

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1A, County Hall, Wynnstay Road, Ruthin on Friday 15 January 2010.

PRESENT

Mr C B Halliday (Chair), Councillor G A Green, Councillor H LI Jones, Ms M E Medley, Mr G F Roberts, Councillor D A Thomas and Mrs P White

ALSO PRESENT

Councillor M LI Davies, Monitoring Officer (IKH), Scrutiny Support Officer (SP) and Committee Administrator (EC)

1 URGENT MATTERS

There were no urgent matters for consideration by the Committee.

2 MINUTES

RESOLVED that the minutes of the Standards Committee meeting held on 13 November 2009 be confirmed as a correct record.

Matters Arising – Item 5 – Code of Conduct

The Monitoring Officer informed the Committee that he had received notification from the Adjudication Panel that the councillor in question had lodged an appeal against the suspension decision of the Standards Committee.

3 ATTENDANCE AT MEETINGS

The Monitoring Officer advised that there was no feedback from meetings to report to the Committee. However, he did have information for the Committee on training sessions held for town and community sessions that had been well-attended.

Members were informed that future sessions were being planned for the following dates, and attendees were requested to contact the Corporate Governance Department:

- Wednesday 20 January at 2 p.m. in Oriel House, St. Asaph
- Wednesday 27 January at 7 p.m. in Theatr Elwy, Ysgol Glan Clwyd
- Wednesday 17 February at 2 p.m. in the ECTARC Centre, Llangollen
- Wednesday 24 February at 7 p.m. in the Sports Pavilion, Corwen

4 STANDARDS CONFERENCE WALES 2009

The Monitoring Officer referred to conference notes (previously circulated) from the Standards Conference Wales 2009, entitled *Wales: An Ethical Country*. He informed the Committee that he had DVD recordings of the conference that Members could view.

The Monitoring Officer reported that the conference, held in Cardiff, had demonstrated that Standards Committees in Wales were generally working well and that the Welsh system of filtering complaints through the Public Services Ombudsman was well-received and resulted in greater consistency than in England.

The conference had highlighted interesting examples of standards committees engaging with, and gaining the respect of, councillors. The Monitoring Officer reported examples of local authorities where tensions between the elected members generated much more work for their standards committees than in Denbighshire.

Mrs White reported that the conference had been interesting and enlightening.

Councillor Green queried at what point robust but legitimate challenge became overbearing or bullying behaviour? Mr Roberts highlighted how effective chairing usually prevented disorder and behavioural problems. Mr Halliday reported that he found Denbighshire County Councillors had good working relationships and were generally independent minded. The Monitoring Officer stated that training sessions tended to revolve around personal interests and that training for behavioural issues could prove interesting, with case studies from other local authorities becoming available. In response to a query from Ms Medley he also reported on the training conducted by Denbighshire County Council to develop chairing skills, the role description adopted for the position of chair, and the quarterly meetings of the Scrutiny Chairs and Vice Chairs Group that helped to promote good practice.

The Committee discussed processes for recording reasons behind regulatory decisions such as planning and the requirements of the Code of Conduct thereon. The Monitoring Officer advised that he regarded the current practices for drawing the relevant reasons into the debate and recording them in the minutes to be appropriate, but would consider whether further actions were necessary.

Mr Halliday concluded that the debate had demonstrated that the Standards Committee had a wider role to play than enforcing the Code of Conduct.

The Monitoring Officer summarised the debate and agreed to continue with the provision of training which would include planning decision-taking and behavioural issues.

RESOLVED – *that the Standards Committee notes the above-mentioned issues and actions.*

5 CODE OF CONDUCT – DRAFT GUIDANCE

The Monitoring Officer presented the Public Services Ombudsman for Wales' draft guidance for the Code of Conduct (previously circulated). He advised that the consultation period extended until 12 February 2010 and that the Committee's views could be given as a response to the consultation. He also advised that although the new Code of Conduct was better than the previous version, the consensus of his monitoring officer colleagues was that there was insufficient guidance on interpreting the Code.

Councillor Thomas likened the Code of Conduct to a set of rules that could be unreasonable and over-prescriptive. He advocated a reasonable and common sense approach when considering allegations of misconduct, and favoured a briefer guidance document written in plain language.

For matters of interpretation Mr Halliday referred to the Ombudsman's role in applying common sense and filtering out inappropriate or vexatious complaints.

Councillor Jones queried how, under the Code of Conduct, councillors could effectively support the communities they were elected to represent in instances where community interests could be outweighed by the interests of the authority as a whole? Councillor Davies referred to this and the election of Gwynedd Council members who had been elected with a mandate to oppose school closures.

The Monitoring Officer advised that the Code of Conduct attempted to introduce the 'Nolan' principles for ethical conduct in public service into a workable code. He agreed that the guidance should not be overly complicated or difficult to read. In reference to acting in the interests of a councillor's ward or electoral division the Monitoring Officer acknowledged that there could be difficulties because of personal interests under the Code of Conduct. In these instances a test of 'reasonableness' would be important and gave an example of how a strong view from a community poll or other demonstration of community opinion could be helpful in evaluating reasonable conduct. The Monitoring Officer advised that Members should discuss individual cases with him in order for appropriate advice to be given.

6 DATE OF NEXT MEETING

The date of the next meeting was confirmed as Friday 26 February, 2010 at 10 a.m. in County Hall, Ruthin.

Report to: Standards Committee

Report by: Monitoring Officer

Date: 26 February 2010

Subject: Dispensations

1 DECISION SOUGHT

- 1.1 To consider whether or not to grant dispensations as outlined in paragraph 3 below and Appendix 1 in relation to St Asaph Town Council Councillors and in paragraph 4 below and Appendix 2 in relation to Rhyl Town Councillors having regard to the circumstances in which dispensations may be granted as set out in Appendix 3.

2 BACKGROUND

- 2.1 The provisions relating to interests are set out in Part 3 of the Members' Code of Conduct. There is an overriding requirement that members must in all matters consider whether they have a personal interest and whether the Code of Conduct requires disclosure of that interest. Paragraph 10(2) of the Code sets out what those personal interests are.
- 2.2 Having declared a personal interest a member must consider whether they also have a prejudicial interest. Prejudicial interest is defined as being an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- 2.3 Amongst the range of potential personal interests that are set out in paragraph 10(2) of the Code are industrial and provident societies, charities or bodies directed to charitable purposes and private clubs, societies or associations operating within the authority's area in which the Councillor has membership or holds a position of general control or management. The interests under consideration in this report fall within these categories.
- 2.4 The new Code of Conduct, operative since 2008, was specifically drafted to take account of the fact that the close involvement of Councillors in their local community meant that they would have involvement in a range of bodies and indeed might even be appointed by their Councils to such bodies. The Code accordingly provides an exemption in such cases and accordingly, although the member still needs to declare the personal interest, they are not obliged to leave the meeting and take no further part in the discussion as would normally be the case for a prejudicial interest. There is however a further caveat in that the exemption does not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

- 2.5 There still however remains the dispensation regime that operated under the previous Code of Conduct and thus members with a prejudicial interest i.e. one in respect of which there is either no exemption or the matter under consideration is caught by the caveat to the exemption, may still apply to the Standards Committee for a dispensation which enables them both to speak and vote on the matter under consideration. There is no longer a “halfway house” as there used to be of giving a limited dispensation to enable a member to speak but not vote. As members will see from the list of circumstances in which dispensations may be granted as set out in Appendix 3, the key factors appear to be ensuring that all issues are clearly in the public domain and that the rules themselves do no unduly fetter the democratic process or actually impede the interaction of Councillors with their communities and their positive contribution to the work of local organizations.

3 ST ASAPH TOWN COUNCILLORS

- 3.1 Attached at Appendix 1 is the request from the Town Clerk, St Asaph Town Council. This sets out the difficulties encountered by this Council and reflects very closely the circumstances that have been encountered by a number of other Town Councils in the past whereby it proves impossible to transact business under consideration because of the number of declarations of interest.
- 3.2 The Town Clerk has helpfully set out the names of each of the relevant Councillors and the organisations in question.
- 3.3 In considering the application I would invite members specifically to consider ground (a) which is intended to remedy the situation of having insufficient decision takers and grounds (d) and (e) since the groups and associations in question are focused on the benefit to the town.

4 RHYL TOWN COUNCILLORS

- 4.1 Attached at Appendix 2 are details in support provided by Rhyl Town Councillor J B Bellis in respect of a request by himself and his fellow Town Councillors Mrs P M Jones, M C Espley and Mrs W Mullen-James who are members of the Management Committee of the Rhyl Community Association. The dispensation request is very specifically only to relate to any discussion of the Management Agreement of Tynewydd Community Centre as between the Association and the Town Council. The individual interests are complex in that Councillor Bellis is a trustee and secretary to the Association but not a Town Council appointee and he is also a Councillor for the ward within which the Tynewydd Community Centre is located, Councillor Jones is a Town Council appointee and is also a trustee, whilst Councillors Espley and Mullen-James are both Town Council appointees and have also individually taken up membership of the Association.

4.2 As a result of some changes in membership of the Association ground (a) is no longer relevant. However, members are invited to consider ground (d) and ground (i) and particularly in Councillor Bellis' case, ground (f) by virtue of his role as secretary to the Association. The particular concern of the applicants for the dispensation is to ensure the interests and views of the users and residents of Tynewydd ward in the Tynewydd Community Centre are adequately represented. The underlying concern is that there is a substantial risk of closure coupled with potential detriment to the Association as a whole all of which are detrimental to the community activities in Rhyl.

5 RECOMMENDATION

That members consider the above dispensations having regard to the grounds identified.

Contact Officer: Ian Hearle, County Clerk
e-mail: ian.hearle@denbighshire.gov.uk Tel: 01824 712562

Code of Conduct - dispensation
St Asaph Town Council to: Ian Hearle

21/01/2010 12:40

From: St Asaph Town Council/TCC/DCC
To: Ian Hearle/CE/DCC@DCC

Hello Ian

You may recall from previous discussions that the Council, like many others, has several Members who are also Members of local Voluntary Organisations.

Occasionally, when it is necessary for Members of one or other of those Organisations to 'Declare an Interest' and leave the Meeting, there have been insufficient Council Members left in the room to conduct the business

I am therefore requesting the Standards Committee to allow dispensations for the following Council Members who are also Members of the Organisations listed:-

Name of Organisation:-

- [A] Afon Elwy Environment Group
- [B] St.Asaph Community Association
- [C] St.Asaph Community Support & Tidy Towns Group

Names of Councillors for which dispensation is sought, with Membership(s) shown:-

W L Cowie -	[A] [C]
Mrs D G Hodgkinson -	[A] [B] [C]
Mrs E J Powell -	[A] [B] [C]
Mrs B J Rust -	[A] [B] [C]
D I Roberts -	[A] [C]
D Owens -	[B] [C]
J J Vaughan -	[B] [C]
D A Thomas -	[B]
R H Gumm -	[C]
N J H J Shorter -	[C]
P Scott -	[C]

No doubt you will contact me if there is any further information you need

I look forward to hearing from you soon.

Andrew

JOHN BENJAMIN BELLIS FFA.FAIA.FCMI.MCIPD.

11, GLENDOWER COURT,
EAST PARADE,
RHYL.
DENBIGHSHIRE.
LL18 3SG

15th February 2010

**Head of Corporate Governance
Denbighshire County Council
RUTHIN.**

Dear Ian,

The Standards Committee are requested to consider dispensation for Councillors who are members of the Management Committee of the Rhyl Community Association in any discussion on the Management Agreement of the Tynewydd Community Centre. The Association is a registered charity and any profits are re-invested. Its objects are to provide affordable accommodation for the residents of Rhyl which is a deprived area. The Rhyl Community Association is about twenty-five years old and runs three Community Centres one of which is owned by Rhyl Town Council. The Association receives grant aid from the Council and a Management fee for the Tynewydd Centre. Early last year it agreed to work with a sub-committee of the Council to review agreements, supply a business and marketing plan as well as cash forecasts and a budget. The following actions were agreed:-

1. Develop a web site
2. Purchase new computer equipment
3. Conduct an advertising campaign
4. Provide a cash flow forecast and accounts
5. Produce a balanced budget
6. Recruit new members of the Management Committee
7. Source Professional Advice
8. Seek out grant funding

Despite complying with all of the above the sub-committee have recommended giving notice to the Association.

The majority of the Management Committee are Town Councillors and leave the chamber when the Council discusses grant aid. These members have an interest in the Community Centres, the sub-committee is made up from other members.

The Association would not be viable if it lost the Management Agreement for the Tynewydd Centre and as the other Community Centres are fully booked in the evenings, Community Groups could not be accommodated in the other two Centres.

Any decision on the closure of the Tynewydd Centre or removal of the management agreement should involve all members of the Council. All councillors, whether they are Landlords or landlords and tenants have an interest in the decision and should be allowed to debate and vote on the outcome. They are the elected members who represent their residents, the users of the Community Centres and in effect the owners of the facilities.

Yours sincerely,



Rheoliadau Pwyllgorau Safonau (Caniatau Gollyngiadau) (Cymru) 2001

Yr amgylchiadau lle gellir caniatáu gollyngiadau

2. Caiff pwyllgor safonau awdurdod perthnasol ganiatáu gollyngiadau o dan adran 81(4) o'r Ddeddf -

(a) os oes gan ddim llai na hanner aelodau'r awdurdod perthnasol neu hanner aelodau un o bwyllgorau'r awdurdod (yn ôl fel y digwydd) y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw;

(b) os oes gan ddim llai na hanner aelodau gweithrediaeth arweinydd a chabinet y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw a bod naill ai paragraff (ch) neu baragraff (d) hefyd yn gymwys;

(c) yn achos cyngor sir neu gyngor bwrdeistref sirol, os byddai anallu aelod i gymryd rhan yn tarfu ar gydbwysedd gwleidyddol yr awdurdod perthnasol neu'r pwyllgor o'r awdurdod y mae'r busnes i'w ystyried ganddo i'r fath raddau nes y byddai'r canlyniad yn debygol o gael ei effeithio;

(ch) os yw natur buddiant yr aelod yn gyfryw fel na fyddai cyfranogiad yr aelod yn y busnes y mae'r buddiant yn berthnasol iddo yn niweidio hyder y cyhoedd yn y modd y mae busnes yr awdurdod perthnasol yn cael ei gynnal;

(d) os yw'r buddiant yn gyffredin i'r aelod ac i gyfran arwyddocaol o'r cyhoedd;

(dd) os oes cyfiawnhad i'r aelod gymryd rhan yn y busnes y mae'r buddiant yn berthnasol iddo oherwydd rôl neu arbenigedd penodol yr aelod;

(e) os yw'r busnes y mae'r buddiant yn berthnasol iddo i'w ystyried gan bwyllgor trosolygu a chraffu i'r awdurdod perthnasol ac nad yw buddiant yr aelod yn fuddiant ariannol;

(f) os yw'r busnes sydd i'w ystyried yn berthnasol i arian neu eiddo corff gwirfoddol y mae'r aelod yn aelod o'i bwyllgor neu ei fwrdd rheoli heblaw fel cynrychiolydd yr awdurdod perthnasol ac nad oes gan yr aelod unrhyw fuddiant arall yn y busnes hwnnw ar yr amod na fydd unrhyw ollyngiad yn ymestyn i gymryd rhan mewn unrhyw bleidlais mewn perthynas â'r busnes hwnnw; neu

(ff) os yw'n ymddangos i'r pwyllgor ei bod o les i drigolion ardal yr awdurdod perthnasol i'r anallu gael ei godi, ar yr amod bod hysbysiad ysgrifenedig bod y gollyngiad yn cael ei ganiatáu yn cael ei roi i Gynulliad Cenedlaethol Cymru o fewn saith diwrnod a hynny mewn unrhyw fodd y gall ei bennu.

The Standards Committees (Grant of Dispensations) (Wales) 2001

Circumstances in which dispensations may be granted

2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

(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;

(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;

(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;

(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;

(e) the interest is common to the member and a significant proportion of the general public;

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

(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;

(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

(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.