



Notice of a meeting of Standards Committee

**Wednesday, 8 December 2021
7.00 pm
Council Chamber - Municipal Offices**

Membership	
Borough Councillors:	Max Wilkinson (Chair), Martin Horwood (Vice-Chair), Garth Barnes, Ian Bassett-Smith, Peter Jeffries, Alisha Lewis and Louis Savage
Independent Members:	Mr Martin Jauch, Mr Duncan Chittenden

Agenda

- 1. APOLOGIES**
Martin Jauch (Independent Person)
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES OF THE LAST MEETING** (Pages 3 - 8)
Minutes of the meeting held on 25 November 2020.
- 4. CHELTENHAM BOROUGH COUNCIL CODE OF MEMBERS' CONDUCT- COMPLAINT AGAINST COUNCILLOR SANDRA HOLLIDAY** (Pages 9 - 36)
Report of the Monitoring Officer
- 5. ANY OTHER BUSINESS**
- 6. DATE OF NEXT MEETING**
9 February 2021

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Standards Committee

Wednesday, 25th November, 2020
2.00 - 2.55 pm

Attendees	
Borough Councillors:	Max Wilkinson, Karl Hobley and Martin Horwood
Independent Members:	Mr Martin Jauch and Mr Duncan Chittenden

Minutes

1. APOLOGIES

Apologies were received from Councillors Payne, Savage, Stafford and Sudbury.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 13 August 2020 were approved and signed as a correct record.

4. COMMITTEE ON STANDARDS IN PUBLIC LIFE - PROGRESS ON BEST PRACTICE RECOMMENDATIONS

The Monitoring Officer reminded Members that the committee had already considered the findings of the review of ethical standards in local authorities by the Committee on Standards in Public Life, published in 2019. The review resulted in a number of recommendations including strengthening the sanctions for any breach of the code of conduct. The Local Government Association had been requested to devise a model code which authorities could adopt and the Standards Committee had also fed into that consultation in the summer. She advised that the final model code would be issued in December.

There were 15 best practice recommendations in total arising from the review and the Standards Committee was meeting today to consider progress the council had made against each one as this was required to be submitted to the Cabinet office by the end of November 2020. Both the Cabinet Office and the Committee on Standards in Public Life would publish this on their respective websites.

Members considered, and had the opportunity to raise questions on, the commentary the Monitoring Officer had produced to each recommendation as outlined in paragraph 2.3. Where there were no comments from members of the committee the proposed response as outlined in appendix 1 was deemed to be approved.

The main points raised on the recommendations are summarised as follows :

Recommendation 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

A Member felt that the existing wording should be expanded in order to cover patterns of intimidating behaviour, as bullying appeared to set a high threshold for complaints. He suggested there was a recent example where the complaints process had not been used in this respect but where it perhaps should have been. Members agreed that no form of harassment and bullying should be deemed acceptable and therefore this should be made as clear as possible in the wording to provide protection to Members, members of the public or others.

The Monitoring Officer agreed that, when considering the review of the code of conduct once the revised LGA model code was published, the opportunity will be taken to include a prohibition against harassment and a definition of bullying.

Recommendation 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by Councillors.

No points were raised.

Recommendation 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

The Monitoring Officer explained that the code was in effect reviewed each time a complaint was determined and a review was considered periodically but it was generally working well. It was suggested that the frequency and methods of a review should be considered when considering the adoption of the new model.

No points were raised.

Recommendation 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

No points were raised.

Recommendation 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

The Monitoring Officer confirmed that this was available but not published in a CSV format. This would be reviewed, in the light of this best practice recommendation, when the Council reviews its Code.

A Member queried the suggested CSV format and proposed that listing on the website would be far more accessible.

Recommendation 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

The Monitoring Officer advised that the public interest test was not published but, as the independent persons would confirm, was what was applied in respect of the determination of allegations. She would be reviewing the complaints procedure and would include appropriate wording to reflect the public interest test.

No points were raised.

Recommendation 7: Local authorities should have access to at least two Independent Persons.

The Monitoring Officer acknowledged the active participation of the two Independent Persons and the Chair thanked them for their continued vigilance in ensuring that standards were upheld at the council.

Recommendation 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

The Monitoring Officer confirmed that every formal complaint together with the proposed response is referred to the Independent Persons for review and comment.

No points were raised.

Recommendation 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

The Monitoring Officer reported that there had been no formal investigations since 2012 and currently it was not part of the procedures to publish a decision notice but this would be included when considering the adoption of the new model code.

There had been breaches of the code on two occasions and these had been published. These breaches did not warrant formal investigation as the facts of the complaint had been evidenced and the councillors involved did not dispute them. Nevertheless, these had been formally dealt with, the decisions published albeit not in the form of a decision notice.

She confirmed that there was no best practice recommendation for informal resolutions to be published and indeed any such suggestion would be undesirable as there is currently flexibility within the Council's arrangements to allow the Monitoring Officer to resolve complaints informally.

A Member gave the example of the recent censure issued by the Standards Committee and questioned why a formal decision notice would not be required to be published in this instance. The Monitoring Officer confirmed that this

would have to be published but clarified that the assumption within the recommendation was that in order for something to be serious it had to be subject to a full investigation and it was this assumption that she felt was incorrect. Certainly, in respect of any complaints that are determined by the Standards Committee or those determined following investigation, the decision ought to be published.

The Chair added that, with reference to the recent censure, he felt the Standards Committee had gone above and beyond what was required. A meeting had been called specifically for the purpose of considering the complaints and was supported by a full report resulting in a robust resolution without a full formal investigation.

The Monitoring Officer clarified that the recommendation was for a formal decision notice to be produced by the committee - this was not done for the recent censure, albeit this was supported by the minutes and the formal censure. A notice would be devised and our procedures amended accordingly. The lack of formal decision notice did not reduce the impact of the censure.

Recommendation 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

The Monitoring Officer explained that an information document and complaint form was readily available on the council's website. However, this does not, apart from the initial response, include likely timescales. This was under review.

Recommendation 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

The Monitoring Officer explained that advice is provided in these terms to Parish Councils. However, although this is supported and encouraged, it is ultimately dependent upon each parish council agreeing to do so. She confirmed that there has not been any tendency for parish councils in the area to ask the clerk to make complaints for them.

A Member supported the council's current position and did not necessarily support the best practice recommendation recognising that this would be a difficult thing to do, particularly if it was of a personal nature.

Recommendation 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

The Monitoring Officer confirmed that the council complied fully with this recommendation.

A Member welcomed and thanked the Monitoring Officer for the support she provided to parish councils in this regard.

Recommendation 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

The Monitoring Officer explained that the council has arrangements in place to ensure that any conflicts of interest are addressed. The Monitoring Officer has appointed a Deputy. Additionally, all investigations are carried out independently of the Monitoring Officer by a suitably qualified person.

Recommendation 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

The Monitoring Officer explained that the Council includes, within its Annual Governance Statement, details of these separate bodies. For example, it states what the relationship is between Ubico/Publica and the council. Further work is required to be undertaken, as part of the overall review of the Code and local arrangements, to secure full compliance with this recommendation. This would be undertaken by the client officers.

A Member asked whether an audit was undertaken to ensure these separate bodies published their minutes in an open way according to the Nolan principles. The Monitoring Officer explained that the approach was inconsistent but this was something that the council should encourage, accepting that confidentiality would apply. The Member felt strongly that, at a minimum, all bodies established by the council should be abiding by these principles. He proposed that the Standards Committee embark on a separate piece of work considering the whole relationship between outside bodies and the council in respect of conflicts of interest and openness questions.

Members of the committee, including the independent persons, welcomed the proposal, recognising that openness and transparency was key in this regard as there were sensitivities around such issues. It was suggested that those Members currently acting as council appointed representatives on these bodies specifically set up by the council should be invited to contribute to this piece of work.

It was also noted that it was important for the public to be made aware that those bodies set up by the council included the provision for council appointed representatives in their respective constitutions.

The Chair supported the proposal highlighting the need, particularly where there are discussions on allowances paid to appointed councillors for time spent on these external bodies, to remain vigilant and to guard against a perception of what may be happening.

The Monitoring officer undertook to bring a report to a future meeting of the Standards Committee on potential conflicts for council appointed Members on outside bodies. This would provide Members with clarity on their participation

and relationships. Members agreed that this work should be limited to those organisations set up by the council to deliver public services rather than council nominations to various other committees and 3rd sector groups in the town.

Recommendation 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The Monitoring Officer explained that this had not been necessary due to the minimal level of cases but emphasised that the political group leaders and Members generally have been more than willing to cooperate and, in fact have welcomed that opportunity when deemed necessary. She proposed to maintain the status quo in this respect.

A Member highlighted that groups being willing to have these discussions did not equate to them being prompted to have them, particularly for smaller political groups.

In the absence at this Committee meeting, of any members from the Conservative or PAB groups, the Chair proposed that political group leaders be consulted on whether they would prefer regular meetings and if so, to suggest the frequency. The current approach of senior officers meeting with political group leaders as necessary to discuss any standards issues that may arise would be maintained as a minimum.

RESOLVED THAT

The response to progress against the CSPL best practice recommendations as set out in Appendix 1 of the report be agreed, subject to the inclusion of the comments made above.

5. ANY OTHER BUSINESS

The Chair referred to a letter received and circulated earlier in the week from the Minister with regard to some previous code of conduct matters that had been raised with him, including the limited sanctions available to authorities for breaches of the code. He asked Members to note the letter and wished to place on record his thanks to the Minister for his reply.

The Monitoring Officer added that time had elapsed but she was reassured that there would be consultation on any proposed changes.

6. DATE OF NEXT MEETING

TBA

Chairman

Cheltenham Borough Council

Standards Committee

8th December 2021

Report of Monitoring Officer on a complaint that Councillor Sandra Holliday has failed to comply with the Cheltenham Borough Council Code of Members' Conduct

1. Background

1.1 A Complaint that Councillor Sandra Holliday has failed to comply with the Cheltenham Borough Council Code of Members' Conduct, has been received by the Monitoring Officer. The complaint arises from the participation of Councillor Holliday at the Annual meeting of Cheltenham Borough Council held on the 17th May 2021 at which the election of the Mayor and Deputy Mayor for the forthcoming year form an integral part of the proceedings. In September of 2021 a complaint was received by the Monitoring Officer from Councillor Wendy Flynn raising an issue of a departure from the Members Code of Conduct by Councillor Holliday.

1.2 To understand the nature of the present complaint it is necessary to relate some history of dealings which provide the background context to the present matter;-

I. The Standards Committee has previously dealt with a complaint against a former Councillor, Dennis Parsons, which centred upon a speech he made at a Council Meeting which was found to contravene the Code of Conduct for Members and he was subsequently sanctioned by this Committee.

II. Sometime in the early part of June 2020 Councillor Sandra Holliday sent an email communication to all Members of the Liberal Democrat Group of Councillors which, due to its contents, gave rise to a complaint being made by Councillor Wendy Flynn to the national Liberal Democrat Party which in itself lead to a hearing of the Liberal Democrats Complaints Panel on the 16th March 2021 at which a finding against Councillor Holliday was made and a sanction of being suspended from the Party for a period of six months imposed together with a requirement to attend training.

III. Subsequently, in early 2021, in preparation for the Annual meeting of the Council Councillor Holliday was put forward to be the Deputy Mayor of the Borough Council for the forthcoming year. In this regard Councillor Flynn was opposed to her fulfilling that role based on the previous issues that led to the decision by the Liberal Democrats Complaints Panel. At the Annual meeting of the Council on the 17th May 2021 Councillor Flynn spoke in opposition to the proposed election of Councillor Holliday as Deputy Mayor and her speech is attached to this report at Appendix 1.

IV At the meeting, having heard Councillor Flynn's speech, Councillor Holliday made a reply which is attached at Appendix 2 and which forms the basis for the complaint by Councillor Flynn.

2. The Complaint

2.1 Councillor Flynn has raised the following issues:-

- (a) Councillor Holliday's response to Councillor Flynn opposing her election was to attack her character and she alleges that Councillor Holliday's speech was not in keeping with several of the Nolan Principles specifically:

Selflessness – Councillor Holliday spoke in her own interests, not those of the public interest

Accountability – in being accountable, a member must be willing to submit themselves to scrutiny. Public attacks on character of those who seek to scrutinise is not being accountable.

Honesty – Councillor Holliday inaccurately reported the process within the Liberal Democrats Complaints Panel and has thereby not been honest

Leadership – holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs. .

- (b) Cllr Holliday's speech made a number of allegations which Councillor Flynn has identified and appear in quotation marks:-

"The outcome was accepted by myself and it's disappointing that Councillor Wendy Flynn has chosen not to accept it also."

"This was an internal matter within the Liberal Democrat Party which Councillor Flynn's tried to make greater than it is and cause a rift due to her as the complainant not seeing to accept the ruling."

"This illiberal attitude is against our party values."

"It is deeply disappointing then that these roles have been made political."

"when I was told that Councillor Flynn had issued an ultimatum that she intended to make a statement unless I withdrew my nomination, I felt that this was intimidation, blackmail and is bullying. And I feel it's important to stand up to bullies."

Councillor Flynn states that she has never issued any sort of ultimatum to Councillor Holliday nor has she blackmailed, bullied or intimidated her. In addition she states she has not tried to cause a rift in the Liberal Democrat group and is not illiberal. She further states that she has not made the roles of mayor and deputy mayor political. She states that she has not had any direct contact with Councillor Holliday since well before the meeting in June 2020 and any such contact has been in online meetings, full council and the online Standards hearing, always with others present at which she has not directed any comments to her but to the wider meeting. She says therefore the suggestion that she has bullied intimidated and/or harassed Councillor Holliday is untrue.

Councillor Flynn acknowledges that Councillor Holliday was entitled to challenge, criticise and disagree with the statements she made and the views and opinions she expressed in her speech but not to deliver a personal attack on her character. Councillor Flynn is of the opinion that Councillor Holliday's behaviour at the AGM, was not just dishonest, it was offensive, possibly malicious, definitely insulting and was an abuse of her position both as a long-standing councillor as well as deputy mayor elect with 2 years prior as deputy mayor. She further states that accusing her falsely of: attempting to cause a rift within the Liberal Democrat group; being illiberal; making the roles of mayor and deputy political; issuing an ultimatum; blackmailing and bullying her, undermined and humiliated her. Councillor Flynn further

advances the view that Councillor Holliday's behaviour amounts to bullying and, in her opinion, is a clear breach of the Members Code of Conduct at para 7. She also believes there may have been a breach of section 7.3 in that she has suffered victimisation as defined by the Equality Act. She says she was treated badly because of standing up to and speaking out against racist behaviour.

3. 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, formed the view 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". In addition a separate investigation process did not appear necessary as the information upon which the complaint is based is a matter of record.

3. Factual Background and Context

3.1 On the 17th May 2021 the Annual meeting of Cheltenham Borough Council took place. The meeting was broadcast contemporaneously via YouTube.

3.2 One of the items of business considered by the Council was the election of the Deputy Mayor for the year 2021/22 and within the consideration of that matter Councillor Flynn made a speech opposing the election of Councillor Holliday to the position. Councillor Holliday responded to that speech. The contents of the speeches are a matter of record.

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 3, 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)(2) and 7(8) below are relevant to this complaint and provide:-

- 7(1) “Do treat others with respect”
- 7(2) “Do Not bully a person”
- 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 Holliday was acting in her official capacity, thus engaging the requirements of the Code of Conduct. It is clear that Councillor Holliday 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(2) “Do Not bully a person”
- 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 Holliday's oral contributions to the meeting on the 17th May 2021 which have been broadcast and which remain 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 complaint and the main concern highlighted within it which can be summarised as statements being made in a speech by Councillor Holliday on the behaviour of Councillor Flynn which amounted to intimidation, blackmail and bullying. Made at a public meeting these remain available to be viewed on the Council website which amounts to a breach of the requirement within the Cheltenham Borough Council Code of Conduct to treat others with respect.

5.6 Consultation with the Independent Persons

The complaints were, as required, referred to the Independent Persons for comment and their response was that issues raised against Councillor Holliday did require consideration.

5.7 Analysis of complaints

Although the information in respect of the earlier incident involving the censure of another Councillor and the complaint in respect of Councillor Holliday to the Liberal Democrats Complaint Panel are contained in this report they are cited merely as context. The complaint presently for consideration revolves solely around the events that took place at the Annual Council meeting in May of this year. As previously stated the complaint is centred upon a speech made at that meeting by Councillor Holliday and as such only the contents of the speech needs to be considered together with an application of the requirements of the Code of Conduct to its contents

- 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 complaint, the context set out above, the comments of the Independent Persons and the specific application of the Code of Conduct, it is clear that there exists a viable issue for the consideration of the Standards Committee in respect of the complaint. This is that the content of the speech in respect of the remarks made by Councillor Holliday in relation to the alleged behaviours of Councillor Flynn, which are not supported by any evidence, could be construed as impeaching her character and being in breach of the requirement of the Code of Conduct to treat others with respect.

- 5.10** The Monitoring Officer is delegated to seek a mediated resolution of complaints when they arise and, on this occasion, an attempt was made to conclude the matter by requesting Councillor Holliday to issue an apology to Councillor Flynn. Councillor Holliday declined to proceed by this course. It is correct to say that Councillor Holliday was able to decline this proposal and, except for reporting the fact that this approach was attempted, her decision not to apologise is not central to the Committees

deliberations. It is relevant however in explaining why this matter has eventually, with the approval of the independent Members, been referred to the full Standards Committee for decision and disposal.

5.11 Conclusion

In the absence of a mediated conclusion to the complaint the issue falls to be determined by the Standards Committee. The speech, the subject of the complaint, does not require any technical interpretation and can be assessed as to its effects on a straight forward consideration of its contents.

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 the Committee may consider it appropriate to impose a sanction requiring that Councillor Holliday makes a full apology to Councillor Flynn, which would be published on the Council's website.

7.3 The Council has a Member Training Programme which includes training for all Borough Councillors on various areas and the Committee may consider that attendance at specific training around the issue of the appropriate conduct for a Member in a meeting of the Council could be considered in the present circumstances.

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

Monitoring Officer,
Cheltenham Borough Council

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Cllr Wendy Flynn's Speech –Annual Council Meeting

During the full council meeting of the 15th June, WE voted on a motion. Proposed by Cllr Clucas and seconded by Cllr. Willingham, it said "Cheltenham Borough Council puts on record its support for Black Lives Matter and its TOTAL opposition to ANY kind of racism." It goes on to say "Cheltenham Borough Council believes in action, not just fine words." TOTAL OPPOSITION! BELIEVES IN ACTION! We have an opportunity before us right now to put in action, not just fine words, our total opposition to any kind of racism. To not do so makes a mockery of that motion, of the democratic process, of the trust that our communities put in us. If we betray that trust we don't deserve to be councillors.

During that meeting and speaking on the Black Lives Matter motion, the then Cllr Parsons made comments that were incredibly offensive and many councillors expressed their outrage and made complaints against Cllr Parsons that resulted in a Standards Board hearing. The current Deputy Mayor was not one of those who expressed her outrage. In fact, she directed her anger at other Lib Dem councillors for calling out Parsons and accused them of being on a witch-hunt. She sent an email to all Lib Dem Councillors reiterating her feelings, an email which later found itself in the public domain and the subject of a Gloucestershire Live article.

However it was meant, Parsons speech had a racist impact. Cllr Holliday's defence of Parsons had a racist impact. The email sent by the Deputy Mayor, Sandra Holliday, and published in the Echo had a racist impact. Voting for Cllr Holiday to be deputy mayor again would be to ignore this and the harm done. Voting for Cllr Holliday to be deputy mayor again will have a racist impact. Total Opposition, any kind of racism, believes in action...that is what we voted for.

The views expressed in Cllr Holliday's email sought to excuse and even deny past racism, echoed the opinions of those who defend racism and failed to consider the hurt racism has caused and continues to cause. A mayor or deputy mayor who holds these views cannot represent the whole town and our diverse communities.

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Cllr Sandra Holliday's Speech –Annual Council Meeting

Thank you Mr Mayor and can I congratulate you too on your appointment as mayor and I know that you'll do our town proud. I feel a little bit shocked and saddened with some of the comments made by some members and whilst not wanting to take up too much time I'd like to make the following points. Following the Council meeting in June 2020, and having run the email that has been spoken about past Rowena Hay with no adverse comments, I emailed all Lib Dem council colleagues individually from my personal email address following an acrimonious Lib Dem group meeting on 16th June 2020. Whilst not marking the email confidential it was never intended for it to be made public or shared outside the group. On 18th June I received an email from the Lib Dem Standards Office notifying me of an anonymous complaint made against me. On 19th June I had a call from the Gloucestershire Echo asking me to comment on my email which was leaked to them. They would not divulge the source. The then leader of the Council and Lib Dem group leader, Steve Jordan, told me that he did not find my email to be outrageous and considered that the leaking of the email was more serious and I think I can put my hand on my heart and say that at no time did I defend the comments made by a certain member in the chamber at that time. The complaint against me was heard in March and sanctions applied. The case was heard internally and by independent members of the Liberal Democrat national party. The outcome was accepted by myself and it's disappointing that Councillor Wendy Flynn is chosen not to accept it also. Both Councillor Flynn and myself are members of the same party. This was an internal matter within the Liberal Democrat Party which Councillor Flynn's tried to make greater than it is and cause a rift due to her as the complainant not seeing to accept the ruling. This illiberal attitude is against our party values. I have not been excluded or expelled from the Liberal Democrat Party. I have stepped back from the Liberal Democrat council group for a period of time. I remain as has been said as an aligned councillor continuing to do the best for the residents of my ward. I issued an apology in February to the Cheltenham Lib Dem council group and have further apologised unreservedly. I can do no more. As we know the appointment of mayor and deputy mayor are not political appointments but are based on length of service and as we've heard I've been a councillor since 1996, I've served as deputy mayor for the past 2 years carrying out a diverse range of engagements when the mayor was engaged on official duties elsewhere. It is deeply disappointing then that these roles have been made political. I'm not sure what support I will get from members present but when I was told that Councillor Flynn had issued an ultimatum that she intended to make a statement unless I withdrew my nomination, I felt that this was intimidation, blackmail and is bullying. And I feel it's important to stand up to bullies. I realise the consequences of the outcome should members not support me but going forward I would urge tolerance and understanding when dealing with others who have a different opinion to you. Sometimes there is no right or wrong. Sometimes the meaning isn't clearly articulated. Be kind to each other, you'll gain a lot more. Thank you Mr Mayor.

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CHELTENHAM BOROUGH COUNCIL

CODE OF MEMBERS' CONDUCT

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

Contents and Definitions

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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 –

- (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) –

- (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.

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