

Report to the Cabinet



**Epping Forest
District Council**

Report reference: C/002/2007-08.

Date of meeting: 11 June 2007.

Portfolio: Finance, Performance Management and Corporate Support Services.

Subject: Personal Conduct of Staff – Monitoring Report.

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Recommendations/Decisions Required:

- (1) That the nature and scope of disciplinary activity during 2006/07 be noted;**
- (2) That the information relating to staff conduct drawn from the Complaints Procedure during 2006/07 be noted;**
- (3) That the information generated by the Code of Conduct notification process be noted;**
- (4) That the new arrangements for continuing criminal background checks of designated staff be noted;**
- (5) That the Cabinet notes that staff will now be asked to sign declarations relating to the newly agreed telephone, internet and email policies; and**
- (6) That the Cabinet decides whether incidents of staff fraud and corruption (if any) which result in dismissal on grounds of gross misconduct be publicised to staff in an anonymised format in order to raise awareness.**

Background:

1. At officer level, Management Board is kept aware of staff conduct issues via regular informal discussions with the Head of Legal, Administration and Estates, the Chief Internal Auditor and the Head of HR and Performance Management, and also by reports on individual issues, when required. The purpose of this report is to provide the Cabinet with an overview of data related to staff conduct issues for the period 2006/07 so that an overall analysis of staff conduct may take place. It is also a requirement of Key Line of Enquiry (KLOE) 4.3 of the Use of Resources assessment that the Council has in place processes for assessing whether or not officers exhibit high standards of personal conduct. The data used in this report is drawn from monitoring information relating to complaints under the corporate procedure, the Code of Conduct and the application of the Council’s disciplinary procedure. This report will in future be produced on an annual basis to enable the Cabinet to monitor trends over time.

The Disciplinary Procedure:

2. The application of the disciplinary procedure is monitored by age, gender, grade, ethnicity and disability against the nature of the disciplinary decision. This allows for any trends or issues of potential discrimination under the Council’s Equality policies to be identified and investigated. Not all disciplinary action is concerned with misconduct, as some will relate to poor performance. The position for 2006/07 is set out in the following table and

the information has been provided in an anonymised format to prevent identification of an individual.

Table one – disciplinary action taken in 2006/07

Nature of disciplinary action	Gender of staff	Age band of staff	Disability status	Ethnicity of staff
Dismissal – gross misconduct	Male	40-50	No disability	White English
Dismissal – gross misconduct	Male	40-50	No disability	White other
Final written warning – poor performance	Male	40-50	No disability	White English
Dismissal – gross misconduct	Male	20-30	Disabled	White English
Dismissal – gross misconduct	Male	40-50	No disability	White other
Dismissal – capability	Female	60-70	No disability	Black African

3. Of the 6 cases proceeded with under the disciplinary procedure in 2006/07, the issues under consideration were as follows:

- Conduct within work or associated with work, which had the potential to bring the Council into disrepute (4 cases); and
- Poor performance at work (2 cases).

4. In each case the person hearing the charges considered all the evidence presented by the officer conducting the case and that presented by the employee, and formed a view on this. In four cases this led to dismissal on grounds of gross misconduct, whereas in two cases poor performance was at issue, one of which led to dismissal, the other to a final written warning, with standards for improvement identified.

5. All disciplinary hearings were preceded by a full and independent investigation, which usually involved the relevant service manager, the Chief Internal Auditor and a member of the Human Resources Unit. The Head of Legal, Administration and Estates provided advice. In addition, the Staff Appeals Panel heard two appeals against dismissal, but in both cases the Panel upheld the original officer decision.

6. It is also important to note that two cases listed above came about as a result of 'whistle blowing' by staff or other parties, who raised concerns about potential misconduct by employees.

7. Finally, the Head of HR and Performance Management has monthly meetings with all HR staff involved in casework, including that relating to conduct. This provides an opportunity for regular monitoring of staff conduct, and early reference to the Board if necessary. It is also important to note that the 6 cases are from an employee head count of approximately 650 i.e. 0.92%. Under Key Line of Enquiry (KLOE) 4.3 level 4 requires routine consideration of the use of publicity in cases of proven fraud/corruption in order to raise awareness. This takes place with respect to cases of fraud committed by members of the public. The Cabinet is asked to consider whether this should be done in cases relating to staff which result in dismissal on grounds of gross misconduct. If this took place, the publication of information would need to be handled very sensitively, and it would be easy to identify individuals or teams if the detailed facts of the case were given. A more anonymous approach would make the process somewhat bland but may be useful in raising general awareness amongst staff that the Council takes these matters very seriously. The Cabinet is asked to consider if it wishes this to be done.

Complaints Monitoring:

8. No monitoring information is kept by the Complaints Officer concerning the number of complaints raised at stage 2 of the procedure which involve minor staff conduct issues in some way. That said, formal complaints that dealt solely with staff conduct would generally be referred to the disciplinary procedure where there was an issue of sufficient seriousness. During 2006/07 no complaint at stage 2 required the application of the disciplinary procedure as a result of an investigation under the complaints procedure.

9. If staff conduct at stage 3 of the complaints procedure is an identified issue arising from the complaint itself or as a result of the independent investigation, this would be referred to the disciplinary procedure. Of the complaints dealt with by the Complaints Officer at stage 3 in 2006/07, none raised personal conduct issues to the level where action under the disciplinary procedure was required. In all cases any issues of staff conduct were able to be dealt with informally by means of the usual management processes.

Introduction of a New Code of Conduct for Staff:

10. At its meeting on 4 September 2006 the Cabinet agreed a new code of conduct for all Council staff. Prior to this, the Council had in place clear guidance about matters such as secondary employment, declaration of gifts, hospitality and interests, and related matters in its Staff Handbook. The new Code expands on this.

11. The Code of Conduct has now been distributed to all staff. In accordance with the recommendations of Cabinet, the following actions then took place:

- (a) All staff were required to sign a declaration that they have received the code;
- (b) All staff in politically restricted posts were required to complete a declaration of interests, including nil returns;
- (c) All other existing staff were invited to complete a declaration, save where they had an interest to declare, which was a compulsory matter; and
- (d) All newly appointed staff are required to complete a declaration form as a condition of their contract of employment.

12. In addition, the introduction of the Code was supported by inclusion in the September HR briefing for managers, and the October Team Briefing issued by Management Board. Code of conduct issues are also covered in the Staff Handbook, which is made available via the induction procedure, and in the regular induction programme. A team briefing will shortly be issued reminding staff to make any declarations as their circumstances change.

13. The HR unit maintains the declaration of interest forms on the individual's personal file. Services retain responsibility for the maintaining of registers for gifts and hospitality. Following the receipt of declarations of interest in December 2006, these were reviewed by the Head of Human Resources and Performance Management in conjunction with the relevant Head of Service and Joint Chief Executive (where appropriate). This exercise has determined that no declaration made has led to a conflict of interest, and that where appropriate, Services have in place arrangements to ensure that this does not arise.

New arrangements for regular criminal background checks on staff with substantial unsupervised access to children and vulnerable adults:

14. The Cabinet also agreed that staff in posts that have substantial unsupervised access to children or vulnerable adults will be subject to three yearly disclosures from the Criminal Records Bureau. Existing staff were invited to participate in this exercise on a voluntary basis, whilst for new staff this is compulsory, and contracts of employment have been

modified to reflect this. This ensures that issues of staff conduct, which have a bearing on specific occupations, are identified and acted on at regular intervals. The Joint Consultative Committee also received a report concerning the results of a Compliance Audit from the Criminal Records Bureau, which took place last year. This showed that our procedures in this respect were generally fit for purpose. Certain recommendations were made for improvement, most notably that a small number of posts that were subject to a disclosure did not fall within the relevant definitions and so should be removed from this procedure. This action has now been implemented.

Internet usage, telephone and email policies:

15. Cabinet has now agreed new policies on the use of the Internet, Email and Telephones for staff. These set out standards of conduct which staff must follow, and all employees will be required to sign a statement that they have received the new policies and will abide by them. This exercise will take place in May/June 2007. Changes brought about to these policies recognize developments in technology and learning arising from HR casework and operational issues.

Conclusions:

16. The matters contained in this report indicate that the Council engages actively in staff conduct issues as they arise. In addition to the day-to-day reactive work resulting from disciplinary action, the Council has proactively sought to increase awareness of conduct issues through the introduction of the code of conduct and supporting declaration procedures, a new approach to CRB checks and the publication of detailed policies that relate to staff conduct. Cabinet is asked whether instances of staff fraud/corruption should be routinely publicized to staff on an anonymised basis as and when they arise in order to raise awareness.

Statement in Support of Recommended Action:

17. The publication of cases of staff fraud/corruption to the workforce could be an additional action in the Council's aim of ensuring that staff meet the highest standards of conduct as public servants.

Other Options for Action:

18. The Cabinet could decide not to publicise cases of fraud/corruption to staff.

Consultation Undertaken:

19. With the recognized trade unions.

Resource implications:

Budget provision: N/A.

Personnel: As set out in the report.

Land: N/A.

Community Plan/BVPP reference: N/A.

Relevant statutory powers: N/A.

Background papers: N/A.

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A.

Key Decision reference (if required): N/A.