

**EXTRAORDINARY STANDARDS COMMITTEE held at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN at 4.00 pm on 9 JANUARY 2012**

Present: - S Brady – Chairman (independent person).
R Whitlam (independent person)
Councillors C Cant, K Eden, M Lemon 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).

S19 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor C Clarke.

S20 STANDARDS AFTER THE LOCALISM ACT

At the last meeting the Committee had considered and made recommendations on various issues arising from the Localism Bill. The Bill received Royal Assent on 15 November 2011 when it was found that there were some significant differences between the Act and the Bill which meant the work that had been done by the Committee needed to be revisited.

The Act included a statutory duty on the part of all relevant authorities (which included town and parish councils) to promote and maintain high standards of conduct by its members and co-opted members and also imposed a requirement that in discharging that duty all relevant authorities must adopt a Code of Conduct. Town and parish councils could fulfil this duty by adopting a Code which has been adopted by the district council.

(i) Code of Conduct

The Code of Conduct was required to be consistent with the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The Committee considered the draft Code of Conduct that had been approved at the previous meeting to ensure that it was consistent with these principles and considered whether any amendments should be made to the Code.

RESOLVED that

- 1 the Committee confirms that the draft code of conduct approved by the Committee on 14 November 2011 is consistent with the Nolan Principles as set out below.

	Nolan Principle	Paragraph in code
1	Selflessness	3.1, 3.3.2, 3.3.8, 3.4

2	Integrity	3.1, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5, 3.3.6, 3.3.8, 3.4
3	Objectivity	3.1, 3.2, 3.3.2, 3.3.7
4	Accountability	3.2, 3.3.1, 3.3.5, 3.4,
5	Openness	3.2, 3.3.4, 3.3.6, 3.3.8
6	Honesty	3.3.3, 3.3.4, 3.3.6, 3.3.8, 3.4
7	Leadership	3.2, 3.3.1, 3.3.2 3.3.4 3.3.6 3.3.7

- 2 Para 3.3.7 be amended to include ‘bringing the office of councillor into disrepute’.

(ii) Register of interests

The Act required that the Code of Conduct to provide for the registration and declaration of pecuniary and non-pecuniary interests.

There were to be 3 types of interests

- i) Disclosable pecuniary (financial) interest – to be defined by statute but interests of spouses, civil partners and co habitees should also be included. Failure to register or disclose this would be an offence punishable by a fine of up to £5000 and the magistrate could on conviction disqualify a member from being a member of a council for up to 5 years.
- ii) Pecuniary interests) failure to register or declare could
- iii) Non-pecuniary interests) only be dealt with as a breach of the Code.

Prosecutions for a breach relating to a disclosable pecuniary interest could only be brought by the Director of Public Prosecutions. The Assistant Chief Executive – Legal thought it was unlikely that any such prosecutions would be authorised unless the breach was serious. The situation could arise that a member could be sanctioned by the Council for failing to register or declare a non-disclosable interest whereas a member who behaved improperly with regard to a disclosable interest could escape sanction if the DPP declined to authorise a prosecution.

Under the current Code of Conduct members were required to register their interests upon election and to notify the Monitoring Officer in writing of any change within 28 days of the change occurring. The new requirement was for registering only on election or appointment. The only requirement to update the register between elections/appointments was where a matter relating to a disclosable pecuniary interest arose at a meeting. The Committee considered it to be good practise to keep the register up to date, particularly as it was a public document.

The Act did not contain any requirement for members to declare the existence of disclosable pecuniary interests at a meeting, if such interests were on the member's register of interests. The Committee considered it to be better practice for any registered interest to be declared so the public were aware of the nature of the members' interests at the meeting.

The Act stated that members with a disclosable pecuniary interest could not take part in any discussion or vote. It did not require the member to leave the meeting but this provision could be included in the Council's standing orders. In relation to non disclosable interests the Council could decide on the practice that it wished to adopt at the meeting.

RESOLVED that in relation to interests members determine the following:-

1. Members should be required to register both disclosable and non-disclosable pecuniary interests under the Code.
2. Members should be required to register the interests that are set in the existing Code of Conduct.
3. The requirement to register interests (other than disclosable pecuniary interests) should not extend to the interests of the member's spouse, civil partner or co-habitee.
4. The register of interests should be required to be updated within 28 days from a change in circumstances.
5. Members should be required to declare at a meeting all interests, including disclosable pecuniary interests.
6. For disclosable pecuniary interests, the member should be required to leave the meeting for the consideration of the item.
7. For other interests currently considered prejudicial, the member concerned should be permitted to speak in relation to the item and then withdraw for the remainder of the item, in line with existing practise.

(iii) Publication of the Code of Conduct

The Act required relevant authorities to publish the adoption, revision or replacement of a Code of Conduct so that it was brought to the attention of residents. The register of interests was also to be published on line by the district council and by parish councils that had websites. The district council also had to publish on line the register of interests of the town and parish councils as well as having a copy available for inspection at the district council offices.

RESOLVED that the publication of the adoption of the Code of Conduct be advertised via the Council's website and within Uttlesford Life, if appropriate.

(iv) Appointment of a Standards Committee and Independent persons

The Act did not contain a power for authorities to appoint a Standards Committee. A Committee would need to be appointed under the Local Government Act 1972 and would be subject to the rules of political balance. The report set out the suggested amendments to the Constitution in relation to the Standards Committee that would be put in place once the Act came into effect.

The Act required the appointment of independent persons but in a different role. The district council was required to appoint at least 1 independent person whose views had to be taken into consideration before making a decision on an allegation of a breach of the Code of Conduct which it had investigated and on other standards related matters. The independent person could not be an employee, a member or a co-opted member of the district council nor someone who had held such a position within the 5 years prior to appointment. This therefore disqualified the current independent members from continuing in that role after the Act came into effect. Also the independent persons would not be able to vote and therefore could not act as Chairman of the Committee.

The Committee was concerned about this situation and felt it was unlikely that this was the intended effect of the legislation. The public perception of impartiality was served by independent persons being members of and chairing the Standards Committee. The loss of the existing independent members would mean the loss of valuable expertise and knowledge. This would be felt particularly if the independent person was required to act as an advisor.

Whilst it was understood that public bodies were often reconstituted and took on new members, this sudden change to the new system gave no time for forward planning and for new members to receive relevant training and gain experience.

The Chairman said that he would be making representations on this matter to the MP on behalf of the independent members. The committee members also wished to express their concerns to the Government

RESOLVED that the Committee make representations to the Secretary of State covering the following issues

- There should be a statutory power to appoint a Standards Committee
- The Standards Committee should not be bound by political balance.
- The Committee should be allowed to appoint voting independent members.
- There should be a power/duty to appoint an independent Chair.
- There should be a power to reappoint existing independent members.

In the event that there were no changes to the legislation the following was agreed

RESOLVED that:-

- 1 The suggested amendments to the constitution be approved for recommendation to Full Council.
- 2 The independent persons should be appointed as non-voting members of the Standards Committee and the views expressed by them should be recorded.

(v) Dispensations

The power to grant dispensations was to be expanded to include the following grounds

- i The number of members who may not take part because of the existence of a disclosable pecuniary interest is so great that the transaction of the business would be impeded.
- ii The political balance would be so upset as to be likely to affect the outcome
- iii A dispensation would be in the interests of residents of the district/town/parish.
- iv The whole executive is unable to take part because of disclosable pecuniary interests
- v The grant of a dispensation is “otherwise desirable”

The Act also gave the responsible authorities power to grant dispensations. Town and parish councils could grant their own dispensations and at district level the decision could be taken by the Standards Committee or could be delegated to officers.

RESOLVED that:-

- 1 the power to grant dispensations should be delegated to the Monitoring Officer.
- 2 town and parish councils be recommended to perform the function of granting dispensations by way of delegation to the District Council.
- 3 there should be a right of appeal to the Standards Committee against the decision of the Monitoring Officer for a refusal or limited dispensation (i.e. to speak or vote but not both)

(vi) Procedure for dealing with complaints

The report set out the revisions to the Constitution in relation to the procedure approved by the Committee for dealing with complaints, as these had been drawn up by reference to the Bill.

RESOLVED that members approve the revised procedures for recommendation to Full Council.

(vii) Arrangements for taking future decisions

It was reported that the timetable for implementing the new system had changed. The new regime would now be put in place on 1 July 2012. The Assistant Chief Executive would bring a further report, including the changes agreed at this meeting and any updates to the legislation to the next scheduled meeting on 12 March 2012.

S21

DISPENSATIONS

i) Elsenham Parish Council

A request for dispensation had been received from members of Elsenham parish council relating to their membership of Stop Stansted Expansion, to enable them to vote and speak on issues relating to Stansted Airport.

RESOLVED that Councillors Lees, Clarke, Woolvin, Pimblett, Pitcher, Clear, Edwards, Jackson, Lambert, Johnson and Franklin of Elsenham Parish Council be granted dispensation until the next ordinary election of councillors or until the Localism Act comes into effect.

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 Carter, Stanford, Gill, Couchman, Allan and Patmore of Clavering Parish Council be granted dispensation until the next ordinary election of councillors or until the Localism Act comes into effect.

The meeting ended at 6.00pm