

CHAIRMAN'S FOREWORD

Although at the time of writing, I am no longer a member of Epping Forest District Council Standards Committee, I am pleased to be associated with the eighth annual report. As noted in the body of the report, I had been a member of the Committee since its inception nine years ago, and Chairman for 2009/10 and the previous two years.

Initially, the Committee's role was to oversee the introduction of the code of conduct and adjudicate on complaints following investigation by the Standards Board for England. Over the years, this has expanded to include the oversight of various protocols the most important being the Planning Protocol and, significantly, local assessment of complaints. The additional workload and the requirement that the make up of the various sub committees have different membership required the Committee to be increased to nine rather than six members.

I very much agree with the views of current members about the need for continuing advice and support following the proposed disbandment of Standards for England. Without this, standards will almost certainly vary and costs rise as each council is forced to produce its own procedural manuals, training materials and advice to Councillors. It is important that Councillors get regular advice, so that standards are maintained resulting in fewer complaints requiring costly investigation.

I would like to thank the officers of the Council and my fellow committee members for all their hard work, help and advice over the past nine years. I believe that the Epping Forest Standards Committee has done its job professionally and fairly and trust that this continues in the years ahead.

Mary Marshall
Chairman
Epping Forest District Standards Committee 2009/10

1. INTRODUCTION

- 1.1 This is the eighth Annual Report of the Epping Forest District Standards Committee covering the municipal year 2009/10. The aim of this report is to describe some of the issues which have arisen since our last report and likely future developments.

2. THE COMMITTEE

- 2.1 The 2009/10 membership of the Standards Committee is as follows:

(a) three independent members (Mary Marshall, Grenville Weltch and Murray Wright);

(b) three parish representatives (Parish Councillors Daphne Borton, Jason Salter and Brian Surtees) who are nominated by the Epping Forest Association of Local Councils; and

(c) three District Councillors: Councillors B Rolfe, Mrs P Smith and Mrs J Whitehouse.

- 2.2 The Standards Committee continues to be supported by Colleen O'Boyle (Solicitor to the Council and Monitoring Officer), Ian Willett (Deputy Monitoring Officer and Assistant to the Chief Executive), Graham Lunnun (Allegations Determination Manager and Assistant Director - Democratic Services), and Simon Hill (Local Assessments Officer and Senior Democratic Services Officer).

3. CHANGES IN MEMBERSHIP

- 3.1 Mary Marshall and Grenville Weltch served as Chairman and Vice Chairman of the Committee throughout 2009/10 but during the year, they indicated a wish to step down from the Committee. Both these individuals were founder members of the Committee in 2001 having been instrumental in establishing the Standards Committee and maintaining its important role within the District.

- 3.2 Mary Marshall chaired her last meeting of the Standards Committee on 13 April 2010. Members of the Committee and officers paid tribute to her work as member and

Chairman of the Committee and the Monitoring Officer made a presentation on their behalf to her in appreciation.

3.3 Grenville Weltch, who had also been an independent member since 2001 and Vice Chairman of the Committee from 2008, had signified a wish to step down from the Committee at the end of the year. However, he agreed to continue until 31 July 2010 in order to provide some continuity and experience in view of a number of complaint issues that were to arise. Grenville Weltch's last meeting as a member of the Committee was scheduled for 13 July 2010. It should be recorded that he too was instrumental in establishing the Standards Committee as a recognised body within the District and his experience, like Mary Marshall's, often proved invaluable in dealing with some of the difficult issues that came before the Committee.

3.4 With the departure of two founder members of the Committee, arrangements were put in hand to advertise the two vacancies for independent members on the Committee. Following a press notice, three applicants were interviewed and two appointments made. These two appointments were subsequently ratified at the District Council's Annual Council meeting on 25 May 2010. The two new independent members are:

Mr Richard Crone who lives in Theydon Mount;

Mr Jason Guth, a resident of North Weald.

3.5 To recognise the deferred resignation of Grenville Weltch, it was decided that Mr Jason Guth would be appointed to the vacancy created by the resignation of Mary Marshall immediately following the Annual Council meeting, whilst Richard Crone would take over following the resignation of Grenville Weltch on 1 August 2010.

3.6 As a Committee, we were very pleased that we were able to find two very suitable candidates for the independent member positions after a relatively short recruitment process. This has helped considerably in managing a considerable workload of complaints and other matters which has been referred to the Committee in recent weeks.

3.7 Following the District Council's Annual Meeting in May, we were pleased to welcome back as District Council representatives on the Committee, Councillors Penny Smith and Janet Whitehouse. We were also joined by Councillor Anne Grigg, the Vice

Chairman of the District Council for 2009/10 and Chairman for 2010/11, as a third District Council representative on the Committee. We would like to record our thanks to Councillor Brian Rolfe whom Councillor Mrs Grigg replaced.

3.8 There have been no other changes in membership of the Committee during 2009/10.

4. STANDARDS COMMITTEE – TERMS OF REFERENCE

4.1 The terms of reference of the Standards Committee are set out in the Local Government Act 2000 and various government regulations. These statutory requirements are also set out in Article 9 of the District Council's Constitution and in a number of Council protocols. The Standards Committee in undertaking its functions, has continued to follow the advice given by the Standards Board for England (now know as "Standards for England").

4.2 The duties of the Committee continue to cover a number of statutory elements including proposing and amending the Code of Conduct for the District and Parish/Town Councils, promoting the Code and its values, providing training, investigating, reviewing, adjudicating on complaints and also giving advice on ethical issues affecting Councillors as they arise. The Committee remains responsible for granting dispensations from the effect of prejudicial interests affecting staff in limited circumstances.

4.3 In 2009/10, we continued to deal with complaints as prescribed in the Local Government Act 2007 which were referred to in last year's report. In regard to politically restricted posts, no cases have arisen during the last year.

4.4 New Sub-Committee arrangements established last year to deal with the complaints process have continued to operate, but over the period of the last 12 months, there have been no new changes to the role of the Committee.

5. THE YEAR IN REVIEW

5.1 This section of the report outlines the main activities of the Committee over the past Council year (2009/10). Each section reflects the main elements of the current terms of reference.

Review of Ethical Framework

- 5.2 We referred in our last Annual Report to a Government Consultation Paper on further changes to the Member Code of Conduct. In June 2007, councils adopted a new Code of Conduct, but shortly afterwards, a new consultation was launched to make further clarifications on various points which we set out in our Annual Report last year.
- 5.3 Although it was suggested that a revised Code of Conduct was imminent by the then Government, this did not actually take place due to the General Election in May 2010. There is no indication as yet as to whether the proposals of the former Government will see the light of day.

Standards for England

- 5.4 The Council will be aware from press reports that the new coalition Government elected in May last has made a number of pronouncements about the future of so-called “quangos” with a view to reducing the number of such bodies as part of measures for reducing the Government’s budget deficit. One of those “quangos” is Standards for England. Because of this, the future for the ethical framework is difficult to predict. There certainly have been indications from Standards for England that as an organisation it will cease to exist once the necessary legislative changes are made by the Government but there is no indication as to when this might be.
- 5.5 We have received a letter from the Chairman of Standards for England, Dr Robert Chiltern, concerning the current position. In writing to all Standards Committees he invited all these to submit any views about how they see the future once Standards for England has been wound up. As a Committee, we took the opportunity of commenting back to Dr Chiltern with our views on the situation. A copy of our letter ... is set out in Appendix 1 to this report.
- 5.6 In summary, we expressed the hope that the support and advice network established by Standards for England could be re-provided in some form.
- 5.7 We commented on the need for an advice and support network to Monitoring Officers and Standards Committees which seems to be at risk as a result of the disbandment of Standards for England. We also raised the process for referral of local complaints to a higher body in cases where local investigations and adjudications are impractical for

any reason. The status of directions by Standards for England issued prior to disbandment and the statutory timetable for abolishing the organisation were also raised.

- 5.8 On Dr Chiltern's advice, we have sent copies of this letter to the three local Members of Parliament as it will be MPs and the Department for Communities and Local Government which will actually make the decisions on the future of the Standards framework. We also agree with the suggestion of the Monitoring Officer that our comments should be passed to Mr Grant Shapps MP, the Minister for Local Government, who had written at around the same time to all local authorities concerning removal of burdens on local government.
- 5.9 Our principal concern about the demise of Standards for England is that without the national framework of advice and support, differing standards might begin to develop across the country in dealing with complaints. We consider it very important that consistency of approach and outcomes are maintained in dealing with complaints.

Planning Protocol – Review

- 5.10 At our July 2009 meeting, we reviewed the Planning Protocol and the results of consultation with Planning Officers, the public and planning agents in the District. We raised a number of items which we asked the Monitoring Officer to review so as to bring back a revised draft. The point was made to us at that stage that the Planning Protocol needed to take account of changes to the Code of Conduct itself, bearing in mind that, at that time, the Government had stated that a new Code would be issued. The Council will be aware that the two documents are very closely linked.
- 5.11 However, with the continuing delay in the publication of the new Code and now the advent of a new Government which has all these matters under review, it has not been possible to revise the Protocol in accordance with the original timetable.
- 5.12 However, in the coming year, we will proceed to update the Protocol in accordance with our earlier discussions but we may be required to look again at this document once the feelings of the new Government concerning the ethical framework are known.

Local Complaint Assessment and Adjudication Process

- 5.13 We mentioned in our 2008/09 Annual Report, the changes which had been made by the Local Government Act 2007 in regard to Standards Committee responsibilities. At our July 2009 meeting, we took the opportunity of reviewing processes that had been adopted over the previous year to see whether we could learn from the experience of dealing with complaints under the new arrangement.
- 5.14 As a result of that review, we have decided to place more emphasis on mediation and conciliation as a way of avoiding long and costly complaint investigations. We also looked at the question of complaint investigations in terms of specific office holders such as the Leader of the Council, a Standards Committee member, the Chairman of a Council or Cabinet Member, or similar office holders where a local investigation was difficult. We agreed a suggestion of the Monitoring Officer that advice to complainants on this aspect should be reinforced and that the consideration of the case for referral of such complaints to Standards for England should be part of the assessment process.
- 5.15 We also agree a suggestion that in future complaints should, wherever possible, be based on no more than one alleged breach of the Code. Allegations of multiple breaches of the Code often protract investigations and make outcomes more difficult to achieve.
- 5.16 We looked carefully at the various standard letters which we have been using as part of the complaints process. We asked that these letter templates should place more emphasis on strict compliance with timescales, in particular those relating to comments on draft investigation reports.
- 5.17 These various changes have now been incorporated in our procedures but we will continue to monitor how effective they are and whether further changes are required.

Dispensations

- 5.18 At our July meeting, we received a report on a new set of government regulations which change the criteria for granting dispensations for members of the Council. In summary, dispensations may now be granted by a Standards Committee:

(a) where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or

(b) where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

5.19 Thus if, for example, there were ten members on a Committee, six of whom would not be able to vote on the item of business concerned, all six could claim a dispensation. However, to decide whether these criteria apply, members must ignore any dispensations that have already been given to others at the meeting. However, even if the criteria apply, members cannot obtain dispensations to allow them to take part in voting at an Overview and Scrutiny Committee on a review of a decision by another body if they were a member at the time the decision was taken.

5.20 We bore in mind that the changes in procedure regarding dispensations require each member individually to give an account of the reasons why they are disbarred from voting and their grounds for seeking a dispensation. Block dispensations on behalf of whole political groups are not acceptable under these rules. The Committee can consider any applications for dispensations and have discretion as to how they apply the guidelines set in the regulations. The Standards Committee can also decide how long the dispensation should apply although it must not be longer than four years in duration.

Promoting the Code and its Values and Training

5.21 The Committee held a training course in the Code of Conduct in June 2009, but training in the Planning Protocol was held in abeyance for the reasons already discussed concerning the new Code of Conduct. However, for 2010/11, we asked that Planning Protocol training should resume based on the current version. We will re-launch the new Planning Protocol, when we have completed our review with further training courses. 2009/10 was a year which saw very few new District Councillors joining the Council and this explains the relatively lower level of training activity over the year.

5.22 We have asked that this report makes mention of the training records over the recent years.

5.23 For District Councillors, we have looked at the training of newly elected members in the last three years. The position is as follows:

| | No. of Elected Re-elected District Councillors | Newly Elected Attending Training | Re-elected Attending Training |
|-----------|--|-------------------------------------|----------------------------------|
| 2008/9 | 22 | 50% | 0% |
| 2009/10 | 1 | 100% | 0% |
| 2010/11 | 21 | 82% | 20% |
| (To date) | | | |

5.24 Over those three years, the figures for established District Councillors (i.e. in years when they are not elected for the first time or re-elected) attending training courses were as follows:

| | |
|---------|-----|
| 2008/9 | 12% |
| 2009/10 | 3% |
| 2010/11 | 14% |
| (part) | |

5.25 These figures confirm our view that new members are good at attending initial training but that they do not attend courses in subsequent years. Having said that, the figure for 2009/10 is encouraging in that a high percentage of new members attended initial training with 20% of established members coming to follow up courses.

5.26 We set great store by the attendance of members at annual courses in the Code. The issues relating to the Code are constantly changing and in our view it is important that Councillors keep up to date with these developments. This is particularly relevant as local authority members may be subject to a new standards regime in the future.

5.27 For Parish and Town Councils, we offer the following statistics for the same period:

| | No of Places Booked | Actual Attendees |
|---------|------------------------|---------------------|
| 2008/9 | 19 | 17 |
| 2009/10 | 10 | 10 |
| 2010/11 | 24 | 14 |

(Part)

Officers have told us that Parish and Town Councillors are ready to book courses but sometimes the number who attend are fewer. The figures bear this out.

5.28 We recommend that need for refresher training in the standards framework be recognised by Councillors at all times.

Adjudicating/Investigating Complaints against Elected Members

... 5.29 Appendix 2 to this report sets out an annual statement of the complaints handled by the Standards Committee and its officers during the year.

... 5.30 Appendix 3 sets out a statement of the costs of conducting investigations. By way of explanation, because Epping Forest District Council has a relatively small team of officers handling complaints, it is not always possible, both in terms of the integrity of the process or in terms of the workloads of the individuals concerned, for all investigations to be carried out in house. Sometimes, it is necessary to use external investigators if the Deputy Monitoring Officer (who usually carries out these investigations) is unable to do so because he has been involved in the case previously or because his workload dictates that an additional investigation cannot be undertaken.

5.31 Appendix 3 shows the costs of these external investigations which are based on reliable consultancy figures. We have asked for internal investigations to be costed and this involves a time allocation of the work carried out by the Deputy Monitoring Officer. This information will appear in the next Annual Report. There are other incidental costs within the Council, such as printing, photocopying, word processing

etc., which have not been taken into account and which apply to all internal investigations and in some respects to external ones. Suffice it to say that all complaint investigations are expensive and have many hidden internal costs if conducted internally. It should be borne in mind that complaints work is merely a part of other duties for established members of staff involved. This includes the administration of the Complaints process and officer time allocations where no recharging is made currently.

- 5.32 As a guide, one costed internal investigation (based on time allocations) completed after the year in question was costed at £3,705.

6. NAZEING PARISH COUNCIL – DIRECTION FROM STANDARDS FOR ENGLAND

6.1 For the first time Standards for England have issued the Monitoring Officer with a direction concerning a Parish Council. Such directions are not commonplace and are usually applied by Standards for England where the circumstances are such that it is considered that further complaint investigations are counter productive and other measures are required to try and improve the situation. This Direction concerns Nazeing Parish Council.

6.2 We made reference in last year's Annual Report to the number of complaints which involved Nazeing Parish Council Members. These were often complaints by one member against another and Standards for England concluded that these complaints resulted from divisions within that Council, which surfaced in behaviour between members which was causing resentment and a desire to complain. The intervention by Standards for England was triggered by two complaints involving Nazeing Parish Councillors. One was referred to Standards for England for investigation in accordance with current guidance and this led to Standards for England asking for details of the complaint history at Nazeing Parish Council. Subsequently officials met the Monitoring Officer and Deputy Monitoring Officer about the situation.

6.3 The result was a direction to the Monitoring Officer to take other steps in lieu of complaint investigations to try to resolve the differences within the Council through measures not related to the complaints process. The Direction was mutually agreed because it was already the view of the Monitoring Officer and the Deputy Monitoring Officer that continuing complaint investigations would not help the situation.

- 6.4 The direction consisted of four elements:
- (a) training in the Code of Conduct with particular reference to treating others with respect;
 - (b) mediation and conflict management for two individual Councillors on Nazeing Parish;
 - (c) general conflict resolution training for all members of the Parish Council;
 - (d) training and review of Standing Orders so as to achieve better conduct of Parish Council meetings.
- 6.5 Having given the direction to the Monitoring Officer, an action plan for the delivery of measures to achieve the objectives of the direction were required by 30.4.10. The cost of this programme falls on the District Council. There is no opportunity under the law for this cost to be re-charged to that Parish Council, other than by agreement.
- 6.6 Extensive discussions have been held with the Clerk of Nazeing Parish Council, the Essex Association of Local Councils and a firm of specialist Solicitors in order to deliver the various elements of the programme. Although final costings have not been determined, it is likely that the costs will be in the order of £5,000. This programme is being facilitated externally – the review of Standing Orders and meeting procedures is being conducted by the Essex Association of Local Councils, whilst training in the Code of Conduct, mediation and conflict resolution will be led by the firm of external solicitors.
- 6.7 For the financial year 2010/11, the Monitoring Officer had already secured additional funding for the Standards Committee in order to deliver this programme, as this could not be accommodated within its normal budget. We would hope as a Committee, that this expenditure of this order will have a productive outcome for Nazeing Parish Council.

7. STANDARDS FOR ENGLAND – PERFORMANCE DATA

- 7.1 At our meeting on 13 April 2010, we reviewed the annual return required to be made to Standards for England concerning the operation of the Committee.

7.2 Since submission, we have been advised by Standards for England that this information is no longer required in view of the demise of that organisation. It remains to be seen how performance information will be dealt with in the future.

8. CONCLUDING COMMENTS

8.1 We would like to emphasise that any member of the Council in the District who has concerns about Code of Conduct issues is always welcome to speak to the Monitoring Officer, her staff or any member of the Committee. We repeat our views as stated in previous reports that the best way of complying with the ethical framework is to seek advice at as early a stage as possible and to remain vigilant at all times in dealings with the public, other Councillors and officers.

8.2 As a Committee, we will continue to look at the issue of complaints and will be aware at all times that a complaint investigation may not always be the right answer to dealing with problems. Some complaint investigations are going to be inevitable but some are avoidable and we and our officer support see this as the way forward both in terms of securing improvements in conduct but avoiding costs resulting from extended investigations with no clear benefit apparent.

Independent Members

Mary Marshall (Chairman)

Grenville Weltch (Vice-Chairman)

Murray Wright

Parish Council Representatives

Daphne Borton

Jason Salter

Brian Surtees

District Councillors

Brian Rolfe

Penny Smith

Janet Whitehouse