



Essex County Council

**Agenda item 5**

**SC/001/14**

<b>Report to Essex County Council and Essex Fire Authority Joint Standards Committee</b>	
<b>Date of meeting:</b> 8 August 2014	<b>County Divisions affected by the decision:</b> All Divisions
<b>Title of report: Standards at Essex County Council – Annual Review 2014</b>	
<b>Report by</b> Terry Osborne – ECC’s Director for Corporate Law and Assurance and Monitoring Officer	
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## **1. Purpose of report**

- 1.1 This report provides members of the committee with an annual update of conduct issues at Essex County Council.

## **2. Recommendations**

- 2.1 That this report be noted and the committee decide any appropriate action in response to the issues raised in this report.

## **3. Background**

- 3.1 In the 1990s there was national concern about standards, although not principally in local government, which led to the creation of the national Committee on Standards in Public Life (often called ‘the Nolan Committee’ after the name of the Chairman. The Nolan Committee issued a set of principles which it thought were at the heart of good standards of behaviour. These standards are:

### *Selflessness*

*Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families or their friends.*

### *Integrity*

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

#### *Objectivity*

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

#### *Accountability*

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

#### *Openness*

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

#### *Honesty*

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

#### *Leadership*

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

- 3.4 In response to the views of the Nolan Committee and the perceived need to ensure that local authorities were doing all they could to uphold high standards of behaviour, many authorities introduced local Standards Committees which were empowered to consider breaches of the National Code of Local Government Conduct. These committees had no statutory power to impose a 'punishment' but they did have the power to publish their findings which can be a powerful deterrent against misconduct.
- 3.5 In 2001 the Local Government Act 2000 introduced a mandatory code of conduct which applied to all local authorities. The code was enforced by a local system, centred around the Standards Committee, which at that point had to include independent members. More serious cases were dealt with by the national Standards Board for England which also had an oversight role. All decisions were subject to appeal by an independent tribunal.
- 3.6 Concern was expressed that this system was expensive and encouraged complaints and some people were of the opinion that a significant number of complaints were politically motivated or trivial. It should be noted that very few complaints received related to councillors of Essex County Council.
- 3.7 The Localism Act 2011 repealed this system and created 'disclosable pecuniary interests' – which councillors must record on a public register. Councillors

commit an offence if they fail to register their interests or if they vote in a matter in which they have a pecuniary interest. The Localism Act 2011 also requires the Council to have a code of conduct to cover wider issues of standards and a system for enforcing it, but is no longer required to have a Standards Committee. The Council does however have a statutory duty under section 27 of the Localism Act 2011 to 'promote and maintain high standards of conduct by councillors and co-opted members of the authority'.

- 3.8 As part of the system of enforcing the code, the Council is required to have at least one independent person whose role is to:
- (a) advise the council about allegations (if the council seeks that advice).
  - (b) advise a councillor if they are the subject of an allegation that they have broken the code of conduct (if the councillor seeks that advice).
  - (c) advise the Council when there has been a formal investigation into an allegation. The Council must seek their advice before a final decision on the case is made.
- 3.9 Essex County Council has two such persons. The lack of business has meant that there has been no need to involve them in any formal business during 2013/14. The two independent persons are:

**Mr Norman Hodson**

Mr. Hodson is a retired chartered engineer and former independent standards committee member with Maldon District Council. He has an established interest in the public sector and a good understanding of the pressures and demands on councillors. He has experience of dealing with workplace misconduct issues and has dealt with standards issues at Maldon..

**Mr Jonathan Swan**

Mr Swan is employed as a training director and serves as a JP. He has been a standards committee member with the London Borough of Newham and Chelmsford City Council. He is currently a governor with Anglia Ruskin University and Chelmsford College. He has experience of standards issues in local government.

- 3.10 It will be appreciated that under the Local Government Act 2000, independent members were engaged by being a member of the Committee. The current system has – to date – seen very little work for the independent persons, yet we may need to call upon their services with little notice. It would therefore be beneficial to see how the Committee wishes to ensure their continued engagement with the role.

**4. Review of 2013/14**

**New Code**

- 4.1 The Council adopted its new code of Conduct in October 2012. Although the code was based on an 'Essex wide' template drafted by monitoring officers across the Council, it did have some differences. Most councils have chosen to adopt a code based on the Essex template, but tailored to meet local needs.

There is a view that the Code could be further simplified. There is another report elsewhere on this agenda proposing a review of the code.

#### Training

- 4.2 Training on the Code of Conduct was offered in October 2012 when the new code came into effect.
- 4.3 The County Council elections in May 2013 resulted in a large number of new councillors at Essex CC and two new entirely new political groups. The Council is now divided into six political groups. Several training sessions were run for new councillors on the ECC code of conduct and most new councillors did attend the training.
- 4.4 In addition, councillors were asked to complete training on corporate governance issues. This training is to be undertaken using a simple online training system. The modules and take up of the course is shown below.

Module	Number of current councillors who have completed.
Good decision making	31
How we behave	27
Information governance	27
Anti-fraud and corruption	26
Diversity and equality	26
Health and safety	3

#### Standards Committee

- 4.5 The code of conduct was adopted in October 2012 and it was sensible to allow the new code a bedding-in period. No major issues arose during 2013-14 and the Standards Committee did not need to meet. It is suggested that the ECC Monitoring Officer develops a work programme for ECC business to be considered by the Committee, to be considered at its next scheduled meeting.

#### Allegations Received

- 4.6 In 2013/14 we received four allegations that members had broken the code of conduct. These are summarised below but these were complaints which, even had the allegations been found to be correct, would not have been a breach of the Code of Conduct for Councillors. When we wrote to the complainant to explain the position and, where appropriate, suggesting alternative avenues which could be pursued, none of the complainants elected to pursue the matter further. Accordingly there was no need to convene a meeting of the committee to formally determine an outcome for any of the allegations. A brief summary of the allegations is set out below:

Source of	Nature of complaint	Outcome
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<b>complaint</b>		
Member of the public	That the Councillor introduced a traffic scheme which discriminated against disabled people.	Formal explanation sent to complainant explaining that this was a decision taken by officers not members and could not, therefore, amount to a breach of the member code of conduct. The matter was dealt with as a standard complaint. The complainant accepted this position.
Member of the public	That the Councillor was involved in a local voluntary organisation (unconnected with ECC) which the complainant felt had acted inappropriately.	The Member's role in this organisation had no connection with the Council and there was no action that could amount to a breach of the code. The complainant accepted this position.
Member of the public	Complaint about the decisions made in connection with the Deanes School.	The complaint related to the decision to close the school and did not amount to a breach of the code of conduct. This matter has been extensively considered by our external auditor, the Local Government Ombudsman, the Monitoring Officer and the Scrutiny Committee. There is no indication of any member misconduct that might constitute an breach of the Code.
Councillor	A complaint about another councillors behaviour towards the complainant councillor	This relates to a disagreement between two members. The Monitoring Officer met with the two members concerned to facilitate an improvement in their working relationship. Following this, the complainant councillor indicated that he was happy for his complaint to be dealt with in this informal way rather than as a breach of the code of conduct.

## **5. Financial Implications**

5.1 This report has no financial implications.

## **6. Legal Implications**

6.1 This report forms part of the Council discharging its duty under section 27 of the Localism Act 2011 to promote and maintain high standards of councillor conduct.

## **7. Staffing and other resource implications**

- 7.1 All resource requirements for this work will be provided by the Monitoring Officer personally or by the small team of Corporate Lawyers.

## **8. Equality and Diversity implications**

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 8.3 The equality duty means that, when we take decisions, we must balance equalities issues alongside other considerations. There is no legal duty to achieve all the outcomes set out in the duty at the expense of other factors.

## **9. Background papers**

None.