

REPORT TO:	Standards Committee
REPORT NO:	HCCS/77/17
DATE:	7 December 2017
REPORTING OFFICER:	Head of Corporate and Customer Services/Monitoring Officer
CONTACT OFFICER:	Sioned Wyn Davies, Deputy Monitoring Officer (Tel: 292221)
SUBJECT:	Application for Dispensation by Members of Gresford Community Council
WARD:	N/A

1. PURPOSE OF THE REPORT

To consider an application by members of Gresford Community Council for a dispensation to take part in and vote on business in which they may have a prejudicial interest by virtue of their membership of Gresford and District War Memorial Community Centre Trust (Gresford Trust).

2. EXECUTIVE SUMMARY

- 2.1 An application for a dispensation has been received from the Clerk to Gresford Community Council on behalf of the members listed in Appendix 1 to this report. These members fall into two categories. There are three members who are trustees of the Gresford Trust and also members of the Community Council. There are a further three members of the Community Council appointed to represent the Council on the Gresford Trust.
- 2.2 All of these members would be considered to have a personal interest in relation to Gresford Community Council business at which the work of Gresford Trust were discussed by virtue of paragraphs 10(2)(viii) and 10(2)(ix) of the Code of Conduct. In accordance with paragraph 12(1) of the Code of Conduct those members may be regarded as having a prejudicial interest in any such business.
- 2.3 The Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 stipulate the circumstances in which a Standards Committee may grant dispensation to members of a relevant authority. The Standards Committee may determine the period for which a dispensation may remain in force. In the event that a dispensation is granted paragraph 14(3)(b) of the Code of Conduct stipulates the requirements of a member at meetings where the member is relying on a dispensation.

3 RECOMMENDATIONS

3.1 That the Standards Committee consider the grant of a dispensation to the members of the Gresford Community Council under Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. The following terms may be considered appropriate if the Committee are minded to grant a dispensation:-

- (a) The dispensation applies only to business considered by Gresford Community Council relating to the Gresford and District War Memorial Community Centre Trust.**
- (b) Members relying on the dispensation must comply with the provisions of paragraph 14(3)(b) of the Code of Conduct for Members.**
- (c) The dispensation will expire on [date to be determined] or on the date of the next local elections for Community Councils, whichever is the sooner.**

REASONS FOR RECOMMENDATIONS

- (i) To enable Members of the Gresford Community Council to participate in consideration of matters relating to Gresford and District War Memorial Community Centre Trust with the benefit of a statutory dispensation.**

4. BACKGROUND INFORMATION

4.1 Gresford Trust was founded in 1949 and owns a significant amount of land and open space in the village of Gresford providing facilities for both indoor and outdoor sport and also facilities for general community use. Gresford Community Council appoints three members of the Council as its representatives on the Gresford Trust and in addition three of the Gresford Community Council members are also trustees of the Gresford Trust.

4.2 The Gresford Community Council have considerable involvement with the Trust and examples of business which the Community Council considers involving the Gresford Trust are as follows:-

- i. Planning applications regarding development e.g. five a side area and alterations to Gresford Memorial Hall and Constitutional Club**
- ii. Community issues such as damage to property belonging to the Trust and leased by the Community Council**
- iii. Development Works, to adjoining property Constitutional Club, Royal British Legion Club and Gresford Bowling Club**
- iv. Previous Financial Assistance given by the Community Council to the Trust, e.g. a recent grant of £1,200.00 towards the cost of external CCTV cameras to reduce anti social behavior in the area, and £3650 last year in the form of a grant towards refurbishment of rooms.**
- v. Previously a £114,000.00 loan to enable the hall to be built which has now been paid off.**
- vi. £2,188.00 towards the provision of car parks**
- vii. £100.00 towards the provision of a safe external play area**
- viii. £14,176.67 towards the provision of boundary fencing**

- 4.3 All of the Gresford Community Council members who are also trustees of the Gresford Trust will be considered to have a personal interest in relation to items concerning the Trust discussed at meetings of the Gresford Community Council by virtue of paragraphs 10(2)(viii) and 10(2)(ix) of the Code of Conduct for Members. As that interest is likely to be considered to be a prejudicial interest under paragraph 12(1) of the Code of Conduct the application is submitted seeking a dispensation to permit those members to continue participating at meetings where matters concerning Gresford Trust are under consideration.

Relevant Statutory Provisions

- 4.4 Section 81(4) of the Local Government Act 2000 provides that any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provision is not a failure to comply with the Authority's Code of Conduct if the member or co-opted member has acted with a dispensation from the prohibition granted by the Authority's Standards Committee in accordance with the Regulations made under sub-section 5.
- 4.5 Section 56 of the Local Government Act 2000 provides that the Standards Committee of the County Borough Council in Wales is to have the same functions in relation to Community Councils within the County Borough as it does in relation to the County Borough Council and its members. Accordingly the Standards Committee of Wrexham County Borough Council has the power to grant dispensation to members of Community Councils within its area.
- 4.6 The Regulations governing the grant of dispensations are the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (the Regulations). The Regulations set out the circumstances in which the Standards Committee may grant dispensation. The most relevant circumstances to this request appear to be the following:-

Regulation 2(d) – the nature of the member's interest is such that the member's participation in the business to which the interest relates will not damage public confidence in the conduct of the relevant authority's business.

Regulation 2(f) – the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise.

Regulation 2(h) – the business which is to be considered relates to the finances or property of a voluntary organisation of whose management, committee or board 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.

Consideration of the Application

- 4.7 The Standards Committee will wish to consider the application for dispensation in respect of the two categories of members separately. The members of Gresford Community Council who are nominated to represent the community council on the Gresford Trust can rely on the exemption afforded by paragraph 12(2)(a)(iii) of the Code of Conduct for Members as they have been nominated by their authority to the Gresford Trust. Although such exemption would not apply where the business

relates to the determination of any approval, consent, licence, permission or registration these are not matters for which Gresford Community Council has responsibility. In the circumstances the Community Council may consider that a dispensation in addition to the exemption is not strictly necessary.

- 4.8 In considering whether paragraphs (d), (f) or (h) may apply in granting a dispensation to those members of the Gresford Community Council who are also members of the Gresford Trust, although not appointed by the Community Council, the Standards Committee must consider the specific provisions of the Regulations. In respect of Regulation 2(d) the Standards Committee would need to be satisfied that there would be no damage to public confidence in the conduct of the Gresford Community Council's business. In respect of Regulation 2(f) the Standards Committee must take into consideration the member's particular role or expertise. To rely on Regulation 2(h) the Standards Committee must be satisfied that the member has no other interest in the business and will note that the dispensation does not extend to a vote with respect to that business only participation in the discussion.
- 4.9 The Gresford Community Council website discloses that there are fourteen members of the Community Council. The website for the Gresford Trust discloses that Mrs Janet Holmes is currently secretary of the Gresford Trust and that Mrs Jen Dutton is a current committee member. The Standards Committee will have the opportunity to seek further information at the meeting as representatives of the Gresford Community Council will be in attendance to present the application.
- 4.10 The Standards Committee will wish to note that previous similar applications have been considered and approved. The dispensation expired on 6th September 2016.

5. IMPLICATIONS

- 5.1 **Policy Framework** – The responsibilities of the Standards Committee are contained in Article 9 of the Council's Constitution which includes the granting of dispensations.
- 5.2 **Budget** – There are no budgetary implications arising from this report.
- 5.3 **Legal** – The relevant legal references are contained within the body of this report. An extract from the Regulations is attached at Appendix 2.
- 5.4 **Staffing** – There are no staffing implications arising from this report.
- 5.5 **Equality/Human Rights** – Members are advised of their duty to consider the full Equality Impact Assessment which is available to Elected Members at <http://vmwinqld/equalityisalive/Menu.aspx> report number CCS/EIA00189/2017. An EIA screening assessment has been undertaken and it is not considered that the determination of the application impacts persons with protected characteristics.
- 5.6 **Risks** – There are no specific risks arising from this report.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO.
Code of Conduct for Members	Council website	http://www.wrexham.gov.uk/english/council/codeconduct/index.htm

Trustees of Gresford Trust and Members of the Community Council

Councillor Andrew Bailey
Councillor Mrs Jen Dutton
Councillor Janet Holmes

**Members of Community Council appointed to represent the Council
on the Gresford Trust**

Councillor Sarah Atherton
Councillor Irene Lewis
Councillor James Hobbley

The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

Regulation 2

Circumstances in which dispensations may be granted

The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

- (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;
- (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;
- (j) it appears to the committee to be otherwise appropriate to grant a dispensation.