



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Standards Committee

**Monday, 27 June 2016**

**1.00 pm**

**Montpellier Room - Municipal Offices**

<b>Membership</b>	
<b>Borough Councillors:</b>	Max Wilkinson (Chair), Tim Harman (Vice-Chair), Bernard Fisher, Colin Hay, Helena McCloskey, Suzanne Williams and John Payne
<b>Independent Members:</b>	Mr Martin Jauch, Mr Duncan Chittenden

### Agenda

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES OF THE LAST MEETING** (Pages 3 - 10)  
To approve the minutes of the last meeting held on 7 July 2015
- 4. CBC CODE OF MEMBERS' CONDUCT - APPLICATION FOR DISPENSATIONS IN RESPECT OF INTERESTS** (Pages 11 - 14)  
To determine any applications for dispensations which may be made by Cheltenham Borough Councillors
- 5. 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 paragraph 1, Part 1, Schedule 12A (as amended) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

**6. EXEMPT MINUTES**

(Pages 15 - 16)

To approve the exempt minutes of the meeting held on 7 July 2015

**7. ANY OTHER BUSINESS**

**8. DATE OF NEXT MEETING**

The next scheduled meeting is on Wednesday 13 July at 2 pm

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### Standards Committee

**Tuesday, 7th July, 2015  
10.00 - 11.40 am**

<b>Attendees</b>	
<b>Borough Councillors:</b>	Anne Regan (Vice-Chair), Bernard Fisher (Chair), Simon Wheeler, Jacky Fletcher, Roger Whyborn and John Payne
<b>Independent Members:</b>	Mr Duncan Chittenden and Mr Martin Jauch
<b>Also in attendance:</b>	Sara Freckleton (Monitoring Officer)

### Minutes

**1. APOLOGIES**

Councillor Barnes had given his apologies.

Councillor Whyborn arrived at 10:10am.

**2. DECLARATIONS OF INTEREST**

No interests were declared.

**3. MINUTES OF THE LAST MEETING**

The minutes of the last meeting were circulated with the agenda.

Upon a vote it was unanimously

**RESOLVED that the minutes of the meeting held on the 11 July 2014 be agreed and signed as an accurate record.**

**4. PLANNING PROTOCOL**

The Borough Solicitor and Monitoring Officer introduced the Planning Code of Conduct, which had taken quite some time to finalise. She explained that the existing version had been reviewed and amended by a Working Group of members of the Standards and Planning Committee and that the suggested revision reflected changes to legislation and the Code of Members' Conduct. It also aimed to reflect on best practice and distinguish where the provisions were relevant to all members and where only relevant to members of the Planning Committee.

Some of the main substantive changes were highlighted;

- Appendix 4 of the Planning Code of Conduct, page 33 of the agenda pack - this had been the subject of significant debate at the Working Group. The Appendix provides that developers are permitted to make presentations to members at a pre-application stage to allow the developer to take on-board any comments prior to submitting an application. However, there was to be no further presentation from the developer to members once the application had been submitted.

## Page 4

- The bullet point on page 17 of the agenda pack relating to the noting of conversations had been struck out as it had been considered excessive and the italic bullet points added to ensure that at the point of any decision, all members were in receipt of all the relevant information.

The Monitoring Officer gave the following responses to member questions;

- In relation to the flowchart on page 31 of the agenda pack, an arrow would be added from the 'no' additional information has not been provided, back up to the 'planning application submitted' box, to make clear that the process would have to start again.
- Whilst the continued presence of ward members who had concluded their public speaking at Planning Committee, could result in an accusation that the ward members was trying to influence members of the committee, the Monitoring Officer considered the risk to be minimal. The committee felt that this paragraph should be removed from the document.
- Members of Planning Committee needed to approach applications with an open mind but this was not to say that they needed to have an empty mind.
- Members of the Planning Committee were permitted to attend pre-application meetings in their role as ward members and were not required to declare this at the Planning Committee meeting, though they might like to acknowledge that they had attended the pre-application meeting.
- Planning Committee members could give residents advice on how best to make their case in support of, or in objection to a planning application but they were not permitted to enter into a discussion about how they might be intending to vote.
- This document was intended to provide the public with an understanding of how the council would approach the planning matters as the existing document was inconsistent with the current legislation and Code of Conduct.
- Planning Officers were experts engaged by the council to weigh all material considerations on planning applications and make appropriate recommendations. If the committee was minded to disagree with the Officers recommendation, then it would be for the members to articulate the reasons for that disagreement. It was not the role of the Officers to do this on behalf of the committee. Officers were obliged to outline any risks associated with an alternative decision, which would sometimes relate to costs associated with appeals. The committee would need to be clear about the reasons for proposing an alternative, though this was not to say that members are expected to recite specific paragraphs of policy or legislation. Officers would draft the reasons for refusal based upon the reasons given by the committee.
- Fettering of discretion provisions would not prohibit a member of the Planning Committee from considering the same matter at Parish and/or County level or indeed from voting differently at both. Whilst the advice was that members could do this, they would need to approach it cautiously. It was suggested that a member should be explicit about the fact that their vote at Planning Committee would be cast after

consideration of all written material, Officers comments and debate at the Committee.

- The Joint Core Strategy (JCS) would be part of the Development Plan, used for determination of planning applications and the adoption of a JCS would not necessitate a review of the Planning Code of Conduct.

Upon a vote it was

### **RESOLVED that**

- 1. (unanimously) the reference to ward members withdrawing from the meeting once any public speaking has been completed be removed from the revised Planning Code of Conduct.**
- 2. (5 FOR and 1 AGAINST) subject to the correction of typographical, formatting and consistency errors the revised Planning Code of Conduct (attached at Appendix 1) be approved and recommended for adoption by Council.**
- 3. (unanimously) the Planning Code of Conduct would be subject to a bi-annual review by the Standards Committee.**

### **5. SOCIAL MEDIA PROTOCOL FOR MEMBERS**

The Borough Solicitor and Monitoring Officer introduced a draft social media protocol circulated with the agenda. She explained that the Constitution Working Group had felt it prudent for the council to have a protocol, which was intended to provide good practice guidance to members when interacting on social media and to provide legislative and Code of Conduct (CoC) context for use of social media by members. The draft protocol acknowledged the significant benefits of social media, whilst addressing the underlying risk associated with using it, given that it creates a permanent written record. The Monitoring Officer stressed that the protocol related only to use by members acting in their role as an elected member as opposed to any purely personal use.

The Constitution Working Group had intended the protocol to be a comprehensive stand-alone document which was why the protocol provided legal and Code of Conduct context. The committee was referred specifically to pages 46-48 of the agenda pack, which set out some social media do's and don'ts. The committee was advised that there was no requirement for the council to have a social media protocol, some authorities had one and some did not. The council's Communications Team had been consulted, as had all members of the Council. Members were referred to the summary of comments received from members, which had been circulated in advance of the meeting (Appendix 1). The Monitoring Officer provided responses to each of the three comments received;

Councillor 1 could be assured that the protocol related only to the use of social media in their role as a councillor including circumstances where the member is giving the impression of acting as a councillor. This protocol did not apply to use of social media in a personal capacity.

In relation to councillor 2's comments the Monitoring Officer advised that the members' Code of Conduct set out, in full, the requirements relating to public interest and disclosure to a third party, which was not precluded by the Code of

Conduct. The Code of Conduct required that a member seek written advice from the Borough Solicitor and make a decision on that basis.

In response to the comments from councillor 3, it was confirmed that there was no requirement for the council to have a protocol and it was a matter for the Committee to decide whether to recommend it for approval by Council.

Collectively members were of the opinion that adoption of a protocol on this topic was unnecessary and whilst they felt that the document contained useful advice, albeit some of it was common sense, they felt that it would be more appropriate to communicate it as part of the induction and ongoing development offered to members. The Committee also considered it to be wholly appropriate for a reference to the fact that it was inappropriate for members of regulatory committees to be communicating on social media during a meeting, to be added to the Constitution and asked that the Constitution Working Group consider this matter.

Upon a vote it was unanimously

**RESOLVED that;**

1. **The committee did not consider the adoption of a Social Media Protocol for members to be necessary. However it was considered that the Constitution Working Group should be asked to consider the addition to the Constitution of reference to the inappropriateness of the use of social media, by members, during regulatory committee meetings.**
2. **The content of the Social Media Protocol be used as a training tool for members as part of the induction and ongoing development and the Constitution Working Group be tasked with considering the addition to the Constitution, of reference to the use of social media, during regulatory committee meetings being inappropriate.**

**6. WORK PLANNING**

The committee were asked to consider what matters, if any, they wanted to consider at upcoming meetings.

The Monitoring Officer suggested that the Committee may wish to review the Gifts and Hospitality and Member and Officer relations Protocols, as these had not been reviewed for some time.

She explained that the meeting dates were agreed at council but would only be held if they were required.

**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 of Part 1, Schedule 12A (as amended) Local Government Act 1972, namely: Information relating to an individual.**

**8. REVIEW OF COMPLAINT**

The Monitoring Officer gave a report on a review of complaints. The committee noted the decisions taken and did not consider that there was any further action which could appropriately be taken and neither were there any training needs identified for the wider Council membership arising from these complaints.

**9. EXEMPT MINUTES**

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

A member raised a minor amendment.

Upon a vote it was unanimously

**RESOLVED that the exempt minutes, as amended, of the meeting held on the 11 July 2014 be agreed and signed as an accurate record.**

**10. ANY OTHER BUSINESS**

In response to a member question the Monitoring Officer explained that there was no matter of recourse were someone to make email exchanges between themselves and member, public. Even the addition of a disclaimer would not protect members from this risk and this reinforced the need for members to think carefully about the content of electronic communications, either by email or via social media. Copyright was only relevant if it had been registered and members also needed to consider that email correspondence could form part of Freedom of Information requests.

The committee observed the 1 minute silence at 11:30am to mark 10 years since the 7/7 bombings.

Duncan Chittenden queried whether the Council had a disengagement policy which set out circumstances and means by which Officers and members could legitimately cease correspondence with a member of the public. The Monitoring Officer was unsure whether there was a disengagement policy and would consider the issue further, but added that any approach would need to be balanced.

**11. DATE OF NEXT MEETING**

The next meeting was scheduled for the 21 October 2015 at 2pm.

Bernard Fisher  
**Chairman**





**STANDARDS COMMITTEE – AGENDA ITEM 5 - SOCIAL MEDIA PROTOCOL**

The draft protocol was circulated to all councillors and we received responses from 3 councillors which are detailed below.

**Councillor 1**

“ I have 1,700 followers on Twitter more than other councillors in Cheltenham and possibly Gloucestershire. Having that number of followers I must be doing something right or they would find my tweets boring and irrelevant and unfollow me.

What steps has the working group undertaken to speak with Councillors who use Twitter and other forms of social media very effectively? I don't recall being asked for my views, who are the councillors that came up with this draft and what experience do they have of Twitter etc?

What about freedom of speech? The length and tone of this document is Kafka esq and makes me seriously believe the council is trying to stifle the ability of members to use their own judgement on how to use social media.

If we have to have guidance two A4 sides should be more than adequate - if needs be put a link to the relevant constitution bits rather than add them and other things repeatedly.”

The councillor was particularly concerned about the phrase “Councillors should think carefully before posting anything on social media when angry, tired or having consumed alcohol”. Overall they felt the document was repetitive and a bit patronising.

**Councillor 2**

First, who decides what is in 'the public interest'? The phrase runs through the document, but without clarification.

Secondly, non-disclosure to a third party is problematic potentially. For example, if a matter comes to me about which I feel the need to take private legal advice and my legal advisor decides they must disclose it to the competent authority or to the police, would that be in breach of this? My reading of the relevant section indicates that it might!

**Councillor 3**

“I guess my main comment is whether this really warrants being a formal 'protocol' for cllrs? All the principles behind the advice it contains are already covered in the code of conduct etc. and I'm not sure that simply because something is classed as 'social media' that it should require people to act any differently than they should in any other form of communication or interaction with other people.

It could perhaps instead be the basis for a useful 'introduction to' type guide or maybe training session as there are a number of councillors who are presumably interested in twitter etc. but may benefit from advice on how to get more out of it.”

**Results of the Members Skills Audit 2014 (15 members responded)**

**Communication**



Most members were confident with their communication skills with the exception of social media. A few members are confident users of social media, using it every day. In comments, members mentioned having acquired these skills either from their outside employment or during their time in office. Some of the less experienced members were also interested in developing their public speaking and media skills.

## Cheltenham Borough Council Standards Committee – 27 June 2016 Applications for Dispensation

<b>Accountable officer</b>	<b>Borough Solicitor, Sara Freckleton</b>
<b>Executive summary</b>	This report seeks determination by the Standards Committee of any applications for dispensations which are made by Members of the Borough Council in order to participate in the business to be conducted at the meeting of the Council on the 30 June 2016.
<b>Recommendations</b>	<b>The Committee is asked to determine any applications for dispensation which have been made by Members of the Borough Council in order to enable them to participate in the matter of the approval of the business to be considered at the meeting of the Council on the 30 June 2016.</b>

### 1. Background

- 1.1 The arrangements which were adopted by the Council on the 25th June 2012 to comply with the provisions of the Localism Act 2011 included arrangements for decisions to be made on applications by Members of the Council for dispensation to participate in items of business in which they consider that they have either a disclosable pecuniary or an “other” interest.
- 1.2 Responsibility for the determination of applications for dispensation has been delegated to the Monitoring Officer where the application is made on grounds (a) and (b) set out in paragraph 2.1 below and any application on the basis of grounds (c) – (e) are within the remit of the Standards Committee.
- 1.3 On the 30 June 2016, Cheltenham Borough Council will be meeting to consider the Inspector’s Interim Report on the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. The Monitoring Officer has provided advice to all Members of the Council to enable them to enable them to consider whether they have any interests which may, in accordance with the Cheltenham Borough Council Code of Members’ Conduct, preclude their participation at the Council meeting . The Code provides as follows:-

#### 1.4 Disclosable Pecuniary Interests

Where a matter, in which you have an interest as specified in Appendix A (disclosable pecuniary interests), arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at a meeting:-

- (1) **Do** ensure, that if your interest is not entered in the Authority’s Register, you disclose the interest to the meeting (unless the Authority’s Monitoring Officer considers that it is a sensitive interest in which case you do not need to disclose the nature of the interest); and that you notify the Monitoring Officer of the interest within 28 days in accordance with paragraph 8(3) of this Code.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted).

**1.5 Other Interests**

Where a matter, in which

either you have an interest as specified in Appendix B (other interests),

or where a decision on the matter might reasonably be regarded as affecting, to a greater extent that it would affect the majority of other council taxpayers, ratepayers or inhabitants of the ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** ensure that you disclose the interest to the meeting.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if,
  - (a) it affects your financial position or the financial position of an interest specified in Appendix B (other interests) or the member of your family or person with whom you have a close association described above or who has a contractual relationship as described above

or

- (b) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in paragraph 10(4) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

- 1.6** It is for any individual member to consider whether or not they have an interest in any matter being considered at a Council meeting and whether that interest precludes their participation in that matter.

**2. Applications for Dispensation**

- 2.1** In accordance with the Code of Conduct, Members are entitled to seek dispensation to participate in a decision on a matter in which they have either a disclosable pecuniary (Part A) or "other" (Part B) interest. The grounds upon which dispensations may be granted are as follows:-

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

- (c) granting the dispensation is in the interests of persons living in the authority's area,
- (d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or,
- (e) it is otherwise appropriate to grant a dispensation.

**2.2** Applications for dispensation must be made in writing and copies of any applications which are received will be circulated to Members of the Committee.

**3. Determination of Applications for Dispensation**

**3.1** As can be seen from paragraph 2.1 above, the Committee has a wide discretion to grant dispensations provided that all of the circumstances are taken into account.

**3.2** The Committee must also determine the period for which a dispensation has effect, and the period specified may not exceed four years.

**4. Reasons for Recommendations**

**4.1** To discharge the obligation of the Committee to determine applications for dispensation.

<b>Report author</b>	<b>Contact officer:</b> Sara Freckleton Borough Solicitor
<b>Appendices</b>	None
<b>Background information</b>	None

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# Agenda Item 6

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