

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **GENERAL PURPOSES COMMITTEE** held at Room 15, Priory House, Monks Walk, Shefford on Thursday, 2 August 2012

PRESENT

Cllr P Hollick (Chairman)
Cllr R C Stay (Vice-Chairman)

Cllrs P N Aldis
M R Jones
K C Matthews

Cllrs J Murray
B Saunders
N Warren

Apologies for Absence: Cllrs J G Jamieson
D J Lawrence
Mrs J G Lawrence

Substitutes: Cllrs D Bowater (In place of D J Lawrence)
Mrs C F Chapman MBE (In place of Mrs J G Lawrence)
J N Young (In place of J G Jamieson)

Members in Attendance: Cllr M A G Versallion

Officers in Attendance: Mr J Atkinson – Head of Legal and Democratic Services
Mr L Manning – Committee Services Officer

GPC/12/11 **Minutes**

RESOLVED

that the minutes of the meeting of the General Purposes Committee held on 7 June 2012 be confirmed and signed by the Chairman as a correct record subject to the following amendments:

- 1 Under the list of those Members present delete 'Mrs J G Lawrence' and insert 'D J Lawrence';**
- 2 Under the list of those Members present delete 'Mrs J G D J Lawrence' and insert 'Mrs J G Lawrence'**

GPC/12/12 **Declarations of Interests**

Member	Item	Nature of Interest	Present or Absent during discussion
Cllr D Bowater	7	Sits on the same bodies as a person recommended to be appointed as an independent person.	Present
Cllr Mrs C F Chapman	7	Sits on the same body as a person recommended to be appointed as an independent person.	Present

GPC/12/13 **Chairman's Announcements and Communications**

None.

GPC/12/14 **Petitions**

No petitions were received from members of the public in accordance with the Public Participation Procedure as set out in Annex 2 of Part A4 of the Constitution.

GPC/12/15 **Questions, Statements or Deputations**

No questions, statements or deputations were received from members of the public in accordance with the Public Participation Procedure as set out in Annex 1 of Part A4 of the Constitution.

GPC/12/16 **Localism Act 2011 - Appointment of Independent Persons**

The Committee considered a report by the Head of Legal and Democratic Services regarding the appointment of a joint panel of independent persons in collaboration with Bedford Borough, Luton Borough and Milton Keynes Councils and the fire authorities for Buckinghamshire and Bedfordshire. Members were aware that it was a requirement under the Localism Act 2011 to appoint such persons for the purposes of consultation in connection with the investigation and determination of complaints relating to the Code of Conduct. Members were also aware that discussion on this matter had taken place at the previous meeting of the Committee (minute GPC/12/8 refers).

The meeting noted that, following the placing of advertisements in the local press and on the respective Councils' websites, 21 applications to be an independent person had been received. Following shortlisting 13 applicants had been interviewed from which 10 had been recommended for appointment.

To assist Members the Head of Legal and Democratic Services circulated a list of revised recommendations for his report which took account of the recent developments, including the outcome of the interviews, and which included a list of the proposed independent persons.

The Head of Legal and Democratic Services drew Members' attention to the transitional provisions implemented by the government which would have the effect of allowing a former independent Member of Central Bedfordshire Council's Standards Committee to act as an independent person for the Council until 30 June 2013 only. He also commented on the need to agree the detailed terms and conditions for the independent persons and provide necessary training.

A Member referred to the proposed four year appointment period for the independent persons and queried whether this period should coincide with the term of office served by Councillors. In response the Head of Legal and Democratic Services stressed that it was of greater importance that a general period of stability was provided during which the appointees could gain experience and consolidate their position. Members concurred with this view, feeling that it was in the Council's interest that the appointment procedure for independent persons did not have to take place at the same time as the formation of a new Council following an election.

With regard to the adoption of a similar four year appointment period by other participating authorities the Head of Legal and Democratic Services advised that Bedford Borough Council had agreed to this but the position of the others was currently unknown. He stressed that efforts were being made to ensure as much commonality as was possible between the six authorities.

Full discussion then took place on the provision of training for the independent persons. The Head of Legal and Democratic Services stated that whilst training would be provided for all appointees there would, in the meantime, be a need to process the Code of Conduct complaints that had already been received. As such it would be necessary to make use of those independent persons who had already gained training and experience as independent Members under the previous Standards regime until all appointees had received training on the new regulations. Following comment by a Member on the need to ensure that all appointees received training before being allowed to act in the role of independent person the Head of Legal and Democratic Services stressed that he would not make use of any appointee as an independent person until they had received training. He added that, at their interviews, the applicants themselves had made clear that they expected that training would be provided and, further, its need had been emphasised to them.

RECOMMENDED TO COUNCIL

- 1 that, in accordance with section 28 of the Localism Act 2011, the Council be recommended to approve the appointment of the following to be independent persons:**

**Maureen Briggs
Christopher Ensor
Vasco Fernandes
Christopher Fogden
John Jones
Michael Collins Jones
Martin Leppert
Timothy Mainwaring
John Mackay
Alexandra di Stefano;**

- 2 that, subject to transitional provisions contained in the Localism Act 2011 (Commencement No. 6 and Transitional Savings and Transitory Provisions) Order 2012, the persons listed in recommendation 1 above be appointed for a period of four years;**
- 3 that the Monitoring Officer, in consultation with the Chairman or Vice-Chairman of the General Purposes Committee, be authorised to agree the detailed terms and conditions on which the appointments are made with Bedford, Luton and Milton Keynes Councils and the fire authorities for Bedfordshire and Buckinghamshire and, once they have been approved by the Council, to make the appointments on that basis;**
- 4 that all independent persons have appropriate training before being approached to take part in any proceedings relating to Code of Conduct complaints.**

GPC/12/17 Localism Act 2011 - Registration and Declaration of Interests

The Committee considered a report by the Head of Legal and Democratic Services who advised that the Committee was being asked to consider two issues. The first related to concerns expressed by Members at a presentation prior to the last meeting of the Council on 14 June 2012, and then at the meeting itself, about their right to participate and vote at meetings when certain items of business were under discussion and, in particular, when a Member had a disclosable pecuniary interest in an item. The second was that of identifying what, if any, additional interests should be registered by Members in addition to the disclosable pecuniary interests required under the Localism Act 2011.

a) Members' Participation - Dispensations

To assist Members the Head of Legal and Democratic Services circulated a revised recommendation which set out proposed

dispensations relating to Members participation at meetings. He reminded the Committee that the Localism Act contained no general dispensations and so those before Members had been largely based on general dispensations contained in the Council's previous Code of Conduct.

The Head of Legal and Democratic Services reminded the Committee that the previous Code of Conduct had contained a specific provision allowing Members to attend meetings, even when they had a prejudicial interest, but only for the purpose of making representations, answering questions or giving evidence relating to an item of business, providing that members of the public were also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. He explained there was no such provision in the Localism Act which simply stated that Members with disclosable pecuniary interests in items could not participate in the discussion and voting on such items. The Head of Legal and Democratic Services stated, however, that if the representations, answering of questions or giving of evidence by Members took place prior to the discussion on those items, as had occurred under the previous Code of Conduct provision, he was of the opinion, following consultation with other monitoring officers, that dispensations could be granted to Members to do so.

A Member referred to the need to ensure that, if a Member gained a dispensation, he or she should leave the meeting room as had also been required under the previous Code of Conduct. The Head of Legal and Democratic Services stated that the Localism Act allowed councils discretion on this issue and sought Members' views on this. A Member commented that a member of the public, having made a statement, was not required to leave a meeting. However, the meeting was aware that the requirement for Members to leave had been introduced into the Code as a result of concerns that councillors, by remaining within a meeting room could still, by their presence, exert undue influence. Following discussion the Committee acknowledged that this position could arise and so, in order that Members could be seen by the public to be acting with integrity and in an open and transparent way, they should leave the meeting room immediately having made any representation. It was further acknowledged that this dispensation could not apply to hearings conducted by the Licensing Sub-Committee where a separate statutory procedure regarding the right to speak applied.

A Member queried whether the dispensation would allow a Member to address a meeting when an exempt item was about to be considered, mindful that the public would not be allowed to do so and would have been excluded from the meeting. In response the Head of Legal and Democratic Services explained that it was at the discretion of the committee to decide whether or not to allow a member of the public to make representations on an exempt item immediately prior to the consideration of that item. He reminded Members that, under the previous Code of Conduct, if the public had the opportunity to address a meeting, then a Member also had that same right.

A Member sought clarification on the proposed requirement that a Member with a disclosable pecuniary interest leave a meeting room with particular reference to the consideration of planning applications by the Development Management Committee. In response the Head of Legal and Democratic Services explained that a judgement would need to be made as to whether an application had a specific impact on a Member or not. For example, if the application was on a site next to the Member's house, this would almost certainly give rise to a disclosable pecuniary interest. In contrast, an application affecting the local community within a Member's ward would give rise to a general interest and would not prevent a Member from representing his electorate and remaining within the meeting room.

The Vice-Chairman stated that the Council's procedures would evolve and would be subject to review. He stressed that should Members have any queries regarding the interpretation of the Localism Act they should seek guidance from the Monitoring Officer.

The meeting concurred with the granting of a general dispensation to all Members to cover certain functions of the Council whilst recognising that other functions could be dealt with through the grant of a specific dispensation to individual Members.

RECOMMENDED TO COUNCIL

- 1 that a general dispensation be granted to all Members of the Council under section 33 of the Localism Act 2011 allowing them to participate and vote at meetings when the following items of business are under discussion:**
 - (a) an allowance, payment or indemnity given to Members;**
 - (b) setting Council Tax or a precept;**
 - (c) housing, where they are a tenant of the Council, provided that the item of business does not relate particularly to their tenancy or lease;**
 - (d) services provided by the Council to school pupils (such as school meals and transport) where the Member is a parent or guardian of a child in full-time education, or is a parent governor of a school, unless the item of business relates specifically to the school which the child attends;**
- 2 that a dispensation be granted, where a Member has a disclosable pecuniary interest in an item of business, permitting the Member to make representations, answer questions or give evidence relating to the business and then to leave the meeting before any discussion of the matter takes place, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise;**

- 3 that, subject to paragraph 4 below, the dispensations granted under paragraphs 1 and 2 above shall apply to that period between the date on which the dispensation is granted and the first ordinary meeting of the General Purposes Committee following the election of a new Council;**
- 4 that the Committee review these general dispensations in the light of experience and having regard to the requirements set out in section 33 of the Act;**
- 5 that the Monitoring Officer be authorised to grant specific dispensations under section 33 of the Act in consultation with the Chairman of the Committee, as and when written requests are received.**

b) Other Interests

The Head of Legal and Democratic Services reminded the meeting that, under the Localism Act, Members were required to register disclosable pecuniary interests. These interests had been incorporated within Schedule 1 of the new Code of Conduct which had been formally adopted by the Council at its last meeting. He also reminded Members that the Authority had the power to identify any other interests that it felt should be registered. To this end he drew Members' attention to those personal interests that Members had been required to register and declare under the previous Code of Conduct and put them forward as possible examples that Members might, for the sake of transparency, wish to adopt.

The Head of Legal and Democratic Services stated that once the full range of required interests had been determined Central Bedfordshire Members would be required to re-register their interests.

Following a query by a Member the Head of Legal and Democratic Services stated that many town and parish councils in Central Bedfordshire had adopted this Council's Code of Conduct. He explained that, at the time the Code was made available to them for consideration, it was not known what interests the Regulations would eventually prescribe. Subsequently, following publication of the Regulations, town and parish council clerks had been sent the schedule of prescribed disclosable pecuniary interests and also a second schedule containing the personal interests referred to above so that individual town and parish councils could decide whether to adopt them or not. The Head of Legal and Democratic Services stated that, though many had, it was still for this Council to decide if it also wished to do so.

A Member referred to the definition of a disclosable pecuniary interest in Schedule 1 as one which was an interest of the Member and his or her partner and queried the absence of any reference to wider family members in contrast to the previous Code of Conduct. In response the Head of Legal and Democratic Services explained that the Localism Act

made no reference to other family members in this context. He added that 'partner' was defined as spouse or civil partner, a person with whom the Member was living as husband or wife, or a person with whom the Member was living as if they were civil partners.

Following full discussion the Committee indicated that it did not feel that any other interests should be specified in a separate Schedule 2 to the new Code of Conduct given that this would certainly omit some interests which should be included. Instead, it was felt that Members should decide themselves whether or not to notify meetings of such other relevant interests they held having regard to statutory requirements and the Nolan Committee Principles.

RECOMMENDED TO COUNCIL

that Members be required to abide by the law and the Nolan Committee Seven Principles of Public Life in determining whether any additional interests should be disclosed.

(Note: The meeting commenced at 9.30 a.m. and concluded at 11.12 a.m.)

Chairman

Dated