

**MINUTES OF A MEETING OF THE STANDARDS COMMUNITY SUB-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 Councillor I McIntosh

Town and Community Council Representatives: Councillor R White

1. APOLOGIES

Apologies for absence were received from Community Councillor N Dodman.

2. MINUTES

The Chair was authorised to sign the minutes of 17 February 2022 as a correct record.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. REPORT OF THE HEAD OF LEGAL AND MONITORING OFFICER
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The Sub-Committee received the report of the Head of Legal Services and Monitoring Officer (copy filed with signed minutes).

A Referral of Councillors to Public Services Ombudsman

A1. Town and Community Councillor Referrals

The current position regarding matters with the Ombudsman is detailed below:

03/20/TCC Ombudsman not investigating
09/20/TCC Ombudsman not investigating
10/20/TCC Ombudsman not investigating

04/21/TCC Ombudsman not investigating
05/21/TCC Ombudsman no action taken
11/21/TCC Ombudsman investigating
13/21/TCC Complaint withdrawn
14/21/TCC Ombudsman no action taken
15/21/TCC Ombudsman not investigating

01/22/TCC Ombudsman not investigating
02/22/TCC Ombudsman not investigating
03/22/TCC Ombudsman deciding whether or not to investigate

The Head of Legal Services and Monitoring Officer advised that in respect of 12/21/TCC, which was shown in the report as Ombudsman investigating, the Ombudsman had advised the previous week that this case had been referred to the Adjudication Panel for Wales [APW]. The Ombudsman had advised that as the complaint was in respect of a former community councillor the APW had greater sanctions available to it than the Sub-Committee and so the Ombudsman had made the referral. He advised that this case was detailed on the APW website and it was in respect of the former Community Councillor Sheila Jenkins of St Harmon Community Council. The public hearing will probably be online and is likely to take place in March or April and a link would be sent to the Sub-Committee.

B. Dispensations

B1. General Dispensations

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

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

School Modernisation and School Transport Reviews:

RESOLVED THAT	REASON FOR DECISION
<p>That a general dispensation (the dispensation) in relation to school modernisation and any school transport issue be granted to all Town and Community 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 Powys County Council Cabinet in relation to both primary, secondary and special schools but does not include non-modernisation issues (e.g. the 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</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 sub-committee being of the view that the grant of this general dispensation will not damage public confidence in the conduct of the Council’s business.</p>

transport for pupils attending primary, secondary and special schools both in and outside of Powys where Powys County 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;

(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 Powys County Council’s provision of school transport, to:-

(i) the councillor in question; or

(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);

(e) the dispensation extends to:-

(i) attending any meeting formal or informal (as defined in the Members Code of Conduct) including meetings of the Town or Community Council, 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;

(f) the dispensation is subject to compliance with:-

(i) any legislative requirement;

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| <ul style="list-style-type: none"><ul style="list-style-type: none">(ii) any common law rule including bias/predetermination;(iii) the Town or Community Council's constitution;(g) the dispensation shall continue in force until the first meeting of the Standards Sub-Committee after the next ordinary council elections in 2027 unless before those elections the Standards Sub-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 | |
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a member of the Powys County Council Cabinet) 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.

Renewable Energy:

RESOLVED THAT	REASON FOR DECISION
<p>That a general dispensation (the dispensation) in relation to renewable energy issues be granted to all Town and Community 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 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 style="padding-left: 40px;">(i) Turbines, solar panels, hydro schemes, substations, pylons, overhead or underground cables or wires or any other infrastructure;</p> <p style="padding-left: 40px;">(ii) Infrastructure transport, highway, tourism and regeneration issues;</p> <p style="padding-left: 40px;">(iii) community benefits; and</p> <p style="padding-left: 40px;">(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 style="padding-left: 40px;">(i) the councillor in question; or</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 sub-committee being of the view that the grant of this general dispensation will not damage public confidence in the conduct of the Council’s business.</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 (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 Council, 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 general dispensation granted to County Councillors (where County Councillors are members of the Town or Community Council or attend Town and Community Council meetings);

(f) the dispensation shall continue in force until the first meeting of the Standards Sub-Committee after the next ordinary council elections in 2027 unless before those elections the Standards Sub-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;

<p>(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;</p> <p>(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> <p>(iv) it is always a matter for the individual member to decide whether the interest is prejudicial;</p> <p>(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:-</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(2) the giving of the requisite written notification in connection with these disclosure requirements;</p> <p>(vi) the dispensation, whilst it does not apply to any member 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.</p>	
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School Governors:

RESOLVED THAT	REASON FOR DECISION
<p>(i) That a general 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,</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</p>

<p>consent, licence, permission or registration).</p> <p>(ii) That this general 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 transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility)</p> <p>(iii) That this dispensation is subject to the existing general 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 Sub-Committee after the next ordinary council elections in 2027 unless before those elections the Standards Sub-Committee revokes, amends or alters the dispensation.</p>	<p>and assist council business; the Sub-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>
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Membership of Voluntary Organisations:

RESOLVED THAT	REASON FOR DECISION
<p>1. That a general dispensation be granted to all Town and Community Councillors who are elected, appointed or nominated otherwise than by their 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</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 Sub-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 Sub-Committee is satisfied that the grounds in</p>

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:-

- (1) that the registered charity or Voluntary Organisation must be non-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**
- (2) that this general 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.**
- (3) the dispensation shall continue in force until the first meeting of the Standards Sub-Committee after the next ordinary council elections in 2027 unless before those elections the Standards Sub-Committee revokes, amends or alters the dispensation.**

Paragraph (d) of Regulation 2 of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 are met.

Delegation of on-controversial applications for dispensations:

RESOLVED THAT	REASON FOR DECISION
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.	To allow applications for dispensation to be decided in a timely manner but confirmed at a meeting of the Standards Committee.

The Head of Legal Services and Monitoring Officer advised it would be difficult to collate information on how frequently these dispensations are used by town and community councils, but he would ask the clerks for such information.

B2. Applications - Town and Community Councillors

No applications for dispensation had been received from Town or Community Councillors.

C. Ombudsman's Casebook

The Sub-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 Sub-Committee and included in the next agenda.

D. Meeting Dates

The following Sub-Committee dates in 2023 were noted:

8 February at 2pm

14 June at 2pm

25 October at 2pm

A member advised they had seen a presentation about the Civility & Respect Project undertaken by One Voice Wales [OVW], the Society of Council Clerks and National Association of Local Councils. The materials are excellent and it would be useful for a future Committee to have sight of the materials. It was agreed to invite One Voice Wales to the meeting in June to present information about this Project.

Mr S Hays (Chair)