



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Standards Committee

**Friday, 11 July 2014
10.00 am
Pittville Room - Municipal Offices**

Membership	
Borough Councillors:	Anne Regan (Vice-Chair), Garth Barnes, Bernard Fisher (Chair), Simon Wheeler, Jacky Fletcher, Roger Whyborn and John Payne
Independent Members:	Mr Martin Jauch, Mr Duncan Chittenden

Agenda

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES OF THE LAST MEETING** (Pages 1 - 6)
08 April 2014
- 4. OVERVIEW OF THE WORK OF COMMITTEE**
The Monitoring Officer will provide a short overview of the work of the Committee and an update on the implementation of the Conduct Regime pursuant to the Localism Act 2011 (PowerPoint presentation)
- 5. REVIEW OF PROTOCOLS** (Pages 7 - 10)
Report of the Monitoring Officer
- 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 1 and 2, Part 1, Schedule 12A (as amended)
Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

Paragraph 2: Information which is likely to reveal the identity
of an individual

7. **REVIEW OF COMPLAINTS** (Pages 11 - 16)
Report of the Monitoring Officer
8. **EXEMPT MINUTES** (Pages 17 - 18)
To approve the exempt minutes of the meeting held on 08
April 2014
9. **ANY OTHER BUSINESS**
10. **DATE OF NEXT MEETING**
22 October 2014

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

Standards Committee

**Tuesday, 8th April, 2014
11.15 am - 12.30 pm**

Attendees	
Borough Councillors:	Wendy Flynn (chair), Anne Regan (Vice-Chair), Les Godwin, Bernard Fisher, Simon Wheeler and Jacky Fletcher
Independent Members:	Mr Martin Jauch and Mr Duncan Chittenden
Also in attendance:	Sara Freckleton

Minutes**1. APOLOGIES**

Apologies were received from Councillor Barnes.

2. DECLARATIONS OF INTEREST

Councillors Fisher and Wheeler declared an interest in agenda item 6 as they had both applied for dispensations.

The Monitoring Officer confirmed that although a Member might normally be expected to exclude themselves when declaring such an interest in a matter to be discussed, the Localism Act specified that no exclusion was required when considering the granting of a dispensation. It was therefore in order for both members to participate in the debate and vote on item 6.

3. MINUTES OF THE LAST MEETING

The minutes of the two previous meetings had been circulated with the agenda.

The chair advised members that in the minutes of 3 September 2013, the penultimate paragraph under section 4 should read "the dispensation should be until the end of 2013" rather than 2014 as was printed in the papers.

Upon a vote it was unanimously

RESOLVED that the minutes of the meeting held on 18 July 2013 and 3 September 2013 as amended be agreed and signed as an accurate record.

4. LOCALISM ACT 1972

In offering an update on the implementation of the new conduct regime, the Monitoring Officer advised that a number of parish Councillors had expressed concern about the publication of personal data on the internet as required by the Localism Act. They felt that local people may be deterred from standing for election as Parish Councillors because of these requirements. As the Committee was aware, the Monitoring Officer had written to the Department for Communities and Local Government (DCLG) and separately to the Information Commissioner in August 2012, outlining her concerns in respect of data protection and human rights implications of the publication requirements and had received an acknowledgement but not a response from the DCLG. In the

meantime, the Register of Interest forms for the Borough and Parish Councillors had not yet been published on the internet. Nevertheless, all Members had complied with the registration requirements and the hard copies of their declarations are held by the Monitoring Officer and are available for inspection. She had received some enquiries from the public and had made the data available for public inspection on request.

In view of the imminent parish and borough council elections in May 2014, she had written again to the DCLG chasing a response. She advised Members that there had been an error in the drafting of the Act in that it had excluded existing members from the registration of interests requirements. A follow-up guidance note from the DCLG had indicated their expectation that authorities would apply the requirements to existing Members but this has provided some justification for the decision not to publish the information. With regard to newly elected Members in May 2014, it would be reasonable to expect them to be fully aware of the requirements before they stood for election and therefore there would be little justification for not publishing their registers of interest forms on the website.

Members asked whether other councils had followed the guidance and the Monitoring Officer confirmed that most authorities were now publishing their Registers of Interest on their websites. In Gloucestershire, only Tewkesbury and Cheltenham were not.

Members expressed concern about the lack of response from the DCLG and it was suggested that the local MP could be asked to raise a question in the House of Commons with the Cabinet Member responsible. It was agreed that this would be progressed and the Monitoring Officer would also enlist the help of the Local Government Association. The Monitoring Officer advised Members that she was working on a guidance note which could be issued to Parish Council clerks ahead of the Parish elections.

5. PLANNING CODE OF CONDUCT

The Monitoring Officer provided a verbal update on the progress on the Review of the Planning Code of Conduct. She indicated that there had already been two meetings of the task group where they had considered a draft document in considerable detail.

One question which had considerably vexed the task group was the issue of whether elected Members should be able to attend a private meeting with the developers. The Monitoring Officer explained that the important factor was how a member of the public would view such a meeting and if a private meeting with developers was acceptable then there could be a case for objectors asking for a similar meeting with elected Members.

A Member thought such meetings should be allowed as elected Members should be able to keep an open mind.

The Monitoring Officer advised that the task group were expecting to agree a final draft for consideration by this committee within the next three months.

6. CBC CODE OF MEMBERS' CONDUCT - APPLICATIONS FOR DISPENSATIONS IN RESPECT OF INTERESTS

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The Borough Solicitor and Monitoring Officer introduced the report which had been circulated with the agenda. The report was seeking determination by this committee of applications made by Members of the Borough Council who were also Gloucestershire County Councillors in order that they could participate in the business to be conducted at the Extraordinary meeting of the Council on 9 April 2014. The special meeting would be considering a report recommending approval of the pre-submission Joint Core Strategy (JCS). The plan included provision for housing and employment land some of which was currently owned by Gloucestershire County Council.

The Democratic Services Manager confirmed that all dual members had been contacted by e-mail by the Borough Solicitor and five dispensation requests had been received. Those for Councillors Tim Harman, Bernard Fisher, Klara Sudbury, Simon Wheeler and Chris Coleman had been circulated with the Applications for Dispensation report. A further reminder had been issued by email by the Borough Solicitor on Monday 7 April and Councillors Suzanne Williams and Colin Hay had now submitted their applications which were circulated at the meeting. Councillor Paul McLain had given his apologies for the Council meeting and no response had been received from Councillor David Prince.

The Borough Solicitor referred members to the potential grounds for granting dispensation which were set out in paragraph 2.1 of the report. She confirmed that all the dispensations being considered by the committee today were on the basis of 2.1c) i.e granting the dispensation is in the interests of persons living in the authority's area. Her advice as Monitoring Officer would be to grant the dispensations.

She emphasised that the Standards Committee had absolute discretion but should be able to justify any decision they made. Should they be minded to grant dispensations, they were also required to determine the period for which the dispensation has affect. As set out in paragraph 3.2, the period specified may not exceed four years. She advised Members that in view of the Borough elections in May 2014, the committee may want to take this into account when setting the period.

Regarding any possible late applications, she invited members to consider delegating authority to the Borough Solicitor and Monitoring Officer for granting dispensations to the one outstanding county council member submitting a late application provided it was on the same principles agreed today. A Member questioned the need for this delegation as they felt all councillors had been advised of the deadline. The Monitoring Officer suggested that it was in the interest of the public that their elected councillor should be able to participate in the debate. Another member suggested that some elected members were abusing the goodwill of Council in their attendance and not adhering to deadlines. The Monitoring Officer advised that this was a matter of political group discipline for the group leaders to raise in their groups.

A Member referred to another member of Council who had made their views on the JCS very clear in the public arena and also held a position in a local action group. They questioned whether that member should have declared an interest and applied for a dispensation and whether it was appropriate for them to participate in the meeting.

The Monitoring Officer reminded Members that in order to preclude participation by the Member, an interest under the Code of Conduct included one where there would be either a financial affect to the Member or to the body to which the Member had been appointed to or related to an application for consent or approval of some kind. Neither of those conditions would apply in this particular case. She reminded Members that the Standards Committee only dealt with Code of Conduct issues. Predetermination and bias was outside the remit of this committee and a challenge of this nature could result in the decision itself being challenged. She advised that she had issued a detailed advice note to members of Council on both matters.

An Independent Member, commented that any member of the public might find it incredible that a one-issue Councillor who clearly would have made their views very clear in their manifesto, could then be disqualified from a council debate on that very issue.

In response the Monitoring Officer advised that one of the difficulties with the new act was that there was no directly relevant case law post 2011. This was potentially due to the threshold for policy matters being set so high.

Upon a vote it was resolved unanimously that

- 1. The applications for dispensation for Councillors Coleman, Fisher, Harman, Hay, Sudbury, Wheeler and Williams should be granted until 22 May 2014 to enable them to participate in the matter of the approval of the pre-submission Joint Core Strategy which will be considered at a meeting of the Council on 9 April 2014.**
- 2. Authority be delegated to the Borough Solicitor and Monitoring Officer to determine any similar applications for dispensations for the same period**

7. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

Upon a vote it was unanimously

RESOLVED 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 1 and 2 of Part 1, Schedule 12A (as amended) Local Government Act 1972, namely: Information relating to an individual/likely to reveal the identity of an individual.

8. EXEMPT MINUTES

Upon a vote it was unanimously

RESOLVED that the exempt minutes of the meeting held on 18 July 2013 be agreed and signed as an accurate record.

9. REVIEW OF COMPLAINTS

The Monitoring Officer gave a report on a review of complaints.

10. DATE OF NEXT MEETING

The next scheduled meeting is due to take place on Friday 11 July at 2.00 pm.

Chairman

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**Cheltenham Borough Council
Standards Committee – 11 July 2014
Review of Protocols**

Accountable member	Cabinet Member, Corporate Services, Councillor Jon Walklett
Accountable officer	Monitoring Officer, Sara Freckleton
Key Decision	No
Executive summary	This report seeks the agreement of the Committee to the methodology and timescale for the review of the “Probity in Licensing” Protocol which was adopted by the Council in October 2006.
Recommendations	That a “task and finish” working group of members and officers is established to review “Probity in Licensing” and prepare a revised version for consideration by the Standards Committee. The composition and terms of reference of the working group will be as set out at paragraph 3.3 of this report.

Financial implications	No significant financial implications arising from the content of this report. Contact officer: paul.jones@cheltenham.gov.uk, 01242 775154
Legal implications	None arising from the review. Contact officer: sara.freckleton@teWKesbury.gov.uk, 01684 272011
HR implications (including learning and organisational development)	No significant HR implications arising from the content of this report. Contact officer: amanda.attfield@cheltenham.gov.uk, 01242 264355

1. Background

- 1.1 The Committee's Terms of Reference include the requirement to "Prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly"
- 1.2 The Council has adopted a number of Codes and Protocols which are complementary to the Cheltenham Borough Council Code of Members' Conduct. These have not been reviewed since the changes to the Code of Conduct regime in 2012, although the general tenor and thrust of the advice contained in those Codes / Protocols and the expected behaviours remain relevant and should continue to be observed pending full revision.
- 1.3 The task of reviewing the Planning Code of Conduct has already been commenced. Membership of the Working Group set up to undertake the review and report to the Standards Committee is currently being reviewed consequent upon Council membership changes following the May elections. It is anticipated that the Working Group will be in a position to recommend a revised Protocol to the next meeting of the Standards Committee.

2. Proposed Review of Protocols

- 2.1 In addition to the Planning Code of Conduct referred to above, the Council has the following Protocols:-
 - Probity in Licensing - adopted in December 2004
 - Protocol for Member / Officer Relations – last refreshed 2010
 - Protocol for Gifts and Hospitality – adopted in 2003
- 2.2 With regard to "Probity in Licensing", there have been changes in legislation and in licensing practices since the adoption of the Protocol in 2004 and it would therefore be recommended that a review be commenced as soon as possible.
- 2.3 Once the review of the Planning Code and Probity in Licensing have been completed a further report will be brought to the Committee to agree the process and timescale for the review of the two remaining Protocols listed in 2.1 above.

3. Proposed methodology and timescale for review of the "Probity in Licensing" Protocol

- 3.1 To enable an effective review to be undertaken which takes into account both the licensing and conduct requirements it is suggested that a "task and finish" working group of members and officers be set up to review "Probity in Licensing" and to recommend changes for the approval of the Standards Committee. It will be necessary for the working group to review recent best practice and all relevant guidance from the Government and from other public and professional bodies.
- 3.2 The review, to include consultation with members both formally and informally and with officers, could commence in September / October 2014 and is likely to take approximately 3 – 4 months to complete.
- 3.3 It is proposed that the composition of the Working Group should be 3 Standards Committee Members, 3 Licensing Committee Members and 3 Officers (2 Licensing and 1 One Legal). Terms of reference are suggested as follows:-

"To review "Probity in Licensing" and prepare a revised version for consideration by the Standards Committee. The review will include consideration of any recent best practice and guidance from the Home Office and other relevant professional and public bodies. The review will

include consultation, as appropriate, with Members and Officers”

4. Reasons for Recommendations

4.1 To ensure that the “Probity in Licensing” Protocol is up to date and fit for purpose.

5. Consultation and feedback

5.1 The Licensing and Business Support Team Leader has been consulted on the proposed review and agrees with the need for the review and to the timescale and methodology proposed in this report which will provide the opportunity to undertake relevant consultation.

Report author	Contact officer: sara.freckleton@teWKesbury.gov.uk 01684 272011
Appendices	None
Background information	Cheltenham Borough Council Code of Members’ Conduct Cheltenham Borough Council Probity in Licensing Cheltenham Borough Council Protocol for Member / Officer Relations Cheltenham Borough Council Gifts and Hospitality Protocol

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