

MINUTES OF THE CONDUCT COMMITTEE HELD ON FRIDAY 26 OCTOBER 2012**AT 10.00 A.M. IN THE ESSEX HALL, TOWN HALL, CLACTON-ON-SEA**

Present: Councillors Nicholls (Chairman), Heaney (Vice-Chairman), Cossens (except items 16 (part) and 17), Goggin and P B Honeywood

Also Present: Councillors Broderick (except items 16 (part) and 17), Candy, De-Vaux Balbirnie (except items 16 (part) – 18), Johnson (except items 16 (part) and 17), King (except items 16 (part) and 17), A J Mitchell, G L Mitchell, D Oxley, Steady, Talbot, Tracey, White and Winfield (except items 16 (part) and 17)

In Attendance: Head of Resource Management (Karen Neath), Legal Services Manager and Monitoring Officer (Michael Gibson-Davies) and Democratic Services Officer (Elizabeth Ridout)

Also in Attendance: Head of Corporate Services (Martyn Knappett), Jim Addison (Independent Person), David Edmunds (Independent Person), Linda Mackenzie (Independent Person) and John Wolton (Independent Person)

12. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Johnson, with Councillor Cossens substituting. An apology for absence was also submitted on behalf of Robert Clubb (Independent Person).

13. MINUTES OF THE LAST MEETING

The minutes of the last meeting, held on 28 September 2012, were approved as a correct record and signed by the Chairman, subject to the following amendment, namely that Councillor White be recorded as having been in attendance. Councillor Broderick raised an issue regarding the use of the words “flood defence” in Minute No. 10 instead of “sea defence”.

Note for clarification: Minute No. 29 of the full Council meeting on 3 July 2012 refers to “funding for flood defence”, although the budget book refers to the relevant funding as the “coast protection and improvement fund”.

14. MATTERS ARISING FROM THE ABOVE-MENTIONED MINUTES

With reference to Minute No. 11, the Chairman advised that he was keen that there should be a thorough review of the processes and procedures of the Conduct Committee.

15. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 15.3

There were none.

16. ALLEGATION OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT – COMPLAINT NOS. 01/2012 AND 02/2012

The Committee had before it the report of the Head of Resource Management in order to determine complaints 01/2012 and 02/2012.

Members were aware that at the full Council meeting on 22 May 2012, Councillor Halliday (the "Member") answered another Councillor's question about the Cabinet decision on 18 April 2012 not to make some land owned by Tendring District Council (TDC) available to the Willow Tree Day Nursery for use as a car park. The complaints alleged misconduct by the Member during the meeting.

Three written complaints had been received on 23 May 2012, 28 May 2012 and 12 June 2012 respectively. A brief summary of them was contained in item B.1 of the Report of the Head of Resource Management. As explained in that report, the first two complaints had been given reference 01/2012 and the third complaint, reference 02/2012.

The Conduct Committee had met on 22 August 2012 and referred the complaints to the Independent Panel (IPan) for investigation. Two members of IPan carried out the investigation and interviewed the first complainant and the Member separately on 1 October 2012. IPan finalised its findings and recommendations to the Conduct Committee on 8 October 2012.

It was moved by Councillor Heaney, seconded by Councillor P B Honeywood and:

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business being considered on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, as amended.

Jim Addison and John Wolton (Independent Persons) also left the meeting.

Following consideration of the matters set out in minute 18 below and following an adjournment, the Committee resolved to readmit the public to the meeting.

Councillor Cossens then withdrew from the meeting, as did Councillors Broderick, Johnson, King and Winfield.

It was moved by Councillor Nicholls, seconded by Councillor Heaney and:

RESOLVED that, in respect of each of the three complaints:

- (a) in the circumstances, it would be unfair to make any findings of breach of the Code of Conduct because of the delay of five months, the selective nature of the investigation, the fact that only two of the 12 witnesses who provided statements were interviewed, the apparent failure to look into the complainant's motives and considering the proportionality of the case; and
- (b) with the benefit of hindsight, the Committee considered that it was inadvisable for Councillor Halliday or any other Member to leave the Council Chamber during the meeting.

17. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

Councillor Nicholls thanked the Independent Panel for its involvement and attendance.

The meeting was declared closed at 12.11 p.m.

Chairman