

REPORT OF THE STANDARDS COMMITTEE
(Meetings held 29 November 2001 and 29 January 2002)

1. THE MODEL CODE OF CONDUCT FOR MEMBERS (REPORT A) (29 JANUARY 2002) (MINUTE 23)

The Standards Committee has considered the implications of the Government's Model Code of Conduct for Members which is required to be adopted by all Councils by 5 May 2002.

The Code is attached as Appendix 1 to this Report, and the Standards Committee recommends that the Code be adopted from 1 May 2002. The requirement includes Town and Parish Councils, each of which must individually resolve to adopt the Code. The provisions of the Code are mandatory and must be adopted without amendment. Once adopted, each member of the Council (including each member of Town and Parish Councils) must sign up to the code within 2 months of it being adopted, otherwise they automatically cease to be a member of the Council.

It is open to the Council to adopt additional provisions and to include them within the statutory Code, provided that these additional provisions are consistent with it. However, the Standards Board is currently advising all local authorities not to include further provisions on the basis that this may be confusing to both members and the public if dealing with 2 or more local authorities.

Although adopting additional provisions in the Model Code is not recommended, authorities are able to adopt other codes outside the framework of the Model Code. At the present time, the Council has a number of such codes, for example "the Code of Conduct for Member and Officer Relations". The Committee considers that it is important to retain these codes, although it is recognised that revisions are needed bearing in mind some time has passed since their adoption. Officers have been requested to review the Council's other Codes of Conduct and associated documents to ensure consistency between them and the Model Code, and to bring a report thereon to a meeting of the Committee during the Spring of 2002.

Under the Local Government Act 2000, the Standards Committee has a statutory obligation to train (or arrange training for) members of Town and Parish Councils, as well as members of the District Council, on the Model Code of Conduct.

The Standards Committee has agreed that the following training events take place in the near future:-

- (a) Two training sessions, led by Mr Tim Harrison, for members of the District Council. Notice of these has been sent to all members of the Council.
- (b) Four training sessions, led by the Monitoring Officer, for Parish and Town Councillors at appropriate local venues. Parish and Town Councillors have been advised of the dates of these.

RECOMMENDED:

That the Code of Conduct attached at Appendix 1 to this report be adopted from effect from 1 May 2002.

**2. MEMBER COMPLAINTS PROCEDURE (REPORT C) (29 NOVEMBER 2001)
(MINUTE NO. 15)**

The Council's procedures for dealing with complaints made against members of the Council provide for the complaint to be dealt with by a Panel of three members, drawn from members of the Standards Committee. Members will be aware (see item 1 above) that the new Model Code of Conduct has been issued by the Government, and, subject to the Council agreeing the recommendation at item 1, will come into force for New Forest District Councillors on 1 May 2002.

Once this Model Code is adopted, a member of the public will be entitled to make a written allegation to the Standards Board for England that a member has breached a provision of the Model Code. The Standards Board might decide to investigate but might also decide to refer the matter to the District Council's Standards Committee.

In addition to complaints made to the Standards Board, complaints might be made to the District Council direct. While there is, as yet, no firm guidance on how these matters are to be dealt with, it could be that the District Council's Standards Committee will deal with these matters without reference to the Standards Board. It will be important for there to be in place a local complaints procedure to deal with those complaints coming direct to the authority, and also for any complaints that might be referred to it by the Standards Board. The Standards Board has indicated that it does not envisage becoming involved in complaints and allegations in respect of breaches of local codes. The District Council has a number of such Codes in place, for example the Code of Conduct for Councillors and Officers dealing with Planning Matters, the Code for Member/Officer Relations. It will therefore be important to have in place a complaints procedure in respect of breaches of these local Codes.

Further Regulations and Government guidance are awaited on the procedure to be followed in dealing with any complaints once the Model Code is adopted. It is likely that these Regulations and Guidance will apply only to alleged breaches of the Model Code, and not to any Local Codes. However, until this happens, it is important that the District Council has a mechanism for dealing with complaints against its members. With the formation on 18 December 2001 of the new Standards Committee, comprising independent and parish/town council representatives, it is no longer appropriate to retain a separate Standards Panel to consider complaints. Therefore, the changes to the existing complaints procedure set out in Appendix 2 to this report are proposed to ensure that the Council is able to deal effectively with complaints against District Councillors until the Model Code of Conduct and the new statutory complaints procedures are in place.

RECOMMENDED:

That the interim changes to the Council's Complaints Procedure as set out in Appendix 2 to this report be approved so that, until the Model Code of Conduct is adopted and the secondary legislation is in force, the Council has a mechanism to deal with complaints against District Councillors.

**Cllr J A G Hutchins JP
CHAIRMAN**

NEW FOREST DISTRICT COUNCIL

CODE OF CONDUCT

PART 1

GENERAL PROVISIONS

Scope

1. (1) A member must observe the authority's code of conduct whenever he –
 - (a) conducts the business of the authority;
 - (b) conducts the business of the office to which he has been elected or appointed; or
 - (c) acts as a representative of the authority,and references to a member's official capacity shall be construed accordingly.
- (2) An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.
- (3) Where a member acts as a representative of the authority –
 - (a) on another relevant authority, he must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, he must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (4) In this code, "member" includes a co-opted member of an authority.

General Obligations

2. A member must –
 - (a) ***promote equality by not discriminating unlawfully against any person;***
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

3. A member must not –
 - (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
4. A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.
5. A member –
 - (a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority –
 - (i) act in accordance with the authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
6. (1) A member must when reaching decisions –
 - (a) have regard to any relevant advice provided to him by –
 - (i) the authority's chief finance officer acting in pursuance of his duties under Section 114 of the Local Government Finance Act 1988; and
 - (ii) the authority's monitoring officer acting in pursuance of his duties under Section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements in relation to the taking of an executive decision.
- (2) In paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.
7. A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

PART 2

INTERESTS

Personal Interests

8. (1) A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or –
- (a) any employment or business carried on by such persons;
 - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in sub-paragraphs (a) to (e) of paragraph 15 below in which such persons hold a position of general control or management.
- (2) In this paragraph –
- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - (b) “partner” in sub-paragraph (2)(a) above means a member of a couple who live together.

Disclosure of Personal Interests

9. (1) A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial Interests

10. (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- (2) A member may regard himself as not having a prejudicial interest in a matter if that matter relates to –
- (a) another relevant authority of which he is a member;
 - (b) another public authority in which he holds a position of general control or management;
 - (c) a body to which he has been appointed or nominated by the authority as its representative;
 - (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
 - (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
 - (f) the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
 - (g) the functions of the authority in respect of an allowance or payment made under Sections 173 to 176 of the Local Government Act 1972 or Section 18 of the Local Government and Housing Act 1989.

Overview and Scrutiny Committees

11. (1) For the purposes of this Part, a member must if he is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee, regard himself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's –
- (a) committees or sub-committees; or
 - (b) joint committees or joint sub-committees
- of which he may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to Disclosed Interests

12. (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must –
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the authority's standards committee;
 - (b) not exercise executive functions in relation to that matter; and
 - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, participate in a meeting of the authority's –
- (a) overview and scrutiny committees; and
 - (b) joint or area committees,
- to the extent that such committees are not exercising functions of the authority or its executive.
13. For the purposes of this Part, "meeting" means any meeting of-
- (a) the authority;
 - (b) the executive of the authority; or
 - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

PART 3

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

14. Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under Section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of –
- (a) any employment or business carried on by him;
 - (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;

- (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
 - (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
 - (f) the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.
15. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under Section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any –
- (a) body to which he has been appointed or nominated by the authority as its representative;
 - (b) public authority or body exercising functions of a public nature;
 - (c) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (d) body whose principal purposes include the influence of public opinion or policy; and
 - (e) trade union or professional association.
16. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's monitoring officer of that change.

Registration of Gifts and Hospitality

17. A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.

PROCEDURE FOR COMPLAINTS AGAINST MEMBERS OF THE DISTRICT COUNCIL

1. The Standards ~~Panel~~ **Committee** shall comprises of ~~three~~ **8** 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 Standards Committee and will be appointed by the Chief Executive on each occasion~~ **2 of which are independent members and 2 are parish/town council representatives. The remaining members are members of the District Council.**

2. The ~~Panel~~ **Standards Committee** will consider complaints against a **District** 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 (or any replacement of this Code)
 - (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 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. At the present time the ~~Panel~~ **Standards Committee** can only censure a Member if the complaint is upheld.

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~~ **in writing and addressed to the Council's Monitoring Officer.** 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~~ **Chief Executive.** ~~Completed complaint forms must be submitted to the Chief Executive of New Forest District Council. The Monitoring Team~~ **Monitoring Officer will submit the complaint to the Chief Executive who will then** consider the complaint in line with the procedure set out below.

4. ~~The Monitoring Team will comprise the Chief Executive and a Member of the Standards Committee, selected by the Chief Executive, who will not be a member of the Standards Panel that would hear the complaint, if the complaint is referred to a Panel.~~

- 5 4. (a) ~~The Monitoring Team~~ **Chief Executive** will be responsible for sifting out those complaints that ~~they~~ **he** considers ~~are~~ frivolous or vexatious or a misuse or abuse of the process and will refer matters onto the Standards ~~Panel~~ **Committee** only where ~~they~~ **he** considers that there is an issue which requires further investigation and consideration by the Standards ~~Panel~~ **Committee.** The decision of the ~~Monitoring Team~~ **Chief Executive** is final **in this regard.**

- (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, she may refer the matter to the ~~Monitoring Team Chief Executive~~ for consideration with a recommendation that it be referred to the Standards ~~Panel Committee~~ for determination.
- 6.5. The cost of any attendance or representation at the hearing must be borne by the parties concerned. The ~~Panel Standards Committee~~ has no power to award costs or expenses to any party.
- 7.6. The Standards ~~Panel Committee~~ 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 Committee~~, if they wish to rely on written representations
- 8.7. **Pre-hearing Procedure**
- (a) The Chief Executive 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 Chief Executive~~. If, after receipt of the Member's response, the ~~Monitoring Team Chief Executive~~ considers that there is an issue which requires further investigation or consideration ~~they he~~ will refer the matter to a hearing of the Standards ~~Panel Committee~~.
- (c) Both the member and the complainant will be invited to appear before the ~~Panel Committee~~. 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 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 Monitoring Officer at least ~~7~~ 4 days before the hearing.
- 10.8. **Procedure at the Hearing**
- (a) The ~~Panel Committee~~ will elect a Chairman for the meeting. **The Committee will be quorate if at least 3 members are present (one of whom must be an independent member).**
- (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 Committee~~ 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 Committee~~ and call witnesses (if any).

- (e) The member will be permitted to ask questions of the complainant or their witnesses.
- (f) Members of the **Panel Committee** will be permitted to ask questions of the complainant or their witnesses.
- (g) The member will be permitted to address the **Panel Committee** and call witnesses (if any).
- (h) The complainant will be permitted to ask questions of the member or their witnesses.
- (i) Members of the **Panel Committee** will be permitted to ask questions of the member or their witnesses.
- (j) The complainant will be permitted to sum up.
- (k) The member will be permitted to sum up.
- (l) The **Panel Committee** will go into private session to receive legal advice and to reach its conclusion. The decision will be announced in public.
- (m) 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 Committee is deemed to include any persons representing them).

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