



Epping Forest District Council

STANDARDS COMMITTEE **Tuesday, 27th January, 2009**

Place: Civic Offices, High Street, Epping
Room: Committee Room 1
Time: 7.30 pm
Committee Secretary: G Lunnun - The Office of the Chief Executive
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Ms M Marshall (Chairman), Councillor S Murray, Councillor B Rolfe, Councillor Mrs P Smith, G Weltch and M Wright

Parish/Town Council Deputy Representative(s):

Councillors Mrs D Borton, J Salter, B Surtees

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 10)

To approve as a correct record the minutes of the meeting held on 8 December 2008 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. REVIEW OF PLANNING PROTOCOL

Report to follow.

5. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS (Pages 11 - 12)

(Monitoring Officer)

- (a) To consider the attached report on the current position; and
- (b) To discuss officer responsibilities for and the resource implications of determining allegations.

6. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2008/09 provides for a meeting of the Committee on 14 April 2009.

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

The draft calendar for 2009/10 to be considered by the Council in February 2009 provides for meetings on 14 July 2009, 13 October 2009, 19 January 2010 and 13 April 2010.

7. 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	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:** 8 December 2008

Place: Committee Room 2, Civic Offices, **Time:** 7.30 - 8.40 pm
High Street, Epping

Members Present: Ms M Marshall (Independent Member) (Chairman), Councillor Mrs D Borton (Parish or Town Council Representative), Councillor S Murray (Epping Forest District Council Appointee), Councillor J Salter (Parish or Town Council Representative), Councillor Mrs P Smith (Epping Forest Council Appointee), Councillor B Surtees (Parish or Town Council Representative), G Weltch (Independent Member) and M Wright (Independent Member)

Other Councillors:

Apologies: Councillor B Rolfe (Epping Forest District Council Appointee)

Officers Present: I Willett (Deputy Monitoring Officer), G Lunnun (Allegations Determination Manager) and S G Hill (Assessments Officer)

10. COUNCILLORS STEPHEN MURRAY AND JASON SALTER

The Chairman welcomed Councillor Stephen Murray attending his first meeting of the Committee as an Epping Forest District Council appointee. She also welcomed Councillor Jason Salter on his return to the Committee as the third parish/town council representative.

11. MINUTES

RESOLVED:

That the minutes of the meeting of the Committee held on 2 July 2008 be taken as read and signed by the Chairman as a correct record.

12. MATTERS ARISING FROM THE MINUTES OF THE LAST MEETING

(a) Standards Committee – Terms of Reference

The Chairman drew attention to the requirement that each independent member could serve for three years and be eligible for reappointment without any limitation. She also drew attention to a recommendation of the Standards Board that independent members should serve no longer than two terms of four years as this would be long enough for them to gain an understanding of the Committee, the authority and its workings, but not so long that they could be perceived as losing their independence. In the light of this recommendation she questioned whether there was a need to amend the Committee's terms of reference.

RESOLVED:

That the Monitoring Officer seeks clarification from the Standards Board of the reasons for their recommendation and that this matter be considered at a future meeting in the light of the advice received.

13. DECLARATIONS OF INTEREST

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

14. REVISED CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS - CONSULTATION

The Committee were advised that the Department for Communities and Local Government had issued a consultation paper inviting views on proposals for revising the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. It also sought views on the proposed introduction of a Model Code of Conduct for Local Government employees although that part of the consultation paper was not an issue for this Committee.

The Committee considered the questions posed in the consultation document on revisions to the Members' Code of Conduct.

RESOLVED:

(1) That the Monitoring Officer respond to the consultation paper incorporating the following views:

Question 1

(Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?)

Response – Yes.

Question 2

(Do you agree with the definition of "criminal offence" for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions?)

Response – Concern at the reference to paying a fixed penalty instead of facing a criminal conviction as this opportunity is not restricted to minor criminal offences. Also, there are regular changes made to offences to which the opportunity to pay a fixed penalty applies. It is considered that some offences are of such a nature that they should be subject to the Code even though they could possibly be the subject of payment of a fixed penalty. In addition, there is an inconsistent approach in different parts of the country to police cautions. It is considered that a better approach would be to list offences which will be subject to the Code and those which will be excluded.

Question 3

(Do you agree with the definition of "official capacity" for the purpose of the members' code? If not, what other definition would you support?)

Response – Yes.

Question 4

(Do you agree that the members' code should apply only where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?)

Response – Yes.

Question 5

(Do you agree that an ethical investigation should not proceed until the criminal process has been completed?)

Response – Yes, assuming that the timescale for concluding an investigation into an allegation is stopped and restarted on completion of the criminal process.

Question 6

(Do you think that the amendments to the members' code suggested are required? Are there any other drafting amendments which would be helpful? If so, please provide details of suggested amendments)

Response – Agree with the amendment of Article 2(5) to apply at paragraph 12(2) to parish councils. It should be made clear that this also applies to town councils.

Agree with the proposed amendment of paragraphs 8(1) (a) (i) and (ii).

Agree with the amendment of paragraph 8(1) (a) in relation to the registration of a gift or hospitality. It is also suggested that account should be taken of the aggregated effect of small multiple donations by a single donor which exceed the £25 limit.

Agree with the proposals regarding prejudicial interests.

Question 7

(Are there any aspects of conduct currently included in the members' code that are not required?)

Response – None.

Question 8

(Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included?)

Response – None.

Question 9

(Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?)

Response – Yes. There have been no problems in meeting this timescale in the past.

Question 10

(Do you agree with the addition of the new general principle, applied specifically to conduct in a member's non-official capacity?)

Response – Agree subject to clarification of the relationship between the two sets of principles.

Question 11

(Do you agree with the broad definition of "criminal offence" for the purpose of the General Principles Order? Or do you consider that "criminal offence" should be defined differently?)

Response – See comments in relation to question 2.

Question 12

(Do you agree with the definition of "official capacity" for the purpose of the General Principles Order?)

Response – Yes;

(2) That the Department for Communities and Local Government be asked to incorporate specific reference to actions of members which result in conflict with Orders made by the authority, e.g. consistent breach of parking regulations leading to the issue of numerous penalty notices when not acting in an official capacity; and

(3) That a draft of the response letter to the Department for Communities and Local Government be cleared by the Chairman of the Committee before being despatched.

15. DETERMINATION OF ALLEGATIONS RELATING TO THE CONDUCT OF MEMBERS

The Committee noted guidance issued by the President of the Adjudication Panel on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee.

16. DISPENSATIONS**(a) Waltham Abbey Town Council – Applications for Dispensation**

The Committee received the minutes of a meeting of the Dispensation Sub-Committee held on 2 July 2008.

The Committee noted that a special meeting of the Waltham Abbey Town Council had been held on 17 July 2008 to co-opt a member to fill the vacancy on the Town Council. All of the members present at that meeting had declared personal and prejudicial interests as at least one of the applicants had been known to each of them. Taking account of the dispensations granted by the Dispensations Sub-Committee, the Town Council members had proceeded to interview the four applicants and had held a ballot to select a co-opted member. As a result Mr M Reilly had been duly co-opted to the Town Council to fill the vacancy in the Honey Lane Ward.

(b) Dispensation – Application Form

The Committee considered a draft proforma for submission of future dispensation applications.

RESOLVED:

- (1) That the draft proforma be agreed subject to reference to Town Councils as well as Parish Councils;
- (2) That the dispensation process be included in future Members' Code of Conduct training; and
- (3) That the proforma be sent to the Clerks of Parish and Town Councils and included in a future edition of the District Council's Bulletin together with an explanation of the provisions.

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

The Committee noted the current position of allegations made about District and Parish/Town Councillors.

In relation to references EFDC 1/2008 and EFDC 3/2008, the Deputy Monitoring Officer reported that he would be issuing a draft report shortly following his investigation. In relation to case reference EFDC 5/2008 the allegation was to be considered by the Assessment Sub-Committee on 9 December 2008.

18. DATES OF FUTURE MEETINGS

The Committee noted the calendar for 2008/09 provided for meetings of the Committee on 27 January and 14 April 2009.

CHAIRMAN

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Agenda Item 5

Allegations made against District and Parish/Town Councillors

(Monitoring Officer)

(a) To note the current position on allegations made against District Councillors:

Reference	Current Position
EFDC 1/2008	Assessments Sub-Committee on 15 July 2008 referred the allegation to the Monitoring Officer for investigation. Sub-Committee also directed that the Monitoring Officer should combine this investigation with a linked complaint (EFDC 3/2008). Deputy Monitoring Officer has completed his investigation and will issue his report shortly.
EFDC 3/2008	Assessments Sub-Committee on 15 July 2008 referred the allegation to the Monitoring Officer for investigation. Sub-Committee also directed that the Monitoring Officer should combine this investigation with a linked complaint (EFDC 1/2008). Deputy Monitoring Officer is undertaking investigations. Deputy Monitoring Officer has completed his investigation and will issue his report shortly.

(b) To note the current position on allegations made against Parish/Town Councillors:

Reference	Current Position
EFDC 4/2008	Assessments Sub-Committee on 9 December 2008 referred the allegation to the Monitoring Officer for investigation. Monitoring Officer has appointed an external practitioner to undertake the investigation.
EFDC 5/2008	Assessments Sub-Committee on 9 December 2008 and decided to take no further action. The complainant has not requested a review and the file has been closed.

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