



Epping Forest District Council

STANDARDS COMMITTEE

Tuesday, 26th July, 2005

Place: Civic Offices, High Street, Epping
Room: Committee Room 1
Time: 7.30 pm
Committee Secretary: G Lunnun, Democratic Services
Email: glunnun@eppingforestdc.gov.uk Tel: 01992 564244

Members:

Dr D Hawes (Chairman), Ms M Marshall, G Weltch, Mrs D Borton and Mrs P Smith

Parish/Town Council Deputy Representative(s):

J Salter, K Percy (Deputy)

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 3 - 8)

To approve as a correct record the minutes of the meeting held on 28 June 2005 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. POLICY ON USE OF COUNCIL FACILITIES BY MEMBERS (Pages 9 - 18)

(Monitoring Officer) To consider the attached draft policy on the use of Council facilities by members including the use of IT.

5. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2005/06 provides for meetings of the Committee on 18 October 2005, 21 February 2006 and 11 April 2006.

Additional meetings can be arranged as and when required by the Committee.

6. EXCLUSION OF PUBLIC AND PRESS

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2) of the Local Government Act 1972:

Agenda Item No	Subject
Nil	Nil

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee:	Standards	Date:	28 June 2005
Place:	Committee Room 1, Civic Offices, Epping	Time:	7.30 - 8.55 pm
Members Present:	Independent Members: Dr D Hawes (Chairman), Ms M Marshall		
	District Council Representatives: Councillors Mrs D Borton, Mrs P Smith		
	Parish/Town Council Representatives: Councillor K Percy (Deputy)		
Other Councillors:	D Stallan, Mrs J H Whitehouse		
Apologies:	Independent Member: G Welch, Parish/Town Council Representative – Councillor J Salter		
Officers Present:	I Willett (Head of Research and Democratic Services)(Deputy Monitoring Officer), G Lunnun (Research and Democratic Services)		

1. MINUTES

RESOLVED:

That the minutes of the Committee meeting held on 14 April 2005 be taken as read and signed by the Chairman as a correct record.

2. MATTERS ARISING

(a) Ethical Governance – Tool Kit (Minute 37)

The Committee noted that the Council had yet to decide whether to take part in the Ethical Governance Tool Kit developed by the Audit Commission with the Standards Board and the Improvement and Development Agency. The recommendation of the Cabinet to take part in the process had been referred back by full Council for further consideration after concerns had been expressed about the cost of the exercise. The Cabinet would be reconsidering the matter at its next meeting.

3. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

4. STANDARDS COMMITTEE – ANNUAL REPORT 2004/05

The Committee considered a draft annual report for 2004/05 for submission to the District Council.

RESOLVED:

- (1) That the draft annual report be approved subject to:
 - (a) reference to the main issues being addressed at national level in relation to the review of the Code of Conduct;
 - (b) reference in paragraph 2.2 to responding to consultations by the Standards Board and Central Government and to training undertaken by Standards Committee members;
 - (c) rewording of paragraph 7.1 to reflect the fact that the first case for local adjudication has now been referred from the Standards Board;
 - (d) rewording of paragraph 5.1 to suggest that members record also refusals of offers of gifts and hospitality but pointing out that this is being reviewed nationally; and
 - (e) the correction of typographical errors;
- (2) That the Chairman of the Committee present the report to the District Council meeting on 28 July 2005; and
- (3) That the report be published on the Epping Forest District Council website.

5. PROTOCOL FOR MEMBERS AND OFFICERS ENGAGED IN THE DETERMINATION OF PLANNING APPLICATIONS

The Committee considered a revised draft of the protocol for members and officers engaged in the determination of planning applications. The Deputy Monitoring Officer advised that the protocol had been amended to reflect recent Standards Board for England advice about lobby groups and "dual-hatted" councillors. The Committee concentrated on the sections of the protocol dealing with those aspects.

The Deputy Monitoring Officer advised that no consultation had been undertaken on the proposed changes either with Planning Services, councillors, local councils or planning agents. He pointed out that in order to allow a reasonable period for such consultations it would not be possible to recommend adoption of the revised protocol to the District Council until a meeting on 27 September 2005. That date would be after the scheduled date for the planning protocol training course and the Committee considered whether the date of that course should be altered.

RESOLVED:

- (1) That the revised planning protocol be issued for consultation to District Councillors, parish and town councils, planning agents and planning officers subject to expansion of paragraph 20.10 to give advice to members on the registration of interests in relation to their attendance at a publicly convened meeting by a local organisation;

(2) That the Chairman of the Committee and the Deputy Monitoring Officer be authorised to determine whether any responses to the consultation exercise require further consideration by the Committee;

(3) That in the event of there being no need for further consideration of the protocol by the Committee, the revised protocol be submitted to the District Council meeting on 27 September 2005 for adoption;

(4) That the Chairman of the Committee and the Deputy Monitoring Officer be authorised to decide whether to alter the date of the planning protocol training course in the light of responses to the consultation exercise; and

(5) That the Overview and Scrutiny Task and Finish Panel on Member Training be asked to emphasise the need for all District Councillors serving on planning committees to undertake appropriate training, before being involved in making planning decisions, as set out in the protocol.

6. ADVICE TO MEMBERS SERVING ON OUTSIDE ORGANISATIONS

The Committee considered revised advice to members in relation to their links with outside organisations of which they were also members which flowed from the recent Standards Board advice on "dual-hatted" members and lobby groups.

RESOLVED:

(1) That the revised advice to members serving on outside organisations be agreed; and

(2) That the revised advice be issued to District Councillors and Town and Parish Councils.

7. STANDARDS BOARD FOR ENGLAND – ROADSHOW 2005

Members and the Deputy Monitoring Officer reported on their attendance at a Standards Board Road Show held on 21 June 2005.

The Committee noted that the Standards Board had set itself a target of referring 50% of complaints for local determination and had advised that a training video would be produced to assist Standards Committees in the running of hearings. This reflected the aim of the Standards Board to become a strategic regulator and investigator.

The Standards Board representatives had acknowledged that there appeared to be widespread confusion about personal and prejudicial interests and had stated that the Standards Board would be addressing this matter in the near future. Concern had been expressed about how the Code of Conduct affected partnership working with other agencies and further advice was likely to be given about the effect of the Code on the role of councillors as community advocates.

Other matters being considered by the Standards Board were the need to promote good behaviour and to address the problem of factual errors coming to light after the conclusion of an adjudication.

RESOLVED:

That the proceedings of the Road Show be noted.

8. POLICY ON USE OF COUNCIL FACILITIES BY MEMBERS

The Committee noted that officers were still working on a draft policy on the use of Council facilities by members including the use of IT. The document would be submitted to the next meeting of the Committee.

9. REGISTRATION BY MEMBERS OF FINANCIAL AND OTHER INTERESTS

Councillor Mrs Whitehouse sought advice from the Committee on the details to be included on the form of financial and other interests. She stated that she had inspected the public register and there appeared to be many inconsistencies in the details being provided. She also questioned the extent to which this information should be published on the Council's website. She advised that since she had asked for the matter to be considered by the Committee she had sought advice from the Standards Board who had advised that publication of information on the website was a matter for the Council but that in their view openness and transparency was the main aim.

RESOLVED:

(1) That the officers liaise with the Standards Board on the extent to which the wording of the form used by the Council can be altered in order to try to overcome some of the apparent inconsistencies; and

(2) That, subject to (1) above, the officers prepare a mock-up of the form for consideration at a future meeting of the Committee with a view to it being issued to District Councillors and Town and Parish Councils together with an advice note regarding completion of the form of financial and other interests.

10. ALLEGATIONS RECEIVED

The Deputy Monitoring Officer reported on the current position in relation to allegations against Parish/Town Councillors and District Councillors.

Members noted that since the agenda had been prepared the Council had been informed that a provisional finding of no case to answer had been made in respect of cases SBE10228.05 and SBE10229-10231.05. Also in relation to case SBE10144.05 it had been determined that there was no evidence of any failure to comply with the Code of Conduct.

11. DATES OF FUTURE MEETINGS

The Committee noted that the District Council calendar for 2005/06 provided for meetings of the Committee on 26 July 2005, 18 October 2005, 21 February 2006 and 11 April 2006.

12. EXCLUSION OF PUBLIC AND PRESS

RESOLVED

That the public and press be excluded from the meeting for the item of business set out below on the grounds that it will involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Local Government Act 1972:

Agenda Item No.	Subject	Exempt information Paragraph Number
12	Allegations Received – Appointment of Sub-Committee	16

13. ALLEGATIONS RECEIVED – APPOINTMENT OF SUB-COMMITTEE

The Deputy Monitoring Officer reported that the Standards Board had advised that an allegation was to be referred to the Standards Committee for adjudication.

Members noted that in accordance with the arrangements agreed by the Committee on 21 October 2003, the allegation was due to be considered by the Chairman of the Committee, Ms M Marshall and one of the District Council representatives on the Committee.

RESOLVED:

That Councillor Mrs D Borton be appointed (with Councillor Mrs P Smith as deputy) to consider the allegation together with the Chairman of the Committee and Ms M Marshall.

CHAIRMAN

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PROTOCOL ON THE USE OF MEMBER FACILITIES

1. PURPOSE OF PROTOCOL

1.1 This protocol is designed to support the provisions of the Code of Conduct in respect of the proper use of facilities provided for elected members.

1.2 The protocol is not a statement of what individual councils will provide it merely supports the proper use of such facilities when and in whatever form they are available to elected members.

2. CODE OF CONDUCT REQUIREMENTS

2.1 The Code of Conduct for Councillors places certain obligations on elected members.

2.2 These obligations include a requirement that members must, when using or authorising the use by others of the resources of the authority –

(a) that they must act in accordance with the authority's requirements; and

(b) that they must ensure that such resources are not used for political purposes unless that use could be reasonably 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.

2.3 Elected members are also under a general obligation not to do anything which comprises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

3. ADVICE ON MEMBER FACILITIES

Information Technology

3.1 Appendix 1 to this protocol sets out specific requirements as to the proper use of IT facilities.

Correspondence

3.2 Members of the Council can engage in correspondence in a number of different ways. These are discussed below:

(a) Correspondence as a Ward Councillor

Members will from time to time be responding to correspondence generated from constituents in their ward. A special letter heading should be provided to members in order that they may conduct such correspondence. This letterhead should include a disclaimer indicating that any correspondence does not necessarily bind the authority to any views expressed by the author. This should avoid doubt in the mind of correspondents as to the Council's policy position. Where decisions have yet to be made by a Council, members should be careful to indicate the possible timescale for that decision and some of the considerations which may be taken into account.

(b) Correspondence As a Member of a Political Group or Party

Council stationery should not be used for correspondence conducted by an individual councillor or by a political group, if it concerns the operations of a party or political group. At all times, Councillors should use the appropriate party or group letter heading. This will avoid misunderstandings with correspondents between the role of political organisations and the Council's official position. Typing or e-mailing of such correspondence should be the sole responsibility of the political group or political party concerned and members should not seek to use the facilities within the Council concerned for that purpose.

(c) Correspondence as an Individual Councillor

Elected members will clearly have views regarding national or local issues which are under consideration. Members may seek to express those views by letter to those who enquire about them or where members make representations to national Government, or similar agencies or the press. Members should always be careful to use the letterhead designed specifically for members' own correspondence, as described under 3.2 above. This will avoid any misunderstanding between the policy position of the authority concerned and the individual member's views.

3.5 In conducting correspondence of this nature, members should always follow their obligations under the Code of Conduct of treating others with respect, not bringing their Council into disrepute and promoting equalities.

(d) Correspondence as Portfolio Holder or Leader of the Council

District Councils have a Cabinet which has sole responsibility for executive decision-making. This may result in portfolio holders or the Leader of the Council conducting correspondence on the Cabinet's behalf. Cabinet members should normally adopt as the practice leaving official correspondence on Cabinet decisions and the carrying out of Cabinet functions to be left to the appropriate Head of Service. Where Cabinet members conduct such correspondence they should be aware that they should not express personal views which are at variance with the Cabinet's decisions or policy unless they make this absolutely clear.

(e) Correspondence as a Chairman of a Committee

3.6 Sometimes the Chairmen of Committees must engage in correspondence. A Chairman of a Committee has no formal status in terms of decision-making by the Committee concerned. This is not to say that for reasons of courtesy or protocol a Chairman of a Committee is prevented from dealing with correspondence. However, in responding a Chairman needs to restrict correspondence to the decisions of that Committee and not give views which might be seen as limiting the discretion exercisable by their Committee if decisions are still to be taken. Correspondence may often be better conducted by the Head of Service concerned.

4. USE OF ACCOMMODATION

4.1 Accommodation is used by elected members for a number of purposes. These are discussed in turn below:

Civic Accommodation

4.2 Accommodation is often provided by local authorities for civic purposes. This can include members' rooms, writing rooms, group rooms, etc. Such accommodation is provided specifically for members' use and all members have full rights of access. However, it is not good practice to invite members of the public for purposes only after advising senior members or the appropriate Head of Service before issuing invitations to use this

accommodation. In his or her civic role Chairmen of Councils have a special call on this kind of accommodation which all members need to bear in mind.

4.3 Hospitality events are held in member accommodation and again members of the public should not be invited to attend such functions without the specific approval of those hosting the event, for instance the Chairman of the Authority.

4.4 Officers of the Council should at all times be aware that councillors have first call on civic accommodation and that approval should be obtained at member level if they wish to use it.

Political Party and Political Group Meetings

4.5 The Code of Conduct states that member facilities may be provided for political purposes if these are conducive to the proper despatch of Council business. It is for each authority to determine what is appropriate in the circumstances. As guidance however, political group meetings comprising councillors and one or two external advisers are considered a useful means of progressing Council business in that they allow co-ordination of political group views which can assist in achieving a consensus about future Council decisions.

4.6 However, this facility should not extend to political parties. Their meetings are inevitably held to further the political aims and objectives of the party concerned and may contribute only indirectly to Council decision-making. For this reason use of Council accommodation for party political meetings should be prohibited.

4.7 Members should also be careful to avoid using Council premises for electoral purposes in the weeks before elections.

4.8 This guidance should relate not only to the offices of a Council but also to any other property owned by the authority e.g. village halls, public halls, sport centres, depots, etc.

Councillors' Surgeries

4.9 One of the primary roles of Councillors is to deal with their ward constituents. It is a matter of choice for individual members whether they seek to hold ward surgeries with constituents to discuss their concerns. Any provision of Council accommodation for this

purpose should be limited to meetings with residents of the ward in question and should not involve party political matters. It should not be apparent to any member of the public that any Councillor is from any particular political party.

5. TYPING AND PHOTOCOPYING

5.1 Facilities are often provided by local authorities for typing/photocopying of documents by members. These are discussed in turn below:

(a) Supply of Photocopied Documents

Members of local authorities have certain statutory rights to documents and they may ask for copies. It may be necessary in some cases for members to demonstrate why they need to have this information particularly if personal, exempt or confidential information is involved. Councils may also provide photocopiers. Such facilities are free to the Councillor but should be used only pursuant to the Councillors' official rather than personal or political purposes.

Typing

5.2 Typing resources are often provided by Councils for elected members to assist them with their official work. This should not extend to party political matters. Typing facilities are also available to Council Chairmen, as the Civic Head of the Authority, and special letter headings, etc. should be provided for that purpose. Chairmen should be careful to avoid expressing personal opinions which may appear contrary to the Council's policy.

5.3 Councillors should not make unreasonable demands as to provision of typing services if this conflicts with other work required by the Authority.

5.4 Members who type their own correspondence should ensure that they use the correct letterhead and envelopes which should be provided by the authority. These should always use a disclaimer of the kind discussed earlier in this protocol.

6. ADVICE

6.1 In the course of their duties as an elected councillor, members may well wish to seek advice from officers on questions of fact, to canvass opinions or to seek guidance. Officers of a local authority are there to assist elected councillors in these ways. Elected members

must be sure that they are not seeking information for party political advantage or requesting assistance which compromises the impartiality of officers. This would be a breach of the Code of Conduct. There may be occasions when officers cannot provide information without sharing this with other Councillors or political groups on the basis of an even-handed approach. This is because officers must not give political advantage to one group in preference to others. Disclosure to others may however be delayed by agreement with the Head of Service concerned to allow the member or group requesting the information a chance to fully consider it. Disclosure should however be assumed at some stage.

6.2 Where advice is sought on matters such as members' allowances, travel expenses, registration of interests, complaints and personal circumstances these should be dealt with directly with the relevant Head of Service. Members should be assured that such discussions should be conducted on a confidential basis. Members should not however place officers in a position of suppressing information which may be inconvenient or embarrassing to them personally. This too would be a breach of the Code of Conduct.

6.3 Members are also advised to seek early advice on any matter covered by this protocol if they are unsure about how to proceed.

7. REVIEW OF PROTOCOL

7.1 This protocol was adopted by the Epping Forest District Council on and will be reviewed on a regular basis.

Guidance on the Use of IT by Members

1. Purpose of Guidance

- 1.1 The Council provides Councillors with funding for computer facilities to use at home to facilitate the performance of their duties as Councillors. This protocol sets out the conditions on which such computers are provided, in order to minimise those risks both to the Council and to individual Councillors.
- 1.2 Each Councillor is required to sign a copy of this protocol as a condition of being provided with computer facilities and must comply with the terms of this protocol. For this purpose, "Computer facilities" means the facilities for which a grant is provided to a Councillor so that these may be used in the Councillor's home, and includes any equipment, software or materials provided for use with the computer.

2. Security

- 2.1 The Councillor is responsible for:
 - (a) reasonable arrangements for the safe-keeping of the computer; and
 - (b) ensuring that no-one else is given access to Council systems or any password which provides such access.

3. Use for Council Business

- 3.1 The computer is provided to facilitate the discharge of a Councillor's functions on behalf of the Council. A Councillor must therefore not use the computer in any manner which will prevent or interfere with its use for that purpose.
- 3.2 Accordingly, the Councillor must not misuse the computer or install or use any equipment or software which would adversely effect the Council's network.
- 3.3 The Council funds computer facilities necessary for the Councillor's functions on behalf of the Council. The Council will therefore not fund further equipment or material for use which is or appears to be required for private (non-Council) purposes.

4. Use for Private Purposes

- 4.1 The Councillor is able to use the computer facilities for private and family purposes, but is responsible for their proper use.
- 4.2 If a Councillor uses the computer for the preparation of any material of a personal or political nature, he/she must make it clear that such material is published in a private capacity and not by or on behalf of the Council, and that no costs have been incurred by the Council as a consequence of its publication. Similarly, a Councillor should not express views on any matter relevant to the Council without expressly indicating that the views are personal and not those of the Authority. If a Councillor wishes to use the

computer for any non-Council business use, it is the Councillor's responsibility to obtain any necessary software licences.

- 4.3 The Council accepts no responsibility for such private use of the computer or any loss, costs or liability which the Councillor or any other person may suffer as a result of the use of the computer.

5. Bringing the Council into Disrepute

- 5.1 The Councillor shall not use facilities funded by the Council, or permit their use, in any manner which may bring the Council or the Councillor into disrepute.

- 5.2 In particular web-sites by Councillors themselves, should not include material which is unlawful, defamatory or likely to cause offence or bring the Council into disrepute.

- 5.3 Councillors should at all times be aware of the appropriate use of the internet and do nothing which is illegal or inconsistent with the high standards of behaviour which the community expects of those in public office.

6. Inspection and Audit

- 6.1 The Council reserves the right to inspect the computer at any time. The Councillor is required to give Council officers access at any reasonable time for such inspection and audit, which may be undertaken remotely and without notice to the Councillor. Councillors are advised that the computer includes a history file which records its use, and particularly any websites which it has accessed.

7. Costs

- (a) The Council will make an annual grant towards the cost of computer facilities to meet the Council's network requirements. This amount will be subject to regular review;
- (b) Each Councillor is responsible for his/her own electricity bill; and
- (c) If the Councillor wishes to make use of the computer for extensive private e-mail or internet access, such telephone time will be on the Councillor's own telephone bill and will not be reimbursed by the Council, other than through the Basic Allowance.

8. Confidentiality

- (a) Councillors will be able to access confidential Council information using the computer. The Councillor is responsible for ensuring the continued security of any such confidential information received, including the security of any storage of such information on the computer. The Councillor is reminded of his/her obligations under the Council's Code of Conduct for Councillors not to disclose such confidential information to any third party; and

- (b) Some of this information will be personal information relating to individuals. The unauthorised processing or disclosure of such information is prohibited under the Data Protection Act and the Councillor is responsible for ensuring that there is no such unauthorised disclosure from their computer.

9. Restriction of Use

9.1 The Council reserves the right to restrict the use of the computer if it has reason to believe that the use of the computer is likely to offend any provision of the Protocol. In particular, the Council reserves the right to:

- (c) remove or disable any software or equipment; and
- (d) remove any information stored on the computer.

Signed by the Councillor on receipt of a grant:

Date:

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