

Medway Council
Meeting of Standards Committee
Tuesday, 20 March 2012
7.00pm to 8.12pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: O'Brien, Shaw, Smith and Stamp

Independent Members:

Dance, Gray, Sanford, Shah and Sindrey

Parish Council Representatives:

Parish Councillors Buckwell, Coomber and Marsh

In Attendance: Angela Drum, Deputy Monitoring Officer
Perry Holmes, Monitoring Officer
Duncan Milne, Investigating Officer
Teri Reynolds, Democratic Services Officer
Deborah Upton, Former Monitoring Officer

891 Record of meeting

The record of the meeting held on 28 September 2011 was agreed and signed by the Chairman as correct.

892 Apologies for absence

An apology of absence was received from Charles Thompson.

893 Urgent matters by reason of special circumstances

There were none.

894 Declarations of interest

Councillors O'Brien, Shaw, Smith and Stamp declared a personal interest in item 7 (work programme) as the report referred to other Councillors who the Members knew as Members of Medway Council.

Councillor Stamp also declared a personal and prejudicial interest in item 7, relating to case DU/MO/132 and if the particular case was discussed would withdraw from the meeting.

Parish Councillor Marsh declared a personal interest in item 7, relating to references to Allhallows Parish Council, as he was a member of the Parish Council.

895 Localism Act 2011 - The revised ethical framework

Discussion:

The Monitoring Officer and former Monitoring Officer introduced the report, which advised Members of the changes to the “ethical framework”, which will be introduced under the provisions of the Localism Act 2011. Issues covered included: -

- The changes provided an opportunity to reduce the bureaucracy of the current regime;
- Members with a pecuniary interest needed to declare it, could not participate but were no longer required to leave the room;
- Dispensations would be able to be granted by the Monitoring Officer;
- Independent Person – advice sought by The Association of Council Secretaries and Solicitors (ACSeS) demonstrated that this could not be someone who had been a member, a co-optee or an employee in the last five years, which included current Independent Members.

Officers then drew the committee’s attention to section 13 of the report, which demonstrated areas for consideration in adopting the new regime and developing procedures. The Monitoring Officer also explained that he intended on taking a report on proposed new procedures under the new regime to full Council on 26 April 2012.

The committee then made comments and asked questions, which included: -

- Could the Council appoint a committee to under see the Independent Person’s work which could include current independent members;
- How much of a role the Independent Person would have;
- Procedures for parish councils - concern about responsibility of complaints being delegated to the parish council and consideration of offering Parish Councils the option of opting in to using the local authority to resolve complaints;
- That new procedures should enable complaints to be flagged as vexatious and not carried forward if identified as such;
- Possibility of working with other local authorities to share Independent Members to continue their knowledge and experience;
- Suggestion that where a complaint is made by Councillor about another Councillor, that these be referred to the Group Whip for action, unless considered serious enough to be referred to the Independent Person;
- What the role of this committee would be in the future, if to remain at all.

In response to the options around roles for current Independent Members, the Monitoring Officer explained that although it was regrettable to lose their knowledge and experience, there would be no voting role for the Independent

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Members and some of the suggestions could risk undermining the Independent Person and their statutory role. In terms of looking to sharing Independent Members with other local authorities, the Monitoring Officer undertook to take the suggestion forward for a view from other Monitoring Officers at a meeting he would be attending later that week.

In relation to the role of the Independent Person, the officers explained that how much involvement the Independent Person had would depend on the procedures agreed by the Council.

In relation to Parish Councils, the Monitoring Officer explained that the concern for the local authority was that under the new regime, the time and cost of investigations on parish councillor complaints would be borne by the local authority and the Parish Council would not have to act on any sanctions suggested following investigation, therefore, work would need to be done to find a balance to enable the process to work for both parties. In addition, officers clarified that parish councils could not appoint their own Independent Person and so if they dealt with their own complaints, where these were serious, they would still be required to consult with the local authority Independent Person.

In response to providing an opportunity to flag complaints as vexatious, where appropriate, the Monitoring Officer explained that wording would need to be careful for this but accepted it was something that could be included.

The Monitoring Officer explained that a committee would be needed to decide on, where appropriate, what sanction of the remaining five to give where a Member is found to breach the Code. However, he added that this function could sit within Audit Committee or as a sub-committee of the Audit Committee, instead of a Standards Committee, if the Council wished. He added that such committees were normally politically balanced.

The Monitoring Officer also asked for the committee's view on whether or not the Council should implement a standing order requiring members with a pecuniary interest to leave the room. Some felt strongly that this should be implemented and others felt that the member not speaking and voting was sufficient, without the need for them to withdraw from the room.

Decision:

The committee noted the report and requested the Monitoring Officer to forward the committee's thoughts, outlined above, to the Group Leaders to inform their deliberations as to the way forward.

896 Annual report of the Monitoring Officer

Discussion:

The Monitoring Officer introduced the report to the committee, drawing the Members attention to the overspend on the budget to deal with complaints, which was due to a large number of complaints in 2011/12. He also explained

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that once a complaint has been lodged it cannot be withdrawn and that once started complaints had to be investigated thoroughly, causing delays and expense, however, complaints could be withdrawn under the new regime.

He then answered Members questions, which included: -

- Confirmation that the duty to keep the register of interest up to date would be gone under the new regime;
- Concern about the spend in 2011/12;
- Opportunity to review procedures to make a speedier, efficient process;
- Confirmation that dispensations granted in last year would continue for the four year period on which they were granted, under the new regime.

Officers confirmed that under the new regime there would not be a duty to keep the register up to date and that there had been a high number of complaints in 2011/12, contributing to the high spend. It was also confirmed that the dispensations granted would continue to run for the remainder of the four years for which they were granted.

Decision:

The committee noted the report and gave a vote of thanks for staff in Legal Services, Democratic Services and the Independent Investigating Officer for their work on standards issues in 2011/12.

897 Work Programme

Discussion:

The Monitoring Officer introduced the report and officers provided updates for the committee, which included: -

- At paragraph 2.4 the committee were informed that at the Review Sub-Committee held on 22 February two cases were deferred to seek confirmation on an employment issue and to find an alternative parish council representative as the three representatives on the Standards Committee were conflicted out for various reasons;
- At paragraph 2.8 the committee were informed that both cases were referred to the Monitoring Officer for local resolution and had been invited to meet with the Monitoring Officer and publish a statement of clarification. Councillor Maple had done both and Councillor Osborne had published a statement of clarification and was due to meet the Monitoring Officer shortly. The Monitoring Officer proposed that an update note, to explain the subject members had taken action, should be added to the decision notices and added that he had issued guidance to all Councillors on blogging;
- At the table at paragraph 2.9 the committee were informed that case DU/MO/134 had been subject of a 'consideration' Hearings Sub-Committee earlier that evening;
- At the table at paragraph 2.9 the committee were also informed that the former Monitoring Officer had concluded her investigations of DU/MO/136

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and would be forwarding a final report for issuing to a 'consideration' Hearings Sub-Committee.

Decision:

The committee noted the report and agreed that in relation to the complaints at paragraph 2.8 of the report, that an update be put on the decision notices for these cases to explain that clarification statements had been made and meetings between the Monitoring Officer and the subject members were taking place.

Chairman

Date:

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