



# Uttlesford District Council

Chief Executive: Dawn French

## Standards

**Date:** Monday, 04 July 2016  
**Time:** 16:00  
**Venue:** Committee Room  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors K Artus, A Anjum, H Asker, A Dean, N Hargreaves, J Loughlin, D Jones, T Knight (Chairman) and G 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 notice by 12 noon two working days before the meeting.

## AGENDA

### PART 1

#### Open to Public and Press

- 1 Apologies for absence and declarations of interest
- 2 Minutes of the meeting held on 21 March adjourned to 29 April 2016 5 - 12
- 3 Minutes of the Extraordinary meeting held on 17 March adjourned to 14 April 2016 13 - 22
- 4 Minutes of the extraordinary meeting held on 1 June 2016 23 - 26

- 5 To consider the report of the Standards Task Group - to follow
- 6 Any other items which the Chairman considers to be urgent

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**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD  
SAFFRON WALDEN at 4pm on 21 MARCH 2016**

Present: Councillor T Knight (Chairman)  
Councillor D Jones  
Mrs G Butcher-Doulton, Mr D Pearl and Mrs C Wellingbrook-  
Doswell (Independent Persons).

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

Also Present: Councillor A Dean

*The Chairman adjourned the meeting under Council Procedure Rule 7 as the meeting was not quorate. It was agreed that the meeting would reconvene on 29 April at 9am.*

*The Assistant Chief Executive – Legal said that the Standards Task Group now ceased to exist. The Members who were part of the Task Group were still able to meet informally, but would have to wait until the Task Group was formally re-established by the Committee before they could meet formally and agree to their recommendations.*

SC11

**RECONVENED MEETING HELD AT 9AM ON 29 APRIL 2016**

Present: Councillor T Knight (Chairman)  
Councillor K Artus, N Hargreaves, D Jones, J Loughlin and G Sell.  
Mr D Pearl and Mrs C Wellingbrook-Doswell (Independent  
Persons).

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

Also Present: Councillor A Dean.

SC12

**APOLOGIES FOR ABSENCE**

Apologies for absence were received from Mr Pearl and Councillors Anjum, Asker, Hargreaves and Sell for the originally scheduled meeting on 21 March.

For the adjourned meeting on 29 April apologies for absence were received from Councillor Asker and Mrs G Butcher-Doulton.

SC13

**MINUTES OF THE MEETING HELD ON 6 JULY 2016**

The minutes were received and signed by the Chairman as a correct record.

SC14

## **MATTERS ARISING**

### **(i) SC7 – Matters Arising**

In response to a question by Councillor Hargreaves, the Assistant Chief Executive – Legal said that where no breach of the Code was found, the finding was not published unless the subject member requested it. He had found that in instances where the complainant had put the complaint into the public domain, the subject member was more likely to want their exoneration to be public knowledge.

The Assistant Chief Executive – Legal then spoke in reply to a question by Councillor Jones. He said that the Monitoring Officer always circulated findings of no breach to the Committee. The publication of findings was always at the discretion of the subject member.

Councillor Dean asked for discussions on the matter to be deferred until the Committee had heard from the sub-group of the task group in relation to the Code of Conduct review. In reply, the Assistant Chief Executive – Legal said that it was not appropriate for a sub-group of the Task Group to report to the Committee.

SC15

## **REPORT OF THE STANDARDS TASK GROUP**

The Committee considered the report which had initially sought an extension of time for the Standards Task Group to complete its report. Following the adjournment of the meeting, the Task Group had ceased to exist, so it was now proposed that the Task Group was re-established with the same Members and terms of reference.

The Assistant Chief Executive – Legal said the Committee had appointed the Task Group to review the Code of Conduct and procedures in relation to allegations of breaches of the Code. The Task Group had been due to submit its final report at the meeting.

The Task Group met on 4 August 2015 and divided into two sub-groups; one to look at the Code and the other to look at procedures. A subsequent meeting took place on 19 October 2015. Whilst the sub-groups had been making progress, there had been no subsequent meeting of the Task Group. Therefore, the Task Group was unable to provide any recommendations for the Committee to consider. Furthermore, under the Council's constitution a task group would cease to exist after either; the production of its final report, or the date a final report was required by.

The Committee could however appoint the same or different members as a task group to complete the task. The Assistant Chief Executive – Legal said that as this was an important piece of work it was recommended that the Task Group was re-established with a final date of 20 March 2017. The Task Group could still report its final recommendations earlier if it was able to do so. An

extraordinary meeting of the Committee could be called by the Chairman pursuant to rule 3.1.2 of the Council's procedure rules, or by the Assistant Chief Executive – Legal pursuant to rule 3.1.3 if deemed necessary.

Members agreed to re-establish the task group with the same members and terms of reference as before. The task group would have to produce its final report by 20 March 2017.

The Chairman thanked all the members of the previous task group for the considerable amount of work they had put into the review and for volunteering to continue the review.

RESOLVED that a new task group was established with same members and terms of reference as the previous one, with a final report to be produced by 20 March 2017.

SC16

## **BUDGET FOR INVESTIGATIONS**

The Assistant Chief Executive – Legal presented his report. Under the Local Government Act 2000, Councils were required to have arrangements which allowed breaches of the Code of Conduct to be investigated.

Currently complaints were considered by an independent member of the Standards Committee and the Monitoring Officer, who determined whether it was appropriate for an investigation to be carried out.

The Assistant Chief Executive – Legal said there was no budgetary provision for external investigations and there was no budget for standards issues. The Council was required to provide resources for the Monitoring Officer to carry out their duties under s.5(1)(b) Local Government & Housing Act 1989, but this did not extend to supporting the Committee and carrying out investigations.

There had been 61 complaints since the current standards regime came into being on 1 July 2012. 30 cases had been passed for investigation and 17 of these were currently pending. All investigations bar one of the pending investigations had been carried out internally. That investigation had been carried out, on the instruction of the Assistant Chief Executive – Legal, by an assistant director of Essex County Council who was also the monitoring officer for Maldon District Council. The instruction was made via the Public Law Partnership.

The Assistant Chief Executive – Legal said the partnership offered very attractive rates. The hourly rate was £85, but it was expected that a solicitor of the assistant director's experience would be paid at least £217 per hour. Procurement through the Partnership is done through an electronic circular. Only one bid was received so a preferential rate cannot be guaranteed.

The final bill is likely to be around £3,000 which would equate to around 35 hours of work. This was typical for an investigation. It followed that the cost of

an investigation would be around £3,000 through the partnership or £7,700 for an external solicitor.

The Chief Executive had indicated that funding for investigations could be provided out of reserves if necessary. The Assistant Chief Executive – Legal added that following the email from Councillor Dean it was now recommended that this matter was deferred until the newly appointed task group had finished its review.

RESOLVED that the matter was deferred until the Task Group had finished its review.

SC17

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

The Assistant Chief Executive – Legal presented his report. All Members had to observe the Council's Code of Conduct and could be subject to a complaint by anyone. Not all complaints are passed for investigation. Once a complaint is made and the subject member has been notified, the complaint is then considered by an independent member of the Standards Committee and the Monitoring Officer. They then consider whether the complaint was worthy of an investigation. This took between five to ten days.

If a complaint was not passed for investigation, no further action was taken. If a member of the Committee was subject to an allegation that they had broken the Code and it was not passed for investigation there was no reason they couldn't take full part in the activities of the Committee.

The Assistant Chief Executive – Legal said that if a complaint was passed for investigation the process was more prolonged. There were three questions for the Committee which were;

- (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.

If Members determined that members of the Committee should not serve whilst they are subject to a complaint, they could achieve this through three 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.

The Chairman said that the matter of whether members of the Committee should step down whilst they are subject to an investigation had been raised by the independent members. She understood the viewpoint of the independent members. However, she felt that there were a number of complaints which were made on a tit for tat basis, and whilst she did not feel that Members under investigation should be part of Committee hearings, there would not be any impact on councillors regarding their ability to make decisions at ordinary meetings of the Committee.

Councillor Artus agreed with the Chairman's comments and added that when he had been under investigation, the process had taken five months. This was an excessive period of time for a Member to be unable to be part of the Committee.

Councillor Dean said that the sub-group of the Task Group had been of the opinion that Members should step aside from the decision making process whilst they were subject to an investigation. It did seem sensible though to allow all Members to take part in discussions.

The Chairman asked the independent members for their views. Mr Pearl said the issue of whether Members should remain part of the Committee whilst subject to an investigation was partly one of public perception. Allowing Members to remain part of the decision making process could be seen as a regrettable step and could prevent natural justice from being seen to be done.

The Chairman said that she understood the points made by Mr Pearl, but she did not feel that a Members' ability to have a fair and balanced viewpoint would be affected by being subject to an investigation.

Mrs Wellingbrook-Doswell spoke about the need for the public to have full belief in the integrity of the Committee. The investigation process needed to be both speedy and beyond reproach. When she was first appointed as an independent member to the Committee she was surprised that Members of the Committee did not have to step down whilst they were subject to a complaint.

Members discussed the need for the process to allow for faster resolutions to complaints. Councillor Artus said that the speed of the process was not always dependent on the Council, so whilst procedures and processes could be put in place, this would not guarantee faster outcomes. If a Member was subject to an investigation they should not take part in voting, but could still have an input into the decision making process.

Councillor Jones said that this was a difficult decision and asked whether a further check could be put in place to determine whether a complaint was serious enough to warrant the Member stepping down whilst subject to an investigation. He noted that there was currently no requirement for more senior councillors such as the leader to step down whilst they were subject to a complaint.

In response to the points made by Councillor Jones, Councillor Artus said that a complaint could be serious, but not founded in evidence. This happened fairly often and had happened to him in the past.

Councillor Dean suggested that the matter was discussed in further detail by the Task Group. There was a danger of the process becoming too convoluted.

In response to questions by Councillor Sell, the Assistant Chief Executive – Legal said that most complaints which were not passed for investigation were not vexatious, but were based on a misunderstanding of the Code of Conduct, which did not apply when councillors were acting in a personal capacity. There was a member of the public who was lobbying the Government to have this changed. This followed the conviction of a parish councillor for the possession of hundreds of indecent images of children. The councillor had not received a custodial sentence and as he was acting in a personal capacity, he had not breached his council's code of conduct.

There had been repeat complaints from the members of Hatfield Broad Oak Parish Council. Due to the number of complaints, the Assistant Chief Executive – Legal, along with the three independent members, had agreed that it would write to the Parish Council explaining that it was unlikely to consider complaints made by Hatfield Broad Oak's parish councillors against each other.

The Assistant Chief Executive – Legal then informed the Committee that the majority of complaints were not passed for investigation and it normally took less than two weeks to decide whether a complaint would be investigated.

The Chairman said the Task Group had been examining many of the procedures currently in place and had looked at including the complainant and subject member at an earlier stage in the process. The current procedures were hindered by the current legislation and therefore the Committee lacked the ability to impose meaningful sanctions. This would be discussed by the Task Group.

RESOLVED that the matter was deferred to allow the Task Group to discuss it in more depth.

SC18

## **ANY OTHER BUSINESS**

The Chairman asked that the papers produced by the Task Group were circulated to the rest of the Committee and the relevant officers so they could comment.

Councillor Hargreaves asked whether the Committee could discuss a possible breach of the Code of Conduct which had been referred to the Police. The Assistant Chief Executive – Legal advised the Committee that the matter contained information exempt under Paragraph 2 of Schedule 12A of the Local Government Act 1972 and if they wished to discuss it they should move into Part 2.

SC19

## **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 2 part 1 of Schedule 12A of the Act.

The Assistant Chief Executive – Legal outlined the complaint. It became apparent that the allegation, if proven, would have amounted to fraud so he referred the matter to the Police.

The Police's response was not satisfactory and it took them two years before they interviewed the subject member. The Assistant Chief Executive – Legal said that this was regrettable as if a conviction was achieved it was likely that a custodial sentence would have been imposed. He had complained to the Police about their handling of the matter.

The Police had now closed the matter as they did not feel there was enough evidence to pursue the allegation any further. A breach of the Code could now only be established if the subject member admitted any wrongdoing. This was unlikely to happen, so the Assistant Chief Executive – Legal proposed that he also closed his investigation.

In response to a question by Councillor Hargreaves, the Assistant Chief Executive – Legal said that if new evidence came to light then the Police could re-open their investigation.

Members discussed making a formal complaint to the Police. It was agreed that the Committee would write to the Police and Crime Commissioner and asked that any action against the complainant was suspended indefinitely until further evidence came to light.

RESOLVED that:

- A formal letter of complaint would be written to the Police and Crime Commissioner.
- Action against the complainant would be suspended indefinitely unless further evidence came to light.

The meeting ended at 10.15am.



## **STANDARDS COMMITTEE – 17 MARCH ADJOURNED TO 14 APRIL 2016**

### **STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 10.00am on 17 MARCH 2016**

Present: Councillor T Knight – Chairman  
Councillors H Asker and D Jones.  
Mrs C Wellingbrook–Doswell (Independent Person)

Officers in attendance:- M Cox (Democratic Services Officer), C Oliva  
(Solicitor – Investigating Officer) and C Nicholson (Solicitor).

#### **SC8 APOLOGIES AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

#### **SC9 HEARING INTO AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT**

The hearing had been called to determine an allegation of a breach of the Code of Conduct of Hatfield Broad Oak Parish Council.

Councillor Jones raised concern about the validity of this meeting. He said the recommendation of the Investigating Officer's report gave the wrong impression of the purpose of the meeting. The report said 'that members determine whether they accept the findings of the Solicitor or whether they wish there to be formal hearing'

In the light of this wording he had not expecting this to be a formal hearing. This had the following implications

- For a formal hearing he would have requested additional information ie the minutes of the Village Green Committee on 4 November 2015.
- Members of the public may have chosen to defer attendance until a formal hearing was held.

The Solicitor said this meeting was being recorded, which would give the public the opportunity to listen live or to replay the recording after the meeting. She confirmed that the subject members and the complainants were aware of the nature of the meeting.

In relation to the request for additional papers, the Investigating Officer said she hadn't received the minutes mentioned but in any event they were not relevant to the details of the complaint. The matter to be considered was specific to whether the motion passed at the meeting was disrespectful.

The committee felt that the additional information might be relevant to understanding the background of the complaint and could indicate bias.

The members of the committee and the Independent Person agreed that it would be unwise to proceed today when there was some doubt as to the purpose of this meeting.

RESOLVED that the meeting be adjourned to 2pm on 14 April 2016 to allow for the preparation of a revised report and for members to receive the additional papers requested.

SC10

### **RECONVENED MEETING HELD AT 2.00PM ON 14 APRIL 2016**

Present: Councillor T Knight – Chairman  
Councillors H Asker and D Jones.  
Mrs C Wellingbrook–Doswell (Independent Person)

Officers in attendance:- M Cox (Democratic Services Officer), C Oliva (Solicitor – Investigating Officer) and C Nicholson (Solicitor).

The hearing had been called to determine an allegation that Cllrs Swainsbury, Rushton and Brown had breached the code of conduct of Hatfield Broad Oak Parish Council.

The Investigating Officer, presented her report. The allegation had been made by Councillor Strutt, of Hatfield Broad Oak Parish Council, that in relation to a motion proposed at the parish council meeting on 11 November 2015, Councillors Swainsbury, Brown and Rushdon had

- treated him with disrespect.
- bullied and intimidated him.
- disclosed information given in confidence.
- prevented another person from gaining access to information to which they were entitled.
- used or attempted to use their positions improperly for their or another's advantage or disadvantage of others.

The motion, set out below, put forward by the Cllr Swainsbury (Chairman) had been proposed by Cllr Brown and seconded by Cllr Rushdon.

*Being the subject of a complaint to Uttlesford District Council, and the Charity Commissions, concerning his actions in relation to the village green, Cllr Strutt is hereby suspended from serving on the Village Green Maintenance and Development Committee.*

The report set out the information that had been taken into account during the investigation. The Investigating Officer explained that she had decided not to consider tapes of a recording of the proceedings of the meeting on 11 November 2015, as there had been concern that they might not be complete.

**The following facts were not in dispute.**

Cllr Strutt was a parish councillor and had been appointed to serve on the Village Green Maintenance and Development Committee and was one of the Trustee Directors of the HBO Sports and Community Club Limited.

On 24 September 2015, Cllr Swainsbury and Cllr Rushton had given documents to the Chief Executive which they claimed showed dishonesty by Cllr Strutt in relation to the activities of the HBO Sports and Community Club Limited. These were passed to the Monitoring Officer and Internal Audit Team. No evidence of dishonesty had been found on the part of Cllr Strutt and this information had been passed to the Chief Executive on 9 October 2015.

On 8 October 2015, the Clerk to Hatfield Broad Oak Parish Council had written to the Charity Commissioners concerning the activities of Cllr Strutt in relation to the HBO Sports and Community Club Limited.

These same documents were also the subject of code of conduct complaints to the UDC Monitoring Officer. These had not been investigated because the complaint had been made on behalf of the Village Green Committee rather than by an individual, and then because Cllr Strutt had not been acting on behalf of the parish council throughout the time the alleged breach had taken place.

In answer to a question from Cllr Swainsbury about the progress of the dishonesty complaint, the Chief Executive had sent an e-mail on 13 October 2015 stating, "Thank you for your email: matters are being investigated by our internal audit team and we have not reached a definitive conclusion. I'll be in touch when we have."

On 3 November 2015, the Charity Commissioner informed the Parish Clerk that there had been no breach of charity law and it was not going to investigate.

On 11 November 2015, Hatfield Broad Oak Parish Council passed the motion set out in italics above and removed Cllr Strutt from the Village Green Maintenance and Development Committee. The motion complied with the procedure rules of the Parish Council. Cllr Strutt was not present at the meeting.

**The following facts were not agreed**

When the motion was put to suspend Cllr Strutt from the Village Green Maintenance and Development Committee, the councillors concerned believed Cllr Strutt was under investigation by Uttlesford District Council and the Charity Commissioners.

The councillors said they had declined to give details of the investigations to the meeting as they did not wish to put the details of wrongdoing by Cllr

Strutt into the public domain. They all stated they had wished to protect Cllr Strutt from public knowledge but felt they couldn't allow him to serve on the Committee while investigations continued.

### **The Investigating Officer's Findings of Fact**

On 3 November 2015, the Charity Commissioners had informed the Clerk that they were not investigating Cllr Strutt or the HBO Sport and Community Club Limited. The councillors could not have had an honest belief that Cllr Strutt was under investigation by the Charity Commissioners at the meeting on 11 November 2015.

On 16 October 2015, the Monitoring Officer had informed Cllr Rushton that Cllr Strutt would not be investigated for a breach of the Code of Conduct. The councillors could not have had an honest belief that Cllr Strutt was under investigation by the council for a breach of the Code of Conduct on 11 November 2015.

On 13 October 2015, the Chief Executive had e-mailed Cllr Swainsbury stating that an investigation into the activities of the Charity was ongoing. This was incorrect but the councillors could not have known, therefore they did have an honest belief that Cllr Strutt was being investigated by the council for possible dishonesty at the meeting on 11 November 2015.

### **Reasoning as to whether there have been failures to comply with the Code of Conduct**

The Investigating Officer set out her findings on the paragraphs where there had allegations of a breach of the Code.

Allegations under 3.3 General Obligations

#### Para 3.3.2 – Bullying

The passing of a motion to suspend Cllr Strutt from the Village Green Maintenance and Development Committee was properly passed and the parish council, having control of the membership of the Committee, could not be seen as bullying or intimidation.

#### Para 3.3.5 disclosure of confidential information

Cllr Swainsbury refused to give details of the alleged investigations to the parish council in the presence of the public. The motion disclosed that an investigation was taking place. As Cllr Strutt was performing a function on behalf of the parish council in being a member of the committee, on balance it could not be considered to be disclosure of confidential information, if the belief by the three councillors was honestly held.

#### Para 3.3.6 - Preventing access to information to which he was entitled

There was no evidence that the councillors withheld information from Cllr Strutt.

#### Para 3.3.8 Bringing their office into disrepute

The councillors did not bring their office into disrepute, the motion was tabled correctly and the parish council controlled the membership of the committee.

#### Para 3.3.8 Improperly attempting to secure for themselves an advantage or a disadvantage for others.

There was no evidence of the councillors seeking any advantage for themselves. Cllr Strutt may have felt disadvantaged by being suspended from the committee, but the parish council validly determined the membership of the committee.

The Investigating Officer did not consider that any of the allegations under para 3.3 were justified.

#### Para 3.1 Failure to treat with respect

The councillors were entitled to propose a change the membership of the Village Green Maintenance and Development Committee and to suspend members. To table that proposal was not disrespectful. It would be disrespectful to Cllr Strutt to give reasons to support a motion that they believed to be untrue.

It was found that the councillors could not have had an honest belief that Cllr Strutt was being investigated by the Charity Commissioners. In fact on 26 January, Cllr Swainsbury had admitted to the Investigating Officer that he was aware of this fact at the meeting on 11 November 2015. The councillors did however have an honest, although mistaken, belief that Cllr Strutt was being investigated by the council.

The Investigating Officer found that tabling the motion at the parish council meeting of 11 November 2015 to suspend Cllr Strutt from the Village Green Maintenance and Development was not disrespectful. However, when stating the reasons for the motion they were disrespectful in stating that Cllr Strutt was being investigated by the Charity Commissioners as they could not have had an honest belief that this was the case. They did believe Cllr Strutt was being investigated by the council. It would be reasonable for a member of the public present at that meeting and anyone reading the minutes to consider that investigation by the Council and the Charity Commission was more serious than investigation by the Council alone.

**The Investigation Officer found that on the particular point, set out in the paragraph above, the councillors had treated Cllr Strutt with disrespect.**

Since writing the report, further representations had been received from Cllrs Brown, Rushdon and Swainsbury and from Cllr Strutt. These had been circulated to the panel members. The Investigating Officer said that no additional points had been raised and therefore no further amendments were required to her report.

### **Members questions to the Investigating officer**

Members asked whether the parish council had the authority to exclude Cllr Strutt from the Village Green Committee and whether this was this normal practice for someone who was under investigation. The Investigating Officer confirmed that the parish council had the right to do this, although it probably wasn't common practise.

Members said they would have liked to see details of the procedure for appointing councillors to the Village Green Committee, as this wasn't mentioned in the terms of reference. They were advised that the appointments had been made in June 2015, and would have been made under the parish council constitution, which was not considered during this investigation.

In explaining the various allegations, the Investigating Officer said that in relation to the dishonesty complaint, the council's Audit section had found no evidence of dishonesty. Unfortunately, this information given to the Chief Executive had not been passed to the two councillors, so they would not have been aware of this fact at the meeting on 11<sup>th</sup> November.

In relation to the allegation to the Charity Commissioner, the clerk had been informed on 3 November that this wouldn't be investigated, but it was still included in the motion raised on 11 November. The other complaints to the Monitoring Officer had not been considered.

Cllr Asker said that these events exposed poor lines of communication. She said that just mentioning that Cllr Strutt was the subject of a complaint was already casting aspersions. She asked whether the motion had been proposed without first clarifying the facts and would have expected some public correction when the parish clerk had been informed of the Charity Commission's decision prior to the meeting.

Members asked whether this parish council could have discussed this matter in private session. The Investigation Officer said that although this might have been possible, the item was discussing appointments to a public meeting.

### **Statement by Councillor Strutt**

Councillor Strutt said this was the first time he had reported a colleague but he felt his reputation had been attacked. He said he had lived in Hatfield Broad Oak all his life, ran a business in the village where he was trusted with

confidential information. He was also an active in the community and a member of sports clubs and the church.

He explained that his problems with the parish council came to a head at the 11 November meeting. The clerk had known he was not being investigated by the Charity Commissioners 6 days before the meeting, this should have been confirmed but there had been no correspondence on this matter. There had been failure to check the truth before the meeting, he had been cleared of all allegations and had done nothing wrong.

There had been ongoing difficulties with his relationship with the parish council. He had been denied the right to table agenda items and had received rude emails. As far as he was aware, no other councillor had ever been suspended from a parish council committee. He said the parish council was unable to deal properly with councillors that held a different view and there had been a vindictive vendetta against him.

In answer to a question from Councillor Knight, Cllr Strutt confirmed that he hadn't been reinstated on Village Green Committee. It had been reconstituted the previous evening and he hadn't been appointed.

Councillor Jones asked if there were any outstanding allegations in relation to the Charity Commission. Cllr Strutt said he was still in contact on issues around terms of reference and regulation but there had been no further complaints.

In answer to a question, he said the parish councillors hadn't yet been informed of the status of the allegations.

### **Statement by Councillor Swainsbury**

Councillor Swainsbury clarified that at the meeting on 11 November he had stated that Councillor Strutt was the subject of a complaint, not that he was under investigation, and these had very different meanings.

Councillor Knight asked him why he had proposed the motion. Councillor Swainsbury replied that he needed justification to suspend Councillor Strutt but thought it was fairer not to mention details of the complaints

The Chairman asked whether any other parish council members had been suspended in this way. He replied that the parish council had only this one committee so this situation hadn't arisen before.

Councillor Swainsbury said the action had to be taken because the complaints were of a serious nature. In answer to questions from Cllr Knight, he said that although the complaints had been upheld, he didn't accept this was the end of the matter as there were still things going on in the background. He had instructed his own barrister on this issue.

### **Statement by Councillor Rushdon**

Councillor Rushdon confirmed that he had seconded the motion. He said the wording of the Investigating Officer's report was not correct. The motion had not stated that Cllr Strutt was being investigated but rather that he was the subject of a complaint. At the time he had held an honest view that Councillor Strutt was the subject to two complaints. He thought that the complaint to Mr Mitchell had not been resolved, and also the tone of the letter from the Charity Commissioner led him to believe that his was an initial response, and the complaint was still going to be pursued.

He had supported the motion because he wanted to Cllr Strutt to realise the errors of his action in respect of the village green. There was good reason behind the complaint as the village green had been dug up without any authority or notification. A considerable amount of money had been spent on this work and it would cost more to put right the damage.

He felt there was a conflict of interest as Cllr Strutt was a trustee of the HBO Sports and Community Club Limited at the same as being a member of the Village Green and Maintenance Committee.

### **Comment from the Investigating Officer**

The Investigating Officer said that in terms of perception there was no difference in using the phrase 'subject of a complaint' or 'under investigation'. Cllr Jones however said that an investigation was more serious as it was the start of a formal process with the possibility of sanctions.

Cllrs Swainsbury, Rushdon and Strutt left the room while the Panel considered its decision.

### **DECISION**

Members would like to thank Mrs Oliva for her full and diligent report.

In the first instance, they accept the Investigating Officer's findings that Councillors Swainsbury, Rushton and Brown have treated Cllr Strutt with disrespect for the reasons set out in her report.

With respect to the allegation of bullying and intimidation, Members do not agree with the finding of Mrs Oliva. Members consider that by proposing the motion in the terms that they did, at a time when they knew the complaint to the Charity Commission had not been accepted by the Commission, it was done with the intention to publically highlight the perceived wrongdoing of Councillor Strutt, and discredit him. It was reasonable to believe that members of public would perceive from the terms of the motion that there

was a serious wrongdoing on behalf of Councillor Strutt, and that amounted to bullying and intimidation.

With regard to the allegations of the disclosure of confidential information or preventing access to information, Members do not consider they have enough detail to find there was a breach of the code of conduct and therefore accept Mrs Oliva's findings.

Members accept the findings of Mrs Oliva that Councillors Swainsbury, Rushton and Brown did not attempt to use their positions improperly for their or another's advantage or disadvantage.

In terms of sanctions, Members recommend the following:

1. That Councillors Swainsbury, Rushton and Brown make a written apology to Councillor Strutt for treating him with disrespect, and bullying and intimidating him, the apology to be made on or before the next meeting of the Hatfield Broad Oak parish Council
2. That Councillors Swainsbury, Rushton and Brown undertake training in respect of the requirements of the code of conduct.

Members have noted that many of the issues raised during the course of this investigation and hearing could have been resolved if the Parish Council had recognised the importance of sound training specifically in respect of the code of conduct and the standards expected in public life.



**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD  
SAFFRON WALDEN at 10.00am on 1 JUNE 2016**

Present: Councillor T Knight – Chairman  
Councillors H Asker and D Jones.  
Mrs C Wellingbrook–Doswell (Independent Person)

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

**SC1 APOLOGIES AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

**SC2 TO CONSIDER THE RESULTS OF THE STANDARDS COMMITTEE  
DETERMINATION**

At the meeting on 14 April 2016, the committee had considered a report into a breach of the Code of Conduct by Councillors Strutt, Brown and Rushton of Hatfield Broad Oak Parish Council and had found the following breaches.

- 1) Councillors Swainsbury, Rushton and Brown had treated Cllr Strutt with disrespect for the reasons set out in her report.
- 2) That by proposing the motion in the terms that they did, at a time when they knew the complaint to the Charity Commission had not been accepted by the Commission, it was done with the intention to publically highlight the perceived wrongdoing of Councillor Strutt, and discredit him. It was reasonable to believe that members of public would perceive from the terms of the motion that there was a serious wrongdoing on behalf of Councillor Strutt, and that amounted to bullying and intimidation.

The Committee had recommend the following sanctions:

1. That Councillors Swainsbury, Rushton and Brown make a written apology to Councillor Strutt for treating him with disrespect, and bullying and intimidating him, the apology to be made on or before the next meeting of the Hatfield Broad Oak parish Council
2. That Councillors Swainsbury, Rushton and Brown undertake training in respect of the requirements of the code of conduct.

A copy of the decision had been sent to all parties and Cllrs Brown and Rushton had sent email replies to the Deputy Monitoring Officer.

At the Hatfield Broad Oak parish council meeting on 11 May, Cllr Swainsbury had proposed a motion 'that the findings of the Standards Committee be rejected and the matter be closed' This motion was seconded by Cllr Brown and passed with only one councillor voting against.

It was confirmed that since this meeting, Councillor Strutt had not received a written apology and no application had been made to the Monitoring Officer for training on the Code of Conduct.

This meeting had been called to consider whether any further action should be taken for failure to comply with the recommendations of the Standards Committee. The sanction available to the committee was to censure the councillors concerned. It could also request the issue of a press release and publish the decision on the council's website.

In answer to a question from Cllr Jones, the Monitoring Officer explained that Hatfield Broad Oak Parish Council had adopted the UDC Code of Conduct but not its procedures. Under the Localism Act the duty to investigate allegations of breaches of the Code of Conduct by parish councillors was vested in the district council which applied its own procedures. Parish councils had no jurisdiction to deal with these matters. Hatfield Broad Oak Parish Council had delegated power to impose sanctions to this council. It was confirmed that at the time of the allegations the councillors concerned had been bound by the Code of Conduct.

Members had received from Councillor Artus a copy of the parish council Chairman's statement to the annual parish meeting, which included some comments on the Standards investigation. The committee agreed with the Monitoring Officer's assessment that this information was not relevant for today's meeting.

Members made the following comments.

They were appalled at the tone of the parish councillors' emails and the derogatory comments directed at the Investigating Officer, which were unacceptable. Members wondered whether these emails had been sanctioned by the parish council and if this behaviour was indicative of its general conduct.

Members said they had carefully considered all the evidence and had come to what they believed to be the correct conclusion. It was therefore discourteous of the parish council not to accept the findings of a properly conducted meeting. In putting forward the motion the parish councillors had totally disregarded the UDC code of conduct and its investigating procedures.

The committee was disappointed at the limitations of the available sanctions and understood that it could not compel the parish council to apply the sanction. However, it agreed that it would take the action which was open to it, to apply a censure, publish a statement on the website and in the local press.

Members suggested that a letter should be sent to the Government expressing concern at the limitation of the sanctions available to local

authorities in relation to breaches of the Code of Conduct. It was agreed that this should be referred to the full Standards Committee at its next meeting.

Councillor Rushdon attended the meeting and addressed the committee. He reiterated his previous disappointment that the tape of the parish council meeting had not been admitted because he felt this would have provided clarity.

He said he wanted explain what it was like to be a member of Hatfield Broad Oak Parish Council. He mentioned matters concerning the village green and what he considered to be illegal action and financial mismanagement on behalf of the other councillors.

Members explained that the purpose of this meeting was solely to decide if action should be taken in response to the councillors' decision to publically ignore the Standards Committee's ruling. The issues raised by Mr Rushdon were not relevant for this meeting and if necessary should be raised in another arena.

Councillor Rushdon said he didn't feel able to apologise to Councillor Strutt for suspended him from the Village Green Committee because he considered this action had been justified. Members explained that the suspension itself was not the issue. It was the question of the wording of the motion that could have led the public to believe there had been serious wrongdoing on the part of Councillor Strutt. This statement had been made in a public meeting and had not been corrected. Councillor Rushdon said it was difficult to make this apology given the relationship with the councillors concerned. He agreed that in hindsight this situation could have been handled better.

The Chairman said the standards hearing had decided that an apology was an appropriate sanction and it would have been sensible for the parish councillors to have carried out this request. The subsequent action had brought the Standards Committee into question and was not acceptable. .

Councillor Asker said that being a parish councillor was a very difficult job. Councillors were often passionate about where they lived but in turn this often meant there were conflicts of interest and clashes of personalities, which was why there was good reason for the guidance set out in the code of conduct.

Councillor Rushton left the meeting and the Committee considered its decision.

## **DECISION**

On 14 April 2016 this committee met to consider a report of the deputy monitoring officer regarding allegations that Cllrs Brown, Rushton and Swainsbury had breached the Code of Conduct of Hatfield Broad Oak Parish Council. Cllrs Rushton and Swainsbury attended the meeting and made

representations. Cllr Brown was given notice of the meeting but failed to attend.

Having considered the report and taking into account representations made by Cllrs Rushton and Swainsbury the Committee found that Cllrs Brown, Rushton and Swainsbury had treated Cllr Strutt with disrespect and had bullied and intimidated him. In respect of these breaches of the Code of Conduct the Committee Members recommended that Councillors Swainsbury, Rushton and Brown make a written apology to Councillor Strutt for treating him with disrespect, and bullying and intimidating him, the apology to be made on or before the next meeting of the Hatfield Broad Oak Parish Council and that they undertake training in respect of the requirements of the code of conduct.

The Committee have been informed that none of the Councillors have apologised or made contact with the Monitoring Officer to arrange training. Cllrs Brown and Rushton have actually made contact to state that they will not be giving any apology nor undergo training. The Committee particularly deprecate the tone of the correspondence from Cllr Brown in this respect. Further the committee have been made aware that at a meeting of the Parish Council on 11 May Cllr Swainsbury proposed a motion which was seconded by Cllr Brown that the findings of this Committee be rejected. That motion was regrettably passed with only one councillor voting against.

The Committee are very concerned that Cllrs Brown, Rushton and Swainsbury have not acted in accordance with the Committee's recommendations. Since the abolition of the previous standards regime established under the Local Government Act 2000 enforcement of the Code of Conduct needs to be consensual. The public need to have trust that councillors will observe the Code and will abide by any findings of the Standards Committee in the event of a breach. Failure to do so will reduce the confidence of the public both in the councillors who refuse to accept recommendations and in the Council concerned. By failing to follow the Committee's recommendations in this case Cllrs Brown, Rushton and Swainsbury have brought their Council and their office as councillors into disrepute. This is a highly regrettable state of affairs.

The Committee has seen a copy of a letter sent to Cllrs Rushton and Swainsbury by the Monitoring Officer on 18 February. The Committee endorse what he says in that letter. Hatfield Broad Oak Parish Council is indeed dysfunctional and it is difficult to see how it can effectively function while the status quo continues. The Committee strongly recommend that the Parish Council seek professional mediation to endeavour to rectify this state of affairs.

The Committee censure Cllrs Brown, Rushton and Swainsbury as they have failed to act in accordance with the Committee's recommendations for their breaches of the Code of Conduct with regard to Cllr Strutt as found on 14 April. The Committee directs an official notice of this decision be published, that the decision be published on Uttlesford District Council's website and a statement be issued to the press.