

## **MAIDSTONE BOROUGH COUNCIL**

### **STANDARDS COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 30 NOVEMBER 2011**

**Present:** Councillors Mrs Hinder, Mrs Gibson,  
Mrs Gooch, Parvin, Mrs Robertson and  
Vizzard

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

**Parish Council  
Representatives:** Councillors Stead and Younger

**Also Present:** Councillor Ash

#### 35. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Ms Hunt (Independent Member) and Councillors Butcher, FitzGerald, Mrs Riden and Mrs Stockell.

#### 36. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Mrs Gibson for Councillor Mrs Stockell  
Councillor Mrs Gooch for Councillor FitzGerald

#### 37. NOTIFICATION OF VISITING MEMBERS

Councillor Ash was in attendance.

#### 38. DISCLOSURES BY MEMBERS AND OFFICERS

All Members and Co-opted Members disclosed personal interests in the report of the Joint Independent Remuneration Panel relating to the Members' Allowances Scheme by virtue of being potential recipients.

#### 39. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

#### 40. EXEMPT ITEMS

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

41. MINUTES OF THE MEETING HELD ON 25 AUGUST 2011

RESOLVED: That the Minutes of the meeting held on 25 August 2011 be approved as a correct record and signed.

42. REFERENCE FROM THE AUDIT COMMITTEE - AMENDMENT OF THE CONTRACT PROCEDURE RULES

The Committee was asked to evaluate suggested amendments to the Contract Procedure Rules within the Constitution arising out of changes to UK legislation, a review of purchasing procedures for the acquisition of Council materials, services and works and an update of related guidance documentation.

RESOLVED to RECOMMEND to the COUNCIL: That it be noted that the Standards Committee has, in accordance with Article 15.02(a) of the Constitution, evaluated the proposed amendments to the Contract Procedure Rules within the Constitution, and has no comments to make.

43. REVIEW OF COMPLAINTS JULY - SEPTEMBER 2011

The Committee considered the report of the Chief Executive reviewing the Council's performance in dealing with complaints during the period July to September 2011.

RESOLVED: That the Council's performance in responding to complaints during the period July to September 2011 and the action being taken to improve complaints handling be noted.

44. MEMBERS' ALLOWANCES SCHEME

The Committee considered the report of the Head of Democratic Services setting out the report and recommendations of the Joint Independent Remuneration Panel on Members' Allowances for Maidstone Borough Council which had met to carry out a comprehensive review of the existing scheme of Members' Allowances.

It was noted that the recommendation of the Panel that the Special Responsibility Allowance for the Chairmen of the Overview and Scrutiny Committees be reduced to £4,665 per annum each would produce a saving in the Members' Allowances budget of £3,498. The recommendation of the Panel relating to car mileage allowances would not have a significant impact, and could be met within existing budgets.

In response to questions by Members and Co-opted Members, the representative of the Head of Democratic Services confirmed that:-

- The table set out in the summary of Panel recommendations should have included reference to the allowances paid to the Chairman of the Licensing Act 2003 Committee and Co-opted Members of the Standards Committee, which it was proposed should remain the same.

- Councillors and Co-opted Members would continue to be able to claim an additional 5p per mile if passengers travelled in their vehicles.
- It was the Panel's recommendation that allowances should continue to be index linked to the annual pay award to staff.
- No change was proposed to Members' Basic Allowance
- The report of the Panel would be amended, prior to its submission to the Council, to take into account the clarification sought and issues raised by the Standards Committee.
- A meeting of the Panel could be arranged to take place as and when required to consider any proposed changes to Special Responsibility Allowances arising from the introduction of new arrangements to comply with the provisions of the Localism Act relating to the ethical standards regime.

RESOLVED to RECOMMEND to the COUNCIL: That the recommendations of the Joint Independent Remuneration Panel on Members' Allowances for Maidstone Borough Council, as set out in the amended version of the Panel's report, be approved.

45. WORK PROGRAMME - 2010/12

The Committee considered the position with regard to the activities set out in the Work Programme 2010/12. In terms of the dissemination of information, it was noted that each local authority would have to publicise its adoption, revision or replacement of a Code of Conduct pursuant to the provisions of the Localism Act.

RESOLVED: That the position with regard to the activities set out in the Committee's work programme 2010/12 be noted.

46. SELF REGULATION FOLLOWING ABOLITION OF THE STANDARDS REGIME

The Committee considered a joint report by the Monitoring Officer and the Chairman of the Committee setting out proposed arrangements for implementing the provisions of the Localism Act in so far as they relate to the ethical standards regime. It was noted that:-

*All local authorities (including Parish Councils) would have to have a Code of Conduct, which accorded with the seven Nolan principles, but there would no longer be a national mandatory Code.*

The report suggested that the new Code of Conduct should be based on the existing Code.

*All local authorities would have to have a system in place to deal with allegations of Member misconduct, but there was no statutory requirement to have a Standards Committee. However, local authorities*

*would have to appoint an Independent Person whose views were to be sought, and taken into account, by the authority before making a decision on an allegation that it had decided to investigate. A person against whom a complaint was made would also be able to seek the views of this Independent Person. The Council would still be able to co-opt Independent Members onto the Standards Committee, but these Members would only be able to vote if the Committee was advisory in nature.*

The Council had decided already that there should continue to be a Standards Committee comprising Borough, Parish and Independent Members. The report suggested that ad hoc groups of Members chosen from the Standards Committee membership could be called (as now) to deal with allegations of misconduct. The Standards Committee would meet once a year to elect a Chairman/Vice-Chairman and then on an ad hoc basis if called upon by the Council to undertake any specific duties. The Committee and groups would be chaired by Co-opted Independent Members and the Committee would comprise 3 Independent Co-opted Members, 3 Parish Council representatives and 1 Borough Councillor from each political group. It was considered that this would provide a pool of sufficient size to select the groups to deal with complaints.

With regard to complaints handling, the report suggested that as and when allegations of misconduct were received they should be considered by the Monitoring Officer, who would make a decision as to whether they should be considered, having consulted the Independent Person. If it was decided that an allegation should be considered, a Panel of 3 Members would be called, which would consider the written representations of the complainant, the Councillor complained about and the Independent Person. If the Panel concluded that there had been no breach, then that would be the end of the matter. If the Panel believed that it needed to hear oral representations from the complainant, Councillor and Independent Person, it could arrange to do so, or if it concluded that a fuller investigation was needed, it could request the Monitoring Officer to carry this out. If the Panel concluded that there had been a breach, it would make a recommendation to that effect to a Sub-Committee of the Standards Committee comprising 3 Borough Councillors (1 of whom would have sat on the Panel). The reason for this approach was that only Councillors could vote on decisions but the consideration of the issues by an Independent/Parish representative on the advisory Panel was very valuable.

*Parish Councils would also have to have a Code of Conduct and could adopt the Code adopted by the Borough Council. However, they did not have to put in place arrangements for the investigation of allegations of misconduct, but they could do so either themselves or through another body such as the Borough Council.*

The report suggested that if a Parish Council requested the Borough Council to consider allegations of misconduct, then the Panel would report its findings to the Parish Council which would then itself decide whether it agreed that there had been a breach and determine any action.

*The Council would in due course have to make arrangements for discharging the other functions currently carried out by the Standards Committee.*

*It was not yet known when the part of the Localism Act covering Standards would come in to force.*

During the ensuing discussion, reference was made by Members and Co-opted Members to the need to ensure that the new arrangements for dealing with allegations of misconduct would speed up the complaints process and bring about an early resolution, in the interests of all involved. It was also suggested that, since it was not yet known when the provisions of the Act covering Standards would come into force, it would be sensible to extend the terms of office of the existing Independent Members and Parish Council representatives until the Annual Meeting of the Council in May 2013 or until such time that the new arrangements had been finalised.

**RESOLVED:**

1. That unless and until a new model Code of Conduct is published, the Monitoring Officer be requested to draw up a Code of Conduct based on the existing Code for consideration at the next meeting of the Standards Committee on 15 February 2012, or earlier if needs be.
2. That if any Members/Co-opted Members of the Council have suggestions for inclusions/exclusions in the new Code, they should let the Monitoring Officer know.
3. That the suggested membership of the Standards Committee, its Panel, and the Sub-Committee, and the suggested complaints handling process be agreed, and that the Monitoring Officer be requested to report back to the next meeting of the Committee with any further implications of the Localism Act and its regulations and the role of the Independent Person, together with details of costings (including a comparison of the costs of the current and proposed new arrangements) and the implications for Parish Councils.
4. That the Monitoring Officer be requested to report to the next meeting of the Committee with further suggestions as to where each function of the Standards Committee could be discharged in the future.
5. That it is acknowledged that these suggested arrangements might change in the light of guidance published pursuant to the Act.
6. To RECOMMEND to the COUNCIL: That the terms of office of the existing Independent Members and Parish Council representatives on the Standards Committee be extended until the Annual Meeting of the Council in May 2013 or until such time that the arrangements in relation to the new ethical standards regime have been finalised.

47. CODE OF CONDUCT COMPLAINTS

The Monitoring Officer submitted details of the Code of Conduct complaints received by the Council during the period 1 June to 30 November 2011. It was noted that during this period:-

- Nine complaints had been made involving seventeen Councillors; two of these were Borough Councillors and the rest Parish Councillors. The Assessment Sub-Committee had met on seven occasions. It had decided to take no further action in relation to three complaints, to investigate two complaints and to refer two complaints for other action; in one case this was for the Monitoring Officer to speak to the Councillor about the Code of Conduct and Council procedures and in the other for the Monitoring Officer to advise the Clerk about the necessity to record disclosed interests accurately. The two remaining complaints would be assessed by the Sub-Committee on 14 December.
- One investigation had been completed and the Consideration Sub-Committee had agreed with the Investigator that there had been no breach of the Code.

The Monitoring Officer advised the Committee that a significant number of the complaints had related to one Parish Council, but there had not been a discernable trend in the complaints that would lead him to believe that specific training needed to be arranged. It was suggested by a Co-opted Member that there did seem to be a failure to record disclosures of interest accurately, and this was reflected in some of the complaints received. Councillor Stead undertook to write to Parish Council Chairmen asking them to remind their Clerks about the importance of recording disclosed interests accurately.

RESOLVED: That the report be noted.

48. BOUGHTON MONCHELSEA PARISH COUNCIL - APPLICATION FOR DISPENSATION

The Head of Legal Services reported that an application had been received from Councillor Jonathan Lewis, a new Member of Boughton Monchelsea Parish Council, for a dispensation to enable him 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 he had a prejudicial interest by virtue of being a Trustee. All of the other Parish Councillors had been granted dispensations.

RESOLVED: That a dispensation be granted to Councillor Jonathan Lewis to enable him 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 he has a prejudicial interest by virtue of being a Trustee, such dispensation to expire on 30 June 2012.

49. CHAIRMAN'S ANNOUNCEMENTS

There were no other announcements.

50. DURATION OF MEETING

10.00 a.m. to 11.30 a.m.