

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Standards Committee

**Date:** 12 October 2015

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

**Time:** 7.30 - 8.05 pm

**Members Present:** G Chambers (Buckhurst Hill West) (Chairman), S Kane (Waltham Abbey Honey Lane), M McEwen (High Ongar, Willingale & The Rodings), C P Pond (Loughton St John's) (Vice-Chairman), C Roberts (Loughton Alderton), B Rolfe (Lambourne) and B Surtees (Chipping Ongar, Greensted and Marden Ash)

**Other Councillors:** -

**Apologies:** A Mitchell and D Stallan

**Officers Present:** C O'Boyle (Director of Governance), S G Hill (Assistant Director (Governance & Performance Management)) and G J Woodhall (Senior Democratic Services Officer)

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### **12. SUBSTITUTE MEMBERS**

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

### **13. MINUTES**

The Committee noted that the possible merger of the Standards and Audit & Governance Committees was being examined again following the appointment of the Council's new Chief Internal Auditor.

#### **Resolved:**

(1) That the minutes of the meeting of the Standards Committee, held on 13 July 2015, be taken as read and signed by the Chairman as a correct record.

### **14. DECLARATIONS OF INTEREST**

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

### **15. TERMS OF REFERENCE**

The Committee noted its current Terms of Reference.

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

The Monitoring Officer reported that there were two issues currently outstanding in relation to the conduct of District and Town/Parish Councillors.

The first issue concerned a complaint against a Parish Councillor and an alleged company partnership with an applicant of a planning application. The report of the Investigator had been received finding no breach of the Code of Conduct, but with a recommendation to review the advice regarding non-pecuniary interests. This had been completed and the report was the subject of the subsequent item on the agenda.

The second issue concerned the alleged bullying of staff by a Member in a local Council meeting. The assessment had been completed and the Monitoring Officer's decision had been 'Other Action'. This had consisted of a meeting with the Councillor concerned, the outcome of which was being awaited. It was hopeful that this issue would be resolved without the need for a formal investigation. The Deputy Monitoring Officer added that the Independent Member, Mr D Cooper, had been of great assistance during the assessment.

**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.

**17. REVISIONS TO THE CODE OF MEMBER CONDUCT**

The Deputy Monitoring Officer presented a report on proposed revisions to the Code of Member Conduct.

The Deputy Monitoring Officer stated that, as part of the full review of the Council's Constitution, Officers had been considering whether the Member Code of Conduct required any amendment. It was noted that there had been no recent review in the light of operational experience, the Government had published a further report of the Committee on Standards in Public Life, and there had been a recommendation from a recent Standards Case proposing that the treatment of non-pecuniary interests be revised. Two areas in particular had been highlighted for review:

- (i) dealing with non-pecuniary interests (as stated above); and
- (ii) revisions to the Nolan Principles.

The Deputy Monitoring Officer reported that the current Code of Conduct made no mention of pre-determination for non-pecuniary interests. A later version of the Model Code produced by the Public Legal Partnership had the following provision:

*"Public Perception*

*If you have 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 prejudice your judgement in the public interest, and you are present at a meeting of the Authority at which such business is to be considered or is being considered, you 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."*

It was proposed that this wording be included in the revised Code of Conduct to give guidance on non-pecuniary interests, and deal with the subjective assessment each

Councillor had to make on items where accusations of pre-determination could be made against them.

In response to questions from the Committee, the Deputy Monitoring Officer affirmed that the Planning Protocol gave advice to 'Dual Hatted' Councillors; the Planning Protocol was also being reviewed and would be appended to the Member Code of Conduct, along with the Guidance on Gifts and Hospitality. Pre-Disposition or Pre-Determination was now included as part of the training for Councillors (District and Local) on the Planning Protocol.

Cllr Surtees stated that 'Dual Hatted' Councillors were both a District and Local Councillor at all times and, when dealing with planning applications, the vast majority of such Councillors usually made a statement at Local Council meetings reserving the right to make a final decision on the application at a later date. Local Cllr Barber added that this was the *modus operandi* at Epping Upland Parish Council.

The Deputy Monitoring Officer confirmed that it was incumbent on the Councillor to put themselves in the position of a member of the public with reasonable knowledge when assessing whether they were possibly pre-determined. The Monitoring Officer reiterated that any Councillor, Local or District, could and should seek advice if they were unsure about their position for a particular issue.

The Deputy Monitoring Officer advised the Committee that it was not necessary for District Councillors to declare an interest as a Member of a Local Council at District Planning meetings. The Councillor was only under an obligation to declare a Pecuniary or Non-Pecuniary interest where the Councillor had to leave the meeting for that item; however, Councillors could go further than the Code if they wished.

The Deputy Monitoring Officer reported that the Nolan Principles had been reviewed, which left the original headings unchanged but did amend the descriptions of each. The revised wording had been attached as an Appendix to the report and the Committee was requested to adopt the revised Principles. The Committee agreed that the wording was clearer in the new draft of the Principles.

As mentioned earlier, the Deputy Monitoring Officer stated that the Planning Protocol and Guide to Gifts & Hospitality was being reviewed by the Constitution Working Group, and the revised versions would be submitted to this Committee for comment at its next meeting. The Committee was requested to consider if there were any further issues with the Member Code of Conduct, which required review.

In the "*Introduction and Interpretation*" section, R Pratt queried the definition of profit and gain only being that which was subject to Income Tax; the Deputy Monitoring Officer agreed to delete the rest of the sentence after "...or *benefits in kind*." R Pratt also enquired whether paragraph 6.1 could be expanded to define "...*any business of your authority*..."; however, the Monitoring Officer advised that if the wording of that section had been taken directly from the relevant Act of Parliament then it could not be amended.

The Deputy Monitoring Officer informed the Committee that the District Council would have to adopt the revised Member Code of Conduct and the affiliated Local Councils would be encouraged to adopt it. A standard report with an adoption resolution and the revised Code would be circulated to these Local Councils. The Monitoring Officer was scheduled to attend the next meeting of the Epping Forest Joint Standards Committee and would discuss adoption of the revised Code with them. The revised Member Code of Conduct would be submitted to the Constitution Working Group for

comment, and if the Group requested further changes then the Code would be discussed by the Committee again at a later meeting.

**Resolved:**

- (1) That the proposed revisions to the Member Code of Conduct concerning non-Pecuniary interests and Pre-Determination be agreed;
- (2) That the revised wording of the Nolan Principles be agreed;
- (3) That the definition of "*profit or gain*" be revised to read "*...includes any payment or benefits in kind.*"
- (4) That the revised Member Code of Conduct, incorporating the amendments above, be submitted to the Constitution Working Group for consideration prior to onward recommendation to the Council for adoption; and
- (5) That the revised Member Code of Conduct be circulated to the affiliated Local Councils and the Epping Forest Joint Standards Committee inviting their adoption.

**18. DATES OF FUTURE MEETINGS**

The Committee noted that further meetings had been scheduled for 25 January 2016 and 25 April 2016 during the 2015/16 municipal year.

**19. 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**