

ADVICE NOTE ON INTERESTS AND COMMUNITY ASSET TRANSFER

1.0 Introduction

- 1.01 Flintshire County Council has circa 300 assets such as community centres, playing fields and open spaces. In November 2014 it invited town and community councils as well as community groups whether they were interested in taking responsibility for these assets (“community asset transfer - CAT”). As at October 2015, 19 councils and 24 community groups have expressed an interest in running 174 assets.
- 1.02 A CAT will involve either a town/community council or community group taking a lease of the asset. It is possible that there will be a debate at the county council where there is a councillor is either on the town/community council or community group taking the asset. If so, that councillor will need to consider whether to declare an interest should their council debate/discuss the transfer.
- 1.03 Likewise, if a town/community councillor is on a community group which is taking an asset and that transfer is discussed at the town/community council (e.g. the community group might be seeking financial support from the town council) then the councillor will need to consider whether to declare an interest.

2.0 Interests under the Code of Conduct

- 2.01 Paragraph 10(2) of the Code of Conduct (“the Code”) requires a councillor to declare a personal interest “in any business of your authority [that] relates to, or is likely to affect
- (iv) any corporate body with a place of business or land in the council’s area where the councillor has
- shares with a face value of £25,000; or
 - more than 1% of the total shares issued
- (ix) any public authority, charity or body directed to charitable purposes, private club, society or organisation in which the councillor holds a position of management or of which the councillor is a member.

2.02 So a county councillor who is also

- a town/community councillor where that council is taking the transfer
- a member of or on the governing body/board of trustees etc of a community group taking the transfer

will need to declare a personal interest whenever the transfer is discussed at the county council.

Example 1 Councillor Freda Jones is a county councillor, a Mynydd Isa community councillor and a trustee on the board of the Mynydd Isa Playing Fields Trust. The trust wants to take a transfer of the playing fields from the county council. The trust is also applying to Mynydd Isa Community Council for a grant to cover the cost of insurance.

If the transfer is debated at County Council then she must declare a personal interest. Likewise if the request for a grant is debated at the community council she must declare a personal interest.

2.03 A councillor who needs to declare a personal interest must do so whenever the matter is considered

- at any council or committee meeting; and
- in any meeting with officers; and
- in any correspondence with officers/councillors

2.04 When declaring a personal interest a councillor must state that it is personal and give the reason for the decision. Thereafter the councillor is free to participate fully in debate, discussion and/or voting on the matter.

2.05 Where a personal interest is so significant that a reasonable member of the public would say it is likely to prejudice the councillor's judgement of the public interest then it becomes a personal and prejudicial interest. Ordinarily, taking a lease of an asset would be regarded as sufficiently significant for the interest to be personal and prejudicial.

2.06 A councillor who needs to declare a personal and prejudicial interest can not

- remain in the room during any council or committee meeting; nor
- be present at any meeting with officers; nor
- write any correspondence to officers/councillors

about the matter UNLESS

- an exemption applies
- s/he has a dispensation from the county council's Standards Committee

3.00 Exemptions and Dispensations

3.01 An exemption applies in the circumstances below. Whilst they may seem very wide ranging they **do not apply** if the matter is not an application for any approval, consent, licence, permission or registration:

- a. (at county council or town/community council) where the councillor was appointed to the community body taking the transfer by that council
- b. (at county council or town/community council) where the community group taking the transfer is a public authority or body exercising functions of a public nature
- c. (at county council) where the councillor is a councillor on the town/community council taking the transfer
- d. (at town/community council) where the councillor is a member of a “relevant authority” i.e. the county council
- e. (at town/community council) where the matter relates to an application for funding of £500 or less

3.02 If an exemption applies the councillor must:

- declare a personal interest
- explain how the interest arises
- refer to the fact that the exemption make the interest personal only

Example 2 Mynydd Isa Playing Fields Trust seeks planning permission to build a clubhouse on the playing fields. When the matter is considered by Mynydd Isa Communtiy Council, Councillor Freda Jones must declare a personal and prejudicial interest and leave the room during the debate. Likewise, she cannot write to planning officers at the county council or speak at the Planning Committee.

Example 3 Mynydd Isa Playing Fields Trust applies to the county council for a grant of £600 and to Mynydd Isa Community Council for a grant of £400. Councillor Freda Jones cannot speak at the county council on the grant because that exemption applies only at community council level. However, she can speak at Mynydd Isa Community Council because of the exemption. She must, however, still declare a personal interest.

3.03 A councillor with a personal and prejudicial interest can apply to the county council Standards Committee for a dispensation. The grounds for application are that:

- at least half of the councillors on the council or committee have an interest
- at least half of the cabinet members have an interest (county council only)
- the political balance of the council or committee would be upset (county council only)
- if the member were to take part it would not damage public confidence

- the member shares the interest with a significant proportion of the public
- the member has a particular role or expertise
- the matter is being debated at an overview and scrutiny committee and the member's interest is not financial
- the matter relates to a voluntary organisation where the member has no other interest and does not wish to vote

3.04 There is a form to be completed which is available from the county council. The Standards Committee meets on the first Monday of every month and so some forward planning may be required. A councillor making an application is able to attend the meeting to explain their request but need not do so.

For advice or queries please contact your town/community clerk or the Monitoring Officer

Gareth Owens
Chief Officer Governance
Tel: 01362 702344
Email: Gareth.legal@flintshire.gov.uk