

**All Wales Standards Committee Conference  
22 September 2006**

**Workshop Topic 1: Dispensations**

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**Introduction**

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Where a member of an Authority has a personal interest in a matter to be discussed at a meeting of the Authority, s/he may apply to the Authority's Standards Committee for dispensation to speak or speak and vote at the meeting. In each case, Committee members must consider whether any of the grounds for granting dispensation set out in the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 are satisfied. With reference to these grounds, consider whether or not a dispensation should be granted in the following circumstances:

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**Scenario 1**

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Proposals have been put forward to renovate and extend the general hospital and car park in the West ward of the County's largest town. The town is divided into two wards, East and West. The proposals will result in a reduction in services in a cottage hospital located 20 miles away. It is not yet known which services will be affected but an application for outline planning permission for the extension is to be considered by the Planning Committee.

Should a dispensation be granted to the local member, Councillor Jones, in any of the following circumstances?

- (a) Councillor Jones is employed by a different NHS Trust in the neighbouring County but works for two days per month at the cottage hospital. His employer will be leasing two new wards in the extended hospital. The member for the East ward has disclosed a personal interest and will not be participating in the decision.
- (b) Councillor Jones has been appointed to represent the Authority on the Local Health Board. He lives two streets across from the hospital's main entrance and has expressed support in the local press for demands for residents parking only.
- (c) Councillor Jones' son works during the college holidays as a clerk at the offices of the firm of architects engaged by the developer.
- (d) Councillor Jones and the building foreman are both trustees of a local charity which meets once a month and raises funds for the hospital, amongst other causes.

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## Scenario 2

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The Authority has publicised proposals for a road improvement scheme near a primary school on Pemberton Road. The scheme includes a new parking bay and playground for the school.

In which of the following circumstances, if any, should a dispensation be granted to the local member, Councillor Thomas?

- (a) Councillor Thomas' wife is a peripatetic music teacher who teaches pupils at the school and holds adult evening classes once a week. His children also attend the school.
- (b) Councillor Thomas' first cousin owns a second home on Pemberton Road, 100 yards from the proposed scheme.
- (c) An employee of the firm which has been awarded the contract for installation of the playground equipment lives in a house which backs onto Councillor Thomas' home and attends the same Church as him. Councillor Thomas submitted an objection to the employee's recent application for planning permission to build a large conservatory.

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## Scenario 3

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The Community Council has received correspondence from a Residents Group formed to campaign against plans by a national supermarket chain to build a 24 hour store on a local site.

Should any of the following members be granted a dispensation?

- (a) Councillor Evans' grandson has secured a place on the supermarket chain's management trainee scheme and has asked to be transferred to the new store in due course.
- (b) Councillor Williams owns a gift shop in the local town centre and is a member of the local Chamber of Commerce.
- (c) Councillor Edwards' children receive private mathematics tuition from the Secretary of the Residents Group once a week.
- (d) Councillor Jenkins' next door neighbour jointly owns with his two brothers a plot of land on the opposite end of the town which has been earmarked for retail development in the local development plan.

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## Scenario 4

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A local regeneration group is seeking a letter from the Council in support of its request to local businesses for contributions to top up its grant funding for a project to renovate a historical building in the town.

Should any of the following members be granted a dispensation?

- (a) Councillor Hughes is a member of the local restoration group which is supporting efforts to renovate a derelict mill on the outskirts of the town.
- (b) Councillor Morgan is Chair and Trustee of the local re-enactment society which holds an annual auction for charity at the building being renovated.
- (c) Councillor Morris volunteers on a part time basis for the regeneration group on a different community regeneration project.

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**Workshop Topic 2: Planning issues**

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**Scenario**

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Councillor Pugh is Chair of the Planning Committee. The Committee is to consider a major application involving a proposal to build a wind farm on local farmland. Councillor Pugh is the local member and is also a member of the Community Council for the area in which the site is located. There has been strong local opposition to the application and a petition has been submitted to the Planning Department. Local residents have expressed significant concerns at public meetings about the impact of the development on the area. A firm which employs 30 local people has been negotiating a contract with the developer to carry out works on the site. Officers are recommending approval of the application.

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**Questions**

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- (a) Councillor Pugh has been approached by a number of local residents and has advised them that he intends to abstain from discussions at the Community Council meeting so that he can participate freely in discussions at the County Council's Planning Committee meeting. However, he has been criticised in the local press by several constituents who have accused him of failing to represent the interests of the local community. Should Councillor Pugh take part in discussions at the Community Council meeting?
- (b) Mr Ellis does not live near the proposed site but is a member of a local conservation group which has submitted a letter of objection to the application. Councillor Pugh was at school with Mr Ellis and both are members of the local cricket club. Does Councillor Pugh's connection with Mr Ellis amount to a disclosable personal interest?
- (c) Councillor Pugh's ex-wife lives near the proposed site and she will be able to see the new turbines from her property. However, she supports alternative energy and is in favour of the application. Councillor Pugh has voted against similar applications at Planning Committee meetings in the past. Can he participate?

- (d) As the local member, Councillor Pugh discussed the proposals with the developer before the application was made and advised the developer throughout these discussions that any views expressed were not binding on the Authority. Having made the application, the developer is asked by the Planning Officer to amend the proposals. The developer wants the plans to remain as drawn and asks Councillor Pugh to attend a meeting with the developer to negotiate the proposals further. Can Councillor Pugh attend?
- (e) Another member, Councillor Lewis, is a retired planning consultant and has been asked to act on behalf of a group of objectors to the development. He is leader of the opposition Liberal Democrat group but is not a member of the Planning Committee. Several of the objectors are unable to attend the meeting due to work commitments and have asked him to record the decision on their behalf from the public gallery. Can Councillor Lewis attend?

## **All Wales Standards Committee Conference 22 September 2006**

### **Workshop Topic 3: Bias, predetermination and the Code of Conduct**

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#### **Introduction**

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Although a Councillor may not have a personal interest in a matter under discussion, in some circumstances a decision can still be challenged on the grounds that a Councillor has predetermined a matter, i.e. has already made up his/her mind or has closed his/her mind on an issue under consideration.

However, a distinction needs to be drawn between 'predisposition' and 'predetermination'. The former indicates a tendency of mind and is regarded as legitimate. The latter denotes a mind that is wholly closed and not prepared to consider matters objectively and on their merits. In the following scenarios, delegates are asked to consider whether or not a Member's actions might amount to predetermination and lead to the Authority's decision being challenged.

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#### **Scenario**

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The Authority is to consider proposals for a major out of town development which will include affordable housing, sheltered accommodation for the elderly and a new medical centre. The development also includes a retail park and office accommodation. Part of the development is to be built on 'green belt' land. Two local businesses which previously leased town centre premises from the Authority will be relocating to the new office accommodation and their old premises are to be converted into a drop in centre for a community based drug and alcohol project and a homeless shelter. The local Football Club has negotiated the sale of part of its recreational ground to the developer to raise funds for a new Clubhouse and training facilities. The developer has agreed to provide a children's play area as part of the development and will make contributions to several local organisations.

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#### **Questions**

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Could any of the following circumstances render the Authority's decision open to challenge? Each of the Councillors referred to below is a member of the Planning Committee.

- (a) Councillor Powell writes a column for the local weekly newspaper. In previous editions of the paper, she has condemned the development of green field sites and recently attended a rally organised by an environmental campaign group for the protection of open spaces in urban areas.
- (b) Councillor Bevan has voted against similar applications in the past. He is a member of a local society which promotes town centre regeneration. At the meeting it transpires that part of the land may be at risk of flooding. Councillor Bevan states during the meeting that he is not prepared to approve the application due to the flood risk. The following day his weekly community newsletter reports the Councillor's views on the decision but makes no reference to the flood risk.
- (c) Councillor Griffiths is Chair of a local charity which encourages children to participate in team sports. His son attends a summer school, which was sponsored by the Football Club.
- (d) Councillor Rees is a member of the local Chamber of Commerce and attends a monthly business lunch with local shopowners at which the proposals are the main topic for discussion.
- (e) Prior to the Committee meeting, Councillor Price is asked to comment on the application by a reporter for a local newspaper. Councillor Price says "in my personal opinion, these types of application can cause a great number of problems for local communities. I have a number of concerns which I will be raising at the Committee meeting." The Committee resolves to refuse the application, after which Councillor Price is reported as saying "I'm pleased that the Committee agreed with my concerns regarding the site". Are there grounds to challenge the Committee's decision on the basis of Councillor Price's comments? Would the position be different if Councillor Price had stated "After listening to the views expressed by the residents at the public meetings, I knew that this application had to be refused".
- (f) Councillor Pritchard works for a homeless charity and makes an annual donation to Shelter Cymru. He has campaigned for the Council to open a drop in centre in a nearby town.
- (g) Councillor Owen is a member of the Authority's Planning Committee and is also a Town Councillor. Councillor Owen asks the Clerk at the Town Council meeting to record in the minutes that his decision will be based on the information available to date and that he will be considering the matter afresh at the Planning Committee meeting. The Town Council resolves to support the planning application. When the application is discussed at the County Council Planning Committee meeting, Councillor Owen also asks the Committee Clerk to record in the minutes that he participated in

discussions at the Town Council but does not consider himself to be bound by the Town Council's decision. The Committee approves the planning application. However, a member of the public who attended the Planning Committee meeting overhears Councillor Owen telling another member of the Planning Committee on the way into the Chamber that he's going to support the application.

- (h) Affordable housing for local people was one of the cornerstones of Councillor Lloyd's election campaign. Councillor Lloyd works part-time for a local homeless charity and at previous Planning Committee meetings he has expressed his concerns about the lack of affordable accommodation in the County. He has been invited to meetings held by a local action group which supports the application.