

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Committee**
held on Monday, 18th June, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Mr N Briers	Independent Chairman
Mr D Sayer	Independent Vice Chairman

Councillors R Fletcher, P Groves, J Hammond, F Keegan, M A Martin,
D Marren, H Murray, M Parsons and Barnett

INDEPENDENT MEMBERS

Mr M Garratt and Mr R Pomlett

PARISH MEMBER

Mrs P Barnett

OFFICERS

Caroline Elwood	Borough Solicitor and Monitoring Officer
Julie Openshaw	Legal Team Leader (Places, Regulatory and Compliance) and Deputy Monitoring Officer
Diane Moulson	Committee Officer

APOLOGIES

Mr I Clark (Independent Member), Mrs T Eatough and Mrs B Lawton (Parish
Representatives)

1 DECLARATIONS OF INTEREST

Councillor Michael Parsons declared a person interest in agenda item 3 (Public
Speaking Time/Open Session) on the grounds that he was acquainted with Mrs
Charlotte Peters Rock, who was in attendance at the meeting and who was to
address the Committee in accordance with Public Question Time Rules.

2 PUBLIC SPEAKING TIME/OPEN SESSION

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

Mrs C Peters Rock was in attendance and, as part of her address; posed two questions to the Committee:-

- 1) What could the Committee do about a decision to appoint a former Portfolio Holder for Health and Well-being onto the Health and Adult Social Care Scrutiny Committee, whose role would be to scrutinise matters previously dealt with by the Cabinet; and
- 2) What influence could the Committee have over encouraging Members to acknowledge their mistakes by their own volition without the need for a member of the public to submit a complaint?

Mrs Peters Rock also drew the Committee's attention to the joint working arrangements for social care with Cheshire West and Chester Council (CWAC) stating that she hoped that Cheshire East would work with CWAC to ensure public confidence in the process.

3 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 14 May 2012 be approved as a correct record.

4 LOCALISM ACT 2011: NEW CODE OF CONDUCT

At the previous meeting of the Issues and Ideas Working Group held on 14 May 2012, Members considered two draft Codes of Conduct produced by the Department of Communities and Local Government (DCLG) and the Local Government Association (LGA). In addition, on 17 May 2012 the National Association of Local Councils (NALC) had issued a template code for Parish Councils, a copy of which was provided for Members' information.

To ensure consistency across Cheshire, and in line with preferences expressed by Members at the last meeting, a draft Code of Conduct based on the DCLG illustrative text had been developed and adapted to include behaviours Members were expected to uphold (that were part of the Model Code) but which had not been explicitly defined in the illustrative text e.g. maintaining confidentiality and respect for others. Equally, the requirement not to bring a Member's office into disrepute had not been included as it was considered that this had, in the past, been used as a way of reflecting a complainant's wider dissatisfaction with an issue rather than address alleged breaches of the Code of Conduct.

The Borough Solicitor drew Members attention to a number of changes from the Model Code not present in the draft, most noticeably in respect of declaration of interests. It was reported that the Regulations in respect of disclosable pecuniary interests had now been published, which would replace the need to declare personal and prejudicial interests. Although the Regulations prescribed these interests, it did not stipulate that Councillors should withdraw from the meeting room whilst the matter was debated/voted upon and it was suggested that the Committee may wish to recommend to Constitution Committee/Council that this requirement be included in the Council's Procedure Rules.

Opposing views were expressed about whether Members should withdraw from the meeting when the item was first called or when the vote was taken. Having considered the arguments put forward, it was recommended that a requirement to withdraw from the meeting should be at the point an item was called.

The debate then turned to issues relating to confidentiality, bullying and respect. It was suggested that, due to the need to maintain confidentiality, it was not always possible for Members to be open at all time and a minor change to the wording of paragraph 5(a) Confidentiality, changing 'as' to 'where' possible would be appropriate. A request was also made for explanatory notes to be included in the Code which defined these three behaviours; the Monitoring Officer suggesting that the definitions drawn up by Standards for England in respect of confidentiality and bullying (with the addition of the phrase 'cyber bullying' to cover abuse of electronic communications) could be added for clarity. A further alteration, changing the word 'respect' to 'courtesy' would, Members felt, be self explanatory and negate the need for further addendums to the Code.

RESOLVED: That -

- a) Subject to a minor alteration to the wording of paragraph 5(a), changing 'as' to 'where', the substitution of 'courtesy' for 'respect' in paragraph 7(a) and the inclusion of explanatory notes in respect of confidentiality and bullying; the draft Code of Conduct set out in appendix 4 of the report be recommended for approval and adoption by full Council on 19 July 2012; and
- b) Constitution Committee be invited to recommend to Council on 19 July 2012, an amendment to the Council's Constitution which would require a Member to withdraw from a meeting having declared a pecuniary interest.

5 INVESTIGATION OF COMPLAINTS: PROCEDURE

Principal authorities would, under the Localism Act, be responsible for investigating complaints that a member of the Borough Council or a Town/Parish Councillor in their area had breached their Code of Conduct. This would require the authority to have in place a procedure for dealing with complaints.

As a result of discussions by both the Committee and the Issues and Ideas Working Group, it has been agreed that responsibility for standards matters should transfer to the Audit and Governance Committee, which Council had approved on 16 May 2012 i.e.

That the Audit and Governance Committee establish, on an ad-hoc basis, a Sub-Committee with delegated powers to deal with standards issues, with effect from the next meeting of the Council in July 2012

The Terms of Reference for the Committee, now submitted, suggested the formation of three sub-committees to deal with complaints; an Initial Assessment Panel to determine the validity of the complaint against agreed criteria, a Local Resolution Panel to determine/resolve minor breaches of the Code and a Hearings Sub-Committee to consider reports from an Investigative Officer should an external investigation been deemed necessary. A draft procedure together with an explanatory flowchart and the assessment criteria to be followed were presented to Members by the Borough Solicitor.

In general, the proposals found favour with the Committee; however the following matters were debated:

- i) Notification of complaint: Members considered that the Subject Member, against whom the complaint had been made, should be notified of the fact and provided with a copy of the complaint form BUT that s/he should be directed not to make contact with the Complainant until such time as the complaint process had been concluded.
- ii) It was felt that permitting only one witness to attend a hearing was too restricted and whilst the procedure should be managed, Subject Members should be permitted to bring no more than 3 witnesses plus a supporter if required.
- iii) The present procedure did not allow for the right of review by the Complainant or Subject Member following the making of a decision. Contrasting opinions were expressed as to whether this option should be made available; the Committee deciding on balance that, as the new process was designed to be more stream-lined than at present, it should not be included.
- iv) Where no evidence of failure to comply with the Code was found, it was requested that the Monitoring Officer maintain a record of complaints received so as to identify vexatious complainants at an early stage.
- v) For consistency, it was agreed that a decision notice should be published following a meeting of the Local Resolution Panel.

RESOLVED: That –

- a) Subject to the inclusion of the amendments listed above, the procedure relating to the investigation of complaints under the new Code of Conduct at Appendix 1 of the report together with the criteria used to evaluate complaints set out in appendix 3 be recommended for adoption by the Council on 19 July 2012; and
- b) Constitution Committee, at its meeting on 5 July 2012, be invited to approve the Terms of Reference set out in appendix 4 for formal adoption by Council on 19 July 2012.

6 APPLICATION FOR DISPENSATION: ROSTHERNE PARISH COUNCIL

The Committee was invited to determine an application submitted by seven Members of Rostherne Parish Council for a dispensation which, if granted, would enable them to take part in debates and vote upon matters relating to the Tatton Estate, of which they were all tenants.

In accordance with the Code of Conduct and in the absence of any dispensation, Parish Councillors would be required to declare a personal and prejudicial/pecuniary interest in any application/issue before the Parish Council, which would render the Council inquorate, unable to perform its role as a statutory consultee to the planning applications and would prevent the Parish Council from representing the views of its residents.

It was reported that the Parish Council had last applied for a dispensation in 2009, which was granted by the Committee at its meeting on 21 September; remaining in force 'until the next elections' which had taken place in May 2011. As no further request had been received or granted prior to the expiry date, no dispensation was currently in force.

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 Rostherne Parish Council named in the report i.e.

Edward Ernest Wakefield
Edward Blockley
Joseph Gate

Thelma Horobin
Dominic M Fenton

Julie Owen
Akhim Eugene Fahey

those Members to be permitted to speak and vote thereon on matters concerning the Tatton Estate; and i) the dispensation to remain in force until the next parish elections due to take place on 7 May 2015.

7 CLOSING REMARKS

As this was the last meeting of the Standards Committee, the Chairman paid tribute to work of the Committee and its Members, making particular reference to the contribution of the Independent non-elected members and Parish Representatives whose roles were coming to an end. Cllr Hammond reciprocated the Committee's thanks to the Chairman who was also standing down.

The meeting commenced at 2.00 pm and concluded at 4.00 pm

Mr N Briers (Chairman)