

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON
ROAD SAFFRON WALDEN at 4.00 pm on 12 MARCH 2012**

Present: - M Hall (Independent person) - in the Chair.
Councillors C Cant, K Eden and J Menell (Uttlesford
Members)
Councillor M Sullivan (Town and Parish Councils).

Officers in attendance: - M Cox (Democratic Services Officer) and M
Perry (Assistant Chief Executive - Legal).

S22 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor C Clarke (town
and parish councils), R Whitlam and S Brady (Independent Persons).

Councillors Eden and Menell declared a personal interest in so far as
they were fellow district councillors to the councillors mentioned in the
minutes of the sub-committee meetings.

S23 MINUTES

The minutes of the meetings held on 14 November 2011 and 9 January
2012 were agreed and signed by the Chairman as a correct record.

S24 BUSINESS ARISING

i) Minute S16 - Training

The training session for the town and parish councils had been well
attended and concerns had been expressed about some of the
provisions in the Localism Act. The Parish Council's had since been
consulted on the new Code of Conduct.

**ii) Minute S18 (iv) Appointment of a Standards Committee and
Independent Persons**

The Assistant Chief Executive had sent the agreed representations to
the Secretary of State but as yet the letter had not been acknowledged.

S25 STANDARDS AFTER THE LOCALISM BILL

The Committee considered a report which set out the final draft version
of the Code of Conduct and reported the outcome from the recent
meeting of the Constitution Working Group.

The Assistant Chief Executive – Legal outlined the changes that had
been made to the draft Code of Conduct since the last meeting.

Members agreed to these and the further additional amendments as set out below.

- Under General Provisions, the inclusion of a paragraph under part 1, paragraph 1 to show that the Council had fulfilled its duty under section 28(1) of the Act, and a definition of the word 'meeting' as this was now relevant in the context of members' interests.
- It would be necessary to update the section on disclosable pecuniary interests once the secondary legislation had been laid before Parliament.
- The section on other pecuniary interests was also likely to require significant amendment once the secondary legislation was available, as some of the interests currently in this section might fall within the definition of a disclosable pecuniary interest.
- The Committee agreed to the alteration to paragraph 7.5 to correct a drafting error.
- The provisions from the existing Code of Conduct which required the register to be kept up to date, (notwithstanding the statutory provisions relating to disclosable pecuniary interests) and to declare interests at all meetings of the council were retained in the new Code.
- For other pecuniary interests, the new Code would retain the right of members to speak before withdrawing from the room.
- Paragraph 8.2 (disclosable pecuniary interest) to be amended to include reference to 'or any relevant person'.
- Paragraph 9.4 - to omit words "giving evidence or answering questions" from the current code and to exclude the provision that members have a "prejudicial interest" in the scrutiny of decisions which they have taken.
- Paragraph 9.5. – members were satisfied that planning and other regulatory matters were adequately covered by matters which affect the financial wellbeing and general wellbeing and no additional detail was required in the new Code
- An appendix to the new Code would to set out the Nolan principles.

As details of legislation were still awaited it was agreed that the final drafting of the new Code of Conduct should be delegated to the Assistant Chief Executive – Legal.

The meeting was then advised of the views of the Constitution Working Group which had considered the Committee's recommendations at its recent meeting. The constitutional amendments had been agreed and would be recommended to Full Council. These included the recommendation of a standing order that members with a disclosable pecuniary interests should be required to withdraw from the meeting when the matter was under consideration.

It also adopted the revised procedures for dealing with allegations of breaches of the Code of Conduct with one exception; this was to maintain the requirement for the Investigating Officer to make findings of

fact and to express a view as to whether those facts constitute a breach of the Code of Conduct.

It also recommended that the Council should embark upon a recruitment process to make suitable appointments of Independent persons as soon as possible.

RESOLVED

- 1 That the Committee delegate authority to the Assistant Chief Executive – Legal to amend the draft Code of Conduct to take account of the provisions of any primary or subordinate legislation enacted after the date of the meeting.
- 2 Subject thereto that the Committee recommend a draft Code of Conduct, with the amendments set out above, to Full Council for approval. (a draft copy is attached to these minutes as Appendix A).
- 3 adoption to be effective from the 1 July 2012 or such other date as may be appointed by the Secretary of State for the provisions of section 27 Localism Act 2011 to come into force.

S26 **ANNUAL REPORT**

The Committee considered the Annual report to be presented to Full Council. It detailed the changes to the Standards Framework and the work undertaken by the Committee during the year. This would be the last report from this committee as once the new provisions took effect there would be a new Standards Committee constituted under the localism Act. On that basis it was agreed that the Chairman should read the report in full at the meeting. A copy of the report is attached as appendix B.

S27 **DISPENSATIONS**

ii) **Clavering Parish Council**

A request for dispensation had been received from members of Clavering parish council to enable them to vote and speak on issues relating to easements disposal of community facilities.

RESOLVED that Councillors S Penman, D Abrahams and E Abrahams be granted dispensation until the next ordinary election of councillors or until the Localism Act comes into effect.

S28 **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100 I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 and 2 of part 7C of schedule 12A of the Local Government Act 1972.

S29

MINUTES

The Committee approved the minutes of the meetings of the Standards Sub-Committees held on 17 March, 4 April, 15 September, 28 November and 12 December 2011 and 13 February 2012.

S30

ALLEGATION OF A BREACH OF THE CODE OF CONDUCT

The Committee agreed to the consideration of this item on the grounds of urgency as a decision was required before the next meeting.

The Committee was asked to consider a complaint that had been considered by the Assessment Sub-Committee on 12 December 2011, and had now been referred back to the Committee by the Monitoring Officer.

RESOLVED that no action be taken in respect of the allegation

The meeting ended at 4.50pm

THE COUNCILLORS' CODE OF CONDUCT

Part 1

General Provisions

1. Introduction and Interpretation

This is the code of the conduct expected of members of Uttlesford District Council adopted under s.27 (2) Localism Act 2011. Uttlesford District Council considers that this code viewed as a whole is consistent with the principles contained in s.28 (1) of that Act which are set out in the Appendix to this Code.

This Code applies to **you** as a member of your authority. It is your responsibility to comply with the provisions of this Code.

In this Code the word "meeting" means any meeting of your authority or of the cabinet or of any committee or sub-committee of your authority or its cabinet or of any joint committees, joint sub-committees, area forums, task groups or working groups.

2. Scope

Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you conduct the business of your authority (which includes the business of the office to which you are elected or appointed) or act, claim to act or give the impression you are acting as a representative of your authority.

3. General Obligations

3.1. You must treat others with respect.

3.2. You must observe any protocols or codes of practice adopted by your authority.

3.3. You must not:

3.3.1. do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

3.3.2. bully any person;

3.3.3. intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;

- 3.3.4. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- 3.3.5. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - 3.3.5.1. you have the consent of a person authorised to give it;
 - 3.3.5.2. you are required by law to do so;
 - 3.3.5.3. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - 3.3.5.4. the disclosure is reasonable and in the public interest; and is made in good faith and in compliance with the reasonable requirements of the authority;
- 3.3.6. prevent another person from gaining access to information to which that person is entitled by law.
- 3.3.7. conduct yourself in a manner which could be reasonably regarded as bringing your authority or your office into disrepute
- 3.3.8. use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage
- 3.4. You must, when using or authorising the use by others of the resources of your authority:
 - 3.4.1. act in accordance with your authority's reasonable requirements;
 - 3.4.2. ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - 3.4.3. have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Part 2

Members Interests

4. Disclosable Pecuniary Interests

- 4.1. You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 4.2 below and either is:-
 - 4.1.1. an interest of yours

- 4.1.2. an interest of your spouse
 - 4.1.3. an interest of your civil partner
 - 4.1.4. an interest of a person you are living with as a spouse or civil partner and in the case of paragraphs 4.1.2 – 4.1.3 you are aware that that other person has the interest
- 4.2. “Disclosable pecuniary interests” are defined by the *[Insert details of the S.I. when known]* and are:-
- 4.2.1.

5. Other Pecuniary Interests

You have a pecuniary interest in any business of your authority where either:-

5.1 it relates to or is likely to affect:-

- 5.1.1. any employment or business carried on by you
 - 5.1.2. any person or body who employs or has appointed you
 - 5.1.3. any person or body who has a place of business or land in your authority’s area and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000.00 or one percent of the total issued share capital (whichever is the lower)
 - 5.1.4. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director or a person or body of a description referred to in paragraph 5.1.3
 - 5.1.5. any land in your local authority’s area in which you have a beneficial interest
 - 5.1.6. any land where the landlord is your authority and you are or a firm in which you are a partner, a company of which you are a remunerated director or a person or body of a description referred to in paragraph 5.1.3 is the tenant
 - 5.1.7. any land in the authority’s area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer
- or
- 5.2. a decision in relation to that business might reasonably be regarded as affecting your financial position or the financial position of a relevant person to a greater extent than the majority of:-

5.2.1. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

5.2.2. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

6. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of your authority where either:-

6.1. it relates to or is likely to affect:-

6.1.1. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority

6.1.2. any body:-

6.1.2.1. exercising functions of a public nature;

6.1.2.2. directed towards charitable purposes; or

6.1.2.3. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

6.1.3. The interests of any person or body, other than a relevant authority, who has made a payment to you or on your behalf in respect of your election or any expenses incurred by you in carrying out your duties

6.1.4. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25

or

6.2. a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-

6.2.1. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

6.2.2. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

7. "Relevant Persons"

For the purposes of paragraphs 5.2 and 6.2 “relevant person” means:-

- 7.1. a member of your family or any person with whom you have a close association
- 7.2. any person who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors
- 7.3. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.00 or
- 7.4. any body of which such persons are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- 7.5. any body of a type described in paragraph 6.1.2 of which such persons are members or in a position of general control or management

8. Disclosure of Interests

- 8.1. Subject to paragraph 8.2 where you or a relevant person have a disclosable pecuniary interest, any other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered you must disclose to that meeting the existence and the nature of the interest if you are aware or ought reasonably to be aware of it.
- 8.2. Where you or a relevant person have an interest in any business of your authority which would be disclosable by virtue of paragraph 8.1 but by virtue of paragraph 12 (sensitive interests) details of the interest are not registered in your authority’s published register of members’ interests you must disclose to the meeting the fact that you have an interest and that the interest is a disclosable pecuniary interest (if that is the case) but need not disclose the nature of the interest to the meeting
- 8.3. Where you or a relevant person have an interest in any business of your authority which would be disclosable by virtue of paragraph 8.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest and for the purposes of this paragraph “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under s.22 Local Government Act 2000

9. Effect of interests upon participation in meetings

- 9.1. If you have a disclosable pecuniary interest in any business of your authority and are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
- 9.1.1. disclose the existence and nature of the interest in accordance with paragraph 8.1 (but subject to paragraph 8.2)
 - 9.1.2. withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority
 - 9.1.3. not participate or participate further in any discussion of the matter at the meeting
 - 9.1.4. not participate in any vote or further vote taken on the matter at the meeting
- 9.2. if a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)
- 9.3. If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority 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 of 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:-
- 9.3.1. disclose the existence and nature of the interest in accordance with paragraph 8.1 (but subject to paragraph 8.2)
 - 9.3.2. unless you have obtained a dispensation from your authority withdraw from the room or chamber where the meeting considering the business is being held in a case where paragraph 9.4 applies immediately after making your representations or in any other case when the business is under consideration
- 9.4. Where you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority you may attend a meeting for the purpose of making representations only

Part 3

Registration of Members Interests

10. Disclosable Pecuniary Interests

10.1. Under the Localism Act 2011:-

10.1.1. you are required to notify your authority's monitoring officer of any disclosable pecuniary interests as referred to in paragraph 4 which you have at the time notification is given before the end of 28 days beginning with the day on which you become a member or co-opted member of the authority.

10.1.2. you are also to notify your authority's monitoring officer of any disclosable pecuniary interest as referred to in paragraph 4 which is not entered in your authority's register of interests and is not subject of a pending notification before the end of 28 days beginning from the date of disclosure of that interest at a meeting of your authority

10.1.3. if a function of your authority may be discharged by a member acting alone and you are exercising such a function you are also required to notify your authority's monitoring officer of any disclosable pecuniary interest as referred to in paragraph 4 which is not entered in your authority's register of interests and is not subject of a pending notification before the end of 28 days beginning from the date you become aware that you have a disclosable pecuniary interest relating to the matter being to be dealt with or being dealt with in the course of discharging that function

10.2. Notifications of disclosable pecuniary interests to the monitoring officer under paragraph 10.1 shall be in writing

10.3. Notwithstanding the provisions of the Localism Act 2011:-

10.3.1. before the end of 28 days beginning from the date upon which this Code takes effect or within 28 days of your election or appointment to office (whichever is later) you must register in your authority's Register of Members' Interests maintained under s.29 Localism Act 2011 your disclosable pecuniary interests as referred to in paragraph 4

10.3.2. you must within 28 days of becoming aware of any new disclosable pecuniary interest or change to any disclosable pecuniary interest registered under paragraph 10.1 or paragraph 10.2 register details

of that new disclosable pecuniary interest or change by providing written notification to your authority's monitoring officer

11. Other Pecuniary Interests and Non-Pecuniary Interests

- 11.1. Before the end of 28 days beginning from the date upon which this Code takes effect or within 28 days of your election or appointment to office (whichever is later) you must register in your authority's Register of Members' Interests maintained under s.29 Localism Act 2011 your pecuniary interests of a description referred to in paragraph 5.1 and your non-pecuniary interests of a description referred to in paragraph 6.1 by providing written notification to your authority's monitoring officer
- 11.2. You must within 28 days of becoming aware of any new interest registerable under paragraph 11.1 or change to any interest registered under that paragraph register details of that new interest or change by providing written notification to your authority's monitoring officer

12. Sensitive interests

Where you have an interest registerable under paragraphs 10.1, 10.2, 10.4 or 11.1 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register shall not include details of the interest but may state that you have an interest details of which are withheld under s.32(2) Localism Act 2011 and/or this paragraph

APPENDIX

THE PRINCIPALS CONTAINED IN s.28 (1) LOCALISM ACT 2011

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

1. Annual Report to the Council

Uttlesford District Council's Standards Committee 2011/12

Background

This is likely to be the last report to the Council of the Standards Committee in its present format. The Localism Act is expected to come into full force on 1 July 2012 and will abolish the current standards framework replacing it with a requirement to adopt a code of conduct which is largely left to the discretion of councils; sweeping changes to the law on registration and declarations of interest and the revocation of the power to impose sanctions. Although there will be a role for independent participation in considering breaches of the Code of Conduct sadly the Act disqualifies your existing independent members from fulfilling that function.

Composition

The Standards Committee comprises 10 members, 4 elected members of the council, 3 independent persons and 3 representatives of town and parish councils. The committee is chaired by Mr Sean Brady one of the independent persons. The Committee is supported by the Assistant Chief Executive – Legal and Monitoring Officer, Mr Michael Perry. One of the town and parish seats on the Committee became vacant at the May 2011 elections and has remained vacant since.

Meetings during the year

There were 3 scheduled meetings of the Standards Committee during the council year and in addition there was an extra-ordinary meeting to deal with the Code of Conduct after the Localism Bill received Royal Assent. In the light of the Localism Bill the Committees work during the year was concentrated on prospective changes to the standards framework much of which needed to be revisited after the Bill became an Act. This has resulted in the recommendation of constitutional changes to reflect the provisions of the Localism Act which it is understood will be proposed by the Constitution Working Group. It has also resulted in a proposed Code of Conduct which the Standards Committee recommend for adoption and new procedures for vetting complaints. In addition to this work programme the Committee continued to receive regular updates on decisions on of the First Tier Tribunal Local Government Standards in England.

Sub committees met on a number of occasions to consider allegations of breaches of the Code of Conduct. 1 such allegations related to a parish councillors, the other 2 related to district councillors. The allegation against the parish councillor resulted in no action being taken. One complaint against a district councillor resulted in a finding that the member concerned had breached the Council's Code of Conduct but no sanction being imposed. This decision is currently subject to an appeal to the First Tier Tribunal – Local Government Standards in England. The other allegation was passed for investigation but following a withdrawal of the complaint no further action was required.

Future Actions

Under transitional provisions the current Standards Committee will remain responsible for dealing with allegations of breaches of the Code of Conduct made before the new provisions take effect. Thereafter a new Standards Committee constituted under the Localism Act will take over.