

AT A MEETING of the CONDUCT ADVISORY PANEL IN HAMPSHIRE COUNTY COUNCIL held at The Castle, Winchester on 30 October 2012.

PRESENT:

Chairman:
p Councillor Mark Kemp-Gee

Councillors:

p Peter Chegwyn	p Pamela Mutton
a Keith Evans	p Jenny Radley
a Jane Frankum	a Tom Thacker
p Andrew Gibson	p Seán D. T. Woodward
p Keith House	

19. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Keith Evans, who was engaged on County Council business elsewhere, Councillor Jane Frankum due to medical reasons and Councillor Tom Thacker.

20. **DECLARATIONS OF INTEREST**

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with paragraph 1.6 of the Code. Furthermore, all Members with a Non-Pecuniary Interest in a matter being considered at the meeting should consider whether such interest should be declared, and having regard to Part 5 Paragraph 2 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

21. **MINUTES**

The Minutes of the meeting held on 4 September 2012 were confirmed as a correct record and signed by the Chairman.

22. **CHAIRMAN'S ANNOUNCEMENTS**

The following announcements by the Chairman also included matters arising from the Minutes of the meeting held on 4 September 2012.

- a) In regard to the actions arising from the last meeting, the Chairman confirmed that:
 - i) a flow chart setting out the route a complaint of breach of the new Code of Conduct would take had been included in the further report at Item 5 on the agenda; thanks to Eastleigh Borough Council for having provided an example; and
 - ii) the Head of Information Compliance had been consulted in regard to a concern raised at the last meeting regarding the use of the Freedom of information (FOI) framework by Members to obtain information about other Members, and whether there was any protocol in this regard, a response was awaited.
- b) The Chairman spoke about the future of the new Standards function within the Council's governance arrangements. One option would be for the function to be added to the responsibilities of the Council's Audit Committee; another option would be for the Conduct Advisory Panel to continue as a dedicated body given the specialist nature of the Standards work and the knowledge of Members of the Panel gained in determining the new Standards Arrangements. Caution was expressed not to simply recreate another version of the former Standards regime.

23. **REVISED ARRANGEMENTS FOR THE ASSESSMENT, INVESTIGATION AND DETERMINATION OF COMPLAINTS OF BREACH OF THE NEW CODE OF CONDUCT FOR MEMBERS OF THE COUNTY COUNCIL**

The Panel considered the report of the Chief Executive (Item 5 in the Minute Book) proposing revised arrangements for the assessment, investigation and determination of complaints of breach of the new Code of Conduct for Members and Co-opted Members of the County Council. An initial report had been considered by the Panel at its last meeting. The Head of Governance and Monitoring Officer presented the report and the Panel's preferred procedure (Annex 1) as agreed at the last meeting of the Panel, including a flow chart providing a visual outline of how the procedure would work in practice.

During the course of discussion, some concern was expressed that the proposed procedure might not be as streamlined as it could be. However, the Panel acknowledged that several exit routes had been built into the procedure to ensure complaints of a minor, inappropriate trivial or vexatious nature were disposed of at an early stage, and that only those complaints that warranted formal assessment by a panel of Members would be taken forward. It was necessary to have a process in place and whilst the proposed process was lighter touch than previous arrangements, it also clearly demonstrates that the

Council takes these matters seriously.

A vote was taken, the outcome of which was that the majority of Members present supported the proposed arrangements as set out in the report.

RESOLVED:

That the Conduct Advisory Panel approve the revised arrangements in respect of the assessment, investigation and determination of complaints of breach of the new Members' Code of Conduct as set out in Annex 1 to the supporting report.

24. **UPDATE ON SECTIONS 30 AND 31 OF THE LOCALISM ACT 2011 – DISCLOSABLE PECUNIARY INTERESTS (DPIs)**

The Chairman referred to the email from the Head of Governance and Monitoring Officer dated 19 October 2012 which set out the response received from Leading Counsel on a number of matters regarding DPIs, as agreed at the last meeting. The Chairman invited the Head of Governance and Monitoring Officer to speak who confirmed, in particular, that Counsel's opinion makes it clear, and supports the Monitoring Officer's view expressed at the last meeting of the Panel that a Member with a DPI in a matter to be discussed at a meeting of the Council, the Executive, or a Committee of the Council may address the meeting as a private individual or as a locally elected Member in the same way a member of the public is allowed to, providing the Member did not take part in any ensuing debate or voting on that matter.

The Head of Governance and Monitoring Officer confirmed that Member's own and their spouse's or civil partner's DPIs did not have to appear as a separate entry on the Register. The existing form that Members had completed, which had to be set up at speed in order to meet the new requirements, had made separate provision and this would be replaced by a revised and integrated form covering DPIs, gifts and hospitality and non-pecuniary interests. The new integrated form would be prepared as part of the work undertaken for the County Council Elections in May 2013.

The Head of Governance and Monitoring Officer also confirmed that because the issues were wider than restricted just to Members of the County Council that, with Counsel's agreement, his Opinion had been circulated to other County Council solicitors, including those advising other bodies to which the County Council appoints Members, the Association of Council Secretaries and Solicitors ('ACSeS') and the Association of Democratic Services' Officers ('ADSO'). The Panel expressed the view that taking Counsel's advice on this occasion had been worthwhile, particularly as the benefit of Counsel's Opinion could be shared with other organisations grappling with the same issues.

In conclusion, the Panel requested that a briefing note be prepared by the Head of Governance and Monitoring Officer for circulation to all Members, and that DPIs and the new arrangements for dealing with complaints of breach of the Code of Conduct for Members feature in the Members Induction Programme following the County Council Elections in May 2013.

25. **DISCLOSABLE PECUNIARY INTERESTS – GENERAL DISPENSATION**

The Panel considered the report of the Chief Executive (Item 7 in the Minute Book) seeking a general dispensation for all Members of the County Council. The report proposed exempting Members from the restrictions imposed by Section 31(4) and 31(5) of the Localism Act 2011 enabling Members with a beneficial interest in land within the administrative area of Hampshire County Council to participate and vote in County Council business when issues relating to the setting of Council Tax or Precepts are considered, and 'for the avoidance of doubt' a general dispensation for all Members and Co-opted Members of the County Council in receipt of an allowance under the County Council's Members' Allowances Scheme or the Members' Allowances Scheme of another relevant authority to participate in County Council business.

The Head of Governance and Monitoring Officer presented the report and particularly drew attention to paragraph 2.8 confirming that Members may, notwithstanding the view of both the Monitoring Officer and Leading Counsel that the receipt of an allowance under the County Council's Members' Allowances Scheme does not constitute a DPI, consider that a dispensation be granted so that there is no question that Members and Co-opted Members of the County Council may not participate or vote on County Council business. During the course of discussion, the Panel agreed with the view of the Monitoring Officer, as set out in paragraph 2.8, but felt on balance that a dispensation should be granted for the avoidance of doubt.

NB: In regard to the matter raised by Councillor Pearce at the last meeting of the Panel, i.e. whether or not a dispensation should be sought for a County Councillor, as the appointed representative of the County Council on the Chichester Harbour Conservancy and payee of harbour dues, the Panel agreed that this was a matter for the Chichester Harbour Board to consider as the Conservancy is not a forum of the County Council.

RESOLVED:

That the Conduct Advisory Panel grants the following dispensations under Section 33(2)(a) of the Localism Act 2011:

- a) A dispensation expiring on 30 September 2016 to all Members of the County Council from the provisions of Section 31(4)(a) and (b) of the Localism Act enabling all Members of the County Council to participate and vote in any business of the County Council relating to the setting of the Council Tax or Precepts.
- b) A dispensation expiring on 30 September 2016 to all Members of the County Council in receipt of an allowance under the Hampshire County Council Members' Allowances Scheme or Members' Allowances Scheme of another relevant authority from the provisions of Section 31(4)(a) and (b) of the Localism Act enabling all Members and Co-opted Members of the County Council to participate and vote in any business of the County Council.