

CYNGOR SIR POWYS COUNTY COUNCIL
Standards Committee
12 June 2024

REPORT BY: Head of Legal and Monitoring Officer

SUBJECT: Standards Issues

REPORT FOR: Decision, Information and Discussion

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

A refresher mandatory Code of Conduct training course took place on 15 April 2024, via Teams. The training was for councillors, co-opted members, independent members of the Standards Committee and town and community council representatives on the Standards Community Sub-Committee. The session was recorded and was sent to councillors and others who were unable to attend the “live” session. As of 6 June 2024 the following need to complete the training: two councillors plus two other councillors who only attended part of the “live” session and one co-opted member.

B. Members attendance

Attendance for Members at main Committees for the period 18 May 2023 to 15 May 2024 inclusive has been calculated. Four members had an attendance of less than 60% and were asked to review their records. Errors were found in the records for two councillors and were adjusted which brought their attendance levels above 60%. One councillor advised their attendance level was below 60% due to health reasons and one councillor has been asked to provide an explanation of their attendance level to the next meeting.

C. Referral of County Councillors to the Ombudsman Wales

The abbreviations used in the headings are as follows:

MO – Monitoring Officer

OW – Ombudsman Wales

Stds – Standards Committee

APW - Adjudication Panel for Wales

Ref	Date OW notified MO of complaint	Date OW advised investigating or not investigating	Date OW's decision	Date considered by Stds	Date considered by APW
03/CC/22		17/04/23 investigating			
05/CC/22		28/06/22 investigating	20/11/23 referred to Stds	07/02/24 referred to	

				another Stds	
02/CC/23		26/02/24 investigating			

D. Dispensations Applications - County Councillors

At its meeting on 7th March 2024, full council considered a motion on sustainable farming scheme which led to a request from many Councillors for the Standards Committee to reconsider the dispensation granted in relation to farming and agricultural matters.

Background

Some members may recall that on 17th February 2022, the Standards Committee were asked to consider an application for dispensation from Councillor Elwyn Vaughan to allow Members who had a personal and prejudicial interest in farming and agricultural matters to be able to speak, make written representations but **not** to vote on such issues.

At the time, the Committee was advised that research from officers suggested that about 75% of the Councillors had some link to the farming and agricultural industries.

The Standards Committee granted the dispensation on the basis of the rural nature of the county and the significant proportion of the council that would otherwise be unable to take part in a discussion of such matters resulting in the Council losing their expert advice on such issues.

The dispensation was re-approved by Standards Committee for the term of the existing Council at its meeting on 5th December 2024 in the following terms:-

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 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</p>

	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.
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Council meeting on 7th March 2024.

The motion considered by council on 7th March 2024 consisted of a request by the council to pause the consultation on the sustainable farming scheme and to renew engagement with farming unions before approaching the agricultural sector once serious amendments had been made to the scheme.

In advance of the meeting on 7th of March 2024, the monitoring officer emailed all councillors to remind them all of the standards dispensation with regard to farming and agricultural issues. In particular, Members were advised that if they in receipt of a farming subsidy, or had relatives or close personal acquaintances who were in receipt of a farming subsidy, the member should declare their interest in the debate and rely on the dispensation to allow them to participate in the debate, but not to vote.

55 members were present for the debate of which 25 declared an interest and the motion was passed with 28 votes for and 1 against .

I have asked Group Leaders to nominate 1 councillor from each of their groups to attend the Standards Committee meeting in order to put the views of their group to the Standards Committee before the committee reviews its decision.

The Code of Conduct

The full version of Part 3 of the Code of contact is found at Appendix 1, but it is accepted that Members who are farmers or work in the agricultural industry, or have relatives or close personal acquaintances who are farmers or work in the agricultural industry have both personal and prejudicial interests .

Decision Required

Members are asked to reconsider their previous decision which allows Members to speak and make representations but not vote on farming on and agricultural issues. In other words, does the committee consider that members should be allowed to vote notwithstanding the existence of a declared personal and prejudicial interest?

E. Ombudsman Wales – Our Findings

Details of cases are available in [Ombudsman Wales - Our Findings](#)

It should be noted that “Our Findings” covers all matters investigated by the Ombudsman and not just Code of Conduct matters. “Our Findings” is updated on a monthly basis.

'Our Findings' contains a search facility, which includes "Subject". Under the "Subject" heading the following categories of the Code are listed:

- Integrity
- Promotion of equality and respect
- Disclosure and registration of interest
- Duty to uphold the law
- Selflessness and Stewardship

At a recent meeting of all Welsh Monitoring Officers, the Ombudsman's office was asked to consider re-instating the "Casebook", which was considered to be more helpful. The Ombudsman has declined to reinstate the casebook but is committed to improve the searchability of its website.

F. Adjudication Panel for Wales

Details of cases considered by the APW are available via the following link:
[Decisions | The Adjudication Panel for Wales \(gov.wales\)](#)

G. National Forum for Standards Committees

As advised at the last meeting the Forum met on 29 January 2024. Notes from Stephan A copy of the notes are attached at Appendix 2. The next meeting is scheduled for 24 June 2024.

H. Meeting Dates

To note the date of the next meeting: 30 October 2024 at 2pm

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Appendix 1

Extract from Code of Conduct

PART 3 INTERESTS

Personal Interests

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —
(a) it relates to, or is likely to affect —

- (i) any employment or business carried on by you;
- (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
- (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
- (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;
- (viii) any body to which you have been elected, appointed or nominated by your authority;
- (ix) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, registered society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your authority's area, in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

[Note: subparagraph (b) is omitted.]

(c) a decision upon it might reasonably be regarded as affecting —

- (i) 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;
- (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
- (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

- (aa) in the case of an 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; or
- (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.—(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
- (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this

paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(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.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in subparagraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.