

SC/004/11

Committee The Essex County Council and Essex Fire Authority Joint Standards Committee

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Alex Hallam, Deputy County Solicitor

Enquiries to Alex Hallam tel 01245 506790 e-mail: Alex.Hallam@essex.gov.uk

DEVELOPMENT OF A LOCAL CODE OF CONDUCT

1. Purpose of the Report

To update the Committee on the Council's response to the Localism Bill as it relates to the Standards regime.

2. The Localism Bill

On 23 June a number of amendments were discussed in relation to the provisions of the Bill that relate to the current standards regime.

The Government consensus seems to be that the removal of Standards for England is appropriate, but there has to be some structure left to promote standards and ensure recourse to those with genuine complaints. There appears to be almost unanimous support for the retention of compulsory Standards Committees within local authorities, and a compulsory Code of Conduct for members. There was some debate over the potential source of a compulsory Code of Conduct, but it appears to be preferred that the code comes from local government rather than central government. The code may be based on the same principles and standards in public life as the current code. There is an emphasis on consistency across local authorities, and a concern that Parish Councils will be left out in the cold if a Local Authority chose not to have any system at all upon which they could rely. There was mention of ACSeS or The Local Government Association being asked to draw up a national code of conduct.

Lord Taylor of Holbeach appears to be the voice of the coalition and the principles of localism, and puts forward a contrary argument that Local Authorities should be left with the choice of how they wish to deal with issues of standards but this has not gathered much support.

The Bill looks to end its transition through the Committee Stage in mid July.

A report on the Council's response to The Localism Bill was presented to the Full Council on 12 July 2011 and the item is attached (Annex 1). The recommendations to the report were agreed.

**AN EXTRACT FROM THE COUNCIL ISSUES PRESENTED TO THE FULL
COUNCIL MEETING ON 12 JULY 2011**

10. Development of a Local Code of Conduct

The Localism Bill seeks to remove the statutory Code of Conduct for Members and provides that an authority may, if it chooses to do so, adopt a voluntary Code in its absence. There is no requirement in the Bill that a local authority has in place a Code at all: the authority may either revise the existing code of conduct, adopt a code to replace its existing code or withdraw its existing code without replacing it. The Bill is still subject to the Parliamentary process and has not yet been enacted.

The Bill provides that if an allegation of a breach of the voluntary Code is received in writing, the authority must take a decision on whether or not to investigate and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit. However, there appears to be no right to require an investigation in circumstances where there isn't a Code in place; an individual would then appear to have little recourse other than to report the matter to the police.

The Bill attempts to deal with misconduct in three ways: first, serious misconduct for personal gain would become a criminal offence; secondly, individuals who have been personally disadvantaged by something a Councillor has done will be able to complain to the Local Government Ombudsman; and thirdly, for other instances of misconduct, the remedy will be left to the ballot box. The concern is that these three options will allow for instances of misconduct to go without remedy.

The Bill stipulates that regardless of whether it adopts a voluntary Code, an authority must promote and maintain high standards of conduct by its Members. Whilst it is not clear how an authority is expected to achieve the promoting and maintaining of high standards of conduct, adopting a Code, is likely to be the preferred option within most authorities. Allowing each authority to write its own Code would result in uncertainty and differing opinion on what is an acceptable level of behaviour. This would cause unnecessary confusion for the public and for those members who are both district/borough and county councillors.

It is in the interest of all authorities to have clear standards of conduct and the public should feel confident that those who are elected to public office will maintain the highest standards of probity and good conduct.

Council is, therefore, asked to endorse that it is in the interests of both the Council as a whole and all of its members that there should be a voluntary Code of Conduct for Members with a Standards Committee operating alongside the Code and to achieve as much consistency as possible across the authorities in the County.

Recommended:

- (1) That, in principle, Council agrees it is in the best interests of both the Council as a whole and of all its members for there to be a voluntary Code of Conduct for Members.
- (2) That the Monitoring Officer take responsibility for the drafting of a code based upon the work being undertaken by the Local Government Association, the Association of Council Secretaries and Solicitors (the Monitoring Officer's professional body) and work by Monitoring Officers in local councils acting collectively.