

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee **Date:** 27 February 2007
Place: Civic Offices, High Street, Epping **Time:** 7.30 - 8.30 pm
Members Present: Dr D Hawes (Chairman), Ms M Marshall, G Weltch, Councillors Mrs D Borton, Mrs P Smith, J Salter and B Surtees.

Other Councillors:

Apologies:

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

29. MINUTES

RESOLVED:

That the minutes of the meeting of the Committee held on 14 November 2006 be taken as read and signed by the Chairman as a correct record.

30. DECLARATIONS OF INTEREST

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

31. CODE OF CONDUCT - APPLICATION

The Monitoring Officer reported that following the High Court decision in the Livingstone case, a more restrictive view needed to be taken of when the Code of Conduct could apply to the actions of a member.

The interpretation of the words "in any other circumstances" included in paragraphs 4 and 5 (a) of the Code of Conduct had already been limited by the Adjudication Panel for England in earlier cases. However, a much stricter interpretation had now been imposed arising from the decision of Collins J in the Livingstone case.

Members noted that in light of the judgement, the Government had included proposals in the current Local Government and Public Involvement in the Health Bill to make clear that the Code of Conduct was not limited to actions taken only in an official capacity. However, until that legislation (if enacted) came into force, it was necessary to apply the law as declared by Mr Justice Collins.

The Committee considered advice which had been issued by the Standards Board's Legal Department.

RESOLVED:

That the advice from the Standards Board following the High Court decision in the Livingstone case be noted.

32. CODE OF CONDUCT - CONSULTATION ON REVISED MODEL

The Monitoring Officer drew attention to the copy of a letter from the Department for Communities and Local Government together with a copy of a consultation paper seeking views on a draft of a proposed new model Code of Conduct for Local Authority Members which had been sent to members of the Committee on 6 February 2007.

The Monitoring Officer also drew attention to a briefing note prepared by the Association of Council Secretaries and Solicitors on the draft revised Code which sought to identify the relaxations from the current Code and the additional obligations. Members also received a briefing paper from the Local Government Information Unit which highlighted and commented on issues.

The Committee considered the documents and focussed on the specific questions on which the Government had sought views.

RESOLVED:

(1) That the Monitoring Officer be authorised to submit the following views in response to the consultation paper:

(a) Paragraph 3 - Disclosure of confidential information**Question 1**

"Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?"

Response

Agreed but clear guidance is required; safeguards are needed to protect those affected by disclosures.

(b) Paragraph 4 - Behaviour outside official duties**Question 2**

"Subject to powers being available to us to refer in the Code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in members' private capacity to those activities which have already been found to be unlawful by the Courts, appropriate?"

Response

Supported on the basis of actual convictions only; not someone's judgement as to what might be regarded as criminal.

(c) Paragraph 8 - Publicity Code**Question 3**

"Is the Code recommended practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, e.g. via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?"

Response

There is benefit in having a national Code; the current Code is out of date, it is based on the former Committee system and does not recognise the high profile of Portfolio Holders; reference needs to be made to modern forms of communication, e.g. websites; the period for restricting publicity between the time of publication of a notice of an election and polling day needs to be amended to prevent publicity issued prior to this period being published within that period.

(d) Paragraph 10 - Gifts and Hospitality**Question 4**

"Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interest?"

Response

Bringing the register into the public arena is supported; however, it will be very cumbersome for members to be required to update the Register of Members' interests each time they receive gifts and/or hospitality; further, it is considered unreasonable to expect a member to remember when the proposed five year period expires; the limit of £25 needs to be increased to reflect current day prices (£50 is considered appropriate); the Standards Board should be empowered to review the amount from time to time and to issue guidance to local authorities on increases in the amount.

(e) Paragraphs 12 and 13 - Interests of family, friends and those with a close personal association**Question 5**

"Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?"

Response

Supported but it will be very difficult to define a "close personal association"; without a clear definition there is unlikely to be any consistency in members' decisions to declare an interest; if this phrase is introduced, it makes the reference to "friends" superfluous.

(f) Paragraph 14 - Definition of personal interests**Response**

The proposal to restrict the requirement to register a personal interest only where the interest might be regarded as affecting the member to a greater extent than the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the matter is welcomed; however, this should be extended to Councillors in Parish and Town Councils which have wards.

(g) Paragraph 17 – Prejudicial interests – List of exemptions**Question 6**

“ Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?”

Response

The three new items are supported.

(h) Paragraph 19 - Participation in relation to prejudicial interests**Question 7**

“Is the proposed text, relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions or give evidence, appropriate?”

Response

Supported. The current Codes of Conduct of some statutory bodies e.g. Lee Valley Regional Park Authority are much more restrictive; these bodies should be required to follow the new model Code.

(i) Paragraph 23 - Gender neutrality of language**Question 8**

"Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending of the wording to say "you" instead of "he or she" or "him or her" would result in a clearer and more accessible Code for members?"

Response

It would be less clumsy and reduce the number of words if "you", "your" or "they" were used, as is the case in other similar codes; and

- (2) That the Monitoring Officer be authorised to review the Council's Protocols in the light of the new model Code of Conduct, when adopted.

33. PLANNING PROTOCOL - REVISION

The Deputy Monitoring Officer reported that, at the last meeting, it had been agreed that changes should be made to the Planning Protocol regarding planning applications made by officers and members and the role of Area Plans Sub-Committee Chairmen, if a planning matter was referred on to the District Development Control Committee.

Members were advised that there had been one significant development since the last meeting relating to a form for notifying member/officer status and of any relationship to any member of the Council. The Committee had been keen to ensure that a form should be sent to any applicant so as to prompt them to disclose these matters but the Government had now prescribed its own form which dealt with the point.

The Committee considered proposed amendments to the Planning Protocol.

RESOLVED:

That the revised Planning Protocol be recommended to the Council and to Parish/Town Councils for adoption.

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

The Committee noted the current position and allegations made to the Standards Board for England regarding District and Parish/Town Councillors. The Allegations Determinations Manager reported on an allegation not included on the schedule in respect of which the Standards Board had decided there should be no investigation.

Members referred to recent statistics included in the Council Bulletin regarding allegations about the conduct of District and Parish/Town Councillors and the situation nationally.

RESOLVED:

That appropriate statistical information be included in the Committee's Annual Report to the Council.

35. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2006/07 provided for a further meeting of the Committee on 25 April 2007.

Members also noted that the Council's draft calendar of meetings for 2007/08 provided for meetings of the Committee on 17 July 2007, 16 October 2007, 26 February 2008 and 22 April 2008.

CHAIRMAN