



Epping Forest District Council

STANDARDS COMMITTEE **Tuesday, 16th October, 2007**

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

Members:

Ms M Marshall (Chairman), G Weltch, M Wright, Councillors Mrs P Smith and Mrs J H Whitehouse

Parish/Town Council Deputy Representative(s):

Councillors Mrs D Borton, B Surtees (Deputy)

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 12)

To approve as a correct record the minutes of the meeting held on 17 July 2007 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. PLANNING PROTOCOL

(Monitoring Officer) To consider suggested changes to the Planning Protocol, having regard to the results of a consultation exercise (report to follow).

5. NEW CODE OF CONDUCT

Recommendation:

To receive a progress report on the adoption of the new Code by parish/town councils and completion of registrations of interests by district and parish/town councillors.

(Monitoring Officer) At the last meeting, the Committee noted that the District Council had adopted the new Code of Conduct, without alteration, on 28 June 2007.

The Committee requested that a progress report be submitted to this meeting on adoption of the new Code by parish /town councils and on completion of new registrations of interests by district and parish/town councillors.

Notification of adoption of a new Code has now been received from all 24 parish/town councils.

Within 28 days of adoption of a new Code all members are required to re-register their interests. All 58 district councillors have completed and returned new registration of interest forms. Forms have also been received from 18 parish/town councils. Clarification of the position of the remaining parish/town councils is being pursued.

6. CODE OF CONDUCT - APPLICATIONS FOR DISPENSATION

Recommendation:

To note that following the last meeting of the Committee, no further applications for dispensation were received and a decision on the acceptance of tenders for the provision of bed and breakfast accommodation to house homeless persons has now been taken.

(Monitoring Officer) At the last meeting of the Committee, consideration was given to five applications from members of the District Council's Cabinet for dispensation to take part in a decision regarding the acceptance of tenders for the provision of bed and breakfast accommodation to house homeless persons.

The Committee agreed to hold a special meeting, if necessary, in order to consider possible applications from the remaining three members of the Cabinet. No further applications were received and it became clear the Cabinet quorum had been lost. In order to resolve the issue the Cabinet delegated the decision to a Portfolio Holder who did not have a prejudicial interest to declare. As a result there is no need for this Committee to take any further action.

7. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION (Pages 13 - 14)

(Monitoring Officer) To note the attached schedule.

8. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2007/08 provides for meetings of the Committee on 26 February 2008 and 8 April 2008.

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

9. 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.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee **Date:** 17 July 2007

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.30 - 9.10 pm

Members Present: Ms M Marshall (Independent Member), G Weltch (Independent Member), Councillor Mrs P Smith (Epping Forest Council Appointee), Councillor Mrs J H Whitehouse (Epping Forest Council Appointee) and Councillor Mrs D Borton (Parish or Town Council Representative)

Other Councillors:

Apologies: M Wright (Independent Member)

Officers Present: C O'Boyle (Monitoring Officer), I Willett (Deputy Monitoring Officer) and G Lunnun (Allegations Determination Manager)

1. CHAIRMAN OF THE COMMITTEE

RESOLVED:

That Ms M Marshall be elected Chairman of the Committee for the municipal year 2007/08.

2. MINUTES

RESOLVED:

That the minutes of the meeting of the Committee held on 25 April 2007 be taken as read and signed by the Chairman as a correct record.

3. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs P Smith declared a personal interest in agenda item 7 (Code of Conduct - Applications for Dispensation) by virtue of being a member of the same political group as the councillor who had submitted a tender for the provision of bed and breakfast accommodation for homeless persons. She had determined that her interest was not prejudicial and that she would remain in the meeting for the consideration of the applications and voting thereon.

4. PARISH/TOWN COUNCIL REPRESENTATIVE

The Committee noted that the Epping Forest District Association of the Essex Association of Local Councils had advised that they had appointed Parish Councillor Mrs Daphne Borton as the Parish/Town Council representative on the Committee in succession to Parish Councillor Jason Salter.

Members noted that Councillor Salter had been a member of the Committee since it was established in 2001. He had decided to stand down as the Parish/Town Council representative on the Committee due to other commitments.

The Chairman welcomed Parish Councillor Mrs Borton and expressed appreciation of the work undertaken by Parish Councillor J Salter during the past six years. The Chairman also welcomed District Councillor Mrs Janet Whitehouse, a new District Council appointee on the Committee.

RESOLVED:

That the Chairman, on behalf of the Committee, send Parish Councillor Jason Salter a letter expressing appreciation for the work he undertook in relation to the Standards Committee over the past six years.

5. NEW CODE OF CONDUCT

The Monitoring Officer reported that the District Council had adopted the new Code of Conduct, without alteration, as recommended by this Committee. Copies of the Code had been made available for inspection by the public at the Civic Offices and Information Centres around the District. A notice had been published in a local newspaper stating that the new Code had been adopted and advising where copies could be inspected. The Standards Board for England had been advised of the Council's decision to adopt the new Code.

The Monitoring Officer reported on progress on receipt of completed new registrations of interests forms by District Councillors.

The Committee noted that to date, eleven Parish/Town Councils in the District had advised that they had adopted the new Code of Conduct, without alteration. Members were reminded that Councils had until 1 October 2007 to adopt the revised Code after which time members of local authorities that had not adopted a revised Code would be automatically covered by it. The Monitoring Officer advised that in the near future she would be publishing a further notice in a local newspaper on behalf of Parish/Town Councils listing those local Councils that had adopted a new Code.

RESOLVED:

(1) That the decision of the District Council to adopt the new Code of Conduct, without alteration, on 28 June 2007 as recommended by this Committee be noted; and

(2) That a progress report be submitted to the next meeting of this Committee on adoption of a new Code of Conduct by Parish/Town Councils and on completion of registrations of interests by District and Parish/Town Councillors.

6. CODE OF CONDUCT - APPLICATIONS FOR DISPENSATION

The Monitoring Officer reported that the Council had recently invited tenders for the provision of bed and breakfast accommodation to house homeless persons, where necessary. Three tenders had been received and the officers were proposing that all three establishments be used with approaches being made initially to the one which had submitted the lowest rates for rooms. However, as there would be occasions when that establishment did not have vacancies it will be necessary to use the others.

The Committee noted that the decision to use the establishments would normally be taken by the Housing Portfolio Holder but he had advised that he had a prejudicial interest by virtue of his acquaintance with the proprietor of one of the establishments, who was also a fellow District Councillor. In such circumstances the matter would normally be submitted to the Cabinet for decision but it had been anticipated that the majority of the Cabinet would have similar prejudicial interests.

Accordingly, the Monitoring Officer had sent a letter to all members of the Cabinet seeking clarification of their position and asking, if necessary, if they wished to seek a dispensation to enable them to take part in making a decision on this matter.

The Monitoring Officer reported that only the Standards Committee could grant dispensations and it did so at its discretion. In considering applications for dispensation it needed to balance the public interest in preventing members with a prejudicial interest from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority.

The Committee noted the grounds on which applications could be made and advice of the Standards Board for England that if failure to grant a dispensation would result in an authority or a Committee not achieving a quorum, this might constitute grounds for granting a dispensation.

The Committee was advised that in response to the letter sent by the Monitoring Officer, five members of the Cabinet had submitted written applications for dispensation. The Committee noted that the quorum for the Cabinet was a minimum of five of the eight members.

The Committee considered one at a time the submitted applications for dispensation. In coming to their decisions, the Committee took account of the fact that the tender submitted by the councillor had not been the lowest and therefore his establishment would not normally be the first approached by the Council for accommodation.

RESOLVED:

- (1) That the submitted applications for dispensation be determined as follows:
 - (a) Councillor A Green - dispensation agreed as his prejudicial interest is considered to be less substantial;

(b) Councillor Mrs A Grigg - dispensation agreed as her prejudicial interest is considered to be less substantial;

(c) Councillor Mrs M Sartin - dispensation refused as her prejudicial interest is considered to be more substantial;

(d) Councillor D Stallan - dispensation refused as his prejudicial interest is considered to be more substantial; and

(e) Councillor Mrs D Collins - dispensation refused as her prejudicial interest is considered to be more substantial;

(2) That the Monitoring Officer remind the three remaining members of the Cabinet of the need to give careful consideration to their position in relation to this matter and, if necessary, to make an application for dispensation to enable them to take part in the decision making process; and

(3) That, in the event of further applications being received for dispensation, the Monitoring Officer in consultation with the Chairman of the Committee make arrangements for an extraordinary meeting of the Committee to determine any such applications.

7. LOCAL GOVERNMENT AND PUBLIC PARTICIPATION IN HEALTH BILL

The Committee noted that the Local Government and Public Involvement in the Health Bill contained many new provisions and revisions to governance arrangements for local authorities. Part 10 of the Bill dealt with ethical standards and in particular the role of Standards Committees and Monitoring Officers in dealing with allegations against members.

The Monitoring Officer drew attention to the following provisions:

- (a) written allegations - right to make and initial assessments;
- (b) power to suspend Standards Committee functions;
- (c) allegations referred to the Standards Board;
- (d) information to be provided to the Standards Board;
- (e) Sub-Committees of Standards Committees;
- (f) Joint Committees;
- (g) Ethical Standards Officer reports;
- (h) Adjudication Panels;
- (i) Data Protection Act implications; and
- (j) Political Restrictions - Local Authority Staff.

The Monitoring Officer advised that the Bill had attracted a considerable degree of debate in the House of Commons already and was currently before the House of Lords. It was likely that further amendments would be proposed and the Bill was not

planned to become law until at least the Autumn of 2007. Members noted that once the Bill had become law, it would be possible to assess fully the effect on the terms of reference of this Committee, the procedures that the Committee already had in place for dealing with allegations against councillors, and officer roles. It was planned, therefore, to submit further reports to the Committee once the Bill had been enacted.

RESOLVED:

- (1) That the main provisions of this Bill be noted;
- (2) That, once the Bill has become law, further reports be submitted on the impact of this legislation on the procedures adopted by this Committee for handling complaints and on amendments to the terms of reference of the Committee in the District Council's Constitution; and
- (3) That a review of officer roles be undertaken by the Monitoring Officer in the light of the likely new provisions.

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

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

9. GUIDANCE ON GIFTS AND HOSPITALITY

The Committee considered amendments to the guidance previously issued regarding gifts and hospitality in order to align it with changes made in the new Code of Conduct.

RESOLVED:

- (1) That the suggested changes by the Monitoring Officer to the Guidance be agreed;
- (2) That the following additional changes also being made:
 - (a) substitution of "£15" for "£10" in paragraph 3.1(f); and
 - (b) the addition of the following words at the end of paragraph 3.2 "or any registered charity of the Councillor's choice";
- (3) That, in view of the limited amendments being made, no consultation be undertaken on the changes to the Guidance.

10. PLANNING PROTOCOL

Members considered proposed changes to the Council's Planning Protocol to accord with the new Code of Conduct.

RESOLVED:

- (1) That the Head of Planning and Economic Development, Planning Agents, District Councillors and Parish/Town Councils be consulted on the suggested changes to the Planning Protocol;
- (2) That during the consultation period, members of this Committee submit views to the Monitoring Officer; and
- (3) That consideration be given at the next meeting to changes to the Planning Protocol in the light of replies received to the consultation exercise.

11. PROTOCOL ON USE OF FACILITIES FOR COUNCILLORS

The Committee considered suggested changes to the previous guidance issued in relation to the use of Council facilities by members.

RESOLVED:

- (1) That the suggested amendments by the Monitoring Officer to the Protocol be agreed;
- (2) That the following additional amendments be made to the Protocol:
 - (a) renumbering of paragraph 2;
 - (b) definition of "political purposes" in paragraph 2.1(b);
 - (c) substitution of "which the individual Councillor considers to be confidential" in place of "which you consider to be confidential" in the new paragraph 2.2 (previously paragraph 2.3);
 - (d) extension of paragraph 3.2 of the Appendix to include Freedom of Information legislation; and
 - (e) clarification of the guidance contained in Appendix 1 to make it clear that it is advice and expectation on the best practice and not an attempt to control the use of a member's own hardware or software;
- (3) That, in the light of the limited amendments proposed, no further consultation be undertaken on the amendments.

12. ADVICE NOTE ON COUNCILLORS INVOLVED IN OUTSIDE ORGANISATIONS

The Committee considered proposed changes to the previous guidance issued regarding conflicts of interest involving Councillors who served on outside bodies. Members noted that the new Code of Conduct itself now addressed the issues which had been contained in the previous guidance.

RESOLVED:

That, having regard to the new Code of Conduct, the guidance advice note on Councillors involved in Outside Organisations be removed from the Constitution.

13. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2007/08 provided for meetings of the Committee on 16 October 2007, 26 February 2008 and 8 April 2008.

CHAIRMAN

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ALLEGATIONS MADE TO THE STANDARDS BOARD FOR ENGLAND REGARDING DISTRICT AND PARISH/TOWN COUNCILLORS

(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 19300.07, 19301.07. 19302.07 and 19303.07	Standards Board decided that the allegations should not be referred to an ethical standards officer for investigation. Having taken account of the available information they did not believe that a potential breach of the Code of Conduct is disclosed. They made no finding of fact. The complainant sought a review of the decision not to refer the complaint for investigation. After careful consideration the Standards Board concluded that the case had been handled correctly and the final decision was reasonable. The Standards Board has closed its file.

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