



# **Epping Forest District Council**

## **STANDARDS COMMITTEE** **Monday, 7th August, 2017**

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

**Committee Room 2, Civic Offices, High Street, Epping**  
**on Monday, 7th August, 2017**  
**at 7.00 pm .**

**Glen Chipp**  
**Chief Executive**

**Democratic Services  
Officer**

Gary Woodhall  
(Governance Directorate)  
Tel: 01992 564470  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

**Members:**

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

**Independent Persons:**

Mr P Adams and Mr D Cooper

**Parish and Town Council representatives:**

Parish Councillors R Alvin, J Barber, S Watson and J Whybrow.

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**1. APOLOGIES FOR ABSENCE**

(Director of Governance) To be announced at the meeting.

**2. SUBSTITUTE MEMBERS**

(Director of Governance) To report the appointment of any substitute members for the meeting in accordance with Council Rule S1 in the Constitution (Part 4 "The Rules" refers).

**3. MINUTES (Pages 5 - 12)**

(Director of Governance) To confirm the minutes of the last meeting of the Committee, held on 23 January 2017, as a correct record (attached).

**4. DECLARATIONS OF INTEREST**

(Director of Governance) To declare interests in any item on the agenda.

**5. NEW PLANNING CODE OF PRACTICE (Pages 13 - 24)**

(Deputy Monitoring Officer) To consider the attached report (STD-001-2017/18).

**6. MEMBER CODE OF CONDUCT TRAINING UPDATE (Pages 25 - 28)**

(Deputy Monitoring Officer) To consider the attached report (STD-002-2017/18).

**7. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS (Pages 29 - 30)**

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

**8. DATES OF FUTURE MEETINGS**

(Director of Governance) Following the decision of the Council that the Standards Committee be convened to meet only when there is 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 of the Committee can be arranged if required.

**9. 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:

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
10	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.

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

(Monitoring Officer) To discuss any confidential issues arising from the active cases listed on the schedule for agenda item 7.

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## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Standards Committee **Date:** Monday, 23 January 2017

**Place:** Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.30 - 8.40 pm

**Members Present:** G Chambers (Chairman), C P Pond (Vice-Chairman), S Kane, A Mitchell, C Roberts, D Stallan and J H Whitehouse

**Other Councillors:** -

**Apologies:** -

**Officers Present:** S Hill (Assistant Director (Governance & Performance Management)) and G J Woodhall (Senior Democratic Services Officer)

**Also in attendance:** Mr P Adams (Independent Person)  
Mr R Morgan (Parish/Town Councils)

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### 1. APOLOGIES FOR ABSENCE

The Committee noted that the Monitoring Officer had also given her apologies for the meeting.

### 2. SUBSTITUTE MEMBERS

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

### 3. MINUTES

The Assistant Director of Governance (Governance & Performance Management) informed the Committee that, following its discussion and recommendation to the Council on the proposed merger of the Audit & Governance and Standards Committees (minute 24 refers), the Council had supported the Committee's view that there should not be a merger between the two Committees.

The Assistant Director added that the Council had increased the membership of the Audit & Governance Committee from 3 to 5 elected Members, and had decided that the Standards Committee should not have quarterly meetings scheduled but should only meet as and when there was business to be transacted. It was highlighted that there would be a further review of the current arrangements in 2018.

#### **Resolved:**

(1) That the minutes of the meeting held on 25 January 2016 be taken as read and signed by the Chairman as a correct record.

### 4. DECLARATIONS OF INTEREST

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

Conduct.

## **5. STANDARDS COMPLAINTS - REVISIONS TO ASSESSMENT CRITERIA**

The Deputy Monitoring Officer presented a report on the proposed revisions to the assessment criteria for standards complaints.

The Deputy Monitoring Officer stated that, during the course of considering the most recently received complaints, the assessment criteria had been reviewed as this had not been performed since 2010 and still referred to the Standards Board for England in places. The only substantive proposed amendment was the shortening of the timescale for complaints to be received after the alleged misconduct, as the current period of one year was considered too long. Thus, it was proposed to shorten this period to six months as it would mean that complaints would be made much closer to the alleged misconduct, and complaint handling would be less protracted. It was also proposed to remove the section concerning the referral of cases to the Standards Board for England, as that body was now defunct, plus a number of small, mainly typographical changes. The Committee was requested to consider and approve the revised assessment criteria.

The Committee felt that a shorter timescale for the receipt of complaints would be reasonable, and Cllr Stellan proposed that this period should be shortened to three months. It was highlighted that the timescale should not be made too short as newly elected Councillors might be initially unaware of the procedure and some time should be allowed to elapse to provide evidence of patterns of behaviour, but it was generally felt that three months was a sensible period of time for complaints to be made.

The Deputy Monitoring Officer admitted that he did not know the timescale for making complaints about members of staff within the Council, and emphasised that the procedure was primarily concerned with public complaints against Councillors; although the same procedure would be used for any complaints against Councillors raised by other Councillors. The timescale within other authorities varied between three months and one year.

### **Resolved:**

(1) That the proposed changes to the criteria used to assess complaints made to the Monitoring Officer be approved, subject to no more than three months having passed since the alleged conduct occurred.

## **6. CODE OF CONDUCT TRAINING**

The Deputy Monitoring Officer informed the Committee that the Chairman had requested a discussion on Member Code of Conduct training, and specifically how many Councillors had attended and what actions the Council could take to promote greater attendance. A review of the Member training records had shown the last occasion when each of the 57 Members had attended Code of Conduct Training:

- Prior to 2010 19;
- 2011 5;
- 2012 1;
- 2014 7;
- 2015 9; and
- 2016 16.

The Deputy Monitoring Officer reported that those who had not attended Code of Conduct training recently were mostly members with significant Council experience or had missed opportunities to attend training recently. Attendance by Local Councillors at Code of Conduct training was also very poor, but Officers could organise training sessions at Town or Parish Councils if requested. It was the view of Officers that every Member should be attend Code of Conduct training at least once during each term of office, but the Committee was requested to advise on the desired frequency of attendance and any measures that could be implemented to encourage greater attendance at training.

The Committee felt strongly that it was very important for Code of Conduct training to be undertaken regularly by all Members, and that such training should be listed as mandatory for all Members. It was deemed that attendance once per each term of Office was sensible, unless there were changes to the Code in which case all Councillors should attend further training. In addition, it was felt that Group Leaders should be encouraging all of the Members in their Group to attend Code of Conduct training on a regular basis.

The Deputy Monitoring Officer added that Councillors could not be prevented from attending meetings if they had not attended Code of Conduct training, but that recent attendance at such training was a factor which was considered when assessing any complaints against a particular Councillor.

Cllr J H Whitehouse highlighted that e-training modules on their Code of Conduct was available at Essex County Council, and it was genuinely mandatory for all Councillors to work through them; Officers were very strict on following up and reminding those Councillors who had not completed the training modules. The Deputy Monitoring Officer pointed out that the Code of Conduct training at Essex County Council would be different to that required at this Council; and there was also neither the time nor expertise currently available to develop an on-line version of the training currently provided. The Chairman commented that this could be an option to explore for implementation in the future.

The Independent Person, Mr P Adams, enquired whether Code of Conduct training could be included as an element of each Councillor's Declaration of Acceptance of Office, and opined that perhaps the priority should be to concentrate Code of Conduct training on Town and Parish Councillors in order to reduce the number of complaints that were received and had to be assessed. The Deputy Monitoring Officer undertook to investigate whether such training could be included as part of each Councillor's Declaration of Acceptance of Office, and reiterated that the proportion of Town and Parish Councillors who had undertaken Code of Conduct training was likely to be no more than 25%. The Deputy Monitoring Officer also reminded the Committee that it took approximately 1.5 to 2 hours to deliver the training, but that training could be provided for individual Councillors, on a one-to-one basis, if they were unable to attend the scheduled group training sessions.

Cllr Stellan suggested that each individual Member be written to, highlighting when they last attended a training session on the Code of Conduct, and copying in the Group Leader/Whip for information. The Chairman added that he was happy to sign such a letter and the Chairman of each Town and Parish Council could also be written to, as well as a short item placed on the next Council agenda, advertising when the next Code of Conduct training session was scheduled for. The Deputy Monitoring Officer stated that this could be achieved, and reminded the Committee that there was a list for each Councillor published to the Council's website detailing which training courses they had attended.

**Resolved:**

- (1) That each Member should attend Code of Conduct training on at least one occasion during each term of office, or more often if the Member Code of Conduct was amended;
- (2) That the possibility of providing e-learning modules for Code of Conduct training be investigated by Officers and reported back to the Committee in January 2018;
- (3) That attendance at Code of Conduct Training by a particular Member was a factor when assessing any complaints made against that Member be noted;
- (4) That a letter be written, signed by the Chairman of the Standards Committee, to each Member of the District Council informing them of when they last attended Code of Conduct Training; and
- (5) That a further letter be written, signed by the Chairman of the Standards Committee, to the Chairman of each Town and Parish Council within the District advising their Members to attend the next scheduled Code of Conduct training session.

**7. UPDATE ON ADOPTION OF NEW CODE OF CONDUCT**

The Committee received an update on the adoption of the new Code of Conduct by Town and Parish Councils.

The Deputy Monitoring Officer reported that, following the publication of the agenda, a further seven Town and Parish Councils had adopted the new Code of Conduct, and that only the following eight Local Councils had yet to do so:

- (i) Epping Upland Parish Council;
- (ii) Nazeing Parish Council;
- (iii) Roydon Parish Council;
- (iv) Stanford Rivers Parish Council;
- (v) Stapleford Tawney Parish Council;
- (vi) Theydon Bois Parish Council;
- (vii) Theydon Garnish Parish Council; and
- (viii) Theydon Mount Parish Council.

**Resolved:**

- (1) That the current position regarding the adoption of the new Code of Conduct by Town and Parish Councils be noted.

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

The Deputy Monitoring Officer informed the Committee that there had been six



allegations concerning the conduct of District and Town/Parish Councillors received since 1 June 2016.

The Deputy Monitoring Officer reported that two cases had been resolved, with the Parish and Town Councillors concerned instructed to attend the next available Local Council Code of Conduct training session. Of the remaining four cases, initial assessments had been completed for three of the cases and were with the Independent Person for review, whilst the initial assessment had yet to be completed for the fourth and final case. The Committee was informed that there were three other potential cases that the Monitoring Officer was aware of but no official complaints had yet been received in relation to any of these incidents.

The Committee offered their thanks to the Monitoring Officer, Deputy Monitoring Officer and Independent Persons for their efforts in assessing the cases in a timely manner.

**Resolved:**

(1) That the outstanding allegations made about the conduct of District and Town/Parish Councillors, and the steps taken in resolving the issues, be noted.

**9. DATES OF FUTURE MEETINGS**

The Committee noted that there had been no formal meetings of the Standards Committee scheduled, following the decision of the Council that the Standards Committee should only meet as and when there was business to be transacted (Council 26 April 2016, minute 12 refers).

The Chairman opined that he was keen to have a minimum of two meetings per year, with the next meeting to be held by September 2017 at the latest. The Assistant Director of Governance (Governance & Performance Management) added that the revised Planning Protocol could be considered at the next meeting by the Committee, although it was not currently known when this would be available. The Committee felt that another meeting in June or July 2017 would be beneficial.

**10. 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**

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## 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 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.
- Received more than three months since the alleged conduct occurred.
- Where 'other action' such as training, mediation would be more appropriate.

### Withdrawal of Complaint

If the complainant asks to withdraw their complaint prior to the Initial Assessment 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 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 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.

## **Report to the Standards Committee**

**Report Reference: STD-001-2017/18**

**Date of meeting: 7 August 2017**



**Epping Forest  
District Council**

**Subject:** New Planning Code of Practice.

**Responsible Officer:** Simon Hill (01992 564249)

**Democratic Services:** Gary Woodhall (01992 564470)

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### **Recommendations/Decisions Required:**

- (1) That the Standards Committee considers a draft Planning Code of Practice and make suggested amendments and additions for further redrafting; and**
- (2) That the Constitution Working Party consider these additions at their next meeting in September for onward confirmation by the full Council; and**

### **Report:**

1. As the Committee may know, work on the new Constitution was substantially completed in March 2016. The Working Group did however require officer to come back and review two elements: firstly, the Guidance on Gifts and Hospitality; and, secondly, the Planning Protocol. These documents were not included in the final version of the Constitution.

2. The Planning Protocol was last reviewed in 2007. Since that time the passing of the localism act means that there has been some clarification on the role of members, particularly interests in planning matters and the types of interests that are now required to be disclosed.

3. When Counsel Opinion was sought on the main constitution earlier this year, we asked that Counsel provide us with some commentary on our current protocol. As part of his advice, Mark Beard has provided us with some exemplar codes and protocols from other authorities as a starting point.

4. Although the Council's Protocol needed review, some sections only required updating. Counsel suggested that the Council's document should cover (as a minimum) the following:

- (i) The aim and application of the Planning Protocol;
- (ii) The relationship with the Local Members' Code of Conduct;
- (iii) Roles and responsibilities;
- (iv) Declaration of interests;
- (v) Predisposition, predetermination and bias;
- (vi) Membership of other councils and bodies;
- (vii) Pre-application discussions;
- (viii) Contact with applicants, developers and interested persons;
- (ix) Lobbying of and by councillors;
- (x) Officers;
- (xi) Attendance and participation at public meetings;
- (xii) Site visits;
- (xiii) Officer reports and recommendations;

- (xiv) Conduct during public meetings;
- (xv) Decision-making;
- (xvi) Decisions contrary to the officer recommendation;
- (xvii) Training; and
- (xviii) Review.

5. A new draft Code of Planning is attached for consideration which will replace the old Planning Protocol. As the remit of the Standards Committee includes oversight of matters that give advice on Standards related issues, the committee's view is being sought on the document prior to the Constitution Working Group looking at the document in September for onward approval by the Council.

6. The Committee will know that complaints related to planning are, by far, the most popular topic for complainants. It is therefore particularly important that clear advice is given to members. The new Code was trialled at members training, open to Parish and Town Councillors on 30 June 2017 and was well received.

7. Members are asked to consider the proposed document to make suggested amendments and additions for consideration by the Constitution Working Group.

# Planning Code of Practice

## (I) The Aim And Application Of The Planning Code

This Code is intended to provide Councillors, staff and the Public advice and guidance on the planning process.

This Code has the status of advice and should be used to shape Councillors conduct and consideration of all planning matters they are asked to determine. It also deals with the involvement of Councillors and officers of the Council in the operation of the planning system outside the formal decision-making process.

In this Planning Code the term “Planning Meeting” means any formal meeting where a planning matter is being determined up to and including the Full Council meeting to determine such an application referred to it by the District Development Management Committee (DDMC).

It cannot, however attempt to cover every eventuality or situation.

**Further advice on specific circumstances is available from the Council's Monitoring Officer and Deputy Monitoring Officer.**

Councillors and staff should bear in mind that Planning matters are the source of most complaints from the public and early advice is key to ensuring that such complaints do not occur.

## (ii) The relationship with the Local Members' Code of Conduct;

This Code is complementary to the provisions of the Council's Code of Conduct for Councillors and Officers but does not repeat its provisions which can be found in Part 5 of the Constitution.

## (iii) Roles and responsibilities

Councillors are elected members of the Council (see Article 2 for their roles and functions). At Epping Forest District Council, every Councillor will be a member of the relevant Area Plans Subcommittee unless they give notice to the Proper Officer (in this instance the Chief Executive) of their wish not to be a member. Additionally, for Area Plans Subcommittee South, under Article 10 of the constitution they are required to give notice that they wish to be a member of that Subcommittee for the relevant year.

These memberships are only reviewed at each Annual Council meeting. Councillors cannot opt in and out of membership during the year unless a review is triggered under the provisions of the Local Government Act 1972 (as amended)

It is Councillors responsibility to represent the views of all the people in their wards. However, in planning matters, there is often a polarisation of views between different sections of the community. It is the role of Councillors to balance these views against planning policy and the wider needs of the district.

**Decisions on Planning Applications should always be made on their planning merits.**

Some types of planning decision have been delegated by the Council to officers to determine. The extent of this delegation is set out in the Constitution (Part 3, Appendix 3).

**(iv) Registration and Declaration of interests**

Upon being elected Councillors are required to complete a form to register their disclosable pecuniary and other interests. They are required to keep this document under review and maintain that declaration and amend it as necessary within 28 days of any change in circumstances.

This form also contains the interests of the Councillors spouse, civil partner or person living with the Councillor as a spouse or civil partner (called the 'relevant person')

The form is part of the Register of Councillors interests and is maintained by the Council's Monitoring Officer. The register is available for public inspection and reproduced on individual Councillors webpages for public inspection.

Rule 11 of the Council Rules requires Councillors to withdraw from meetings if they have a disclosable pecuniary interest firstly having declared the existence and nature of the interest. This also applies to interests of the relevant person. Such a declaration is also required by Councillors exercising executive functions. (see Part 5 of the Constitution).

Any Councillor being the applicant (with or without representation or by their relevant person) for an application is required to identify themselves as the applicant on the planning application form, advise the Monitoring Officer, take no part in the planning process or attend that part of the meeting. Such an instance will always create a DPI for the Councillor. All Councillor applications will be heard by the relevant Councillor committee and not otherwise dealt with under delegation.

Declaring such an interest at a planning meeting may give rise to a need to alter the Councillors declaration of interests form. Advice on such matters is available from the Monitoring Officer or Deputy.

Members are also subject to the 'Public Perception' test, introduced by Council in 2016, which asks Councillors to consider whether they are predetermined in any matter before participating.

If a Councillor has an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to affect their judgement in the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered they must:

- (i) Disclose the existence and nature of the interest; and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held"



**(v) Predisposition, Predetermination and Bias**

Councillors must ensure that they do not fetter<sup>1</sup> their ability to participate in the decision making process on an application by making their mind (or clearly indicating that they have made up their mind) on how they will vote prior to the consideration of the application by the planning committee.

The planning committee should, when considering an application, take into account all views expressed (in writing, orally, evidence from the planning officer and the views of other Councillors) in such a way that they are fairly considered in a balanced way before the planning committee reaches a decision.

Councillors can be predisposed to a particular point of view but must have an open mind at the point they are required to consider and determine the matter.

Section 25(2) of the Localism Act 2011 provides that a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because:

- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- (b) the matter was relevant to the decision.

However, there are some actions which would undermine the Councillors position. For example by making declarations of opposition or support in a public forum. This includes press statements, residents meetings and using social media. As meetings are webcast Councillors should not appear to have predetermined applications by coming to meeting with pre-prepared written speeches. Councillors must guard against being, or giving the appearance of being predetermined in this way.

**(vi) Membership of other councils and bodies**

**Parish and Town Council's**

Applications are routinely referred to Parish and Town Council's for statutory consultation. The Parish/Town Council's do not determine planning applications but submit (if agreed) comments as part of the planning application process.

District Councillors do not need to make general declarations of interest at those meetings if it is based solely on the dual hatted nature of their role. (Other interests must be declared)

Where District Councillors are asked to express their views as part of their role of a Parish or Town Councillor they are able to do so. It may be appropriate at the meeting to make it clear that they may take a different view once they have heard all relevant policy and representations at a subsequent planning meeting when they are determining the application.

Applications made to the District Council by a Parish or Town Council is likely to create a conflict of interest for the Councillor if they have been party to decisions

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<sup>1</sup> 'Fetter' – confine or restrain themselves by a previous act which makes them appear to have prejudged the issue

made by the Council concerned. It would normally create a non-pecuniary interest under section 8.1 of the Code of Conduct. The public perception test would then apply.

Referrals from Planning Subcommittees to DDMC or Council do not create an interest that is declarable.

Cabinet members who have sponsored any planning application made after a report or portfolio holder decision will normally have created a non-pecuniary interest in that application. Participating in any subsequent determination of that application would be subject to the public perception test.

**(vii) Pre-application discussions**

Enabling a Developer to brief and seek the views of elected Members and Planning Officers about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible. Early Councillor engagement in the planning process is encouraged and supported by the National Planning Policy Framework and is particularly important to allow Councillors to help shape future strategic developments in the Local Plan.

Discussions between a potential applicant and the council (officers or Members), prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant.

The purpose of member briefings should be:

- To enable Councillors to provide feedback that supports the ultimate submission of high quality development through the pre-application process, and avoid potential delays at later stages;
- To ensure Councillors are aware of significant applications prior to them being formally considered by the planning committee;
- To make subsequent planning committee consideration more informed and effective;
- To ensure issues are identified early in the application process, and improve the quality of applications; and
- To ensure Councillors are aware when applications raise issues of corporate or strategic importance.

In order to avoid such perceptions, pre-application discussions will take place within the following guidelines. (Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken).

- The decision making process applicable should be explained to the potential applicant.

- It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Advice should be consistent and based upon the development plan and other material considerations. There should be no significant difference of interpretation of planning policies amongst planning officers.
- A written note should be made of important meetings.
- At least one officer should attend any such meeting involving a Member
- In the case of advice given by planning officers it should always be made clear that any views which they express are subject to review at a more senior level with whom the final recommendation to committee lies or the officer properly exercising a delegation.

**(viii) Contact with applicants, developers and interested persons**

Approaches from applicants, potential developers and applicants or objectors is a normal and proper aspect of the political process. However, unless the parties concerned exercise care and common sense, this can lead to the impartiality and integrity of Members being called into question. A planning committee decision may be susceptible to judicial review where there is a real danger of bias.

To avoid such problems, discussions should take place within the following guidelines:-

- Members should only attend pre-application meetings organised in accordance with section (vii) above
- Members must take care not to indicate they have made up their mind on any planning application or issue before they have heard and/or read all the evidence, and should make clear that any views expressed are personal and provisional.
- Members should make it clear that they will not be in a position to make a decision until they have heard and/or read all the relevant evidence and arguments at the Committee meeting. The Committee report may contain issues previously unknown to Members and other aspects, not previously evident, may arise during the Committee's deliberations.

**(ix) Lobbying**

It is recognised that lobbying is a normal and perfectly legitimate element of the process of considering planning applications.

It is, however, important that Members protect their impartiality and integrity in planning matters. Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties provided that they make it clear that they are keeping an open mind. However, expressing an intention to vote one way or another before a planning committee meeting would prejudice impartiality.

Lobbying may be verbal or by circulation of letters or documents to all or some Councillors.

Councillors should not organise support for or against a planning application and should not lobby other Councillors as this would signal that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the committee.

**(x) Officers**

Officers are the paid employees of the Council. For planning, the Council employs appropriately qualified staff to make recommendations on planning applications to Councillors to be determined at meetings.

The function of officers is to support and facilitate the Councillors in their work and to ensure that robust, lawful decisions are made and the planning decisions are made in accordance with the local plan and material planning considerations.

Officers are required to act with impartiality at all times in determining or making recommendations upon planning applications. In considering applications and in advising members of the public and Councillors on planning policy, enforcement and other planning related matters, Officers are bound by the Officer Code of Conduct.

This process must be transparent and respect the sometimes contrary views, maintaining respect between the parties. Failure to maintain professional respect at any part of the planning process is a breach of the relevant code of conduct for either party.

In certain circumstances, where officers within development control or economic development submit a planning application, applications will be heard formally at the relevant member committee. (Part 3 – Scheme of Delegation – Appendix 3).

**(xi) Attendance and participation at public meetings**

All planning decisions are taken in public session at meetings except if they are delegated to officers. Planning issues usually attract high levels of public interest and attendances reflect this.

With high levels of public interest and sometimes contentious decisions to be made, confidence in the planning system is important. Issues such as conflicts of interest, lobbying, officer advice, the conduct of meetings and focus on planning considerations will colour the public perception positively or negatively. All participants need to keep this in mind. This will include your attendance at other public meetings convened locally. See section (v) on predisposition.

The Council has a policy of allowing public speaking by applicants, objectors, other statutory authorities and Parish/Town Councils. The rules are set out in Article 10 which may be varied by the Chairman at their discretion.

**(xii) Site visits**

Formal Site visits may be undertaken of any potential development site subject to application where there is a substantial benefit to the decision-making process. Further detail on the procedures that apply to site visits and the circumstances where a formal site visit is appropriate can be found in Article 10 – Development Control.

Councillors may wish to view sites themselves prior to meetings but should stick to the public highway, observe practical 'lone working' principles and bear in mind the advice given at section (v) about predetermination.

**(xiii) Officer reports and recommendations;**

Officers will provide professional advice to members with a recommendation whether or not planning permission should be granted, based on the officer's assessment.

Each officers report to the committee will provide:

- Details of the site, a site plan, its ward and description of the proposal and an internet link for viewing the plans
- The proposed decision recommended by the officers
- Details of either conditions (for approval) or reasons for refusal
- Relevant site history and policies applicable
- Consultations carried out and representations
- A narrative on the issues and considerations of the application and a conclusion.

If, having read the reports prior to the meeting, Councillors have questions relating to the applications, they should contact the case officer without delay. This enables the officer to answer queries of a factual nature that could delay determination should they be asked at the meeting.

Reading the reports may help Councillors form an initial view of the proposals

**(xiv) Conduct during public meetings**

At the Planning meeting, applications will be heard in the order they appear of the agenda except where the chairman decides otherwise and seeks the assent of the meeting to the change of order. An example of where this could be agreed is when the meeting is being attended by a large number of people only interested in one contentious item. Chairmen should not delay items to allow Councillors or to be present. (see rule V1 – Voting – Voting on quasi-judicial matters)

Each development control item will be dealt with as follows:

- (a) the planning officer present will their report including planning considerations, relevant local and national planning policies and a summary of any late representations received
- (b) evidence will be taken from registered public speakers (see Article 10, Appendix 1 for the rules of debate that apply);
- (c) Councillors will then debate the matter seeking information from the planning officer that arises from the debate. Councillor's commentary should be based on the

material planning considerations of the matter. It is the convention that the Chairman will allow both the ward councillor and none committee members to speak as part of the debate.

**(xv) Decision-making;**

**Delegated Decision making**

The Council's Scheme of Delegation specifies clearly the categories of applications that may be determined by officers (see Part 3 of the Constitution – Scheme of Delegation – Appendix 3).. This scheme may be reconsidered from time to time by the Council.

Where officers are determining applications under their delegated powers, an officer report will be completed which must record the material planning considerations that have been taken into account in the decision making process and the decision made by an officer with the relevant delegated power from the Council.

Councillors may call-in an application proposed to be determined by officers to the relevant committee for determination in accordance with the rules set out in Part 3 of this constitution but must consider their reasons for so doing.

**Decision making by Councillors**

At the conclusion of the debate (subject to no contrary motion being moved and seconded) the recommendation of officers will be put to the committee by the chairman. This does not require a seconder.

Decision making at meetings shall be by way of a majority of Councillors present at a meeting voting positively for either approval or refusal. This is subject to the preservation of the required quorum at the time the vote is taken and shall be subject to Rule V1 (voting) and Rule M2 (minority references)

Voting down the recommendation of officers at the meeting does not mean that a decision has been taken on the application. A motion from a Councillor, seconded by another Councillor with reasons that are planning based is required.

**(xvi) Decisions contrary to the officer recommendation;**

Decisions on planning proposals must be taken in accordance with the local plan unless material considerations indicate otherwise. In determining planning and other applications the committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide:

- to refuse planning permission where officers have recommended approval;
- agree with officers that permission should be refused but for different or additional reasons; or
- grant permission subject to different conditions or legal requirements than those recommended.

Where any Councillor is proposing to put forward a motion contrary to the officer recommendation, the committee Chairman will ensure that the planning reasons are

apparent **before** a vote is taken and will ensure that the planning officer is given an opportunity to explain to the committee the implications of their decision.

Applications proposed to be granted which are substantial departures from the policy framework, local plan, have financial implications or require the referral to the Secretary of State for approval must be referred to the District Development Management Committee (see Article 10, Area Plans Sub-Committees for more detail)

**(xvii) Training;**

It is fundamental that Councillors (including Parish and Town Council members) involved in planning matter should receive appropriate training, **before** being involved in making planning decisions. The Council will facilitate such training, which should be regarded as obligatory for all Councillors. The Standards Committee have also determined that Councillor should attend Code of Conduct training at least once per Council term. Councillors should also attend sessions designed to keep them abreast of new developments, as specified by the Authority.

**(xviii) Review.**

This Code will be reviewed from time to time as necessary by the Council's Constitution Working Group having taken input on standards matters from the Standards Committee.

Draft V2  
Simon Hill  
March 2017

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## **Report to the Standards Committee**

**Report Reference: STD-002-2017/18**

**Date of meeting: 7 August 2017**



**Epping Forest  
District Council**

**Subject: Member Code of Conduct Training Update.**

**Responsible Officer: Simon Hill (01992 564249)**

**Democratic Services: Gary Woodhall (01992 564470)**

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### **Recommendations/Decisions Required:**

- (1) To consider a position statement on Code of Conduct Training for Members of the District Council; and**
- (2) To recommend any further measures to encourage effective training.**

### **Report:**

1. At the last meeting the Committee discussed their view on the frequency of Code of Conduct training for Councillors. It was agreed that Members should attend training once per term of office or more frequently should the code change (as it did in 2016).
2. Since that meeting, the Chairman of the Committee wrote to all District members about the importance of training and the Deputy Monitoring Officer has held two main training sessions on the Code (23 May and 13 June 2017), one session for Ongar Town Council (16 February 2017) and a session on the emerging Planning Code (30 June 2017).
3. The Monitoring Officer has also now contacted all outstanding Members offering a further session on 2 October 2017, and the majority of these members have indicated they are attending that session. A position statement for all Members is attached as an Appendix.
4. The Committee are asked to consider this and suggest any further measure they feel necessary to encourage effective training.

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## **Dates Members Attended Code of Conduct Training**

Nigel Avey	16-May-15
Roger Baldwin	31-May-16
Richard Bassett	13-Jun-17
Amy Beales	# Indicated as attending session 2 October 2017
Nigel Bedford	13-Jun-17
Tony Boyce	31-May-16
Heather Brady	23-May-17
Will Breare-Hall	28-Jun-14
Rose Brookes	31-May-16
Rod Butler	13-Jun-17
Gavin Chambers	31-May-16
Kewal Chana	23-May-17
David Dorrell	28-Jun-14
Ricki Gadsby	-
Leon Girling	31-May-16
Anne Grigg	# Indicated as attending session 2 October 2017
Simon Heap	# Indicated as attending session 2 October 2017
Lynn Hughes	23-May-17
Bob Jennings	28-Jun-14
Judy Jennings	23-May-17
Sue Jones	-
Helen Kane	23-May-17
Sam Kane	23-May-17
Howard Kauffman	# Indicated as attending session 2 October 2017
Paul Keska	11-Jun-11 # Indicated as attending session 2 October 2017
John Knapman	# Indicated as attending session 2 October 2017
Yolanda Knight	28-Jun-14
Jeane Lea	31-May-16

Alan Lion	13-Jun-17
Maggie McEwen	11-Jun-11 # Indicated as attending session 2 October 2017
Louise Mead	12-Sep-14
Ann Mitchell MBE	31-May-16
Gagan Mohindra	16-May-15
Richard Morgan	23-May-17
Stephen Murray	-
Steven Neville	28-Jun-14
Aniket Patel	16-May-15
John Philip	13-Jun-17
Chris Pond	-
Caroline Pond	-
Chris Roberts	# Indicated as attending session 2 October 2017
Debra Roberts	# Indicated as attending session 2 October 2017
Brian Rolfe	16-May-15
Brian Sandler	23-May-17
Mary Sartin	13-Sep-16
Glynis Shiell	31-May-16
David Stallan	31-May-16
Syd Stavrou	13-Jun-17
Darshan Sunger	23-May-17
Brian Surtees	13-Jun-17
Sylvia Watson	11-Jun-11
Liz Webster	13-Sep-16
Chris Whitbread	-
Holly Whitbread	-
Janet Whitehouse	13-Jun-17
Jon Whitehouse	13-Sep-16
David Wixley	23-May-17

Standards Complaints Assessment Matters:  
As at: 26 July 2017

Year	Case reference no.	Case status	Received - date	Investigator
2017	EFDC 1-2017	That a Councillor failed to disclose a (potentially disclosable) interest and remained in the meeting for a planning application considered by an Area Planning Sub-Committee where their partner (the relevant person) worked for a company connected to the site.  <b>Status: Draft investigation report issued for comment</b>	2 Feb 2017	A Jones
2017	EFDC 2-2017	That a Councillor damaged the complainant's vehicle during an altercation.  <b>Status: Complaint not substantiated and therefore not proceeded with</b>	13 March 2017	None
2017	EFDC 3-2017	That a Councillor compromised or attempted to compromise those working for the Authority, sought to confer a disadvantage on the complainant, failed to declare a non-pecuniary interest under section 8.1(iv)(a) of the code of conduct, failing to disclose such interests under section 9 and breached the Nolan Principles and section 28(1) of the Localism Act 2011 in relation to a Planning Sub-Committee matter.  <b>Status: Complaint rejected at Assessment as not suitable for investigation.</b>	2 May 2017	None
2017	EFDC 4-2017	That a Councillor was seen greeting and talking to the applicant before a site of a planning application adjacent to the complainant's property and that the Councillor had an interest in the matter which would have meant they should have left a subsequent Area Planning Sub-Committee meeting.  <b>Status: Complaint rejected at Assessment as not suitable for investigation.</b>	11 May 2017	None
2017	EFDC 5-2017	That a Councillor has failed to declare interests in Companies and is in breach of the Nolan principles in his business dealings.  <b>Status: At pre Local Assessment stage</b>	12 July 2017	

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