



Epping Forest District Council

STANDARDS COMMITTEE **Monday, 23rd January, 2017**

You are invited to attend the next meeting of **Standards Committee**, which will be held at:

Committee Room 1, Civic Offices, High Street, Epping
on Monday, 23rd January, 2017
at 7.30 pm .

Glen Chipp
Chief Executive

**Democratic Services
Officer**

Gary Woodhall
Governance Directorate
Tel: 01992 564470
Email: democraticservices@eppingforestdc.gov.uk

Members:

G Chambers (Chairman), C P Pond (Vice-Chairman), S Kane, M McEwen, A Mitchell, C Roberts, B Rolfe, D Stallan and J H Whitehouse

Independent Persons:

Mr P Adams and Mr D Cooper

Parish and Town Council representatives:

Parish Councillors J Barber and R Morgan.

1. APOLOGIES FOR ABSENCE

(Deputy Monitoring Officer) To be announced at the meeting.

2. SUBSTITUTE MEMBERS

(Deputy Monitoring Officer) To report the attendance of any substitute members for the meeting.

3. MINUTES (Pages 5 - 8)

(Deputy Monitoring Officer) To approve as a correct record the minutes of the meeting held on 25 January 2016 (attached).

4. DECLARATIONS OF INTEREST

(Deputy Monitoring Officer) To declare interests in any item on the agenda.

5. STANDARDS COMPLAINTS - REVISIONS TO ASSESSMENT CRITERIA (Pages 9 - 10)

(Deputy Monitoring Officer) During the course of considering the most recently received complaints, Officers have looked at the Assessment Criteria with a fresh eye. The criteria was last reviewed in 2010 and still refers to the Standards Board for England. Officers are suggesting a revision to the criteria that removes that section and also seeks to tidy up the wording to reflect current practice.

The only substantive change proposed is the shortening of the timescale for complaints to be received after the alleged misconduct. It is considered that the current period of 1 year is too long. It is suggested that this be six months but could be a shorter period. This change would have two advantages:

- (i) it would mean complaints would be made much closer to the alleged misconduct; and
- (ii) complaint handling would be less protracted.

The changes proposed for discussion are highlighted in the attached document.

Recommendation:

- (1) To consider and approve the proposed changes to the criteria used to assess complaints made to the Monitoring Officer.

6. CODE OF CONDUCT TRAINING

(Deputy Monitoring Officer) The Chairman of the Standards Committee has requested that an item be placed on the agenda to discuss Member training, and specifically how many Councillors have attended and what actions we could do to promote training further. A review of Member training records shows the following profile of attendance:

Year	Attendance
Pre 2010	19 (i.e. not attended since at least that year)
2011	5
2012	1
2013	0 (not an EFDC election year)
2014	7
2015	9
2016	16
Total	57 (1 vacancy)

A table of attendances is available.

Those that have not attended Code of Conduct training recently are mostly members with significant Council experience or have missed opportunities to attend training recently. It is the view of Officers that Code of Conduct Training should be attended at least once during each term of office. The Committee may wish to advise how to encourage attendance at training and the desired frequency of refreshers.

7. UPDATE ON ADOPTION OF NEW CODE OF CONDUCT (Pages 11 - 12)

(Deputy Monitoring Officer) To receive an update on the adoption of the New Code of Conduct by Town and Parish Councils.

8. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS (Pages 13 - 16)

(Monitoring Officer) To consider the attached schedule showing the current position of active cases.

9. DATES OF FUTURE MEETINGS

(Monitoring Officer) Following the decision of the Council that the Standards Committee be convened to meet only when there was business to be transacted (Council 26 April 2016, minute 12 refers), there are no formal meetings arranged for the remainder of the municipal year. However, further meetings can be arranged as and when required by the Committee.

10. EXCLUSION OF PUBLIC AND PRESS

Exclusion

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	Paragraph Number
11	Allegations Made About the conduct of District and Parish/Town Councillors – Issues Arising	1

Background Papers

Article 17 of the Constitution (Access to Information) 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 and does not include published works or those which disclose exempt or confidential information and in respect of executive reports, the advice of any political advisor.

The Council will make available for public inspection one copy of each of the documents on the list of background papers for four years after the date of the meeting. Inspection of background papers can be arranged by contacting either the Responsible Officer or the Democratic Services Officer for the particular item.

11. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND TOWN/PARISH COUNCILLORS - ISSUES ARISING

(Monitoring Officer) To discuss issues arising, if any, from active cases listed on the schedule for this item.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee **Date:** Monday, 25 January 2016

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.30 - 8.20 pm

Members Present: C P Pond (Vice-Chairman), S Kane, M McEwen, D Stallan and B Surtees

Other Councillors: -

Apologies: G Chambers, A Mitchell and B Rolfe

Officers Present: C O'Boyle (Director of Governance), S G Hill (Assistant Director (Governance & Performance Management)) and G J Woodhall (Senior Democratic Services Officer)

Also in attendance: Mr P Adams and Mr D Cooper (Independent Persons)
Mr R Morgan (Parish/Town Councils)

20. SUBSTITUTE MEMBERS

The Committee noted that there had been no substitute Members appointed for this meeting.

21. MINUTES

Resolved:

(1) That the minutes of the meeting held on 12 October 2015 be taken as read and signed by the Chairman as a correct record.

22. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Member Code of Conduct.

23. TERMS OF REFERENCE

The Committee noted its current Terms of Reference.

24. AUDIT AND STANDARDS COMMITTEE - PROPOSED TERMS OF REFERENCE

The Monitoring Officer presented a report on the proposed Terms of Reference for a merged Audit & Standards Committee.

The Monitoring Officer advised the Committee that many local authorities had combined their Audit and Standards Committees, especially as the workload of the Standards Committee had dwindled in recent years since the introduction of the Localism Act 2011. The proposal was to combine the Standards Committee with the

Audit & Governance Committee and have a combined Terms of Reference that followed good practice from the Chartered Institute of Public Finance & Accountancy (CIPFA). The Committee was reassured that there were no new functions in the proposed Terms of Reference that were not already being performed by one of the two Committees.

The Monitoring Officer reminded the Committee that it had had more issues to deal with in the past, but the Localism Act 2011 had delegated authority to the Monitoring Officer to deal with Member behaviour issues and report the outcomes to the Standards Committee. And although it still had a role in examining and commenting upon protocols and procedures, it was felt that it no longer had enough business to merit being a separate Committee - three of the scheduled six meetings in the previous 18 months had been cancelled due to a lack of business. There would be a standing item on each agenda of the new Committee for Standards issues to be discussed, and this approach had worked well at other Councils.

The Monitoring Officer reported that a number of other Councils had combined their Audit and Standards Committees, including Harlow District Council and Broxbourne Borough Council with whom the Council had a shared Chief Internal Auditor. The reasons for this being low complaint activity following the implementation of the Localism Act 2011, and the similarities and synergies as both Committees dealt with issues concerning governance, probity and the transparency of processes. This issue had been considered by the Audit & Governance Committee at its meeting on 30 November 2015, who had welcomed the report and had agreed the merger in principle as they felt that it would be more efficient. If the Standards Committee was in agreement then final approval for the merger would need to be sought from the Council.

The Monitoring Officer informed the Committee of the comments received from Parish Cllr Whybrow, who had been unable to attend the meeting. She had suggested that Standards issues be scheduled at the beginning of the agenda, so that Parish and Town Council representatives could excuse themselves from the rest of the meeting when that item had been dealt with, and the Monitoring Officer agreed that this would be a sensible course of action.

Cllr Stallan stated that he had not supported the merger of the two Committees last year, and that nothing had changed his opinion since then. He emphasised that a number of Committees had meetings cancelled on a regular basis due to a lack of business, but that did not mean they should be considered for dissolution. Cllr Stallan felt that the two Committees dealt with two separate types of issues and he would not be supporting the proposal. Cllr McEwen commented that, as the new Committee would have the same number of Members as the Audit & Governance Committee, it could not really be considered a merger as such. Cllr Surtees understood the reason for the proposal as Epping Forest was a very stable District Council with very few serious Member issues, and hoped that the new Committee would be able to cope if a number of complaints were referred to it.

Cllr Kane requested clarification of the potential impact on the new Committee if an issue was referred to it. The Monitoring Officer stated that the process would be exactly the same as now; any serious issues arising would be referred to the Committee if the Monitoring Officer could not affect a resolution, and additional meetings could be arranged to consider Standards cases if necessary. However, under the new arrangements, issues were being reported and dealt with a lot earlier without the need for a formal investigation by the Standards Committee.

The Senior Democratic Services Officer, who also covered the Audit & Governance Committee, stated that there were currently five meetings of that Committee scheduled each year, of which approximately half did not last longer than one hour. The longer meetings occurred when the Committee considered issues arising from Internal Audit reports or issues highlighted by the External Auditor. The Monitoring Officer added that the proposal arose from the experience of the Chief Internal Auditor at Harlow District and Broxbourne Borough Councils, and the cost savings for the proposed merger would predominantly come from a reduction in the number of meetings each year. However, it was possible to have a Standards Committee that only met as and when required.

The Monitoring Officer reiterated that the Law required at least one Independent Person to be appointed to the Standards Committee, but the Independent Person(s) were not entitled to vote on issues. Independent Members were not required for the Audit & Governance Committee, but the Council currently co-opted two and gave them voting rights. It was intended to continue with two Co-Opted Members and 1 Independent Member, but the Independent Member would only be involved in Standards issues.

The Independent Person, Mr P Adams, observed that Town and Parish Councillors currently had the right to attend meetings of the Standards Committee, and enquired if they would be able to attend meetings of the new Committee. The Monitoring Officer explained that all but seven of the Local Councils had formed their own Joint Standards Committee and their involvement with Standards issues was through that body. It was not intended to appoint Town and Parish Councillor Members directly to the new Committee, but the seven Local Councils affiliated to the District Standards Committee would be sent an agenda for each meeting and invited to attend where appropriate. If in attendance, then they would no doubt be permitted to speak on Standards issues at any meeting by the Chairman. The Deputy Monitoring Officer added that, in reality, an agenda notification email was sent to all Local Councils and they would be welcome to attend if they so wished.

Cllr McEwen raised concerns about reducing the number of available Members for Standards Hearings from nine to three. The Deputy Monitoring Officer stated that other Members could be used for Hearings if necessary, especially if the complaint concerned a Member of the Audit & Standards Committee. The Chairman informed the Committee of the comments received from Cllr Chambers, who also could not attend the meeting. The main concern of Cllr Chambers was that, by merging the Standards Committee with the Audit & Governance Committee, it could give the impression that the Council did not value the importance of Standards issues. Cllr Surtees suggested that the representation of Local Councils on the proposed Committee could be re-examined as there were two separate bodies which dealt with Standards issues for the Local Councils within the District, and to avoid the impression that the views of Local Councils were being marginalised by the District Council.

The Committee voted to oppose the merger of the two Committees, and offered three reasons for their decision:

- (i) there were currently 9 Members available to consider Standards issues, which would reduce to 3 under the proposals and it was felt by the Committee that this was not sufficient;
- (ii) there was a perceived lack of involvement of Parish Councils under the proposals as currently there were three representatives from the Local

Councils affiliated to the District Council's Standards Committee formally invited to each meeting; and

(iii) there was a perceived risk that a smaller Committee would be less objective when considering Standards issues.

The Monitoring Officer explained that the proposal would now be reported to the Council on 16 February 2016 for a decision, as both Committees were not in agreement. The Deputy Monitoring Officer reassured the Committee that this issue would not delay the production of a revised Constitution for the Council, as any potential merger between the two Committees was not scheduled to be considered by the Constitution Working Group until 22 March 2016.

Resolved:

(1) That the proposed merger of the Audit & Governance and Standards Committees be opposed, for the following reasons:

(i) there were currently 9 Members available to consider Standards issues, which would reduce to 3 under the proposals and it was felt by the Committee that this was not sufficient;

(ii) there was a perceived lack of involvement of Parish Councils under the proposals as currently there were three representatives from the Local Councils affiliated to the District Council's Standards Committee formally invited to each meeting; and

(iii) there was a perceived risk that a smaller Committee would be less objective when considering Standards issues.

25. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS

The Monitoring Officer reported that there were no outstanding issues in relation to the conduct of District and Town/Parish Councillors to bring to the attention of the Committee.

The Committee noted that the new processes arising from the Localism Act 2011 for dealing with such issues were working well.

26. DATES OF FUTURE MEETINGS

The Committee noted that a further meeting had been scheduled for 25 April 2016 before the end of the 2015/16 municipal year.

27. EXCLUSION OF PUBLIC AND PRESS

The Committee noted that there were no issues arising from the Allegations Made about the Conduct of District and Town/Parish Councillors which necessitated the exclusion of the public and press from the meeting.

CHAIRMAN

Epping Forest District – Standards Committee

Local Assessment of Complaints – Criteria

The Standards Committee will **not** investigate complaints that, following advice from the Monitoring Officer and Independent Person are:

- Malicious, relatively minor, politically motivated, tit for tat or if the matter is not considered to be sufficiently serious to warrant any further action.
- Made anonymously.
- Contain no prima facie evidence of a breach of the Code.
- Where the complainant has not supplied enough information to justify a decision to refer the matter for investigation or to evidence their complaint or have supplied information of too general a nature from which to make a judgement to investigate.
- Where an investigation would serve no useful purpose or is not serious enough to warrant a sanction or where only an apology or further training was appropriate.
- The same, or substantially similar, complaint has already been the subject of a completed investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the Sub-Committee Monitoring Officer or the Standards Committee and where no new relevant evidence has been submitted.
- Acts carried out in the Member's private life, when they are not carrying out the work of the authority or have not misused their position as a Member.
- About dissatisfaction with a Council decision, about the way the Council conducts or records its meetings, the way the Council has or has not done something.
- Within the Council's complaints process.
- About someone who is no longer a member of either the District Council or a Town or Parish Council within the area, or is a member of another authority.
- More then than 1 yearsix months has passed since the alleged conduct occurred.
- Not suitable for local investigation (see referral criteria below).
- Where alternative 'other action' such as training, mediation would be more appropriate.

The Standards Committee may refer the following cases to the Standards Board for England:

Where the status of the member(s) being complained of would make it difficult to deal locally with the complaint. For example: Complaints concerning the Leader of the Council, Cabinet member or leading opposition members, Chairman or Standards Committee members.

Complaints from the Chief Executive, Monitoring Officer or Service Director.

~~Instances where a large number of key people are conflicted out or where the authority itself might be perceived to have an interest in the outcome of the case.~~

~~Instances where there has been national attention, or where the Standards Committee feels that the matter turns on an important point of interpretation of the Code (a test case).~~

~~Where there are other public issue considerations, exceptional circumstances or allegations of governance dysfunction that would make it difficult for the authority to deal with the case fairly or speedily.~~

~~Where the Assessment Sub-Committee, having undertaken their initial assessment, believes that the matter should be dealt with at Standards Board level.~~

Withdrawal of Complaint

If the complainant asks to withdraw their complaint prior to the Initial Assessment Sub-Committee ~~having made a decision on it, the Sub-Committee~~ the Monitoring Officer will decide whether or not to grant the request. The following considerations will be taken into account when considering such requests:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it; where the complaint raises issues of wider public interest, it may be appropriate for the Sub-Committee Monitoring Officer to ensure that such wider issues are formally investigated and resolved.
- Where the alleged misconduct is simply a matter of alleged failure on the part of the respondent to treat the complainant with respect, and raises no wider issues of public interest, the Sub-Committee Monitoring Officer will normally accept such withdrawal.
- Is the complaint such that action can be taken on it, for example an investigation without the complainant's participation.
- Is there an identifiable underlying reason for the request to withdraw the complaint, such as the suggestion that the complainant may have been pressured by the subject member or an associate of theirs to withdraw the complaint.
- Where the complainant submits further evidence demonstrating that the complaint was ill-founded, it may be appropriate to resolve that the complaint as amended shows no evidence of a breach of the Code of Conduct, so that the matter is formally concluded.

[Draft revision 2017](#)

Council	Received
Abbess, Beauchamp & Berners Roding Parish Council	
Buckhurst Hill Parish Council	09/01/17
Chigwell Parish Council	17/11/16
Epping Town Council Offices	9/11/16
Epping Upland Parish Council	
Fyfield Parish Council	14/12/16
High Ongar Parish Council	
Lambourne Parish Council	
Loughton Town Council	09/01/17
Matching Parish Council	
Moreton, Bobbingworth & The Lavers Parish Council	
Nazeing Parish Council	
North Weald Bassett Parish Council	09/01/17
Ongar Town Council	12/12/16 (declined)
Roydon Parish Council	
Sheering Parish Council	26/10/16
Stanford Rivers Parish Council	
Stapleford Abbots Parish Council	
Stapleford Tawney Parish Council	
Theydon Bois Parish Council	
Theydon Garnon Parish Council	
Theydon Mount Parish Council	
Waltham Abbey Town Council	15/11/16
Willingale Parish Council	

This page is intentionally left blank

Year	Case reference no.	Case status	Received - date	Investigator
2016	1/2016	<p>That a Parish Member failed to leave meetings on 24 March and 14 April 2016 during debates where he had a pecuniary interest</p> <p>Investigation completed</p> <p>Outcome:</p> <p>The following other action taken:</p> <p>(1) The Councillor to attend a further Code of Conduct training session to be laid on for the wider Parish membership by the Monitoring Officer;</p> <p>(2) A letter of decision to be drafted for Councillor indicating:</p> <p style="padding-left: 40px;">(i) A formal finding that the Councillor had a Disclosable Pecuniary Interest (DPI) as an allotment holder and he was therefore in breach of the Code of Conduct adopted by the Town Council when he remained in meetings on the 24/3/16 and the 14/4/16;</p> <p style="padding-left: 40px;">(ii) That these interests are contrary to the lawful requirements of Section 34 of the Localism Act 2011. Having considered the matter, the gravity of a criminal offence requiring the consent of the Director of Public Prosecutions to proceed and the facts of the case, the Monitoring Officer has concluded that it is not appropriate to refer the matter for prosecution under s34 of the Act; and</p> <p style="padding-left: 40px;">(iii) That, on the basis that the member attends further training and has admitted remaining in the meetings concerned, a public hearing is not required;</p> <p>(3) Clerk to place decision letter on next available Council meeting agenda for noting. – Due January 2017</p>	1/6/16	<p>Initial Assessment by DMO</p> <p>EFDC Internal Investigator</p>

Year	Case reference no.	Case status	Received - date	Investigator
		Case to be closed following attendance at training in February 2017,		
	2/2016	<p>That a Town Councillor has failed to treat the Deputy Clerk with respect following the transmission of an email meant for a fellow Councillor to her. The complainant believes this constitutes bullying and a failure of the subject Councillor to act in accordance with the Nolan Principles.</p> <p>Outcome:</p> <p>The following other action taken in this case:</p> <p>(1) Councillor to attend a further Code of Conduct training session to be laid on for the wider Council membership by the Monitoring Officer;</p> <p>(2) A letter of decision to be drafted for the Councillor making it clear that discourteous conduct towards staff is a breach of the code of conduct and would have resulted in a requirement to apologise to the Deputy Clerk in this case.</p> <p>(3) Clerk to place decision letter on next available Council meeting agenda for noting. – Due January 2017</p> <p>Case to be closed following attendance at training in February 2017</p>	18/10/16	<p>Initial Assessment by DMO</p> <p>Not investigated</p>
	3/2016	<p>That a District Councillor:</p> <p>(i) Made blatant , knowingly untruthful statements to deliberately mislead members of the council during the consideration of a Planning Application</p> <p>(ii) Made false complaint against council officers to try to pervert a legitimate planning application; and</p> <p>(iii) Made knowingly untruthful statements with regard to a Planning Application and made personal and upsetting comments about a member of the public who was observing the planning committee hearing.</p>	8/12/16	Initial Assessment by DMO

Year	Case reference no.	Case status	Received - date	Investigator
		<p>Current status:</p> <p>Initial Assessment complete with IP for views</p>		
	4/2016	<p>That a Town Councillor has failed to treat the Deputy Clerk with respect during an internal meeting. The complainant believes this constitutes bullying and a failure of the subject Councillor to act in accordance with the Nolan Principles.</p> <p>Current status:</p> <p>Initial Assessment complete with IP for views</p>	2/12/16	Initial Assessment by DMO
	5/2016 (linked to 3/16 and 6/16)	<p>That a District Councillor:</p> <p>(i) Has made comments considered upsetting, untruthful remarks at a meeting of the an Area Plans meeting in November 2016 in relation to a resident.</p> <p>(ii) In relation to the consideration of a planning application by the Parish Council in October, the Councillor did not acted within the Nolan Principles set out in the Code of Conduct.</p> <p>Current status:</p> <p>Initial Assessment complete with IP for views</p>	8/12/16	Initial Assessment by DMO
	6/2016	<p>That two Parish Councillors have not, in relation to the consideration of a planning application by the Parish Council in October, acted within the Nolan Principles set out in the Code of Conduct.</p> <p>Current status:</p> <p>Initial Assessment to be completed</p>	20/12/16	Initial Assessment by DMO

This page is intentionally left blank