

By: Peter Sass - Head of Democratic Services, Kent County Council

To: Joint Appointments Committee – Kent Police Authority, 14 June 2011

Subject: MEMBERSHIP OF KENT POLICE AUTHORITY - VACANCIES

Classification: Unrestricted

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(1) The Committee is appointed jointly by Kent County Council (KCC) and Medway Council under paragraph 2(2) of Schedule 2 to the Police Act 1996 (“the Act”) to appoint the nine Councillor Members of the Kent Police Authority (KPA) from among Members of the two appointing Councils. The Committee has previously agreed that seven of the places should be filled by Kent County Councillors and two by Medway Councillors.

(2) The current serving Members are as follows:

| <b>Member</b>       | <b>Council</b> | <b>Party</b> | <b>Expiry of Term of Office</b> |
|---------------------|----------------|--------------|---------------------------------|
| Mr I Chittenden     | KCC            | Lib Dem      | May 2013                        |
| Mr J Cubitt         | KCC            | Con          | May 2013                        |
| Mr M Gates          | KCC            | Con          | May 2013                        |
| Councillor P Godwin | Medway         | Lab          | May 2011                        |
| Mr M Hill OBE       | KCC            | Con          | May 2013                        |
| Mr M Snelling       | KCC            | Con          | May 2013                        |
| Mrs P Stockell      | KCC            | Con          | May 2013                        |
| Mr A Wickham        | KCC            | Con          | May 2013                        |
| Councillor Reckless | Medway         | Con          | May 2011                        |

(3) Members will note that the terms of office of the two Medway Council Members have now expired. Under Schedule 2 of the Act, in making appointments to the KPA, the Committee is required to reflect the political proportionality of KCC and Medway Council taken together.

(4) The new proportionality figures, following the Kent County Council by-elections in December 2010 and January and February 2011 and the Medway Council elections in May 2011 are set out in the following table:

|                                                     | <b>Con</b> | <b>Lab</b> | <b>LD</b> | <b>Ind Group</b> | <b>Ind</b> | <b>Total</b> |
|-----------------------------------------------------|------------|------------|-----------|------------------|------------|--------------|
| KCC                                                 | 73         | 3          | 7         | 0                | 1          | 84           |
| Medway                                              | 35         | 15         | 3         | 2                | 0          | 55           |
| Total                                               | 108        | 18         | 10        | 2                | 1          | 139          |
| KPA seats<br>proportional share                     | 6.99       | 1.16       | 0.65      | 0.13             | 0.06       |              |
| <b>KPA seats<br/>proportional share<br/>rounded</b> | <b>7</b>   | <b>1</b>   | <b>1</b>  | <b>0</b>         | <b>0</b>   | <b>9</b>     |
| <i>KPA seats as at<br/>present</i>                  | 7          | 1          | 1         | 0                | 0          | 9            |

(5) KPA Members are appointed for four year terms and can only be removed if the political balance calculations change. As can be seen from the above table, the allocation of places between political groups on the KPA is the same as it was before the KCC By-Elections and the Medway Council Elections. Accordingly, in order to achieve political proportionality, the Committee needs to appoint one Conservative Member and one Labour Member from Medway Council to fill the vacancies on the KPA. These appointments, in addition to the existing Kent County Council Liberal Democrat and Conservative Members, will achieve the desired outcome.

(6) The Committee is advised, however, of the impact of The Police Authority (Community Engagement and Membership) Regulations 2010 (“the Regulations”), which came into force of 17 March 2010 and need to be considered by the Joint Appointments Committee in relation to the current vacancies on the KPA. Specifically, in exercising its power to appoint members of a police authority, the Joint Committee shall:

“(a) ensure that, so far as reasonably practicable, the persons appointed by them:

- (i) Represent the interests of a wide range of people within the community in the police area of the police authority;
- (ii) Include persons with skills, knowledge or experience which are perceived by them to be under-represented among the existing members of the police authority;
- (iii) Promote diversity within the force and the police authority in question; and
- (iv) Are likely to commit sufficient time and to take an effective role in the work of the police authority;

(b) explain to the police authority, if so requested, how it met the requirements of sub-paragraph (a).

(c) have regard to any guidance issues or approved by the Secretary of State as to the qualities required by persons who serve as members of the police authority.”

(7) In accordance with paragraph 2.5 of the joint Local Government Association (LGA)/Association of Police Authorities (APA) Guidance (“the Guidance”) on appointing Councillor Members to Police Authorities, police authorities are invited to take preparatory steps ahead of the appointment of any new Members, such as conducting a skills audit, considering relevant competencies, or establishing other desirable qualities for elected Members. In good time before the appropriate meeting of the Joint Committee, the police authority should write to the local authorities in its area, setting out those key qualities and competencies which are under-represented on the police authority.

(8) To assist police authorities with this, the Guidance contains a number of key competencies for police authority Members, which have been agreed by the Home Office. The Guidance also encourages police authorities to consider whether they wish to request specific skills, such as strategic planning or financial management, as well as taking into account their most recent reports from Her Majesty’s Inspector of Constabulary (HMIC)/Audit Commission on what the authority needs to do better. In addition, the Guidance invites police authorities to provide information about the time commitment expected of elected Members, the diversity of the existing police authority membership, as well as information about the communities within its area and which of these, if any, are under-represented on the police authority.

(9) In relation to the appointment of elected Members to fill the current vacancies on the KPA, the temporary Chief Executive of the KPA has written to the Joint Committee (see letter attached at **Appendix 1**), in which he states that the KPA would particularly welcome:

- Members from minority ethnic communities
- Female Members and
- Members with experience of professional policing standards, policing performance or community safety.

Whilst not mentioned specifically in the KPA letter, the statutory guidance says that the time commitment required of police authority members is between 7 and 10 hours per week and can be more.

(10) Once the Joint Committee has considered the letter from the KPA, it will need to determine how best to meet their requirements. This will require assessing whether the desired qualities can be met amongst the individual elected Members who are available to be appointed to the authority in accordance with the principles set out in paragraphs (11) and (12), below.

(11) Members should be aware that the Regulations place a duty on the Joint Committee to ensure, as far as reasonably practicable, that the key requirements notified by the KPA are met (in addition to the other three requirements set out in (i), (iii) and (iv) in paragraph 6 above). In this regard, the Joint Committee should keep an audit trail of decisions made and the reasons for making them. In particular, the Joint Committee must be able to explain how it met the four requirements set out in paragraph 6 above if requested to do so by the police authority.

(12) Furthermore, the Joint Committee must have regard to the “public sector equality” duty under section 149 of the Equalities Act 2011 in appointing members to the KPA. This requires local authorities, when exercising any of their functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act
- advance equality of opportunity between persons who share a relevant protected characteristics and those who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Failure to comply with these duties could expose the committee to a challenge by way of judicial review.

(13) Medway Council has advised that their two nominated representatives to serve on the KPA are Councillor Craig Mackinlay (Conservative) and Councillor Paul Godwin (Labour). As Members will know, although the Committee is required to make appointments to reflect political proportionality, it is not obliged to have regard to the wishes of the political groups or appointing authorities in deciding which individual Members of the relevant Councils it will appoint.

(14) If the Committee decides to appoint the Members nominated by Medway Council to fill the vacancies on the KPA it may wish, in line with its normal policy, to appoint them for a four-year term expiring in May 2015 (coinciding with the next Medway Council election).

## **RECOMMENDATION**

(15) The Committee is recommended to:

- (a) confirm that the allocation of places between political groups on the KPA stays the same as it currently is in accordance with the table in paragraph 5 following the Kent County Council By-Elections and the Medway Council elections;
- (b) appoint one Medway Council Conservative Member and one Medway Council Labour Member for a four-year term expiring in May 2015 to fill the two vacancies on the KPA.
- (c) Set out clearly the reasons for its decision under (b), above, and how it has taken account of the representations of the KPA.

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Background Papers: None