



# Uttlesford District Council

Chief Executive: Dawn French

## Standards

**Date:** Monday, 21 March 2016  
**Time:** 16:00  
**Venue:** Committee Room  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors K Artus, A Anjum, H Asker, N Hargreaves, J Loughlin, D Jones, T Knight, E Parr and G Sell and Mrs G Butcher-Doulton, D Pearl and Mrs C Wellingbrook-Doswell (Independent Persons).

## AGENDA PART 1

### Open to Public and Press

- 1 Apologies for absence and declarations of interest
- 2 Minutes of the meeting on 6 July 2016. 3 - 8
- 3 Matters arising
- 4 To consider the Report of the Standards Task Group. 9 - 10
- 5 Budget for Investigations. 11 - 14
- 6 Role of Members of the Standards Committee whilst they are subject to complaints. 15 - 18
- 7 Any other items which the Chairman considers to be urgent

## **MEETINGS AND THE PUBLIC**

Members of the public are welcome to attend any of the Council's Cabinet or Committee meetings and listen to the debate. All agendas, reports and minutes can be viewed on the Council's website [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk). For background papers in relation to this meeting please contact [committee@uttlesford.gov.uk](mailto:committee@uttlesford.gov.uk) or phone 01799 510430/433

Members of the public and representatives of parish and town councils are permitted to speak or ask questions at any of these meetings. You will need to register with the Democratic Services Officer by midday two working days before the meeting.

The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

### **Facilities for people with disabilities**

The Council Offices has facilities for wheelchair users, including lifts and toilets. The Council Chamber has an induction loop so that those who have hearing difficulties can hear the debate.

If you are deaf or have impaired hearing and would like a signer available at a meeting, please contact [committee@uttlesford.gov.uk](mailto:committee@uttlesford.gov.uk) or phone 01799 510430/433 as soon as possible prior to the meeting.

### **Fire/emergency evacuation procedure**

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest designated fire exit. You will be directed to the nearest exit by a designated officer. It is vital you follow their instructions.

**For information about this meeting please contact Democratic Services**

Telephone: 01799 510433, 510369 or 510548

Email: [Committee@uttlesford.gov.uk](mailto:Committee@uttlesford.gov.uk)

**General Enquiries**

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: [uconnect@uttlesford.gov.uk](mailto:uconnect@uttlesford.gov.uk)

Website: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON  
ROAD SAFFRON WALDEN at 4pm on 6 JULY 2015**

Present: Councillor T Knight – Chairman  
Councillors K Artus, H Asker, A Dean and N Hargreaves  
Georgina Butcher-Doulton, David Pearl and Catherine  
Wellingbrook-Doswell (Independent Persons).

Officers in attendance: M Perry ((Assistant Chief Executive – Legal and  
Monitoring Officer) and R Dobson (Principal Democratic  
Services Officer).

**SC5 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors Loughlin, Jones  
and Sell.

*Councillors Artus and Knight declared non-pecuniary interests as  
having appeared as subject members before the Committee.*

**SC6 MINUTES**

The minutes of the meetings held on 9 March, 26 March and 11 June  
2015 were received and signed by the Chairman as a correct record.

**SC7 MATTERS ARISING**

**(i) Minute SC23 – Monitoring Officers’ conference on  
standards**

The Chairman observed it had been the intention of the previous  
Committee to write to the Minister regarding legislation about  
sanctions. However this action had been deferred until after  
new ministerial appointments had been made following the  
General Election.

The Monitoring Officer said the context in which members had  
intended to write to the Minister was to ask for sanctions under  
the standards regime.

The Chairman said members would further consider what points  
to raise. The Monitoring Officer said it would be better to write  
sooner rather than later, given this was a new administration.

Members agreed a letter would be sent on behalf of the new Committee once they had discussed the points they wished to put to the Minister.

(ii) **Minute SC24 – annual report to Council**

The Monitoring Officer said, in response to a request for confirmation of this point, that there had been no factual amendments to the report which had been submitted to the council.

(iii) **Minute SC25 – training for parish and district councillors**

Councillor Knight said the proposed letter to the Minister should refer to the issue of co-option to parish councils, which opened the way for people to co-opt those who were their friends. It should also be compulsory for parish or district councillors to attend a training session.

Mrs Wellingbrook-Doswell asked why it was not possible to make such training compulsory.

The Monitoring Officer said the requirement to sign an undertaking to observe the code of conduct had been abolished, so although councillors were obliged to abide by their council's rules, they did not have to formally sign up to a code of conduct. Their mandate was not from the council but from the electorate, so if a councillor chose not to attend code of conduct training, there was no sanction. The situation differed from requirements laid on members of for example planning or licensing committees, where a sanction for not attending training would be suspension by the group leader.

Councillor Dean said on the question of training generally, members of the Standards Committee would find training useful.

The Monitoring Officer said members could suggest specific training topics.

David Pearl suggested training on assessment of evidence.

The Principal Democratic Services Officer said information was shortly to be made available about a series of councillor workbooks provided by the Local Government Association for members. These were accessible on its website.

Regarding the code of conduct of the various town and parish councils, members asked how many had adopted the code of conduct of the district council. The Monitoring Officer said 49 of the 53 parish councils had adopted the council's code of

conduct; two had not informed him what they had done but were using the council's declaration of interests forms, implying they were using the council's code; one was not using the UDC Code and he had had no information from one.

(iv) **Minute SC29 – hearing into an allegation of a breach of the code of conduct**

Councillor Knight asked whether there was any redress for members who were the subject of untrue allegations.

The Monitoring Officer said there was no redress for untrue allegations, and each complaint had to be treated on its merits.

Councillor Hargreaves asked what publicity was given to the outcomes of hearings where allegations were not upheld.

The Monitoring Officer said there were two different stages: if a complaint was not passed for investigation, then it did not enter the public domain; where a complaint was passed for investigation but there was a finding of no breach, then the subject member chose whether the finding was published. Councillor Artus said if no breach was found, the name of the complainant should be published. Councillor Asker said the minutes should reflect the name of the complainant in those cases. The Monitoring Officer said he would look into the implications of this suggestion and would report back to members. In reply to a suggestion from Councillor Artus that a notice be sent to the relevant parish council after the hearing, the Monitoring Officer said it was his practice to submit his report on the outcome of a hearing to the parish clerk with a request that it go to a meeting of full council.

Councillor Artus said he had personally felt there were differences in how a code of conduct could be interpreted. Where there were questions of differences of interpretation then the Standards Committee should be able to take independent legal advice.

Mr Pearl said this was the role of the independent persons, to provide such independent advice or interpretation.

The Monitoring Officer said the procurement of external legal advice was subject to budgetary constraints. It would be wrong for the council to pay for a member to have independent legal advice.

Mrs Wellingbrook-Doswell said the committee should not discuss the individual cases of members of the committee. She agreed there was a need to have a clear set of interpretations.

Councillor Knight agreed it was important to avoid ambiguity, and that individual cases should not be discussed.

Mrs Butcher-Doulton said the provision of independent legal advice would be expensive, and it made sense to use the independent persons in considering interpretation of the code of conduct.

Councillor Knight said advice could be obtained from a solicitor. The Monitoring Officer said no budget for such a measure existed.

Councillor Artus said the options for third party advice could be considered if there were to be a dispute, and asked that the Monitoring Officer look into those options.

SC7

## **REVIEW OF THE CODE OF CONDUCT OF UTTLESFORD DISTRICT COUNCIL**

Members considered a report asking whether or not they wished to carry out a review of the Council's code of conduct and if so, how it should be carried out.

Councillor Knight proposed there should be a review of the code of conduct and procedures.

Councillor Artus said he wished to raise the following issues. The first was that of sanctions or redress open to a subject member where an error was made. Secondly, there was no reference in the code to the Nolan principles, so no way of enforcing them. This meant they were meaningless: he referred to a situation regarding his own parish council which had had to make a Freedom of Information request to itself.

Councillor Artus said the procedures note from the Monitoring Officer referred only to investigation of a complaint regarding individual members. He would like to find a way of dealing with parish councils acting collectively otherwise there was no way to enforce the Nolan principles. It was a farce that a parish councillor had to use FoIA to get information about its own affairs.

Thirdly, the wording of the code should be reviewed, as it was badly written.

Finally, regarding parish councils, they needed to make sure their code of conduct was publicised and they should be advised on the code they intended to adopt.

A letter to the Minister should state the need for review of the standard code of conduct, because the model was not clear or workable, and did not set out how to enforce the Nolan principles.

Councillor Dean agreed. He said review was needed of definitions such as what it meant to “bring the council into disrepute” and “treating people with disrespect”. It was important to ensure the process was clear so that time was not unduly taken up with rebutting complaints, as well as ensuring matters were closed properly.

Councillor Hargreaves said in 2014 the previous committee had considered the code of conduct in detail, and the minutes showed their conclusion was that the code did not need to be altered. Whilst they had changed some of the procedures it was odd that they had not changed the code.

Councillor Knight said the code was badly written, which led to ambiguities, so it needed tidying up. She accepted there was some statutory content.

Mrs Wellingbrook-Doswell said parts of the model code were well written.

Councillor Asker said it was important to keep the code under review, and to aim for plain English.

RESOLVED to review the code of conduct of Uttlesford District Council.

Councillor Knight said she noted the independent members concurred with the above decision, and whilst she accepted that the independent persons could not vote, their views should be taken into account. The letter to the Minister should include a request that the independent persons should be allowed to vote and that an independent person could act as chairman of the committee.

Members then considered the second recommendation of the report, which was to determine how such a review should be carried out.

Councillor Knight said she would like to inform all councillors that the committee would be conducting this review, and to seek their views on any aspects of the code of conduct or procedures which they found difficult to understand. Responses would be treated in confidence.

RESOLVED

1. To appoint a Standards Task Group to review the code of conduct and procedures in relation to allegations of breaches of the code and to make recommendations accordingly
2. The members of the task group to be: Councillors Knight, Artus, Dean, Asker, Jones, and the independent members Georgina Butcher-Doulton, David Pearl and Catherine Wellingbrook-Doswell.
3. The date by when the Task Group would have to have submitted its report to the Standards Committee to be 21 March 2016.

Members discussed the process the task group should follow. It was suggested an email from the Chairman should be sent to all members informing them of the review and seeking views.

Councillor Artus said some initial background work prior to the first meeting of the task group should be carried out to see how the Nolan principles could be enforced.

The Monitoring Officer said the principles could not be enforced, as there was no statutory power to do so.

Councillor Knight said she would discuss with the Monitoring Officer the next steps.

Councillor Artus asked where in statute it was stated there was no sanction under the standards regime.

The Monitoring Officer gave details of the legislation in the Localism Act 2011, and in the Local Government Acts of 1972 and 1989.

It was agreed the first meeting of the task group would be Tuesday 4 August 2015 at 5.30pm.

The meeting ended at 5.40pm.

**Committee: STANDARDS**

**Agenda Item**

**Date: 21 March 2016**

**4**

**Title: REPORT OF THE STANDARDS TASK GROUP**

**Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416**      Item for decision

## **Summary**

1. This report is to seek an extension of time for the Standards Task Group to complete its report.

## **Recommendations**

2. Members re-appoint the existing task group with the same terms of reference as the current task group to produce a final report by the 20 March 2017.

## **Financial Implications**

3. None.

## **Background Papers**

4. None.

## **Impact**

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## **Situation**

6. On the 6 July 2015 this committee appointed a Standards Task Group to review the Code of Conduct and procedures in relation to allegations of breaches of the Code and to make recommendations accordingly. The date by which the task group would have to submit its report to the Standards Committee was to be the 21 March 2016.
7. The task group first met on the 4 August 2015. It resolved to divide members into two sub-groups; one to look at the Code of Conduct the other to look at procedures. There was a further meeting on the 19 October 2015.
8. It is understood that the sub-groups have been making progress with their respective tasks. However, the task group has not met as a whole since the October meeting and it is therefore unable to provide recommendations to the committee.
9. Under Article 10.1.4 of the council's constitution a task group shall cease to exist on the earlier of the production of its final report or the date a final report is required (whether or not a report has been produced) but without prejudice to the right of the appointing body to appoint the same or different members as a task group to complete the task. It follows therefore that the current task group ceases to exist on the date of this meeting.
10. Clearly this is an important piece of work which needs to be brought to a conclusion. It is for that reason that members are recommended to re-appoint the task group and extend the period for production of the final report.
11. It is hoped that the task group will be able to report sooner than the backstop date contained in the recommendation. However, they should not be put under any time pressure to do so. It is for that reason that date has been selected. The provision of the 20 March 2017 as a final date in no way prevents the task group reporting sooner if it is able to do so. If having completed its work and prepared a final report the chairman considers an extraordinary meeting is desirable for the report to be received by the full committee, then she may call one pursuant to rule 3.1.2 of the council's procedure rules or alternatively could ask me to request such a meeting pursuant to rule 3.1.3.

## **Risk Analysis**

12. There are no risks arising from this report.

**Committee: STANDARDS**

**Agenda Item**

**Date: 21 March 2016**

**5**

**Title: BUDGET FOR INVESTIGATIONS**

**Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416**      Item for decision

### **Summary**

1. This report is to ask members whether they wish to request a budget to support external investigations into allegations of breaches of the Code of Conduct. This report has been prepared at the request of the Chairman of the Committee

### **Recommendations**

2. Members determine whether to request a budget and if so, how much that should be.

### **Financial Implications**

3. As set out in the body of this report.

### **Background Papers**

4. None.

### **Impact**

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None.
Human Rights/Legal Implications	None
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

6. Under the Local Government Act 2000 councils are required to have in place arrangements whereby they can investigate allegations of a breach of the Code of Conduct and to determine what action (if any) to take in respect of breaches.
7. The council's current procedure is that when a complaint is received it is considered by an independent member of the Standards Committee along with the Monitoring Officer. A decision is taken as to whether applying the council's policies it is appropriate to investigate the allegation. If it is considered appropriate then an investigation will be carried out.
8. The council does not have any budgetary provision to pay for the cost of external investigations. As Monitoring Officer I have no budget for standards issues. The only financial provision made with regard to standards is the modest allowance to the independent persons.
9. Under s.5(1)(b) Local Government & Housing Act 1989 it is a duty of the council to provide me with such staff, accommodation and other resources as are in my opinion sufficient to allow me to perform my duties under s.5 and 5A of that Act. That however, does not extend to my role in supporting the Standards Committee and carrying out investigations into complaints. Therefore any budget which is provided for those purposes is at the discretion of the council.
10. The current standards regime came into being on the 1 July 2012. Since that time there have been 61 complaints alleging various breaches of the Code of Conduct. Thirty-three of these related to district councillors only. Seventeen related to parish councillors only. Eleven involved members who were both district and town or parish councillors and in five of those cases it was alleged that the Code of Conduct of both the district and town or parish councils had been breached.
11. Thirty cases have been passed for investigation and 17 of these investigations are currently pending.
12. With the exception of one pending investigation, all of the investigations have been carried out internally. The pending investigation has been carried out on behalf of the council on my instruction by an assistant director of Essex County Council who was designated Monitoring Officer for Maldon District Council when it procured its legal services from Essex. This instruction was made through the Public Law Partnership. This is a partnership of all Legal Services departments within the county of Essex together with Hertfordshire and Suffolk County Councils and some of the districts within Hertfordshire.
13. The partnership offers very attractive rates for its lawyers to members of the partnership. The hourly rate for solicitors is £85. For a solicitor with the experience of the Assistant Director carrying out the current investigation, I would expect to pay at least £217 per hour if instructing outside lawyers.

14. The procurement process within the Public Law Partnership is that a circular is sent electronically to all members of the partnership and any with capacity can bid to undertake the work. Only one bid was received for this investigation which was from Essex. The availability therefore of solicitors at these preferential rates cannot be guaranteed.

15. I have notified members in a separate email of the interim bill received from Essex. I estimate that the final bill will come in at just under £3,000 (including the interim amount) which equates to slightly more than 35 hours work. I would say this is fairly typical for an investigation. It follows therefore that the cost of an investigation carried out externally will vary between £3,000 (PLP rates) or £7,700 (external solicitors) on average.

## Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
The council does not have budget to meet the cost of external investigations.	4, there is no provision in the current budget and any provision would therefore need to be made from reserves.	2, the Legal Services department does have resources to carry out investigations and the decision to externalise the current investigation was not based upon lack of capacity.	If members consider a budget necessary, then it recommend to Full Council that provision be made from the reserves.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee: STANDARDS**

**Agenda Item**

**Date: 21 March 2016**

**6**

**Title: ROLE OF MEMBERS OF THE STANDARDS COMMITTEE WHILST THEY ARE SUBJECT TO COMPLAINTS**

**Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416**      Item for decision

### **Summary**

1. This item appears at the request of the independent members for the committee to consider what role (if any) members of the committee should play in the committee's work whilst they are subject to allegations that they themselves had breached the Code of Conduct.

### **Recommendations**

2. Members determine whether members of the committee who are the subject of an allegation that they have breached the Code of Conduct should stand down from the committee until the complaints process has been exhausted, if so at which stage they should do so and how this can be achieved.

### **Financial Implications**

3. None.

### **Background Papers**

4. None.

### **Impact**

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None

Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. All members of the council are required to observe the council's Code of Conduct.
7. Anyone can complain that any councillor has breached the Code of Conduct. Complaints can therefore be received from members of the public, officers or other councillors.
8. The current procedure is that not all complaints are passed for investigation. As soon as possible after a complaint has been received, the subject member is notified of that fact. Thereafter the complaint is considered by an independent member of the Standards Committee and the Monitoring Officer to determine whether it is worthy of investigation applying the standards set out in the council's procedure. On average that procedure takes between 5 – 10 working days.
9. If the complaint is not passed for investigation no further action is taken and that is the end to the matter. In the event that a member of the Standards Committee should be subject to an allegation that he or she has breached the Code of Conduct and it is not passed for investigation there is no reason why that member should not take full part in the activities of the Standards Committee.
10. However, if a complaint against a member of the Standards Committee is passed for investigation, this can be a more prolonged process. Some complaints take a number of months to investigate and be brought to a conclusion. The questions for the committee are:
  - (a) Whether it is appropriate for members of the Standards Committee who are the subject of complaints to continue to take part in committee activities
  - (b) If not, at what stage of the process they should withdraw from those activities.
  - (c) How such withdrawal is to be achieved.
11. With regard to the third question above, in the event that members determine that it is not appropriate for members of the Standards Committee to continue to serve as such after a complaint has been received; this could be achieved in a number of ways.
  - (a) There could be a protocol by which members of the committee agree they will not serve whilst they are the subject of a complaint or under investigation.

- (b) As per (a) but with an amendment to provide that the member should stand down from the Standards Committee for the duration of the investigation and the group leader should appoint an alternative member in their place.
- (c) By an amendment to the Code of Conduct to provide that members of the Standards Committee who are the subject of a complaint or the subject of an investigation should not take any part in Standards Committee activities until such time as the complaint has been determined.

**Risk Analysis**

12.

Risk	Likelihood	Impact	Mitigating actions
<p>There is a risk that public confidence in the council, members of the Standards Committee who are the subject of complaints and/or the standards regime may be damaged if members of the committee who are the subject of complaints continue to take part in committee activities. The likelihood and impact of that risk is a matter for members to determine during the course of their discussions on this issue.</p>			

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

