

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee **Date:** Tuesday, 27 January 2009

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.30 - 8.25 am

Members Present: Ms M Marshall (Independent Member) (Chairman), Councillor Mrs D Borton (Parish or Town Council Representative), Councillor S Murray (Epping Forest District Council Appointee), Councillor B Rolfe (Epping Forest District Council Appointee), Councillor J Salter (Parish or Town Council Representative) and G Weltch (Independent Member)

Other Councillors:

Apologies: Councillor Mrs P Smith (Epping Forest District Council Appointee) and M Wright (Independent Member)

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

19. MINUTES

RESOLVED:

That the minutes of the meeting of the Committee held on 8 December 2008 be taken as read and signed by the Chairman as a correct record.

20. MATTERS ARISING FROM THE MINUTES OF THE LAST MEETING

(a) Applications for Dispensation – Application Form (Minute 15(b))

The Deputy Monitoring Officer reported that the agreed proforma had been sent to the Clerks of Parish and Town Councils and had been drawn to the attention of District Council members.

21. REVIEW OF PLANNING PROTOCOL

The Deputy Monitoring Officer advised that it had been approximately eighteen months since the Protocol had last been reviewed and he drew attention to two items which had recently arisen in relation to the Protocol. The items related to Section 8 – Councillors involved in the Property Market – and Section 22 – Development Proposals submitted by Councillors and Officers.

The Committee discussed a further issue in relation to Section 23 – Prejudicial Interests and a Councillor's Representative Role – regarding the order of speaking when more than one member declared a prejudicial interest in a planning application and wished to exercise the right to speak at a planning meeting.

RESOLVED:

(1) That the Monitoring Officer consult District Councillors, the District Council's Planning Services Scrutiny Standing Panel, the Director of Planning and Economic Development, Parish and Town Councils, and Planning Agents regarding suggested revisions to the Protocol in relation to the items raised; and

(2) That consideration be given at a future meeting to possible revisions to the Protocol in the light of the responses to the consultation exercise.

22. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS**(a) Current Position**

The Committee noted the current position of allegations made about District and Parish/Town Councillors.

In relation to references EFDC1/2008 and EFDC3/2008, the investigator's report had been issued. Following an exchange of e-mails with members of the Assessments Sub-Committee it had been decided to arrange for a formal meeting of that Sub-Committee to be held on 9 February 2009 in order to consider the investigating officer's finding and determine further action.

In relation to reference EPF4/2008 the external practitioner appointed by the Monitoring Officer had commenced his investigation.

In relation to reference EFDC5/2008 the parties had resolved their differences following the decision of the Assessments Sub-Committee to take no further action in relation to the matter.

(b) Officer Responsibilities for and the Resource Implications of Determining Allegations

The Deputy Monitoring Officer reported orally on the need for a review of the local assessment/investigation and adjudication processes in the light of experience.

He drew attention to recent cases where he had advised on the declaration of interests which could have led to advice on how to complain even though he could have eventually been the investigating officer. He advised that it was now considered there were five separate roles in the processes to be undertaken by four officers. He outlined proposals for ensuring that an officer giving advice was not "conflicted out" from undertaking a subsequent role in the process.

The Deputy Monitoring Officer also drew attention to the benefits of adopting a "critical friend" approach to potential complainants.

The Committee was advised of the Standards Board for England guidance in relation to the referral of a complaint to the Board. He pointed out that it was apparent the Standards Board would be unwilling to accept investigations unless a detailed justification was put forward. He suggested therefore that there should be an assessment of the suitability of each complaint being investigated locally and that this assessment should be considered by the Assessment Sub-Committee.

The Deputy Monitoring Officer also drew attention to the need to look more carefully at the sections of the Code which might have been breached before referring a matter to an investigating officer. He suggested that the complainants should be encouraged to determine the appropriate breach on which the complaint was based rather than present a general complaint which might impact on all sections of the Code.

In the light of experience gained in relation to reference EFDC 1/2008 and EFDC 3/2008, the Deputy Monitoring Officer suggested that in future, investigating officer's reports would need to be considered at a formal meeting of the Assessments Sub-Committee rather than being sent to members of the Sub-Committee for individual written response.

The Committee noted that with the engagement of an external investigator for reference EFDC 4/2008 the Standards Committee budget had been fully committed for the current financial year. He confirmed that reciprocal investigation arrangements with other Monitoring Officers remained an option but that in practical terms they were difficult to achieve as most authorities had limited staff resources in this area.

RESOLVED:

That a report be submitted to the meeting of the Committee to be held on 14 July 2009 recommending detailed proposals for amending the local assessment/investigation and adjudication processes in the light of the issues raised.

23. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2008/9 provided for another meeting of the Committee on 14 April 2009.

Members also noted that the draft calendar for 2009/10 to be considered by the Council in February 2009 provided for meetings of the Committee on 14 July 2009, 13 October 2009, 19 January 2010 and 13 April 2010.

24. ANY OTHER BUSINESS

(a) Definition of "Close Associate/Friend"

The Monitoring Officer drew attention to a recent decision of the Administrative Court in the case of R (on the application of Michael Gardener) (Claimant) v Harrogate Borough Council (Defendant) and Mr and Mrs Atkinson (Interested Party) (2008) relating to the judicial review of a planning decision. She advised that the case shed some light on the definition of close associate/friend debate and that this would be useful to consider as part of the forthcoming review of the Planning Protocol.

RESOLVED:

(1) That the issue be included in the forthcoming review of the Planning Protocol; and

- (2) That the Monitoring Officer submit a full report on the case to the next meeting of the Committee.

CHAIRMAN