

Report

Report to:	South Lanarkshire Council
Date of Meeting:	8 February 2007
Report by:	Chief Executive

Subject:	Ethical Standards in Public Life etc. (Scotland) Act 2000 – Findings of Standards Commission
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1 Purpose of Report

1.1 The purpose of the report is to:-

- ♦ allow the Council to consider the written decision of the Standards Commission following a Hearing by the Commission held on Tuesday 28 November 2006 into an alleged breach of the Councillors' Code of Conduct by Councillor Daniel Meikle.

2 Recommendation(s)

2.1 The Council is asked to approve the following recommendation(s):-

- (1) that the written decision of the Standards Commission to the effect that Councillor Meikle "be censured (in terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Section 19 (1)(a)) and that no further action be taken" be noted.

3 Background

3.1 Complaints were made to the Standards Commission for Scotland by Mr Tecwyn Thomas alleging that Councillor Daniel Meikle had breached the key principles of the Councillors' Code of Conduct by his antagonistic and ignorant behaviour toward Mr Thomas at a surgery held at Douglas Primary School.

3.2 Mr James Henderson also complained to the Standards Commission that he had seen reports in the media about the incident at the surgery and Councillor Meikle's subsequent conviction and that this constituted a breach of the Code. Mr Henderson also made complaint alleging a conflict of interest on the part of Councillor Meikle in his capacity as a self-employed consultant.

4 Standards Commission Investigation and Hearing

4.1 The Chief Investigating Officer (CIO) conducted an investigation into the complaints made and concluded that Councillor Meikle had contravened the provisions of the Code in relation to the allegations that by swearing and being offensive to Mr Tecwyn Thomas Councillor Meikle breached the key principles of Duty and Leadership (but no others) and did not act in accordance with paragraph 2.2 of the Councillors' Code of Conduct.

4.2 The CIO found that the complaint made by Mr Henderson to the effect that Councillor Meikle had a conflict of interest as a self-employed consultant had no foundation.

4.3 Following receipt of the Chief Investigating Officer's report, the Commission decided to hold a Hearing into the complaint. The Hearing took place in East Kilbride on Tuesday 28 November 2006.

4.4 The Hearing Panel decided that Councillor Daniel Meikle had contravened the Councillors' Code of Conduct and in particular paragraph 2.2 (Duty and Leadership). The Panel concluded that the most appropriate decision was that Councillor Meikle be censured in terms of section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 and that no further action be taken.

5 Findings of the Standards Commission

5.1 In terms of Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, the Members of the Commission who conduct any hearing are required to serve a copy of their decision on the Council. A copy of this written decision is attached. In turn, the legislation requires the Council to consider those findings within 3 months of receipt (or within such longer time as the Commission may specify). The Council is required to respond to the Standards Commission by Friday 16 March 2007 confirming that the Council has considered the contents of the decision and intimating any action or decision taken by the Council in that regard.

6 Financial Implications

6.1 None.

7 Employee Implications

7.1 None.

8 Other Implications

7.1 None.

9 Consultation

8.1 None.

Archibald Strang

Chief Executive

31 January 2007

Link(s) to Council Objectives

- ◆ Living in the Community

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Archie Strang
Chief Executive
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Council Offices
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12 December 2006

Dear Mr Strang

Hearing of the Standards Commission for Scotland into an alleged breach of the Councillors' Code of Conduct by Councillor Daniel Meikle held at The Bruce Flagship Hotel, East Kilbride on 28 November 2006.

Issue of Written Decision including findings as to Sanction

I refer to the Hearing detailed above concerning an alleged breach of the Councillors' Code of Conduct in respect of paragraph 2.2, and the key principles of Duty and Leadership set out in section 2.

This letter has been copied to Sandra Dickson, Head of Legal Services, to confirm the sanction in relation to Councillor Meikle.

A separate decision letter has been issued to Councillor Meikle.

In terms of section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the Act") and Rule 10.9 of the Commission's Hearings Rule, the Commission is required to afford any Council or Devolved Public Body receiving a copy of a written decision a period of 3 months (or longer as the Commission may determine) to consider the content of that decision. It is specified at section 18(3) of the Act that this consideration cannot be undertaken solely by a Committee, Sub-Committee or Officers of the relevant Council or Public Body.

I would therefore be grateful if arrangements could be made for consideration of the written decision in terms of Rule 10.9 of the Hearings Rules. Notification of any actions or decisions taken by the Council as a result of the written decision should be forwarded for my attention within 3 months of the date of this letter, i.e. by Friday 16 March 2007. I will then prepare a report to the Commission, advising them of the terms of any information received.

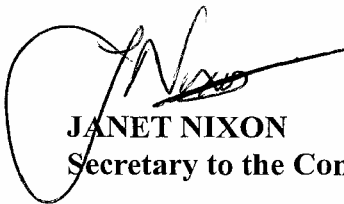
For your information, the Hearings Rules can be viewed in full on the Standards Commission website as follows:

www.standardscommissionscotland.org.uk

Thank you for your assistance with this matter.

I look forward to hearing from you.

Yours sincerely



JANET NIXON
Secretary to the Commission

cc: Ms Sandra Dickson, Head of Legal Services (Monitoring Officer), South Lanarkshire Council

Enc.

Decision of the Hearing Panel of the Commission following the Hearing held at the Bruce Hotel, East Kilbride, on 28th November 2006

Panel Members

Mr Okain McLennan, Chairman
Mr Peter Donaldson
Mr John Dowson

In respect of a [Report](#) ("the Report") by D Stuart Allan, Chief Investigating Officer ("the CIO") further to Complaint Nos. LA/SL/132 & 417 ("the Complaints") concerning alleged contraventions of the Councillors' Code of Conduct ("the Code") by Councillor Daniel Meikle of South Lanarkshire Council ("the Respondent").

The Respondent attended the Hearing and was represented by Mr Hugh S Nielson. The Office of the CIO was represented by Mr D Stuart Allan ("the CIO").

The Complaint

The first Complainant was Mr Tecwyn Thomas, who alleged that the Respondent breached key principles of the Code of Conduct by antagonistic and ignorant behaviour towards Mr Thomas at a surgery conducted by the Respondent which was held at Douglas Primary School. The substance of the second complaint made by Mr James Henderson is that he had seen reports made in the media about the incident at the surgery and the subsequent trial and conviction of the Respondent for acting in a racially aggravated manner. Mr Henderson complained that as the Respondent has a criminal record for racism against one of his constituents, the Respondent has violated the Code of Conduct by failing to uphold and act in accordance with the law and contravened other elements of the key principle of Duty contained in the Code of Conduct. The Complainant also alleged a conflict of interest on the part of the Respondent in his capacity as a self-employed consultant.

The CIO's Report was submitted to the Commission in accordance with Section 14.2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the Act"). The Code came into effect on 01 May 2003 and the Commission accordingly had jurisdiction to hear the Complaints, as the alleged breaches of the Code occurred after the Code came into operation.

The CIO's findings that Councillor Meikle contravened the provisions of the Code relate to the allegations that by swearing and being offensive to Mr Thomas, the Respondent breached the key principles of Duty and Leadership and did not accord with paragraph 2.2 of the Code and accordingly contravened the Councillors' Code of Conduct.

Joint Statement of Facts

The CIO and the Respondent's representative lodged as a production a Joint Statement dated 24th November 2006, agreeing matters not in dispute in fact. It was agreed between the CIO and the Respondent's representative that the totality of the Report is a true record of fact and that Appendices A to D and Annexes A & B of the CIO's Report are accurate records of the matters they purport to record. The CIO and the Respondent's representative confirmed during the course of the Hearing that the said Statement of Facts was a true reflection of the consensus between them. The Respondent confirmed to the Hearing Panel that it was agreed that he had breached the terms of the Code, as alleged and as agreed with the CIO.

The Decision

The Hearing Panel considered all the evidence, submissions given in writing and orally at the hearing, and found as follows:

1. The Councillors' Code of Conduct applied to the Respondent.
2. The Respondent's behaviour was antagonistic and offensive to Mr Thomas at a surgery by swearing and being offensive to him.
3. The Respondent did contravene the Councillors' Code of Conduct as set out in Section 2 (Duty and Leadership) and in particular paragraph 2.2 of the Code.

Sanction

Taking all aspects of this case into account, the Hearing Panel agreed with the submission of the CIO that the most appropriate decision be that the Respondent is censured (in terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000, Section 19 (1)(a)) and that no further action be taken. The Panel warned the Respondent that the Censure Decision of the Panel would be taken into account by any future Panel in dealing with any further breach of the Code.

Reasons for Decision and Sanction

In reaching their decision, the Panel had taken into account:

1. That the Respondent's behaviour constituted a serious breach of the Code.
2. The importance of high standards of conduct as outlined in the Ethical Standards in Public Life etc. (Scotland) Act 2000. The Panel concluded that the Councillor's actions served to lower public confidence in himself as an individual, and as an elected Councillor.
3. That the entire Report submitted to the Panel by the CIO formed an agreed statement of facts between the CIO and the Respondent. The Respondent also confirmed at the Hearing that he had breached the Councillor's Code of Conduct.
4. The unreserved apology made by the Respondent to the Panel and indeed the comprehensive formal apology read out at the Hearing. Notwithstanding this, the Panel had concerns that although the Respondent's behaviour was explained to be "reactive" and alleged to have been in the heat of the moment, it took over 2 years for a full and unreserved apology to be made. The Hearing Panel seriously questioned the extent to which this apology had been devalued in the light of the extensive delay and potential insincerity, and considered that a suspension from office for a period could have been merited. The Panel also wished to make it clear that an apology in itself is not sufficient to disregard a breach of the Code. If the Code has been breached, there are consequences and an apology therefore can only fall to be considered in mitigation.
5. The Panel acknowledged and took account of the representations made by the CIO and the Respondent's representative about the length of good service and the regard with which the Respondent is held by fellow council members and constituents. Furthermore the Panel acknowledged the apology made by the Respondent and the fact that there have been no further incidents reported since the one in September 2004.

Conclusion

The attention of the Respondent is drawn to Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 which details the right of appeal in respect of this Decision. The Panel determined that there be no award of expenses under Rule 13(1) of the Commission's Hearing Rules.