

REPORT OF CENTRAL SERVICES COMMITTEE

(Meeting held 11 January 2000)

1. MEMBERS' USE OF INFORMATION AND DOCUMENTS AND APPOINTMENT OF STANDARDS PANEL (MINUTE NO. 52) (REPORT C)

As part of an ongoing review of issues surrounding the probity of members and officers, the Council Standards Sub-Committee has made recommendations to the Central Services Committee on –

- (a) reinforcing the provision in the Council's protocol for Member/Officer relations relating to the use of information members receive in their roles as Councillors to emphasise the need for confidentiality until such information is in the public domain and;
- (b) the establishment of a Standards Panel with power to censure members.

(a) Members' Use of Information and Documents.

Paragraph 26 of the National Code of Local Government Conduct states –

“26. Use of Confidential or Private Information

As a Councillor or a Committee or Sub-Committee member, you necessarily acquire much information that has not been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the Council or anyone else.”

There have been differences of opinion amongst members as to nature of documents that should be treated as confidential when they are not specifically marked as such. Lengthy consideration was given to this issue by the Council Standards Sub-Committee and the Central Services Committee agrees with the Sub-Committee's view that any attempt to define classes of documents that should always be treated as confidential would be impractical and bureaucratic, bearing in mind the isolated occasions on which difficulties might arise. The Committee supports the view that it is preferable to rely on generalities in both the National and the Local Codes and to introduce a mechanism for determining, in cases of dispute, whether or not a relevant code has been breached. The Committee does, however, recommend a change to the local code on Member/Officer Relations to strengthen the provisions relating to the use of information and documents by members. The proposed change is set out in the recommendation below.

(b) Establishment of Standards Panel – Censure of Members

With regard to action against members, the Committee was informed that the only action that may be taken against members for possible breaches of the Codes and Protocols, or for any other reason, is that of censure. Power to take further action, for example, suspending members, is proposed for a National Standards Board, but this Board is unlikely to come into existence before 2001. The Committee was unanimously of the view that there should be a mechanism for censuring members who

- (a) transgress the national or local codes;
- (b) fail to demonstrate the high standards expected of persons holding public office; or
- (c) have, through their actions, brought the Council into disrepute.

The Committee recommends the establishment of a Standards Panel, with power to censure members, to determine complaints against members. The proposed guidelines for the operation of the proposed Standards Panel and associated procedures are set out in Appendix 1 to this report. The Committee wishes to stress that its recommendation for the establishment of the Standards Panel does not arise solely from recent disagreements over the release of a document that was not yet in the public domain. The recommendation is also in response to views expressed in recent years by members of the public that there should be some formal mechanism for action against members where it is felt that a member's conduct has been inappropriate.

The Committee considers it extremely important that there should be, and that there should be seen to be, no political bias, either perceived or actual, in the process. For this reason it is suggested that the Standards Panel should comprise of three members, one from each political group represented on the Council, drawn from members and named substitutes of the Council Standards Sub-Committee.

As well as having a transparent process for dealing with matters by the Standards Panel, it is considered equally important to have a clear procedure for dealing with matters prior to their submission to the Standards Panel. The Council will note that the Committee suggests that the Chief Executive and the Head of Legal and Democratic Services (to be known as the "Monitoring Team"), in consultation with the Chairman of the Council Standards Sub-Committee, should determine whether or not a matter should be referred to the Standards Panel. This is an endeavour to ensure that frivolous or clearly unsubstantiated complaints do not occupy the time of the Panel. This "Monitoring Team" will not determine whether or not there has been a transgression, but merely whether or not there is a prima facie case to answer.

With regard to complaints by a member about another member, it is recommended that, to minimise allegations of misuse of the system for political expedience, complaints by one member against another must be countersigned by at least 4 members.

Full publicity for the new scheme is proposed. A leaflet explaining the scheme, how to complain and the circumstances under which a complaint is likely to be referred to the Standards Panel will be produced and made widely available.

The Committee's unanimous recommendations are set out below. The Committee has commended the Council Standards Sub-Committee on the work it has undertaken in formulating what are innovative recommendations for the establishment of the Standards Panel.

RECOMMENDED:

- (a) ***That the "Protocol for Member/Officer Relations" be renamed the "Code of Conduct for Member/Officer Relations" and that paragraph 4.11 of the Code be amended to read as follows –***

"4.11 Finally, any information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of a member's duties as a member of the Council. Any member who obtains any information or documents from any source provided to another member should not make use of, or release that information or document(s), without the consent of the member for whom it was intended. Any information relating to employee matters should always be regarded as confidential. Confidential information provided to members should not be discussed with, or released to, any other persons. This point is emphasised in the National Code of Local Government Conduct in the following terms –

26. Use of Confidential and Private Information

As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the council or anyone else."

- (b) ***That a Standards Panel of three members, comprising one member from each political group represented on the Council and drawn from the members and named substitutes of the Council Standards Sub-Committee, be appointed with the following terms of reference and powers –***
- (i) ***to hear and determine matters referred to it by the Monitoring Team in accordance with the procedures agreed by the Council from time to time;***
- (ii) ***to uphold or dismiss complaints and, where considered appropriate, to censure members.***
- (c) ***That Cllr Thierry be appointed as the Conservative Group Substitute to the Council Standards Sub-Committee and that the Independent Group be requested to nominate a substitute to the Sub-Committee;***

- (d) ***That the guidelines for the operation of the Standards Panel and associated procedures, as set out in Appendix 1 to this Report, be approved;***
- (e) ***That power be delegated to the Chief Executive/Monitoring Officer and the Head of Legal and Democratic Services (to be known as the "Monitoring Team"), in consultation with the Chairman of the Council Standards Sub-Committee, to determine whether or not a complaint should be referred to the Standards Panel for consideration;***
- (f) ***That the operation of the Standards Panel and associated procedures be reviewed by the Council Standards Sub-Committee in 12 months' time or at such earlier time as might become necessary; and***
- (g) ***That publicity be given to these new arrangements.***

2. UPDATE ON EMPLOYEE TRAINING (MINUTE NO. 54) (REPORT E)

The Committee has received a comprehensive report on the training and development that has taken place since 1 April 1999. The corporate training programme has been reviewed in detail. The Committee is pleased with the extent of training being undertaken across the authority and the efforts being made to develop employees.

The corporate training programme is identified in two ways – firstly from the Performance and Development Interviews that take place with employees annually and secondly as corporate priorities emerge as part of the corporate planning process. Training that arose as a result of corporate priorities included Investors in People Awareness, Local Agenda 21 and Disability Awareness. There was also a wide range of courses offered as a result of needs identified through the Performance and Development process.

A pilot mentoring programme was formally launched in June 1999. Sixteen mentoring partnerships have been formed, drawn from all Directorates. The pilot will be evaluated early in the New Year with a view to finalising an on-going mentoring programme across the District.

A comprehensive management development programme is to be launched soon. Senior, middle and supervisory pilot programmes are to commence in April. Twenty-two registrations for National Vocational Qualifications (NVQ's) were made in 1998/99 and a further five thus far for 1999/2000.

The Committee was particularly pleased to learn formally of the Council's re-accreditation with the Investors in People (IIP) Award. The assessors were particularly pleased with

- (a) The Performance and Development Interview process, which they felt has made a significant difference to the standard of communication within the Council;
- (b) The Corporate Plan "Crossing the Bridge" summary document;

- (c) The relationship with the Employee Side and the general approach to employee relations;

all of which were regarded as key areas of Best Practice.

An action plan arising from the IIP assessors' detailed findings is to be submitted to Central Services Committee in March.

**Councillor M J Kendal
CHAIRMAN**

(ctteemtg/cn110100)report

RECOMMENDED GUIDELINES FOR OPERATION OF STANDARDS PANEL AND ASSOCIATED PROCEDURES

1. The Standards Panel shall comprise of three members, one from each political group represented on the Council. These three members shall be drawn from the members or the named substitutes of the Council Standards Sub-Committee and will be appointed by the Chief Executive on each occasion.
2. The Panel will consider complaints against a Councillor by members of the public, another member or an employee where it is alleged that that Member's conduct has fallen below the standards set out in -
 - (a) The National Code of Local Government Conduct
 - (b) The New Forest District Council's Local Code of Conduct for Member/Officer Relations
 - (c) The New Forest District Council's Local Code of Conduct for Councillors and Officers dealing with Planning Matters
 - (d) The New Forest District Council's Protocol on the Housing Stock Transfer Review
 - (e) The New Forest District Council's Policy on the use of the Internet, Intranet and E-mail

or where it is alleged that the member has failed to demonstrate that he or she has met the high standards expected of persons holding public office or has brought the District Council into disrepute.

3. All complaints against a member should be made on a form that will be provided, on request, by the District Council for this purpose. Complaints should be submitted as soon as possible, but generally no later than 3 months following the complainant becoming aware of the alleged breach or action complained of. A complaint submitted later than this will not normally be allowed except in exceptional circumstances as determined by the Monitoring Team. Completed complaint forms must be submitted to the Chief Executive/Monitoring Officer of New Forest District Council. The Chief Executive/Monitoring Officer will refer all complaints received to the Monitoring Team.
4. The Monitoring Team will comprise the Chief Executive/Monitoring Officer and the Council's Head of Legal and Democratic Services in consultation with the Chairman of the Council Standards Sub-Committee.
5. (a) Complainants must demonstrate to the satisfaction of the Monitoring Team that a member's conduct appears not to have met the standards as set out in paragraph 2 above, before the matter is referred to the Standards Panel for consideration. The decision of the Monitoring Team is final. In respect of a complaint made by a member of the Council against another member of the Council, the complaint must be countersigned by not less than 4 members of the Council.

- (b) In the event of no complaint being received but where the Monitoring Officer believes that a member appears not to have met the standards set out in paragraph 2 above, he may refer the matter to the Monitoring Team for consideration with a recommendation that it be referred to the Standards Panel for determination.
6. The Monitoring Team or the Standards Panel, after appointment, may at any time in the process refuse to progress the complaint if they consider that the complaint is malicious, frivolous, vexatious, or any abuse or misuse of the process.
7. The cost of any attendance or representation at the hearing must be borne by the parties concerned. The Panel has no power to award costs or expenses to any party.
8. The Standards Panel may consider verbal or written representations from the member or the complainant. Neither party has to appear in person to present their case before the Panel, if they wish to rely on written representations
9. **Pre-hearing Procedure**
- (a) The Chief Executive/Monitoring Officer will acknowledge the complaint and copy it to the member concerned.
- (b) The member will have 28 days in which to submit his/her written response to the Monitoring Team. If, after receipt of the Member's response, the Monitoring Team considers that the member has a prima facie case to answer, they will refer the matter to a hearing of the Standards Panel.
- (c) Both the member and the complainant will be invited to appear before the Panel. Both may present their own case or they may be represented. They may produce witnesses. Written statements of the witnesses must be lodged with the Chief Executive/Monitoring Officer at least 10 days before the hearing.
- (d) All written submissions, including witness statements, will be circulated to the member and the complainant by the Chief Executive/Monitoring Officer at least 7 days before the hearing.
10. **Procedure at the Hearing**
- (a) The Panel will elect a Chairman for the meeting.
- (b) It will be assumed that those involved will have read all papers circulated in advance to them. Written statements will not be read to the hearing.
- (c) The proceedings of the Panel will be in public unless issues are to be discussed or evidence presented which meet one (or more) of the criteria set out in part 1 of Schedule 12A of the Local Government Act 1972. In these circumstances the public and the Press will be excluded from the meeting while only the parties directly involved in the case, as well as other members of the Council who might be present at the meeting will be permitted to remain.
- (d) The complainant will be permitted to address the Panel.
- (e) The member will be permitted to ask questions of the complainant.

- (f) Members of the Panel will be permitted to ask questions of the complainant.
- (g) The complainant's witnesses (if any) will be permitted to address the Panel.
- (h) The member will be permitted to ask questions of the complainant's witnesses.
- (i) Members of the Panel will be permitted to ask questions of the complainant's witnesses.
- (j) The member will be permitted to address the Panel.
- (k) The complainant will be permitted to ask questions of the member.
- (l) Members of the Panel will be permitted to ask questions of the member.
- (m) The member's witnesses will be permitted to address the Panel.
- (n) The complainant will be permitted to ask questions of the member's witnesses.
- (o) Members of the Panel will be permitted to ask questions of the member's witnesses.
- (p) The complainant will be permitted to sum up.
- (q) The member will be permitted to sum up.
- (r) The Panel will go into private session to receive legal advice and to reach its conclusion. The decision will be announced in public.
- (s) The complainant and the member will be informed of the decision in writing.

(Note: Reference in the procedures to the complainant, the member or members of the Panel is deemed to include any persons representing them.)

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