

CONDUCT COMMITTEE



12 DECEMBER 2012 - 9.30AM

PRESENT: Councillor F H Yeulett, Chairman; Councillors M J Humphrey, R Skoulding and W Sutton.

Officers in attendance: Alan Pain (Corporate Director and Monitoring Officer), Ian Hunt (Chief Solicitor) and Elaine Cooper (Member Support Officer).

CND5/12 MINUTES OF 27 JULY 2012

The minutes of the meeting of 27 July 2012 were confirmed and signed.

*** FOR INFORMATION OF THE COUNCIL ***

CND6/12 INDEPENDENT PERSON

The Chairman informed members that:

- there has been a challenge from a member concerned in one of the complaints featured on the agenda in relation to the position of the Independent Person
- the position for an Independent Person has been advertised, with no responses to this advertisement and, therefore, no-one has been able to be appointed to the role
- as there is an element of doubt in proceeding with some of the complaints and questions over whether the Localism Act may be compromised, it is, therefore, his view that the complaints should not be considered until the Independent Person is in place
- there is a need to ensure that both parties receive a fair hearing and that the Council does not leave itself open to any challenge.

Members made comments, asked questions and received responses as follows:

- there was general agreement that the complaints should not be considered until the Independent person is in place, but once this person has been appointed these complaints should be considered in a timely manner due to the length of time that has passed with some of the complaints;
- what process is in place to ensure that an Independent Person is recruited and can one be used from another authority? Officers advised that they share members concern about the non-appointment of an Independent Person and a fresh recruitment pack is being prepared, which will be more widely circulated. The legislation states that an Independent Person cannot be connected to the authority or a member, and cannot be co-opted, an advertisement process needs to be undertaken but there is no reason why an Independent Person cannot be one at more than one authority. Former members of the Standards Committee could only be appointed as an Independent Person up to 30 June 2013 under the legislation;
- if the Council is unable to attract someone to be an Independent Person from within the District, can it use someone from another District area? Officers advised that the regulations do not describe a geographical boundary and there is nothing precluding someone from outside the area from being an Independent Person;

- is the Council setting out the same terms and compensation as other districts and has the search been broadened to a wider audience? Officers advised that the search is being widened and the compensation structure is comparable with the approach of other councils;
- concern was expressed that the last meeting was held in July, it is now December, and some of these cases have been in existence for some time and how long is it anticipated that it will be before these cases can be moved forward? Officers advised that it is proposed to re-advertise this week with a deadline date of the first week of January;
- the previous minutes do mention Town and Parish Councillors being part of the process and what has been undertaken to attract these members to the committee? Officers advised that it would be beneficial to have these councillors in place at the same time as the Independent Person so the committee is at full strength;
- the point was made that it is a priority that this issue is moved forward, with a strong steer from members to recruit an Independent Person so that matters can be processed as these matters involve people and their reputation.

Members noted the information reported and decided that the recruitment of an Independent Person be a priority to enable the committee to fulfil its function.

(The Chairman agreed to this item to be taken as a matter of urgency as it related to items under consideration on the agenda)

CND7/12 DISPENSATIONS FOR COUNCIL TAX MATTERS

Members considered arrangements for granting of dispensations for the setting of Council Tax and approval of schemes for related benefits and exemptions. Members were informed that:

- the Council has a statutory obligation to set the Council Tax by way of resolution at Full Council each year and from April 2013 the schemes for setting of Council Tax Benefits and the relevant regimes for the setting of discounts and exemptions also need to be determined;
- from April 2013, Council Tax Benefit is being localised, with councils being able to set their own schemes. However, the Government is reducing the funding provided to local authorities, meaning that unless there is a reduction in the level of benefit paid there will be an additional cost to the Council. In addition there are some prescribed reductions for Council Tax applicable in certain situations;
- all members who own residential property have the capacity to be affected by these decisions, with the ownership of land within the District being one of the prescribed Pecuniary Interests which must be registered by any councillor. This includes land owned by the member's spouse, civil partner or person whom they live with as a spouse or civil partner;
- where at any meeting there is a matter in which the member has a relevant Pecuniary Interest they must not participate in the discussion or participate in any vote on the matter, with failure to abide with this being a criminal offence;
- in the current situation, any member who occupies or owns residential property or has a spouse, civil partner or person whom they live with as a spouse or civil partner that has a liability to pay Council Tax, they cannot take part in any debate as to the setting of the

Council Tax as they have a linked interest and accordingly hold a Disclosable Pecuniary Interest. This also applies where a member or their spouse, civil partner or person whom they live with as a spouse or civil partner is subject to the Council Tax Benefit framework where the determination of the scheme may have a material impact on their eligibility and if they own a residential property which is potentially subject to one of the Council Tax discounts and/or exemptions;

- under Section 33 of the Localism Act 2011 the Council can grant dispensations to members in respect of Disclosable Pecuniary Interests, with this function being delegated to the Conduct Committee;
- dispensations can be granted on a number of grounds and it is considered that the Council is unlikely to be quorate to set the Council Tax without dispensations being granted to members;
- requests for dispensations must be made by the individual member in writing to the Monitoring Officer and the committee received a copy of the proposed form to be adopted by the Council to allow for the orderly requesting of dispensations and recording of their grant. Such dispensations would be for the duration of a members current term of office.

Members made comments, asked questions and received responses as follows:

- is this new legislation as this issue has not occurred previously? Officers advised that it has arisen through the changes to Disclosable Pecuniary Interests;
- why is there a need to have three different bands on the Dispensation Form, concern was expressed most members would tick all boxes to ensure they are covered and that a dispensation to discuss Council Tax matters should merely be a dispensation to discuss Council Tax matters, without three categories. It was also felt that if there was only one box covering all three aspects it would assist with not having to ask for further dispensations in a category if the councillor's situation changes. Officers advised that the form was designed so that councillors did not unnecessarily over-declare if they are not subject to all three elements and for transparency reasons, but there was nothing to prevent the form being changed in the manner requested by members to enable ease of completion;
- is this form widely used in other authorities or the Council's own interpretation? Officers advised that the legislation is new and councils are adopting the same principles and putting in place dispensations for their members;
- should this not feature as part of the Constitution? Officers advised that the Council has to be guided by the legislation and the new legislation removes the automatic dispensation for the Council to set its own Council Tax and individual members should now request a dispensation;
- will members as home owners or property owners be expected to declare the interest at the meeting if a dispensation is in place? Officers advised that granting a dispensation does not change the requirement for a member to disclose their interest, but it does mean that 40 members could be standing up declaring their interest. It was asked if this could not be dealt with by a show of hands at Full Council? Officers advised that this would be acceptable.

Decided that:

1. authority be given to the Monitoring Officer and Deputy Monitoring Officer to grant relevant dispensations for the Setting of the Council Tax, Council Tax Benefits and Council Tax Discounts and Exemptions to enable members to speak and vote on such matters
2. the Dispensation Form be amended so that the three categories are combined;
3. such dispensations be for the duration of a members current term of office.

(Councillors Humphrey, Skoulding, Sutton and Yeulett declared their respective Non-Pecuniary Interest in this item, by virtue of being Council Tax payers and property owners)

CND8/12 INVESTIGATION PROPOSAL - COUNCILLOR MRS FRENCH

Members agreed with the investigation proposal, however, stated that the implementation should be deferred until an Independent Person is appointed, it was not necessary for the matter to be brought back to committee as this was the request of the former Standards Committee.

CND9/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR CURTIS

Deferred until an Independent Person is appointed.

CND10/12 MEMBER CONDUCT COMPLAINT - COUNCILLORS MRS FRENCH, OWEN AND PUGH

Deferred until an Independent Person is appointed.

CND11/12 MEMBER CONDUCT COMPLAINT - TO BE ADVISED

The Chairman advised that this item had been withdrawn.

CND12/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR JOLLEY

Deferred until an Independent Person is appointed.

CND13/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR MELTON

Deferred until an Independent Person is appointed.

10.10am

Chairman