

EPPING FOREST DISTRICT STANDARDS COMMITTEE

THIRD ANNUAL REPORT

1. INTRODUCTION

- 1.1 This is the third Annual Report of the Epping Forest District Council's Standards Committee. The aim of this report is to describe some of the issues which have arisen since our last report and likely future developments.
- 1.2 The Standards Committee was established under the Local Government Act 2000 as part of the Government's democratic renewal programme and the introduction of a new ethical framework for public service. The Standards Committee was appointed by the Council in November 2001 and reappointed in 2004.
- 1.3 Current membership comprises:
 - (a) three independent members – Dr Derek Hawes, Mary Marshall and Grenville Weltch;
 - (b) one parish representative (Jason Salter)(plus a deputy – Mr K Percy) nominated by the Epping Forest Association of Local Councils;
 - (c) two District Councillors; during 2004/5 these were Councillors Mrs E Borton and Mrs P Smith.
- 1.4 The Standards Committee is supported by Colleen O'Boyle (Solicitor to the Council and Monitoring Officer) together with administrative support from officers of the Research and Democratic Services Unit.
- 1.5 Dr Derek Hawes was re-elected as the Chairman of the Standards Committee in 2004 and serves until June 2006.

2. TERMS OF REFERENCE

- 2.1 The Terms of Reference of the Committee are defined by the Local Government Act 2000 and various Government regulations. These are also set out in the Council's Constitution. A number of Council Protocols and continuing advice by the Standards Board for England also shape the work of the Standards Committee.
- 2.2 The Standards Committee's duties cover the following statutory elements:
 - (a) proposing a Code of Conduct;
 - (b) monitoring or revising the Code in the light of experience;
 - (c) promoting the Code and its values;
 - (d) providing training;
 - (e) investigating complaints against elected members as referred by the Standards Board for England;
 - (f) adjudicating on complaints against elected members as referred by the Standards Board for England;
 - (g) giving advice on ethical issues as they arise; and

(h) granting dispensations in accordance with the statutory provisions from the effect of prejudicial interests.

2.3 The Standards Committee exercises these statutory functions in relation to Epping Forest District Council and the 24 Parish and Town Councils in the District. In addition to these statutory roles, the Committee has also been asked by the District Council to advise on various protocols set out in the Council's Constitution.

3. THE YEAR IN REVIEW

3.1 This Section of the Report outlines the main activities of the Committee over the last year. Each Section reflects its main terms of reference.

Review of Ethical Framework

3.2 The Standards Committee also responds on issues raised by the Standards Board for England as part of consultation on the ethical framework.

Proposing/Monitoring or Revising Codes of Conduct

3.3 The Committee has not been advised during the year of any changes sought either by the District Council or Town and Parish Councils in the operation of their Codes of Conduct as originally adopted at the commencement of 2002/3.

Promoting the Code and its Values/Training

3.4 As in 2003/4, the Committee is sponsoring training courses for District and Parish Council members. Two courses were held in 2004/5. The first related to the Code of Conduct itself and the second to the Planning Protocol which we promoted in 2002/3. This year there were no Parish/Town Council or District Council elections and the number of new Councillors to be trained in the Code of Conduct was less than would otherwise be the case. The training course on the Code of Conduct was held on 7 June 2005 and was attended by five Parish Councillors, five District Councillors and one District Council Officer.

3.5 In relation to the Planning Protocol, we have arranged a seminar for September 2005, this date has been deferred as we are currently undertaking work on the Planning Protocol and would prefer to give training to members on the basis of the revised Protocol rather than the current one.

3.6 We have commented in previous annual reports about the importance of training and the ethical framework and we would urge the District Council and Parish and Town Councils to do whatever is necessary to ensure that members involved in Council work are fully trained and aware of the Code of Conduct requirements and that their knowledge is constantly updated. We remain unclear as to whether every member of every authority has been trained in the manner which we think is necessary and would ask that all those involved should take this matter seriously.

Adjudicating/Investigating Complaints Against Elected Members

3.7 The necessary Government Regulations regarding the adjudication and investigation of complaints against elected members are now in place. We commented previously about the delays which have been experienced at Government level regarding these regulations and are pleased that they are, at last, complete.

- 3.8 It bears repeating that the Regulations allow local adjudication or investigation only where the Standards Board for England conclude that this would be appropriate. In the case where an adjudication only is to be given locally, the results of an investigation carried out by the Standards Board for England's Ethical Standards Officer will be available to the Committee and there is a statutory procedure in determining the complaint.
- 3.9 On the question of investigating complaints, the Regulations allow the Monitoring Officer or her nominated deputy to conduct investigations in much the same way as are conducted by the Standards Board for England. We foresee that there may well be difficulties in terms of past involvement by the Monitoring Officer or her staff in dealing with members who subsequently become subject to complaints. This is a matter which we have discussed in detail with the Monitoring Officer and it is clear that there may be circumstances when external persons will need to be brought in to investigate and report on complaints so as to maintain transparency and impartiality in the process. There has already been one case where Standards Board for England sought to transfer the investigation of a complaint to the Monitoring Officer. However, after discussion with the complainant, the Standards Board decided to take the adjudication/investigation back. This was because of links between the Monitoring Officer and Deputy Monitoring Officer in advising a member of Council staff on the case. The complainant was not satisfied that a local investigation could be totally impartial.
- 3.10 The Committee have agreed arrangements for hearing complaints which involve three members of the Committee (normally two independent members and one Councillor) and these are in position to be implemented very quickly to comply with the very demanding timescales set in the Regulations for adjudicating on complaints. It is also worth bearing in mind that any complaint which is investigated or adjudicated upon by the Standards Committee involving Parish or Town Councillors must involve the Parish representative on the Committee.
- 3.11 To date we have not received any reference for either investigation or adjudication on complaints. However, the Committee is now aware of a case forthcoming which will be reported to the Council next year. Two training courses have been held; one on adjudication and one on investigation and these were attended by Standards Committee members and officers as well as interested members of the District Council and Parish Councils.

Giving Advice on Ethical Issues

- 3.12 Previous annual reports have dealt with specific issues where advice has been sought from the Standards Committee on ethical matters.

Loughton Residents' Association – The Role of Loughton Residents' Association (LRA) Councillors in the Planning Process

- 3.13 Our annual report last year referred to advice which had been sought by the Loughton Residents' Association (LRA) on the role of Councillors in the planning process. This focused particularly on LRA Councillors serving on Area Plans Sub-Committee 'A' in connection with planning applications where the LRA proper may have made representations. The Council is referred to our previous annual report for more details of this case but suffice it to say that we have had further contact with the LRA during 2004/5 and are satisfied that the necessary constitutional changes to the Association have now been achieved as indicated previously.

The Position of Councillors on Outside Organisations

- 3.14 Last year we issued advice to Councils regarding declaration of interests where members were either “dual-hatted” (ie serving on other local authorities) or were involved in other outside organisations and public authorities. We are now reviewing this advice in the light of further comments by the Standards Board for England about these circumstances.

Grange Farm Managing Trustees

- 3.15 We held discussions with two Trustees of the Grange Farm Trust regarding conflicts of interest in relation to planning matters which had been queried by external agencies. Our Chairman met with the two members concerned and gave detailed advice on the potential pitfalls for the two members concerned. As a result of those discussions one managing Trustee resigned from the Trust so as not to fetter his position in relation to planning matters which might arise in the future. The other Trustee had been involved in an Area Plans Sub Committee meeting on one occasion but was not a member and he took a different view about his involvement in the Trust. These discussions were conducted on a very amicable basis and we are pleased that we were able to assist the members concerned in clarifying what seemed to us to be a very difficult situation.
- 3.16 This case emphasizes that, ultimately, the impositions of the ethical framework area matter for the personal judgement of elected members.

Granting Dispensation from the Effect of Prejudicial Interests

- 3.17 We have received no requests for dispensations during 2004/5.

4. INTERESTS

- 4.1 As Councils will know, another important aspect of the ethical framework is the process whereby members of the District Council and Town and Parish Councils must register their interests once they are elected and keep those registrations up to date. We are satisfied that all Parish and District Councillors in the District have issued registrations of interest and that these are now on public deposit both at the District and Parish Council offices concerned. We do continue to have concerns as to whether members are diligent enough in updating those registrations within the 28-day period required by Government regulations. We suggest that members of the Council must ensure that these changes are properly recorded.
- 4.2 The Monitoring Officer routinely issues a request on an annual basis to all members of the Council formally to review their registration of interests. This requires them to indicate that they have no changes to make or that they require a revised registration form in which to record the differences. This has been broadly accepted within the District but it is worth emphasising that this is only done annually and changes can well occur between the annual reminders. These must be recorded within 28 days.

5. GIFTS AND HOSPITALITY

- 5.1 Statistics are given in Appendix 1 to this report of registrations of gifts and hospitality received during 2004/5. The number of registrations received is low. We urge all

Parish, Town and District Councillors to be vigilant about recording any gifts and hospitality which they are prepared to accept and which can be valued at more than £25.

- 5.2 During 2004/5, we have reached the view that although there is a clear statement in the Code of Conduct which requires members to register gifts and hospitality, this is not properly supported by advice as to the circumstances in which gifts and hospitality may be accepted and when not. Likewise we feel that there is a need for more definition of gifts and hospitality so that there is no misunderstanding about the action which members should take. We have formulated a protocol giving advice on this subject, which is being brought forward for adoption by District and Parish Councils. This will include advice regarding recording of refusals of gifts and hospitality.

6. COMPLAINTS AGAINST COUNCILLORS

- 6.1 Appendix 2 to this report summarises complaints for the Epping Forest District during the year. As can be seen, at the time of writing, no complaints are outstanding at Parish and Town Council level but there are a number currently being investigated by the Standards Board for England in relation to District Councillors.

7. FUTURE WORK

- 7.1 As mentioned above, we are now aware of our first reference from the Standards Board for England to investigate and/or adjudicate on a complaint concerning a Councillor.
- 7.2 We will continue to work on revisions to the Planning Protocol and on the question of interests where members serve on outside organisations. We will be consulting widely on these two revisions and hope to bring a report forward for the District Council in the early Autumn.
- 7.3 A new piece of work which we now plan to undertake relates to use of member facilities. The Code of Conduct places members under a duty to use members' facilities only in accordance with Council policy. It has become apparent to us that member facilities are provided by many Councils but these have often not been drawn together in a consolidated policy. What we plan to do therefore is to present a protocol which sets out the kind of facilities that are being provided and how members can comply with the Code in their proper use. We would like to pay particular attention to the question of the Internet and e-mail on which there have been several well-publicised cases recently involving other local authorities. However, IT is only part of the picture and we hope to give a comprehensive guidance note on this subject. We will consult Councils widely on this and hope to be able to recommend a document in the autumn of this year.

8. CONCLUSIONS

- 8.1 Our work to date has focused on providing a framework of training and advice and general support on the ethical framework. We are conscious that there are reservations about the operation of the Code of Conduct nationally and that the Government is currently reviewing some elements of the Code and the ethical framework generally. We hope to be in a position to respond to these concerns and advise all Parish Councils and the District Council about the correct line to take on

any proposed changes. We will continue to hold training courses and feel confident about the prospect of dealing with our first adjudications/investigations from the Standards Board for England.

- 8.2 We would emphasise to all Councils that the Monitoring Officer and her staff and the Committee itself are always available to assist members with advice on ethical standards issues. It is far better in our view that such advice is sought at an early stage to avoid difficulties which may arise if the conduct of any member is challenged by a member of the public subsequently.

Dr Derek Hawes (Chairman)
Councillor Mrs Daphne Borton
Mary Marshall
Ken Percy
Councillor Mrs P Smith
Jason Salter
Grenville Weltch

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GIFTS AND HOSPITALITY – NUMBER OF INDIVIDUAL REGISTRATIONS 2004/5

District Council	43	(36)	(43)
Parish and Town Councils	0	(0)	(0)

Figures in brackets relate to 2003/4

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COMPLAINTS RECEIVED – EPPING FOREST DISTRICT (AS AT 30.4.05)

PARISH AND TOWN COUNCILS

(a)	Received by Standards Board 2004/5	3
	Not investigated	3
	Deferred	0
(b)	Pending from 2003/4	0
	Investigated and No Action	0

DISTRICT

(c)	Received by Standards Board 2004/5	14
	Not investigated	4
	Being investigated	10
(d)	Pending from 2003/4	0
	Not investigated	0