

## STANDARDS COMMITTEE – 27TH MARCH 2006

**SUBJECT: APPLICATION FOR DISPENSATION**

**REPORT BY: MONITORING OFFICER**

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### 1. PURPOSE OF REPORT

1.1 To consider an application for dispensation from Councillor John Owen Evans.

### 2. LINKS TO STRATEGY

2.1 The authority acting through the committee has an obligation to maintain high standards of probity and conduct throughout the authority and the community councils, within the county borough area.

### 3. THE REPORT

3.1 Councillor John Owen Evans a councillor of Caerphilly County Borough Council has made application for dispensation to allow him to speak and vote in relation to a planning application (P/05/1564) for the change of use from a nursing home to children's nursery at Penrhiw House, Oakdale.

3.2 Councillor Evans has declared an interest in relation to this matter because the objector is known to him.

3.3 This declaration of interest was made on advice that I gave to Councillor Evans, based upon a decision given by the Ombudsman on a maladministration case based upon the old code of conduct.

3.4 In that case, the objector to an application was a friend of one of the councillors on the Planning Committee and was an active member of the ward political party; two other members of the Planning Committee were members of the same ward party. The three councillors did not declare an interest and the Ombudsman's finding was that because of the ward party relationship each of the three councillors should have declared an interest.

3.5 On the basis that the objector is a ward colleague in the same political group the advice was given to Councillor Evans that he should declare an interest when the matter first came before the Planning Committee. It was not possible to convene a Standards Committee to consider any dispensation application before that first committee but consideration of the application has been adjourned for a site visit and it will come back to the Planning Committee later this week.

3.6 Councillor Evans has applied for dispensation under grounds (v) and (vi):-

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

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

- 3.7 I think that the committee could consider the application on those two grounds and two further grounds:-
- (iv) 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;
  - (ix) 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 dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.
- 3.8 The objection to the planning application is based upon highway safety grounds based upon the additional volume of traffic attributed to the present nursing home on the application site and the fact that the proposed nursery would generate similar traffic. There are ten other properties, apart from the objector's property, in Penrhiw Terrace and so the traffic safety concern will not be unique to the objector.
- 3.9 Councillor Evans is the ward representative on the Planning Committee and because of the current declaration of interest is not able to represent a ward view at the Planning Committee. A member of an adjoining ward would normally make representations in such a case.
- 3.10 A councillor having declared an interest cannot attend a meeting subsequently as a member of the public; this has come about because of a decision in England on the code of conduct where the Court of Appeal has ruled that once a councillor has declared an interest the councillor cannot return to the meeting even as a member of the public unless the member relinquished his office of councillor.
- 3.11 In England, there are very limited grounds for Standards Committees to grant dispensations. The grounds are much wider in Wales so it would be open to a Standards Committee if it felt the circumstances appropriate, to allow a councillor to continue to take part in a meeting notwithstanding the declaration of interest.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 None.

#### **5. PERSONNEL IMPLICATIONS**

- 5.1 None.

#### **6. CONSULTATIONS**

- 6.1 There are no views which have not been reflected in this report.

#### **7. RECOMMENDATIONS**

- 7.1 That members consider the application for dispensation.

#### **8. REASONS FOR THE RECOMMENDATIONS**

- 8.1 In order to comply with legislation and the terms of reference of this committee.

## **9. STATUTORY POWER**

9.1 Local Government Act 2000 and Standards Committees (Grants of Dispensation) (Wales) Regulations 2001. This is a Council function delegated to this committee.

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Consultees: Chair - Standards Committee, Cabinet Member for Policy and Resources.

### **Background Papers:**

There are no background papers other than published documents. Reference is made to the (public) register of members' interests held by the Monitoring Officer.