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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Committee**
held on Monday, 26th March, 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, H Murray and M Parsons

Councillor J P Findlow Substitute for Councillor D Marren

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

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

25 DECLARATIONS OF INTEREST

No declarations of interest were made in any item of business on the agenda.

26 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.

Following a short statement by the Chairman on the appropriate use of public speaking time/open session, Mrs C Peters Rock addressed the Committee, directing her comments to agenda item 5 concerning the Standards regime under the Localism Act. She expressed a wish that the procedures agreed for introduction on 1 July 2012 were as strong as possible and that elected members would demonstrate their commitment to upholding the Nolan principles of public life i.e. selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

27 MINUTES OF PREVIOUS MEETING

The Committee was invited to approve the Minutes of the meeting held on 21 November 2011.

RESOLVED:

That the Minutes of the meeting held on 21 November 2011 be approved as a correct record.

28 STANDARDS REGIME UNDER THE LOCALISM ACT

The Committee considered the report of the Borough Solicitor and Monitoring Officer which i) set out the requirements of the Localism Act 2011; and ii) summarised the arrangements the Council would have to put in place to comply with its duties under the Act.

The Issues and Ideas Working Group had met on 23 January 2012 to facilitate an open discussion on the matter, the outcome of which was incorporated into the presentation now given by the Borough Solicitor. By way of introduction, it was reported that the Regulations, which would underpin much of the process were still awaited.

The Borough Solicitor began by outlining the requirements of the Act, Appendix D (flowchart) illustrating the procedure proposed i.e.

1. Complaint received and acknowledged by Monitoring Officer
2. Initial assessment by an ad-hoc Audit and Governance Sub-Committee to establish whether there had been a breach of the Code of Conduct within 21 days of receipt of the complaint
3. The Sub-Committee to have three options available to it;
 - ◆ no further action
 - ◆ refer to the relevant Group Leader for informal action (for Councillor to Councillor complaints)
 - ◆ refer for external investigation
4. There would be no right of appeal for 'no action' cases
5. External investigations would need to be completed within 8 weeks
6. Hearing to be conducted by way of written representations with no right of appeal

At the conclusion of the presentation, members were invited to ask questions and give their views on the draft procedure.

Of concern to the Committee was the new role of Independent Person; insofar as the Act prohibited Independent members from applying for the post. Following a lobbying campaign to which Cheshire East had added its voice, the Borough Solicitor reported that the Secretary of State had indicated he was minded to introduce transitional arrangements which would allow Independent members to apply for and be appointed as Independent Persons for the initial term of office, expected to be four years.

Having considered the flowchart, specifically the proposal to deal with Member to Member complaints within political groups; it was the Chairman's view that the procedure was not balanced as it provided no equivalent mechanism for dealing with Town and Parish complaints. Having considered the matter, the Chairman and Vice Chairman had produced a paper (tabled at the meeting) which proposed the appointment of an Advisory Panel (made up of elected members, parish representatives and Independent members/Persons) which would meet with the complainant and subject member to try and resolve the grievance, to avoid the necessity of a full investigation.

The idea of independent involvement and opportunities for conciliation found favour with the Committee although not necessarily in the format proposed.

Some members considered that Independent members/the Independent Person should participate in the gateway procedure to help filter out vexatious complaints and ensure that resources were not wasted on unnecessary investigations. Others were concerned that the involvement of the Independent Person at this stage might prejudice his/her view at a later point in the process where they were required to be consulted, in accordance with the Act.

There was also support amongst members for the complainant and subject member to be invited to attend the gateway meeting along with key witnesses/supporters. However, if the eventual consensus of the Committee was that they should not be involved at this stage, it was considered important that the complainant and subject member be then afforded the right to attend the hearing in person, again supported by witnesses/supporters as required.

Having heard the arguments put forward, it was unanimously accepted by the Committee that a gateway procedure was required to establish the validity of the complaint and filter out any which could be considered vexatious. Furthermore, there was a general view that this was a suitable role for the ad-hoc Sub-Committee and, should a separate Advisory Panel be established, it would be best placed to consider what should then happen to a complaint in accordance with the procedure.

Page 5 of the report set out a number of recommendations for the Committee to consider. In light of the absence of the Regulations, it was proposed that the Committee defer its decision in favour of holding another meeting of the Issues and Ideas Working Group to move the discussion forward.

RESOLVED: That

- a) A decision on the future of Standards under the Localism Act be deferred to a special meeting of the Standards Committee; to be held following publication of the Regulations; and

- b) In the interim, a meeting of the Issues and Ideas Working Group be convened on Monday 14th May 2012 at 2pm for the purposes of drawing up a draft procedure for consultation.

29 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

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

30 COMPLAINTS RECEIVED UNDER THE CODE OF CONDUCT

The Committee received for information, the report of the Monitoring Officer and Borough Solicitor which provided an update on complaints received under the Code of Conduct.

The meeting commenced at 2.00 pm and concluded at 3.30 pm

Mr N Briers (Independent Chairman)