

Medway Council
Meeting of Councillor Conduct Committee
Wednesday, 13 September 2017
6.00pm to 6.38pm

Record of the meeting

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

Present: Councillors: Mrs Diane Chambers, Godwin, Kemp, Hicks (Chairman), Shaw, Wicks and Wildey

In Attendance: Wayne Hemingway, Democratic Services Officer
Perry Holmes, Chief Legal Officer/Monitoring Officer

307 Apologies for absence

An apology for absence was received from Councillor Carr.

308 Record of meeting

The record of the meeting held on 12 October 2016 and the record of the joint meeting of committees held on 17 May 2017 were both agreed and signed by the Chairman as correct, subject to Councillor Wildey being recorded as having given his apologies for absence for the meeting held on 12 October 2016.

309 Urgent matters by reason of special circumstances

There were none.

310 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other interests

There were none.

311 Review of the Council's Member Code of Conduct

Discussion:

The Chief Legal Officer introduced the report which provided the Committee with the outcome of a review of the Member Code of Conduct, previously

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adopted by the Council on 26 July 2012. The review had recommended some changes to the Member Code of Conduct and associated procedures.

The Chief Legal Officer detailed the proposed changes to the Code, this included the declaration and registration of non-pecuniary interests and the declaration of other significant interests. He also informed the Committee that it would be necessary to remove the provision for referral of complaints relating to the conduct of a Parish Councillor to the relevant Parish Council (this should be dealt with by Medway Council in accordance with the Localism Act 2011, supported by recent case law).

In addition, it was proposed that non-voting co-opted members of Council committees would be required to comply with the Code. Other proposed changes included the Code being updated to include a preamble, a reference to the seven principles of public life (Nolan), updates to the Planning and Licensing Codes of Good Practice to ensure consistency across the Codes as well as a review of the associated procedures.

Members then raised a number of comments and questions which included:

Whether Members would be required to register an interest if they were a Council appointee to an outside body – the Chief Legal Officer confirmed that Members would be required to declare such an interest and that this was covered in schedule 2 (non-pecuniary interests) to the revised Code.

Given it was proposed for the revised Code to take effect from 1 January 2018, would Members be asked to submit a new registration form in January and then an update form after Annual Council in May (as was current practice), and did the law specify whether Members were required to formally submit updated forms, even if there were no changes – the Chief Legal Officer confirmed that it was the Council's preference that Members formally submit the annual update forms even when there was no change and that the proposal would remain for the revised Code to take effect from January 2018 unless Members wished to defer the start date until May 2018.

Whether the proposed revisions would sufficiently deal with the issue about complaints against Councillors acting in capacity – the Chief Legal Officer stated that this matter had arisen on a number of occasions and whilst it was already stated clearly in the code, the issue was dealt with during Member training events. However, following discussion, it was considered that there would be some merit in providing more guidance on the issue in the Councillor Conduct Complaint Form (Appendix D to the report), to assist those who may be considering in making a complaint against a Councillor. The Chief Legal Officer undertook to update the Councillor Conduct Complaint Form accordingly.

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Decision:

- a) The Committee recommended the following to Full Council for approval:
 - i) The proposed revisions to the Council's Member Code of Conduct as set out in paragraphs 3.1 to 3.3 of the report and Appendix A to the report, to take effect from 1 January 2018.
 - ii) The consequential changes to Article 9 of the Constitution (which includes the terms of reference of the Councillor Conduct Committee) as set out in Appendix C to the report.
 - iii) The associated changes proposed to the Members' Planning Code of Good Practice and the Members' Licensing Code of Good Practice to align the provisions relating to other significant interests and speaking at meetings as set out in paragraph 3.5 of the report and Appendices F and G to the report.
 - iv) The revocation of the delegation of authority to Parish Councils to deal with complaints relating to the conduct of Parish Councillors, previously agreed by the Council, as these have to be dealt with by the relevant Principal Council under the Localism Act, as outlined in paragraph 3.4 of the report.
 - v) To encourage that Parish Councils adopt the new Code of Conduct adopted by Medway Council.
- b) The Committee approved the following, subject to approval of the matters set out in recommendations a) i) to v) above, by Full Council.
 - i) The changes to the Interests Registration Form (at Appendix H to the report) for introduction on 1 January 2018.
 - ii) The procedures and guidance for the processing of complaints as set out in paragraph 3.4 of the report and in Appendices D and E to the report subject to the Chief Legal Officer elaborating further on the issue of what constitutes acting in capacity.
 - iii) To delegate authority to the Monitoring Officer to consider and determine any requests for dispensations from Medway Members and voting and non-voting co-opted Members in cases where the timing of a request would make it impractical to convene a meeting of the Committee.
 - iv) That the Monitoring Officer provides support and training for Members on the changes to the Member Code of Conduct and associated Codes and procedures ahead of the new Code taking effect on 1 January 2018.

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312 Exclusion of the Press and Public

Decision:

That the press and public be excluded from the meeting during consideration of the exempt material relating to agenda item 7 because consideration of these matters in public would disclose information falling within Paragraphs 1,3 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 as specified in agenda item 7, and, in all the circumstances of the case, the Committee considers that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

313 Complaint CCC 2016/002 - Update

Discussion:

The Chief Legal Officer introduced a report which detailed the outcome of an investigation which had been referred to the Police at the Committee's last meeting on 12 October 2016 culminating in no further action. He also referred to the Police's comments regarding matters arising from the complaint, which could be addressed through Members' training.

Members expressed concern that it had taken too long to report the outcome of the investigation to the Committee. Further steps should have been taken to inform Committee Members of the outcome, even though formal meetings of the Committee had not been required during the period owing to a lack of business.

Members also discussed the Police's comments regarding matters which could be addressed through Members' training.

Decision:

- a) The Committee noted the outcome of the Police investigation.
- b) The Committee requested that the Chief Legal Officer inform Committee Members of the outcome of any future investigations as soon as possible after it has been received by the Council.
- c) The Committee requested that future Members' training on the Code of Conduct include the three key issues raised by the Police.

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Chairman

Date:

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