

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 25 NOVEMBER 2009

Present: Councillors Mrs Hinder, Marchant, Mrs Stockell,
Verrall and Vizzard

Independent Mr Wright (Chairman),
Persons: Mrs Phillips and Mr Powis

Parish Council Councillors Mrs Rollinson
Representatives: and Younger

45. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Bill Stead (Parish representative).

46. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

47. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

48. DISCLOSURES BY MEMBERS AND OFFICERS

All Members and Co-opted Members disclosed a personal interest in the report of the Democratic Services Manager setting out the report and recommendations of the Independent Remuneration Panel on Members' Allowances. Councillor Mrs Stockell also stated that she was the County Council's representative on the Executive of South East Employers, which was represented on the Panel, but she did not believe that this constituted a personal or prejudicial interest.

Councillor Mrs Hinder disclosed a prejudicial interest in the report of the Head of Legal Services concerning applications received from Members of Bredhurst Parish Council for dispensations to enable them to speak and vote at meetings of the Parish Council when matters relating to the Bredhurst Woodland Action Group were being considered notwithstanding the fact that they each had a prejudicial interest in the matter by virtue of being either a member or a member and Trustee of the Action Group. She explained that as well as being a member of the Action Group herself, she was married to one of the Parish Councillors who had applied for a dispensation and was a close associate of another.

With regard to the report of the Head of Legal Services concerning applications for dispensations received from Bredhurst Parish Councillors,

Councillor Marchant stated that whilst he knew at least one of the Parish Councillors, he did not believe that this precluded him from participating in the discussion on the item. Councillor Mrs Stockell stated that she knew one of the Parish Councillors, but she was not a close associate.

49. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

50. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

51. MINUTES OF THE MEETING HELD ON 2 SEPTEMBER 2009

RESOLVED: That the Minutes of the meeting held on 2 September 2009 be approved as a correct record and signed.

52. MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 2 SEPTEMBER 2009

Minute 31 – Indemnities for Members and Officers

It was noted that a letter had been sent to the Independent Members, Parish Council representatives and Borough Councillors explaining the position with regard to indemnities.

Minute 31 – Review of Complaints – January – March 2009

A Member stated that one of the Parishes in his Ward had still not received an enforcement update notwithstanding the fact that there were unresolved enforcement issues. The Head of Legal Services advised the Committee that he understood that the Planning Department was experiencing problems with its IT system and this was delaying the updates.

Minute 33 – Review of Complaints – April – June 2009

The Head of Legal Services advised the Committee that the Member who had asked whether the payments made by way of local settlement arising from complaints about development control and planning enforcement might be indicative of a lack of learning year on year, was now satisfied that there was no underlying cause for concern.

53. REVIEW OF COMPLAINTS - JULY TO SEPTEMBER 2009

The Committee considered the revised joint report of the Assistant Director of Customer Services and Partnerships and the Head of Legal Services reviewing the Council's performance in dealing with complaints during the period July to September 2009. It was noted that:-

- The report had been amended to correct an error in the Appendix.

- During the period, 60 Stage 1 complaints had been processed. Most of the complaints related to housing benefits (9), development control (8), housing (7) and revenues (7). 92% of Stage 1 complaints were processed within the target time. Nine Stage 2 complaints had been received of which 100% were processed within the target time.
- Improvements continued to be made to the complaints system and the following amendments would be implemented by the end of the calendar year:-
 - The addition of a flag to indicate instances where a complaint had highlighted an issue relating to Council policy or working practices; and
 - The incorporation of a field to indicate the estimated Officer time spent dealing with each complaint.
- A trend analysis had been undertaken using the WOCAS (what our customers are saying) report to provide additional data concerning the type of complaints being received and any policy implications or learning experiences. Two trends had been identified relating to waiting times in the Gateway and customer care and these were being addressed in order to improve customer experience.

In response to questions, the Officers explained that:-

- The criterion for 100% success in terms of the processing of complaints was the percentage of complaints to which a full response was given within the prescribed time limit of ten working days. Given the subjective nature of the service, there would always be people who were not satisfied with the answers provided in respect of complaints about development control and planning enforcement.
- There was no mechanism as such for recording the compliments received by the Council. However, consideration was being given to a correspondence system which would also include Freedom of Information requests.

Members and Co-opted Members were pleased to learn that the Officers were currently reviewing the complaints procedure to ensure that quality assurance was maintained and that the Council used the complaints to inform service planning, Council policy and working practices. They asked that a progress report be submitted to the Committee in due course.

RESOLVED: That the Council's performance in responding to complaints during the period July to September 2009 be noted and that the recommended actions to improve complaints handling be implemented by Heads of Service.

54. REVIEW OF CONTRACT STANDING ORDERS/PURCHASING GUIDE

As requested at the meeting of the Committee held on 14 April 2009, the Head of Business Improvement submitted a report setting out a proposed amendment to the Contract Procedure Rules to tighten the Rules relating to inducements to cover the period before the award of a contract and a proposed amendment to the Purchasing Guide to strengthen the advice relating to the financial health vetting of prospective contractors.

It was noted that the Procurement Section would ensure that Officers were made aware of and trained on the proposed changes.

RESOLVED:

1. To RECOMMEND to the COUNCIL: That after Clause 5.6 of the Contract Procedure Rules which states that "Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the Council's Monitoring Officer and Head of Internal Audit and Risk Strategy" a new Clause 5.7 be inserted which states that

"Any person or company against whom any misconduct or corruption referred to in Clause 5.6 is proved will be immediately barred from consideration in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services."

The Standards Committee has, in accordance with Article 15.02(a) of the Constitution, evaluated the proposed amendment to the Contract Procedure Rules and believes that its implementation will help to ensure that the aims and principles of the Constitution are given full effect by helping the Council to maintain its core values of integrity and high standards of corporate governance.

2. That after Note 14 in Section 5 of the Purchasing Guide a new example box be included providing guidance, prepared by the Chief Accountant, covering assessment of the financial viability of potential contractors which states that

"All tenders and quotes in excess of £50,000 require the approval of the Director of Resources and Partnerships, see the Financial Procedure Rules. In all such cases the Director requires a financial assessment of the winning tenderer prior to approval. This is good practice and should be considered for all quotes irrespective of their value and especially when the accepted quote is from an organisation that has not transacted business with the Council in the preceding 12 months or the Council faces financial loss if the works are not completed satisfactorily. The Head of Finance will provide support and advice to any Officer wishing to carry out such an evaluation."

55. REPORT OF THE INDEPENDENT REMUNERATION PANEL ON MEMBERS' ALLOWANCES

The Committee considered the report of the Democratic Services Manager setting out the report and recommendations of the Independent Remuneration Panel on Members' Allowances for Maidstone Borough Council. The representative of the Democratic Services Manager advised the Committee that she wished to amend the section of the Panel's report relating to the payment of an allowance to Members of the Standards Sub-Committee when meetings were held as follows:-

Councillor Marchant, in his capacity as a Member of the Standards Committee, also requested that the Panel consider paying an allowance to the Members of Standards Sub-Committees, when meetings are held.

The IRP met with Mike Powis, one of the Co-opted Independent Members of the Standards Committee, and received a briefing note from Maidstone BC's Monitoring Officer, Paul Fisher, who was unable to attend for interview.

The Panel noted the new responsibilities of the Standards Committee in relation to the Members' Code of Conduct and the investigatory role it has, via the Sub-Committee. However, the Panel noted that following these changes, there had not been a major impact on the hours involved for Members of the Sub-Committee.

The Panel recommended that no allowance be paid to Members of the Standards Sub-Committee, and that the Chairman of the Standards Committee continue to receive his Special Responsibility Allowance at the current rate.

As a consequence, the fourth recommendation of the Panel, set out on page 1 of the report, would also need to be amended.

It was pointed out by a Member that the reference in the Panel's report to Councillor Hotson being Chairman of the Corporate Services Overview and Scrutiny Committee was incorrect; Councillor Hotson was the Chairman of the External Overview and Scrutiny Committee. The representative of the Democratic Services Manager undertook to amend the report.

The Committee accepted the recommendation of the Panel relating to the payment of an allowance to Standards Sub-Committee Members, but felt that the situation might need to be reviewed in the event of there being an increase in the number of cases and the work involved.

RESOLVED to RECOMMEND to the COUNCIL: That the recommendations of the Independent Remuneration Panel on Members' Allowances, as amended, be approved.

56. 2009 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Committee considered a report prepared by the Chairman following his attendance at the Annual Assembly of Standards Committees. The

Chairman said that the Assembly had attracted a large number of delegates, many of whom had attended before. This was difficult to justify; the number of delegates should be reduced and attendees should be encouraged to feed back information to their Standards Committees. It seemed to him that Standards for England was obsessed about its future existence in the event of there being a change in Government. The smaller breakout sessions had been interesting and it had been useful to talk to other delegates about their experiences. There had been talk about the revised Code for Members being ready in the late autumn, but it had not yet been received. A new training DVD on Local Assessment had been produced to help Standards Committees and Officers involved in the assessment of complaints that a Member may have breached the Code of Conduct.

There had been a large number of Parish Councillors present and they all seemed to be of the opinion that there should be training for Parish Councillors on the Code of Conduct. There was a feeling, however, that it might be difficult to persuade all Parish Councillors to take part.

Other Members and Co-opted Members who had attended previous Assemblies indicated that they had found them disappointing overall and it was suggested that attendance at next year's Assembly should be limited to the Monitoring Officer. It was also suggested that smaller Regional Assemblies might be more useful.

RESOLVED:

1. That the report be noted.
2. That attendance at next year's Assembly of Standards Committees should be limited to the Monitoring Officer.

57. RESTRUCTURING OF THE STANDARDS COMMITTEE

The Chairman had prepared a report reviewing the size and composition of the Standards Committee and the Standards Sub-Committee/Review Panel and the options for change. He advised the Committee that he wished to withdraw that part of his report relating to the main Committee, but would ask that consideration be given to reducing the membership of the Sub-Committee/Review Panel to three in line with other Kent Districts.

RESOLVED:

1. That the Standards Sub-Committee and the Review Panel should comprise three members, including one Independent Member and one Parish representative in the event of the matter under consideration relating to a Parish Councillor, to be appointed from the membership of the Standards Committee by the Monitoring Officer in consultation with the Chairman of the Standards Committee.
2. That the quorum for meetings of the Standards Sub-Committee and the Review Panel should be three Members/Co-opted Members.

58. PARISH COUNCIL TRAINING ON THE CODE OF CONDUCT

The Committee considered the report of the Chairman setting out details of the training which had been provided for Parish Councils on the Code of Conduct. It was noted that the training had been very well received and that there had been a request for a session for Clerks only. The Chairman stated that feedback was awaited from Parishes on the suggestion that training be arranged on a "cluster" basis and from the Learning and Development Manager regarding mentoring for Parish Clerks. It was pointed out that it had been mentioned that the Kent Association of Local Councils could facilitate training on the Code of Conduct and there might be scope to work with them to avoid duplication.

RESOLVED:

1. That the report be noted.
2. That as part of the ongoing requirement for the Standards Committee to train or arrange training on the Code of Conduct for Borough and Parish Councillors, Mr Powis be appointed to the role of Training Co-ordinator.

59. BOUGHTON MONCHELSEA PARISH COUNCIL - APPLICATION FOR DISPENSATION

The Head of Legal Services reported that an application had been received from Councillor Sara Evans, a new Member of Boughton Monchelsea Parish Council, for a dispensation to enable her to speak and vote at meetings of the Parish Council when matters relating to the Boughton Monchelsea Amenity Trust were being considered notwithstanding the fact that she had a prejudicial interest in the matter by virtue of being a Trustee.

RESOLVED: That a dispensation be granted to Councillor Sara Evans to enable her to speak and vote at meetings of the Boughton Monchelsea Parish Council when matters relating to the Boughton Monchelsea Amenity Trust are being discussed notwithstanding the fact that she has a prejudicial interest by virtue of being a Trustee of the Trust; such dispensation to expire on 30 June 2012.

60. BREDHURST PARISH COUNCIL - APPLICATIONS FOR DISPENSATIONS

Having disclosed a prejudicial interest, Councillor Mrs Hinder left the meeting whilst this item was discussed.

The Head of Legal Services submitted a report setting out further information to assist the Committee in its consideration of applications received from all seven Members of Bredhurst Parish Council for dispensations to enable them to speak and vote at meetings of the Parish Council when matters relating to the Bredhurst Woodland Action Group were being considered notwithstanding the fact that they had prejudicial interests in the matter by virtue of being members (or in the case of

Councillor Jones, a member, Trustee and the Chairman) of the Action Group.

RESOLVED:

1. That dispensations be granted to Councillors Bill Anderson, Stephen Bowring, Timothy Gough, Charles Hewitt, Bob Hinder and Brian Mohabir to enable them to speak and vote at meetings of the Bredhurst Parish Council when matters relating to the Bredhurst Woodland Action Group are being discussed notwithstanding the fact that they have prejudicial interests by virtue of being members of the Action Group; such dispensations to expire on 30 June 2012.
2. That a dispensation should not be granted to Councillor Vanessa Jones because it would be inappropriate to do so in view of her Trusteeship. However, Councillor Jones be advised that there may be instances in which she can address the Parish Council on matters relating to the Action Group and that she should seek guidance from the Head of Legal Services in this regard.

61. ANY OTHER APPLICATIONS FOR DISPENSATIONS

There were no other applications for dispensations.

62. STANDARDS FOR ENGLAND BULLETIN 45

The Committee considered Standards for England Bulletin 45 which covered issues such as the position with regard to the revision of the Code of Conduct; the sanctions available to Standards Committees, including written apologies and the implications if a Member failed to comply with the sanction; intimidation and the Code; the restructuring of Standards for England and its annual report and review; an update on the review of the online monitoring system; the production of a new training DVD on Local Assessment; changes at the Adjudication Panel for England; and the updating of local authority websites.

In response to comments about the Council's website, the Head of Legal Services explained that a lot of work had been done to update the Standards Committee's pages, but there was currently an embargo on going live.

RESOLVED:

1. That the contents of Standards for England Bulletin 45 be noted.
2. That the work being undertaken to update the website be noted.

63. PROFORMA DOCUMENT FOR DISPENSATIONS

Councillor Marchant and Mr Powis volunteered to work with the Head of Legal Services on the production of a proforma document to assist Parish Councillors when making applications for dispensations.

64. CHAIRMAN'S ANNOUNCEMENTS

The Chairman updated the Committee on the outcome of the hearing held the previous week into an allegation that Councillor Vanessa Jones may have failed to comply with Bredhurst Parish Council's Code of Conduct. He explained that the Sub-Committee had agreed with the Investigating Officer that in respect of nine of the allegations, there had been no breach of the Code of Conduct by Councillor Jones. The Sub-Committee had agreed with the Investigating Officer that there had been a breach of paragraph 4(a) of the Code by Councillor Jones. The Sub-Committee had noted that Councillor Jones had admitted that she had breached paragraph 4(a), but with mitigating circumstances, and that she was prepared to offer an apology if it would bring matters to a close. The Sub-Committee had agreed that the sanction imposed for breach of the Code should be that Councillor Jones write an apology to the complainant. The letter was to be sent to the Sub-Committee for approval and onward transmission to the complainant.

65. DURATION OF MEETING

9.30 a.m. to 11.25 a.m.