

INVESTIGATION AND DISCIPLINARY COMMITTEE

Friday, 21 September 2012

Present:

Councillor	AR McLachlan (Chair)	
Councillors	AER Jones	L Rennie
	A McArdle	D Mitchell
	AR McLachlan	P Doughty
	M Hornby	

5 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

6 MINUTES

Subject to the invitation to Mr Richard Penn, who has undertaken the preliminary investigation, to attend the next meeting of the Committee to answer Members' questions, being added, the Minutes of the meeting of the Committee held on 20 August 2012 be confirmed as a correct record.

7 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

8 STATUTORY OFFICERS PRELIMINARY INVESTIGATION - PRELIMINARY REPORT/REPORTS FROM THE INDEPENDENT INVESTIGATOR

A report by the Head of Human Resources and Organisational Development updated the Committee on the suspension of the Council's three current Statutory Officers (The Acting Chief Executive (and Head of Paid Service), The Director of Law, HR and Asset Management (and Monitoring Officer), and The Acting Director of Finance (and Section 151 Officer)) and the preliminary investigation that had been carried out. It also sought agreement on the way forward.

The report set out the background, the procedure for investigating Statutory Officers, timescales and the four options available. Appended to the report were reports of three preliminary investigations relating to each Statutory Officer.

The Preliminary Investigator was invited into the meeting on three separate occasions to answer Members' questions on each of his three reports on each of the three Statutory Officers. In each of the three cases the Committee had regard to the:

- findings of the Preliminary Investigator;
- role of the Statutory Officer in the context of corporate governance;
- specific issues raised and explored by the Preliminary Investigator;
- representations made by the Statutory Officer;
- role of the Designated Independent Person and if appointed the process to be followed, the fact that the process was outside the control of the Council, the possible time it could take to complete the process (up to eighteen months), the possible outcomes and associated costs;
- whether or not any formal investigation through the Designated Independent Person would reach a finding of gross misconduct;
- ongoing negotiations in relation to risks and the potential costs of litigation; and
- the fact that the Council is going through significant change.

RESOLVED: That:

- (1) the progress of the preliminary investigation be noted;**
- (2) in the case of the Director of Law, HR and Asset Management (and Monitoring Officer), Mr Bill Norman, the Committee concluded, after having considered the preliminary investigation report, that there was no case to answer.**
- (3) in the case of the Acting Chief Executive (and Head of Paid Service), Mr Ian Coleman, that after considering the report, and the representations by the independent investigator in relation to the risks and the uncertainty of progressing the matter to a satisfactory and timely conclusion, the decision as to whether or not to move forward with the investigation be deferred whilst further options concerning Mr Coleman's employment position be explored. (4:3 - Councillors Rennie, Hornby and Mitchell voted against the motion).**
- (4) in the case of the Acting Director of Finance (and Section 151 Officer), Mr David Taylor Smith, after considering the report, and the representations by the independent investigator, the Committee concluded that there was not a case to answer under the statutory process. However other matters needed further consideration. (6:1 - Councillor Rennie voted against the motion.)**