

<b>COMMITTEE:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>10 January 2024</b>
<b>TITLE:</b>	<b>Application for Dispensation – Councillor Gwynfor Owen</b>
<b>AUTHOR:</b>	<b>Monitoring Officer</b>
<b>ACTION:</b>	<b>Determining the Application</b>

## **Background**

1. I attach a copy of the application form of Councillor Gwynfor Owen, Harlech and Llanbedr Ward Member, Cyngor Gwynedd, in relation to a Task Group that was established by the Care Scrutiny Committee including Members from the Education and Economy Scrutiny Committee.
2. Councillor Gwynfor Owen who is a member of both Scrutiny Committees declared an interest that was prejudicial, as individuals that he had a close personal association with, namely his son, received the services that were subject to the scrutiny. This was after receiving advice from the Deputy Monitoring Officer and is in line with the advice that I had given.
3. The Standards Committee is entitled to allow dispensation if the situation falls within one (or more) of the situations listed below:
  - " (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."

It was noted that it was on the basis of (d) (f) (g) that the application was made.

## **Background**

4. I have consulted the Democracy Service to obtain clarity in terms of the role and intention of the Task Group. The Task Group was established by the Care Scrutiny Committee in September 2023. It was to include 5 elected members, 2 nominated from the Education and Economy Scrutiny Committee. A copy of the Task Group's terms of reference is attached in Appendix 2. Please note that it is not within the role of a Task and Finish Group to call for evidence of a matter from users or experts. A scrutiny investigation would lead to this. A Task Group may make recommendations to be considered by the Scrutiny Committee. It should be noted that a Task Group is a group of members who will review a field, and although they do not make decisions as such, their report will influence the direction of scrutiny in this matter
5. Establishing the Task Group arose from a presentation to the Care Scrutiny Committee on the Autism Plan. In the meeting it was decided to:
 

"Establish a Task and Finish Group to discuss implementing the Plan with the new team, ensuring representation from the Education Department and the Health Board"
6. When considering the application, it was also noted that the Education and Economy Committee had recommended appointing the member to the Task Group and had recommended that they made an application for dispensation. Reserve members have been appointed.

I also need to highlight that Councillor Gwynfor Owen's application for a general dispensation which would allow him to speak and vote on the matter on any occasion it arose.

### **The Ombudsman's Guidelines**

7. The Ombudsman's guidelines on the Code of Conduct note the following in relation to dispensations in general:

*"3.51 Only the Standards Committee can grant the dispensation and will do so at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the Council. ..."*

8. Any further information that has been received regarding the applications will be presented in the meeting.

### **The Application**

9. A Task Group is considered a "meeting" according to the definition of the Code of Conduct. It was noted that the fact that a meeting made a decision or not was not relevant to the definition of the "meeting".
10. The interest derives from a matter that affects the wellbeing of individuals with whom the member has a close relationship, namely his son who receives the service in question. This is in the context of education, which is one of the aspects that receives attention from the Working Group specifically.
13. My guidance is that the basis of expertise and role should be carefully considered and that it is necessary to be able to demonstrate recognised expertise in a field or role that has a recognised status.
14. In terms of the other grounds, I ask the Committee to consider the application and come to a view on the matter.

### **Summary**

15. The question of the role of the working group, or the fact that there is a prejudicial personal interest, is not before us. This is implicit in an application for a dispensation. What the Committee is required to consider is whether there is a clear basis for granting a dispensation, on what conditions and where the balance of the public interest falls against Personal Interest.

The Committee could:

1. Approve the application
2. Approve it partially, e.g. allow participation in some particular circumstances
3. Refuse the application

### **Recommendation**

The Committee is asked to consider and decide on the application.