

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards **Date:** Tuesday, 18 October 2005

Place: Civic Offices, High Street, Epping **Time:** 7.30 - 9.50 pm

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

Other Councillors: (none)

Apologies: Councillor J Salter

Officers Present: S Hill (Senior Democratic Services Officer), G Lunnun (Democratic Services Manager), CO'Boyle (Head of Legal, Administration and Estates), R Palmer (Head of Finance), A Scott (Head of Information, Communications and Technology) and I Willett (Head of Research and Democratic Services)

20. MINUTES

RESOLVED:

That the minutes of the Committee meeting held on 26 July 2005 be taken as read and signed by the Chairman as a correct record.

21. DECLARATIONS OF INTEREST

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

22. POLICY ON USE OF FACILITIES BY MEMBERS

(a) Guidance on the Use of IT by Councillors

S Hill and A Scott reported that the Council had implemented an electronic committee management system and was now pursuing a strategy for member connectivity to the Council's network. Following a survey of councillors, it had become clear that direct provision of IT equipment was not the favoured option as over 70% of those responding had indicated that they already had equipment in their homes and would not want another computer. As a result the member connectivity scheme which was being pursued provided for the payment of an annual grant of £500 to each member on receipt of an undertaking to:

(a) ensure that their password and secondary authentication equipment remain accessible only by themselves;

(b) abide by the Council's published ICT policies and standards relating to security of systems and data and remote working;

(c) meet the requirements of the Local Government Act 1972 and any subsequent Act in relation to exempt and confidential information; and

(d) adhering to specific user policies for systems to which they were given access.

The Committee noted that the Council's Independent Remuneration Panel had considered the payment of a grant and had expressed views about the amount proposed and the taxation implications.

The Committee considered a draft Appendix to the proposed protocol on the use of facilities for members providing guidance on the use of IT by councillors for Council business. Attention was drawn to the security measures proposed and to the need for members to appreciate that exempt and confidential information received via the system should be treated in the same way as the paper copies which they currently received.

RESOLVED:

That the Appendix on the Guidance on the Use of IT by Councillors be agreed subject to:

- (a) references to "Members" being changed to "Councillors";
- (b) paragraph 3.1 to be amended to make specific reference to "restricted" papers;
- (c) inclusion of a paragraph drawing to the attention to the fact that the Internet is an unregulated medium and that councillors should take adequate steps to protect their systems from viruses etc; and
- (d) correction of typographical errors.

(b) Protocol on the use of facilities for Councillors

The Committee considered a draft protocol designed to support the provisions of the Code of Conduct in respect of the proper use of facilities provided for councillors.

RESOLVED:

That the draft protocol on the Use of Facilities for Councillors be agreed subject to:

- (a) references to "Members" being changed to "Councillors";
- (b) reference being made in Paragraph 2.3 to exempt and confidential information; and
- (c) inclusion in Section 4 on advice on the use of other Council buildings for political group or party purposes.

23. CHIEF FINANCE OFFICER

R Palmer, the Council's Chief Finance Officer, explained the duties of that role. He drew attention to the statutory provisions and the relevant articles of the Council's Constitution.

The Committee noted that Section 151 of the Local Government Act 1972 required that every local authority should make arrangements for the proper administration of

their financial affairs and shall secure that one of their officers had responsibility for the administration of those affairs. The officer appointed as the responsible Financial Officer must, by virtue of Section 113 of the Local Government Finance Act 1988, be a member of a specified accountancy body.

The Committee noted that the duties of the responsible Financial Officer had been significantly extended by virtue of Section 114 of the 1988 Act which required a report to be made to all of the Council's members, in consultation with the Monitoring Officer and the Head of the Paid Service, if there was or was likely to be unlawful expenditure or an unbalanced budget. That section had been amended following the introduction of executive arrangements under the Local Government Act 2000 and the Chief Financial Officer was now required to submit reports to the Council in respect of non-executive functions. However, where the decision might involve unlawful expenditure, a loss or deficiency or unlawful item of account as a result of the exercise of executive functions, a report had to be submitted to the Executive. Copies of any report also had to be sent to every member of the Council and the external auditor. The Executive was under an obligation to consider such a report within 21 days and all action in respect of the report had to be suspended until it had been considered by the Executive. After considering the report the Executive had to provide a report to the Council, the Chief Financial Officer and the external auditor, explaining what action if any was to be taken and the reasons for that action or for not taking action.

The Committee was advised that following the Local Government Act 2000, the Chief Financial Officer and the Monitoring Officer also had a role in advising whether particular decisions were likely to be contrary to the policy framework or budget of the Council. The importance of the Chief Financial Officer's role as adviser to councillors was supported by the model Code of Conduct for Members. The Code required members to have regard to advice provided by the Chief Financial Officer in any formal report submitted under Section 114 of the Local Government Finance Act 1988. In recognition of the enhanced role of the Chief Financial Officer and the Monitoring Officer, these posts had statutory protection in relation to dismissal and the Chief Financial Officer could not be suspended for more than two months for the purpose of investigating misconduct unless it was in accordance with the recommendation in the report made by an independent person. The 2000 Act also defined the Section 151 role as a non-executive function and the Chief Financial Officer as a statutory Chief Officer. This meant that the appointment of the Section 151 Officer was the responsibility of the Council and not the Executive.

R Palmer reported that the Accounts and Audit Regulations 1996 imposed responsibilities on the Chief Finance Officer relating to accounting records and supporting information, controlled systems and the statement of accounts. The Local Government Act 2003 emphasised the importance of sound and effective financial management and introduced two new statutory duties for Chief Finance Officers. In relation to capital financing there was a statutory requirement for each local authority to set and arrange their affairs to remain within prudential limits for borrowing and capital investment. The Chief Finance Officer was required to report to the authority, at the time the budget was considered and the Council Tax set, on the robustness of the budget estimates and the adequacy of financial reserves. The Chief Finance Officer also had a key role to play in fulfilling the requirements of the statutory duty for councils to keep their finances under review during the year and take action if there was evidence that financial pressures would result in a budget overspend or if there was a shortfall in income.

R Palmer drew attention to the key activities that the Chief Finance Officer was responsible for when maintaining strong financial management and effective financial

controls. He also drew attention to the role played by the Chief Finance Officer in the corporate management of the authority.

Finally, the Committee was advised of the roles of the Chief Finance Officer in supporting and advising members, supporting and advising officers and leading and managing an effective and responsive financial service.

RESOLVED:

That R Palmer be thanked for attending the meeting and making his presentation.

24. PROTOCOL FOR MEMBERS AND OFFICERS ENGAGED IN THE DETERMINATION OF PLANNING APPLICATIONS AND OTHER PLANNING DECISIONS

The Committee gave further consideration to a revised protocol in the light of comments which had been received following a consultation exercise.

The Epping Town Council had suggested that approval of the revised Planning Protocol should be deferred pending the forthcoming review of the Charter between the District Council and parish and town councils. The Committee determined that as the Planning Protocol was reviewed on a regular basis there was no need to defer approval of this latest version pending the review of the Local Charter.

Martyn Pattie, Architects and Designers, had made a number of suggestions regarding site visits, the appointment of councillors to planning committees, the consideration for objections to planning applications, the recommendations of planning officers and the submission of photographs at planning meetings. The Committee determined that these matters related to planning policy and were outside of the Protocol.

District Councillor Mrs Brooks has expressed concern about presentations and planning briefs for district councillors prior to the submission of formal planning applications. The Committee agreed the need for a section in the Protocol to cover this issue. It was agreed that the Protocol should express caution in relation to such requests and that they should only be entertained as an exception rather than the rule. The Protocol should also advise that in the event of councillors attending such presentations they should restrict themselves to listening and reading the material provided. Questions should be restricted to seeking clarification of the facts and opinions should not be expressed about the proposals until such time as all the facts were presented when a planning application was before members for determination.

Bahram Mottahed had expressed thanks for being consulted but had made no observations on the draft Protocol.

The Tooley and Foster Partnership had drawn attention to the importance of planning officers providing meaningful pre-planning application advice to applicants. The Committee agreed that this was not an issue for the Protocol.

The Loughton Residents Association (LRA) had suggested that the Protocol should make reference to the agreement which had been reached between the Association and this Committee in relation to responses to planning issues. The Committee agreed that specific reference to the agreement with the LRA would be inappropriate but that general comments would be appropriate drawing attention to the need to

avoid any conflict of interest by councillors who were members of local organisations which submitted representations about planning applications.

During the discussion on this matter, a member of the Committee drew attention to a letter which had been published in a local newspaper alleging an inconsistent approach in relation to a planning application by members who were town councillors as well as district councillors.

RESOLVED:

- (1) That the revised Protocol be further amended to incorporate the views expressed at this meeting;
- (2) That Paragraph 21.5 be amended to require an officer submitting an application to leave any meeting at which it is considered; and
- (3) That the Monitoring Officer respond to the recent letter in the local newspaper by drawing attention to the advice in relation to "dual hatted" councillors.

25. REGISTRATION BY MEMBERS OF FINANCIAL AND OTHER INTERESTS

The Monitoring Officer reported that at the meeting of the Committee on 29 June 2005, officers have been asked to liaise with the Standards Board on the extent to which the wording of the form used by the Council to register interests could be altered in order to overcome some of the issues raised by district councillors.

The Committee noted that officers had now established that the Council had discretion to change the wording of the form provided that all of the relevant information was sought. The Monitoring Officer reported that next year the Council would be moving from a paper-based form to an on-line form. An on-line form currently in use by another local authority indicated that it was possible to have a clear form with a facility for obtaining guidance notes in relation to each question.

RESOLVED:

That a draft of the proposed on-line form and explanatory notes to be introduced next year be submitted to this Committee in due course for approval.

26. ADJUDICATION SUB-COMMITTEE - DETERMINATION

The Committee noted that at a meeting on 20 September 2005, the Adjudication Sub-Committee appointed by this Committee had considered an allegation made about the conduct of District Councillor T Farr by the Director for Legal and Enforcement Services, Commission for Racial Equality. The allegation had arisen from letters which the member had written and sent to the Deputy Prime Minister and the Chairman of the Commission for Racial Equality in relation to the Government's proposals for the provision of new houses across the South-East and East of England.

The Committee noted that the Sub-Committee had determined that:

- (a) a reasonable person would conclude from the content of the letters that Councillor Farr did intend to discriminate in his capacity as a councillor on the grounds of race, ethnic background, or nationality, when carrying out his duties and

would also conclude that he would fail to uphold the Council's policy of promoting equal opportunities and opposing discrimination against individuals on all grounds;

(b) in writing and sending the letters, Councillor Farr had conducted himself in a manner which could reasonably be regarded as bringing his office or authority in disrepute and as such had breached Paragraph 4 of the Council's Code of Conduct; and

(c) the maximum sanction be imposed on Councillor Farr, namely, to suspend him from the office of district councillor for a period of three months or until such earlier time as he undertakes training in the application of the Council's Code of Conduct, Equal Opportunities Policies and Race Equality Scheme; such training to be provided by the District Council by 31 October 2005; this suspension to take effect from the date of the Sub-Committee's determination.

The Monitoring Officer reported that Councillor Farr had been offered the necessary training but had not formally responded.

RESOLVED:

That the decision of the Adjudication Sub-Committee be noted.

27. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION

The Committee noted the current position on allegations made to the Standards Board for England regarding District and Parish/Town Councillors.

28. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2004/05 provided for meetings of the Committee on 21 February 2006 and 11 April 2006.

29. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the Paragraph of Part 1 of Schedule 12A of the Act indicated:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
12	Adjudication Sub-Committees	12

30. ADJUDICATION SUB-COMMITTEES

(a) Review of Procedure

The Committee considered that the need to revise any of the previously agreed procedures in the light of experience of the meeting of the Adjudication Sub-Committee held on 20 September 2005.

RESOLVED:

That the officers give further consideration to the manner and extent to which the press can be briefed in advance of the commencement of the hearing of a case.

(b) Adjudication - Councillor T Farr

The Committee noted that a petition signed by 274 persons had been received by the District Council seeking Councillor Farr's re-instatement and criticising his suspension. The lead petitioner had been advised that neither the Standards Committee nor the Council had any powers to change the decision of the Adjudication Sub-Committee.

Members noted that following an exchange of correspondence with the Leader of the BNP Group, it appeared that the petitioners may have intended for the petition to be submitted to the Standards Board for England and not to the Council or this Committee.

RESOLVED:

That the receipt of the petition be noted and the Monitoring Officer pursue the matter with the Leader of the BNP Group and refer the petition to the Standards Board for England, if necessary.

(c) Allegation Received - Appointment of Adjudication Sub-Committee

The Committee was advised that an allegation against a district councillor had been referred by the Standards Board for England on 21 September 2005 for local determination.

RESOLVED:

(1) That the three independent members on the Committee, namely Doctor D Hawes, Ms M Marshall and G Weltch form the Adjudication Sub-Committee to consider this allegation;

(2) That Ms M Marshall be appointed Chairman of the Adjudication Sub-Committee;

(3) That arrangements be made for the Adjudication Sub-Committee meeting to be held during the week commencing 5 December 2005; and

(4) That all members of the Adjudication Sub-Committee take part in the pre-hearing process.

CHAIRMAN