

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Committee**
held on Monday, 25th July, 2011 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Mr N Briers Independent Chairman
Mr D Sayers Independent Vice Chairman

Councillors D Flude (Substitute for Cllr M Martin), P Groves, J Hammond,
D Marren, H Murray and M Parsons

Parish Representatives

Mrs P Barnett and Mrs T Eatough

Independent Members

Mr I Clark, Mr M Garrett and Mr R Pomlett

OFFICERS

D Moulson Democratic Services Officer
J Openshaw Deputy Monitoring Officer

APOLOGIES

Councillors R Fletcher and M Martin

1 DECLARATIONS OF INTEREST

Parish Council Representative Mrs P Barnett declared a personal and prejudicial interest in item 6 (Application for dispensation from Twemlow Parish Council) as Chairman of Twemlow Parish Council and as a named applicant.

2 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules Nos. 11 and 35, a total period of 10 minutes was allocated to members of the public to address the Committee on any matters relevant to its work.

There were no members of the public in attendance and the Committee proceeded to its next item of business.

3 MINUTES OF PREVIOUS MEETING

RESOLVED: That the Minutes of the meeting held in 6 April 2011 be approved as a correct record and signed by the Chairman.

4 PRESENTATION ON THE WORK OF THE STANDARDS COMMITTEE

Having welcomed new Members to the meeting, the Deputy Monitoring Officer made a short presentation to the Committee on the role of the Standards Committee, its terms of reference and responsibilities under the Model Code of Conduct.

A short question and answer session followed seeking points of clarification on matters referred to in the presentation.

5 APPLICATION FOR DISPENSATION FOR TWEMLOW PARISH COUNCIL MEMBERS

The Committee was invited to determine an application submitted by six Members of Twemlow Parish Council for a dispensation which, if granted, would enable them to take part in debate and vote upon matters relating to the old Ministry of Defence Oil Storage Depot, Twemlow. The application had been made in anticipation of a forthcoming planning application concerning the Depot; the Parish Councillors stating that they each had a personal and prejudicial interest in the site as they knew well/were personal friends of the applicant and/or lived directly opposite the site.

The Deputy Monitoring Officer explained that it was the role of the Committee to determine whether the application should be granted. In accordance with the Code of Conduct and in the absence of any dispensation, the Parish Councillors would be required to declare a personal and prejudicial interest in any planning application, which would render the Council inquorate, unable to perform its role as a statutory consultee to the planning application and would prevent the Parish Council from representing the views of its residents.

A copy of the Standards for England Dispensation guidance was attached to the report for information. Members noted that the applicants had no right of appeal against the decision of the Committee and that, if members were minded to support the application, a reasonable time limit should be applied.

RESOLVED: That i) a dispensation be granted to the members of Twemlow Parish Council named in the report (subject to the correction of Graham Holborn's name to Graham Holborow); members to be permitted to speak and vote thereon on matters concerning the Oil Storage Depot, Twemlow; and ii) the dispensation to remain in force until the end of April 2015.

(Note: Having previously declared a personal and prejudicial interest and in accordance with the Code of Conduct, Parish Councillor P Barnett left the meeting and took no part in the discussion and voting on the item.)

6 THE PLANNING PROTOCOL

The Council had adopted a Planning Protocol in February 2009 with a view to refreshing the document at a later date following receipt of updated guidance and to reflect emerging operating practices of the Council's three Planning Committees.

Standards Committee had considered a revised document in September 2010 since when it had been subject to detailed consideration by the Constitution Committee. Having made some changes to the form of the document, the Protocol was submitted to Strategic Planning Board on 20 April 2011 which resolved that the amended version should be recommended to both the Standards Committee and Constitution Committee for adoption by the Council and inclusion in the Constitution.

The document set out the rules governing public speaking, stipulating that non-committee members should not communicate with Committee members during meetings. Reference was made to an apparent absence in the protocol of rules which governed speaking at site inspections. It was confirmed that this matter had been addressed under the Council's Site Inspection Protocol but, as the Planning Protocol would need to be amended again in light of the Localism Bill, the inclusion of a secondary reference could be reconsidered at that time.

Paragraph 13.1 of the Protocol stated that "*you should attend the mandatory planning training prescribed by the Council before you participate in decision-making at meetings*". It was considered that use of the word 'should' was at variance with actual practice as Members were not permitted to take part in meetings until they had undergone the training. It was proposed that the sentence should be amended with the word 'should' being replaced with 'must'.

RESOLVED: That a) the comments of the Standards Committee concerning the amended Planning Protocol be submitted for consideration by the Constitution Committee; and b) subject to these comments the Protocol be commended for inclusion in the Council's Constitution.

7 THE STANDARDS REGIME - UPDATE ON THE LOCALISM BILL

The Committee considered the report of the Borough Solicitor and Monitoring Officer which sought to update members on the progress of the Localism Bill.

Amongst other matters contained in the Bill were proposals to abolish the Standards regime; the Standards for England website indicating that it was likely that it (Standards for England) would cease to investigate complaints in late 2011 or early 2012 and be formally abolished during 2012. Whilst local Councils would remain under a duty to promote and maintain high standards of conduct by Members and co-opted Members of the authority; the position relating to the Code of Conduct was the subject of ongoing parliamentary debate although the retention of Standards Committees remained voluntary at this time.

Members had previously expressed the view that the Council should adopt a voluntary code and retain its Standards Committee but a formal recommendation had not yet been submitted to Council. The Chairman confirmed that it would be considered good practice to have in place a Code of Conduct and support for the continuation of a local standards regime existed amongst Council Members.

A discussion ensued about the form a future Standards Committee could take, which included –

- the role of independent members on the Committee;
- potential for combining the ethical governance role with the work of a compatible body i.e. Audit and Governance Committee;
- the involvement of the Cheshire Association of Local Councils in the process; and
- future powers.

As the sanctions which could be imposed would remove the right to suspend, partially suspend or disqualify Councillors, there was concern that a future Committee would lack 'teeth' and could be viewed as an additional level of bureaucracy, a perception which would need to be addressed.

To ensure that the Committee was able to consider the views of those affected by the changes, it was suggested that a short discussion paper be drafted by the Chairman and Vice Chairman setting out the arguments for and against the retention of a local Standards Committee and voluntary Code of Conduct. Following consultation with the Monitoring Officer, the paper would be submitted to the political Group Leaders on the Council, with a request that comments on the matter be submitted to the Committee's September meeting for consideration.

RESOLVED: That a) the report be noted; and b) the Chairman and the Vice Chairman be invited to draft a discussion paper for consideration by the Political Groups on Cheshire East Council on the future of the local standards regime, feedback to be submitted to the Committee for discussion at its meeting on 26 September 2011.

8 THE BRIBERY ACT 2010

The Committee considered the report of the Borough Solicitor and Monitoring Officer which sought to update Members on the passage of the Bribery Bill into legislation.

A report was first presented to the Standards Committee outlining the draft legislation in March 2010. Having gone through due parliamentary process, the Bribery Act 2010 had come into force on 1 July 2011, its purpose to provide a more effective legal framework to combat bribery in the public and private sectors.

In introducing the report, the Deputy Monitoring Officer briefly identified the aims of the Act and outlined the new offences which had been created under it. She confirmed that Councils were not considered to be commercial organisations for the purposes of the Act but that they must take reasonable steps to prevent instances of this kind. None of Cheshire East Council's current policies would need to be amended in light of the changes although the procurement procedures would reflect the new legislation.

RESOLVED: That the report be noted.

9 STANDARDS COMMITTEE MEMBERSHIP

The composition of the Standards Committee was/is 8 elected members, 5 non-council independent members and 3 parish representatives. Following the local government elections on 5 May 2011, one of the three parish representatives appointed to the Committee had been successful in his candidacy for the Borough Council. As a result, he could no longer sit on the Committee in this capacity which has resulted in a vacancy being created. It was reported that an approach had been made to the Cheshire Association for Local Councils (ChAIC) to secure a nomination for the post.

10 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of following item pursuant to Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2 and 7c of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

11 TRAINING ON THE CODE OF CONDUCT

The Committee considered the report of the Borough Solicitor and Monitoring Officer which reported on action taken following a request to organise training as part of other action directed by the Assessment Sub Committee.

The training session in question, which had originally been scheduled for July 2011, was to have been attended by a Councillor who had been the subject of an allegation of misconduct following which the Assessment Sub Committee had concluded that the matter should be referred to the Monitoring Officer for 'other action'. However, the session had been deferred until September due to the high number of apologies received, which included those of the Subject Member concerned.

Under the Code of Conduct, there was no recourse possible if a Subject Member failed to comply with the 'other action' required. The Chairman suggested that the matter could be addressed under a future voluntary Code of Conduct but, in order to resolve the current situation, the views of the Committee were sought as to an appropriate way forward.

Members considered that, under the circumstances, it would be futile to pursue the Subject Member for non-compliance but that a letter should be sent expressing the Committee's regret in respect of the actions of the individual concerned.

RESOLVED: That a) no further action be taken in respect of the Subject Member referred to in the report; and b) a letter be sent to the Subject Member expressing the Committee's disappointment in respect of their non-attendance at training.

The meeting commenced at 2.00 pm and concluded at 3.20 pm

Mr Nigel Briers (Independent Chairman)