

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 10.30am on 3 February 2017**

Present: Councillor T Knight – Chairman
Councillors K Artus, H Asker, A Dean, N Hargreaves, D Jones,
J Loughlin.
Mrs Butcher- Daulton, Mr D Pearl, Mrs C Wellingbrook–Doswell
(Independent Persons)

Officers in attendance: M Cox (Democratic Services Officer) and S Pugh
(Interim Head of Legal Services).

SC7 APOLOGIES AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor Sell.

Cllr Asker declared a non-pecuniary interest as a member of Saffron Walden Town Council.

SC8 MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting held on 4 July 2016 and the extraordinary meeting held on 28 October 2016 were agreed as a correct record.

It was confirmed that Councillor Gadd had complied with the sanction, applied by the hearing panel.

SC9 REVIEW OF CODE OF CONDUCT AND PROCEDURE

The committee received a report from the Head of Legal Services that set out the recommendations from the Standards Task Group on the review of the Council's Code of Conduct and the procedures for dealing with a complaint about a breach of the Code. The detailed work had been conducted by two separate sub-groups.

The Chairman said she was grateful for the amount of work undertaken by the sub-groups and in particular the invaluable contribution of the Independent members

The Head of Legal Services said the revised version of the Code of Conduct was intended primarily to provide clarity rather than make substantive alterations but there were a few important differences to note:

- Other pecuniary and non- pecuniary interests had been grouped together as 'personal interests'.
- A prejudicial interest test would be applied to personal interests, whether or not they were financial in nature.

- The section dealing with conflicts of interest for members of the Executive was considered unnecessary and had been deleted.
- To increase the threshold for declaring receipt of hospitality from £25 to £50.

The new procedures sought to clarify the roles of the participants and to devise clearer procedures for hearings, as follows.

- To clarify the role of Monitoring Officer and avoid the Monitoring Officer acting as both the Investigating Officer and adviser to the committee.
- To allow flexibility to avoid holding a formal hearing if an alternative solution could be agreed.
- To delete the opportunity for a member of the standards committee to call-in a complaint for a hearing by a Panel where the Monitoring Officer and Independent member accept a finding that there was no breach of the code.
- To deal more closely with the process to be followed at hearings.

Cllr Jones said the new procedures also proposed to admit witnesses to the process, which previously had not been generally encouraged.

Cllr Hargreaves questioned the suggestion that a member of the Standards Committee would no longer be able to call-in a complaint for a hearing when the Monitoring Officer and Independent Person considered there was no breach of the Code. He thought this might lead to a perception of bias and suggested that a call in could be permitted if it was agreed by three members of the committee.

Cllr Dean said this would be contrary to the new approach and would over complicate the process. The new procedures were advocating informal resolution which would not be considered by the committee in any case. The Chairman said she had faith that the Independent Person who would take an impartial view and the Monitoring Officer would advise on the legal position.

In answer to a question from Cllr Loughlin it was confirmed that the process could be subject to judicial review.

Code of Conduct

Cllr Dean asked for clarification on the change to declarations of interests. The Head of Legal Services explained that the Localism Act required the declaration of disclosable pecuniary interests. The other interests were a matter for the local code, and this revision aimed to simplify this area. It was now proposed that a member should declare a personal interest but then apply the prejudicial test. If this was met they should leave the meeting, whether or not the interest was pecuniary.

Mr Pearl referred to the guidance at para 10 of the new code, which was the legal definition and he considered this to be clear and appropriate.

'Would a member of the public with knowledge of the facts reasonably regard my interest as so significant that it is likely to prejudice my judgement of the public interest?'

Councillor Artus said he had asked at the outset for the Nolan Principles to be shown at the beginning of the Code and for the Code to state that all councillors must comply with these principles.

The Head of Legal Services said this wording would open up too widely the scope of complaints. The detail about what constituted a breach of the Code was from Para 2 onwards and Members could revisit these sections if they wished to broaden out the scope of complaints.

Other members said the Nolan principles were embedded in the document. The principles themselves were too wide ranging and would invite the public to interpretation.

Cllr Artus replied that the Nolan principles were standards of behaviour that should be adhered to and this should be clearly stated in the Code.

Mr Pearl said the Localism Act required the Local Authority to produce a Code that complied with the Nolan Principles and this had been achieved within this draft.

Members suggested a number of options for alternative wording for section one but as agreement could not be reached the Chairman adjourned the discussion on this matter until later in the meeting.

Standards Procedures

In answer to a question, it was confirmed that a flow chart of the process and a plan showing the set up for a hearing would be included in the document once the procedures had been agreed.

Mr Pearl suggested the following amendments to the draft procedures, which were agreed by the Committee

Para 2.3	Include 'Independent Member' as part of the panel
Para 2.4	To have a consistent for the use of the apostrophe in relation to the Independent Person
Para 2.7	2 nd bullet point change 'usually' to 'always'
Para 2.7	3 rd bullet point, 2 nd line add 'of a complaint'
Para 6.2	Remove last 2 words 'of understanding'
Para 7.4	Remove 'any of' from the 6 th line
Para 8.5	Add the word 'relevant' before training
Para 8.6	Change 'complainant' to 'member'
Para 8.10	Add ' on whether there has been a breach'
Para 8.11	Add 'if necessary' after the word submissions.

Para 8.12	Remove the words 'if it chooses' and replace with 'shall'
Para 9	Remove the word 'you' replace with 'complainant or councillor.'

Councillor Loughlin was concerned that there was no right of appeal on the outcome of a hearing, except to the Ombudsman regarding the process or through judicial review. Other members said there was a need to consider proportionality given the limited sanctions imposed, but she pointed out that the outcome could be damaging to a councillor's reputation regardless of the sanction.

It was noted that the Localism Act had removed the statutory right of appeal. Therefore, the only option would be to appoint a further internal panel but these members would not have the same knowledge or training as the committee members. The procedures already included a two-stage process, with the initial consideration of the complaint by the Monitoring Officer and the Independent Person. In addition, there were new mechanisms within the procedures to guard against bad decisions.

Councillor Loughlin said she considered the right of appeal to be a basic human right and could not endorse the document.

RESOLVED to recommend to Full Council the approval of the revised Standards Procedures.

Code of Conduct

The meeting returned to the previous discussion around the Nolan Principles.

Cllr Artus said the current draft of the proposed new Code had changed the compliance with the Nolan Principles from a requirement to an objective. Other members repeated their view that these were principles rather than rules and to require compliance would widen the scope of interpretation and lead to more complaints. There was also the need to consider whether it was proportionate and justifiable to promote an increase in the number of complaints. Cllr Artus said that the new procedures should weed out any inappropriate complaints.

The Head of Legal Services suggested that the Committee should focus on what to include in the general obligations as Members should be clear on their expected standards of behaviour. Mr Pearl suggested adding the following words to General Obligations—' Members must comply with the principles set out in para 1' as a way of achieving what Cllr Artus was proposing. He clarified that this was suggested as a drafting amendment and that he was not supporting Cllr Artus's proposal.

The Committee agreed that there should be further consideration of this matter as it was important to put in place wording that was acceptable to all Councillors.

RESOLVED to defer the Code of Conduct to a future meeting in order to consider how to incorporate the Nolan Principles within the document.

It was agreed that the new Code and procedures would be considered at the April Council meeting. Before then the committee would need to consider how to inform other district members of the proposed changes.

The Committee agreed that the new Code should be drafted in a way that could be adapted for use by parish councils, if they chose to adopt the new documents.

The meeting ended at 12.30pm