



**CHELTENHAM**  
BOROUGH COUNCIL

**Standards Initial Assessment Sub-Committee**  
**Ref: 09**

**25 November 2009**

**Present** Councillor David Hall, Simon Lainé (in the Chair), Parish Councillor  
Barrie Lewis

**Officers** Peter Cruden, Solicitor and Rosalind Reeves, Democratic Services  
Manager

(11.40 am – 12.15 pm)

**1. ELECTION OF CHAIRMAN**

Simon Lainé was duly elected as Chairman for the meeting

**2. APOLOGIES**

None

**3. DECLARATIONS OF INTEREST**

None

**4. LOCAL GOVERNMENT ACT 1972 – EXEMPT INFORMATION**

The Committee approved the following resolution:

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 7C, Part 1, Schedule 12A (as amended) Local Government Act 1972, namely:

Paragraph 7C

Information presented to a Standards Committee, or to a sub-committee of a Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000

**5. REVIEW OF COMPLAINT UNDER THE CODE OF MEMBERS’ CONDUCT**

The committee received a report of the Borough Solicitor and Monitoring Officer

On 25 November 2009 the Sub-Committee considered two written complaints concerning the conduct of a member of Cheltenham Borough Council.

The essence of each complaint was the same in that it was alleged that the councillor concerned had

(a) failed to declare a personal and prejudicial interest at a meeting of a committee of the Borough Council, contrary to paragraph 9 of the Code of Conduct (the Code).

(b) failed to leave the meeting when the matter in which the councillor had a personal and prejudicial interest was discussed contrary to paragraph 12 of the Code.

It was alleged that the personal and prejudicial interest arose because the matter under discussion concerned a public body other than the Borough Council and that the councillor was a member of both bodies. The Code states that a personal interest arises where a member of the Borough Council is also a member of a body which exercises functions of a public nature. Declaration of such a personal interest is required where a decision on the matter under discussion at a meeting may affect to a greater degree than others, the well being or financial position of that other public body.

A member with a personal interest of the type described must also consider whether that interest is also prejudicial for the purposes of paragraph 10 of the Code.

The sub-committee considered the relevant provisions of the Code and also a report of the Borough Solicitor and Monitoring Officer which incorporated certain supporting documentation including a copy of the minutes of the meeting at which the personal interest should have been declared. The sub-committee noted that those minutes did not record the councillor as having declared an interest in any matter under discussion and also that the councillor participated in the discussion of the relevant matter.

The Sub-Committee took the view that the councillor, by reason of the councillor's membership of the other public body in question, had a personal interest and that the nature of the matter under discussion would have required such an interest to be declared.

Upon the question of whether the personal interest was also prejudicial, the sub-committee considered that it was possible that it could have fallen within the definition provided by paragraph 10 of the Code.

The sub-committee was concerned to ensure that members were clear about their obligations under the Code in 'dual hatted' cases i.e., where there was membership of more than one public body. Therefore, the sub-committee did not consider that it would be appropriate to take no further action upon the complaints.

However, the sub-committee also considered that the circumstances did not reveal a sufficiently robust public interest reason to justify a referral of the complaints for investigation.

In the circumstances, the sub-committee considered whether other action was appropriate.

In accordance with Regulation 13 of the Standards Committee (England) Regulations 2008, the sub-committee decided that the Monitoring Officer be directed to provide appropriate one to one training for the councillor who was the subject of the complaint to ensure a proper understanding of the obligations of a councillor who was a member of more than one public body.

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**Simon Lainé**  
**Chairman**