



CHEL TENHAM

BOROUGH COUNCIL

Notice of a meeting of Standards Committee

Tuesday, 11 December 2012
2.00 pm
Montpellier Room - Municipal Offices

Membership	
Borough Councillors:	Garth Barnes, Bernard Fisher, Jacky Fletcher, Wendy Flynn (Chair), Les Godwin, Anne Regan (Vice-Chair) and Simon Wheeler
Independent Members:	Duncan Chittenden and Martin Jauch

Agenda

- 1. ELECTION OF CHAIR AND VICE CHAIR**
The Borough Solicitor and Monitoring Officer will invite nominations for chair and vice-chair of this committee
- 2. APOLOGIES**
- 3. DECLARATIONS OF INTEREST**
- 4. LOCALISM ACT 2011 - IMPLEMENTATION OF NEW CONDUCT REGIME** (Pages 1 - 6)
Report of the Borough Solicitor and Monitoring Officer
- 5. COMMITTEE WORKPLAN**
The Borough Solicitor and Monitoring Officer will provide a verbal update on potential items for the workplan for the committee's consideration.
- 6. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**
The Committee is recommended to approve 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

- 7. CONSIDERATION OF A REPORT** (Pages 7 - 10)
A report from the Borough Solicitor and Monitoring Officer on an investigation into an alleged breach of the Code of Conduct
- 8. ANY OTHER BUSINESS**
- 9. DATE OF NEXT MEETING**
28 February 2013

Contact Officer: Saira Malin, Democracy Officer, 01242 775153
Email: democratic.services@cheltenham.gov.uk

Cheltenham Borough Council

Standards Committee – 11 December 2012

Localism Act 2011 – Implementation of new Conduct Regime

Accountable member	Cabinet Member, Corporate Services, Councillor Jon Walklett
Accountable officer	Borough Solicitor, Sara Freckleton
Key Decision	No
Executive summary	This report informs the Committee of the progress which has been made following the adoption of the Code of Members' Conduct and arrangements for investigation and determination of complaints as required by the Localism Act 2011. The report also provides an opportunity for the Committee to hear from the two Independent Persons as to their thoughts on the implementation of the new arrangements.
Recommendations	That the Committee notes the progress made so far by Cheltenham Borough Council and the Parish Councils within the Borough area for implementation of the new conduct arrangements.

Financial implications	None Contact officer: paul.jones@cheltenham.gov.uk, 01242 775154
Legal implications	As set out in the report Contact officer: sara.freckleton@teWKesbury.gov.uk, 01684 272011
HR implications (including learning and organisational development)	None Contact officer: julie.mcarthy@cheltenham.gov.uk, 01242 264355

1. Background

- 1.1** On the 25th June 2012, the Council considered the new conduct requirements imposed by the Localism Act 2011 and relevant regulations and approved:-
1. a Code of Members' Conduct
 2. the matters which should be included within the Council's Register of Members' interests
 3. its arrangements for investigation and determination of allegations that any Member or Co-opted Member (including Parish Councillors within the Borough Council's area) has failed to comply with the Code of Conduct
 4. the appointment of 2 Independent Persons
- 1.2** At the same meeting, the Council decided that it should maintain a Standards Committee and determined the Terms of Reference which are attached to this Report as Appendix 1. The politically balanced Committee, comprises 7 Councillors who are voting members of the Committee together with the two appointed Independent Persons as co-opted non-voting members of the Committee. The meeting on the 11th December 2012 will be the first meeting of the newly established Committee and will provide an opportunity for Borough Councillors to meet Mr. Duncan Chittenden and Mr. Martin Jauch, the Independent Persons.
- 1.3** The arrangements for promoting and maintaining high standards of Councillor conduct (save those statutory requirements relating to disclosable pecuniary interests) are, following the introduction of the Localism Act, matters for local agreement and determination. It is therefore intended that the Standards Committee be provided with regular updates on the implementation of the new regime at both Borough Council and Local Parish Council levels in order that the Committee can discharge its responsibility to review the arrangements and consider whether to recommend any adjustments/ amendments to the Code of Conduct or the local arrangements which are currently in place.
- 1.4** The report to Council in June referred to work being undertaken by Monitoring Officers within Gloucestershire to consider the desirability of having a consistent Code of Conduct for all Gloucestershire Authorities (County, District and Parish levels). In recognition that the Localism Act requirements took effect from 1st July 2012, the various authorities within the County have taken steps to adopt new Codes of Conduct all of which are similar in content to that adopted by Cheltenham Borough but with local variations. Therefore, although there is not a common Code of Conduct in place across Gloucestershire, they are broadly similar and provide consistency of approach, particularly to matters such as disclosure and participation in matters in which Members have interests.

2. Current position

2.1 Borough Council Code of Conduct

- 2.1.1** Cheltenham Borough Council's Code of Members' Conduct took effect from 1st July 2012 and all Members have been provided with the requisite forms to comply with the requirements for declaration of interests and have by way of notification to the Monitoring Officer, duly completed their forms.
- 2.1.2** There have been some concerns and queries raised resulting from the statutory requirements which apply to disclosable pecuniary interests and which are summarised in paragraph 2.2.2 below.

2.2 Parish Councils Codes of Conduct

- 2.2.1** Members will recall that the report which was considered by the Council on the 25th June included the intention that a suitably amended form of the Code of Conduct adopted by the Borough Council would be provided to the 5 Parish Councils in the area in order to assist them in meeting their obligations to adopt a Code of Conduct. Consequently, the Monitoring Officer offered advice to the Parish Councils and provided them with the Cheltenham Code of Conduct suitably modified. All of the Parish Councils have complied with the requirement to adopt a new Code, four having adopted that Code which was recommended and one having retained the previous Code of Conduct, updated to include the statutory requirements, pending a decision on the potential for a county-wide Code. It is understood, in the light of the comments at 1.4 above, that it is likely that the Parish Council will proceed to adopt the adapted CBC Code.
- 2.2.2** There has been a significant level of anxiety particularly amongst Parish Councillors at two particular aspects of the new regime, both of which are statutory requirements. There has been some media coverage resulting from this concern. The first matter relates to the requirement for Members to register certain categories of interest (disclosable pecuniary interests) of which they are aware and which relate to their “spouse, civil partner or person living with the member as if they were a spouse or civil partner”. The other aspect creating anxiety, particularly in the light of the first matter, is the requirement for the Monitoring Officer to publish the Register of Interests on the internet.
- 2.2.3** In response to those two areas of anxiety, the Monitoring Officer has, ahead of finalising the Register for publication, raised queries with both the Information Commissioner and the Department for Communities and Local Government relating to the interrelationship between the above requirements, data protection and human rights legislation. A response is awaited and Members will be given a verbal update by the Monitoring Officer at the meeting.

3. Reasons for recommendations

- 3.1** To enable the Standards Committee to review progress and suggest any amendments to the Code or arrangements which may be necessary.

4. Consultation and feedback

- 4.1** As summarised in paragraph 2.2.

5. Performance management –monitoring and review

- 5.1** The Code of Conduct and arrangements will be continually reviewed in accordance with the Standards Committee Terms of Reference.

Report author	Contact officer: sara.freckleton@teWKesbury.gov.uk 01684 272011
Appendices	1. Standards Committee Terms of Reference
Background information	1. Report and Minutes of Cheltenham Borough Council – 25 th June 2012.

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STANDARDS COMMITTEE	
Function	
Within the Terms of Reference of, and under the powers and authority delegated to the Committee, to exercise the Council's functions in matters relating to standards of conduct within the Council.	
(a)	To promote and maintain high standards of conduct and to assist Members and Co-opted Members to observe the Code of Conduct, and to: <ul style="list-style-type: none"> • advise the Council on the adoption or revision of the Code; • monitor the operation of the Code; and • provide advice and training.
(b)	To promote and maintain high standards of conduct in Parish Councils and to assist Parish Councils to observe the Code of Conduct, and to: <ul style="list-style-type: none"> • advise Parish Councils on the adoption or revision of Codes of Conduct; • monitor the operation of their Codes; and • provide advice and training to Parish Councillors.
(c)	Determine applications for dispensations which have been made by Members of the Borough Council and which have not been determined by the Monitoring Officer under authority delegated to him/her.
(d)	Prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly.
(e)	Consider reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints.
(f)	Receive summary reports from the Monitoring Officer: <ol style="list-style-type: none"> a) on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and b) on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.
(g)	Adopt procedures for the hearing of cases of a 'breach of the Code' finding upon investigation via a Hearings Sub-Committee

STANDARDS HEARINGS SUB-COMMITTEE	
Function	
The Standards Hearings Sub Committee will undertake the functions set out below.	
(1)	Hear cases, including those relating to Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct referred by the Monitoring Officer following a report of an Investigating Officer.
(2)	<p>In respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the Authority's Code of Conduct, impose one or more of the following, if appropriate:</p> <ul style="list-style-type: none"> a) censure; b) report to Council; c) recommend actions to the Leader of the Council; d) recommend actions to Group Leader (e.g. removal from a Committee) e) removal from Outside Bodies; f) withdrawal of facilities, such as Council email/website/internet access; g) exclusion from the Council Offices, or other premises, with the exception of meeting rooms as necessary for attending Council, Committees or Sub-Committees and/or nominating a single point of contact; and/or h) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.
(3)	<p>In respect of the Members of Parish Councils, within the area of Cheltenham Borough Council, where it has been determined that a Member / Co-opted Member has failed to comply with their Authority's Code of Conduct, impose one or more of the following, if appropriate:</p> <ul style="list-style-type: none"> a) censure; b) report to the Parish Council recommending actions which could include removal from a Committee, removal from an Outside Body or withdrawal of facilities; and/or c) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

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