

# Public Document Pack

**Gareth Owens LL.B Barrister/Bargyfreithiwr**  
Chief Officer (Governance)  
Prif Swyddog (Llywodraethu)



To: Edward Michael Hughes (Chairman)

CS/NG

Councillors: David Cox, Hilary McGill and  
Arnold Woolley

29 September 2015

## **Co-opted Members**

Robert Dewey, Jonathan Duggan-Keen, Phillipa  
Ann Earlam and Kenneth Harry Molyneux

Sharon Thomas 01352 702324  
sharon.b.thomas@flintshire.gov.uk

Dear Sir / Madam

A meeting of the **STANDARDS COMMITTEE** will be held in the **EDITH BANKS MEMORIAL HALL (BACK ROOM), HIGH STREET, NORTHOP CH7 6BQ** on **MONDAY, 5TH OCTOBER, 2015** at **6.30 PM** to consider the following items.

**The meeting will commence at 6.30pm in Northop, following a training session at 6.00pm for the Standards Committee and Town & Community Councils.**

Yours faithfully

Democracy & Governance Manager

## **AGENDA**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 3 **MINUTES** (Pages 3 - 6)  
To confirm as a correct record the minutes of the meeting held on 7 September 2015.
- 4 **ADVICE ON INTERESTS AND COMMUNITY ASSET TRANSFERS** (Pages 7 - 12)  
To approve the attached draft advice note on interests and community asset transfers for circulation to County Forum and community councillors.

5 **DISPENSATIONS** (Pages 13 - 16)

6 **FORWARD WORK PROGRAMME** (Pages 17 - 18)

For the Committee to consider topics to be included on the attached Forward Work Programme.

## **STANDARDS COMMITTEE** **7 SEPTEMBER 2015**

Minutes of the meeting of the Standards Committee of the Flintshire County Council held at County Hall, Mold, on Monday, 7 September 2015.

**PRESENT: Edward Hughes (Chair)**

**Councillors:**

Hilary McGuill and Arnold Woolley

**Co-opted Members:**

Robert Dewey, Jonathan Duggan-Keen, Phillipa Earlam and Ken Molyneux

**APOLOGY:**

Councillor David Cox

**IN ATTENDANCE:**

Monitoring Officer and Team Manager – Committee Services

**9. DECLARATIONS OF INTEREST (including whipping declarations)**

Councillor Hilary McGuill declared an interest in agenda item number 4 as she was the Councillor applying for dispensation.

**10. MINUTES**

The minutes of the meeting held on 6 July 2015 were submitted.

**Minute Number 3 – Dispensations**

There was a spelling mistake in the first paragraph and the word 'assts' should read 'assets'.

**Minute Number 4 – Review of the Protocol for Members in Their Dealings with Contractors / Developers and Other Third Parties**

The Monitoring Officer explained that Group Leaders would be written to asking if they felt the minor change to the above Protocol needed to be reported to County Council. If they felt it didn't, it would be actioned accordingly based on their approval.

**Minute Number 6 – Biennial All Wales Standards Conference, Cardiff – 20 October**

The Monitoring Officer said he had not received any responses from Town and Community Councils. A flyer that had been received about the event had been circulated to Town and Community Council's and they would be contacted again to seek any interest in the place that had been allocated to them at the last meeting of the Standards Committee.

## Minute Number 7 – Forward Work Programme

The Monitoring Officer advised that the next meeting of the Standards Committee was the annual joint meeting with Town and Community Councils. Northop Community Council had offered to host the meeting and it would take place in the Edith Banks Memorial Hall, High Street, Northop.

### **RESOLVED:**

That subject to the amendment, the minutes be received, approved and signed by the Chairman as a correct record.

## **11. DISPENSATIONS**

The Monitoring Officer explained that a dispensation request had been received from Councillor Hilary McGuill and invited her to provide any further information to the Committee prior to leaving the room whilst it was considered.

Councillor McGuill explained that she was seeking dispensation to speak at the Planning and Development Control Committee on 16 September 2015 on planning application number 053208 to build 59 dwellings in the ward adjacent to hers. She would be in attendance at the Committee on behalf of Councillor Amanda Bragg who was the local Member but was on holiday.

Dispensation to speak was sought as Councillor McGuill was a governor at both schools which would receive monies should the planning application be approved.

The Monitoring Officer added that the dispensation was to speak only as Councillor Bragg, or Councillor McGuill on her behalf, were not members of the Planning and Development Control Committee.

Similar applications had been considered in May 2014 where dispensations were approved.

Councillor McGuill left the room whilst the dispensation request was considered.

Mr Robert Dewey proposed that the application for dispensation to speak on behalf of the local Member be granted. The Monitoring Officer suggested that the dispensation could also read 'and in the Monitoring Officer's view, on any other similar application' and that it be for a time period of 12 months which was agreed. It was also agreed that Councillor McGuill could remain in the room after addressing the Committee.

### **RESOLVED:**

That Councillor Hilary McGuill be granted dispensation under paragraph (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001

for a period of 12 months (ending 6 September 2015) to speak on planning application number 053208 relating to an application to build 59 new dwellings in Mynydd Isa and to remain in the room during the debate and voting. The dispensation would apply to any other applications, which, in the Monitoring Officer's view, were substantially the same.

**12. FORWARD WORK PROGRAMME**

The Monitoring Officer suggested that the training on the local resolution procedure be received at the November meeting which was agreed.

Agenda items for the October meeting were sought and Councillor McGuill suggested an item on Community Asset Transfer. Following a discussion it was agreed that it be dealt with by way of training with information included on dispensations and declarations of interest.

The Monitoring Officer would draft a Newsletter to send out to Town and Community Council's listing the topics to be covered at the meeting in October. The newsletter would be sent to the Committee for approval prior to it being sent out. Town and Community Council's would also be asked if they had any items for the agenda.

**RESOLVED:**

- (a) That the Forward Work Programme be noted;
- (b) That training on the Local Resolution Procedure be provided at the November meeting; and
- (c) That training on the ethical issues arising out of community asset transfer be provided at the October meeting and that the meeting should approve a newsletter to all Town and Community Councils as well.

**13. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were no members of the press or public in attendance.

The meeting commenced at 6.30pm and ended at 6.58pm.

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**Chairman**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **STANDARDS COMMITTEE**

**DATE:**               **MONDAY, 5 OCTOBER 2015**

**REPORT BY:**       **MONITORING OFFICER**

**SUBJECT:**           **ADVICE ON INTERESTS AND COMMUNITY ASSET TRANSFERS**

### **1.00 PURPOSE OF REPORT**

1.01 To approve the attached draft advice note on interests and community asset transfers for circulation to county, town and community councillors.

### **2.00 BACKGROUND**

2.01 The Council has many buildings and pieces of land that are used by the community for leisure/recreation. These include local community centres, playing fields, and open spaces. It has asked town and community councils as well as voluntary organisations whether they wish to take over the operation of these assets in order to secure their futures by way of community asset transfers ("CAT").

2.02 A number of local councils have agreed to take on the assets themselves and others have encouraged community groups to do so. At least one town council is facilitating the creation of an "umbrella trust" to provide help and support to local voluntary groups that want to take on assets.

2.03 It is often the case that councillors are also involved in local community groups, and a number of county councillors are also on town/community councils. This means that when considering the issue of CAT a councillor may have several roles and may thus need to consider declaring a personal or personal and prejudicial interest under the code.

### **3.00 CONSIDERATIONS**

3.01 The attached advice note sets out the relevant sections of the Code of Conduct as well as the guidance issued by the Ombudsman. It then goes on to advise councillors when it might be appropriate to declare an interest and at what "level". Lastly, it reminds councillors about the ability to seek dispensation.

3.02 If the committee is satisfied with the wording of the note then the advice can be circulated to all councillors (via email for county

councillors and via their clerks for local councillors). It can also be posted on the County Council' website.

#### **4.00 RECOMMENDATIONS**

4.01 To approve the advice note and circulate it to all county, town and community councillors.

#### **5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

#### **6.00 ANTI POVERTY IMPACT**

6.01 The CAT programme will protect much needed local assets that can help to reduce the impact of poverty.

#### **7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

#### **8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

#### **9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

#### **10.00 CONSULTATION REQUIRED**

10.01 This committee.

#### **11.00 CONSULTATION UNDERTAKEN**

11.01 This advice note will be debated at the annual joint meeting with town and community councils.

#### **12.00 APPENDICES**

12.01 Appendix 1 – Advice Note on Interests and Community Asset Transfer

#### **LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS**

As referred to in the report.

**Contact Officer:** Gareth Owens  
**Telephone:** 01352 702344  
**Email:** gareth.legal@flintshire.gov.uk



## **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 apposition 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.

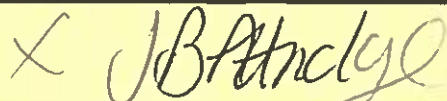
For advice or queries please contact your town/community clerk or the Monitoring Officer

Gareth Owens  
Chief Officer Governance  
Tel: 01362 702344  
Email: [Gareth.legal@flintshire.gov.uk](mailto:Gareth.legal@flintshire.gov.uk)

## FLINTSHIRE COUNTY COUNCIL

### APPLICATION FOR DISPENSATION TO THE STANDARDS COMMITTEE BY MEMBER OF THE COUNCIL

<b>Name of Councillor</b>	BERNIE ATTRIDGE
<b>Address</b>	95 FRON RD CONNAN'S QUAY
<b>Electoral Division</b>	CONNAN'S QUAY CENTRAL
<b>Nature of Dispensation sought</b>	SEE ATTACHED
<b>Level of Dispensation sought (i.e. to speak only or to speak and vote)</b>	TO SPEAK AND ANSWER QUESTIONS BUT TO LEAVE BEFORE ANY DEBATE / VOTE
<b>Relevant Paragraph under which Dispensation is requested (See overleaf)</b>	D + F
<b>Details of the Prejudicial Interest</b>	SEE ATTACHED
<b>Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice-Chairman/Cabinet Member)</b>	Deputy Leader

<b>Signed:</b> 	<b>Date:</b> 29.9.15
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### **Circumstances When A Standards Committee May Grant Dispensations**

The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- (a) no fewer than half of the Members of the Council or of a committee of the Council (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 the Executive of the Council (i.e. Leader and Cabinet) 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) Members' inability to participate would upset the political balance of the Council, or any of its committees 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 Council'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 registerable interest relates to business, which is to be considered by an Overview and Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;
- (h) the business 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 Council 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 Standards Committee to be in the interests of the inhabitants of the area of the Council 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 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed.

**Application for Dispensation**  
**By Councillor Bernie Attridge**  
**Standards Committee**  
**5<sup>th</sup> October 2015**

The Council set up North East Wales Homes Ltd (NEW Homes) as a private company to provide affordable housing that supplements its social housing stock. The company is wholly owned by the council and the majority of its board members are councillor (appointed by the council).

In order to achieve transparency and accountability the company reports to the Cabinet and Housing Overview and Scrutiny Committee at regular intervals. It must also seek the Cabinet's express prior approval to certain important transactions so that Cabinet can ensure that any potential risks to council's interests have been appropriately considered and managed.

As the chair of the board it is appropriate that I should present these reports to Cabinet/OSC and also that I should answer questions about the direction of the company. I should therefore like a dispensation to enable me to present an item and to answer any questions. I would leave before any debate or vote on the report takes place.

The company will need to report 3 or 4 times a year for the foreseeable future. I would therefore seek a dispensation for the maximum 4 years so that I do not need to make repeated applications to the committee.

My only involvement with the company is as a council appointed director and neither I nor anyone else owns shares or has a personal stake in the company, so my interest arises purely as a result of my public service.





**FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME**

Date of Meeting	Topic	Notes/Decision/Action
<b>December 2015</b>	<ul style="list-style-type: none"> <li>• Training</li> <li>• Dispensations</li> <li>• Review of protocol on production of Councillor newsletters</li> </ul>	
<b>November 2015</b>	<ul style="list-style-type: none"> <li>• Training</li> <li>• N W Standards Conference</li> <li>• Dispensations</li> <li>• Review of Local Resolution Procedure</li> </ul>	Feedback from the All Wales Standards Conference be reported to Committee.
<b>October 2015</b>	<p>Joint meeting with Town and Community Councils</p> <ul style="list-style-type: none"> <li>• Training</li> <li>• Dispensations</li> </ul>	<p>Training - Community Asset Transfer, Dispensation and Declaration of Interests</p> <p>All Wales Standards Conference 20 October in Cardiff – reminder to Town and Community Councils to submit delegate names.</p>

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