



Uttlesford District Council

Chief Executive: John Mitchell

Standards

Date: Monday, 06 July 2015
Time: 16:00
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors Keith Artus, Aisha Anjum, Heather Asker, Alan Dean, Neil Hargreaves, Janice Loughlin, Derek Jones, Tina Knight (c) Geoffrey Sell.

Other Attendees: Mrs G Butcher-Doulton, Mr D Pearl and Mrs C Wellingbrook-Doswell (Independent Persons)

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice.

AGENDA

PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest.
- 2.1 Minutes of the meeting on 9 March 2015 5 - 8
- 2.2 Minutes of the extraordinary meeting held on 26 March 9 - 14
- 2.3 Minutes of the extraordinary meeting held on 11 June 2015 15 - 24
- 3 Matters arising

4 Review of the Code of Conduct of UDC 2015

25 - 34

5 Any other items which the Chairman considers to be urgent

MEETINGS AND THE PUBLIC

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**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 4pm on 9 MARCH 2015**

Present: Councillor M Lemon (Chairman)
Councillors C Cant, K Eden, E Godwin, J Loughlin, J Parry and J Menell.
Mrs G Butcher-Doulton, Mr V Lelliott, Mr D Pearl and Mrs C Wellingbrook-Doswell.

Officers in attendance: M Perry (Assistant Chief Executive – Legal) and A Rees (Democratic and Electoral Services Officer).

SC20 APOLOGIES FOR ABSENCE

No apologies for absence were received.

Councillor Lemon welcomed Councillor Parry, Mr Pearl and Mrs Wellingbrook-Doswell to their first Committee meeting.

SC21 MINUTES OF PREVIOUS MEETINGS

The Chairman signed the minutes of the meetings on 13 October 2014 and 5 November 2014 as a correct record subject to the following amendments:

Minute SC13 – Correspondence from Debden Parish Council. The word *not* was removed from the sentence *The Parish Council accepted the committee's findings, and that Councillor Luck did not breach its code of conduct.*

The start time of the minutes for the meeting on 5 November 2014 was amended to be 2pm.

SC23 MATTERS ARISING

(i) Minute SC14 – Monitoring Officer' Conference on Standards

In response to a question by Mrs Butcher-Doulton, Councillor Lemon said he had not yet written to the Minister regarding legislation about sanctions.

Members agreed that writing to the Minister should be delayed until after the General Election in case there was a change of minister.

SC24 ANNUAL REPORT TO FULL COUNCIL

The Assistant Chief-Executive – Legal outlined the annual report. He said that following the publication of the agenda for the meeting, there had been eight further allegations made, bringing the total to thirty. Furthermore there were

now nineteen complaints against different councillors. The report would have to be amended to reflect the change in facts.

Responding to a question by Mr Lelliott, the Assistant Chief Executive - Legal said that if further allegations were made and when any pending investigations were concluded, he would amend the report accordingly. No allegations would be dealt with once the pre-election period started on 27 March 2015.

Members agreed the draft report should be presented to Full Council subject to any factual amendments that needed to be made.

RESOLVED that the draft Annual Report should be presented to Full Council subject to any factual amendments that needed to be made.

SC25 **TRAINING**

Members received a report on training for parish and district councillors following the elections on 7 May.

The Assistant Chief Executive – Legal explained the training would focus on the Code of Conduct. Currently the Council Chamber had been booked on 20 and 28 May to provide training sessions. If there were a number of new councillors from the southern wards and parishes he would explore the possibility of hiring Foakes Hall, Dunmow to provide a more convenient venue for them.

Mrs Butcher-Doulton suggested that members of the Committee should be invited along to the training sessions in order to promote the objectives of the Committee. Additionally, it would be beneficial to include information about the role of independent members of the Committee.

Members discussed the idea of Committee members attending training sessions and agreed that a few Members attending each training session would be beneficial.

Discussions moved onto the political balance of the Committee. The Assistant Chief Executive – Legal informed Members the Committee had to be appointed under the Local Government Act 1972 and therefore the Committee would be subject to the rules of political balance. However, the Council's constitution provided that unless any Member objected to the idea there should be an equal number of Members from each political group.

Councillor Cant noted that parish councils often failed to achieve their full quota of members after an election and subsequently had to co-opt members. The process of co-option took time and this meant that the co-opted members would miss the training sessions. An extra session should be organised to provide training for co-opted members.

It was agreed that an extra training session would be organised for September.

The Assistant Chief Executive – Legal said it would be worthwhile encouraging people to stand for election, instead of waiting until it was necessary to co-opt. Parish Councils that employed qualified clerks and had 2/3rd of their members declared as elected would qualify for the general power of competence.

The Assistant Chief Executive – Legal said it was not possible to make attendance at training sessions compulsory, however the previous Standards Committee has stated that in view of the amount of training offered councillors could not use their failure to attend a training session as mitigation if they breached the Code of Conduct.

RESOLVED that the training offered, as outlined in the report was adequate, subject to the following additions:

- The inclusion of information about the role of Independent Persons in the training presentation.
- An additional training session in September.

SC26

MONITORING OFFICER'S UPDATE

The Assistant Chief Executive – Legal, as Monitoring Officer, presented his report to the Committee. He said at the Committee meeting on 13 October 2014, he reported back on Monitoring Officer's Conference that he had attended. At the Conference the speakers had said it was unlikely a prosecution would be pursued for failing to declare a disclosable pecuniary interest. Shortly after the meeting charges were brought against a county councillor for failing to declare disclosable pecuniary interests while voting on a matter which related to those interests.

The Assistant Chief Executive – Legal said no reply had been received from Debden Parish Council following the Committee's meeting in October. The councillor who was the subject of the complaint had appealed to the Local Government Ombudsman. The Ombudsman had expressed a provisional view that the Council had dealt with the complaint properly. The final decision was expected shortly.

The Draft Protocol between Essex Police and local authorities had now been agreed by most councils, with the exceptions of the Council and the County Council. The Assistant Chief Executive – Legal said he still considered the governance arrangements to be problematic and the Protocol expected the Monitoring Officer to determine the seriousness of a complaint. He was of the view the Police should determine whether a matter should be investigated, not the Monitoring Officer.

Discussions moved onto Saffron Walden Town Council's decision to abandon the Council's code of conduct and adopt its own. The Assistant Chief Executive – Legal said the Town Council had been incorrectly advised by their clerk that they could not adopt the Council's code of conduct. He could find no evidence from the Town Council's minutes that work had been undertaken to ensure their new code of conduct complied with s.28(1) Localism Act 2011. If the Council's code of conduct was used, the Town Council could assume this statutory duty

had been met. Furthermore, by adopting a different code of conduct, the Town Council no longer had access to advice from the Council's legal department as they were not familiar with the Town Council's code.

In response to a question by Councillor Cant, the Assistant Chief Executive – Legal explained that complaints would still be dealt with by the Council, however complaints would be investigated using the code adopted by the Town Council. It was still up to the Committee as to whether any sanctions were imposed. If the subject of the complaint was not satisfied, the matter would be dealt with by the Chief Executive and following that the Local Government Ombudsman. The Ombudsman could not rule on the outcome of a hearing, only the process.

The report was noted.

SC27

ANY OTHER BUSINESS

Councillor Lemon thanked all the officers who had attended Committee meetings throughout the year. He noted this was the last ordinary meeting Councillors Cant, Godwin and Eden, as well as Mr Lelliott, would attend and thanked them for their work during their time on the Committee.

The meeting ended at 4.40pm.

EXTRAORDINARY STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 2.00 pm on 26 MARCH 2015

Present: Councillors R Lemon – Chairman
Councillors C Cant and J Loughlin
Mrs C Wellingbrook–Doswell (Independent Person)

Officers in attendance:- M Cox (Democratic Services Officer). C Olivia (Solicitor) and M Perry (Assistant Chief Executive – Legal and Monitoring Officer).

Also in attendance: Councillor Artus, Mr D Pearl (Independent person) - attending as an observer.

SC28 APOLOGIES AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

SC29 HEARING INTO AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT

The hearing had been called to determine an allegation that Councillor Keith Artus had breached the Code of Conduct of Hatfield Broad Oak Parish Council.

Councillor Artus and members of the committee confirmed that they had received the relevant papers –the report of the Monitoring Officer, the subsequent rebuttal of the findings by Councillor Artus and the Monitoring Officer's response to this submission.

The Monitoring Officer presented his report. He said that the allegations had arisen from a meeting of Hatfield Broad Oak Parish Council on 11 February 2015. As background to the complaints, he explained that there had been an ongoing project within the parish for the provision of a playing field and pavilion on land leased by the parish council. The proposals had been very controversial and there were conflicting views from within the village on how the project should progress. This had been the source of a number of previous code of conduct complaints.

The allegations were that

- (a) Cllr Artus frequently interfered in the conduct of the business of the meeting especially under items 5.2 and 6 on the agenda, shouting and refusing to take directions from the chair.

- (b) Cllr Artus bullied the parish clerk, under agenda item 10.2. It appeared that due to an administrative error the parish clerk had been underpaid. When discussing this issue Cllr Artus is alleged to have stated “is she worth it”.
- (c) Cllr Artus failed to declare a non-pecuniary interest in a charity discussed when the main trustee of the charity was living with Cllr Artus.

The Monitoring Officer had been made aware that a recording of this meeting was available, which normally used to assist the parish clerk in preparing the minutes. As all the allegations against Councillor Artus had concerned his conduct at this meeting, the Monitoring Officer had requested a copy of this recording. This was subsequently relied upon in the investigation. The recording was available for the committee to listen to at the meeting

Finding of facts – allegations (a) and (b)

The Monitoring Officer had found the following facts in respect of the investigation.

Agenda item 5.2

The debate, which concerned the village green, had centred on Councillor Artus questioning the authority of a councillor to write a letter on behalf of the parish council. He had not been given an answer so had repeated his question a number of times. Although he spoke forcefully he did not shout, and raised his voice only enough to be heard. He did not refuse to take directions from the chair because none were issued and he complied with the resolution to move to the next business.

Agenda Item 6

During the discussion on the vote of confidence in the Chairman, Councillor Artus had questioned the Chairman’s stance on the future progress of the village green development. The Chairman had declined to answer and other member had criticised Councillor Artus for asking this question. Cllr Artus quite rightly said he was entitled to ask the question to help him to decide how to vote. He did not shout or raise his voice, nor did he refuse to take direction from the chairman, as none was give. When the matter was put to the vote Councillor Artus abstained, all other members voted in favour.

Agenda item 10.2 – approval of payments

There was a short discussion around the approval of payments regarding an administrative error with the clerk’s pay. Councillor Artus

was not initially focused on the item but after he had asked for clarification he said 'yes ok'.

The Monitoring Officer concluded that Councillor Artus had said nothing reprehensible during the meeting and had not made the alleged remark during the discussion on agenda item 10.2. There was no evidence to support the allegations set out in (a) and b) above and he found that Councillor Artus had not breached the code of Conduct in this respect.

The committee would need to decide whether it concurred with the Monitoring officer's conclusion. Members of the Committee then listened to the 3 recorded extracts from the meeting.

Finding of Facts – allegation (c)

The third allegation was whether Councillor Artus had failed to declare an interest at the meeting in relation to discussions on the village green proposals. This concerned his relationship with a trustee of the Village Green Charity ("the Trustee") The Trustee was currently residing with councillor Artus, and in terms of the Code of Conduct he was regarded as having a close association with Councillor Artus.

The next question was whether the Charity was a related person under paragraph 7.5 of the code. The report explained that this included any body of a type described in para 6.1.2 'of which such persons are members or in a position of general control or management'. This definition included bodies directed toward charitable purposes and the village green charity fell within that definition. The reference to 'such persons' related back to para 7.1. As Councillor Artus had a close association with the Trustee who was a member of and/or in a position of general management and control of the charity, the charity was by virtue of para 7.5 of the code a related person to Cllr Artus for the purpose of declaring interests.

In his rebuttal Councillor Artus said that the Monitoring Officer's report had not produced the full paragraph 6.1.2 and had omitted the rider at the end of this section. He said that none of the paragraphs in 6.1.2 applied because he was not a member of or in a position of general control or management of the charity. The Monitoring Officer's further comments had stated that the fact that Councillor Artus was not involved with the charity was irrelevant.

The question of whether there was a pecuniary interest was covered by Paragraph 5 of the Code which provided that " [a member has] a pecuniary interest in any business of [his] authority where ... a decision relating to that business might reasonably be regarded as affecting ... the financial position of a related person to a greater extent than the majority of ... other council tax payers, ratepayers or inhabitants of the ward affected by the decision. The "business" of a parish council

included any of the functions of a parish council including the administration of land, the making of grants etc and the fact that the parish council held a lease of the Village Green and has made an offer to the Charity meant that this was covered under the code.

The next consideration was whether there was a pecuniary interest to declare at this meeting. The Monitoring Officer had concluded that the tape made it clear that the discussion at agenda item 5.2 did have the potential to impact upon the financial interest of the Charity as there was a discussion about whether a letter sent by the chairman of a committee withdrawing an offer to the charity had been authorised by the committee.

Councillor Artus had argued that he did not need to declare an interest, and his relationship with the Trustee was irrelevant, because at the meeting there had been no proposal, motion, vote or anything that would impact upon the council or public. The discussion had been in relation to an historical event and he understood that he was only required to make a declaration where appropriate. The Monitoring Officer's response had explained that the fact that there was no motion on the table was irrelevant. Para 8.1 of the code applied whenever a matter in respect of a pecuniary interest was being considered.

The report concluded that councillor Artus should have declared a pecuniary interest as provided for in para 9.3 as having an interest 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' He ought to have withdrawn from the meeting as per para 9.3.1 but as the debate was brought to an end he had no opportunity to do so.

The Monitoring Officer said that Councillor Artus had strongly held views about how the village green was being developed and the parishioners would be aware of these. In his rebuttal, Councillor Artus said his judgement in the public interest had not been impaired; in fact he had raised a considerable amount of money to provide the facility in the public interest.

In his rebuttal Councillor Artus had pointed out that the Monitoring Officer had incorrectly quoted the code and included typographical errors which changed the meaning of his report. These had been acknowledged by the Monitoring Officer and corrected but he said they did not affect the content or conclusions of the report.

The Monitoring Officer's report concluded that in respect of allegation (c) Councillor Artus had breached the code of conduct in that he had failed to declare a pecuniary interest.

Statement by Councillor Artus

Councillor Artus then addressed the committee.

He explained that the parish council operated in a dysfunctional way. It held secret committees, it was difficult to get answers to questions and there had been a recent decision not to distribute background papers. The village green continued to be a contentious issue. He had to put in an FOI request just to obtain information. He only had the public interest at heart and had raised significant funds for the playing fields and the sports pavilion that now looked as though it was not going ahead.

He reiterated the points made in his rebuttal of the Monitoring officer's report. He felt that the committee had been given incorrect advice and remained convinced that he did not have a pecuniary interest. The rider to para 6.1.2 had been omitted from the Monitoring officer's report. If this had been included it would be clear that none of the clauses applied because he was not a member or in a position of general control or management of the body.

He said that although the Trustee might be in a position of management he himself was not, so the charity was not a related person to him. The provision in para 5.2 did not apply as the charity did not affect his or the Trustee's financial position. The Trustee was an unpaid trustee of a non-profit charity.

The Monitoring Officer said that Cllr Artus was misconstruing the code of conduct and clause 6.1.2 couldn't be looked at in isolation. Councillor Cant clarified that the word 'you' in the sentence actually meant the 'the Trustee' and that the pecuniary interest arose from the position his friend held as a trustee of the charity. She said she was a trustee of a charity and realising that it was a pecuniary interest she would leave the meeting when the item was discussed. If it had been her husband who was the trustee she would also leave, as she would expect to do the same if it was a friend. Councillor Artus said she was confusing the definitions of 'related' and 'relevant' person.

Councillor Artus accepted that the Trustee was a friend, and if he had been accused of not declaring a non-pecuniary interest because of this friendship he would have accepted this. However, he would not accept the argument that he had a pecuniary interest.

He said that the Code was badly drafted and not fit for purpose as it appeared powerless against the behaviour of the parish council. It should reflect the ideals of the Localism Act

Cllr Loughlin said Full Council had agreed the code of conduct and all members had signed up to it. The Monitoring Officer said that the code was identical to the code previous to the Localism Act and all clauses had been checked to ensure they complied with the standards in public life.

Decision

Councillor Artus and the Monitoring Officer left the room and returned when the committee announced its decision, as follows

- 1 The facts of the complaints relating to the behaviour of Councillor Artus are agreed as set out in the Monitoring Officer's report and reinforced by the recordings listened to by the committee. The Committee wish to associate themselves with the comments made by the Monitoring Officer on the measured and appropriate responses of Councillor Artus at the parish council meeting. Therefore Councillor Artus has not breached the Code of Conduct in respect of the complaints set out in paragraphs 2 a) and b) of the report.
- 2 The Committee's understanding of the Code of Conduct concurs with the explanation given by the Monitoring officer in his report. Councillor Artus is incorrect in his interpretation of the Code of Conduct and he should have declared a pecuniary interest at the parish council meeting. Therefore Councillor Artus has breached the code of conduct in respect of the complaint set out in paragraph 2 c) of the report.

Sanction

The Solicitor reported that during their deliberations the committee had asked whether she agreed with the Monitoring Officer's reading of the code, and she replied that she did.

In respect of an appropriate sanction the Monitoring Officer said that a previous breach of the code in 2010 was not relevant to this case and should not be taken into account.

Councillor Artus said the Committee had been incorrectly advised and had made a fundamental error in determining on the bases that the village green charity was a related person. He said twice that if a sanction were imposed he would make a formal complaint that the Committee had been misled by the Monitoring Officer and the Solicitor. The Monitoring Officer and Councillor Artus left the room. The committee returned and announced the following sanction

Councillor Artus should undertake training on the Code of Conduct before 1 June 2015. There would be opportunity to do this as part of the new member induction and he would be advised of the dates in due course.

The meeting ended at 4.30pm

EXTRAORDINARY STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 10am on 11 JUNE 2015

Present: Councillor J Loughlin – Chairman
Councillors D Jones and N Hargreaves
Mr D Pearl (Independent Person)

Officers in attendance: J Brucher (ICT Officer), R Dobson (Principal Democratic Services Officer), C Oliva (Solicitor) and M Perry (Assistant Chief Executive – Legal and Monitoring Officer).

SC1 ELECTION OF CHAIRMAN FOR THE MEETING

Councillor Loughlin was elected chairman for the meeting.

SC2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence.

Councillors Hargreaves and Jones declared a non-pecuniary interest in that Councillor Watson had been a member of each of their respective political groups, and in the case of Councillor Jones, was known personally to him.

SC3 CHAIRMAN'S ANNOUNCEMENT

At the request of the Chairman, since this was the first meeting of the Committee following the recent elections to the Council, all those present introduced themselves.

Mr Pearl explained his role as the Independent Person.

SC4 REPORT INTO AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT

The hearing had been called to determine an allegation that Councillor David Watson had breached the Code of Conduct of Saffron Walden Town Council.

Councillor Jones said he wished to ask questions about aspects of the report with which he was dissatisfied.

The Chairman asked that the Committee first consider the Monitoring Officer's report.

Report of the Monitoring Officer

The Monitoring Officer referred members to his report, which he said set out in two parts the complaint made by the locum town clerk to Saffron Walden town council. The Monitoring Officer, for the reasons set out in the report, had found that Councillor David Watson of Saffron Walden town council had breached the code of conduct of that council by failing to treat the locum town clerk with respect in breach of paragraph 1 of the town council's code of conduct. Members were asked to determine whether to accept the findings of the Monitoring Officer and what sanction (if any) to impose if those findings were so accepted. Members were referred to additional papers received the previous day from Councillor David Watson, which had been presented to them before the meeting so that these could be considered in addition to the papers supplied with the agenda.

In addition to the comments now received from Councillor Watson, the Monitoring Officer referred members to the summary in his report regarding the circumstances leading to the complaint. He outlined these circumstances briefly, as follows.

The report referred to the meeting of the Town Council's Property, Services, Personnel and Finance Committee on 12 January 2015, at which discussion had taken place on hire rates for lettings of rooms at the Town Hall. The locum town clerk had noted that income had been reduced due to discounted hire rates. The locum town clerk had been reported as having used the term "mates' rates" regarding the previous finance officer's approach to some lettings. Councillor Watson had allegedly responded that the application of the lower, non-commercial, rate to certain hirers which should have been subject to the commercial rate, was untrue and that the clerk was "making things up". The clerk had then sent an email to members, which contained no commentary, but which attached two emails from hirers complaining about rates increases notified to them. Councillor Watson had subsequently replied to all recipients of that email stating that it was distressing when one group was favoured over another, and stating the locum town clerk was making allegations about the previous finance officer.

The Monitoring Officer referred to the findings of fact not in dispute as set out in his report; to the findings in dispute and to the findings of fact. In particular he drew attention to the finding that Councillor Watson was bound by the code of conduct of Saffron Walden town council which had been adopted on 11 December 2014, despite the fact that there was no evidence that the town council had complied with its statutory duty under s. 28(1) of the Localism Act 2011 to secure that its code of conduct when viewed as a whole was consistent with the principles laid out in that sub-section.

The Monitoring Officer said under the new standards regime investigations in relation to breaches of the code of conduct of parish

councils should not be disproportionately time-consuming, and consequently such investigations were not conducted. He explained the sanctions under the new regime, which were essentially to censure the member; to seek an apology from the member; or to take no action. The Monitoring Officer advised that given the limited range of sanctions available, the investigation needed to be proportionate.

In the interests of conducting a proportionate investigation, the Monitoring Officer had therefore sent a questionnaire to all those present at the meeting of the town council's finance committee on 12 January 2015. From the responses to those questionnaires, the Committee would see that the majority thought Councillor Watson had been disrespectful to the locum town clerk at that meeting. There had been some question as to whether the remarks had been during the public or private part of the meeting, and the minutes were silent in that regard. There had been a part two discussion, and as nothing about the exchange was recorded in the minutes, the Monitoring Officer had found that the exchange had taken place in private.

The Monitoring Officer referred members to the two emails appended to the locum town clerk's email. Councillor Watson had then sent an email to the locum town clerk, copying in other councillors.

The Monitoring Officer's report stated he had found that Councillor Watson of Saffron Walden town council had breached the code of conduct of that council by failing to treat the locum town clerk with respect, in breach of paragraph 1 of the town council's code. That provision stated that "you must treat others with respect". In October 2012 Uttlesford District Council had issued guidance with regard to the code of conduct, in order to enable councillors (whether district, parish or town councillors) to understand the approach taken by the Standards Committee in dealing with allegations of a breach of the code of conduct. Paragraph 1 of that guidance stated "ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers who do not have a right of reply." The Monitoring Officer had found that whilst it would have been legitimate for Councillor Watson to question what evidence the locum town clerk had to support his statement that council charging rates had not been correctly applied, he had found that in accusing the town clerk of making statements which were "downright untrue" and "of making things up", Councillor Watson had crossed the line of what was acceptable and called into question, unjustly, the integrity of the locum town clerk.

The Monitoring Officer had also found that in his email of 14 January 2015, Councillor Watson had accused the locum town clerk of making "unfounded allegations" of a very serious nature. However, the town clerk's allegations had not been unfounded, but were based on evidence in the case of at least two hirers. The Monitoring Officer had

therefore found there was no basis upon which Councillor Watson could have accused the locum town clerk of making “unfounded allegations”.

The Monitoring Officer had therefore found that Councillor Watson of Saffron Walden town council had breached the code of conduct of that council by failing to treat the locum town clerk with respect, in breach of paragraph 1 of the town council’s code.

Questions to the Monitoring Officer

Members then asked various questions. Councillor Jones asked whether the emails sent by the former town clerk were evidence.

The Monitoring Officer said the attached emails, which were from two organisations which had hired rooms from the town council, explained why he had reached his conclusions. With regard to the hirings by the teacher of a yoga class, it might be that because the yoga class was a very small venture it was not being charged a commercial rate; with regard to the other hirer, however, this arrangement definitely fell into the commercial rate category, as the booking was for a nationally famous comedian, and 20% of the fee was profit. The Monitoring Officer said whatever version of charging was referred to, it was not possible to reconcile the charge rates being applied with the schedule of the rates provided to the town council. It was clear it was not the council’s policy as evidenced by the minutes of the council’s committee meetings. The Monitoring Officer said he had therefore reached the conclusion that there was evidence there were some organisations being charged a lower rate. For Councillor Watson to have accused the clerk without having satisfied himself as to what the hire charges were amounted to disrespect.

Councillor Hargreaves asked whether it had been established whether the phrase “mates’ rates” had been used.

The Monitoring Officer said it was not part of the complaint as to whether this phrase had been used. The complaint related to the accusation against the finance officer of malpractice.

Councillor Hargreaves said this was a serious allegation, and surely that is what prompted Councillor Watson to stand up. There was obviously confusion surrounding the rates. Was there any evidence of collusion?

The Monitoring Officer said the investigation was not investigating whether there was any collusion, but related to the complaint about Councillor Watson.

Councillor Jones expressed concern that the document regarding the complaint was undated and unsigned.

The Monitoring Officer said he had received that document from the email address townclerk@saffronwalden.gov.uk and with no name given. The complaint document had been attached, alleging that Councillor Watson had failed to treat the locum town clerk with respect. The Monitoring Officer had replied asking who the email was from. The complainant had then responded stating his name, but seeking to remain anonymous pending a decision as to whether an investigation would take place.

Councillor Jones asked what would be the significance as to whether the meeting had been in private or public at the point when the comments which were the subject of the complaint were alleged to have taken place. The Monitoring Officer said in terms of whether the comments had taken place there was no significance, but in terms of the severity of the complaint if upheld, a great deal of significance.

The Monitoring Officer left the meeting briefly in order to obtain for members copies of the email dated 26 January 2015 which he had sent to the complainant seeking confirmation of the complainant's name, and seeking his justification for wishing to remain anonymous.

The Monitoring Officer then invited members to consider whether they found a breach or no breach of the code of conduct in respect of whether the debate concerning the hall hire rates took place in public or private session, and whether the words used by Councillor Watson in his challenge to the locum town clerk amounted to treating him with disrespect. It was open to members to find a breach or no breach in respect of either or both of these points of dispute.

The chairman asked whether the Saffron Walden town council's code of conduct was similar to that of the district council.

The Monitoring Officer said the code had been changed at the request of the locum town clerk, and differed in that it omitted reference to the protocols.

Mr Pearl said the principle that members should treat others with respect was the same in both codes.

Members felt they should have been supplied with a copy of the code of conduct.

The Chairman said in relation to whether the breach had taken place in private or in public that there was no formal movement to go to part two, because no member of public had been present. There was a great deal that was unclear, however and she was not sure that a fair process had been followed.

The Monitoring Officer said he hoped he could answer any direct questions that members might have.

Councillor Jones asked why if there had been seven councillors present at the meeting there were only four statements in response to the questionnaire.

The Monitoring Officer said the questionnaire had been sent to all, but only four had responded.

Councillor Jones questioned the format of the questionnaire, and why those to whom it had been sent had not been asked simply to make a statement.

The Monitoring Officer said he had needed the responses to be targeted; this was one of the reasons why it was not proportionate for him to conduct an investigation. There would always be differences in recollection, so it was important for him to target the subject matter of the complaint by way of questions, to enable a conclusion to be drawn about whether there had been a breach of the code.

Councillor Jones said the locum town clerk when attending the finance committee meeting to address the issues of the different hire rates, should have taken his evidence with him. However he had not had his evidence at the meeting but had circulated it the next day. It was this action to which Councillor Watson had reacted. He accepted there was something not right with the charge rates, but perception was a key issue. The evidence which was the foundation for the statement was only circulated after the meeting, so Councillor Watson's response was tempered by what he heard.

The Monitoring Officer said had Councillor Watson asked the locum town clerk for evidence rather than reacting, the question of a breach of the code might not have arisen.

The Chairman said members had to consider whether Councillor Watson had breached the code of conduct through failing to treat the locum town clerk with respect.

Councillor Jones said the response that had been elicited might have been very different had the locum town clerk presented the evidence at the same time he made his statement.

The Chairman said whilst this might be true, the Committee was here to see if Councillor Watson had behaved with respect toward the locum town clerk.

Councillor Hargreaves said the phrase "mates' rates" was a very serious accusation, and the severity of that accusation could trigger a correspondingly vehement response.

The Chairman said if all members present at the committee meeting had responded to the survey which the Monitoring Officer had sent, this would have demonstrated all members' concern.

Members considered responses to the questionnaire in detail. Councillor Jones referred to question 4, and asked why the wording "downright untrue" and "making things up" was stated there.

The Monitoring Officer said this wording was how the locum town clerk had subsequently stated he recollected Councillor Watson's accusation; he had not had Councillor Watson's comments at the time he had prepared his report.

Councillor Jones said he was concerned at some of the responses, as there were different gradations of views. He had himself witnessed Councillor Watson's contribution to meetings, and he was sometimes fairly uncompromising when making a point. Councillor Jones referred to various responses to the survey and said he had the impression that some of the replies only came about by virtue of the construction of the questionnaire.

Councillor Hargreaves said some of the questions were what in a court of law would be termed leading questions.

Councillor Jones said the responses indicated to him that what was occurring at the committee meeting in question had been "robust debate" which was quite often the case in committee meetings.

Councillor Hargreaves said there was lack of solid evidence as to what was actually said. Members would never really find out if there was sufficient information to uphold a complaint.

The Chairman invited the independent person to speak. The Monitoring Officer reminded members they were obliged to take into account the view of the independent person.

View of the independent person

Mr Pearl said he had not been involved in the discussions which the Monitoring Officer had had with the other independent person. He returned to the code of conduct which seemed exactly the same as this council's code, with regard to treating others with respect. Members at this meeting today had to decide on the basis of limited evidence which was not comprehensive for the reason that the Monitoring Officer had said: the investigation must be proportionate. The investigation which had been carried out was appropriate to the circumstances, which were not a criminal context. Members had to form a view on the evidence. Members had seen the Monitoring Officer's view which had been formed on the balance of probabilities that there was sufficient evidence

that Councillor Watson had treated the locum town clerk in a way which was not with respect. Three of the four responses to the questionnaire had taken the view there was a lack of respect. The question was whether, on the balance of probabilities, there had been a lack of respect. Mr Pearl said, if he were asked, given that three of the four replies had confirmed there was a lack of respect, that he would support the Monitoring Officer's conclusion.

The Chairman said this view reflected her own thinking.

Mr Pearl said the response of the chairman at the committee meeting in question was the one which swayed him.

Further comments by members

Councillor Jones said he was in doubt in his mind as to whether or not there was a lack of respect in a situation where there was robust argument, and where participants could have a personal interpretation. In the words of the Chairman of the finance committee meeting, it had been a difficult meeting to chair. He had also confirmed that the meeting had been in part two at the time. Councillor Jones referred in further detail to the responses of the chairman to the questionnaire. He said whilst the response referred to Councillor Watson having been intimidating and rude, he found it difficult to judge. He could accept both those assertions but questioned whether that meant the behaviour was disrespectful. He had heard plenty of things said which could have been interpreted in that way, depending on the subjective response of the target. The locum town clerk had 40 years' experience in local government, and must have on many occasions been challenged. There was a reference later to whistle blowing.

The Monitoring Officer reminded members there was a difference between the codes of conduct of the town council and the district council, as the town council's adopted code omitted the protocols.

The Chairman said there were references in the responses to the questionnaire to Councillor Watson having to be warned about his conduct.

Councillor Hargreaves said whilst the chairman at the meeting had said Councillor Watson's behaviour was "bordering on threatening, rude and intimidating", although invited to say so, the chairman did not say it was disrespectful.

The Chairman noted there was a reference to the next meeting of the town council at which Councillor Watson was voted down on a number of issues. She personally did not believe he behaved well, as whilst discussion in council or committee meetings could become heated, there was a difference if it was disrespectful.

Councillor Jones said there had been a robust exchange between the locum town clerk and Councillor Watson. He did not think it was disrespectful, and that one party took affront.

The Chairman said the meeting needed to reach a conclusion and asked both members if they had had a fair say.

Councillor Jones agreed. Councillor Hargreaves said in his view there was not enough information to come to a conclusion; the matter had a long history and it had been a difficult meeting. There was not enough evidence for disrespect, and it seemed 50-50.

The Chairman said from her experience on the Licensing and Environmental Health Committee, written evidence was acceptable at a hearing.

The Monitoring Officer said any evidence was admissible before a Standards Committee, and such evidence was usually accepted in a court.

Decision

Members considered the two allegations of breach of the code of conduct, of failing to treat the town clerk with respect at the meeting on 12 January 2015, and of failing to treat the locum town clerk with respect in the subsequent email of 14 January 2015.

Members resolved that there was no breach in relation to either allegation.

The Monitoring Officer advised the committee would need to give reasons if its conclusion varied from the conclusion in the report.

Reasons for departing from the finding in the Monitoring Officer's report

Members stated that statements to the effect that the locum town clerk was making untrue statements and unfounded allegations was not a reference to the fact that incorrect charging rates were being applied but were a rebuttal of the statement that the former finance officer was charging "mates rates" by colluding with hirers. Members considered that there was no evidence to support that allegation by the locum town clerk and accordingly Cllr Watson was entitled to make the statements he did. In doing so he did not treat the locum town clerk disrespectfully.

The meeting ended at 12 noon.

Committee: STANDARDS

Agenda Item

Date: 6 July 2015

4

**Title: REVIEW OF THE CODE OF CONDUCT OF
UTTLESFORD DISTRICT COUNCIL**

**Author: Michael Perry, Assistant Chief Executive
Legal, 01799 510416**

Item for decision

Summary

1. This report is to ask members whether they wish to carry out a review of the council's Code of Conduct.

Recommendations

2. Members determine
 - a. Whether or not to carry out a review
 - b. If so, how the review should be carried out

Financial Implications

3. None arising from this report.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	The majority of parish and town councils in the district have adopted the Uttlesford Code of Conduct. If members wish to suggest to parish and town councils that they should adopt any new code adopted by Uttlesford, then it may be appropriate to consult and engage with them in advance of any recommendations being made to Full Council.
Community Safety	None.
Equalities	None.
Health and Safety	None.

Human Rights/Legal Implications	Any decision to review the Code of Conduct must be taken by Full Council.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. The Local Government Act 2000 imposed a requirement on all councils to adopt a Code of Conduct. The Act empowered the government to prescribe a Model Code of Conduct by way of statutory instrument. Two such instruments were issued. The Model Code was a minimum requirement. Councils were permitted to add to the Model Code but were not permitted to delete any items. The last Model Code of Conduct was issued in 2007.
7. Amongst the Conservative party's manifesto commitments in 2010 was the abolition of the Standards for England and a streamlined standards regime. The Localism Bill was introduced in Parliament in 2010. As initially drafted it granted a power to local authorities to adopt the Code of Conduct but did not impose a duty to do so. The requirement under the 2000 Act to appoint a Standards Committee was also to be abolished although council would retain a power to appoint a Standards Committee under the Local Government Act 1972. The Constitution Working Group recommended to Full Council that it should adopt a Code of Conduct and that it should retain a Standards Committee with independent members. The Standards Committee was charged with the task of preparing a draft Code of Conduct for consideration.
8. Between 2011 and 2012 the Standards Committee began work on a draft Code of Conduct. This was drawn largely from the 2007 Model Code with only necessary amendments being incorporated. This was consistent with generic advice given to local authorities by leading local government lawyers that whilst the standards regime under the 2000 Act may have been unwieldy nevertheless the Code of Conduct was fit for purpose. Concurrently with this work the Public Law Partnership (then comprising all local authority Legal Services departments within the county of Essex plus Suffolk County Council subsequently expanded to include Hertfordshire County Council and a number of Hertfordshire district councils) was working on a draft Code. This again was based largely on the 2007 Model Code. The differences between the Code finally adopted by the Public Law Partnership and the Uttlesford Code are minimal.
9. Very late in the passage of the bill through Parliament, the government bowed to pressure to impose a statutory duty on local authorities to adopt a Code of Conduct. The government did not retain power to impose a Model Code and the only requirements for the Code of Conduct were that:-

- a) taken as a whole it should be compliant with the principles set out in s.28(1) of the Act namely selflessness; integrity; objectivity; accountability; openness; honesty and leadership and
 - b) The Code includes provision which the authority considers appropriate in respect of the registration and disclosure of pecuniary interests and interests which are not pecuniary.
10. At that stage, there was no guidance as to what a Code of Conduct should have contained outside of the statutory requirements. The Localism Bill received royal assent on the 15 November 2011. Members of the Standards Committee revisited the Code of Conduct in the light of the amendments to the Bill and satisfied itself that read as a whole the Code did comply with the s.28(1) principles and did make adequate provision for registration and declaration of interests. In advance of any commencement order, the government announced that it intended that the provisions of the Localism Act 2011 relating to standards would come into effect on the 1 July. In the light of that on the 12 March 2012 the committee resolved to recommend to Full Council that it should adopt the Code of Conduct drawn up by the committee with effect from the 1 July 2012 or such other date as may be appointed by the Secretary of State for the provisions of s.27 Localism Act 2011 to come into force.
11. The recommendation was to be considered by Full Council at its meeting on the 17 April 2012. However, despite the fact that the government and the Local Government Association has indicated that no guidance would be forthcoming on the 11 April 2012 the Department of Communities and Local Government issued an “illustrative text” for a Code of Conduct and the Local Government Association also issued a template Code of Conduct. Full Council therefore deferred its consideration of the Standards Committee’s recommendations to allow time for the Standards Committee to consider these documents.
12. For members’ information, the government issued text and the LGA template are attached. Members of the Standards Committee considered these documents were too discursive and felt that a Code of Conduct should be precise. The Standards Committee considered that the draft Code as recommended by the Committee had the advantage of certainty and it was already familiar to members being based largely upon the previous statutory Code. It therefore re-enforced the recommendation to Full Council which adopted the Code unanimously at its meeting on the 15 May 2012. The Code of Conduct has not been amended since.

Risk Analysis

13. There are no risks attached to this report.

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.

- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.



Bob Neill MP
Parliamentary Under Secretary of State

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11 April 2012

Dear Colleague,

I am writing to let you know that my Department is today making available an illustrative text for a code of conduct for members and co-opted members of local authorities. This text provides local authorities with an example of what a local authority's code of conduct for the new standards arrangements might look like.

We have made provision in the Localism Act 2011 for the abolition of the Standards Board regime, and the Standards Board itself was abolished on 31 March. The Act also makes provision for new standards arrangements including the involvement of an independent person in allegations of misconduct, a new criminal offence for failing to declare or register interests, and the requirement for local authorities to adopt a code of conduct that is consistent with the seven 'Nolan' principles of standards in public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as making provision for the registration and disclosure of pecuniary and non-pecuniary interests.

The model code of conduct was a key part of the Standards Board regime, a top-down, centrally imposed regime that became a vehicle for vexatious complaints. Moving to new arrangements means that local authorities will be free to discard the model code and adopt their own, Nolan compliant, code. In order to give local authorities an idea of what a Nolan compliant model code featuring provisions about pecuniary and not pecuniary interests might look like, I am attaching an example. As you will see, it is very different to the model code that formed part of the Standards Board regime, while clearly requiring that members act in a manner that promotes and maintains high standards of conduct.

Together, these measures will ensure high standards in public life, prevent corruption, and put a stop to petty, vexatious complaints that consume local authority resources and damage the reputation of local government.

We have produced this example of a local code to provide certainty to local authorities who wish to adopt a lighter touch code compared to the centralist, top-down model code, and to help local authorities (especially parish councils) who might otherwise consider they need to commit valuable resource to creating a code to ensure compliance with the Localism Act. I hope you find the example code of conduct helpful.

A handwritten signature in blue ink, appearing to read "Bob Neill", written over a light blue circular watermark.

BOB NEILL MP

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.