

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 2 SEPTEMBER 2009

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

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

Parish Council Representatives: Councillor Stead

Also Present: Councillor Garland

24. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Mrs Rollinson and Younger.

25. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

26. NOTIFICATION OF VISITING MEMBERS

The Chairman welcomed Councillor Garland, the Leader of the Council, to the meeting. Councillor Garland explained that he was attending the meeting as an observer.

27. DISCLOSURES BY MEMBERS AND OFFICERS

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 had prejudicial interests in the matter by virtue of being members 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 friends with another.

Councillor Stead disclosed a personal interest in the same report. He stated that he knew the Bredhurst Parish Councillors.

28. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

29. EXEMPT ITEMS

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

30. MINUTES OF THE MEETING HELD ON 22 MAY 2009

RESOLVED: That the Minutes of the meeting held on 22 May 2009 be approved as a correct record and signed.

31. MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 22 MAY 2009

Minutes 3 and 16 - Indemnities for Members and Officers

In response to a question, the Head of Legal Services confirmed that a letter would be sent to the Independent Members and Parish Council representatives by the Chief Finance Officer explaining the position with regard to indemnities.

Minute 13 - New Framework for Contract Standing Orders/Purchasing Rules and Ancillary Purchasing Guide

The Head of Legal Services advised the Committee that a report would be submitted to the next meeting by the Property and Procurement Manager on the outcome of the further consideration being given to amending the guidance to strengthen the advice on the financial health vetting of prospective contractors and to tightening the rules relating to inducements and rewards to cover the period before the award of contract as well as after.

Minute 15 - Review of Complaints - January - March 2009

The Head of Legal Services advised the Committee that he had spoken to colleagues in the Planning Department and been assured that all Parish Councils were receiving enforcement updates. A Member stated that one of the Parish Councils in his Ward had not received an update since December 2008 notwithstanding the fact that there were unresolved enforcement issues. The Head of Legal Services undertook to follow up the matter with the Development Control Manager.

Minute 17 (ii) - Criteria for the Appointment of Independent Members to the Standards Committee

The Committee reviewed the arrangements for the recruitment of a fourth Independent Member of the Standards Committee. It was noted that a job description would be developed for future use.

Minute 19 - Promoting High Ethical Standards

In response to a question, the Head of Legal Services updated the Committee on the training which had been arranged for Parish Councils on the Code of Conduct. It was noted that three sessions had been arranged, but the August session had been cancelled due to low numbers.

The next sessions would be held on 16 September and 7 October 2009 at the Town Hall, but again only limited numbers were currently expected. It was suggested that the poor response could be due to attendance being restricted to two delegates per Parish. The Head of Legal Services said that he would ask the Learning and Development Manager immediately to send an email to Parish Councils removing this restriction.

32. REFERENCE FROM THE EMPLOYMENT AND DEVELOPMENT PANEL - HUMAN RESOURCES POLICY - DISCIPLINE, CAPABILITY AND GRIEVANCE PROCEDURES

The Committee was asked to evaluate a proposal by the Employment and Development Panel that the Constitution be amended to reflect changes in the role of the Appeals Committee/Employment and Development Panel and the Chief Executive following the revision of the Council's Grievance, Capability and Disciplinary Procedures.

It was noted that there had been a change in employment law with the implementation of the Employment Act 2008 in April 2009. Prior to the implementation of the Act, although employees needed to raise a claim with an Employment Tribunal within three months of dismissal, the time period was almost automatically extended. However, the Act would restrict the ability of employees to have the time extended for appeal to an Employment Tribunal. Councils were, therefore, reviewing their existing processes to ensure that their policies and procedures did not impact on the employment rights of staff. The Council's dismissal appeal process had been established several years ago and required an Appeals Committee to be set up to hear the appeal. From past experience, the time taken between the decision to dismiss and the date of the appeal ranged from eight weeks to fourteen weeks. In order to achieve much shorter timeframes and to be consistent with best practice, it was proposed that the Chief Executive as the Head of the Paid Service should hear appeals in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who would attend the appeal hearing. This necessitated the deletion of paragraph (a) of the functions of the Appeals Committee as set out in Part 3 of the Constitution and the amendment of the terms of reference of the Chief Executive.

The Officers suggested that, in addition to evaluating these proposed amendments, the Committee should consider making a comment in relation to appeals against decisions taken by or about the Chief Executive under the Disciplinary, Grievance or Capability Procedures whereby the appeals would be heard and determined by a Member Panel which would be a three person Sub-Committee of the Employment and Development Panel. This would necessitate the addition of a further paragraph (f) to the functions of the Employment and Development Panel as set out in Part 3 of the Constitution.

In principle, the Committee supported the proposed amendments to the Constitution believing that their implementation would help to ensure that the aims and principles of the Constitution were given full effect by facilitating more efficient and effective decision making. However, the Committee felt that the wording of the paragraph which it was proposed

to add to the terms of reference of the Chief Executive should be amended as follows:-

“To hear and determine appeals, in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who will attend the appeal hearing, under the Grievance, Capability or Disciplinary (Level 4) Procedures for all categories of employees except those staff on JNC Conditions of Service for Chief Officers of Local Authorities.”

RESOLVED to RECOMMEND to the COUNCIL:

That the Constitution be amended as follows to reflect changes in the role of the Appeals Committee/Employment and Development Panel and the Chief Executive following the revision of the Council’s Grievance, Capability and Disciplinary Procedures:-

- (a) The deletion of paragraph (a) of the functions of the Appeals Committee as set out in Part 3 of the Constitution.
- (b) The addition of the following paragraph to the terms of reference of the Chief Executive:-

“To hear and determine appeals, in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who will attend the appeal hearing, under the Grievance, Capability or Disciplinary (Level 4) Procedures for all categories of employees except those staff on JNC Conditions of Service for Chief Officers of Local Authorities.”

- (c) The addition of the following to the functions of the Employment and Development Panel as set out in Part 3 of the Constitution:-

COMMITTEE AND MEMBERSHIP	FUNCTIONS	DELEGATION OF FUNCTIONS
Employment and Development Panel	f) To hear and determine appeals against decisions taken by or about the Chief Executive under the disciplinary, grievance or capability procedures.	Sub-Committee comprising 3 Members.

33. REVIEW OF COMPLAINTS - APRIL TO JUNE 2009

The Committee considered the 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 April - June 2009. A Member referred to the three payments made by the Council during the period by way of local settlement upon the

recommendation of the Local Government Ombudsman and other settlements relating to planning mentioned in the annual report. She expressed concern that all of these payments arose from complaints about development control and planning enforcement and asked whether this was indicative of a lack of learning year on year. The Head of Legal Services advised the Committee that, in the context of the number of planning applications and enforcement cases, this was not a poor result and no underlying trend had been identified. However, he would meet the Member and the Development Control Manager about her concerns and report back to the Committee if necessary.

RESOLVED: That the Council's performance in responding to complaints during the period April - June 2009 be noted and that the recommended actions to improve complaints handling and the opportunities for learning from complaints be implemented by Heads of Service.

34. OMBUDSMAN'S ANNUAL REVIEW 2008/09

The Committee considered the Local Government Ombudsman's annual review of the complaints that his office had dealt with about the Council during the year ended 31 March 2009.

RESOLVED:

1. That the Local Government Ombudsman's annual review of the complaints that his office had dealt with about the Council during the year ended 31 March 2009 be noted and published on the Council's website.
2. That, in future, the Local Government Ombudsman's annual review should be circulated to all Members of the Committee upon receipt and published on the website.

35. CODE OF CONDUCT COMPLAINTS

The Committee considered the report of the Monitoring Officer setting out details of the Code of Conduct complaints received by the Council during the period May 2008 to date. It was noted that six complaints had been made by four complainants, all of whom were members of the public. In four cases the Sub-Committee had decided to take no further action and in three of these the complainant had requested a review by the Referrals Panel. The Panel had upheld the decisions to take no further action in all three cases. One complaint had been referred to the Monitoring Officer to arrange Code of Conduct training for the Clerk and the Parish Councillors concerned and this would now be incorporated into the Code of Conduct training sessions which were being arranged for Parish Councillors. The sixth complaint had been referred to the Monitoring Officer for investigation and a hearing into the complaint would take place in due course; the Parish Councillor who was the subject of the complaint having asked for more time to prepare.

The Monitoring Officer advised the Committee that there had not been any discernable trend in the complaints that would lead him to believe that

any specific training needed to be arranged, but one incident had suggested that Members should consider acknowledging all communications received unless the writer had previously been advised that the correspondence was closed.

The Committee felt that Parish Clerks should be encouraged to attend the training on the Code of Conduct.

RESOLVED:

1. That the report be noted.
2. That in the case of the complaint referred to the Monitoring Officer to arrange Code of Conduct training for the Clerk and the Parish Councillors, the Monitoring Officer be requested to check whether the individuals concerned have indicated that they will be attending one of the forthcoming training sessions and, if not, to send a reminder.

36. STANDARDS FOR ENGLAND BULLETIN 44

The Committee considered Standards for England Bulletin 44 which covered issues such as the establishment of joint Standards Committees; changes to the criteria for granting dispensations; Standards for England's response to the inquiry into MP's expenses held by the Committee on Standards in Public Life; the key findings of the survey undertaken by BMG Research on behalf of Standards for England regarding the level of satisfaction in local government with its performance and attitudes to the ethical environment; the findings of the first year of the five year study being carried out by Cardiff University to identify the impact of the standards framework within nine local authorities; the data collated from the quarterly returns and the response to the request to complete annual returns; and the revised guidance note on good planning practice for Councillors and Officers dealing with planning matters published recently by the Local Government Association.

The Chairman drew the Committee's attention to the information collected by Standards for England from the quarterly returns and, in particular, the data relating to the size and composition of a typical Standards Committee. He suggested that it might be appropriate to review the size and composition of the Standards Committee and the Sub-Committee with a view to (a) reducing the number of Borough Councillors on the Standards Committee to three, one from each Political Group, and (b) reducing the membership of the Sub-Committee to three (one Borough Councillor, one Parish representative and one Independent Member).

RESOLVED:

1. That the contents of Standards for England Bulletin 44 be noted.
2. That the Chairman be requested to submit a report to the next meeting of the Committee reviewing the size and composition of the Standards Committee and the Standards Sub-Committee and the options for change.

3. That the Committee's previous decision not to pursue joint committees be endorsed.

37. GUIDANCE ON DISPENSATIONS

The Head of Legal Services advised the Committee that the Standards Committee (Further Provisions) Regulations 2009, which came into force on 15 June 2009, amended the powers of Standards Committees to grant dispensations to Members to allow them to speak and vote at meetings when they had a prejudicial interest. He then drew the Committee's attention to guidance which had been issued by Standards for England to assist Standards Committees in their consideration of requests for dispensations following the change in the Regulations.

RESOLVED:

1. That the issues to consider and the criteria to be applied when dealing with requests for dispensations under the new Regulations, as set out in the guidance issued by Standards for England, be adopted.
2. That the Standards Sub-Committee be given delegated powers to deal with urgent requests for dispensations.

38. BOUGHTON MONCHELSEA PARISH COUNCIL - APPLICATION FOR DISPENSATION

The Head of Legal Services reported that an application had been received from Councillor Gillian Powell, 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 Gillian Powell 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.

39. HARRIETSHAM PARISH COUNCIL - APPLICATIONS FOR DISPENSATIONS

The Head of Legal Services advised the Committee that applications had been received from five Members of Harrietsham Parish Council for dispensations to enable them to speak and vote at meetings of the Parish Council when matters relating to the Harrietsham Playscheme were being considered notwithstanding the fact that they had prejudicial interests in the matter by virtue of being employed to work at the Playscheme and/or having children who attended the Playscheme.

RESOLVED:

1. That dispensations be granted to Councillors Laffan and Morris to enable them to speak and vote at meetings of the Harrietsham Parish Council when matters relating to the Harrietsham Playscheme are being discussed notwithstanding the fact that they have prejudicial interests in the matter by virtue of having children who attend the Scheme; such dispensations to expire on 30 June 2011.
2. That dispensations not be granted to Councillors Finch, J Sams and T Sams because it would not be appropriate to do so as they/their partner are employed by the Scheme.

40. 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 advised the Committee that applications had been received from six 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, the Chairman) of the Action Group.

RESOLVED: That consideration of this matter be deferred for further information, including details of the Scheme for the Regulation of the Charity, the precise nature of each Parish Councillor's interest (member by subscription or Trustee by virtue of being a Member of the Parish Council etc.) and a plan showing the location of each Parish Councillor's property in relation to the woodland.

41. ANY OTHER APPLICATIONS FOR DISPENSATIONS

There were no other applications for dispensations.

42. ARRANGEMENTS FOR FUTURE MEETINGS

The Committee considered the arrangements for future meetings; specifically, whether they should be held during the day or in the evening.

RESOLVED: That in future meetings should be held alternately in the morning commencing at 9.30 a.m. and in the evening commencing at 6.30 p.m.

43. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that an advertisement would appear in the September editions of the Downs Mail seeking applications from members of the public interested in becoming an Independent Member of the Standards Committee.

44. DURATION OF MEETING

6.30 p.m. to 9.05 p.m.