



Council Meeting

**Council Offices
White Cliffs Business Park
Dover**

Wednesday, 18 October 2017

Summons and Agenda

Nadeem Aziz
Chief Executive



Democratic Services
White Cliffs Business Park

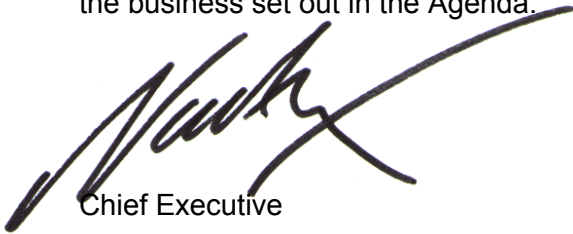
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10 October 2017

To the Members of the Council,

You are hereby summoned to attend a meeting of the **COUNCIL** to be held in the Council Chamber at these Offices on Wednesday 18 October 2017 at 6.00 pm for the transaction of the business set out in the Agenda.



Chief Executive

Members of the Council:

S S Chandler (Chairman)	N Dixon	S C Manion
D Hannent (Vice-Chairman)	M R Eddy	K Mills
J S Back	A Friend	K E Morris
S F Bannister	R J Frost	D P Murphy
T J Bartlett	B Gardner	A M Napier
P M Beresford	B J Glayzer	M J Ovenden
T A Bond	P J Hawkins	A S Pollitt
P M Brivio	P G Heath	G Rapley
B W Butcher	J M Heron	N A G Richards
P I Carter	M J Holloway	M Rose
N J Collor	S J Jones	D A Sargent
M D Conolly	L A Keen	F J W Scales
M I Cosin	N S Kenton	P Walker
G Cowan	P S Le Chevalier	P M Wallace
D G Cronk	S M Le Chevalier	

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **MINUTES**

To confirm the Minutes of the meeting held on 19 July 2017.

3 **DECLARATIONS OF INTEREST** (Page 8)

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

4 **ANNOUNCEMENTS**

To receive any announcements from the Chairman, Leader, Members of the Cabinet or Head of Paid Service.

5 **ELECTION OF A LEADER**

To elect a Leader of the Council to serve until the Annual Meeting of the Council following the ordinary election of all Councillors in 2019.

6 **COMPOSITION OF CABINET**

To note the number of Members to be appointed to the Cabinet.

The Local Government Act 2000 sets a statutory number of members of the Cabinet which, including the Leader of the Council and Deputy Leader of the Council, is a minimum of three members and a maximum of ten members.

7 **APPOINTMENT OF A CABINET**

To receive from the Leader of the Council any changes to the members of the Cabinet and related portfolios.

8 **APPOINTMENT OF SHADOW CABINET**

To note the composition of the Shadow Cabinet by the Main Opposition Group.

The Shadow Cabinet must directly reflect the composition of the Cabinet in accordance with the Council Procedure Rules.

9 **LEADER'S TIME**

To receive an oral report at the meeting from the Leader (and Cabinet) on the business of the Executive or on any topic or subject that it is felt should be brought to the attention of the Council.

In accordance with Council Procedure Rule 10 (Leader's Time):

- (a) The Leader (and Cabinet) shall have up to 15 minutes to make within this report any statements that they wish on any topic or subject that they feel should be drawn to the attention of the Council.
- (b) The Leader (or their nominee) of the Major Opposition Group (Labour Group) shall be allowed up to 10 minutes to respond.
- (c) The Leader (or their nominee) of the Other Opposition Group (UKIP Group) shall be allowed up to 5 minutes to respond.
- (d) The Leader of the Council shall be allowed up to 5 minutes to exercise a

right of reply (or 25% of the time given to the Opposition Group Leaders, whichever is the greatest).

10 **SEAT ALLOCATION AND GROUP APPOINTMENTS**

To receive from Group Leaders any changes to seat allocations or appointments.

(Note: Any changes must be within the approved allocation of seats to political groups in accordance with the political balance rules (where applicable).)

11 **QUESTIONS FROM THE PUBLIC**

To receive answers in respect of questions from the public to Members of the Executive asked in accordance with Rule 11 of the Council Procedure Rules.

- (a) Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.
- (b) The period for questions by the public shall be limited so that no further questions shall be put after the elapse of 15 minutes from the commencement of the first question.
- (c) A maximum of three minutes is allowed for the each question to be read.
- (d) A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply.
- (e) Afterwards, any other Member at the Chairman's discretion may speak for up to two minutes on a question or reply.

Questions from the Public

There were no questions from the public received within the notice period.

12 **QUESTIONS FROM MEMBERS** (Pages 9 - 11)

Up to 60 minutes is allowed for this part of the meeting unless extended by the Chairman of Council on a motion moved, duly seconded and approved by the Council. Members may ask one supplementary question in addition to their original question.

(a) To Chairmen/Vice-Chairmen of Committees

To receive answers in respect of questions from Members of the Council to the Chairman or Vice-Chairman of the Council or the Chairman of any Committee or Sub-Committee asked in accordance with Rule 12 of the Council Procedure Rules.

There were no questions received for Chairmen or Vice-Chairmen of Committees.

(b) To the Executive

To receive answers in respect of questions from Members of the Council to a Member of the Executive asked in accordance with Rule 12 of the Council

Procedure Rules.

The questions are set out in the agenda papers.

13 **MODIFICATION OF PRESCRIBED STANDING ORDERS RELATING TO THE DISMISSAL OF STATUTORY OFFICERS** (Pages 12 - 29)

To consider the attached report of the Director of Governance.

14 **PROCEDURE RULES FOR WITHDRAWING FROM MEETINGS** (Pages 30 - 32)

To consider the attached report of the Director of Governance.

15 **MOTIONS**

Motions for which notice has been given are listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.

If a Motion set out in the agenda is not moved by the Member who gave notice thereof it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

A Motion must be about matters for which the Council has powers or duties or which affects the District.

- (1) In accordance with Council Procedure Rule 13, Councillor A M Napier will move:

"Over the past decade this council has invested heavily in promoting several key locations to investors; ranging from the Discovery Park in Sandwich to the St James Development Zone, which local business owners believe has been to the detriment of our Town Centres.

This council believes we should also value and invest in our traditional Town Centres, as they are not only economic assets, they are also valuable hubs for the community.

This council will add the Dover and Deal Town Centres to our list of key locations for investment, with an equivalent level of council resources allocated to them."

- (2) In accordance with Council Procedure Rule 13, Councillor M R Eddy will move:

"A recent report in the Independent on Sunday revealed how housing benefit going to private renters has more than doubled in the last 10 years, from £3.7bn to £8.8bn, accounting for 36% of all housing benefit spending with the Treasury forecasting it will rise to £9.4bn by 2021/22.

At the same time, almost a third of private rented homes in England are currently substandard, equating to some £2.5bn currently going into the pockets of landlords who are renting out properties not meeting basic health and safety standards.

This council will write to the government to:

- 1) Demand they introduce a statutory system of licensing of all private

landlords.

- 2) Demand they fund councils adequately so we can invest properly in prevention, enforcement and prosecution of rogue landlords who rent out homes unfit for human habitation.
- 3) Ask for serious incentives for councils to build more social housing, beyond the substandard pledges made by the Prime Minister in her unforgettable conference speech.”

16 **URGENT BUSINESS TIME**

To consider any other items deemed by the Chairman of the Council to be urgent in accordance with the Local Government Act 1972.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Democratic Services Manager, telephone: (01304) 872304 or email: rebecca.brough@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

COUNCIL – 18 October 2017

Questions Raised on Notice by Members

(a) To Chairmen/Vice-Chairmen of Committees

There were no questions received for Chairmen/Vice-Chairmen of Committees.

(b) To the Executive

To receive answers in respect of questions from Members of the Council to a Member of the Executive asked in accordance with Rule 12 of the Council Procedure Rules.

- (1) Councillor D G Cronk will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:

“In Deal and Sandwich hundreds of people have signed petitions to save the council help desks. In Sandwich the closure of the help desk will mean that residents, particularly pensioners who don't drive, will have to make a twenty mile round trip on the bus to the Dover Gateway, when previously these services were on their doorstep. In Deal the residents will similarly be suffering by the cutting of this popular and necessary service. Why are these people directly bearing the burden of Tory cuts?”

- (2) Councillor A M Napier will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:

“In light of the closure of the help desks in Aylesham, Sandwich and Deal, will you guarantee the future of the services we provide at the Dover Gateway office?”

- (3) Councillor P M Wallace will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:

“Universal Credit, despite being five years behind schedule and already being linked directly to increases in personal debt, food bank use, rent arrears and eviction, will soon be rolled out across the district. Will this council commit to helping every individual and family in the district who endures hardship as a result of the introduction of Universal Credit?”

- (4) Councillor S F Bannister will ask the Portfolio Holder for Access and Licensing, Councillor N J Collor:

“In light of the Port of Dover warning of the potential for 17-mile queues if an agreement on customs is not reached between the UK and EU by May 2019,

what measures are this council taking in conjunction with other public bodies, to prepare for the positive and negative effects of Brexit on traffic in Dover and Deal?"

- (5) Councillor M R Eddy will ask the Leader of the Council:
"Does the newly appointed Leader of the council envisage ignoring the financial constraints imposed on the council by central government and awarding himself and his colleagues a 15% increase, following the example of the Leader of Kent County Council?"

- (6) Councillor A S Pollitt will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:
"How many times has the Dover District Council beverage contract been renewed since the motion on working to become a Fairtrade zone was considered by Dover District Council in 2003?"

- (7) Councillor N A G Richards will ask the Portfolio Holder for Access and Licensing, Councillor N J Collor:
"I have been contacted by a local firm who want to switch to electric cars but are frustrated by the lack of public charging points in Dover.
With the government's Electric Vehicle Homecharge Scheme and Workplace Charging Scheme providing grant funding of up to 75% towards the cost of installing electric vehicle charge points, is it not time for this council to listen to the needs of businesses and residents in the district and accept the large incentives available to help the environment and local people financially?"

- (8) Councillor B Gardner will ask the Portfolio Holder for Environment, Waste and Planning, Councillor N S Kenton:
"Can you update us on the progress being made and what discussions have been had in regard to finally getting an application on the Regent Cinema since the public meeting in August?"

- (9) Councillor S F Bannister will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:
"Would the portfolio holder agree with me that the proposal to link East Kent Services with third parties amounts to a huge step in the further privatisation of council services and that this move is forced on the council by the constant underfunding of local government by the incompetent Conservative government?"

- (10) Councillor S J Jones will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:
"When will this Council receive a formal report on the asset acquisitions approved by the commercial investment group, the costs, benefits to our residents and financial return?"

- (11) Councillor P M Wallace will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:

“Does the Portfolio holder agree with Lord Oakeshott, chairman of the Olim Property investment group, who was quoted earlier this year as saying “English councils punting on property is an accident waiting to happen... There are real echoes here of Northern Rock... and the Icelandic bank scandals, where councils played a market they didn’t understand for short-term income gain... Professional investors can see them a mile off and can’t believe their luck”?”

- (12) Councillor M R Eddy will ask the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly:

“In view of this council’s increasingly difficult financial position caused by the government’s austerity policies, will the Portfolio holder consider petitioning the government, as East Sussex County Council is doing, in order to secure further funding for this district?”

Subject:	MODIFICATION OF PRESCRIBED STANDING ORDERS RELATING TO THE DISMISSAL OF STATUTORY OFFICERS
Meeting and Date:	Council - 18 October 2017
Report of:	David Randall – Director of Governance and Monitoring Officer
Decision Type:	Non-Executive
Classification:	UNRESTRICTED

Purpose of the report: To modify standing orders relating to the dismissal of statutory officers as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and to incorporate them within the Council's Constitution.

Recommendation: That the modifications to the Part 1 of the Councils Prescribed Standing Orders, Standing Orders Relating to Staff, be modified as set out in Appendix 2 to this report and be incorporated into the Councils Constitution.

1. Summary

1.1 The government has made legislative changes which require the Council to amend its standing orders insofar as they relate to disciplinary action against and the dismissal of the Council's head of paid service, monitoring officer and chief finance officer. The report identifies the necessary changes and recommends that the Council makes them.

2. Introduction and Background

2.1 Since the Council commenced operating executive arrangements it has been a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') that the Council makes or modifies standing orders so that they include certain provisions relating to staff and other matters. The Council's Constitution currently incorporates standing orders which comply with the requirements of the regulations.

2.2 The provisions required to be in the standing orders in relation to staff operated so as to require the council to appoint a "designated independent person" before it could discipline or dismiss its head of paid service, monitoring officer or chief finance officer.

2.3 On 25 March, in furtherance of a long standing commitment to do so, the Secretary of State for Communities and Local Government made the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which will come into force on 11th May 2015 ('the 2015 Regulations'). The 2015 Regulations repeal the provisions of the 2001 regulations insofar as they relate to the appointment of the "designated independent person" and make new provision about the procedure to be followed to dismiss a head of paid service, a monitoring officer or, a chief finance officer. These provisions must be incorporated into the Council's standing orders "no later than the first ordinary meeting of the authority falling after 11th May 2015"

2.4 The 2015 Regulations require that before dismissing one of the officers identified above, the Council must appoint a "panel" for the purpose of advising on matters relating to the dismissal of the relevant officer. The Council must invite independent

persons who have been appointed under section 28(7) of the Localism Act 2011 to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel. These independent persons are those appointed by the Council in connection with the procedures for dealing with alleged breaches of the Code of Conduct for members.

- 2.5 The Department for Communities and Local Government have issued an explanatory memorandum to the 2015 Regulations which can be viewed at http://www.legislation.gov.uk/uksi/2015/881/pdfs/uksiem_20150881_en.pdf. The section of the document headed "policy Background" cites issues of complexity and expense as the reasons for the legislative changes although it is fair to say that many commentators do not accept this nor, that the new procedures actually address the perceived problems.
- 2.6 The governance consultancy firm Hoey Ainscough Associates Limited working with Wilkin Chapman Goolden solicitors have also produced a useful briefing note which expands on some of the implications of the 2015 regulations. A copy of this is attached as Appendix 1

2. Identification of Options

- 2.1 The requirements of the 2015 Regulations are mandatory insofar as they related to the adoption of the prescribed standing orders and therefore it is not possible to put options before the Council for consideration in this connection.
- 2.2 As will be noted from paragraph 28 of the attached briefing note the Council does have a choice as to whether it appoints a standing panel in pursuance of the standing orders or, whether it only appoints one if and when the need arises.

3. Evaluation of Options

- 3.1 The circumstances giving rise to the need to appoint the panel are likely to occur very infrequently, if at all. It is therefore not proposed that the Council should appoint a standing panel. In the event that one were to be needed, this would be the subject of a report to Council at the time.
- 3.2 There is also a fundamental legal difficulty in attempting to appoint a standing panel and this lies in the need to ensure that the panel is comprised of members who are impartial. The nature of the positions to which the 2015 applies is such that there is a high probability that one or more members will themselves be involved in any disciplinary action whether as instigators of it or, as witnesses. Clearly, any member involved in this capacity could not sit on the panel. Therefore, until a particular issue arises and the circumstances are known, it would not be possible to identify which members could and (more importantly) could not, sit on the panel.

4 Financial impacts for the Council

- 4.1 There are no financial implications

4. Resource Implications

- 4.1. There are no further resource implications

6. Corporate Implications

- 6.1 Comment from the Director of Finance
- 6.2 Comment from Equalities Officer
- 6.3 Comment from the Solicitor to the Council: The Solicitor to the Council has prepared this report and his comments are already incorporated within it

7. Appendices

- Appendix 1 - Briefing note Hoey Ainscough Associates Limited/Wilkin Chapman Golden solicitors
- Appendix 2 - Modification of Prescribed Standing Orders Relating to Stagg

8. Background Papers

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Contact Officer: Harvey Rudd, Solicitor to the Council (01304) 872321

NOTE ON THE NEW REGULATIONS RELATING TO DISMISSAL OF SENIOR OFFICERS

Background

1. The Government issued new regulations on 25 March 2015 to come into force on 11 May. The Regulations introduce new arrangements for dealing with disciplinary cases involving a council's three statutory officers - the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The new Regulations contain requirements for councils to amend their Standing Orders.
2. Because these three roles are statutory positions with specific roles and personal responsibility to ensure a council acts lawfully and has effective governance in place, they have had specific protection from dismissal under legislation in order to avoid them being scapegoated or victimised by local politicians were they to blow the whistle on impropriety within the authority. This is because the proper discharge of these personal responsibilities can bring the statutory officer into conflict with members of their authority, as their report may conflict with the political objectives of the authority, or indicate misconduct by a particular member.
3. Traditionally, before one of these officers could be dismissed, the council had to appoint a designated independent person (DIP) to carry out an investigation into the circumstances. The DIP was appointed on agreement between the council and the officer concerned, although if no agreement could be reached on the individual the Secretary of State had reserve powers to impose a DIP. The council could then only take disciplinary action in accordance with the DIP's report and recommendation.
4. The Secretary of State regarded this as a cumbersome and expensive process and wished to make it easier and cheaper for such officers to be dismissed where the council believed there had been significant misconduct or poor performance. He had therefore been consulting on draft regulations to streamline the arrangements and in particular remove the need for the DIP.
5. Concerns had been expressed by local government, however, that it was important to continue to provide some form of protection so that chief officers could not be dismissed purely because of political differences or for speaking uncomfortable truth unto power.
6. The new Regulations therefore seek to introduce a new streamlined procedure while attempting to retain some sort of independent check within the system. This is broadly done by giving the 'independent person' (IP) appointed to support the members' conduct framework a role in the disciplinary process for chief officers.
7. However, the regulations do raise a number of issues, both about the role of the IP and the way the process would work more generally, which remain to be clarified. This paper therefore summarises our initial understanding of the new process and some of the issues councils will need to consider. These Regulations do not stand alone but need to be considered in conjunction with wider provisions relating to local authority governance and any local process will have to have regard to general principles of employment law as well as any contractual employment agreements, so we should stress that these views below are only preliminary views and may be amended after further analysis.

The new process – in brief

8. The Regulations introduce new mandatory standing orders which all councils will have to put into their constitution to replace arrangements relating to the previous framework.

9. In brief, from now on, only the full council can dismiss one of the three statutory officers. Previously the decision could have been delegated to a committee or to the Head of Paid Service.
10. Before considering such action, the council must set up a panel whose role will be to give views, advise and make recommendations to the full council. The council must invite independent persons to sit on this panel. The panel must be appointed at least 20 working days before the relevant meeting of full council.

Issues – the independent person on the panel

11. There is no statutory minimum or maximum number of IPs that the council must appoint with regard to member misconduct issues. Some councils only have one, others have more than one.
12. Under the officer disciplinary process, the panel must invite at least two IPs to be on the panel, but can invite more. It is worth noting that the Regulations say the IP must be invited, but there is no obligation on any IP to take up the invitation, nor is there anything which would prevent the panel sitting if the IPs did not attend.
13. IPs are to be invited in a particular order. First priority is to be given to an IP appointed by the council who is also an elector in that council's area. If that proves insufficient numbers or the invite is refused, the council should invite any other IP it has appointed. And finally, it can then approach IPs from other authorities.

Issues – composition of the panel

14. The covering letter from DCLG accompanying the Regulations describes the panel as an 'independent panel'. In fact the Regulations state that it is to be a panel drawn from the council in accordance with the Local Government Act 1972 which means that it has to comply with certain legal requirements.
15. As by law it is an advisory panel under s102(4) of that Act, this can indeed be a panel consisting solely of independent (non-elected) members appointed for that purpose, which would meet the Government's stated aim of an 'independent panel'. However, there is nothing to say this has to be the case. It could also include elected members – and indeed if no IP takes up the invitation it would have to be made up of elected members.
16. If the Panel includes elected members then the political proportionality rules will apply to any elected members on the Panel, unless the Council votes to waive the proportionality requirements. In considering the composition of any Panel the principles of natural justice and employment law considerations would need to be borne in mind.
17. By virtue of s13 (3) and (4) of the Local Government and Housing Act 1989 IPs who are appointed to an advisory panel have the right, alongside any elected members to vote on matters at that panel. This differs from the IP's role in relation to member conduct issues, where they are there simply to give views rather than to make decisions and have no voting rights.
18. Incidentally, that would mean that any IP appointed to such an advisory panel would be considered a co-opted member with voting rights, and hence would become subject to the code of conduct under the Localism Act, including the requirements to register and declare DPs.
19. There is no upper limit placed on the membership of the panel, although by convention a panel should always consist of a minimum of three members. Although there is no obligation to invite more than two IPs, if the panel consists of wholly independent appointees, three IPs would have to attend. Otherwise, there must be at least one elected member alongside two IPs.

Issues – how would the panel carry out its considerations?

20. Inevitably the business of the panel relates to employment law and contractual matters. So, while there is no requirement for HR expertise on the panel, they would clearly need to have access to proper legal and HR advice to help their deliberations.
21. There is also no requirement specified as to what they are to consider. However, it is likely if they are to consider whether a dismissal can be justified, they would have to consider the outcome of an investigation or at the very least hold a hearing on the matter in hand. This is not least because employment law and existing contractual terms and conditions would still apply to the operation of the panel.
22. Regardless of the contractual provisions for a DIP in the JNC Chief Officer conditions of service, employment lawyers will be very familiar with the tests of employer reasonableness set out in sections 98(4) of the Employment Rights Act 1996. Whether the council's dismissal of a statutory officer will be regarded as fair or unfair by the Employment Tribunal will be determined by the circumstances (including the size and administrative resources of the council) and whether it acted reasonably. *Iceland Frozen Foods v Jones* [1982] IRLR 439 remains the leading case on the test to be applied. It is likely to be unfair to dismiss unless a reasonable and sufficient investigation into the alleged misconduct has been carried out, including the provision of an opportunity to explain.
23. Previously, the investigation was done by the DIP. The Government implies the guarantee of independence provided by the DIP has been replaced by the independence of the IP. Yet it seems unlikely that the expectation is that the IP would carry out any investigation, as that is not their role, so there will still need to be some sort of investigator appointed to provide evidence for the panel to consider.
24. It must be remembered that the panel is not the ultimate decision-making body – it is merely there in turn to advise the full council – so its procedures will need to reflect this.
25. That said, unless and until JNC terms and conditions are amended any procedure would need to comply with these contractual obligations. In particular, the JNC terms refer to the need for there to be an investigation committee to consider the findings of an independent investigation, and for there also to be an appeals committee. We would consider the advisory panel to meet the requirements for an investigating committee even though it is merely making recommendations rather than a final decision, but councils will need to consider how the need for any appeals committee would be met.
26. When the matter is referred to full council, it must have regard to any views, advice or recommendations made by the panel as well as the findings of any investigation and any representations made by the officer concerned.

What the council needs to do

27. These changes to standing orders come into force on 11 May. Councils must therefore adopt these changes at their first ordinary council meeting after that date. At the risk of sounding trite an ordinary meeting would be any meeting which is not 'extraordinary' under schedule 12 para 3 of the 1972 Act. Hence the annual meeting would be classed as an ordinary meeting.
28. Councils will need to decide whether they wish to create a standing panel or not. In any case, they should agree what the composition of any panel they might need to set up in future should be and agree procedural rules for the panel in case it needed to be convened in the future, to avoid future arguments about arrangements at a time when sensitivities would be likely to be high.
29. The Regulations also allow an allowance to be paid to any IPs appointed to the panel. Councils should consider now what those allowances might be and how they are incorporated into any existing

allowances IPs might currently be getting. The Regulations say this allowance cannot be more than the

allowance paid to the IP for their 'member conduct' role. While this is not entirely clear, the implication does seem to be they can receive two separate allowances – one for this role and one for the member conduct role, provided the allowance for this role does not exceed that paid for the member conduct role.

Implications and considerations for IPs

30. IPs will need to be aware of the implications of these Regulations for their role. Chief officer dismissals can arise in a number of circumstances – where serious misconduct has been found, where there has been serious performance issues or occasionally where there has been a breakdown in relations between the officer and politicians. This last scenario will always prove the most contentious as officers can only be dismissed where there are clear grounds to do so under employment law.
31. In particular therefore IPs will need to think how they would carry out their role where the issue arises from a breakdown in relationships. They will need clear guidance on relevant and irrelevant factors they will need to consider.
32. While the Regulations say that IPs have to be invited to participate, it does not appear that they have to accept the invitation. If IPs decline the invitation, it seems clear that the council will have discharged its duty by inviting them so can proceed in their absence. IPs will therefore need to consider the grounds on which they would/would not accept the invitation.
33. As with their role in dealing with member conduct issues, the IP role here appears to be above all that of a guarantor of independence and due process. Even though they are part of the panel, unlike with member conduct issues where they merely give views to the relevant panel, it is not the panel which is the final decision-making body. IPs will therefore need to consider how they would fulfil their role on the panel and, in particular, how they would make representations if they disagree with conclusions reached by the councillors on the panel, particularly where they think the conclusions have been influenced by political rather than employment considerations, or if they do not believe that full council has properly taken the panel's views into consideration.
34. As their role is similar to their role in terms of member conduct, albeit they would have voting rights, we see no need to consider recruiting IPs with different mindsets or skillsets. They will not need to be employment law experts but merely able to reach an independent view based on evidence presented.
35. An IP would become bound by the code of conduct and related statutory obligations were they to become members of the panel and will therefore need to be reminded of their obligations when they do so.

A final reminder

35. Such cases are of course, thankfully, very rare. The most important role for an IP will remain in relation to member misconduct and that should be the main emphasis when recruiting and training IPs. This will simply be an additional duty which they will need to be aware of, but may never be called upon to exercise.

Note prepared by

PAUL HOEY AND NATALIE AINSCOUGH, HOEY AINSCOUGH ASSOCIATES LTD and JONATHAN GOOLDEN, WILKIN CHAPMAN LLP

2 APRIL 2015

Hoey
Ainscough
Associates Ltd

wilkin chapman
goolder
solicitors

Prescribed Standing Orders

The following Standing Orders shall be known as 'Prescribed Standing Orders' and shall form part of the Council's Standing Orders.

Part I

Standing Orders relating to Staff

1. Appointment of Chief Officers

Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, it shall:

- (1) draw up a statement specifying:
 - (a) the duties of the Officer concerned, and
 - (b) any qualifications or qualities to be sought in the person to be appointed;
- (2) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.
- (4) Where a post has been advertised as provided in paragraph (2) the Council shall:
 - (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.
- (5) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph (2).
- (6) The steps under paragraphs (1) to (5) above may be taken by a Committee, Sub-Committee or Chief Officer of the Council if duly authorised in that behalf.
- (7) Every appointment of a Chief Officer shall be made by the Council, unless made by any duly authorised Committee or Sub-Committee of the Council, or a relevant joint Committee.
- (8) Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101(5) of the Local Government Act 1972:
 - (a) the steps under paragraphs (1) to (5) above may be taken by any duly authorised joint committee of those authorities, a sub-committee of

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that committee or a chief officer of any of the authorities concerned,
and

- (b) any chief officer may be appointed by such a duly authorised joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities
- (9) Excluded from the application of paragraphs (1) to (5) shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

(Note: Any word or phrase contained within this standing order shall, if such word or phrase is given a meaning by the Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of this standing order.)

2. **Disciplinary Action**

(1)

- (1) A relevant officer may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 is complied with.

(Note: In this standing order "relevant officer" means the chief finance officer, head of the Council's paid service or monitoring officer as the case may be.

3. **Executive Arrangements**

- (1) In this Standing Order:

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"executive" and "executive leader" have the same meaning as in Part 1A of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means the Head of East Kent Human Resources Partnership or his or her nominee.

- (2) Subject to paragraphs (3) and (7), the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority

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must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him or her.

- (3) Paragraph (2) shall not apply to the appointment or dismissal of, or disciplinary action against:
 - (a) the officer designated as the head of the authority's paid service;
 - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
 - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act, or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (4)
 - (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person
 - (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person
 - (3) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3), at least one member of the executive must be a member of that committee or sub-committee.
- (5)
 - (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
 - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3) must not be made by the appointor until:
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and

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- any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of:
- (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either:
- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he or she nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him or her within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.
- (6) (1) in this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3) must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the executive of the authority of –
 - (i) the name of the person who the dismissor wishes to dismiss;

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- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either:
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he or she nor any other member of the executive has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him or her within that period from the executive leader; or
 - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.
- (7) Nothing in paragraph (2) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
 - (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Prescribed Standing Orders

The following Standing Orders shall be known as 'Prescribed Standing Orders' and shall form part of the Council's Standing Orders.

Part I

Standing Orders relating to Staff

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Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, it shall:

- (1) draw up a statement specifying:
 - (a) the duties of the Officer concerned, and
 - (b) any qualifications or qualities to be sought in the person to be appointed;
- (2) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.
- (4) Where a post has been advertised as provided in paragraph (2) the Council shall:
 - (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.
- (5) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph (2).
- (6) The steps under paragraphs (1) to (5) above may be taken by a Committee, Sub-Committee or Chief Officer of the Council if duly authorised in that behalf.
- (7) Every appointment of a Chief Officer shall be made by the Council, unless made by any duly authorised Committee or Sub-Committee of the Council, or a relevant joint Committee.
- (8) Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101(5) of the Local Government Act 1972:
 - (a) the steps under paragraphs (1) to (5) above may be taken by any duly authorised joint committee of those authorities, a sub-committee of

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that committee or a chief officer of any of the authorities concerned, and

- (b) any chief officer may be appointed by such a duly authorised joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities
- (9) Excluded from the application of paragraphs (1) to (5) shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

(Note: Any word or phrase contained within this standing order shall, if such word or phrase is given a meaning by the Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of this standing order.)

2. Disciplinary Action

- ~~(1) No disciplinary action in respect of the head of the Council's paid service (unless he or she is also a council manager of the authority), its monitoring officer, or its Chief Finance Officer, except joint action described in paragraph (2), may be taken by the Council, or by a Committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).~~

- ~~(2) The action mentioned in paragraph (1) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.~~

- ~~(Note: In this standing order "Chief Finance Officer", "council manager", "disciplinary action", "head of authority's paid service" and "monitoring officer", shall have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in Regulation 7 of those Regulations.)~~

- (1) A relevant officer may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 is complied with.

(Note: In this standing order "relevant officer" means the chief finance officer, head of the Council's paid service or monitoring officer as the case may be.

3. Executive Arrangements

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- (1) In this Standing Order:
- "the 1989 Act" means the Local Government and Housing Act 1989;
- "the 2000 Act" means the Local Government Act 2000;
- "disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
- "executive" and "executive leader" have the same meaning as in Part ~~H-1A~~ of the 2000 Act;
- "member of staff" means a person appointed to or holding a paid office or employment under the authority; and
- "proper officer" means the Head of East Kent Human Resources Partnership or his or her nominee.
- (2) Subject to paragraphs (3) and (7), the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him or her.
- (3) Paragraph (2) shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) the officer designated as the head of the authority's paid service;
 - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
 - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act, or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (4) (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment ~~or dismissal~~ of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to ~~that person him or her, or, as the case may be, must approve that dismissal before notice of dismissal is given to him or her.~~
- (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief

finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person

- (32) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3), at least one member of the executive must be a member of that committee or sub-committee.
- (5) (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3) must not be made by the appointor until:
- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the executive of the authority of:
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either:
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he or she nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him or her within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.

- (6) (1) in this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (3) must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of –
- (i) the name of the person who the dismissor wishes to dismiss;
- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
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- (7) Nothing in paragraph (2) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Subject:	PROCEDURE RULES FOR WITHDRAWING FROM MEETINGS
Meeting and Date:	Council – 18 October 2017
Report of:	Director of Governance
Classification:	UNRESTRICTED

Purpose of the report:	To regularise existing practice in respect of Members withdrawing from meetings where they have an interest through the inclusion of the 'Withdrawal from Meetings Procedure Rules' in the Constitution.
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Recommendation:	That the 'Withdrawal from Meetings Procedure Rules' be adopted as an appendix to the Council Procedure Rules in Part 4 – Rules of Procedure in the Council's Constitution.
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1. Summary

This report seeks to regularise the position in respect of Members withdrawing from meetings where they have an interest by incorporating the previously agreed procedure rules as an appendix to the Council Procedure Rules.

2. Introduction and Background

- 2.1 The Council at its meeting held on 26 June 2012 adopted a new Code of Conduct (Minute Number 122). As part of the new Code it adopted a set of Standing Orders to amend the existing procedural rules governing the arrangements for Members withdrawing from meetings where a member had an interest.
- 2.2 However, as part of an on-going review of the Constitution it has been noticed that the Standing Orders do not appear to have been incorporated formally into the Council Procedure Rules and this report seeks to correct that situation.
- 2.3 Although the Director of Governance has been granted delegated authority to make amendments to administrative errors within the Constitution, due to the nature of the issue it was thought appropriate to submit a report to the Governance Committee and Council asking for their formal agreement to such an amendment.
- 2.4 There is no evidence that Members have failed to comply with the provisions of the Standing Orders set out in the Withdrawal from Meetings Procedure Rules in Appendix 1 of this report.

3. Identification of Options

- 3.1 Option A: To agree the inclusion of the Withdrawal from Meetings Procedure Rules as an appendix to the Council's Procedure Rules.
- 3.2 Option B: To not agree to the inclusion of the Withdrawal from Meetings Procedure Rules.

4. Evaluation of Options

- 4.1 Option A is the recommended option as it regularises the existing situation and maintains a good governance arrangements for the Council.

5. Resource Implications

- 5.1 There are no resource implications as the amendment to the Constitution is regularising existing practice.

6. Corporate Implications

- 6.1 Comment from the Director of Finance (linked to the MTFP): Finance have been consulted and there are no financial implications or further comments to add. S.G.
- 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.
- 6.3 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 – Withdrawal from Meetings Procedure Rules

8. Background Papers

Council Agenda and Minutes – 26 July 2012

Contact Officer: Rebecca Brough, Team Leader – Democratic Support, 01304 872304

Withdrawal from Meetings Procedure Rules

1. A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:-
 - (a) disclose the interest; and
 - (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to Procedure Rule 5 below); and unless they have been granted a dispensation;
 - (c) not participate in any discussion of, or vote taken on, the matter at the meeting; and
 - (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
2. A Member with an Other Significant interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.
3. Where a Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted in accordance with Procedure Rule 1. above), chooses to participate in the discussion and vote, the Chairman will refuse to count the 'vote' of the Member concerned, for the 'vote' will have been cast illegally and cannot be considered to be a vote at all. In the case of a meeting of the Council, the Chairman may apply the rules in Council Procedure Rule 22.3 relating to 'disorderly conduct'.
4. The Chairman may request that a Member declare a Disclosable Pecuniary Interest or an Other Significant Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Code of Conduct and/or these Procedure Rules are being breached.
5. Where a Disclosable Pecuniary Interest or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.
6. These Procedure Rules apply to:-
 - (a) meetings of the Council, and to committees of the Council and sub-committees
 - (b) meetings of the executive and to committees of the executive
 - (c) a Cabinet member acting alone under portfolio powers and to a ward Member who discharges functions at ward level.