

MAIDSTONE BOROUGH COUNCIL

STANDARDS (HEARINGS AND DETERMINATION) SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 18 OCTOBER 2010

Present: **Mr D Wright (Independent Member) (Chairman)**
 Councillor Mrs W Hinder
 Councillor B Stead (Parish Representative)
 Paul Fisher, Monitoring Officer
 Donna Price, Investigating Officer
 Debbie Snook, Democratic Services Officer

1. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

2. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

3. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed, but the Committee's deliberations as to its findings of fact, whether there has been a breach or breaches of the Code of Conduct and, if so, what sanction is to be imposed, if any, should be taken in private.

4. MINUTES OF THE MEETING HELD ON 20 NOVEMBER 2009

RESOLVED: That the Minutes of the meeting held on 20 November 2009 be approved as a correct record and signed.

5. HEARING INTO ALLEGATIONS THAT PARISH COUNCILLOR HANS REICHERT BREACHED THE LANGLEY PARISH COUNCIL'S CODE OF CONDUCT

The Monitoring Officer submitted a report setting out the background to the hearing. It was noted that the Standards (Assessment) Sub-Committee, at its meeting held on 22 February 2010, considered allegations made by Mr Anthony Monk that Councillor Hans Reichert may have failed to comply with Langley Parish Council's Code of Conduct. Specifically, it was alleged that Councillor Reichert used his position as a Member of Langley Parish Council to secure an advantage for himself (paragraph 6 (a) of the Code of Conduct) and that Councillor Reichert failed to disclose prejudicial interests and withdraw from meetings when matters relating to his company were discussed (paragraphs 9 and 12 of the Code of Conduct). The Sub-Committee agreed to refer the allegations to the Monitoring Officer for investigation. The Monitoring Officer appointed an Investigating Officer to look into the matter and her report was considered by the Standards (Consideration) Sub-Committee at its

meeting held on 1 September 2010. It was agreed that the report should be referred to a hearing by the Standards (Hearings and Determination) Sub-Committee.

The Investigating Officer had considered whether Councillor Reichert failed to comply with paragraphs 6 (a), 9 and 12 of the Code of Conduct of Langley Parish Council. She had concluded that Councillor Reichert did not fail to comply with paragraph 6 (a) of the Code of Conduct, but did fail to comply with paragraphs 9 and 12 of the Code of Conduct.

It was now necessary for the Sub-Committee to hear the matter and decide whether or not there had been a breach, or breaches, of the Code of Conduct, and, if so, what sanction to impose, if any.

The Hearing

The Investigating Officer advised the Sub-Committee that she wished to add that Councillor Reichert's failure to declare an interest at meetings of the Parish Council when the website was discussed happened on approximately twelve occasions.

The Chairman reminded the Sub-Committee that at an earlier meeting it had agreed with the finding in the Investigating Officer's report that there had been no breach of paragraph 6 (a) of the Code of Conduct. The Chairman then formally asked Councillor Reichert if he admitted to having breached paragraphs 9 and 12 of the Code of Conduct. Councillor Reichert admitted the breaches. He stated that he now realised that he should have declared an interest at every meeting when the website was discussed. In mitigation he explained that until his training on the Code of Conduct in January 2010 he did not fully understand what was required in terms of declaring interests, but he now declared a personal and/or prejudicial interest when the website was discussed. He had been approached by the Parish Council due to his expertise in the area of website provision; in hindsight he had been naïve.

The Sub-Committee then heard briefly from the Investigating Officer as to the way forward. She explained that:-

- During the period May 2007 to November 2008, Councillor Reichert failed to declare an interest at Council meetings when the website was discussed on approximately twelve occasions. At this stage he had not received training on the Code of Conduct and did not have a full understanding of the Code at the time. He believed that the fact that he had declared an interest in relation to his position as a Director of HDR Visual Communications Ltd at the meeting in April 2007 and in the Register of Members' Personal Interests was sufficient to meet the requirements of the Code of Conduct.
- Having considered all of the evidence she did not believe that Councillor Reichert intentionally or maliciously withheld his interest in the company and the website provision at Council meetings.

- In January 2010 Councillor Reichert underwent training on the Code of Conduct and it was clear from his interview and subsequent Minutes that he had learned from the training.
- In the light of this she would recommend that a censure was sufficient sanction in the circumstances.

The Sub-Committee then agreed to exclude the public pursuant to paragraph 7C of Part I of Schedule 12A to the Local Government Act 1972, having applied the Public Interest Test, in order that it could deliberate and reach its conclusions in private as to whether Councillor Reichert had failed to follow the Code of Conduct and, if so, the sanction to be imposed if any.

The Sub-Committee then left the room accompanied by the Monitoring Officer and the Committee Administrator.

Upon the return of the Sub-Committee, the Chairman announced that:-

- The Sub-Committee agreed with the findings of fact as set out in the Investigating Officer's report for the reasons set out in that report.
- The Sub-Committee agreed that there had been no breach of paragraph 6 (a) of the Code, but paragraphs 9 and 12 had been breached, for the reasons set out in the Investigating Officer's report.
- The Sub-Committee had determined that the sanction imposed for the breaches of paragraphs 9 and 12 of the Code of Conduct be that Councillor Reichert be censured.
- The Sub-Committee believed that at the time of the breaches there was a lack of understanding of the Code of Conduct generally within the Parish Council, and usually in such circumstances it would impose a training sanction, but it recognised that Councillor Reichert had taken the initiative to attend training as had other Members of the Parish Council. The Sub-Committee had listened to the advice of the Investigating Officer and had taken into account the guidance on sanctions issued by Standards for England. It considered that there was no intention to breach the Code, that Councillor Reichert had been naïve but not dishonest.

A copy of the Decision Notice is attached as an Appendix to these Minutes.

6. DURATION OF MEETING

10.00 a.m. to 11.00 a.m.