



Epping Forest District Council

STANDARDS COMMITTEE **Tuesday, 17th October, 2006**

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

Members:

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

Parish/Town Council Deputy Representative(s):

Councillors J Salter, K Percy (Deputy)

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 7 - 10)

To approve as a correct record the minutes of the meeting held on 18 July 2006 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. PLANNING PROTOCOL - PLANNING APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS (Pages 11 - 20)

(Deputy Monitoring Officer) To consider the attached report.

**5. STAPLEFORD ABBOTTS PARISH COUNCIL - ADMINISTRATIVE PROCEDURES
(Pages 21 - 24)**

Recommendation:

To consider a letter dated 6 August 2006 from the Clerk of the Stapleford Abbots Parish Council.

(Monitoring Officer) At its meeting on 18 July 2006, the Committee requested that the Clerk of the Stapleford Abbots Parish Council notify the Monitoring Officer of the Parish Council's formal response to the comments made by the Committee about a lack of transparency of some of the Parish Council's administrative procedures.

Attached is a copy of a letter dated 6 August 2006 from the Clerk of the Parish Council.

**6. TRANSFER OF ASSESSMENT OF ALLEGATIONS - STANDARDS BOARD
SUPPORT (Pages 25 - 26)**

(Monitoring Officer) To consider the attached report.

7. ADJUDICATION SUB-COMMITTEE - DETERMINATION (Pages 27 - 32)**Recommendation:**

- (1) That the decision of the Adjudication Sub-Committee be noted; and**
- (2) That further consideration be given to the advice issued to members in July 2005 on interests arising from membership of outside organisations and other public authorities.**

(Monitoring Officer) At a meeting on 5 September 2006, the Adjudication Sub-Committee appointed by the Standards Committee, considered an allegation about the conduct of District Councillor Mrs D Collins by Mrs J Abel, Clerk of the Ongar Town Council on behalf of the Town Council. The complainant had been of the view that Councillor Mrs Collins had breached the Code of Conduct by failing to declare a prejudicial interest and withdraw from a meeting of the Council's Area Plans Sub-Committee held on 21 September 2005 when consideration had been given to a planning application for a medical and day care centre at The Borough, Ongar.

The Sub-Committee decided that the Councillor Mrs Collins had failed to comply with paragraph 10 of the Code of Conduct by not declaring a prejudicial interest.

The Sub-Committee also decided that no sanction be imposed having regard to:

- (a) Councillor Mrs Collins had not sought any personal of financial gain, her sole aim had been to secure an improved health facility for the benefit of Ongar residents;
- (b) she had acknowledged that she had not fully appreciated the difference between the former test of a pecuniary interest and the relevant test of a prejudicial interest, and that she should have given more careful consideration to the public perception of her actions;
- (c) she had acknowledged her mistake, apologised for not taking greater care and for the inconvenience caused, and had indicated an intention to attend future training in relation to the Council's Code of Conduct and the Planning Protocol.

The Sub-Committee further recommended that this Committee be asked to clarify and update the advice issued to members in July 2005 on interests arising from membership on outside organisations and other public authorities. The advice previously issued is attached together with suggested amendments to paragraph 5 and the Appendix shown in italics.

8. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION (Pages 33 - 34)

(Monitoring Officer) To note the attached schedule.

9. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2006/07 provides for meetings of the Committee on 27 February 2007 and 25 April 2007.

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

10. 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.

This page is intentionally left blank

The Committee noted that the Standards Board had stated that it would continue to switch the focus of its work from the investigation of cases towards the provision and maintenance of a national framework of support to help local authorities to ensure high standards locally. Members questioned the meaning of this statement.

RESOLVED:

That the Monitoring Officer seek clarification from the Standards Board for England of its statement that it will provide and maintain a national framework of support to help local authorities ensure high standards locally.

(b) CIPFA Better Governance Forum

The Monitoring Officer reported on her attendance in April 2006 at a course on "Conduct, Behaviour and Ethical Standards". She reported that advice had been provided on the content of annual reports of Standards Committees and whilst this Committee's annual report already contained much of the recommended content some further good practice had been learnt which would be suggested for inclusion in future reports.

The Monitoring Officer advised that many authorities had been represented at the Forum and it had been clear that this Committee was more active and better focussed than most of the other Committees which had been represented. It was also clear that unlike this Committee, many others had difficulty in appointing and retaining independent members.

The Monitoring Officer also advised that consultations were taking place at a national level about the need for Monitoring Officers to be either solicitors or barristers.

The Deputy Monitoring Officer reported that the District Council at its last meeting had complimented the Committee on its work during the last year and on its annual report. The Council had not reacted to the reference in the report to the likely need for additional resources to support the ethical framework in the future.

7. 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.

Members questioned whether any response had been received from the Stapleford Abbots Parish Council in relation to the concerns which had been expressed by the Standards Committee about a lack of transparency of some of the administrative processes adopted by that Parish Council.

The Allegations Determination Manager reported that there had been no response.

RESOLVED:

That the Parish Council Clerk be requested to place the letter dated 29 June 2006 she received from the District Council's Democratic Services Manager on an agenda for a Parish Council meeting and to notify the District Council's Monitoring Officer of the Parish Council's formal response to that letter.

8. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2006/07 provided for meetings of the Committee on 17 October 2006, 27 February 2007 and 25 April 2007. Members were advised of the likelihood of additional meetings being held in order to consider reports of investigating officers.

9. 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 would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 and that maintaining the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
8	Appointment of Adjudication Sub-Committee	7C

10. APPOINTMENT OF ADJUDICATION SUB-COMMITTEE

The Allegations Determination Manager drew attention to the final report of John Austin, Borough Secretary and Monitoring Officer of the London Borough of Enfield who had investigated on behalf of this Council's Monitoring Officer an allegation made about the conduct of a District Councillor.

The Investigating Officer's finding was that there had been a breach of the Code of Conduct in this case and it was necessary, therefore, for the Committee to appoint an Adjudication Sub-Committee of three members to consider the matter in detail. Members were advised that the pre-hearing process had commenced and that the meeting of the Sub-Committee should take place before 14 September 2006.

Members considered the make-up of a Sub-Committee.

RESOLVED:

(1) That the three independent members of this Committee, namely Dr D Hawes, Ms M Marshall and G Welch form the Adjudication Sub-Committee to adjudicate on allegation SBE 12697.05 referred to the Council's Monitoring Officer and investigated locally;

(2) That G Welch be appointed Chairman of the Adjudication Sub-Committee; and

(3) That arrangements be made for the meeting of the Sub-Committee to be held before 7 September 2006 in view of the commitments of two members of the Sub-Committee immediately after that date.

CHAIRMAN

PLANNING PROTOCOL – PLANNING APPLICATIONS SUBMITTED BY COUNCILLORS AND OFFICERS

Recommendations:

- (1) That consideration be given to amending paragraphs 5 (“dual hatted” Councillors) and Section 6 (“fettering a Councillor’s discretion”) in respect of the position of Chairmen of Area Plans Sub Committees and their role at District Development Control Committee should an application be referred to the latter;
- (2) To consider proposed amendments to Section 22 of the Protocol relating to planning applications made by Councillors; and
- (3) To report to the Council on these items as appropriate.

1. (Deputy Monitoring Officer). This report deals with three sections of the Planning Protocol which, in the light of recent experience, may benefit from clarification. These relate to paragraphs 5 and 6 concerning dual hatted members and fettered discretions and Section 22 which deals with planning applications from Councillors and Officers.

Paragraphs 5 and 6

2. Section 5 and 6 of the Protocol deal with the question of avoiding fettered discretions which could disqualify members from taking part in planning decisions, particularly if they are members of more than one authority which are dealing with planning issues.

... 3. Appendix 1 provides copies of correspondence between Councillor K Wright, Chairman of Area Plans Sub Committee ‘C’ and the Deputy Monitoring Officer on the role of Chairmen in cases where planning applications are referred to the District Development Control Committee (the parent body of the Area Plans Sub Committees). In his reply the Deputy Monitoring Officer expresses his view that once an application has been referred upwards all members should regard the planning consideration as commencing afresh particularly if there is new information brought forward at the later meeting.

4. The Standards Committee is asked to consider the need to amend paragraphs 5 and 6 to deal with the role of the Chairmen of Area Plans Sub Committees and Councillors who may be members of both committees who could be involved with planning applications at meetings of both bodies.

Section 22

5. This section of the Planning Protocol deals with the steps which Councillors (both present and past together with their friends, relatives and business associates, etc) must take if they are submitting planning applications to the Council.

6. Section 22 (paragraph 2) advises these applicants that they should inform the Monitoring Officer of the submission of the application. This links with the delegated authorities held by the Head of Planning and Economic Development which require that he cannot determine any planning application from a Councillor or Officer of Planning Services or from any Officer acting as an agent for an applicant under delegated powers and must instead refer the cases to an Area Plans Sub Committee.

7. This procedure has come under scrutiny as a result of a recent case where a Councillor was seeking planning consent. In that case the member correctly advised the Monitoring Officer and the Deputy Monitoring Officer of the submission of the planning application and in turn both the Monitoring Officer and Deputy Monitoring Officer advised the Head of Planning and Economic Development. For a variety of reasons, the fact that the applicant was a serving Councillor was not relayed to the case officer in Planning Services. As a result a number of procedural problems arose with the application which are still being reviewed. However, it has become clear that the requirement in the Protocol to simply notify the Monitoring Officer may not be sufficient to ensure that any case officer appreciates that the application must be referred to an Area Plans Sub-Committee.

8. It is recommended that Section 22 be amended to make provision for applicants in these various categories to notify the Head of Planning and Economic Development of their status. The Head of Planning and Economic Development intends to extend this practice to all applicants for planning consent as it is considered that some of the categories such as past Councillors, business associates of Councillors and friends and relatives of Councillors may be difficult to trace in practice.

... 8. A copy of the amendments to Section 22 of the Code are attached as Appendix 2 together with a copy of the proforma, which will be introduced, by the Head of Planning and Economic Development. The latter should be appended to the Protocol for future reference.

9. The Standards Committee is asked to consider these proposals.

Date: 19 September 2006

Our ref: PU/IW/VMC/MC/5/8/2

APPENDIX 1

Your ref:

Councillor K Wright
Members' Mail

Ian Willett 01992 564243
Email: iwillett@eppingforestdc.gov.uk

Dear Councillor Wright

Planning Protocol

Thank you for your letter dated 1 September 2006 concerning the role of Area Plans Sub Committee Chairman at the District Development Control Committee in relation to referred items.

I do not agree that the Chairman of an Area Plans Sub Committee is under a duty to support the views of that Sub Committee at the District Development Control Committee. There is a duty in my view for a Chairman of a Plans Sub Committee to present the views of the Sub Committee in so far as they are known, particularly in cases where the Sub Committee has made a decision or submitted a recommendation. If a planning application is referred without that debate, for whatever reason, to the District Development Control Committee, it is clearly impossible for the Chairman of the Area Plans Sub Committee to support a view.

When the matter arises again at the District Development Control Committee, my view is that the application starts afresh. Bear in mind, that between the Area Plans Sub Committee meeting and the District Development Control Committee, there may well be further developments: new information may be received, new policy advice may be given by Planning Officers, a fresh set of members may ask different questions and clarify points that were not raised or thought of at the Area Plans Sub Committee. This is why it may not be wise for an Area Plans Sub Committee Chairman to be too dogmatic about his position until all the new facts and information are available at the District Development Control Committee meeting.

This is a wider question than Development Control in that it does arise from time to time in relation to any subordinate body which reports to its parent committee or the Council. Over the years, I have seen Chairmen of subordinate bodies present the views of their committees but make it clear that it is not their personal view and that they do not intend to vote for the recommendation. I admit that these occasions are very rare but these are matters of conscience which no protocol can really cover.

To repeat: I think the duty of an Area Plans Sub Committee Chairman is to present any views from the Sub Committee without necessarily being mandated to vote in a certain way, particularly if new information is available at the District Development Committee.

Cont./

I am happy to cover this point in future training sessions on the Planning Protocol.

Yours sincerely

Ian Willett
Head of Research and Democratic Services

50 Onslow Garden
Ongar,
Essex

11.9.06

Ian Willett : Head - Research + Dev. Services

Dear Ian,

Protocol regarding the determination
of planning applications

At a recent Development Control meeting it was asserted that it was the duty of a Chairman of any of the Area Plans Sub-committee to support that committee's views if a planning application had to be referred to the Development Control Committee.

Instead of seeking "an

honest appraisal of the merits of an application" act as a fettered delegate!

I deplored this view of a fellow Councillor: nowhere in the protocol or elsewhere is this assertion supported. Rather only "relevant planning considerations" should form the basis for a decision.

I have no wish to make an issue of this incident. If however I am correct in my interpretation then the independence of Councillors might be emphasised in future training courses etc.

Yours sincerely

Keith Wright

Dist Cllr: Ongar



This authority must make decisions on Planning Applications in an open and transparent way. Any person is entitled to make an application for permission and in some circumstances the applicant may be a person who could be seen to have any undue influence on the Planning Process

The following extract from Council Constitution – Protocol for Councillors and officers Engaged in the determination of Planning applications and other Planning decisions (Revision 2) – gives details of the processes that have been put in place so that it can be demonstrated that the application is dealt with fairly and in an unbiased manner.

“22 Development Proposals Submitted by Councillors and Officers

- 22.1 Applications to their own Authority by serving and former Councillors and officers and their close friends, partners, employers or business associates (including those of relatives) and relatives themselves can easily give rise to suspicions of impropriety.
- 22.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism. Serving Councillors, Chief Officers and staff of Planning Services together with other Council staff who act as agents for applicants should play no part in the decision-making process in respect of those proposals. The Council's Monitoring Officer should be **told in writing** by the Councillor or member of staff that an application has been made as soon as it is submitted. **Such applicants (or their agents) should also advise the Head of Planning & Economic Development by means of a pro forma supplied for the purpose when the application is submitted. The relevant pro forma is set out in Appendix 3.** Any such applications, whether by Members or officers, cannot be dealt with by the Head of Planning Services under delegated powers. All such cases will stand referred to the Area Plans Sub-Committee concerned.
- 22.3 A Councillor submitting an application will invariably have a personal and prejudicial interest in the application. He or she must declare this interest at the meeting where the application is under discussion and withdraw whilst it is considered.
- 22.4 A Councillor who is an applicant or who otherwise has a prejudicial interest under the Code of Conduct in an application should not 'improperly seek to influence a decision about the matter' (Paragraph 12(1)(c) of the Code of Conduct). 'Improperly' should not imply that a Councillor should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a Committee.
- 22.5 An officer submitting an application has a clear interest in that application. He or she must also declare that interest and leave if present at the meeting at which the application is discussed. They must then leave the meeting. Applications submitted by Councillors or officers will always be determined by an Area Plans Sub-Committee or the District Development Control Committee and not by the Head of Planning Services under delegated powers.
- 22.6 In all such cases, the aim must be to ensure that applications are dealt with in the same way as those by any other person. This will avoid any suggestion of preferential treatment.

Please return the form overleaf to us **with your application indicating whether or not** the applicant or agent on this application is a serving or former Councillor or officer or their close friend, partner, employer or business associate (including those of relatives) or relative.”

 Epping Forest District Council	Planning Services
---	--------------------------

Development Proposals Submitted by Councillors and Officers

Application Number (if known): _____

Site Location:: _____

I am the: Applicant/Agent (delete as applicable)

Applicant/Agent Name: _____

I have no involvement with Epping Forest District Council either directly or as a third party, as detailed on the covering sheet.

I have involvement with Epping Forest District Council as a:

- | | |
|--------------------|-------------------|
| Serving Councillor | Former Councillor |
| Serving Officer | Former Officer |

I have involvement with Epping Forest District Council through a third party who is a:

- | | |
|--------------------|-------------------|
| Serving Councillor | Former Councillor |
| Serving Officer | Former Officer |

Name of Third Party: _____

The Nature of my relationship with this third party is

- Close Friend
- Partner
- Relative
- Employer/Employee of Third Party or of relative of Third Party
- Business Associate of Third Party or of relative of Third Party

Signed: _____

Dated: _____

Failure to return this form will result in your application being unable to be determined.

Please return this form with your application, or if submitted separately after an application to:

John de Wilton Preston, Head of Planning and Economic Development, Civic Offices, High Street, Epping, Essex CM16 4BZ

This page is intentionally left blank

Stapleford Abbotts Parish Council

Clerk: Valerie Bright
4 Yewlands
Sawbridgeworth
Hertfordshire
CM21 9NP

Tel: 01279 724038
Fax: 01279 721976

6th August 2006

Graham Lunnun
Democratic Services Manager
Epping Forest District Council
Civic Offices
High Street
Epping
Essex
CM16 4BZ

Dear Mr Lunnun,

Complaint against Councillor R Russell, Stapleford Abbotts Parish Council

With reference to your letter dated 2nd August, I apologise for not communicating with you sooner but had not realised your previous letter needed a reply. Your letter dated 29th June was on the agenda of the Parish Council meeting held on 3rd July.

Consideration of Planning Applications presents a problem for most small Parish Councils. We do not have an office and meetings are held in the Village Hall for which the Parish Council pays the going rate. As clerk I work from home and am paid for six hours a week. There are six Parish Councillors at Stapleford Abbotts (there is currently one vacancy) we therefore do not have committees, the whole Council meet once a month to discuss all business. Most Planning Applications arrive at my home in time to be placed on the agenda and discussed at the next Parish Council Meeting. However, there is always a minority that arrive during the month between meetings with a deadline for reply before the date of the next meeting. It has been the practice for each Parish Councillor to look at the application in question and let the clerk know what they have to say. I then take a consensus of opinions and send on the conclusion to the Planning Department. This is then reported and minuted together with any declarations of interest at the next Parish Council Meeting. Very occasionally the Parish Councillors meet between meetings in the Parish Church to consider any Planning Applications that might be contentious. This is also minuted at the next meeting and any declarations of interest recorded. After the complaints from the Regan family last year I telephoned a number of Parish Clerks and asked how other Parishes dealt with this problem. Every one I spoke to carries out the same procedure. Two even said the Councillors sometimes get together in one of their houses to discuss plans. It would not be realistic to call a meeting for every application that arrived, as this would involve finding a hall to hire and paying overtime for the clerk. Some months this could happen two or three times.

This page is intentionally left blank

Having considered all this, Stapleford Abbots Parish Council decided that when it is considering an application between meetings a notice to this effect should be put on the Council notice boards informing the Public and giving it the opportunity to contact the Clerk with any comments or questions. During my interview with Ian Willett I did tell him this. After a Parish Council meeting an open forum is held for Parishioners to ask questions or raise any subject they wish the Council to consider. This has now been changed, we hold Open Forum before the meeting starts for anyone to raise a subject on the agenda, which gives people the opportunity to talk about Planning Applications and the Open Forum at the end of the meeting is kept for any subjects not on the current agenda.

I hope our new procedures are in order and would be pleased to hear from the Standards Committee if it has any other suggestions for consideration of applications with a deadline for reply, that do not involve the Parish Council in more expense.

Yours sincerely

A handwritten signature in black ink, appearing to read 'V.A. Bright' with a stylized flourish at the end.

Valerie Bright

This page is intentionally left blank

TRANSFER OF ASSESSMENT OF ALLEGATIONS - STANDARDS BOARD SUPPORT

Recommendation:

To note the support to be provided by the Standards Board.

(Monitoring Officer) At the last meeting, members sought clarification of the extent of support to be provided to Monitoring Officers following the transfer of the system for assessing allegations to principal authorities.

The Standards Board has acknowledged that, whilst most authorities have welcomed the benefits of a local system, a number have concerns about managing the function, particularly those authorities which have a large number of parish and town councils in their area.

The Standards Board has indicated that it will be focusing its work on supporting authorities with guidance and advice. The Standards Board has also said that it will "call for standards committees and monitoring officers to be properly resourced".

The Standards Board states that it has commenced a range of specific projects, including:

- (a) advising the Government on the changes to primary and secondary legislation that will be needed to introduce the new proposals for further devolution of responsibility;
- (b) focusing on the role of standards committees and how they will deal with complaints;
- (c) developing and supporting the changing role and responsibility of monitoring officers;
- (d) defining the Board's role in monitoring the performance of Standards Committees.

This page is intentionally left blank

EPPING FOREST DISTRICT STANDARDS COMMITTEE

ADVICE NOTE – DECLARATIONS OF INTEREST FOR MEMBERS SERVING ON OUTSIDE ORGANISATIONS AND OTHER PUBLIC AUTHORITIES (REVISION JULY 2005)

1. PURPOSE OF ADVICE

- 1.1 To clarify the position regarding Councillors who serve on outside organisations as follows:
- (a) declaration of interests where members have been appointed by the Council to outside organisations including situations where membership involves executive or managerial responsibility for that organisation;
 - (b) the position of Councillors who serve on such organisations but are not appointed by the Council;
 - (c) the position of Councillors who serve on other public authorities (i.e. established by statute law) whether appointed by the Council or not; and
 - (d) the position concerning membership of lobby or campaign groups.

2. STATUS OF ADVICE

- | | |
|-----|--|
| 2.1 | It is for members of the Council individually to determine whether they have a personal interest and whether the interest is prejudicial. Any complaint to the Standards Board for England regarding failure to declare interests, would take into account the advice set out in this note. |
|-----|--|

3. CODE OF CONDUCT

- 3.1 The Code of Conduct for the Council (paragraph 10(2)) (Page Q6 of the Constitution Binder) sets out the circumstances where a personal interest may not be regarded as a prejudicial interest. These include:
- (a) where a member holds a position of general control or management in another public authority; or
 - (b) where the member has been appointed or nominated by the Authority as its representative on an outside organisation.
- 3.2 Recent advice received from the Standards Board for England indicates that these exemptions, which remove the need to declare a prejudicial interest, may not always apply.

4. ADVICE FROM STANDARDS BOARD FOR ENGLAND – BACKGROUND

- 4.1 The Monitoring Officer asked the Standards Board for advice on members appointed by the Council to outside organisations (e.g. Citizens' Advice Bureaux or similar charitable trusts) where they become trustees (or equivalent). The Board was asked whether such a member would have a prejudicial interest in relation to issues coming before the Council, notwithstanding that it was the Council which appointed them. The particular case cited was grant aid applications.

- 4.2 The Standards Board stated that the position was not entirely clear. The Board said that where a member is appointed to an outside organisation by the Council, paragraph 10(2) of the Code is relevant. However the Board also suggested that paragraph 10(2) should not be regarded as an exemption in every case. A grant aid application (where the organisation is effectively competing for funds) is the kind of situation where it may not be appropriate to rely on paragraph 10(2). The Board stated that this would be the case whether a member becomes a trustee or does not hold such a position.
- 4.3 The Board advised that if a Councillor is a trustee of an organisation and has not been appointed by the Council then the exemption in paragraph 10(2) does not apply. The normal test for a prejudicial interest in paragraph 10(1) would therefore be relevant, namely that a member must determine whether 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".
- 4.4 In September 2004, the Standards Board for England issued new advice in respect of "dual-hatted" Councillors and this note has been revised to take account of that advice. Further advice was also given on campaign and lobby groups.

5. EPPING FOREST STANDARDS COMMITTEE - VIEWS

- 5.1 The comments of the Standards Board for England must, in the Standards Committee's view, be taken into account in any advice. The Board's comments have cast doubt over whether paragraph 10(2) can be used to avoid the declaration of a prejudicial interest where outside organisations are concerned.

Trusts and Similar Bodies

- 5.2 The Committee has been told that there are cases where a Council representative is obliged to become a trustee, a board member or some other "official" position, as a result of having been appointed by the Council as its representative. The Committee feels that the advice must reflect those cases as well as Councillors who do not hold such positions. Furthermore, the Committee feels that advice is required for those who represent the Council and those who occupy such positions independently.

Campaign and Lobby Groups

- 5.3 The Standards Committee also took account of the Standards Board for England's advice regarding lobbying groups as set out in its September 2004 advice. This advice stated:
- (a) membership of the lobby or campaign group must be registered with the Monitoring Officer;
 - (b) consequent to (a), a personal interest must be declared;
 - (c) a prejudicial interest will be created where a matter under discussion will have a direct bearing on the lobby or campaign group (viz finance, estates, licensing, planning consent, and the rights and obligations of the group).

Public Authorities

- 5.4 The Committee also looked at references in the Code of Conduct to "public authorities". In the Committee's view, "public authorities" are bodies which are established under statutory powers and is giving separate advice to members who serve on such authorities. The Committee also took note of new advice regarding Councillors who serve on more than one public authority.
- 5.5 The Committee does not regard Citizens' Advice Bureaux (or similar organisations) as public authorities.
- 5.6 *Paragraph 10(2) of the Code provides for possible exemptions from a prejudicial interest in certain circumstances. One is when a councillor holds a position of general control or management in another public authority. However, the Standards Board has issued guidance not to rely absolutely on this exemption where a conflict of interests might arise and to treat each case on its merits. Furthermore, the Standards Board has advised that this paragraph is not designed to exempt councillors from declaring interests in significant planning issues.*
- 5.7 *The principle is that decisions and considerations at meetings should be made with impartiality and independence and free from possible influence of those who may have prejudicial interests, so as to preserve the public confidence in the authority and its decision-making.*

6. SUMMARY OF ADVICE

- 6.1 Referring to the three situations on which we were asked to advise as set out in Paragraph 1.2 of this note, the Committee advises that:

(a) Where members are appointed to an outside organisation by the Council including those appointments which involve, individually or collectively, responsibility for its activities, they must declare a personal interest in all matters relating to that body. Where issues regarding funding or grant aid are discussed by the Council a prejudicial interest should apply;

(b) Where Councillors are involved in campaign or lobby groups it is likely that they will have a personal interest and, if the matter before the Council bears directly on the campaign group, a prejudicial one.

(c) Where a member of the Council is a member of an outside organisation (including positions of control and management) but has not been appointed by the District Council, under paragraph 10 of the Code of Conduct, a personal interest should be declared in all matters relating to that organisation and the member concerned should take part in consideration unless there is a prejudicial interest which requires the member to leave the meeting; and

(d) Where a member serves on another public authority (including positions of general control or management) the Committee considers that a member must declare a personal interest in any matter relating to that authority and give very careful consideration as to whether a prejudicial interest exists on any financial and estates issues which arise. This advice should apply irrespective of whether the Council has appointed the member or the appointment has been made separately.

- ... 6.2 A matrix summarising this advice is provided in the Appendix to this note.

7. HOW THE ADVICE SHOULD BE APPLIED

- 7.1 Councillors need to be aware that this advice applies not only to meetings of the Council and its Cabinet/Committees etc., but also to more informal settings, particularly where issues about lobbying arise.
- 7.2 Separate advice for “dual hatted” members involved in planning as set out in the District Council’s planning protocol.

OUTSIDE ORGANISATIONS - SUMMARY OF ADVICE

Status of Councillor Serving on Outside Body	Recommended Declaration of Interest - Non Financial Issues	Recommended Declaration of Interest - Financial Issues (inc grant aid)
Rank and File Member or Officer Holder in a position of control and management (viz Chairman, Vice-Chairman, Treasurer, Secretary, Board Member, Trustee etc) appointed by the Council.	Personal Interest - declare and take part in consideration.	Personal and Prejudicial Interest - declare interest and leave meeting.
Rank and File Member or Officer Holder in organisation (i.e. in a position of control and management) not appointed by the Council.	Personal - declare and take part in consideration unless there is a prejudicial interest which requires the member to leave the meeting.	Personal and Prejudicial Interest - declare interest and leave meeting.
Member of another public authority including positions of control or management (e.g. Health Authority, Police Authority, Fire Authority, Lea Valley Park Authority) either appointed by EFDC or appointed separately.	Personal Interest - declare and take part in consideration.	Personal Interest - declare and take part of consideration UNLESS discussion of financial matters involves a prejudicial interest which requires the member to leave the meeting. <i>(Members are encouraged to seek advice from the Monitoring Officer in relation to potential conflicts of interest).</i>
Formal Member of a Campaign or Lobby Group.	Personal interest	Prejudicial interest if the matter before the Council bears directly on the financial status or similar matter.
Non Member of a Campaign or Lobby Group (including attendance at any such meeting) as a member of the public.	None	None
Formal member of a Campaign Group.	Personal interest if matter relates to the aims and objectives of the Group only.	None

N.B. The advice set out in the above table is intended to apply to informal situations as well as formal meetings.

This page is intentionally left blank

Agenda Item 8

(Monitoring Officer) To note the current position on allegations made to the Standards Board for England regarding District and Parish/Town Councillors.

Standards Board Reference	Current Position
SBE 12697.05	Investigated at the local level – Adjudication Sub-Committee found breach of Code of Conduct but decided that no action needs to be taken.
SBE 13804.06	Ethical Standards Officer found that no action needs to be taken.
SBE 15247.06 Formerly SBE 14652.06	Referred to the Council's Monitoring Officer for local investigation following decision by Standards Board to overturn the original decision not to investigate the matter. Investigating Officer's report awaited.
SBE 15177.06	Standards Board decided that the allegation should not be investigated. Complainant sought a review of the decision. Following review, Standards Board concluded that the case had been handled correctly and the final decision was reasonable – no further action to be taken.
SBE 15017.06	Referred to the Council's Monitoring Officer for local investigation. Investigating Officer's report awaited.
SBE 15887.06	Standards Board decided not to refer the allegation to an Ethical Standards Officer for investigation.

This page is intentionally left blank