

Guidance on the Code of Conduct

Standards Sub-Committee 2, 24 September 2012, item 2

**Committee: STANDARDS SUB COMMITTEE 2 -  
GUIDANCE ON THE CODE OF CONDUCT**

**Agenda Item**

**Date: 24 September 2012**

**2**

**Title: STANDARDS COMMITTEE GUIDANCE ON  
THE CODE OF CONDUCT**

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Item for decision

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## **Summary**

1. Members will be aware that the Localism Act 2011 abolished Standards for England and the previous statutory regime regarding Codes of Conduct. The guidance issued by Standards for England ceased to have effect with the abolition of that body. In its meeting on 23 July 2012 the Standards Committee appointed the Sub Committee to consider whether the Standards Committee should issue guidance regarding the council's Code of Conduct and if so what form that guidance should take.

## **Recommendations**

2. Members consider whether to recommend any guidance be issued to members to assist them in observing the council's Code of Conduct.
3. Members also consider whether they wish to make such guidance available to town and parish councils in general or only to those town and parish councils which have adopted Uttlesford's Code of Conduct.

## **Financial Implications**

4. None

## **Background Papers**

5. The following papers were referred to by the author in the preparation of this report (copies herewith):
  - Guidance issued by the Standards Board on the following issues:
    - The Code of Conduct
    - Blogging
    - Bullying and the Code of Conduct
    - Charitable Trustees and Declarations of Interest under the Code
    - Disclosing Confidential Information
    - Councils, Freemasons and the Code of Conduct
    - Gifts and Hospitality
    - Independent Members
    - Lobbying

## Guidance on the Code of Conduct

Standards Sub-Committee 2, 24 September 2012, item 2

- Notification to town and parish councils concerning complaints about their members
- Personal and prejudicial interests

## Impact

6.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Sound protocols on probity reduce the risk of subjecting the council to legal challenges
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

7. As required by the Localism Act 2011 this council has adopted its own Code of Conduct. The Code was recommended to Full Council by the Standards Committee. Although the provisions of the Code regarding registration and declarations of interest were substantially amended to take account of the Localism Act 2011, the remainder of the Code was very similar to the previous Code of Conduct. There were three perceived advantages to this namely:
  - i) Certainty – other Codes of Conduct which were promulgated were vague and did not adequately tell members or the public what standards of conduct were required.
  - ii) Familiarity – members were used to working with this Code of Conduct, and
  - iii) Consistency – most authorities in Essex have adopted a very similar Code.
8. There was a further advantage to parish councils who wished to adopt Uttlesford's Code in that there was easy access to advice with regard to its provisions.
9. Under the old regime Standards for England had the power to issue guidance and standards committees were obliged to have regard to that guidance in

## Guidance on the Code of Conduct

Standards Sub-Committee 2, 24 September 2012, item 2

determining issues regarding the Code of Conduct. As will be seen from the background papers Standards for England issued a suite of guidance.

10. Under the Localism Act 2011 there is no requirement for Standards Committees to issue any guidance with regard to the Code of Conduct. The first question for members to determine therefore is whether guidance should be issued to members of the council and town and parish councils. Although there is no statutory requirement to do so if the Committee does issue guidance, then obviously the Committee should have regard to its own guidance when considering allegations of breaches of the Code.
11. Although Standards for England issued guidance with regard to a number of specific matters relating to the Code of Conduct, members may consider this unnecessary and may consider that any guidance it issues should be contained in one document.
12. I would mention for completeness (as I referred to them in the report to the Standards Committee at its meeting on the 23 July 2012) there are two items of guidance which I have not had regard to in preparing this report, namely the role of town and parish representatives on the Standards Committee and dual-hatted members. I have not considered the former as we do not have town or parish representatives on the committee. I have not considered the latter as Standards for England's website was closed some time ago. Its content was transferred to the National Archives but unfortunately the document relating to dual-hatted members does not appear. However, my recollection is that save for dealing with planning and licensing issues there is little of significance in the guidance relating to dual-hatted members. These important issues are dealt with comprehensively in the Codes of Probity on Planning and Licensing which are being considered by another Standards Sub Committee.
13. Although there are separate items of guidance regarding charitable trustees and freemasons, members may well consider that these could be combined into one general piece of guidance regarding charities, freemasonry being relevant in the Code as it is a charity.
14. The guidance regarding independent members does not appear relevant to guidance to be issued to members to assist them in observing the Code of Conduct.
15. The guidance regarding lobbying would appear to be relevant mainly to planning and licensing and these issues are being considered in connection with Codes of Probity on Planning and Licensing which are being considered by another Sub Committee of the Standards Committee.
16. With regard to notification to parish and town councils, this committee is yet to take a view as to when parish and town councils should be notified that an allegation has been made with regard to one of its members and this is something which will need consideration.
17. The guidance regarding personal and prejudicial interest is clearly out of date but members may feel that it needs to be replaced with guidance regarding the

## Guidance on the Code of Conduct

Standards Sub-Committee 2, 24 September 2012, item 2

registration and declaration of disclosable pecuniary, other pecuniary and non pecuniary interest.

### Risk Analysis

18.

Risk	Likelihood	Impact	Mitigating actions
There is a lack of clarity as to what is required by the Code of Conduct	3, the forms used to register interests follow the statutory instrument but it is clear that a significant number of members of the district and town and parish councils do not fully understand what is required of them in this respect. If there is room for misunderstanding in this area there may be misunderstandings in other areas also.	3, councils may suffer reputational damage if their members are found to have breached the Code of Conduct.	Members ensure that any guidance tendered is clear so that members and the public may understand what standards of conduct are expected from councillors.

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.