

**STANDARDS SUB-COMMITTEE held at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN at 10.00 am on 18
SEPTEMBER 2012**

Present: Councillors K Eden,. R Lemon (District Council members).
Mrs G Butcher-Doulton and Mr A Brobyn (Independent
members).

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

SS1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor E Godwin.

Councillors Eden declared a non – pecuniary interest as a member of
the Planning Committee and Councillor Lemon a non – pecuniary
interest as a member of the Licensing Committee.

SS2 REVISION OF COUNCIL'S CODES OF PRACTICE

The Sub-Committee had been established to review the Codes of Good
Practise: Probity in Planning and Probity in Licensing. Changes were
required following the adoption of the Localism Act 2011 which made
significant changes to the standards regime, which meant that aspects
of the code no longer reflected the legislation or the new Code of
Conduct of the Council.

The Sub- Committee considered a report from the Assistant Chief
Executive – Legal which highlighted the most significant changes and
set out suggested amendments to the two codes.

Members' attention was particularly drawn to the provisions of section
25 of the Localism Act 2011. It was explained that previously decisions
made by local authorities which were based on bias or predetermination
had been open to legal challenge by judicial review. Section 25 of the
Localism Act 2011 had introduced a new provision which aimed to
protect councillors who might have been inhibited in championing a
particular cause or acting as spokesmen for constituents.

Section 25 provided that in determining the validity of a decision of the
council a member should not be taken to have had a closed mind 'just
because' they 'had previously done anything that directly or indirectly
indicated what view he/she took, or would take, in relation to a
decision'.

In considering the implications of this provision, the Sub-Committee was
advised that Section 25 only applied in relation to a judicial review and
would not prevent investigations of allegations of maladministration or

breaches of the Code of Conduct. It was also likely that there would continue to be challenges against the validity of decisions on the grounds of predetermination and this would be a drain on the authority. It was therefore recommended that the existing guidance regarding predetermination should remain the same.

Members asked whether the rules of predetermination caused problems for Members of the Planning Committee when representing their constituents on planning matters. The Assistant Chief Executive – Legal advised of the various options that were available for dealing with this situation.

The Sub-Committee then considered the proposed amendments. Apart from clarification on the S25 issue, the Code of Conduct: Probity in Planning made it clear that all members were bound by the code not just members of the Planning Committee and it advised that there was no longer a provision for an officer code of conduct. It also included the new provisions in relation to councillors' interests, the change to the name of the Committee and other typographical changes.

The Code of Practice for Licensing reflected changes in the law since the Act came in, in respect of who was regarded as an 'interested party' and to include 'Licensing' as a relevant body. It also reflected a recent court judgement that confirmed that only representations made within the statutory timetable could be considered.

RECOMMENDED to the Standards Committee that the amendment to the Codes of Practice: Probity in Planning and Probity in Licensing, as set out in the appendix below be approved.

The meeting ended at 11.00 am