

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON
ROAD SAFFRON WALDEN at 4.00 pm on 4 MARCH 2013**

Present: Councillor R M Lemon – Chairman.
Councillors C Cant, K Eden, E Godwin, J Loughlin,
J Menell (Uttlesford members).
Mrs G Butcher-Doulton, Mr A Brobyn and Mr V Lelliott
(Independent members)

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

S10 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest received.

S11 MINUTES

The minutes of the meeting held on 1 October 2012 were agreed and signed by the Chairman as a correct record.

S12 BUSINESS ARISING

i) Minute S7 – Revision to the Council’s Code of Practice.

The Assistant Chief Executive – Legal reported the following actions taken since the last meeting.

- The Council had adopted the amendment to the Codes of Practice: Probity in Planning and Probity in Licensing.
- The draft guidance on the Code of Conduct had been placed on the Council’s website and all parish clerks had been notified of this.
- In relation to the amendments to the Code of Conduct, the Head of Paid Services had delegated to the Monitoring Officer the power to grant dispensations under the regulations.

S13 REVISION OF PROTOCOLS

The Committee’s adopted work programme for the year 2012/13 had included a review of the Council’s protocols, procedures and guidance notes. A number of these documents had already been reviewed and the amendments had been adopted by the Council. Those remaining included

- Member Officer Protocol.
- Gifts and Hospitality guidance.
- Statutory Officer Protocol.
- Protocol in the use of Council supplied computer facilities by Members.

These documents had been adopted before the introduction of the new Code of Conduct, but although they had not been looked at for some time it appeared that the changes required were mainly editorial and it was therefore

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RESOLVED the Assistant Chief Executive – Legal to update the protocols and guidance set out above for the Committee to consider at its next meeting.

S14

OPERATION OF STANDARDS ARRANGEMENTS

The Committee received a report detailing the allegations of a breach of the code of conduct which had been received since the coming into force of the new procedures for dealing with complaints.

The new practise for the Monitoring Officer, in consultation with the Independent Member, to consider whether allegations should be investigated appeared to be working well. Since July 2012 there had been 3 complaints against district councillors and also some informal references. It was noted that there had been fewer referrals from parish councils.

The Assistant Chief Executive – Legal said that on a few occasions he had been asked to give an informal view on whether a breach of the code had occurred. Whilst he was able to offer procedural advice he could not comment in respect of the validity of the complaint. Members felt that, if in doubt, complainants should be advised to submit an allegation so it could be determined under the new procedures.

S15

CODE OF CONDUCT

The Committee was given details of Government correspondence with regard to the Council's code of conduct.

The Assistant Chief Executive – Legal explained the background to the Council adopting its latest code of conduct. The Localism Act 2011 had removed the requirement for the Government to prescribe a model code. The content of the code had not been stipulated as long as it took account of the register and disclosure of interests and the Nolan principals.

On this basis the Standards Committee had produced on a new code. This was similar to that drafted by the Public Law Partnership (comprising most authorities in Essex). Just before the Council was due to adopt its new Code, the LGA and the Government had suggested a different version. This had then been considered by the Standards Committee who had agreed with the view of an independent Government solicitor that it was too vague and incapable of enforcement. The Council then unanimously adopted its own code on 15 May 2012.

A letter had since been received from the Department of Communities and Local Government raising concern that the councils' code, like a number of other authorities, was too similar to that used before the Localism Act and did not have the lighter touch which had been expected following the new regulations.

The Assistant Chief Executive – Legal said that the council's new procedures were very much simpler than those imposed under the old regime and would prevent the consideration of petty complaints. He was not aware that other authorities were thinking of changing their adopted code.

It was the view of Members that adopted code met the needs of the council. The code was clearly understood, was familiar to members and was used by most other authorities in Essex.

The committee then considered a document relating to a debate in Westminster Hall where concerns had been expressed at how chapter 6 of the Localism Act was being interpreted. This was the Section 25 provision which aimed to protect councillors who might have been inhibited in championing a particular cause or acting as spokesmen for constituents because of what they had previously said or done. Decisions based on bias or predetermination could have been open to legal challenge by judicial review.

The Assistant Chief Executive – Legal said that the committee had already considered this provision, and he recommended no change to the existing advice in respect of predetermination. He explained that although the Act aimed to free up members it was not clear what this meant and the words used were ambiguous. Also, 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.

The committee discussed the Section 25 provision, particularly in relation to planning issues. Councillor Cant questioned whether it would be seen as pre-determination if a councillor voted on an application at Planning Committee, having previously opposed the allocation of the site in the local plan process. It was explained that the adoption of the local plan was a policy decision, and during that process there was no reason not to speak on behalf of constituents. Once the local plan was

adopted members would be obliged to determine the application in accordance with the adopted planning policies and the details of the actual planning application would be considered on its merits.

The committee concluded that the current Code of Conduct was working well. As no concerns had been raised there appeared to be no merit in employing additional resource to review the Code.

RESOLVED that no changes be made to the Council's Code of Conduct.

S16

DATE OF NEXT MEETING

The next meeting would be held at 4.00pm on Monday 17 June 2013.

The meeting ended at 4.55 pm