



# CHELtenham

## BOROUGH COUNCIL

### Notice of a meeting of Standards Committee

**Tuesday, 8 April 2014  
11.15 am**

**Montpellier Room - Municipal Offices**

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

### Agenda

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES OF THE LAST MEETING** (Pages 1 - 8)  
To approve the minutes of the last meetings held on 18 July 2013 and 3 September 2013
4. **LOCALISM ACT 1972**  
The Monitoring Officer will provide a short verbal update on the implementation of the Conduct Regime.
5. **PLANNING CODE OF CONDUCT**  
The Monitoring Officer will provide a short verbal update on the progress of the Review of the Planning Code of Conduct.
6. **CBC CODE OF MEMBERS' CONDUCT - APPLICATIONS FOR DISPENSATIONS IN RESPECT OF INTERESTS**  
To determine any Applications for Dispensations which may be made by CBC Councillors. If there are any applications, the Monitoring Officer will prepare and circulate a report ahead of the meeting.
7. **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 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** (Pages 9 - 10)  
To approve the exempt minutes of the meeting held on 18 July 2013.
9. **REVIEW OF COMPLAINTS** (Pages 11 - 14)  
A report from the Monitoring Officer
10. **DATE OF NEXT MEETING**  
11 July 2014

**Contact Officer:** Rachael Sanderson, Democracy Assistant, 01242 775153  
**Email:** [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)

## Standards Committee

**Thursday, 18th July, 2013  
11.00 am**

<b>Attendees</b>	
<b>Borough Councillors:</b>	Wendy Flynn (Chair), Anne Regan (Vice-Chair), Garth Barnes, Bernard Fisher and Simon Wheeler
<b>Independent Members:</b>	Mr Martin Jauch and Mr Duncan Chittenden
<b>Also in attendance:</b>	Sara Freckleton

## Minutes

**1. APOLOGIES**

Councillor Godwin and Fletcher

**2. DECLARATIONS OF INTEREST**

None

**3. MINUTES OF THE LAST MEETING**

The minutes of the last meeting had been circulated with the agenda.

Upon a vote it was unanimously

**RESOLVED that the minutes of the meeting held on 11 December 2012 be agreed and signed as an accurate record.**

**4. PLANNING CODE OF CONDUCT**

The report of the Monitoring Officer, circulated at Pages 7 -22 recommended a review of the Planning Code of Conduct which was last updated and approved in October 2006. There had been significant changes in the meantime to the Standards/ Code of Conduct regime as a consequence of which the Code was not up to date, although the thrust of the advice contained in it and expected behaviours remained relevant and should be observed until its replacement is adopted. However, the flowchart appended to the Code was completely out of date as it related to terminology in the Code of Conduct in place in 2006, since which there had been two major revisions. In order to avoid confusion the flowchart had been removed from the version of the Planning Code published on the website.

In order to ensure a thorough and comprehensive review of the Planning Code of Conduct, the Monitoring Officer recommended that a “task and finish” Working Group of Members and Officers should be set up to conduct the review in consultation with Members and with Officers involved in the Planning process. The Working Group would then be able to recommend to the Standards Committee a revised Planning Code that would be up to date and tailored to the Council’s needs.

Members discussed individual points of concern which it was hoped would be addressed by the Working Group. One Member raised concern about use of social media in relation to planning matters and how this reflected on the public perception of the Council. The Monitoring Officer advised that care needed to be taken in the use of Social Media which was a useful communication tool but Members would need to have regard to their responsibilities when acting as Planning Committee members and, of course, to the Code of Members' Conduct.

A Member also referred to the difficulties for Members when being contacted by developers or objectors, often in long e-mails, and that felt that he could only respond by saying that he would take the representations into account. He felt that, if he wanted to speak for objectors, he would have to stand down as a Committee Member for that meeting. He hoped that the revised Planning Code would provide clarity for members and the public on this point.

Members recognised that the Planning Code did require refreshing and were in agreement with the composition and terms of reference for the Working Group as suggested in the report.

Upon a vote it was unanimously

**RESOLVED that Councillor Flynn, Councillor Fisher and Mr Chittenden would form the Working Group to review the Planning Code of Conduct and prepare a revised code for consideration by the Standards Committee. The review will include consideration of any recent best practice guidance from the Department for Communities and Local Government and other relevant professional and public bodies. The review will include consultation, as appropriate, with Members and Officers.**

**5. LOCALISM ACT 2011 - IMPLEMENTATION OF CONDUCT REGIME**

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 who wanted to make a difference in their communities would be deterred from becoming 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.

Members expressed concern about the potential for damage which could be done when personal data was freely available on the internet, some of which would be that of their spouse or partner. The Monitoring Officer agreed that, particularly in relation to the latter, the requirements of the Localism Act were difficult to reconcile with the data disclosure and human rights principles, hence

the reason for seeking clarification from the Government. If a response had not been received by the early part of next year, the Monitoring Officer would need to send a further letter as clarity was needed ahead of the 2014 Borough and Parish elections.

**6. 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**

**7. EXEMPT MINUTES**

Upon a vote it was unanimously

**RESOLVED that the exempt minutes of the meeting held on 11 December 2012 be agreed and signed as an accurate record.**

**8. REVIEW OF COMPLAINTS**

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

**9. ANY OTHER BUSINESS**

**10. DATE OF NEXT MEETING**

**Chairman**

This page is intentionally left blank  
Page 4

**Standards Committee**

**Tuesday, 3rd September, 2013  
2.00 - 2.45 pm**

<b>Attendees</b>	
<b>Borough Councillors:</b>	Wendy Flynn (Chair), Anne Regan (Vice-Chair), Les Godwin, Garth Barnes and Jacky Fletcher
<b>Independent Members:</b>	Martin Jauch, Duncan Chittenden
<b>Also in attendance:</b>	Peter Lewis

**Minutes**

**1. APOLOGIES**

Apologies were received from Councillors Fisher and Wheeler who had absented themselves from the meeting following discussions with the Head of Legal Services having both submitted dispensations for consideration at this meeting.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CBC CODE OF MEMBERS' CONDUCT – APPLICATIONS FOR DISPENSATIONS IN RESPECT OF INTERESTS**

The Head of Legal Services 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 if could participate in the business to be conducted at the special meeting of the Council on 5 September 2013. The special meeting would be considering a report recommending approval of a draft Joint Core Strategy (JCS) for the purpose of public consultation. 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 Councillor Tim Harman and Councillor Bernard Fisher had been circulated with the agenda and three more for Councillors Klara Sudbury, Simon Wheeler and Colin Hay had been circulated at the start of the meeting. Councillors Paul McLain and Suzanne Williams had given their apologies for the Council meeting on Thursday and no response had been received from Councillors David Prince or Chris Coleman. She agreed to follow this up with those councillors to ensure they had received the email and were aware of the timescales for submitting their requests.

The Head of Legal Services referred members to the potential grounds for granting dispensation which were set out in paragraph 2.1 of the report. He 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.

He 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. He advised members that as the JCS progresses, the context of members potential interests may change and therefore the committee may want to take this into account when setting the period. He suggested that three to four months may be suitable. The committee may also wish to consider tying in any grant of dispensation to this stage of the JCS process.

Regarding any possible late applications, he invited members to consider delegating authority to the Borough Solicitor and Monitoring Officer for granting dispensations to any other county council members submitting a late application provided it was on the same principles agreed today.

A Member referred to a plot of land in Leckhampton owned by the County Council with significant value to developers. They questioned whether it was appropriate for members of the County Council to sit on a Borough Council committee making decisions about this land.

The Head of Legal Services referred members to paragraph 3.3 of the report. Regarding members of the County Council, it was likely that following the usual principles of Executive Arrangements, county Cabinet Members would be more likely to have a direct involvement in financial decisions in respect of the county council being a landholder than non-Executive members.

A member suggested that there was an apparent contradiction in the requests for dispensation. If the county council was the landowner for any potential development, then there must be an element of financial implications for the county council if that development was approved. Therefore he questioned how this committee could grant dispensations which would permit the county councillors in question to participate in the debate.

In response the Head of Legal Services advised that if the committee were minded to grant dispensations they would effectively be saying that despite the county council being a landowner, the members in question should not be prevented from representing their views and those of their constituents at the Council Meeting as at this stage this would not be in the wider interests of the Cheltenham borough.

He further advised members that along with many other councils, the Borough Council had adopted its local scheme based on the statutory code put in place by Parliament for pecuniary interests.

A member asked whether the location of a member's ward in relation to the county land in question was something that should be taken into account when granting dispensations. In response the Head of Legal Services advised that the potential interest arose due to the member's membership of the body of the



County Council and the location of the ward was not a relevant factor when considering potential dispensations.

The Independent Member, Martin Jauch, considered that the JCS was a very significant and controversial matter and there would need to be a very strong argument for disqualifying councillors from discussing it at Council. Other members supported this view that it was in the interests of the town for all members to be able to take part in this important debate at Council.

The chair invited members to discuss the proposal for delegating authority to an officer to consider any further applications on the same basis.

The Independent Member, Duncan Chittenden, asked about the position of dual members who had not applied to this committee for a dispensation. If the committee decided not to grant the dispensation, these members could still potentially take part in the debate. The Head of Legal Services stressed that it was always down to the individual member to decide whether they should declare an interest or not. The important factor was that all members were given consistent advice by officers which they had been in this case. If members had not applied for dispensation and decided to take part in the debate, there could potentially be grounds for a formal complaint against that member.

**Upon a vote it was resolved unanimously that**

- 1. The applications for dispensation for Councillors Fisher, Harman, Hay, Sudbury and Wheeler should be granted to enable them to participate in the matter of the draft Joint Core Strategy for consultation which will be considered at a special meeting of the Council on 5 September 2013.**
- 2. Authority be delegated to the Borough Solicitor and Monitoring Officer to determine any similar applications for dispensations**

The chair invited members to consider the period of the dispensation. A member suggested that it should be granted until the end of 2013. Another member referred to the timeframe for the JCS and highlighted that the timetable referred to the consideration of representations between November 2013 and February 2014. On that basis they suggested that the dispensation period should be extended rather than have to come back to this committee for further decisions. It was noted that a further meetings of the Standards Committee was scheduled for 11 October 2013 and the next meeting would be 14 March 2014. A further special meeting of Council to consider the JCS was scheduled for 6 March 2014.

After further consideration it was agreed that the dispensation should be until the end of 2014. Having considered the matter at this meeting, it would be relatively easy for this committee to reconsider the matter again if required.

**Upon a vote it was resolved that the dispensations should be granted for a period until the end of 2013.**

Voting; For 4 with 1 against.

#### **4. DATE OF NEXT MEETING**

## Page 8

The next meeting would be held at 2 pm on Friday 11 October 2013.

**Chairman**

Document is Restricted

This page is intentionally left blank  
Page 10

Document is Restricted

This page is intentionally left blank  
Page 14