

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 4 APRIL 2012

<u>Present:</u>	Councillors FitzGerald, Mrs Hinder, Mrs Robertson and Vizzard
<u>Independent Members</u>	Mrs Phillips (Chairman), Mr Powis and Mr Wright
<u>Parish Council Representatives</u>	Councillors Butcher, Mrs Riden, Stead and Younger

51. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Ms Hunt (Independent Member) and Councillor Parvin.

52. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

53. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

54. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

55. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

56. **EXEMPT ITEMS**

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

57. **MINUTES OF THE MEETING HELD ON 30 NOVEMBER 2011**

RESOLVED: That the Minutes of the meeting held on 30 November 2011 be approved as a correct record and signed.

58. **REFERENCE FROM THE AUDIT COMMITTEE - REQUEST FOR AUDIT COMMITTEE QUORUM TO BE REDUCED FROM FOUR TO THREE**

The Committee was asked to evaluate the amendment of the Constitution as a consequence of a proposal to reduce the quorum for meetings of the

Audit Committee from four to three. It was noted that the Audit Committee comprised five Members of the Council with a quorum of four. Although this had not caused a problem for the operation of the Committee to date, it could cause problems in the future now that all new Members/Substitute Members of the Committee were required to undergo specific training before being able to serve/continue to serve on the Committee.

The Committee supported the proposed amendment of the Constitution, believing that its implementation would fulfil the obligation to facilitate efficient and effective decision making.

RESOLVED to RECOMMEND to the COUNCIL: That it be noted that, in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the amendment of the Constitution as a consequence of the proposed reduction in the quorum for meetings of the Audit Committee, and believes that its implementation will help to ensure that the aims and principles of the Constitution are given full effect by putting in place arrangements to enable business to be transacted in the event of two Members of the Committee being unable/ineligible to attend a meeting of the Committee, thus enabling decisions to be taken efficiently and effectively.

59. REVIEW OF COMPLAINTS - OCTOBER-DECEMBER 2011

The Committee considered the report of the Policy and Performance Manager reviewing the Council's performance in dealing with complaints during the period October to December 2011.

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

60. WORK PROGRAMME 2010/12

The Committee considered the position with regard to the activities set out in the Work Programme 2010/12. It was noted that:-

- A letter had been sent by the Chairman and Vice-Chairman to the Secretary of State seeking relaxation of the rule that a person cannot be an Independent Person if he/she is, or has been within the past 5 years, a Member, Co-opted Member or Officer of the authority or of a Parish Council within the authority's area. A reply was awaited.
- The Monitoring Officer would submit his six month report on Code of Conduct complaints to the meeting of the Committee scheduled to be held on 30 May 2012.

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

61. ANNUAL REPORT TO COUNCIL 1 APRIL 2011 - 31 MARCH 2012

The Committee considered its final Annual Report to the Council under the current ethical standards regime.

RESOLVED:

1. To RECOMMEND to the COUNCIL: That the Standards Committee's Annual Report to Council 2011/12 be noted.
2. That the Chairman be thanked for her work in drafting the report.

62. FUTURE OF STANDARDS REGIME

The Committee considered the report of the Monitoring Officer setting out proposed arrangements for implementing the provisions of the Localism Act in so far as they relate to the ethical standards regime. The report addressed the following issues:-

- The requirement for all local authorities to adopt a Code of Conduct (although there will no longer be a national mandatory Code).
- The requirement for all local authorities to have a system in place to deal with allegations of Member misconduct and to appoint at least one Independent Person whose views must be sought, and taken into account, by the authority before making its decision on an allegation that it has decided to investigate.
- The role and composition of the non-statutory Standards Committee which will be set up to replace the existing Committee when the new standards regime comes into force (currently expected to be in July this year).
- The composition of the Assessment and Hearing Sub-Committees to be appointed from the membership of the Standards Committee as and when required.
- The arrangements for dealing with applications for dispensations from Borough and Parish Councillors who wish to participate in meetings notwithstanding the fact that they have a prejudicial interest in a matter to be discussed.
- The arrangements for discharging the other functions currently carried out by the Standards Committee.

In response to questions, the Monitoring Officer explained that:-

- The Local Government Association had undertaken to publish a draft model Code of Conduct for Councils to consider adopting. The Code and Register of Interests would have to deal with those pecuniary interests that must be registered and disclosed pursuant to regulations yet to be made (failure to comply with which would

be a criminal offence) and those other interests, pecuniary and non-pecuniary, which the Council decides must be declared. The Council's Register of Interests and the Register of Interests of all Parish Councils within the Borough must be published on the Council's website. The Borough Council already had a facility for publishing interests on-line and had begun preparations to put Parish Registers on its website.

- The main thrust of the suggested new arrangements for dealing with complaints of misconduct by Borough and Parish Councillors was to enable complaints to be dealt with simply, efficiently and proportionately by the Monitoring Officer in consultation with the Independent Person, with an opportunity to deal with complaints informally if appropriate.
- It was anticipated that the new non-statutory Standards Committee would only meet once a year and that its main purpose would be to provide a pool from which Sub-Committees could be drawn to deal with complaints, although it could meet more often should the need arise. Since Co-opted Members could only vote on Advisory Committees or Sub-Committees, if they were to be Members of Sub-Committees which made decisions, they could only do so as non-voting Members and could not chair the Sub-Committee. As the advisory role would now be covered by the Independent Person, there did not appear to be very much to be gained by Independent Members being co-opted onto the Committee/Sub-Committees. However, there might be some advantage to be gained from having a Parish representative on the Sub-Committees when they held hearings into alleged breaches of the Code by Parish Councillors. If it was considered that there should continue to be Parish representatives on the Committee and Hearing Sub-Committees, they would be appointed as non-voting Co-opted Members.

During the ensuing discussion, the Committee reluctantly accepted the position regarding the co-option of Independent Members onto the Committee/Sub-Committees, but felt that there should continue to be two Parish Councillor representatives on the main Committee and one on the Hearing Sub-Committees. It was also felt that there might be some merit in appointing a "reserve" or "substitute" Independent Person to act in cases where the Independent Person was unable to act due to absence, sickness etc.

The Committee then gave detailed consideration to the proposed arrangements for dealing with complaints of misconduct by Borough and Parish Councillors, as set out in Appendix A to the report of the Monitoring Officer, and suggested amendments to section 9 to clarify the involvement of the Monitoring Officer in any deliberations of the Hearing Sub-Committee held in private.

RESOLVED to RECOMMEND to the COUNCIL:

1. That agreement be given to the appointment of one Independent Person and that the Monitoring Officer be given delegated authority to agree the Job Description with the Chairman of the Standards Committee and the Political Group Spokesmen and to commence the recruitment process, culminating in a recommendation being made to Council as to who should be appointed (following consideration by a group of Members).
2. That the possibility of recruiting an Independent Person from another authority or elsewhere to act as a reserve be investigated.
3. That as from the commencement date of the new ethical standards regime, the non-statutory Standards Committee should comprise a maximum of 3 Members from each political group of the Council (i.e. it should not be politically balanced); that 2 Parish Councillor representatives be appointed as non-voting Members of the Committee on the nomination of the Kent Association of Local Councils; and that the existing arrangements be maintained until the commencement date.
4. That Assessment Sub-Committees (not politically balanced) comprising 3 Councillors be appointed from the membership of the Standards Committee as and when the Monitoring Officer requires.
5. That Hearing Sub-Committees of 3 Councillors (not politically balanced) be appointed to hear complaints where in the opinion of the Monitoring Officer there has been a breach of the Code of Conduct and that a Parish Councillor representative should be appointed to the Sub-Committee as a non-voting Member when Parish Councillors are the subject of the complaint.
6. That the procedures for dealing with complaints of misconduct by Borough and Parish Councillors, as set out in Appendices A and B to the report of the Monitoring Officer and as amended to reflect the views of the Standards Committee, be adopted.
7. That further reports be submitted as and when the LGA publishes its model Code of Conduct.
8. That the Standards Committee be given delegated authority to deal with applications by Borough Councillors for dispensations and that the Monitoring Officer also be given authority to deal with these in consultation with the Independent Person.
9. That the Standards Committee continue to be responsible for promoting and maintaining high standards of conduct by Members including making recommendations to Council as to the Code of Conduct and maintaining an oversight of the training process.

10. That all changes to the Constitution continue to be approved by the full Council, and that any proposed changes be accompanied by an evaluation from the Monitoring Officer.
11. That the Audit Committee become responsible for the oversight of the Whistle Blowing Policy.
12. That the appropriate Overview and Scrutiny Committee become responsible for the overview of complaints handling and Local Government Ombudsman investigations.
13. That the Chief Executive be given delegated authority to make payments in cases of maladministration up to £1,000 and that the appropriate Cabinet Member be responsible for authorising payments in excess of this figure.
14. That it be noted that these proposed arrangements remain subject to review and that further reports will be submitted to the Committee as and when more information becomes available.
15. That the consequential amendments to the Constitution arising from the implementation of the provisions of the Localism Act in so far as they relate to the ethical standards regime be approved.

63. PARISH REPRESENTATIVES

It was noted that since Councillor Stead would not be standing for re-election as a Parish Councillor in May, he would not be eligible to serve on the Standards Committee under the existing or proposed new arrangements.

RESOLVED: That rather than asking the Kent Association of Local Councils to nominate someone to replace Councillor Stead, the Standards Committee should operate with the remaining three Parish representatives until the new ethical standards regime comes into force.

64. CODE OF CONDUCT COMPLAINTS

See Minute 60 above.

65. BREDHURST PARISH COUNCIL - APPLICATION FOR DISPENSATION

The Head of Legal Services reported that an application had been received from Councillor Nichola Carr, a new Member of Bredhurst Parish Council, for a dispensation to enable her 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 she had a prejudicial interest in the matter by virtue of being a member of the Group.

RESOLVED: That a dispensation be granted to Councillor Nichola Carr to enable her 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 she has a prejudicial interest by virtue of being a member of the Group; such dispensation to expire on 30 June 2012.

66. ANY OTHER APPLICATIONS FOR DISPENSATIONS

There were no other applications for dispensations.

67. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that since this was the last ordinary meeting of the Standards Committee before the elections in May, she would like to take the opportunity to thank all Members and Co-opted Members of the Committee for their hard work and support throughout the year, and to express her thanks in particular to Councillors FitzGerald and Stead who would not be standing for re-election.

68. DURATION OF MEETING

10.00 a.m. to 11.35 a.m.