



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Standards Committee

Friday, 3 July 2020
10.00 am

Virtual WEBEX video conference via YouTube -
<https://www.youtube.com/user/cheltenhamborough>

Membership	
Borough Councillors:	Max Wilkinson (Chair), Louis Savage, Karl Hobley, Martin Horwood, Jo Stafford, Klara Sudbury 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 3 - 8)
Minutes of the meeting held on 3 February 2020.
4. **CHELTENHAM BOROUGH COUNCIL CODE OF MEMBERS' CONDUCT- COMPLAINT AGAINST COUNCILLOR DENNIS PARSONS** (Pages 9 - 32)
Report of the Monitoring Officer
5. **DATE OF NEXT MEETING**
To be confirmed

Contact Officer: Bev Thomas, Democratic Services Team Leader, 01242 264246
Email: democratic.services@cheltenham.gov.uk

This page is intentionally left blank

Standards Committee

**Monday, 3rd February, 2020
1.00 - 2.00 pm**

Attendees	
Borough Councillors:	Max Wilkinson (Chair), Karl Hobley, Martin Horwood, John Payne and Klara Sudbury
Independent Members:	Mr Duncan Chittenden and Mr Martin Jauch
Also in attendance:	Sara Freckleton (Borough Solicitor & Monitoring Officer)

Minutes

1. APOLOGIES

Councillors Savage and Stafford had given their apologies.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting had been circulated with the agenda and the minutes of the meeting held on the 16 April 2018, which had yet to be agreed and signed, were also circulated.

Upon a vote it was unanimously

RESOLVED that the minutes of the meeting(s) held on the 16 April 2018 and 10 July 2019 be agreed and signed as an accurate record.

4. CODE OF MEMBERS' CONDUCT - "OTHER INTERESTS"- RESTRICTION ON PARTICIPATION IN DECISIONS

The Chairman advised that this was an issue that had been raised by the Constitution Working Group (CWG) and the Committee was asked to consider amending the Code of Conduct to remove the requirement for Members who are nominated to Companies and Trusts to leave a meeting (Council / Committee etc) when an item which may affect the financial position of that Company / Trust was discussed.

The Borough Solicitor and Monitoring Officer summarised the position. The Council had nomination rights to certain bodies and upon their appointment to those Trusts or Companies, Councillors were required to act in the best interest of those bodies. There was a misconception that Members were appointed to these bodies to “keep an eye on it from a Council perspective”; as with all Directors/Trustees, those nominated by the Council had a duty to act in the best interest of the company. The Code of Conduct was clear that a member had an “other interest” if they held a position of control or management on any body to which they have been appointed or nominated by the Council and required that a member with any such interest be precluded from participating in any debate

or decision relating to any business which affected the financial position of the body. The requirement for the Member, in those circumstances, not to speak or vote was not an area of contention, but the Code also required that the member withdraw from a meeting, including the public area/gallery during the discussion / decision on the item. It was in relation to the latter requirement that the Standards Committee was being asked to consider an amendment which would allow a member with such an interest in an item, to remain in the meeting whilst the item is discussed and determined.

The Monitoring Officer explained that prior to the Localism Act 2011, case law established that it was not sufficient for members with a Code of Conduct interest to simply retire to the back of the room or public gallery, giving the rationale that remaining in a meeting at which colleagues were debating and deciding a matter, could create the perception that they were seeking improperly to influence the decision. Though the Localism Act did not require that those members with an “other interest” to withdraw from the meeting, when CBC adopted its Code of Conduct, this requirement was included, and it was noted that this was also true for 5 of the 6 District Councils in Gloucestershire. Whilst it was not mandatory to retain this provision, the Monitoring Officer’s advice was that there were risks in removing the requirement, as well as there being no apparent purpose to be served by the Member remaining in the meeting. It was also noted that it would not be appropriate for a Director/Trustee of a body to be privy to confidential financial or legal advice in respect of a company/trust, nor would it appear transparent when an item was taken in exempt session, from which public were excluded and which was not webcast. Her recommendation was that the Code remain unchanged at this stage and instead be reviewed by the Standards Committee, in its entirety, when the model code was published, anticipated in July (2020) and, if deemed necessary, any changes be recommended to the Council.

A member, who had been involved in the discussion at the CWG acknowledged that this was a difficult area, particularly given the argument that any member with an “other interest” could tune into the webcast and improperly influence the debate or vote through the use of email. He was however, in favour of delaying any decision until after the Model Code had been published, so as to take account of a more universal view.

Another member disputed the advice that had been given in relation to the remit of members appointed as Directors/Trustees, asserting that Councillors were appointed to these bodies for the sole purpose of linking the two, and he suggested that this view was one shared by the Charity Commission. He was also aware that in the past, there had been occasions when the Cheltenham Trust had required Councillors to withdraw from certain discussions and other members of the committee concurred that it was ludicrous that members could be excluded by both organisations. He highlighted that prior to this meeting, he was not fully aware of the process for applications for dispensation.

A Trustee of the Cheltenham Trust clarified that he had not been excluded from any meetings of The Trust in the last year. He did however suggest that he would be inclined to watch webcasts of any council debates or votes where he had been required to withdraw from the meeting, so as to get a sense of how colleagues felt about a particular issue.

The Monitoring Officer gave the following responses to comments and questions raised by Members:

- It was correct that councillors were nominated and appointed to these companies/trusts on the basis of their experience as community representatives. However, by law, once appointed they were required to act in the best interest of the company/trust, whereas in their capacity as a councillor, they were expected to act in the public interest. Whilst the objectives and aims of these Companies / Trusts and those of the Council were, for the most part aligned, there was potential for conflict of interests where decisions affecting the financial position of those bodies were taken by the Council.
- Members were reminded that the requirement to withdraw from a meeting only applied where these interests existed and where the decision being taken by the council would have a financial impact (positive or negative) on the body/organisation.
- Where such an interest did exist, it was possible for those members to apply for dispensation to speak and vote and the decision to grant dispensation would lie with the Standards Committee. The Committee would, when making decisions on applications for dispensation, consider the facts and circumstances of the individual application, the grounds upon which dispensation may be granted (set out in paragraph 3.2 of the report) together with any advice from the Monitoring Officer.
- Members could, of course, withdraw from the meeting and watch proceedings via the webcast, the rules existed not to prevent the Member from being aware of views of their colleague Councillors but rather to avoid creating the perception that the member(s) sought to influence the decision.
- The Monitoring Officer was not aware that Council appointed Directors or Trustees were routinely asked to leave meetings of any of the bodies to which they were nominated or appointed, and the report to the Committee had been prepared on the basis that they were entitled to participate at Board / Trust level. She would need to look into this further and would report back on this issue in due course.

The Chairman invited the Independent Members to share their thoughts on the issue. One of the Independent Persons felt that the proposed amendment would do little other than to cause concern to the public and urged the committee to think carefully about making this amendment. The other Independent Person accepted the point made by a member that their presence would allow them to gauge how other members felt about the body; he agreed with his fellow Independent Member, that remaining in the meeting could be perceived as an effort to influence a decision. He was comfortable that the ability of members to apply for dispensation recognised the potential for issues and felt that the current rules were completely workable and that they had the effect of protecting members against any question of doubt. He suggested that given earlier comments, it would be prudent to remind all members about the dispensation procedure.

In closing, the Chairman confirmed that the Committee would not make a decision at this time, instead waiting for the publication of the 'model code' and that a summary of this debate would be sent to the CWG. In the meantime, the Monitoring Officer would draft a note for members which

reiterated the protection that the Code and dispensations offered members. The Chairman would check and approve this on behalf of the committee.

Upon a vote it was unanimously

RESOLVED that:

1. **The Cheltenham Borough Council Code of Members' Conduct be reviewed in July 2020, after the 'Model Code' has been published.**
2. **The Borough Solicitor & Monitoring Officer considers the matter of whether or not Members of the Council who are appointed by the Council to serve on Companies / Trusts are precluded, by virtue of their Office as Councillor, from participating as a Director / Trustee in any business considered / decisions taken by the Company / Trust.**
3. **The Monitoring Officer draft a note for members which reiterates the protection that the Code and dispensations offer members and that this be approved by the Chairman on behalf of the committee.**

5. 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, 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

6. REPORT OF DECISIONS TAKEN BY THE MONITORING OFFICER

The Monitoring Officer reminded members that in accordance with current arrangements, in consultation with the Independent Persons, she was able to resolve complaints much more easily and informally than before. Details of the complaints that had been received since the last meeting of the Standards Committee had been circulated with the agenda and the committee considered where there was a need for action or training, arising from the complaints.

7. ANY OTHER BUSINESS

There was no other business.

8. DATE OF NEXT MEETING

The next meeting was scheduled for the 8 July 2020.

Max Wilkinson
Chairman

This page is intentionally left blank

Cheltenham Borough Council**Standards Committee****3 July 2020****Report of Monitoring Officer on complaints that Councillor Dennis Parsons has failed to comply with the Cheltenham Borough Council Code of Members' Conduct****1. Background**

1.1 Complaints that Councillor Dennis Parsons has failed to comply with the Cheltenham Borough Council Code of Members' Conduct, have been received by the Monitoring Officer. These complaints arise from the participation of Councillor Parsons at the meeting of Cheltenham Borough Council held on the 15th June 2020. The Chair of the Standards Committee referred this matter to the Monitoring Officer immediately after the incident, the subject of this complaint, had taken place.

1.2 The complaints received are as follows:-

- I. Cllr Dennis Parsons has brought the council into disrepute by expressing sympathy for the police officer who killed George Floyd. Mr Parsons then went on to explain how views on race were different in the late 1940s and used a racially offensive word beginning with N at least four times. Cllr Parsons was given an opportunity to apologise but it sounded half-hearted and meaningless as if he had no idea that the words he had used would cause harm. However he had clearly understood the offence that he was causing by choosing to use these words, as he also said (or words to that effect) 'you can't say that any more or you would get shot'. He also laughed when he had finished speaking.
- II. Repeated use of the "N-word" during the Cheltenham Borough Council meeting on Monday, 15 June. https://youtu.be/ac9b7Bp_MzM - from 1h33m. Given the current situation, and during ongoing BLM protests, this is incredibly disingenuous, and could be regarded as nothing less than not-closeted-enough racism. It's a disgrace that he is in the position that he is, and it is not an attitude that is at all representative of the people that he apparently represents in the Pittville ward. He also has previous form for suggesting that prostitution could be represented at schools
- III. On 15th June 2020 during an online council meeting Mr Dennis Parsons used a racial slur several times. He also claimed that George Floyd, a murder victim at the hands of police brutality in Minnesota in the USA was not the victim but his killer was.

The incident was since reported by Gloucestershire Live and footage featured on social media site Twitter. It was also witnessed by all Councillors present in the meeting.

I believe Mr Parsons behaviour contravenes Cheltenham Councils Code of Members Conduct sections 3 and 4, it is not acting with integrity and does not treat others with respect.

Mr Parsons has since failed to apologise for his use of this most heinous racial slur saying “I am obviously sorry if I offended people’s sensitivities but I don’t think that it’s inappropriate that in certain circumstances to use words that are unacceptable now but were acceptable historically.”

I thought it goes without saying that there is no circumstance under which it is appropriate for Mr Parsons to use this word. His comments show he is out of touch with modern society and unfit for the position.

2. Consideration and Determination of Complaints

2.1 The Council has made arrangements, in accordance with the provisions of the Localism Act 2011, for the determination of complaints that any Councillor has failed to comply with the Cheltenham Borough Council Code of Members’ Conduct. All complaints must be made to the Monitoring Officer to whom the Council has delegated authority to consider and determine complaints and to seek to resolve complaints including, where necessary, arranging for an allegation to be investigated. The Monitoring Officer must, when assessing and determining complaints, consult with the two Independent Persons (who are neither Councillors nor Officers of the Council) appointed by the Council under the Localism Act 2011. The Council also provided the option for the Monitoring Officer to refer the matter to the Standards Committee where more appropriate to do so.

2.2 As part of the process of the consideration of complaints by the Monitoring Officer and Independent Persons, a number of preliminary tests are undertaken including whether

- the Member is acting in their capacity as a member,
- on the information available, is the behaviour complained of likely to be a breach of the Code
- it is necessary for the complaint to be investigated (fact finding)
- in the circumstances of the case, it is in the public interest for the complaint to be investigated and determined

2.3 Regarding the complaints the subject of this report, the Monitoring Officer, having consulted with the Independent Persons, agreed with the Chair of the Committee that this matter is appropriately referred to the Standards Committee whose role it is to “exercise the Council’s functions in matters relating to standards of conduct within the Council”.

3. Factual Background and Context

3.1 On the 15th June 2020 a meeting of Cheltenham Borough Council took place which was, in accordance with current regulations, held virtually. The meeting was broadcast contemporaneously via YouTube.

3.2 One of the items of business considered by the Council was the following Motion:-

“Following the killing of George Floyd in Minneapolis and other brutal activity, Cheltenham Borough Council puts on record its support for Black Lives Matter and its total opposition to any kind of racism.

Cheltenham Borough Council believes in action, not just fine words. In conjunction with the Police and Crime Commissioner, Cheltenham Borough Homes, Cheltenham Trust, Festivals and other partners, Cabinet is requested to look at holding a conference for Cheltenham’s BAME community organisations, to discuss how we might work closer together to challenge bias, both deliberate and unconscious, and racism in all its forms.

To that end, Council also requests that all policies, the organisational structure, appointments process and working environment of the Council be interrogated by Cabinet to ensure they reflect the Council’s stance on these matters.

Council would request the Police and Crime Commissioner, Cheltenham Borough Homes, Cheltenham Trust, Festivals and other partners to work together with the Council, to ensure that effective action is taken.

In addition, Cabinet is asked to look at how we can support other councils in less diverse areas through the LGA, by means of exchange programmes and secondment schemes and, for members, unconscious bias training,

Further, that Cheltenham’s national representative on the Council of Europe, is requested to raise these issues at the Council of Europe; and the Cabinet member to raise issues through Council of European Municipalities and Regions in relation to local government and how, together, we can best fight bias, racism and brutality in all its forms and provide a voice to action, so that in deed and word, Black Lives Matter.”

- 3.3** In accordance with the Council’s Constitutional requirements, the above Motion was published on the 11th June 2020. Councillors therefore were afforded the opportunity to be fully prepared to debate and make decisions at the meeting.
- 3.4** Councillor Dennis Parsons attended the meeting of the Council. During the debate on the Motion, the Mayor invited a number of Councillors, including Councillor Parsons to make their contribution to the debate.
- 3.5** When called upon by the Mayor to speak, Councillor Parsons said “In the past, Chair, I have accused the Council of engaging in motherhood and apple pie motions and this isn’t one of them and mustn’t be one of them. We must get something out of this that satisfies the smart target agenda, we have to have targets, we have to have concrete proposals and it’s a big ask. Other people have asked, mentioned that there is no quick fix for this. People have talked about education and there is a role for education in terms particularly of tackling unconscious bias and indeed, being leaders in this field, Liberal Democrats always have sessions on unconscious bias at their conferences and we’ve attended them and yes, I accept there is a role for that, but the underlying issue isn’t education its culture, it’s the culture that we all exist under. In many ways the guy who killed George Lloyd* was a victim, he was a victim of the culture that exists in Minneapolis as far as policing is concerned. He just did what he’s been trained to do and what has been accepted for a long, long time. And here in Britain, I was born immediately after the Second World War and my father came home a year later, he was serving in the Navy. We had a cat, a black cat called n*****. And my mum would come out to the front gate when she couldn't find

the cat and she'd shout n***** n***** n***** but now obviously you would get shot if you tried to do that and that's partly as a result of legislation but it's partly because the culture has changed, but ever so slowly. We've changed culture before, we did it with smoking. Smoking became socially unacceptable in lots of places but how you change culture is a really tricky, tricky question. So I wish the Council well in bringing together this group but it needs to have something at the end of it that is tangible, that is a proposal, that is targets, it can't be allowed to just be kicked into the long grass and will go on forever. As I'm sure will happen with the Prime Minister's puppet proposals just to show that he's doing something We can't be just seen to be doing something. We have to get results."

*George Floyd was erroneously referred to as George Lloyd.

- 3.6** Immediately after Councillor Parsons had finished speaking, a Councillor raised a Point of Order (an alleged breach of Council Procedures or Law), stating that all Councillors should avoid using offensive racist terms in their remarks. Two other Councillors followed up that Point of Order, the first referring to incredibly offensive racial slurs, that he was staggered that Councillor Parsons used those words and that it is not acceptable to use that language. Another Councillor said that it was really important that Councillors, as community leaders, show that they appreciate the sensitivities of certain terms that may have been used in the past and also appreciate the sting that is felt when certain people hear those words. The Councillor went on to say that Councillor Parsons should be offered the chance to apologise.
- 3.7** Councillor Parsons was invited, by the Mayor, to speak in response and said
"Obviously I was making a point that in some ways goes back to the issue with monuments and other things that cause offence now but that were part of the culture at the time that they were erected and I prefer the German way of recognising history rather than the idea that we somehow photoshop it out. I quoted something that was perfectly acceptable in 1945 from people, my parents weren't racist they were just ordinary working people who'd gone through a war which my father had played an active and dangerous part and it was just the way it was. I'm obviously sorry if I offended people's sensitivities but I don't think that it's inappropriate in certain circumstances to use words that are unacceptable now that were acceptable historically."
- 3.8** Councillor Parsons' comments were reported in the local media during the evening of 15th June 2020.
- 3.9** The day after the Council meeting, Councillor Parsons sent an apology to the media which said:-
"I very much regret and am so very sorry for articulating the 'n' word in Monday's meeting of Cheltenham Borough Council. I totally get how offensive this would have been to the BAME population and, indeed, to the wider Cheltenham public. I am hugely embarrassed by my actions.
My parents were not racist. I am not racist. I was referencing events in 1950 and using the name of the family cat to illustrate how different the culture was then compared to today. Unfortunately, in doing so, I articulated the 'n' word – which was unacceptable. The response has been a hard lesson for me to take. But it is a lesson learned."
- 3.10** There was further local and national media coverage in the days following the Council meeting.

- 3.11 Councillor Parsons has been a member of Cheltenham Borough Council since May 2016.

4. Cheltenham Borough Council Code of Members' Conduct

- 4.1 The Cheltenham Borough Council Code of Members' Conduct which was adopted with effect from the 1st July 2012 and is attached at Appendix 1, applies when Members are acting in their official capacity as a member of Cheltenham Borough Council including when engaged in the business of the Council or when behaving so as to give a reasonable person the impression of acting as a representative of the Council. It does not seek to regulate what Members do when acting solely in a private capacity in their private life. Paragraph 5 of the Code sets out the general principles which Members are expected to observe when acting as Councillors. These principles are:-

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

- 4.2 Turning to the specific requirements of the Code of Conduct, paragraph 7 requires that Members observe a number of rules, of which rules 7(1) and 7(8) below are relevant to this complaint and provide:-

7(1) “Do treat others with respect”

7(8) “Do promote and support high standards of conduct when serving in your public post by leadership and example”

5. Consideration of Complaint

5.1 Application of the Code of Conduct

The Monitoring Officer has, in consultation with the Independent Persons, considered the complaint in the context of the Code of Conduct. The preliminary assessment (paragraph 2.2 above) of the complaints, has been carried out and is detailed in paragraphs 5.2 – 5.4 below.

- 5.2 The first consideration is whether Councillor Parsons was acting in his official capacity, thus engaging the requirements of the Code of Conduct. It is clear that Councillor Parsons attended and participated in the Council meeting in his capacity as a Cheltenham Borough Councillor. The Code of Conduct is therefore engaged.

- 5.3 In respect of the second consideration, it was concluded that it is likely, on the basis of the information provided, that there has been a breach of the Code of Conduct. In particular, clauses

7(1) “Do treat others with respect”

7(8) “Do promote and support high standards of conduct when serving in your public post by leadership and example”

are relevant to the consideration of these complaints.

5.4 Finally, consideration has been given to whether it is necessary to seek additional information / investigate the facts before any decision can be made as to whether there is any breach of the Code of Conduct. If so, the public interest test is applied to determine whether the matter is serious enough so that an investigation would be in the public interest. In this particular case, the facts of this case comprise Councillor Parsons' oral contributions to the meeting on the 15th June 2020 which have been broadcast and which remain (suitably muted) available for viewing on the Council's website. Consequently, it was not considered necessary for any further investigation to be undertaken in order to determine whether a breach of the Code of Members' Conduct has occurred.

5.5 Having completed the preliminary assessment, consideration was given to the substance of the complaints and the three main concerns highlighted within them which can be summarised as firstly, the reference, by Councillor Parsons, to the victim status of the person responsible for killing George Floyd, secondly the use of a racist term four times and thirdly, Councillor Parsons' apology to the meeting in which he said he was sorry if he offended people's sensitivities but that he didn't think it inappropriate in certain circumstances to use words that are unacceptable now but were acceptable historically.

5.6 Consultation with the Independent Persons

The complaints were, as required, referred to the Independent Persons for comment and their response was that Councillor Parsons made a number of errors of judgment, specifically:-

1. Many people would find his connection of 'culture and victim' with the actions of the police officer in the Floyd case deeply offensive.
2. This was compounded by the use of an inappropriate and, again, deeply offensive word, which was repeated 4 times in what appeared to be a totally unnecessary anecdote
3. He referred to offending 'sensitivities' rather than individuals, a linguistic phrasing that causes further offence.
4. He failed to accurately judge that some words, phrases and anecdotes are not acceptable in any circumstances and there are no circumstances which could mitigate their use.

In conclusion, the entirety of Councillor Parsons' contribution was ill judged in its conception and totally unacceptable in its execution.

5.7 Analysis of complaints

Councillor Parsons had been aware, since the publication, on the 11th June 2020, of the agenda for the Council meeting, that the Motion set out in 3.2 above, would be debated and decided upon by the Council at its meeting on the 15th June 2020. Members are not obliged to make a statement or comment on any item of business discussed by the Council and therefore do so if they wish to contribute. It is reasonable to conclude, therefore, in indicating that he wished to speak on this Motion, Councillor Parsons had already, by the time of the Council meeting, given consideration to the content of his speech.

5.8 It is incumbent upon Councillors, at all times when acting in their capacity as a representative of Cheltenham Borough Council, to act on all occasions in accordance

with the public trust placed in them. Members are also, in accordance with the CBC Code of Members' Conduct, expected to observe the general principles, of which integrity and leadership are relevant to the determination of these complaints.

5.9 Considering the complaints in their entirety, the context set out above, the comments of the Independent Persons and the specific application of the Code of Conduct, it is clear that in respect of all three aspects of the complaint, namely putting forward the view that the Police Officer involved in the killing of George Floyd in Minnesota was the victim, the use of an offensive and inappropriate word, and the reference to offending sensitivities, are disrespectful and a contravention of requirement 7(1) of the Code of Conduct to treat others with respect. Further, in deeming it appropriate to make these comments at a meeting of the Cheltenham Borough Council, demonstrate a significant error of judgement on the part of Councillor Parsons to the extent that this conduct falls short of the leadership and example required to demonstrate high standards of Councillor Conduct, thereby contravening requirement 7(8) of the Code of Conduct.

5.10 Councillor Parsons has confirmed to the Monitoring Officer that he acknowledges that his actions had constituted a breach of the Code of Conduct which he described as a "horrible misjudgement" on his part.

5.11 Conclusion

It is clear that the comments which Councillor Parsons made at the Council meeting on the 15th June 2020 were completely inappropriate and disrespectful, being contrary to the general principles upon which the Code of Conduct is based and specifically contrary to the provisions of section 7(1) of the Code which requires members to treat others with respect and 7(8) of the Code which requires Councillors to promote high standards of conduct by leadership and example. The public is entitled to expect the highest possible standards of behaviour from elected members and Councillor Parsons' behaviour on this occasion fell significantly short of the standards of conduct expected of the holders of public office, thereby causing damage to his own and the Council's reputation.

Councillor Parsons' apology given at the meeting (3.7 above) seemingly sought to explain and even validate the remarks made rather than convey his unreserved apology for the significant error in judgment in deeming the content of his speech to be appropriate in any circumstances whatsoever.

The apology to the media (3.9 above) does demonstrate an element of contrition and a recognition by Councillor Parsons that his comment and the impact it would have had was inappropriate. It also goes on to give some explanation as to the reason for the remarks.

6. Sanctions

6.1 As the Committee is aware, the sanctions that may be imposed in respect of breaches of the Code of Conduct cannot include anything that would prevent a Councillor performing their duties as a Councillor and therefore do not extend to either suspension or disqualification from the role.

6.2 The Committee will recall that in its response to the 2018 consultation by the Standards in Public Life on its review of Local Government Ethical Standards, the point was made that the current sanctions do not appear to be adequate especially for more serious breaches of the Code of Conduct. The outcome of the review, with

regard to sanctions, was a recommendation to the Government that a new power for local authorities to suspend Councillors for up to six months be introduced, but that requires legislative changes that have yet to take place.

6.3 Currently, therefore, the available sanctions are one or more of the following:-

- (a) requesting the Member to undertake actions deemed appropriate e.g. issue an apology, undertake training,
- (b) censure;
- (c) report to Council;
- (d) recommend actions to the Leader of the Council;
- (e) recommend actions to Group Leader (e.g. removal from a Committee);
- (f) removal from Outside Bodies;
- (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

7. Considerations for Standards Committee

7.1 This report is brought to the Committee by the Monitoring Officer for the Committee to determine the sanction to be imposed in this matter.

7.2 Taking into account, the observations at 5.11 above, on the apologies made so far, the Committee may consider it appropriate to impose a sanction requiring that Councillor Parsons makes a full apology to the Mayor and Councillors, which would be published on the Council's website.

7.3 The Council has a Member Training Programme which includes, in this year, training for all Borough Councillors on issues of race, equality and diversity. This will be delivered by an LGA approved provider including trainers from diverse backgrounds. The Committee may consider that attendance at this training should be compulsory for all Councillors, including Councillor Parsons.

7.4 The Committee may also wish to consider censure.

7.5 The Committee is also asked to consider whether there are any implications for the authority arising as a consequence of the matters covered in this report.

Report Author

Borough Solicitor & Monitoring Officer,
Cheltenham Borough Council



CHELTENHAM BOROUGH COUNCIL

CODE OF MEMBERS' CONDUCT

**Adopted on the 25th June 2012 taking effect on the
1st July 2012**

Contents and Definitions

Contents

- I Introduction
- II Scope of the Code of Conduct
- III General Principles of Members' Conduct
- IV Rules of Conduct
- V Registration of Interests
- VI Declaration of Interests and Restrictions on Participation
- VII Duties in respect of the Standards Committee
- VIII Dispensations
- IX Definitions

I. Introduction

1. This Code of Conduct (Code) is adopted pursuant to the Authority's duty to promote and maintain high standards of conduct by Members of the Council.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

II. Scope of the Code of Conduct

2. The Code applies to Members whenever acting in their official capacity as a Member of Cheltenham Borough Council, including
 - (a) when engaged in the business of Cheltenham Borough Council including Ward business or representing the Council externally;
 - (b) when behaving so as to give a reasonable person the impression of acting as a representative of Cheltenham Borough Council.

This Code of Conduct does not seek to regulate what Members do in their purely private and personal lives.

3. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the Authority and any Protocols and Policies which may be adopted from time to time by the Authority.
4. Failure to comply with the requirements within this Code of Conduct which relate to disclosable pecuniary interests and which are set out in sections V and VI and Appendix A is a criminal offence.¹

III. General Principles of Members' Conduct

¹ Section 34 Localism Act 2011

5. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct set out below. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

- *Selflessness*
- *Integrity*
- *Objectivity*
- *Accountability*
- *Openness*
- *Honesty*
- *Leadership*

IV. Rules of Conduct

6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
7. Members shall observe the following rules:-

General Requirements

- (1) **Do** treat others with respect.
- (2) **Do not** bully any person.
- (3) **Do not** do anything which may cause your Authority to breach any of the equality enactments.
- (4) **Do not** use your position improperly, to confer on or secure for yourself or any other person, an advantage or disadvantage.
- (5) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, your Authority.
- (6) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

Page 21

- (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.
 - (v) before making any disclosure under the provision and (iv) above, the written advice of the Borough Solicitor must be sought and considered.
- (7) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (8) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.

When using the resources of the Authority, or authorising the use of those resources by others:

- (9) **Do** act in accordance with the Authority's reasonable requirements including the requirements of the Authority's IT Policy;
- (10) **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (11) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;
- (12) **Do not** improperly use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When making decisions on behalf of, or as part of, the Authority:

- (13) **Do** ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.

- (14) **Do** have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- (15) **Do** be as open as possible about your own decisions and actions and those of your authority and be prepared to give reasons for those decisions and actions.
- (16) **Do** ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

V. Registration of Interests

- 8. Members shall observe the following rules when registering their interests.
 - (1) **Do**, within 28 days of the adoption of this Code by the Council or within 28 days of taking office as a Member (or co-opted Member), whichever is sooner, notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other interest as defined in Appendix B.
 - (2) **Do**, within 28 days of re-election as a Member or re-appointment as a co-opted Member, notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other interest as defined in Appendix B which has not already been entered in the Authority's register in accordance with (1) above.
 - (3) **Do**, within 28 days of the date of a disclosure referred to in paragraph 9(1) of this Code, notify the Monitoring Officer of the interest (unless it is the subject of a pending notification).
 - (4) **Do** notify the Monitoring Officer of any changes to interests required within 28 days of the date of that change to be registered under Appendix B.
 - (5) **Do** approach the Monitoring Officer if you feel that your interest should be treated as sensitive because its disclosure could lead to

you, or a person connected with you, being subject to violence or intimidation.

VI. Declaration of interests and Restrictions on Participation

Members should observe the following rules:-

9. 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 the 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).

10. 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:-

- (3) **Do** ensure that you disclose the interest to the meeting.

- (4) **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.

VII. Duties in respect of the Standards Committee

11. Members shall observe the following:-

- (1) **Do** co-operate, at all stages, with any investigation into your conduct which may be carried out in accordance with the arrangements for the investigation and determination of complaints which have been put in place by the Authority pursuant to the Act² .
- (2) **Do not** seek to intimidate, or attempt to intimidate, any person who is, or is likely to be, a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a Member has failed to comply with his or her Authority's Code of Conduct.

VIII. Dispensations

12. Where a Member has a disclosable pecuniary interest as described in this Code and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in paragraph 10 of this Code, the Member may apply to the Borough Solicitor for a dispensation.
13. The Authority may grant a Member a dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has a disclosable pecuniary interest as described in this Code and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in paragraph 10 of this Code.

² Section 28(b) of the Localism Act 2011

IX. Definitions

The following are definitions which apply for the purposes of this Code of Conduct.

1. “The Act” is the Localism Act 2011.
2. “The Authority” is Cheltenham Borough Council.
3. “Meeting” is a meeting of the Authority, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Authority.
4. “Committee” includes the Cabinet of the Authority.
5. “Standards Committee” is the Standards Committee of Cheltenham Borough Council.
6. “Member” is an elected Member or a co-opted Member of the Authority.
7. “Co-opted Member” is a person who is not a Member of the Council but who is either a Member of any Committee or Sub-Committee of the Council, or a Member of, and represents the Council on any joint Committee or joint Sub-Committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.
8. “Monitoring Officer” is the Monitoring Officer to Cheltenham Borough Council.
9. “Pending notification” is an interest which has been notified to the Monitoring Officer but which has not been entered in the Authority’s register in consequence of that notification.
10. “Member of your family” means:
 - Partner (spouse/civil partner/someone you live with as if a spouse or civil partner);

- A parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; or the partners of any of these persons.
 - A brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece; or the partners of any of these persons.
11. “Close associate” means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to favour/disadvantage.
12. “well-being” means general sense of contentment and quality of life.
13. Excepted functions are functions of the Authority in respect of
- (i) housing, where the Member is a tenant of your authority provided that those functions do not relate particularly to the Member’s tenancy or lease;
 - (ii) an allowance, payment or indemnity given to members;
 - (iii) any ceremonial honour given to members; and
 - (iv) setting council tax or a precept under the Local Government Finance Act 1992.

Disclosable Pecuniary Interests

The interests set out below are “Disclosable Pecuniary Interests” in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of this Code of Conduct of any interest which is an interest of **the Member or of any of the following**:

- the Member’s spouse or civil partner;
- a person with whom the Member is living as husband and wife; or
- a person with whom the Member is living as if they were civil partners;

and the Member is aware that that other person has the interest.

Subject	Disclosable Pecuniary Interest
Employment, Office, Trade, Profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	Any tenancy where (to M’s knowledge) –

Page 29

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where –

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- (a) “the Act” means the Localism Act 2011;
- (b) “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (c) “director” includes a member of the committee of management of an industrial and provident society;
- (d) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (e) “M” means a member of a relevant authority;
- (f) “member” includes a co-opted member;
- (g) “relevant authority” means the authority of which M is a member;
- (h) “relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
- (i) “relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

- (j) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

Other Interests

The interests set out below are “other interests” which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(4) of this Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:-

Subject	Other Interest
Management or Control	Any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council.
Public/Charitable and Other External Bodies	Any body – (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union). of which the Member of the Council is a member or in a position of general control or management.
Employer	Any person or body who employs, or has appointed, the Member.
Gifts and Hospitality	The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more.

This page is intentionally left blank