

The Essex County Council and Essex Fire Authority Joint Standards Committee

Members' Handbook

Introduction

The Essex County Council and Essex Fire Authority Joint Standards Committee has the following roles and functions:

- a). promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives.
- b). assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct.
- c). advising the Council on the adoption of revisions of the Members' Code of Conduct.
- d). monitoring the operation of the Members' Code of Conduct.
- e). advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.
- f). granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
- g). dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards officer to the Monitoring Officer.
- h). receiving and assessing complaints about Members in relation to the Code of Conduct.
- i). as and when requested by complainants to review decisions to not refer a complaint for investigation following the assessment process referred to in paragraph h).
- j). conducting hearings of complaints about the behaviour of Members following an investigation.

This document brings together the documents that help explain the way in which the Committee operates and carries out its various roles, investigations and enquiries.

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The Constitution of the Essex County Council and Essex Fire Authority Joint Standards Committee

1) Definitions

In this Constitution:

“the Act” means the Local Government Act 2000

“the Constituent Authorities” means

(a) Essex County Council

(b) Essex Fire Authority

“Executive”, “Executive Member”, “Elected Mayor” and “Executive Leader” have the same meaning as in the Act

“Independent Member” has the same meaning as in the Standards Committee Regulations

“the Joint Standards Committee” means the Joint Standards Committee of the Constituent Authorities

“Monitoring Officers” means the officers designated by the Constituent Authorities under section 5 of the Local Government and Housing Act 1989 and any deputy nominated by them acting where they are unable to do so owing to absence or illness

“Proper Officer” has the same meaning as in the Local Government Act 1972

“the Regulations” means the Standards Committee (Further Provisions) (England) Regulations 2009

“Relevant Authority” has the same meaning as in the Act

“Scheme of Allowances” means any scheme of allowances made under the Local Authorities (Members Allowances) Regulations 2003

“the Standards Committee Regulations” means The Standards Committee (England) Regulations 2008

2) Constitution and Terms of Reference

2.1) The Constituent Authorities, in exercise of their powers under the Regulations, have each determined to establish a joint standards committee, to be known as the Essex County Council and Essex Fire Authority Joint Standards Committee to exercise those functions conferred by or under Part 3 of the Act or Part 1 of the Local Government and Housing Act 1989 set out in this Constitution.

2.2) The Joint Standards Committee is the standards committee to which written allegations under section 57A (1) of the Act may be sent for both the Constituent Authorities

2.3) This Constitution contains the Terms of Reference of the Joint Standards Committee for the purposes of Regulation 15 of the Regulations and section 53 (9) of the Act.

3) Functions to be exercised by the Joint Standards Committee

- 3.1) The Joint Standards Committee may exercise the functions set out in Appendix 1.
- 3.2) Any Standards Committee established by any of the individual Constituent Authorities may not exercise any function set out in Appendix 1.
- 4) Membership of the Joint Standards Committee
 - 4.1) The Joint Standards Committee shall consist of:
 - a) 12 members of the Constituent Authorities, appointed by those authorities in accordance with paragraph 4.2;
 - b) 5 Independent Members, appointed in accordance with paragraph 4.5.
 - 4.2) Subject to paragraphs 4.3 and 4.4, the following Constituent Authorities shall appoint the following numbers of members of those authorities to be members of the Joint Standards Committee:
 - a) Essex County Council: nine members (who shall not also be members of the Essex Fire Authority)
 - b) Essex Fire Authority: three members (who may be a members of the County Council)
 - 4.3) Appointment of Executive Members
 - a) No more than one of the members of the Constituent Authorities appointed under paragraph 4.2 shall be a member of the Executive of any of the Constituent Authorities.
 - b) If an Executive Member has previously been appointed to and is still a member of the Joint Standards Committee then no further appointment of an Executive Member will be valid.
 - c) Otherwise, if the Constituent Authorities seek to appoint more than one Executive Member then only one appointment will be valid and the other Constituent Authorities will be required to make a new appointment. The valid appointment shall be agreed between the Constituent Authorities or in default of agreement shall be made annually in turn by each of the Constituent Authorities in the order set out in paragraph 4.2 starting with the Constituent Authority named in paragraph 4.2 (a).
 - 4.4) None of the members of the Constituent Authorities appointed under paragraph 4.2 shall be the Executive Leader of either of the Constituent Authorities.
 - 4.5) The following Constituent Authorities shall appoint the following numbers of Independent Members (in accordance with the provisions of the Standards Committee Regulations) to be members of the Joint Standards Committee:
 - a) Essex County Council: 4 members

- b) Essex Fire Authority: 1 member
- 4.6) A person who is disqualified under Part 5 of the Local Government Act 1972 or by the decision of a Case Tribunal under Part 3 of the Act for being a member of a relevant authority shall be disqualified for membership of the Joint Standards Committee.
- 5) Tenure of office and casual vacancies
 - 5.1) A member of the Joint Standards Committee will hold office until one of the following occurs:
 - a) He or she resigns by giving written notice to the proper officer of the Constituent Authority that appointed him or her;
 - b) He or she being an independent member of a constituent authority has held office for a four year period with reappointment for one further period of four years.
 - c) He or she is disqualified for membership of the Joint Standards Committee;
 - d) He or she ceases to be eligible for appointment to the Joint Standards Committee in the capacity in which he or she was appointed;
 - e) The Constituent Authority which appointed him or her ceases to participate in the Joint Standards Committee.
 - 5.2) A casual vacancy shall be filled as soon as possible by the Constituent Authority which appointed the member of the Joint Standards Committee whose membership has ceased.
- 6) Sub-Committees
 - 6.1) The Joint Standards Committee shall appoint Sub-Committees in so far as is necessary to exercise its functions under Part 3 of the Act and may establish Sub-Committees for other purposes in the exercise of its functions.
 - 6.2) Each person appointed as a member of a Sub-Committee must be a member of the Joint Standards Committee.
 - 6.3) The Joint Standards Committee will determine the membership and terms of reference of the Sub-Committee and the quorum for its meetings, when it is appointed.
 - 6.4) If the Joint Standards Committee appoints more than one Sub-Committee to exercise one or more of its functions then its Chairman shall ensure that the Proper Officer of the Constituent Authority providing support to the Joint Standards Committee allocates particular matters to a Sub-Committee first on the basis of the availability of the members required to constitute the Sub-Committee, and thereafter by rotation, and summonses meetings accordingly.
- 7) Meetings and proceedings

- 7.1) The meetings and proceedings of the Joint Standards Committee shall be conducted in accordance with the rules set out in Appendix 2.
- 7.2) The Joint Standards Committee will adopt standing orders or rules of procedure for the conduct of its meetings. The standing orders or rules of procedure must be consistent with the requirements of the Act, the Standards Committee Regulations and the rules set out in Appendix 2. They may provide for different procedures to be followed when the Joint Standards Committee or a Sub-Committee is exercising different functions.
- 8) Monitoring Officers
- 8.1) The Monitoring Officers will agree and keep under review a protocol about how they will exercise their functions in relation to the matters dealt with by the Joint Standards Committee.
- 8.2) The initial protocol is set out in Appendix 3. The Monitoring Officers will inform the Joint Standards Committee and the Constituent Authorities of any changes to the protocol.
- 9) Support
- 9.1) The Joint Standards Committee will appoint one of the Constituent Authorities to provide accommodation and professional, technical, administrative and clerical support for its meetings.
- 9.2) The Joint Standards Committee will keep the appointment under review and may from time to time make a new appointment having regard to the geographical area that it covers and to the interests of economy, efficiency and effectiveness.

For the period stated in column 1 of the following table, the Constituent Authority identified in Column 2 shall be appointed to provide accommodation and professional, technical, administrative and clerical support for its meetings.

Table	
Column 1 Period	Column 2 Constituent Authority
10 years from 9 December 2009	Essex County Council

- 9.3) The Proper Officer appointed by the Constituent Authority for the time being providing such support will discharge the proper officer functions under the Local Government Act 1972 that relate to the meetings of the Committee. He or she will therefore prepare agendas and minutes and summaries of meetings and arrange for notices and other communications to and from the Joint Standards Committee to be given and received, save in so far as one of the Monitoring Officers agrees to undertake this activity.
- 10) Expenses of Joint Standards Committee

- 10.1) The expenses of the Joint Standards Committee and of the discharge of functions relating to matters dealt with by the Joint Standards Committee will be defrayed by the Constituent Authority providing support and by any Constituent Authority whose Monitoring Officer has dealt with or exercised his or her functions in relation to such matters.
- 10.2) The other Constituent Authorities will make payments to the Constituent Authority that has incurred expenses under paragraph 10.1, to defray them in such proportions as the Constituent Authorities shall all agree or in the case of disagreement as shall be determined by a single arbitrator agreed on by the Constituent Authorities, or, in default of agreement, appointed by the Secretary of State for Communities and Local Government.
- 10.3) In determining the allocation of expenses the Constituent Authorities or any arbitrator appointed under paragraph 11.2 will have regard to the principles set out in Appendix 4.
- 10.4) The Constituent Authority for the time being providing support will report to the Joint Standards Committee at least annually on such expenses, on their allocation between the Constituent Authorities and on the financial provision made by the Constituent Authorities to cover present and future expenses. The Joint Standards Committee may notify the Constituent Authorities if it considers that the financial provision is or is likely to be inadequate.
- 11) Allowances
 - 11.1) The Constituent Authorities will review the Schemes of Allowances for their members, will consult each other for the purposes of the review, and will seek (with a view to ensuring that all members of the Joint Standards Committee of the same type and whose responsibilities are, in principle, the same, should have broadly the same entitlement):
 - a) To reach agreement as to which members of the Joint Standards Committee should receive allowances, the level of allowances, and whether related attendance or activity should affect, either directly or by reason of any calculations that are performed, the entitlement to allowances;
 - b) To ensure that no member of the Joint Standards Committee is paid more than one allowance, or more than one enhanced allowance, on account of such attendance or activities;
 - c) To ensure that the agreement reached is reflected in the Constituent Authorities' Schemes of Allowances.
 - 11.2) An agreement reached under paragraph 11.1 shall not bind the Constituent Authorities so as to prejudice the legality of their decisions, or compromise their decision-making processes, under the Local Authorities (Members Allowances) Regulations 2003.
- 12) Withdrawal from the Joint Standards Committee

- 12.1) A Constituent Authority may cease to participate in the Joint Standards Committee by resolution to that effect taking effect on the date of the next annual meeting of the Constituent Authority, and communicated in writing to the Proper Officer who is at the time providing support to the Joint Standards Committee at least six months before the date on which it is to take effect.

APPENDIX 1

Functions to be exercised by the Joint Standards Committee

The Joint Standards Committee may exercise all the functions of a standards committee of a Constituent Authority conferred under Part 3 of the Act and Part 1 of the Local Government and Housing Act 1989.

The Constituent Authorities have decided that it is appropriate that the Joint Standards Committee should exercise the following additional functions:

- 1)** Sending returns to the Standards Board for England under section 66B of the Act in relation to the functions of the Joint Standards Committee.
- 2)** Providing information to the Standards Board for England under section 66C of the Act in relation to the functions of the Joint Standards Committee.
- 3)** Considering recommendations from a case tribunal under section 80 of the Act that relate to the functions of the Joint Standards Committee

APPENDIX 2

Rules for the conduct of meetings and proceedings

1) Meetings

- 1.1)** The Joint Standards Committee shall in every year hold an annual meeting.
- 1.2)** The first Meeting held after the 31 May in any year shall be the annual meeting.
- 1.3)** The Joint Standards Committee may hold such other meetings as they may determine.
- 1.4)** The provisions of the Local Government Act 1972 and the Standards Committee Regulations (and transitionally the Relevant Authorities (Standards Committee) Regulations 2001 and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003), relating to giving summons to attend the meeting, giving notice of time and place of the meeting, admission of the public and press to meetings, access to agendas and reports, preparation of and access to minutes of the meeting (or a written summary), access to background papers and the timing and conduct of hearings, that apply to a standards committee of a Relevant Authority, shall apply to the Joint Standards Committee.

2) Appointment of chair and vice-chair

- 2.1)** Subject to paragraph 2.4, the Joint Standards Committee shall at their annual meeting appoint a chair and a vice-chair from among the independent members of the Joint Standards Committee.
- 2.2)** The chair and vice-chair shall, unless they resign their office or cease to be independent members of the Joint Standards Committee, continue in office until their successors become entitled to act.
- 2.3)** In the case of an equality of votes in respect of the appointment of a chair or the appointment of a vice-chair, the person presiding at the meeting shall give a casting vote in addition to any other vote he or she may have.
- 2.4)** The chair and vice-chair must be independent members.
- 2.5)** Subject to paragraph 2.4, if a casual vacancy occurs in the office of chair or vice-chair of the Joint Standards Committee the vacancy shall be filled by the appointment by the Joint Standards Committee of one of their members at the next meeting and the person so appointed shall hold office until the next annual meeting.

3) Conduct of meetings

- 3.1) At a meeting of the Joint Standards Committee the chair if present shall preside.
- 3.2) If the chair is absent from a meeting of the Joint Standards Committee the vice-chair shall preside.
- 3.3) If both the chair and vice-chair are absent, another independent member of the Joint Standards Committee, chosen by the members of the Joint Standards Committee present at the meeting, shall preside.

4) Quorum

- 4.1) No business shall be transacted at a meeting of the Joint Standards Committee unless **at least five** members are present (this will include an independent member in the Chair).
- 4.2) Where a meeting is convened to exercise functions specified in sections 57A or 57B of the Act or in regulations 17 to 20 of the Standards Committee Regulations at least one member of one of the Constituent Authorities must be present:

5) Proceedings of meetings

- 5.1) All questions coming or arising before a meeting of the Joint Standards Committee shall be decided by a majority of the members of the joint committee present and voting at that meeting.
- 5.2) The minutes of the proceedings of each meeting of the Joint Standards Committee shall be drawn up and shall be signed at the next ensuing meeting of the Joint Standards Committee by the person presiding at that next meeting.
- 5.3) A copy of the minutes of the proceedings of each meeting of the Joint Standards Committee shall be sent to the proper officer of each Constituent Authority within 14 days after the date of the meeting at which they were signed.
- 5.4) The names of the members present at each meeting of the Joint Standards Committee shall be recorded in the minutes of the proceedings of that meeting.

6) Sub-Committees

- 6.1) Paragraphs 1 to 5 apply to meetings of Sub-Committees of the Joint Standards Committee with the following modifications.
- 6.2) References to the Joint Standards Committee should be read as references to the Sub-Committee.
- 6.3) Sub-Committees will not hold an annual meeting.

- 6.4)** The independent member appointed to the Sub-Committee will be the chair.
- 6.5)** The quorum for a Sub-Committee meeting will be determined by the Joint Standards Committee when it appoints the Sub-Committee but shall not be less than three.
- 6.6)** For the avoidance of doubt, by virtue of Regulation 8 (5) (a) of the Standards Committee Regulations the provisions of Part 5 A of the Local Government Act 1972 do not apply to a Sub-Committee considering an allegation received under section 57A (1) of the Act or reviewing a decision under section 57B of the Act, and the provisions of Regulation 8 (5) (b) and (c) do apply.

APPENDIX 3

Protocol for the exercise of Monitoring Officer functions

- 1) This protocol has been agreed by the Monitoring Officers of the Constituent Authorities as a way of defining their relationship with the Joint Standards Committee and describing how they will exercise their statutory functions.
- 2) The objective is to ensure that the Constituent Authorities, the Joint Standards Committee, any other Standards Committee appointed by the Constituent Authorities, and the Monitoring Officers all:
 - 1) exercise their functions as effectively, efficiently and economically as possible
 - 2) demonstrate a strong ethical framework and structure within the authorities
 - 3) demonstrate innovation and best practice, strong outcomes for the community (including through partnership working), performance well above minimum accepted levels, and excellent value for money.
- 3) The Monitoring Officers necessarily retain personal responsibility for their statutory functions under sections 5 and 5A of the Local Government and Housing Act 1989 and Part 3 of the Local Government Act 2000. They may arrange for their functions under sections 5 or 5A to be performed by a member of their staff, nominated as their deputy for the purposes of those sections, but only if they are unable to act owing to absence or illness. It appears that such nomination is also effective for the purposes of Part 3, and therefore in these protocols "Monitoring Officer" includes a deputy acting in those circumstances.
- 4) Under section 82A of the Local Government Act 2000 the Monitoring Officer may delegate some, but not all, Part 3 functions ("the Delegable Functions") to a person whom he or she has nominated. The criterion is that the Monitoring Officer considers that in a particular case he or she ought not to perform those functions.
- 5) The Delegable Functions are:
 - 1) Receiving a reference from a Standards Committee under section 57A of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the Standards Committee.
 - 2) Receiving a reference from a Standards Committee under section 57A of the Act and dealing with it by conducting an investigation, making a finding and reporting to the Standards Committee.

- 3) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the ESO.
 - 4) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and dealing with it by conducting an investigation, making a finding and reporting to the Standards Committee.
 - 5) Receiving a reference from an ESO under section 64 (2) or (4) of the Act following an investigation by the ESO, sending a copy of the ESO's report to the subject member and referring the report to the Standards Committee.
- 6) The other functions under Part 3 cannot be delegated to a nominated person (the "Non-delegable Functions"). These include:
- 1) Receiving a reference from an ESO following a finding of "no failure to comply" or "no action" and deciding whether to send it to any member or officer of the authority.
 - 2) Receiving a copy of an ESO's interim report and deciding whether to send it to the Standards Committee and/or any member or officer of the authority.
 - 3) Receiving notice of a decision of an interim case tribunal.
 - 4) Maintaining the register of interests.
- 7) The Monitoring Officer also has "Nonstatutory Functions": activities that are incidental to the specific statutory duties and help promote good standards of conduct, including:
- 1) Giving general advice to members and officers of the authority.
 - 2) Ensuring that the authority complies with its responsibilities under Part 3 of the Act.
- 8) The Monitoring Officer also has "Standards Committee Functions": activities to assist the Standards Committee in the exercise of its functions, including;
- 1) Advising the Standards Committee on the exercise of its general and specific functions under section 54 of the Act (promoting and maintaining high standards of conduct, assisting members to observe the Code of Conduct, advising on the Code, monitoring the operation of the Code and advising and training members on it).
 - 2) Advising the Standards Committee on the exercise of its specific functions under the Act.

- 3) Attending and advising at meetings of the Standards Committee or a Sub Committee:
 - i) Assessing a written allegation
 - ii) Reviewing the assessment of a written allegation
 - iii) Considering reports from a Monitoring Officer following (a) an ESO investigation (b) a MO investigation (c) other action by the MO
 - iv) Conducting a hearing
 - v) Considering requests for dispensations
 - vi) Exercising other functions.

- 9) The Monitoring Officers have agreed that these functions will be allocated in the following way:
 - 1) They will each exercise the Non-delegable and Non-statutory functions relating to their authority.

 - 2) They will consider in each case whether or not they ought to perform the Delegatable Functions personally, and if they decide that they will not then they will jointly procure external assistance

 - 3) In so far as the Standards Committee functions relate to the Joint Standards Committee then they will be discharged by the Monitoring Officer for Essex County Council.

- 10) The Monitoring Officers will cooperate to achieve the objectives of this protocol. They recognise that the operation of this protocol will need to be amended and refined and will keep it under review. Any changes will be reported to the Joint Standards Committee and the Constituent Authorities.

APPENDIX 4

Allocation of expenses

The Constituent Authorities will have regard to the following principles in determining the allocation of expenses:

Any expenses directly attributable to:

- an investigation or other action taken following a reference to a Monitoring Officer
- consideration of a report by an ESO or a Monitoring Officer following an investigation or other action
- any hearing
- any appeal

will be allocated to the Constituent Authority of which the subject member or co-opted member is a member.

Expenses directly attributable to the assessment or review of assessment of written allegations will be allocated pro rata to the number of written allegations received against members or co-opted members of each Constituent Authority (or for which the Constituent Authority is responsible).

Expenses relating to allowances paid to members of the Joint Standards Committee will be allocated to the Constituent Authority which appointed the member to whom the allowance was paid.

ASSESSMENT SUB-COMMITTEE

Terms of Reference

1. To receive allegations that a Member of Essex County Council or of the Essex Fire Authority may have failed to comply with their respective Codes of Conduct.
2. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, to make an initial assessment of the allegation and then do one of the following:
 - (i) refer the allegation to the Monitoring Officer, with an instruction that they undertake a formal investigation of the allegation, or direct that they arrange training, conciliation or such appropriate alternative steps as permitted by the Regulations;
 - (ii) refer the allegation to the Standards Board for England;
 - (iii) decide that no action should be taken in respect of the allegation; or
 - (iv) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a Member of another relevant Authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant Authority

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.

3. Where the Sub-Committee resolves to recommend any of the actions set out in paragraph 2 above, the Sub-Committee shall state its reasons for that decision.

Composition

4. The Sub-Committee shall comprise three Members of the Standards Committee, of whom one shall be an Independent Member who shall chair the Sub-Committee.
5. The Chairman of the Committee shall agree the membership of the Sub-Committee. In the absence of the Chairman the Vice-Chairman shall agree the membership and in the absence of the Chairman and the Vice-Chairman the Monitoring Officer shall agree the membership.

Quorum

6. The quorum for a meeting of the Sub-Committee shall be three Members. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the Monitoring Officer is authorised, after consultation with the Chairman of the Committee, or in the absence of the Chairman in consultation with the Vice-Chairman of the Committee, to select a substitute Independent Member to chair the Sub-Committee as necessary.

Procedure

7. Officers shall provide members of the Sub-Committee with the full text of the received complaint and all supporting documentation.
8. Paperwork, agenda and reports shall be dispatched at least three, and whenever possible five, full working days before the date of a meeting of the Sub-Committee.

Frequency of Meetings

9. The Sub-Committee shall meet as and when required to enable it to make an initial assessment within 20 working days of the receipt of the allegation.

REVIEW SUB-COMMITTEE

Terms of Reference

1. To review, upon the request of a person who has made an allegation, a decision of the Assessment Sub-Committee that no action be taken in respect of that allegation that a Member of Essex County Council or of the Essex Fire Authority has failed, or may have failed, to comply with their respective Codes of Conduct.
2. Upon receipt of each such request and any accompanying report by the Monitoring Officer, to review the decision of the Assessment Sub-Committee and then do one of the following:
 - (i) refer the allegation to the Monitoring Officer, with an instruction that they undertake a formal investigation of the allegation, or specify that they take an alternative action as permitted by the Regulations;
 - (ii) refer the allegation to the Standards Board for England;
 - (iii) decide that no action should be taken in respect of the allegation; or
 - (iv) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a Member of another relevant Authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant Authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.

3. Where the Sub-Committee resolves to do any of the actions set out in paragraph 2 above, the Sub-Committee shall state its reasons for that action.

Composition

4. The Sub-Committee shall comprise three Members, of whom one shall be an Independent Member of the Standards Committee who shall chair the Sub-Committee and none of whom shall have been a member of the Assessment Sub-Committee that decided no action be taken in respect of the allegation.
5. The Chairman of the Committee shall agree the membership of the Sub-Committee. In the absence of the Chairman the Vice-Chairman shall agree the membership and in the absence of the Chairman and the Vice-Chairman the Monitoring Officer shall agree the membership.

Quorum

6. The quorum for a meeting of the Sub-Committee shall be three Members. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the Monitoring Officer is authorised, after consultation with the Chairman of the Committee, or in the absence of the Chairman in consultation with the Vice-Chairman of the Committee, to select a substitute Independent Member to chair the Sub-Committee as necessary, provided that the substitute

shall not have been a member of the Assessment Sub-Committee that decided no action be taken in respect of the allegation.

Frequency of Meetings

7. The Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Assessment Sub-Committee within three months of the receipt of the request for such a review from the person who made the allegation.

CONSIDERATION AND HEARINGS SUB-COMMITTEE

Terms of Reference

1. To consider the outcome of an investigation by the Monitoring Officer into allegations that a Member of the Council or of the Essex Fire Authority has failed, or may have failed, to comply with their respective Authority's Code of Conduct, following the decision by the Assessment Sub-Committee to instruct the Monitoring Officer that he / she undertake a formal investigation of the allegation, and to determine whether:
 - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
 - ii. the matter should be referred for consideration at a hearing before the Sub-Committee; or
 - iii. the matter should be referred to the First-tier Tribunal for determination.
2. Where the Sub-Committee resolves to recommend any of the actions set out in paragraph 1. above, the Sub-Committee shall state its reasons for that decision.
3. To undertake the Hearing following a decision in accordance with paragraph 1.ii. above or when a complaint has been referred for local determination after an investigation by an ESO, in compliance with the agreed Procedure for the Sub-Committee.

Composition

4. The Sub-Committee shall comprise three Members, of whom one shall be an Independent Member of the Standards Committee who shall chair the Sub-Committee.
5. The Chairman of the Committee shall agree the membership of the Sub-Committee. In the absence of the Chairman the Vice-Chairman shall agree the membership and in the absence of the Chairman and the Vice-Chairman the Monitoring Officer shall agree the membership.

Quorum

6. The quorum for a meeting of the Sub-Committee shall be three Members. In the event of the unavailability of the Independent Chairman of the Sub-Committee, the Monitoring Officer is authorised, after consultation with the Chairman of the Committee, or in the absence of the Chairman in consultation with the Vice-Chairman of the Committee, to select a substitute Independent Member to chair the Sub-Committee as necessary.

Frequency of Meetings

7. The Sub-Committee shall meet as and when required.

Procedure for a Hearing by the Consideration and Hearing Sub-Committee

1. Interpretation

- 1.1 'Councillor' means the member (including co-opted members) who is the subject of the allegation being considered by the Consideration and Hearing Sub-Committee ('the Sub-Committee'), unless stated otherwise. It also includes the Councillor's nominated representative.
- 1.2 'Investigating Officer' means the Ethical Standards Officer (ESO) who referred the report to the Monitoring Officer of the Council, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Monitoring Officer of the Council to undertake that investigation (which may include the Monitoring Officer, and his or her nominated representative).
- 1.3 'The Matter' is the subject matter of the Investigating Officer's report.
- 1.4 'The Sub-Committee' refers to the Consideration and Hearing Sub-Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- 1.5 'The Committee Support Officer' means an officer of the Council responsible for supporting the Standards Committee's discharge of its functions and recording the decisions of the Standards Committee.
- 1.6 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.
- 1.7 'The Chair' refers to the person presiding at the hearing.
- 1.8 'Confidential or exempt information' means confidential information as defined in Section 100A(3) of the Local Government Act 1972 and exempt information falling within any of the categories specified in Part I of Schedule 12A of the Local Government Act 1972.

2. Modification of the Procedure

- 2.1 The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

3. Representation

- 3.1 The Councillor may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

4 Pre-hearing Procedure (ESO's Report)

- 4.1 Upon reference of a matter from an ESO for local determination following completion of the ESO's report or a decision following a local investigation that the matter should be considered at a formal hearing, the Monitoring Officer shall, within seven days, instruct the Legal Advisor:

- 4.1.1 to arrange a date for the Sub-Committee hearing, ensuring that five (including two independent) members are available on the day to allow for last minute apologies and any member who subsequently identifies a prejudicial interest;
- 4.1.2 to send a copy of the report to the Councillor and advise him / her of the date, time and place for the hearing;
- 4.1.3 to request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E, as recommended by Standards for England within 14 days of receipt;
- 4.1.4 in the light of any Pre-Hearing Forms returned by the Councillor, to determine whether the Sub-Committee will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly-considered conclusion at the hearing, and arrange for their attendance;
- 4.1.5 to prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and highlighting the issues which the Sub-Committee will need to address;
- 4.1.6 to arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent out 10 working days in advance to:
 - 4.1.6.1 all members of the Sub-Committee who will conduct the hearing;
 - 4.1.6.2 the Councillor;
 - 4.1.6.3 the Investigating Officer. and
- 4.1.7 to arrange a pre-meeting for the members of the Sub-Committee immediately prior to the meeting taking place.

5. Legal Advice

- 5.1 The Sub-Committee may adjourn to take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome. Wherever the Chair considers it appropriate, such legal advice shall be given to the Sub-Committee in open session.

6. Setting the Scene

- 6.1 At the start of the hearing, the Chair shall introduce each of the members of the Sub-Committee, the Councillor (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Sub-Committee will follow in the conduct of the hearing.

7. Preliminary procedural issues

- 7.1 The Sub-Committee shall then deal with the following preliminary procedural matters in the following order.

Disclosures of interests

- 7.2 The Chair shall ask members of the Sub-Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

Quorum

- 7.3 The Chair shall confirm that the Sub-Committee is quorate.

Hearing procedure

- 7.4 The Chair shall confirm that all present know the procedure which the Sub-Committee will follow in determining the matter.

Proceeding in the absence of the Councillor

- 7.5 If the Councillor is not present at the start of the hearing:
- 7.5.1 the Chair shall ask the Legal Advisor whether the Councillor has indicated his/her intention not to attend the hearing;
 - 7.5.2 the Sub-Committee shall then consider any reasons which the Councillor has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
 - 7.5.3 if the Sub-Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
 - 7.5.4 if the Sub-Committee is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Sub-Committee shall

decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date.

Exclusion of the Press and Public

- 7.6 The Sub-Committee may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.
- 7.7 The Chair shall ask the Councillor, the Investigating Officer and the Legal Advisor to the Sub-Committee whether they wish to ask the Sub-Committee to exclude the press or public from all or any part of the hearing. If any of them so request, the Chair shall ask them to put forward reasons for so doing and ask for responses from the others and the Sub-Committee shall then determine whether to exclude the press and public from all or any part of the hearing.
- 7.8 Where the Sub-Committee does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

8 A failure to comply with the Code of Conduct?

- 8.1 The Sub-Committee will then address the issue of whether the Councillor failed to comply with the Code of Conduct.
- 8.2 The Chair shall ask the Councillor if present to confirm that he/she maintains the position as set out in the pre-hearing summary.

The Pre-Hearing Process Summary

- 8.3 The Chair will ask the Legal Advisor to present their report, highlighting any points of difference in respect of which the Councillor has stated that he / she disagrees with any finding of fact in the Investigating Officer's report. The Chair will then ask the Councillor to confirm that this is an accurate summary of the issues and ask the Councillor to identify any additional points upon which he / she disagrees with any finding of fact in the Investigating Officer's report.
 - 8.3.1 If the Councillor admits that he / she has failed to comply with the Code of Conduct the Sub-Committee may then make a determination that the Councillor has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken.
 - 8.3.2 If the Councillor identifies additional points of difference, the Chair shall ask the Councillor to explain why he / she did not identify these points as part of the pre-hearing process. The Investigating Officer (if present) shall then be asked if he / she is in a position to deal with those

additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged.

- 8.3.3 Where the Sub-Committee is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Councillor did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

Presenting the Investigating Officer's report

- 8.4 If the Investigating Officer is present, the Chair will then ask the Investigating Officer to present his / her report, having particular regard to any points of difference identified by the Councillor and why he / she concluded, on the basis of his / her findings of fact that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
- 8.5 If the Investigating Officer is not present, the Sub-Committee shall only conduct a hearing if it is satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Sub-Committee shall determine, on the advice of the Legal Advisor, which witnesses, if any, to call. Where such witnesses are called, the Chair shall draw their attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- 8.6 No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chair shall ask the Councillor if there are any matters upon which the Standards Committee should seek the advice of the Investigating Officer or the witness.

The Councillor's response

- 8.7 The Chair shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- 8.8 No cross-examination shall be permitted but at the conclusion of the Councillor's evidence and/or of the evidence of each witness, the Chair shall ask the Investigating Officer if there are any matters upon which the Standards Committee should seek the advice of the Councillor or the witness.

Witnesses

- 8.9 The Sub-Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that the witness is likely to give evidence which it needs to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.
- 8.10 Any member of the Sub-Committee may through the Chair address questions to the Investigating Officer, to the Councillor or to any witness.

Additional Evidence

- 8.11 At the conclusion of the evidence, the Chair shall check with the members of the Sub-Committee that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.
- 8.12 If the Sub-Committee at any stage prior to determining whether there was a failure to comply with the Code of Conduct is of the opinion that it requires additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Sub-Committee may (on not more than one occasion) adjourn the hearing, and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Sub-Committee.

Determination as to whether there was a failure to comply with the Code of Conduct

- 8.13 At the conclusion of the Councillor's response, the Chair shall ensure that each member of the Sub-Committee is satisfied that he or she has sufficient information to enable them to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.
- 8.14 Unless the determination merely confirms the Councillor's admission of a failure to comply with the Code of Conduct, the Sub-Committee shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
- 8.15 The Sub-Committee shall take its decision on the balance of probability based on the evidence which it has considered at the hearing.
- 8.16 The Sub-Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Councillor or a witness, or to seek the legal advice from its Legal Advisor. If it requires any further information, it may adjourn and instruct an officer or request the Councillor to produce such further evidence to the Sub-Committee.

8.17 At the conclusion of the Sub-Committee's consideration, the Sub-Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Councillors.

8.18 The Sub-Committee shall then return to the main hearing room and the Chair will state the Sub-Committee's principal findings of fact and its determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

9. If the Councillor has not failed to follow the Code of Conduct

9.1 If the Sub-Committee determines that the Councillor has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

9.1.1 If the Sub-Committee apprehends, from the evidence which it has received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Sub-Committee has just determined), the Chair shall outline the Sub-Committee's concerns and state that the Sub-Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the Assessment Sub-Committee.

9.1.2 The Chair shall then set out any recommendations which the Sub-Committee is minded to make to the Council with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor before the Sub-Committee finalises any such recommendations.

9.1.3 Finally, the Chair shall ask the Councillor whether he / she wishes the authority not to publish a statement of its finding in a local newspaper.

10. Action consequent upon a failure to comply with the Code of Conduct

10.1 The Chair shall ask the Investigating Officer (if present, or otherwise the Legal Advisor) whether, in his/her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Sub-Committee should impose a sanction and, if so, what would be the appropriate sanction.

10.2 The Chair will then ask the Councillor to respond to the Investigating Officer's or Legal Advisor's advice.

10.3 The Chair will then ensure that each member of the Sub-Committee is satisfied that they have sufficient information to enable them to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.

10.4 Any member of the Sub-Committee may address questions to the Investigating Officer or to the Councillor as necessary to enable them to take such an informed decision.

- 10.5 The Chair shall then set out any recommendation which the Sub-Committee is minded to make to the Council with a view to promoting high standards of conduct among Councillors, and seek the views of the Councillor, the Investigating Officer and the Legal Advisor.
- 10.6 The Sub-Committee shall then retire to another room to consider in private whether to impose a sanction, and where a sanction is to be imposed, what sanction to impose, when that sanction should take effect, and any recommendations which the Sub-Committee will make to the Council.
- 10.7 At the completion of their consideration, the Sub-Committee shall return to the main hearing room and the Chair shall state the Sub-Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Sub-Committee will make to the authority.

11. Reference back to the Ethical Standards Officer

If, at any time before the Sub-Committee has determined upon any appropriate sanction, the Sub-Committee considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Sub-Committee, the Sub-Committee may instruct the Monitoring Officer to request the ESO to resume responsibility for the conduct of the matter, and may adjourn the hearing until the Monitoring Officer advises the Sub-Committee of the ESO's response to such a request.

12. The close of the hearing

- 12.1 The Sub-Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Councillor as soon as practicable after the close of the hearing.
- 12.2 The Chair will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.
- 12.3 Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Sub-Committee's determination and the Legal Advisor shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 8 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

13. Appeals

- 13.1 The Councillor may appeal against the decision of the Sub-Committee by writing to the First-tier Tribunal, ensuring that his / her letter sets out the

grounds for such an appeal, includes a statement as to whether or not he / she consents to the appeal being heard by way of written representations, and is received by the Tribunal within 28 days of the date of the written notice of decision under Paragraph 13.3 above.

Anonymous Complaints policy

Law and guidance

There is nothing in the legislation, which requires a complaint to be signed by the complainant. It is noted that in the past Standards for England has entertained some anonymous complaints, and this has given rise to considerable unease. In such cases, it is, of course, not possible to meet the requirements to notify the complainant of the decision in respect of the complaint.

Standards for England's guidance states that an anonymous complaint should only be referred for investigation, or some other action, if it includes documentary or other photographic evidence indicating an exceptionally serious or significant matter.

Policy

Anonymous complaints will not be entertained except where a complaint made anonymously includes documentary and/or photographic evidence which shows a very serious or significant matter, but the Monitoring Officer be authorised to keep the identity of a complainant confidential where the Monitoring Officer is of the opinion that it is in the public interest to do so.

Policy regarding the elapse of time between events complained of and the making of a complaint

In order to assess a complaint the Assessment Sub-Committee is obliged to consider whether the complaint is about something that happened so long ago that there would be little benefit in now taking action. When assessing complaints where there has been a significant elapse of time since the matters complained of the Assessment Sub-Committee should consider the following criteria in assessing such a complaint:

- the time that has elapsed since the alleged conduct occurred
- the seriousness of the alleged conduct
- the benefit that would accrue either to the standards regime or to the complainant in taking action
- the extent to which any evidence might be compromised by the elapse of time.

CHAIRMAN OF STANDARDS COMMITTEE

Purpose

1. To provide leadership and direction to the work of the Standards Committee in promoting and maintaining high standards of conduct by Members and officers.
2. To chair committee meetings and ensure the committee achieves its terms of reference.
3. To ensure that the Committee work programme fully complies with the Committee's terms of reference.

Specific Tasks

1. To ensure that Members of the Committee fully understand the Committee's work, and receive training in the operation of the Code of Conduct, Members' interests and investigation of complaints.
2. To lead the committee, in consultation with officers, in prioritising its work and setting meeting agendas.
3. To submit an Annual Report to the Council on the extent of compliance with the Member and Officer Codes of Conduct.
4. To work closely with the monitoring officer on maintaining a high standard of ethical conduct including the referral of complaints to Standards for England.
5. To speak on behalf of the Committee in promoting effective communications with the public on its decisions.

Skills Required

1. Good communication and interpersonal skills
2. Leadership and chairing skills
3. An understanding of the Council's Code of Conduct and how to deal with complaints about conduct
4. Ability to influence and work constructively with Members, officers, the public and outside organisations
5. Ability to build and work as part of an effective team

Member of Standards Committee ROLE PROFILE

Purpose

To participate in the activities of the Essex County Council and Essex Fire Authority Joint Standards Committee, the delivery of its work programme and any associated Sub-Committees.

Specific Tasks

• Promoting the work of the Standards Committee

- To promote the role of Standards inside and outside the Council, developing effective internal and external relationships.
- To demonstrate an objective and evidence-based approach to conducting enquiries.
- To work closely with the monitoring officer on maintaining a high standard of ethical conduct

• Meeting participation

To make adequate and appropriate preparation for meetings through research and briefings.

- To participate in a proactive, informed and effective manner taking into account the Code of Conduct and other constitutional requirements.

Skills Required

1. Good communication and interpersonal skills.
2. Ability to work constructively with members, officers, the public and outside organisations.
3. Ability to work as part of a team.

ESSEX COUNTY COUNCIL MEMBER'S CODE OF CONDUCT

Part 1

General Provisions

Introduction and Interpretation

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees; and
- (d) informal meetings with other Members or with Officers relating to the discharge of the authority's functions.

"member" includes a co-opted member and an appointed member.

- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3. (1) You must treat others with respect.
- (2) You must not
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,

In relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Personal interests

8. (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such

persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Registration of Members' Interests

- 13.** (1) Subject to sub-paragraph 14, you must, within 28 days of—
- (a) this Code being adopted or applied to your authority; or
 - (b) your election or appointment to office (where this is later), register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

- 14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.