

# Public Document Pack



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21 July 2014

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **COUNCIL** on Wednesday 23 July 2014 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

2 **MINUTES** (Pages 2 - 5)

To confirm the attached Minutes of the Annual Meeting of the Council (attached) and the Extraordinary Meeting of the Council (to follow) held on 14 May 2014.

10 **REMUNERATION ARRANGEMENTS FOR INDEPENDENT AND SUBSTITUTE INDEPENDENT PERSON** (Pages 6 - 12)

To consider the report of the Director of Governance (to follow).

Yours sincerely

A handwritten signature in black ink, appearing to be "N. Smith", written over a white background. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chief Executive

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## MINUTES OF PROCEEDINGS

At the meeting of the Council for the District of Dover held at the Council Offices, Whitfield on Wednesday, 14 May 2014 at 6.30 pm.

Present:

Chairman: Councillor S R Nicholas

Councillors:

J S Back	R J Frost	A S Pollitt
B W Bano	B Gardner	J A Rook
T J Bartlett	D Hannent	M A Russell
P M Beresford	P J Hawkins	F J W Scales
T A Bond	P G Heath	A R Smith
P M Brivio	G J Hood	C J Smith
B W Butcher	S J Jones	J M Smith
P I Carter	L A Keen	R J Thompson
S S Chandler	N S Kenton	J F Tranter
N J Collor	G Lymer	R S Walkden
M D Conolly	S C Manion	P M Wallace
G Cowan	K Mills	P A Watkins
J A Cronk	K E Morris	
M R Eddy	M J Ovenden	

Officers:

- Chief Executive
- Director of Finance, Housing and Community
- Director of Governance
- Director of Environment and Corporate Assets
- Head of Regeneration and Development
- Head of Inward Investment
- Head of Communication and Engagement
- Team Leader – Democratic Support
- Democratic Support Officer
- Democratic Support Officer

### 15 APOLOGIES

Apologies for absence were received from Councillors J H Goodwin, P S Le Chevalier, S M Le Chevalier and P Walker.

### 16 DECLARATIONS OF INTEREST

Councillor D Hannent declared a Disclosable Pecuniary Interest (DPI) in Minute No 18 by reason of his ownership of a property in Castle Street, Dover and withdrew from the meeting for the consideration of the matter.

Councillor C J Smith declared an Other Significant Interest (OSI) in Minute No 19 by reason of his issues with his planning application and appeal and withdrew from the meeting for the consideration of the matter.

17 ANNOUNCEMENTS

(a) Manston Airport

The Leader of the Council spoke of the recent runway closure of Manston Airport. The closure would impact on the Enterprise Zone at Sandwich and on the area as a whole. The Leader expressed his support of its retention and would make appropriate representations as necessary.

(b) Discovery Park

That it was unclear at this time what implications, if any, there would be for the residual Pfizer staff at the Discovery Park in the event of a successful Pfizer bid for AstraZeneca.

18 PRESENTATION OF PETITION - DOVER TOWN INVESTMENT ZONE

The Council received a petition from Mr A Shirley that had exceeded the threshold of 1,600 signatures required to trigger a council debate in accordance with Paragraph 8 of the Council's agreed petition Scheme. The petition requested that:

"We the undersigned petition the council to, in the persons of a) the Leader and Cabinet, b) the Scrutiny Committee and c) the Chief Executive and the Head of Regeneration, call a public meeting and present, within 8 weeks of the closure of this petition, a full and detailed summary of costs incurred, progress made and forward plans to secure the completion of the Dover Town Investment Zone. The presentation should allow questions from the floor without notice and provide full disclosure of status, costs (capitalised and expensed), plans, accountabilities, timeframes and reasons for past inabilities to deliver. We respect the existence of certain commercial confidence factors which should not be used as a shield to full and proper disclosure."

The petition scheme granted Mr Shirley as the Petition Organiser the right to address the Council in support of the petition. Mr Shirley raised concerns over the lack of tangible progress in delivering the Dover Town Investment Zone (DTIZ) development over the last decade and what he saw as a lack of transparency from the Council and its development partners. He also questioned whether the Council had sufficient skills in-house to deliver a project of this nature.

In response Councillor K Mills stated that in his capacity as Committee Chairman, the Scrutiny (Policy and Performance) Committee would be holding a meeting on 23 June 2014 in Dover to scrutinise the DTIZ which would be attended by senior council officers and key development partners. He stated that the meeting would be open to the public and advised that members of the public would be permitted to ask questions at the meeting.

Councillors F J W Scales, P M Beresford, M R Eddy and P A Watkins spoke to the meeting in support of the motion stating that it would be an opportunity to ask specific questions of the officers and developers however, highlighted that some information would be commercially confidential. Councillor P A Watkins reminded the meeting that previous meetings regarding the scheme had been held in public throughout the process and the press and public were able to attend.

It was moved by Councillor K Mills, duly seconded and

- RESOLVED: (a) That Mr A Shirley's petition presentation be noted.
- (b) That the meeting of the Scrutiny (Policy and Performance) Committee to be held on 23 June 2014 to consider the DTIZ development be noted.

(Councillor D Hannent withdrew from the meeting for consideration of this item of business by reason of his Disclosable Pecuniary Interest.)

19 REGENERATION AND DEVELOPMENT RESOURCES

The Council considered the report of The Head of Paid Service to seek additional financial resources for the Council's Regeneration and Development function.

The Cabinet had approved the changes to fees and charges for pre-application advice and the use of fee income to create a pre-application service at its meeting on 12 May 2014.

Cabinet recommended that the Regeneration and Development budget be increased by £230k to enable an increase in staff resources to improve handling of the planning application caseload and that the Legal Services budget be increased by £100k to provide the necessary level of legal support to support the function.

It was moved by Councillor N S Kenton, duly seconded and

- RESOLVED: That Council approved the increase of £330k in the Council's General Fund budget.

(Councillor C J Smith withdrew from the meeting for consideration of this item of business by reason of his Other Significant Interest in the matter.)

20 FINANCING NEW HOUSING MANAGEMENT SYSTEM FOR EAST KENT HOUSING

The Council considered the report of the Director of Finance, Housing and Community. The report sought approval to make loan finance available to East Kent Housing for the procurement of a new housing management IT system.

It was moved by Councillor S S Chandler, duly seconded and

- RESOLVED: (a) That Council approve the provision of loan finance to East Kent Housing for the procurement of a new housing management IT system, the amount and terms to be approved by the Director of Finance, Housing and Community in consultation with the Portfolio Holder for Housing, Children's Services and Safeguarding, Youth and Community Safety.
- (b) That subject to loan terms being agreed and procurement and implementation being undertaken to the council's satisfaction,

to transfer current system support budgets to East Kent Housing.

21 REVIEW OF ON AND OFF-STREET PARKING CHARGE PERIOD

The Council considered the report of the Director of Environment and Corporate Assets.

At its meeting held on 14 May 2014 Cabinet had approved to reduce the on and off-street parking charge period from 9am-6pm to 9am-5pm from dates to be determined by the Director of Environment and Corporate Assets. Decisions on any objections received during the consultation process would be delegated to the Director of Environment and Corporate Assets in consultation with the portfolio Holder for Property and Access.

It was moved by Councillor N J Collor, duly seconded and

RESOLVED: That Council approved a £64k supplementary budget.

(Councillor C J Smith withdrew from the meeting for consideration of this item of business by reason of his Other Significant Interest, declaring that he was a regular user of the leisure centre car park.)

22 BYELAWS WITH RESPECT TO ACUPUNCTURE, COSMETIC SKIN PIERCING, TATTOOING, SEMI-PERMANENT SKIN COLOURING AND ELECTROLYSIS

The Chairman advised the Committee that this item had been withdrawn from the agenda.

23 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor P A Watkins, duly seconded and

RESOLVED: That, under Section 100(a)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involved the likely disclosure of exempt information as defined in Paragraph 3 of Part I of Schedule 12A of the Act.

24 EXTERNAL WALL INSULATION FOR THE 'DORLONCO' SYSTEM BUILT PROPERTIES IN AYLESHAM

The Council received the report of the Head of Asset Management, East Kent Housing.

It was moved by Councillor S S Chandler, duly seconded and

RESOLVED: That a supplementary HRA budget of £590,000 be approved.

The meeting ended at 8.26 pm

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<b>Subject:</b>	<b>REMUNERATION ARRANGEMENTS FOR INDEPENDENT AND SUBSTITUTE INDEPENDENT PERSON</b>
<b>Meeting and Date:</b>	<b>Council – 23 July 2014</b>
<b>Report of:</b>	<b>David Randall, Director of Governance</b>
<b>Classification:</b>	<b>Unrestricted</b>

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**Purpose of the report:** To determine the remuneration arrangements and other matters for the Independent Person and Substitute Independent Person.

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**Recommendation:** *That it be recommended to Council:*

1. That the Independent Person be paid an allowance of £927 per annum backdated to the start of the municipal year and be entitled to claim travel and subsistence at the same rates as if s/he were a member of the authority.
2. That the Substitute Independent Person be paid an allowance of £232 per annum backdated to the start of the municipal year and be entitled to claim travel and subsistence at the same rate as if s/he were a member of the authority.

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**1. Summary**

- 1.1 The Independent Person (and Substitute) are not members or co-opted members of the authority and therefore not included in the Members' Allowances Scheme. This report seeks to determine an appropriate level of remuneration for their positions.
- 1.2 Prior to the preparation of this report, a report was previously submitted to the Governance Committee. The East Kent Joint Independent Remuneration Panel was consulted as part of the Review of Members' Allowances and asked to consider the principle of remuneration for the Independent Person.
- 1.3 The Governance Committee at its meeting held on 26 September 2013 (Minute No. 248) resolved to recommend to Council, subject to the views of the East Kent Joint Independent Remuneration Panel, as follows:
  - “(a) That the Independent Person be paid an allowance of £927 per annum and be entitled to claim travel and subsistence at the same rates as if s/he were a member of the authority.
  - “(b) That the Substitute Independent Person be paid an allowance of £232 per annum and be entitled to claim travel and subsistence at the same rate as if s/he were a member of the authority.”
- 1.4 The recommendations of the Governance Committee were supported by the East Kent Joint Independent Remuneration Panel in light of the responsibility and potential workload involved in the position. A copy of the job description of the Independent Person is attached at Appendix 1 of this report for information.

## **2. Introduction and Background**

- 2.1 A new Code of Conduct for Members was approved by the Council at its meeting on 25 June 2012. The new Code came into effect on 1 July. The Localism Act 2011 abolished not only the previous statutory Code of Conduct but also the statutory regime for dealing with complaints that sat alongside it.. The District Council was required by the Localism Act 2011 to put in place its own arrangements for dealing with complaints that members had failed to comply with the new Code of Conduct. Section 28 of the Act requires these arrangements to include the appointment of an Independent Person. The Council also decided to appoint a Substitute Independent Person to ensure a continuous provision in the event of the Independent Person being unavailable.
- 2.2 The Independent Person is Mr B P S Dowley. The substitute Independent Person is Mr A M Hayes.
- 2.3 The role of the Independent Person is set out in detail at Appendix 1 to this report.
- 2.4 In summary, the Independent Person must be consulted by the authority before it makes a decision on an allegation that it has decided to investigate. In addition, the views of the Independent Person may be sought in relation to an allegation in any other circumstances or by a member or co-opted member of either the Council or a parish council if that person's behaviour is the subject of an allegation.
- 2.5 The Independent Person (or substitute) has attended 5 meetings with the Monitoring Officer to consider complaints against Members since January 2013. Whilst the Independent Person is not a member of the Standards Committee, and may not be co-opted onto it, this does not prevent the Independent Person from attending meetings of the Standards Committee as an observer in the same capacity as any member of the public. They can also be invited to attend meetings by the Standards Committee itself.
- 2.6 The presence of independent members on the Standards Committee was well established and Dover District Council's Standards Committee was chaired by an independent member prior to it becoming a statutory requirement under the pre Localism Act regime. However, unlike the old independent members who acted in a decision-making capacity the Independent Person is not charged with decision making but rather as an advisor to the Monitoring Officer in his decision making and as a consultee for members who are the subject of a complaint.
- 2.7 The new Code of Conduct initially saw a small but significant increase in the volume of complaints although this has since declined. For the part year 1 July 2012 – 31 March 2013 the Monitoring Officer in consultation with the Independent Person considered 33 complaints. This has decreased further for the period, 1 April 2013 to 31 March 2014, when 18 complaints were received.
- 2.8 As the Independent Person is not a Member he/she would not automatically have benefited from the indemnities which District Council Members have. As part of the arrangements to establish the position of Independent Person, the Council agreed to confer a specific indemnity and arrange any necessary insurance.

## **3. Identification of Options**

- 3.1 Option 1: That the Independent Person be paid an allowance of £927 per annum, plus travel expenses at the same rate as councillors and the Substitute Independent

Person be paid an allowance of £232 per annum plus travel expenses at the same rate as councillors.

- 3.2 The Council has to have an Independent Person. While the option to pay nothing is available, some form of remuneration is likely to improve the retention of the independent persons and the recruitment of suitable new independent persons at the end of the current terms of office.
- 3.3 The recommended levels of remuneration are the same as those previously paid to the Independent Chairman and Vice-Chairman of the Standards Committee under the previous Code of Conduct arrangements.
- 3.4 Option 2: That the Independent Person and Substitute Independent Person only be paid travel expenses.
- 3.5 This is not the recommended option as while it does remunerate for out of pocket expenses it does not include any recompense for the time component required from the Independent Person.
- 3.6 Option 3: That the Independent Person and Substitute Independent Person not be paid an allowance or travel expenses.
- 3.7 This is not the recommended option as it does not adequately remunerate the Independent Person for their time commitment and out of pocket expenses.
- 3.8 Option 4: To recommend to Council an alternative level of allowance for the Independent Person and Substitute Independent Person.
- 3.9 As the Council only has to be mindful of the views of the East Kent Joint Independent Remuneration Panel, it can determine any level of remuneration that it wishes. However, in recommending an alternative allowance, members' are reminded that the level of remuneration will impact either beneficially or adversely on the recruitment and retention of suitable independent persons

#### 4. **Evaluation of Options**

- 4.1 The report advises that an allowance be paid, preferably at the levels set out in Option 1. Allowances were paid to independent members of the Standards Committee under the old arrangements in recognition of their responsibilities and their time commitment and it is suggested that this position be continued.

#### 5. **Resource Implications**

- 5.1 There would be an additional cost of £1,159.00 per annum plus any travel expenses agreed under the Members' Allowances Scheme.

#### 6. **Corporate Implications**

- 6.1 Comment from the Director of Finance (linked to the MTFP): The Section 151 Officer and the Accountancy Section have been consulted on the report and have no further comments to add. (LS)
- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.



Comment from the Equalities Officer: This report does not specifically highlight any equalities implications however, in discharging their responsibilities members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

7. **Appendices**

Appendix 1 – Independent Person Job Description

8. **Background Papers**

Localism Act 2011

Contact Officer: Rebecca Brough, Team Leader – Democratic Support



## Dover District Council

### Standards Committee – Independent Person

#### Job Description

#### Introduction

In accordance with Section 28(7) of the Localism Act 2011 the Council is required to appoint up at least one Independent Person.

#### Descriptions of Duties and Functions

The role of the Independent Person(s) appointed by the Council will be:

1. To assist the Council generally in discharging its duty to promote and maintain high standards of conduct by Elected Members and Co-opted Members of Dover District Council and the Town and Parish Councils in its area.
2. To advise the Monitoring Officer in connection with the assessment and post-investigation stage of complaints against Elected and Co-opted members.
3. To advise the Standards Committee [or equivalent body] in connection with complaints and potential sanctions where a failure to comply with a code of conduct has been established.
4. To advise their view, where sought, to an Elected or Co-Opted Member of Dover District Council or a Town and Parish Council partially or wholly within its area who is the subject of an allegation that their behaviour has breached a Code of Conduct.
5. To reach balanced and reasoned conclusions having considered complex material and applied an impartial and fair approach to all of the written and oral material provided.
6. To advise the Council on any future adoption/revision of a Members' Code of Conduct.
7. To undertake any training arranged by the Monitoring Officer (or authorised representative) to enable the Independent Person(s) to perform their role effectively.
8. It is envisaged that the views of the Independent Person will normally be sought by the Council (through the Monitoring Officer or authorised representative) in writing, either by letter or email, or at a meeting organised for the purpose of seeking such views. Where the Independent Person's views have been sought in writing, either by letter or email, it is expected that the response will be provided in the same way. However, advice may be sought by telephone from time to time.
9. In reference to paragraph 4, the Independent Person(s) should not give advice to Members of the Council, or of the Town and Parish Councils, in circumstances where no complaint about a Member's conduct has been received. Where such advice is

required, it should be sought by the Members of the Council, or of the Parish Councils, from, or via, the Monitoring Officer or his/her authorised representative.

10. The Independent Person will be selected from a list of appointees prepared following public advertisement; those persons will be expected to add the necessary element of independence and objectivity to the Committee's functions.
  11. The person appointed as an Independent Person must:
    - be committed to the need for high standards in public life
    - demonstrate that they can remain independent in their thinking and decision making
    - be able to make judgements based on evidence or information presented
    - have questioning skills
    - be assertive
    - be able to work within an area of public life which is open and transparent
  12. The Independent Person will be expected to undertake some training by the Council in procedures and processes, especially monitoring and ensuring compliance with Codes of Conduct, Complaints Procedures, etc and where appropriate including case studies.
  13. It is envisaged that meetings will normally be held in the daytime.
    - (a) The Council will meet travel and subsistence expenses in accordance with its set rates. The provision of any other allowance is subject to review by the East Kent Joint Independent Remuneration Panel.
    - (b) The Independent Person MUST NOT<sup>[1]</sup>
      - (i) Be, or have been during the last 5 years, a member, co-opted member or officer of Dover District Council or a Town or Parish Council within the district; or
      - (ii) A relative or a close friend of a member, co-opted member or officer of Dover District Council or a Town or Parish Council within the district.
      - (iii) A person is defined by the Localism Act 2011 as a relative if they are:
        - The spouse or civil partner or living as if they were a spouse or civil partner;
        - A grandparent;
        - A lineal descendant of a grandparent;
        - A parent, sibling or child;
        - The spouse or civil partner of a grandparent, lineal descendant of a grandparent, or a parent, sibling or child; or
        - Living with a grandparent, lineal descendant of a grandparent, or a parent, sibling or child as if they were a spouse or civil partner.
- of a member, co-opted member or officer of Dover District Council or a Town or Parish Council within the district.

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<sup>[1]</sup> This paragraph must be read subject to the provisions of The Localism Act 2011 (Commencement No.6 and Transitional Savings and Transitory Provisions Order 2012 [SI 2012 No.1463] which permit the appointment of a person as an independent person notwithstanding that he has been an member or co-opted member of a standards committee at any time during the 5 years ending on 30 June 2012, provided that he is not a member or co-opted member of a standards committee on 1 July 2012. The exemption provided by the Order only applies to appointments made before 1 July 2013.