

KENT COUNTY COUNCIL

STANDARDS COMMITTEE

MINUTES of a meeting of the Standards Committee held in the Medway Room, Sessions House, County Hall, Maidstone on Wednesday, 23 January 2013.

PRESENT: Mrs A D Allen, Mr L Christie, Mr D S Daley and Mr K A Ferrin, MBE

ALSO PRESENT: Mr M E George and Mrs J Waghorn
Mr M George Independent Person (KCC) and Mrs J Waghorn Independent Person, Kent and Medway Fire and Rescue Authority

IN ATTENDANCE: Mr P Sass (Head of Democratic Services) and Mr P D Wickenden (Democratic Services Transition Manager)

UNRESTRICTED ITEMS

1. Substitutes/apologies

(Item 1)

(1) Mr Wickenden reported that the membership of the Committee was Mr L Christie, Mr D S Daley, Mr K A Ferrin MBE and Mr L B Ridings MBE.

(2) Mr Wickenden understood that Mr Ridings had been unwell and therefore it was unlikely that he would be at the meeting.

(3) Mr M George and Mrs J Waghorn the two Independent persons whose advice would be sought by the Monitoring Officer when complaints of alleged misconduct of a member which breached the Kent Code of Conduct for members were welcomed to the meeting.

2. Election of Chairman

(Item 2)

Mrs Allen moved Mr Christie seconded that Mr K A Ferrin MBE be elected Chairman of the Committee.

Carried without a vote

3. Election of Vice Chairman

(Item 3)

Mr K A Ferrin MBE moved and Mrs Allen seconded that Mr D Daley be elected Vice Chairman of the Committee.

Carried without a vote

4. Declarations of Interest

(Item 4)

There were no declarations of interest by Members on any of the items on the agenda for this meeting.

5. Minutes of the former Standards Committee - 26 June 2012

(Item 5)

RESOLVED that the minutes of the meeting held on 26 June 2012 are correctly recorded and that they be signed by the Chairman.

6. Localism Act 2011- Member Dispensations

(Item 6)

(1) As well as repealing the legislation relating to the 2007 Model Code of Member Conduct, the Localism Act 2011 also repealed a number of general dispensations for Members. In particular, there are no relieving provisions for members to enable them to consider certain matters, such as setting the Council's Budget and the Council Tax, and approving the Members' Allowances scheme.

(2) The Committee noted the specific dispensations in the 2007 Code of Conduct where it was deemed that an elected Member would not have a prejudicial interest i.e.

(a) School meals or school transport and travelling expenses, where you are a parent or guardian of a child in full-time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(b) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(c) An allowance, payment or indemnity given to Members;

(d) Any ceremonial honour given to Members; and

(e) Setting council tax or a precept under the Local Government Finance Act 1992

(3) According to the Department of Communities and Local Government (DCLG) it was not the Government's intention that members would be regarded as having a Disclosable Pecuniary Interest (DPI) in these specific areas, hence there is no relieving provision in the statutory regime. However, the law is far from clear on this issue and does not explicitly support the DCLG position.

(4) For the avoidance of doubt, therefore, the Committee was being requested to delegate authority to the Monitoring Officer to grant dispensations for members to participate in the Budget and Council Tax setting and other matters which are already set out in the Kent Member Code of Conduct.

(5) The Localism Act 2011 and the Regulations do not provide any relieving provisions for any of the circumstances described in sub paragraph (2) above.

(6) The recommendation before the Committee was that the Monitoring Officer be requested by the Committee to grant such dispensations. The record of this

committee's decision on this matter will suffice as a written request on behalf of the members of the Council. The dispensation is requested for the following reasons:

- (a) Without the dispensation, the number of persons prohibited from participating in the budget and council tax setting item, together with the approval of the Members' Allowances Scheme and ceremonial honours at County Council meetings, would be so great a proportion of the body transacting the business as to impede the transaction of business; and
- (b) Granting the dispensation is in the interests of persons living in the Authority's area.

(7) The Committee noted that with regard to the proposed dispensation in relation to the setting of the Budget and Council Tax, section 106 of the Local Government Finance Act 1992 still applies, which means that any Member who is in arrears of Council Tax of two months or more may must disclose the fact of their arrears and cannot vote on any relevant meeting.

(8) The Committee discussed why it appeared on the face of it that not all of the dispensations provided for in the 2007 code of Conduct were being proposed to the committee to be requested from the Monitoring Officer e.g. Statutory Sick Pay under Part XI of the Social Security contributions and Benefits Act 1992, school meals or school transport and travelling expenses where you are a parent or guardian.

(9) The Committee agreed that the Head of Democratic Services should examine in consultation with the Chairman whether a specific dispensation was required for those matters referred to in sub paragraph (8) above.

(10) RESOLVED that the Monitoring Officer be requested to grant a blanket dispensation for all council members from 23 January 2013 to 7 May 2013 for the following:

- (a) The approval of the Council's Revenue and Capital Budget and the setting of the Council Tax (unless in arrears as explained in Section 106 of the Local Government Finance Act 1992);
- (b) The approval of any borrowing under the Local Government Act 2003;
- (c) The making of calculations under s49A and §(B of the Local Government Finance Act 1992;
- (d) The approval of an allowance, payment to indemnify Members; and
- (e) The Head of Democratic Services in consultation with the Chairman be asked to further examine that all the issues have been identified where a blanket dispensation is required.

7. Any other urgent business
(Item 7)

(1) The Committee asked and were informed that since the adoption of the Kent Member Code of Conduct three allegations of Member misconduct had been received. All the complaints had failed either the legal jurisdiction test or the local assessment criteria test.

(2) The Committee voiced its opinion that when the Kent Member Code of Conduct is reviewed consideration should be given again to the right of appeal both for the 'subject member' and the complainant. The Committee did recognise that there was no provision for an appeal process prescribed in the Localism Act 2011.

(3) The Committee also stressed the importance of training for all Members on the provisions of the new Kent Code of Conduct for Members as soon as possible after the election. The Committee noted that dates had been identified for this training.

(4) The Committee place on record its appreciation to Mr Christie for his contribution to the former and current Standards Committee.

8. Date of Next Meeting

(Item 8)

The Committee suggested that the next meeting of the Committee should take place soon after the election on 2 May 2013 when the Committee would be able to look at the content of the training for elected Members on the Member Code of Conduct as well as consider a report on the potential to include an appeals process in the Kent Code for both the complainant and the 'subject Member'.