

PERSONNEL COMMITTEE

MINUTES of a meeting of the Personnel Committee held at County Hall, Maidstone on 24 July 2012.

Present: Mr P B Carter (Chairman), Mr L Christie (Substitute for Mr G Cowan), Mr M Dance, Mr P Homewood, Mr D Hirst; Mr A J King, MBE, Mr T Prater, Mr M Whiting (substitute for Mr R W Gough), and Mr J D Simmonds

Officers: Mr D Cockburn, Corporate Director for Business Strategy and Support, Mrs A Beer, Corporate Director for Human Resources, Mr B Watts, Principal Solicitor, Legal Services, Mrs N Major, Interim Head of Audit and Mr G Mills (Democratic Services).

Also present was Mr Peter Keith-Lucas, partner, Bevan Brittan Solicitors

UNRESTRICTED ITEMS

17. Membership

The Committee noted that as part of the new governance arrangements approved by the County Council at its meeting in March 2012, the number of Conservative seats on the Personnel Committee had increased by one and Mr Peter Homewood had therefore been appointed by that Group to serve on the Committee

18. Minutes

(item4)

The minutes of the meeting held on 16 May 2012 were agreed and signed by the Chairman as a true record.

The following is an **unrestricted minute** of a matter which was declared exempt pursuant to paragraphs 1, 2 and 4 of Part 1 of Schedule 12 A of the Local Government Act 1972

19. Review of Election Procedures

(item 5 – report by Paul Carter, Leader of the Council and Mr David Cockburn, the Head of Paid Service) (The Chairman declared consideration of this report to be urgent on the grounds that it contained information which the Committee needed to consider at this meeting so that a way forward on these matters could be considered and agreed.)

(1) In July 2011, the Personnel Committee asked for an independent review to be undertaken into payments to persons holding the post of County Returning Officer. The Committee approved the engagement of an independent person and given his relevant expertise and experience, Mr Peter Keith-Lucas of Bevan Brittan Solicitors was asked to undertake this review with the following terms of reference:

(i) Examine the organisational and governance arrangements and payments (fees, expenses and superannuation contributions) for Kent County Council elections dating back to 1997.

(ii) Provide recommendations to help the Council to rectify any past errors and ensure its arrangements and payments for future elections are fit for purpose and in line with national best practice.

(2) In considering these issues, the members of the Committee had before them an exempt report by the Leader of the Council and the Head of Paid Service which summarised the basis upon which the review had been commissioned. The Members also had before them the confidential report of Mr Keith-Lucas which set out in detail the scope of his investigations and his findings. The Executive Summary from Mr Keith-Lucas' report is provided at paragraph (3) below.

(3) **Executive Summary**

- Whilst elections are critical to the governance of the Council, and responsibility for their conduct must be at a sufficiently senior level to ensure impartiality, it is hard for any officer to remain on top of a technical function which really occurs only once every 4 years and improved working with the District Councils is recommended.
- There was a national failure to realise the implications of the omission from the 1983 Act of a power to pay fees to Returning Officers in local elections;
- As the law currently stands, the Council's present "enhanced salary" basis for remunerating the Returning Officer is probably the best arrangement available. No recommendation for change was made.
- However, the legislation remains unsatisfactory, and KCC should press to include the clarification of the basis of Returning Officer remuneration in the current review of election law.
- There was a similar national failure to interpret the definition of "pay" in the 1997 LGPS Regulations, so that there was advice from what would normally be considered reliable sources that the County Returning Officer could claim superannuation on the totality of "fees", including sums paid over to District Returning Officers and to elections staff.
- The arrangement for setting fees was deficient, but the revised arrangements for Member approval have resolved this issue.
- There needs to be one officer who is the "corporate owner" of all of the Corporate Management Team's contracts and salaries, responsible for ensuring that there is proper professional input into their drafting, that any "side-effects" are sorted, and that they are properly implemented by all concerned.
- There is no enforceable debt to KCC, and it is not appropriate to take disciplinary action against any officer or former officer.

(4) During the course of discussion, members of the Committee asked a number of questions of detail to which Mr Keith-Lucas and KCC officers

responded to accordingly. What was clear from this questioning and the findings in the report was that whilst past arrangements for setting election fees had been deficient, the revised arrangements for member's approval had resolved that. Furthermore, the review concluded that whilst erroneous payments to past returning officers had been made there had been no deliberate wrong doing or impropriety on the part of any officer or former officer. The role of County Returning Officer was placed within the role of the Council's Director of Governance and Law at the County Council meeting of 16 December 2011. Mr Keith-Lucas stated that the arrangements which are in place now are the best available under current law. A discussion took place regarding the importance of reviewing Council elections, something which had not taken place previously. It was recognised that there was a need to continually ensure that learning occurred after elections to establish what had worked well and what could be done differently. It was felt important that the Electoral and Boundary Committee reviewed the election process after every four years starting after the 2013 County Council elections.

(5) Following further discussion the Committee resolved to accept the findings of the report and the Review and agreed as follows:

(i) The role of 'Corporate Owner' of all Corporate Management Team contracts to be included in the job description of the Corporate Director Human Resources.

(ii) In order to explore a recommendation in relation to ensuring that Legal advice was obtained where necessary, the Corporate Director Human Resources and the Principal Solicitor were asked to bring a report to the next meeting of the personnel Committee in September considering how the Council ensures that appropriate advice is received in circumstances where points of law require determination.

(iii) That a report be submitted to the first Electoral and Boundary review Committee after the summer recommending the County Council makes representations to the Government in the forthcoming review of Election Law,. The recommendation would propose ensuring that the Law Commission considers the need for a clarification of the legal basis of remuneration of Returning Officer in local elections. The Electoral and Boundary Review Committee should also be asked to note that the advice which had been received on this point was that the best way would be to amend the Representation of the People Act to provide for the authority to pay a personal fee to the Returning Officer, as is the case for national elections, with all other costs, including additional payments to other election staff, to be paid through the authority. The Principal Solicitor was tasked with providing a summary report in conjunction with Mr Keith-Lucas taking the relevant aspects from the report to the Personnel Committee to aid their understanding and decision making.

(iv) The Electoral and Boundary Review Committee also be recommended that further work be undertaken by the Council's Legal Services Unit in order to advise the County Council on more wide-ranging representations to the Government in the forthcoming review and to consider the authorisation of Peter Keith-Lucas to share findings with the Law Commission based on the

learning from the review he had undertaken so far. It was recommended that the Electoral and Boundary Committee reviewed the election process after the 2013 County Council elections. Finally, advising the Corporate Director of Human Resources, Mr Keith-Lucas should also be invited to put forward his independent recommendations for setting appropriate levels of remuneration for election duties and expenses to be paid.