

Supplementary Committee Agenda



**Epping Forest
District Council**

Audit and Governance Committee Monday, 30th November, 2009

Place: Committee Room 1, Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: Gary Woodhall Office of the Chief Executive
Tel: 01992 - 564470
Email: gwoodhall@eppingforestdc.gov.uk

6.a CORPORATE GOVERNANCE GROUP - 9 SEPTEMBER 2009 (Pages 3 - 6)

(Director of Finance & ICT) To consider the minutes of the meeting of the Corporate Governance Group held on 9 September 2009.

6.b CORPORATE GOVERNANCE GROUP - 30 SEPTEMBER 2009 (Pages 7 - 10)

(Director of Finance & ICT) To consider the minutes of the meeting of the Corporate Governance Group held on 30 September 2009.

6.c CORPORATE GOVERNANCE GROUP - 28 OCTOBER 2009 (Pages 11 - 14)

(Director of Finance & ICT) To consider the minutes of the meeting of the Corporate Governance Group held on 28 October 2009.

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**EPPING FOREST DISTRICT COUNCIL
CORPORATE GOVERNANCE GROUP MEETING**

**WEDNESDAY, 9 SEPTEMBER 2009
(3.00 - 4.55 PM)**

Present: P Haywood (Chief Executive), D Macnab (Deputy Chief Executive), B Bassington (Chief Internal Auditor), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT) and I Willett (Assistant to the Chief Executive)

**Apologies for
Absence:**

Place: Room 1.05, First Floor, Civic Offices, High Street, Epping, Essex

45. MINUTES OF THE PREVIOUS MEETING - 5.8.09

Agreed.

46. MATTERS ARISING

(a) Council Tax/NNDR Arrears – Members of the Council (Minute 36(c))

Noted that one of the two members of the Council in arrears had now cleared their account.

(b) Grange Farm Trust (Minute 36(b))

Noted that C O'Boyle had now sent a letter to the Charity Commission as requested.

ACTION:

C O'Boyle to monitor.

47. DECLARATIONS OF INTEREST

None for this meeting.

48. TERMS OF REFERENCE

Noted.

49. AUDIT & GOVERNANCE COMMITTEE

(a) Review of Extraordinary Council Meeting – 17.8.09

Noted that the Chief Financial Officer had been requested by the Chairman of the Audit and Governance Committee to place an item on the latter's next meeting in order to undertake a review of governance issues arising from the consideration of the Chief Executive's Contract of Employment and in particular the report of the Monitoring Officer which had been submitted to the Council meeting in question.

Agreed that the Monitoring Officer should attend the next meeting of the Audit and Governance Committee to give an account of how the report came to be submitted to the Council meeting and updating them on her assessment of the current position.

Agreed that the report should also outline issues which had arisen from the process which should be part of any Audit and Governance Review namely:

(a) need for clearer procedures in relation to any disciplinary action against any of the statutory officers (Monitoring Officer, Deputy Monitoring Officer, Chief Financial Officer and Head of Paid Service);

(b) need for a similar clarification of procedures in relation to Service Directors and Assistant Directors;

(c) need for the adoption of a Monitoring Officer Protocol in the form recommended by District Audit.

Agreed that the Audit and Governance Committee ought to be recommended to re-consider whether a review of governance arrangements in this regard should be instituted at this stage, bearing in mind:

(a) that discussions regarding the Chief Executive's Contract of Employment had still to be finalised; and

(b) that it might be more appropriate and in keeping with the role of the Audit and Governance Committee for any review to be conducted retrospectively after all matters have been dealt with as is normal audit practice.

ACTION:

C O'Boyle to attend next Audit and Governance Committee meeting to present an update report.

(b) Review of Housing Repairs and Building Maintenance

Noted that response to previous enquiries from the Audit and Governance Committee, the Director of Housing was planning to make a presentation on proposals for reviewing the Housing Repairs and Building Maintenance Services, incorporating involvement of the private sector.

Agreed that a further discussion be held with P Pledger regarding the presentation with a view to restricting the content to those issues raised by the Audit and Governance Committee on Works Unit operations and avoiding reference to wider policy issues about future re-organisation pending clarification from the Portfolio Holder and the Advisory Group as to their intentions.

ACTION:

R Palmer to discuss with P Pledger.

50. CORPORATE RISK REGISTER

Agreed that the Corporate Risk Register be approved subject to the addition of additional risks identified namely 29 (Gypsy and Traveller Provision) and 30 (Reduction in Government Grant).

Agreed that the proposed new entries 29 and 30 be amended as follows:

(a) Risk 29 Gypsy and Traveller Provision – clarify reference to possible enforcement action.

(b) Risk 30 (Reduction in Government Grant) – clarify reduction in services

Agreed that the Risk Register for the Office of the Chief Executive be brought together by including the Risk Register for Internal Audit.

ACTION:

(1) R Palmer to pursue.

(2) B Bassington to supply details of Internal Audit Risks to C Overend.

51. GRANGE FARM

Noted the circulated letter to Solicitors regarding the Grange Farm correspondence referred to at previous meetings.

ACTION:

C O'Boyle to monitor.

52. STANDARDS COMMITTEE

(a) **Complaints Assessments, Reviews and Adjudications – Current Position**

Schedule noted.

(b) **Moreton, Bobbingworth and The Lavers Parish Council – letter dated 24.8.09**

Noted that this letter was due to be discussed with the Chairman of the Standards Committee on her return from annual leave.

ACTION:

C O'Boyle/I Willett to pursue.

(c) **Essex Parish Clerks' Group – 20.11.09**

Agreed that the Deputy Monitoring Officer be authorised to accept an invitation to speak at the Essex Clerks' Group meeting on 20 November 2009 to be held in Dunmow.

Noted that the subject of the talk would be the Code of Conduct and that no fee was payable.

Noted that a lunch would be provided.

ACTION:

I Willett to pursue.

53. MURRAY HALL, LOUGHTON - COMPLAINTS

Noted that a number of e-mail complaints had been received regarding recent publicity concerning Murray Hall.

Noted that advice had been obtained from the Standards Board for England as to whether or not any of these constituted a direct complaint to the Standards Committee regarding a breach of the Code of Conduct and that the Standards Board had advised that the wording of the complaints did not meet the strict definition of a complaint.

Noted that two more e-mail complaints had been received by the Council directly and these were considered in the light of the Standards Board for England advice as follows:

Complaint 1 (which named a particular Councillor and particular actions which led the complainant to refer to the future of the member concerned as a Councillor) - agreed that this complaint should be dealt with in accordance with the Standard Complaints Procedure.

Complaint 2 (which was a mere comment relating to equality issues generally and did not name any individual Councillor) – and should be dealt with by Safer Communities as it did not fulfil the criteria expressed by the Standards Board for England.

Agreed that I Willett brief J Gilbert on the situation and on Complaint 2.

ACTION:

I Willett to refer complaint 1 to the Complaints Procedure.

I Willett to brief J Gilbert.

54. DATE FOR NEXT MEETING

30 September 2009 at 9.00 a.m. in the Chief Executive's Office.

**EPPING FOREST DISTRICT COUNCIL
CORPORATE GOVERNANCE GROUP MEETING**

**WEDNESDAY, 30 SEPTEMBER 2009
(2.30 - 5.00 PM)**

Present: P Haywood (Chief Executive), D Macnab (Deputy Chief Executive), B Bassington (Chief Internal Auditor), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT) and I Willett (Assistant to the Chief Executive)

**Apologies for
Absence:**

Place: Room 1.29, 323 Building, Civic Offices, High Street, Epping

55. MINUTES OF THE PREVIOUS MEETING - 9.9.09

Agreed.

56. MATTERS ARISING

(a) Council Tax/NNDR Arrears – Members of the Council (Minute 46(a))

Noted that an additional member of the Council had been found to be in arrears and that appropriate advice had been given.

(b) Moreton, Bobbingworth and The Lavers Parish Council – Letter dated 24.8.09 (Minute 52(b))

Noted that an informal meeting of the Standards Committee was being held to discuss a reply to the letter of complaint from the Parish Clerk and also some issues raised by the Chairman of the Committee for future assessment of complaints.

57. DECLARATIONS OF INTEREST

None for this meeting.

58. TERMS OF REFERENCE

Noted.

59. GRANGE FARM TRUST

Noted that a reply had now been received from the Charity Commission regarding the anonymous complaint made about the administration of the Trust and various financial matters.

Agreed that the response of the Charity Commission was disappointing and seemed to show a superficial investigation of the issues raised.

Agreed that this disappointment be expressed back to the Charity Commission indicating that in raising the matter with the Commission the intention had been for

the Council to clarify what, if anything, the Authority needed to do about the comments made and that the letter as drafted did not assist in this.

Noted that one member of the Council at the recent Council meeting had requested a report on the current position of the Trust and that therefore there needed to be a briefing with the Council's Trust representatives to deal with this.

Action:

C O'Boyle to pursue.

60. OFFICE OF FAIR TRADING - TENDER-RIGGING INVESTIGATION

Noted that the outcome of the Office of Fair Trading investigation into tender-rigging in the UK had now been published and that a total of 103 companies had been named in the report and several very substantial fines imposed for bid-rigging practices.

Noted that none of the contracts listed were located in Essex and Hertfordshire but EFDC had previously had links with a number of the companies including Apollo, Mansell, Interserve and Henry Boot.

Noted that the Office of Fair Trading had issued extensive guidance on dealing with these practices in future including:

- (a) designing tenders which make bid-rigging difficult to achieve;
- (b) taking particular care with tendering in markets which have shown in the OFT report as being susceptible to rigging;
- (c) reviewing tender documents to ensure that they are clear and very specific as to requirements;
- (d) that criteria for evaluating tenders with potential rigging in mind should be devised by authorities;
- (e) need to have clear guidance for all officers involved in tendering processes.

Noted that OFT had made clear recommendations about using a "check list" procedure to counter possible tender rigging together with amendments to contract standing orders.

Noted that, in terms of procurement, full information and guidance on proper procedures was now available on the Council's intranet and that advice would be given to staff engaged in tendering to be alert at all times to unusual tender patterns.

Agreed that the implications of the OFT report be submitted to the Working Group on Contract Standing Orders, Financial Regulations and Officer Delegations when they next meet.

Action:

Service Directors to note.

I Willett to refer contract standing orders issues to the Working Group.

61. STANDARDS COMMITTEE**(a) Complaints, Assessments, Reviews and Adjudications**

Noted that since the last meeting of Corporate Governance Group one complaint had been referred to an adjudication hearing and a decision made.

Noted that a second complaint was currently in the final stages of investigation with the investigator's report expected very soon.

Noted that one further complaint was still in the process of investigation in house and had attracted complaints regarding the bias of the Investigating Officer.

Noted that in this third case the investigator had sought an explanation from the complainant and the Councillor named in the complaint to provide evidence for the assertions made but that in the meantime the investigation would continue.

Agreed that the concerns of the Corporate Governance Group about unsubstantiated complaints about officer bias in the complaints process should be recorded.

(b) Review of Planning Protocol and Complaint Assessment Criteria

Noted that the review of the Planning Protocol had been considered by the last meeting of the Standards Committee but that due to officer workload this had not been progressed to a revised draft.

Noted that in terms of complaint assessment criteria to be operated by the Standards Committee considerable work was being undertaken to revise the criteria.

Action:

C O'Boyle/I Willett to pursue.

62. USE OF RESOURCES ASSESSMENT

Agreed that in terms of the governance issues raised by the recent draft resources assessment from the Council's external auditors the following be recorded:

(a) the inaccuracies concerning the Council's performance which continued to show in the latest draft of the assessment e.g:

(i) misinterpretation of the Council's position regarding refuse and waste management;

(ii) reference to the closure of Waltham Abbey Sports Centre which was not actually the case;

(iii) negative summary and introduction to the assessment which did not align with much more positive information contained in the main report;

(b) concern about the very late notification by the external auditors of the desire to carry out a benefits inspection.

Agreed that unless the tone and factual content of the assessment were improved, the Council ran the risk of serious reputational damage without proper justification.

Agreed that as the District Auditor had offered a further opportunity to discuss the draft assessment report, there would be merit in a joint approach to the external auditors by both senior politicians and the chief Executive to give a unified message concerning the unsatisfactory nature of the report.

Agreed that D Macnab should meet with the Leader at an early date to run through the position as assessed by CGG.

Action:

D Macnab to pursue.

63. DATE FOR FUTURE MEETINGS

Agreed that future meetings of the CGG be held on the following dates:

28 October 2009
25 November 2009
23 December 2009

All at 9 am in the Chief Executive's office.

**EPPING FOREST DISTRICT COUNCIL
CORPORATE GOVERNANCE GROUP MEETING**

**WEDNESDAY, 28 OCTOBER 2009
(9.00 - 10.30 AM)**

Present: P Haywood (Chief Executive), D Macnab (Deputy Chief Executive), B Bassington (Chief Internal Auditor), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT) and I Willett (Assistant to the Chief Executive)

**Apologies for
Absence:**

Place: Room 1.29, 323 Building, Civic Offices, High Street, Epping

64. MINUTES OF THE PREVIOUS MEETING - 30.9.09

Agreed.

65. MATTERS ARISING

(a) Grange Farm Trust (Minute 59)

Noted that the comments of the Charity Commission about payment of legal fees by the Trust was now being challenged by a third party.

(b) Council Tax/NNDR Arrears – Members of the Council (Minute 56 (a))

Noted that some issues relating to Councillors in arrears were still being pursued.

(c) Performance Assessment (Minute 62)

Noted that further discussions had been held with the Council's External Auditors and a final amended version of the assessment report subject to one minor amendment.

Noted that the report was embargoed until 10 December 2009 but thereafter would be submitted formally to the Audit and Governance Committee.

ACTION:

D Macnab to pursue.

66. DECLARATIONS OF INTEREST

None for this meeting.

67. TERMS OF REFERENCE

Noted.

68. ARREARS CASES

Noted that, in respect of one previous case where a member of the Council had not cleared rent arrears in respect of a Council property formerly leased by him, recovery of the debt was proceeding to Court procedures and advice was sought from CGG about whether the recovery process should continue.

Agreed that there was no alternative to the Council pursuing the recovery of the debt in the same way as would apply in any other case, notwithstanding that the person concerned was a Councillor.

ACTION:

I Willett to notify Director concerned.

69. STANDARDS COMMITTEE

(a) Assessments, Reviews and Adjudications

Schedule of current cases noted.

Noted that a further assessment hearing had been held on 27 October 2009 when a complaint against a member of the Standards Committee had been referred to the Standards Board for England for investigation.

(b) Nazeing Parish Council – Governance Arrangements

Noted that in view of the large number of complaints being received between members from one Parish Council, a report will be submitted to the next Standards Committee on informal action being discussed with the Essex Association for Local Councils in order to give further support to Parish members.

Noted that the Monitoring Officer and other members of staff involved in the complaints process were spending increasing amounts of time and resources in dealing with matters generated by complaints, particularly from two Parish Councils.

ACTION:

I Willett to draft report.

(c) Monitoring Officer Protocol

Noted that at the September meeting of the Council, questions have been raised concerning the role of the Monitoring Officer and entitlement for the Designated Officer to attend any meeting in connection with the performance of those functions.

Noted that the Audit and Governance Committee had asked for a report on the role of the Monitoring Officer and a possible Protocol which could be agreed to clarify the position for the future.

Agreed that the draft Protocol submitted to this meeting be approved subject to the following drafting changes:

(i) paragraph 2.2(c) - revised wording to specify that the Monitoring Officer has the right to attend and be present throughout the debate on any item relevant to those functions;

(ii) paragraph 2.2(j) – amend “District Auditor” to “External Auditor” in the second line and amend final section relating to maladministration cases to exclude any compensation payments which are delegated to the Deputy Chief Executive.

Agreed that a covering report to the Audit and Governance Committee be prepared to give the background to the Protocol and to ask the Committee whether they wished to consult the Standards Committee on the content before it is agreed bearing in mind the role of the Monitoring Officer in terms of the ethical framework.

Agreed that consideration be given to preparing a list of the functions of the Head of Paid Service and the Chief Finance Officer.

ACTION:

- (1) **G Lunnun to revise Protocol.**
- (2) **I Willett to draft covering report.**
- (3) **I Willett/G Lunnun to research summary of the powers of the Chief Finance Officer and Head of Paid Service.**

70. GYPSY AND TRAVELLER DPD - RISK ASSESSMENT

Noted that the Chairman of the Audit and Governance Committee had asked for an item to be placed on the agenda for the next Audit and Governance Committee to discuss the Corporate Risk Register.

Noted that R Palmer had asked the Chairman of the Audit and Governance Committee to be more specific about the areas of risk about which he was concerned bearing in mind that the Audit and Governance Committee were required to review arrangements for risk management from an independent perspective rather than being involved directly.

ACTION:

R Palmer to monitor.

71. PLANNING APPLICATIONS - MEMBER "CALL-INS"

Noted that at the last meeting of CEF, the Leader of Council had expressed concerns about call-ins by Councillors who were not the local ward member.

Agreed that the appropriate route for airing this issue would be on the annual review of officer delegation which was due to commence later in the year.

Noted that I Willett had discussed this issue with J Preston who had clarified that the open call-in arrangements for all members derived from the original decision of the Council to move towards local Plans Committees and was regarded at the time as a means of retaining a District-wide perspective on planning issues.

Agreed that the matter be discussed further at the following CEF meeting with the Leader of Council present.

ACTION:

CEF members to pursue.

72. DATE FOR FUTURE MEETINGS

25 November 2009 at 9.00 a.m. in the Chief Executive's Office.