

## Standards Committee

Tuesday, 11th December, 2012  
2.00 - 3.15 pm

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

### Minutes

#### 1. ELECTION OF CHAIR AND VICE CHAIR

The Monitoring Officer invited nominations for the position of chair and vice chair of the committee.

Councillor Flynn was nominated for chair by Councillor Barnes and seconded by Councillor Regan. Councillor Regan was nominated for vice chair by Councillor Godwin and seconded by Councillor Fletcher.

Upon a vote it was unanimously

**RESOLVED that Councillor Flynn and Councillor Regan be appointed as chair and vice chair respectively.**

#### 2. APOLOGIES

Councillor Wheeler had given his apologies.

#### 3. DECLARATIONS OF INTEREST

Councillor Regan declared that she is a member of Leckhampton with Warden Hill Parish Council.

#### 4. LOCALISM ACT 2011 - IMPLEMENTATION OF NEW CONDUCT REGIME

The Monitoring Officer introduced the report which aimed to inform members of progress following the adoption of the Code of Members' Conduct and new arrangements for the investigation and determination of complaints.

Two Independent Persons had been appointed as co-opted non-voting members of the committee, a statutory role which would support the Monitoring Officer in consideration of complaints. Both the Independent Persons had a number of years experience in such conduct matters, with Mr Duncan Chittenden who had previously been a member of the Standards Committee at CBC and Mr Martin Jauch who had under the previous regime been Chair of the Standards Committee at Cotswold District Council. The basic principles remained unchanged as the Council had adopted a Code of Conduct which included similar provisions to the previous Code. The Council had also decided, in the absence of a requirement for complaints to be referred to a Committee or Sub-Committee, to delegate determination of complaints, subject

to certain safeguards, to the Monitoring Officer in an effort to make the process far less bureaucratic. However there was still a Hearing Sub Committee which would consider more serious or complex complaints. It is in the interest of the committee and Council as a whole to make the new regime which is one of local choice, work.

Mr Chittenden introduced himself and explained that as well as being a member of the previous Standards Committee at CBC, he had also been Chairman of the Police Authorities Standards Committee. He had worked with the Monitoring Officer for some time and had developed a good working relationship.

Mr Jauch introduced himself and explained that having been a member of the Standards Committee at CDC for some four years he had been involved in some large scale and contentious complaints. He was looking forward to working under the new regime as he had found the previous regime to be slow and unwieldy. He felt confident that the Independent Persons position would defend against any suggestion that the Council was protecting themselves and felt that this independence could also be used in an innovative way.

The new arrangements had now been in place since July 2012 and the Monitoring Officer was pleased to report that all Borough Councillors had now completed their Register of Interest (ROI) forms. There were some outstanding concerns from members especially those from Parish Councils namely; the disclosure of certain interests including those which relate to a spouse or civil partner and the requirement for the Monitoring Officer to publish the Register Of Interest forms on the internet. She had raised points of concern regarding data protection and human rights with the Government to which she was still awaiting a response and with the Information Commissioner who had provided a partial response. Pending receipt of these assurances the ROI forms had not yet been made available on the internet.

The Monitoring Officer gave the following responses to questions from members of the committee;

- The new legislation has introduced a new criminal offence for failure to comply with the disclosable pecuniary interest requirements. The Monitoring Officer sympathised with Parish Council members, most of whom had been elected or co-opted to Parish Councils well before the new provisions had been drafted. It was explained that the legislation applied to all tiers of Local Government and essentially aimed to ensure that members did not influence decisions on matters in which they had an interest. She was not aware that any of the local MPs were looking to overturn elements of the legislation and there was also no evidence that the disclosure requirements under the old regime had posed any problems locally. She reiterated that she had raised concerns regarding data protection and human rights and would circulate an update to members in due course.
- The Localism Act 2011 replaced Standards Committee Regulations 2008 and also those parts of the Local Government Act 2000 that were inconsistent with the Localism Act.
- Suspension of a member is not a sanction which is now available to the committee in cases where a member has failed to comply with the Code

of Conduct. The most serious offence regarding disclosable pecuniary interests could now result in criminal proceedings and anything else was reliant upon self discipline by authorities and members. The list of sanctions contained within the Terms of Reference simply indicated what sanctions are available and it would be for the committee itself to set specifics..

- The decision as to whether a report to Council regarding a complaint against any member was discussed publicly would depend on a number of circumstances and would be subject to the usual tests for determining whether or not a matter should be dealt with as exempt business. It would be for the committee to decide based on the advice given by the Monitoring Officer.
- There were limitations as to what the committee could do but their focus had been and should continue to be helping members to understand what is expected of them, to comply with the conduct requirements and therefore to avoid complaints and investigations. Members of the committee needed to help make it work for the users, and for the public for the benefit of the Council's reputation.

A number of members were disappointed with the sanctions available to the committee and felt that the risk of suspension acted as a deterrent to members, the same of which could not be said for the sanctions under the new regime.

Mr Chittenden understood members' points about sanctions but in the past he had found it to be the case that those under investigation found it rather a difficult experience which felt like a sanction in itself.

Upon a vote it was unanimously

**RESOLVED that the progress made so far by Cheltenham Borough Council and the Parish Councils within the Borough area for implementation of the new conduct arrangements be noted.**

## **5. COMMITTEE WORKPLAN**

The Borough Solicitor and Monitoring Officer explained that there were a number of protocols which complemented and supported the Code of Conduct that she felt the committee should be reviewing over a period of time. She suggested that some may be out of date and in some instances the committee might just like to satisfy themselves that they reflect the provisions of the current Code of Conduct and clearly demonstrate to the public how members will conduct themselves at meetings such as the Planning and Licensing Committees.

The Planning Protocol was important as was the Member/Officer relations protocol and the committee might in reviewing their provisions, wish to seek the views of those members using the Protocols. It was not felt to be necessary to delay a review of the Planning Protocol until the matter of the JCS had been concluded as it could be further amended at a later date if necessary.

In response to a query the Monitoring Officer reminded members that the Hearings Sub Committee would meet on an ad-hoc basis as and when required. She accepted that over time members may decide that there was little or no need for a Standards Committee but that its establishment under the new

regime was a public statement of the importance given by the Council in high standards of Member conduct. The previous regime was drawn out and offered no flexibility. However, under the new regime the Council had agreed a number of delegations and provided that a complainant was not entirely dissatisfied with the Monitoring Officer's decision (made in consultation with the Independent Persons) then this would simply be reported to the committee. It would be possible for the Council to revisit these delegations at some stage if there were any concerns.

Mr Chittenden felt that the existence of the Standards Committee was a statement to the electorate and it was for the committee to advocate the changes and communicate to the Council regarding what was happening. He also felt that it had a role to play in managing risk to the reputation of the Council.

Councillor Godwin felt that there was a risk of bringing the Council into disrepute when those that were found to have failed to comply with the Code of Conduct received no real sanctions.

The committee agreed that they would commence the review of the Planning Protocol at their next meeting.

#### **6. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**

Upon a vote it was unanimously

**RESOLVED that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 7C, Part 1, Schedule 12A (as amended) Local Government Act 1972, namely:**

##### **Paragraph 7C**

**Information presented to a Standards Committee, or to a sub-committee of a Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000**

#### **7. CONSIDERATION OF A REPORT**

The Monitoring Officer introduced the report which advised the committee of a decision taken in consultation with the Independent Persons.

#### **8. ANY OTHER BUSINESS**

There was no other business for discussion.

#### **9. DATE OF NEXT MEETING**

The next meeting was scheduled for the 28 February 2013 and members agreed that 2pm was a convenient start time for future meetings.

Wendy Flynn  
**Chairman**