.2 – a whistleblower can have a union representative or colleague but he asked if they could have legal representative. The Head of Legal Services and Monitoring Officer advised that a legal representative was not allowed unless there was a professional reason for doing so.

5.	WORK PROGRAMME
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The Committee considered and welcomed the draft Work programme. The Committee would need to consider the process and format of how the it would meet with Group Leaders to discuss their new duties. Group Leaders could be invited to a meeting as a group or individually. The Chair advised he had drafted a form on which Group Leaders could record information relating to their new duties. The Head of Legal Services and Monitoring Officer advised that Flintshire County Council had drafted a form which he would circulate to the Committee.

The Committee agreed the draft Work programme with the addition of the following topics to be added to the June meeting:

- a report on the use of General dispensations and
- an anonymised report on the number of whistleblowing cases and outcomes.

Mr S Hays (Chair)