

## **ECC & Essex Fire Authority Joint Standards Committee**

<b>14:00</b>	<b>Monday, 14 March 2016</b>	<b>Committee Room 2, County Hall, Chelmsford, Essex</b>
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**Quorum: 3**

### **Membership**

#### **Essex County Council**

Councillor T Cutmore	Chairman
Councillor S Barker	
Councillor A Bayley	
Councillor A Durcan	
Councillor C Guglielmi	
Councillor T Higgins	
Councillor M McEwen	
Councillor J Pike	
Councillor C Pond	

#### **Essex Fire Authority**

Councillor M Coxshall  
Councillor J Moyies  
Councillor Lady Newton

**For information about the meeting please ask for:  
Andy Gribben, Council and Member Support Officer  
03330134565 [andy.gribben@essex.gov.uk](mailto:andy.gribben@essex.gov.uk)**

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Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

## **Part 1**

(During consideration of these items the meeting is likely to be open to the press and public)

		<b>Pages</b>
<b>1</b>	<b>Apologies for Absence</b>	
<b>2</b>	<b>Declarations of Interest</b> To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
<b>3</b>	<b>To confirm the minutes of the meeting held on 21 December 2015</b>	<b>5 - 6</b>
<b>4</b>	<b>Dispensations for County Councillors who are also District Councillors or Members of the Essex Fire Authority</b> To consider a report (SC/01/16) by Paul Turner - Corporate Lawyer and Deputy Monitoring Officer, Essex County Council	<b>7 - 14</b>
<b>5</b>	<b>Review of the Member Code of Conduct</b> To consider a report (SC/02/16 and appendix) by Paul Turner - Corporate Lawyer and Deputy Monitoring Officer - Essex County Council	<b>15 - 28</b>
<b>6</b>	<b>Dates of Next Meetings</b> To determine a schedule of meetings of the committee	
<b>7</b>	<b>Urgent Business</b> To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	

## **Exempt Items**

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

**8**

**Urgent Exempt Business**

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

**MINUTES OF A MEETING OF THE ESSEX COUNTY COUNCIL AND ESSEX FIRE  
AUTHORITY JOINT STANDARDS COMMITTEE HELD AT COUNTY HALL,  
CHELMSFORD, ON 21 DECEMBER 2015 AT 2:00 pm**

**1. Present**

Cllr J W Pike (Chairman)	Cllr C Guglielmi
Cllr S Canning	Cllr J Moyies (EFA)
Cllr T Cutmore	Cllr Lady Newton (EFA)
Cllr J Deakin	Cllr C C Pond

The Chairman welcomed new members to the meeting.

The following officers were present in support throughout the meeting:  
Terry Osborne (Monitoring Officer), Paul Turner (Deputy Monitoring Officer) and  
Andy Gribben (Council and Member Support Officer);

**2. Apologies and Substitution Notices**

Apologies for absence were received from Essex County Councillors A J Bayley, T Higgins (substitute Councillor J Deakin), R Hirst and M McEwen (substitute Councillor S Canning); Essex Fire Authority representative Councillor M Coxshall (Thurrock Unitary).

Apologies were also received from the Council's two Independent Persons Mr N Hodson and Mr J Swan.

**3. Declarations of Interest**

Councillor Pond declared that he was the Chairman of Epping Forest Parishes' Joint Standards Committee.

**4. Appointment of Vice-Chairman**

Councillor T Cutmore was appointed Vice-Chairman of the committee.

**5. Minutes**

The minutes of the meeting held on 8 August 2014 were approved as a correct record.

**6. Dispensation**

The Committee considered a report by the Monitoring Officer (SC/001/15) an application for a dispensation in respect of Councillor G Barker, a co-opted member of Essex County Council's Health Overview and Scrutiny Committee.

In response to questions from Members it was clarified that should a matter arise at Essex County Council's Health Overview and Scrutiny Committee in connection with which Councillor Barker might otherwise have had a -pecuniary interest, he should disclose it **put refer to 1** the dispensation that has been agreed..

**Resolved:**

1. That the dispensation to Councillor Graham Barker be granted which:
  - (a) allows him to participate in matters at the Council's Health Overview and Scrutiny Committee (or any of its Sub-Committees) notwithstanding his work as a locum GP; and
  - (b) Does not apply if the matter being considered has a greater effect on GP practices where Councillor Barker has worked within the last two years than it does on GP practices in the relevant CCG area.
2. That the dispensation should last for a period of 4 years.
3. That the Monitoring Officer should write to Councillor Barker to let him know the outcome of the application.

**7. Investigation and Hearings Procedure**

The Committee considered a report by the Monitoring Officer (SC/002/15) that provided members of the committee with a note of the procedure to be adopted by the Monitoring Officer and/or the Standards Committee when investigating and/or hearing allegations of breaches of the code of conduct against members of the Council. It was also recommended that a similar procedure may in future be adopted for handling complaints against members of the Fire Authority.

The Monitoring Officer advised members of the Committee that when a Member had been appointed to another body then the Code of Conduct of that other body applied.

It was agreed that (once some typographical errors had been corrected) the revised Investigations and Hearing Procedure and the current Code of Conduct would be distributed to Members.

**Resolved:**

The Committee noted and endorsed the new procedure in the form appended to the report.

**8. Date of next meeting**

The date of the next meeting would be advised.

There being no further business the meeting closed at 2:30pm.

<b>Report to Joint Standards Committee</b>	<b>SC/01/16</b>
<b>Date of meeting:</b> 14 March 2016	<b>County Divisions affected by the decision:</b> All Divisions
<b>Title of report:</b> Dispensations for County Councillors who are also District Councillors or Members of the Essex Fire Authority	
<b>Report by:</b> Paul Turner - Corporate Lawyer and Deputy Monitoring Officer, ECC	
<b>Enquiries to</b> Paul Turner - Corporate Lawyer and Deputy Monitoring Officer 03330 134591 email paul.turner2@essex.gov.uk	

## 1. Purpose of report

- 1.1 To consider applications for a dispensation from members of the County Council as a result of membership of a district council or the Essex Fire Authority.
- 1.2 This uses the term 'twin hatted' to refer to Councillors who are also members of other authorities.

## 2. Recommendations

- 2.1 Grant a dispensation to County Councillors named in the appendix to this report (other than those who are present at the meeting) which allows them to participate in decision making and scrutiny at Essex County Council notwithstanding the fact that they or their spouse or partner is a member of a district council or the Essex Fire Authority other than as set out in paragraph 2.2.
- 2.2 The Dispensation does not apply to:
  - (a) the consideration of any approval, consent, licence, permission or registration in relation to that authority; or
  - (b) the award of a contract to that authority following a competitive procurement.
- 2.3 Agree that the dispensation should last for a period of 4 years.

- 2.4 Agree that the Monitoring Officer and Deputy Monitoring Officer each be authorised to grant dispensations to members in similar terms.

### **3. Background and proposal**

- 3.1 Local authorities have always had rules to manage potential conflicts between the private interests of a councillor and their public duties. The rules change regularly but they always seek to prevent councillors from acting as a councillor where this conflicts with their public role. It has always been accepted that there are some limited circumstances where councillors should be able to participate and even vote notwithstanding the fact that they could be perceived as having a conflict.
- 3.2 At present Members are required not to participate in meetings and must leave the room if they have a disclosable pecuniary interest. Failure to declare a pecuniary interest is a criminal offence which can be prosecuted by the Crown Prosecution Service.
- 3.3 Unlike the previous code of conduct, the law of pecuniary interests does not provide for automatic exemptions. Instead, the Council is empowered to grant dispensations in certain circumstances. Essex County Council has delegated the power to grant dispensations to the Joint Standards Committee.
- 3.4 The law about dispensations is contained in section 33 of the Localism Act 2011. It says that the Council may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation.
- 3.5 The Council can only grant a dispensation if, after having had regard to all relevant circumstances, it—
- (a) Considers that without the dispensation the number of persons prohibited by from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.

*This criterion would apply where it would be difficult to take the decision because of the number of councillors affected by the particular interest.*

- (b) Considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.

*This would apply where a number of members of a particular political group have a conflict.*



- (c) Considers that granting the dispensation is in the interests of persons living in the authority's area.

*This is a very broad exemption which allows dispensations to be granted in the interest of Essex residents generally.*

- (d) If it is an authority operating executive arrangements, the Council considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

*This has limited application and would apply only where a conflict of interests particularly affected members of the Executive.*

- (e) Considers that it is otherwise appropriate to grant a dispensation.

*As with (c) above, this is a provision giving the council a broad discretion which authorises the grant of dispensations in a very wide range of circumstances.*

3.6 Any dispensation must say:

- (a) How long it lasts. A dispensation cannot last for longer than four years.
- (b) What it covers (eg which interest it relates to and whether it applies in all circumstances or only some of the time)
- (c) Whether it covers
  - a. participation in discussion
  - b. voting; or
  - c. both

3.7 It should be noted that the power to grant a dispensation arises only where an application has been received.

**Background to the application**

3.8 Many of our councillors are also a member of one of the 12 district councils. In addition, 20 of the 75 councillors are also members of the Essex Fire Authority. Some councillors have spouses or partners who are district councillors. A list of those affected is at appendix 1. Under the old code of conduct they would have been able to speak and vote on all matters relating to the other authority.

3.9 When the Localism Act 2011 was introduced it was relatively clear that membership of a district council or the EFA was a registrable interest because members of those authorities receive payment in the form of an allowance. It is therefore an office carried on for gain. Some local authorities granted dispensations to twin hatted members, on the basis that this would preserve the position as it was under the former Code of Conduct.

- 3.10 Essex County Council did not take this approach. The current position is that if a member participates in a matter in which they have an interest as a result of their – or their spouse's - membership of another authority then they may commit an offence.
- 3.11 The Localism Act 2011 was not intended to put councillors in an uncertain position or to mean that their other public roles ought to give rise to the risk of committing offences, particularly in circumstances where the previous regime would allow them to participate fully.
- 3.12 Accordingly, in order to ensure that the position for twin hatted members is as clear as possible it is recommended that a dispensation is granted to all twin hatted members who require one. The aim of the dispensation is to ensure that members are clearly put in the same position as they would have been before 2012. It is clearly in the interests of Essex residents to do so.
- 3.13 After consultation, a letter was sent to all members of the County Council to inform them that an application would be made for this dispensation if they were a twin hatted member (or their spouse was a district councillor) unless they indicated that they did not require one. No member has indicated that they do not require a dispensation.
- 3.14 Since the dispensation would apply to some members of this Committee it is recommended that the dispensation is granted to those listed in appendix 1 who are not present at the meeting, and that authority is granted to the relevant officer to grant dispensations in other cases. Officers would then be able to grant a dispensation to members of the Committee and in future to councillors who are newly elected to district councils or appointed to the Fire Authority.

#### **4. Financial Implications**

- 4.1 There are no financial implications to the grant of dispensations which can be dealt with inside existing resources.

#### **5. Legal Implications**

- 5.1 The legal implications are set out elsewhere in this report.

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

- 6.1 This report has no staffing implications.

#### **7. Equality and Diversity implications**

- 7.1 In making this decision the Council must have regard to the public sector equality duty under section 149 of the Equalities Act 2010. The Council is required to have due regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- This includes having regard to the need to:
- (i) remove or minimise disadvantages suffered by particular equality groups;
  - (ii) take steps to meet the needs of particular equality groups;
  - (iii) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 The equality duty is a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149. This equality duty is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 7.4 It is not anticipated that this decision will have any adverse impact on anyone; based on their race or culture, age, sexual orientation, impairment, gender, caring role, re-assigned gender, pregnancy/maternity/paternity, marital status or civil partnership, religion/belief or socio-economic and/or health inequalities.

## **8. List of background papers**

Letter to all Councillors, February 2016

List of ECC members where the member or their spouse or partner is also a District Councillor.  
Where the 'District Ward' box is shaded, the Member has a spouse or partner who is a member of the District Council.

Name		District	ECC Division	District Ward
<b>Basildon</b>				
Ellis	Mark	Basildon	<i>Laindon Park &amp; Fryerns</i>	Laindon Park
Hedley	Tony	Basildon	Billericay & Burstead	Billericay West
McGeorge	Melissa	Basildon	<i>Pitsea</i>	Vange
Smith	Kerry	Basildon	Westley Heights	Nethermayne
<b>Braintree</b>				
Abbott	James	Braintree	Witham Northern	Silver End and Cressing
Butland	Graham	Braintree	Braintree Town	Gt Notley & Black Notley
Canning	Stephen	Braintree	Bocking	Bocking Blackwater
Newton	Patricia	Braintree	Braintree Eastern	Coggeshall
<b>Brentwood</b>				
Aspinell	Barry	Brentwood	Brentwood North	Pilgrims Hatch
Hirst	Roger	Brentwood	Brentwood Hutton	Hutton South
Kendall	David	Brentwood	Brentwood South	Pilgrims Hatch
<b>Castle Point</b>				
Bayley	Alan	Castle Point	South Benfleet	Appleton
Blackwell	Dave	Castle Point	Canvey Island East	Canvey Island Central
Howard	Ray	Castle Point	Canvey Island West	Canvey Island West
<b>Chelmsford</b>				
Chandler	Jenny	Chelmsford	Great Baddow	Great Baddow West
Deakin	Jude	Chelmsford	Chelmsford West	Marconi
Grundy	Ian	Chelmsford	Stock	South Hanningfield, Stock and Margareting
Madden	Richard	Chelmsford	Chelmsford Central	Moulsham and Central
Robinson	Stephen	Chelmsford	Chelmsford North	Patching Hall
Spence	John	Chelmsford	Chelmer	Yvonne Spence Marconi
<b>Colchester</b>				
Bentley	Kevin	Colchester	Stanway & Pyefleet	Birch and Winstree
Brown	Anne	Colchester	Constable	Dedham and Langham
Harris	Dave	Colchester	Maypole	Berechurch
Higgins	Theresa	Colchester	Parsons Heath & East Gates	New Town
Jowers	John	Colchester	Mersea & Tiptree	West Mersea
Lissimore	Sue	Colchester	Drury	Prettygate
Young	Julie	Colchester	Wivenhoe St. Andrew	St. Andrews Spouse: Tim Young St Andrews
<b>Epping Forest</b>				
Gadsby	Ricki	Epping Forest	Waltham Abbey	Waltham Abbey South West
Knapman	John	Epping Forest	Chigwell & Loughton Broadway	Chigwell Village
McEwen	Maggie	Epping Forest	Ongar & Rural	High Ongar, Willingale and the Rodings
Pond	Chris	Epping Forest	Loughton Central	Loughton Broadway Spouse: Caroline Pond Loughton St John's

Name		District	ECC Division	District Ward
Whitehouse	Jon	Epping Forest	Epping & Theydon Bois	Epping Hemnal
<b>Harlow</b>				
Clempner	Karen	Harlow	<i>Harlow West</i>	Toddbrook Spouse: Jon Clempner (Leader) Lt Parndon & Hare St
Danvers	Michael	Harlow	Harlow North	Netteswell
Durcan	Tony	Harlow	Harlow West	Little Parndon and Hare Street
Johnson	Eddie	Harlow	Harlow South East	Great Parndon
<b>Maldon</b>				
Boyce	Bob	Maldon	Southminster	Althorne
Channer	Penny	Maldon	Maldon	Mayland
<b>Rochford</b>				
Cutmore	Terry	Rochford	Rochford North	Ashingdon and Canewdon
Hoy	Michael	Rochford	Rochford West	Hullbridge Spouse: Diane Hoy Hullbridge
Maddocks	Malcolm	Rochford	Rayleigh North	Hockley West
Seagers	Colin	Rochford	Rochford South	Foulness and Great Wakering
<b>Tendring</b>				
Guglielmi	Carlo	Tendring	Tendring Rural West	Manningtree, Mistley, Lt Bentley & Tendring Souse: Valerie Guglielmi Lawford
Henderson	Ivan	Tendring	Harwich	Harwich East
Honeywood	Paul	Tendring	Clacton West	Pier
<b>Uttlesford</b>				
Barker	Susan	Uttlesford	Dunmow	High Easter Spouse: Graham Barker Gt Dunmow South and Barnston
Lodge	John	Uttlesford	Saffron Walden	Saffron Walden Shire

ECC members appointed to the Essex Fire Authority:

### Essex County Council

Councillor B Aspinell (Lib Dem)  
Councillor S Barker (Con)

Councillor J Chandler (Con)  
Councillor A Erskine (UKIP)  
Councillor A M Hedley (Con)  
Councillor P Honeywood (Con)  
Councillor J Jowers (Con)  
Councillor M McEwen (Con)  
Councillor Lady P Newton (Con)  
Councillor A Turrell (Lib Dem)

Councillor A Bayley (UKIP)  
Councillor D Blackwell (Non-aligned)  
Councillor M Danvers (Con)  
Councillor C Guglielmi (Con)  
Councillor I Henderson (Lab)  
Councillor M Hoy (Green)  
Councillor J Knapman (Con)  
Councillor A Naylor (Con)  
Councillor C Seagers (Con)  
Councillor A Wood (Con)



<b>Report to Joint Standards Committee</b>	<b>SC/02/16</b>
<b>Date of meeting:</b> 14 March 2016	<b>County Divisions affected by the decision:</b> All Divisions
<b>Title of report:</b> Review of the Member Code of Conduct	
<b>Report by:</b> Paul Turner - Corporate Lawyer and Deputy Monitoring Officer - ECC	
<b>Enquiries to</b> Paul Turner - Corporate Lawyer and Deputy Monitoring Officer 03330 134591 email: paul.turner2@essex.gov.uk	

## 1. Purpose of report

- 1.1 The Joint Committee has previously agreed that the Code of Member Conduct ought to be reviewed.
- 1.2 This report asks the Joint Committee to consider the attached draft Code of Conduct

## 2. Recommendations

- 2.1 That the Joint Committee considers the draft revised Member Code of Conduct appended to this report and the two issues identified in paragraph 3.8.
- 2.2 That the draft code is the subject of consultation with all members of the County Council and the Fire Authority and with the Independent Persons.
- 2.3 That the Joint Committee recommends to Essex County Council and the Essex Fire Authority that the revised draft code is adopted subject to any changes agreed by the ECC Deputy Monitoring Officer in consultation with the Chairman of the Joint Committee as a result of the consultation.

## 3. Background and proposal

- 3.1 The current Member Code of Conduct applies to both ECC and the Fire Authority. It was approved at a meeting of the full Council on 16 October

2012. The Essex Fire Authority approved the Code at a meeting of the authority on 5 September 2012.

- 3.2 These were the first which each organisation had adopted under the provisions of the Localism Act 2011 which gave the local authority discretion as to the contents of the code of conduct, but took away the power of the Standards Committee to apply any substantive sanction for councillors found to have broken the code.
- 3.3 The current codes are both based on a 'template' code drafted by monitoring officers across Essex. Most Essex councils, including ECC and the Fire Authority, have used a template as a starting point but have made some changes. The template is based to some extent on the previous national code of conduct.
- 3.4 The codes have now been in force for 3½ years. There have been a number of complaints which have resulted in investigation and there has now been one hearing by the Hearings Sub Committee. It is understood that there has only been one allegation made to the Fire Authority and that did not result in an investigation.
- 3.5 It is sensible to review any new system after it has had the chance to bed in. There are a few issues with the wording of the code where officers feel that the wording could be improved. In August 2014 the Committee agreed that the Code should be reviewed.
- 3.6 A revised draft code has now been produced and is attached at appendix 1.
- 3.7 The draft revised code is slightly shorter and has been slightly re-ordered. The main changes are:
  - (a) **Simplification of the rules about declarations of interests.** The current rules are complex and are poorly understood. The current Code defines 'pecuniary interests' 'other pecuniary interests' and 'personal interests'. It is proposed that in future there will be two types of interest; 'pecuniary interests' and 'personal interests'. [see paragraph 24.13.2 and throughout the code].
  - (b) **Extension of the right to grant dispensations.** The current rules allow the Standards Committee to grant a dispensation for pecuniary interests, but not for other types of interest. It seems clear that the ability to grant these dispensations ought to be in the code.[paragraph 24.11]
  - (c) **Clarification around members' equality duty** to make it clear that this paragraph applies to members' personal behaviour rather than the decisions they take. This change is proposed because we have received allegations where complainants have sought to argue that decisions taken by Councillors are a breach of the code because (they argue) the decision is discriminatory. This amendment makes it clear that only a member's personal behaviour can be a breach of the code. If people consider that a decision taken by the Authority is discriminatory then it should be



considered via the proper channels rather than being considered as a code of conduct complaint. [paragraph 24.2.3(i)]

(d) **Registration of tenders** Two issues have arisen around registration of tenders:

(i) Some companies submitting a tender may not want that fact to be published, particularly until after the closing date is known. Accordingly it is proposed to make it clear that tenders are not required to be registered until the deadline for submission. This will avoid any suggestion that placing tenders on a public register could deter people from submitting bids.

(ii) There is an anomaly in the code because tenders only have to be registered if the Councillor has part ownership of the organisation submitting the tender. This appears to be a lacuna in the drafting because contracts are required to be registered even if the councillor is an unpaid director. There is no obvious reason why tenders and contracts should be treated differently, and it is confusing to councillors. It is therefore proposed to align the requirement to register tenders with the statutory requirement to register contracts. [paragraph 24.13.2]

(e) **Revised the Nolan Principles** The Nolan Principles are set nationally by the Committee on Standards in Public Life. They are appended to the Code of Conduct. The principles have been – each principle has the same name, but the narrative has been slightly modernised. The appendix to the end of the Code has been updated.[appendix to the code]

(f) **Clarification** that a breach of the ‘Nolan Principles’ is not a breach of the Code. A number of complainants have sought to argue that a breach of the Principles can be dealt with by the Standards Committee. It is proposed to clarify that this is not the case. [paragraph 24.4.1]

3.8 There are two further issues where the Joint Committee is recommended to change the code - if approved then the version of the code will be addressed following the meeting:

(a) **Bringing the office of Councillor into disrepute.** This was a general provision which was in the previous code of conduct, but which is not in the current code. The rest of the code is quite specific about the types of conduct which are outlawed. The omission of a ‘disrepute’ clause could cause difficulties if Councillors are said to have misbehaved in a serious way which is not otherwise a breach of the code – the Authority could be left unable to take action. **The Committee are asked to agree to re-introduce a provision into the Code which states that Councillors must not bring the office of councillor into disrepute.**

(b) **Registration of contracts between Councillor and a company owned by the Council.** Councillors have to register current and past contracts and tenders with the Authority. There is no requirement to register contracts with bodies controlled by the Authority. Essex County Council owns companies and it is quite possible that the number of companies controlled by the Council will increase. **The Committee are asked to agree that Councillors be required to register contracts and tenders made between (1)**

**Councillors and their connected companies and (2) bodies controlled by their authority.**

- 3.9 The Joint Committee are asked to make recommendations to Essex County Council and to Essex Fire Authority about any changes to the code.
- 3.10 It is proposed to consult all members about the proposed changes to the Code. Any comments will be reviewed by officers and the Chairman of the Joint Standards Committee. The two authorities will then be asked to adopt the revised code at their annual meeting.
- 3.11 The Monitoring Officer designate of the Essex Fire Authority has considered a draft of this report and her comments have been incorporated in it.

**4. Financial Implications**

- 4.1 There are no financial implications to the grant of dispensations which can be dealt with inside existing resources.

**5. Legal Implications**

- 5.1 The legal implications are set out elsewhere in this report.

**6. Staffing and other resource implications**

- 6.1 This report has no staffing implications.

**7. Equality and Diversity implications**

- 7.1 In making this decision the Committee must have regard to the public sector equality duty under section 149 of the Equalities Act 2010. The Committee is required to have due regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

This includes having regard to the need to:

- (i) remove or minimise disadvantages suffered by particular equality groups;
- (ii) take steps to meet the needs of particular equality groups;
- (iii) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 The equality duty is a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149. This equality duty is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 7.4 It is not anticipated that this decision will have any adverse impact on anyone; based on their race or culture, age, sexual orientation, impairment, gender, caring role, re-assigned gender, pregnancy/maternity/paternity, marital status or civil partnership, religion/belief or socio-economic and/or health inequalities.

## **8. List of background papers**

None



[DRAFT]

## **Localism Act 2011**

### **Promoting and Maintaining High Standards of Conduct in Local Government**

#### **CODE OF CONDUCT FOR MEMBERS**

# CODE OF CONDUCT FOR MEMBERS [DRAFT]

## 24.1 Introduction and Interpretation

24.1.1 This is the Code of Conduct for Members. The Localism Act 2011 requires the Council to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These principles are set out in the Appendix to this Code. Any breach of the principles is not by itself a breach of the code.

24.1.2 As a Member you are a representative of the Council and the public will view you as such. Your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council.

24.1.3 When words appear in **bold type** in this code they refer to a term which has been defined in paragraph 24.13.

24.1.4 This Code applies to all Members of the Council including co-opted members of the Council and its committees (including non-voting members). It is your responsibility to comply with the provisions of this Code.

24.1.5 You must comply with this Code whenever you act as a Member of the Council or when you are representing the Council.

24.1.6 When you act as a representative of the Council on another body you must, when undertaking your role on that other body, comply with the Council's code of conduct, except and insofar as it conflicts with any other code of conduct or legal obligation to which you are subject as part of your role on that other body.

## 24.2 General Obligations

24.2.1 You must treat others with respect.

24.2.2 You must uphold the law.

24.2.3 You must:

- (i) ensure that your personal behaviour promotes good relations between people with different protected characteristics and is not such as may cause the Council to discriminate unlawfully against any person under the provisions of the Equality Act 2010 or subsequent equality legislation;
- (ii) not bully or intimidate or attempt to intimidate any person; or
- (iii) not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

## 24.3 Confidential Information

24.3.1 You must not 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; or
- (ii) you are required by law to do so; or
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice and that third party has, before receiving the information, agreed not to disclose the information to any other person; or
- (iv) the disclosure is-

- (a) reasonable and in the public interest; and
- (b) made in good faith and in compliance with the reasonable requirements of the Council.

24.3.2 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **24.4 Conferring an Advantage or Disadvantage**

24.4.1 You must:

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

## **24.5 Publicity**

24.5. You must have regard to any applicable Code of Practice on Local Authority Publicity made under the Local Government Act 1986.

## **24.6 Registration of Interests**

24.6.1 Subject to 24.7 below you are required to register details of your **Disclosable Pecuniary Interests** and your **Personal Interests**, within 28 days of becoming a Member (or being re-elected or reappointed) in the Council's Register of Members' Interests.

24.6.2 You are not required to register any **Personal Interest** which falls only within paragraph 24.13.2 (vi).

24.6.2 You must keep your entry in the register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to above within 28 days of the change occurring or becoming aware of the change.

## **24.7 Publication of the Register of Interests**

24.7.1 The Monitoring Officer will arrange for the Register of Interests to be published on the Council's website.

24.7.2 Where the nature of one or more of your interests is such that you and the Council's Monitoring Officer consider that disclosure of details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation then copies of the Register available for inspection and any published version of the Register will not include details of the interest but may state that you have an interest, details of which have been withheld in accordance with this Code of Conduct.

24.7.3 You must notify the Council's Monitoring Officer within 28 days of becoming aware of any change of circumstances which means that information excluded from the register under 24.7.1 is no longer sensitive information.

## **24.8 Declaration of Interests at Meetings of 28**

24.8.1 For the purposes of this paragraph, a meeting means any meeting of the Council including the Cabinet, any committee, sub-committee, joint committees, joint sub-committees or area panels.

24.8.2 Where any matter to be considered at a meeting of the Council at which you are present relates to or may have an impact upon a body or matter in which you have a **Disclosable Pecuniary Interest** or a **Personal Interest**, you must disclose the existence and nature of that interest to the meeting.

24.8.3 In addition you must withdraw from the room where the meeting considering the business is being held and must not participate in any debate or vote on the matter unless you have received a dispensation from the Monitoring Officer or the Standards Committee if:

- (a) you have a **Disclosable Pecuniary Interest** in that business; or
- (b) you have a **Personal Interest** which is one that 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.

24.8.4 When declaring an interest at a meeting you need not disclose the nature of the interest if you and the Monitoring Officer have agreed that it ought not appear on the public register of interests, but you must otherwise comply with the rules about declarations of interest.

## **24.9 Cabinet Member Decisions**

24.9.1 Where a report is presented to you and you have an interest which would prevent you from participating in a meeting which was considering it, you must take no action in relation to the report unless you have first obtained a dispensation from the Monitoring Officer or the Standards Committee.

24.9.2 If a report is presented to you and you cannot take the decision because you have an interest you must notify the Monitoring Officer of the interest and that you were unable to act. The Monitoring Officer will arrange for this to be recorded with the decision.

## **24.10 Disclosure of Interests in Discussions and Correspondence**

24.10.1 If you have an interest in any matter which you would be required to declare at a meeting, and that matter is raised in any discussion or correspondence, whether in person, by telephone or email or otherwise, with any member, employee, contractor or agent of the Council [and you believe that the other person is likely to know that you are a Member] you:

- (i) must make a full disclosure of that interest at the outset of any discussions or correspondence, or as soon as the matter is raised; and
- (ii) must not seek improperly to influence a decision about that matter.

## **24.11 Dispensations**

24.11.1 The Council's Monitoring Officer or the Standards Committee may, in the circumstances set out in 24.11.2, grant a dispensation which permits you to

- (i) remain in the room,
- (ii) speak,
- (iii) vote or make a decision.



on a matter, notwithstanding that you have an interest in it. Any such dispensation must specify the period for which it has effect, which may not exceed four years.

24.11.2A dispensation may be granted by the Monitoring Officer or the Standards Committee if the person with authority to grant the dispensation:

- (i) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (iii) considers that granting the dispensation is in the interests of persons living in the Council's area,
- (iv) considers that without the dispensation each member of the Council's executive would be prohibited from participating in any particular business to be transacted by the Council's executive, or
- (v) considers that it is otherwise appropriate to grant a dispensation.

## 24.12 Register of Gifts and Hospitality

24.12.1 You must, within 28 days of receipt, notify the Council's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the Council.

24.11.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

24.11.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.

## 24.13 Definitions

24.13.1 In this Code the following phrases have the following meanings:

**'body in which the relevant person has a beneficial interest'** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director (whether or not remunerated), or in the securities of which the relevant person has a beneficial interest

**'disclosable pecuniary interest'** is an interest defined as such by the Localism Act 2011 or regulations made thereunder.

24.13.2 You have a **'Personal Interest'** in matters falling within any of the descriptions which are not a **disclosable pecuniary interest**:

- (i) Any contract with the Council or a body it controls which has expired within the last 2 years and which was, when it was in force, a **disclosable pecuniary interest** or a **personal interest**.

- (ii) Any tender, bid or quotation submitted within the last 2 years to the Council which would, if accepted, have amounted to a **disclosable pecuniary interest**. Tenders, bids or quotations are not required to be registered until the last date for the submission of tenders, bids or quotations.
- (iii) Any body of which you are a member or in which you hold a position of general control or management and to which you have been appointed or nominated by the Council;
- (v) Any other body of which you are a member or in which you hold a position of general control or management -
  - a. which exercises functions of a public nature;
  - b. which is directed to charitable purposes; or
  - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (vi) Any matter which might reasonably be regarded as affecting the well-being or financial position of:
  - (a) yourself
  - (b) a body in which you have a **Disclosable Pecuniary Interest** or a **Personal Interest**,
  - (c) a friend, relative or close associate

to a greater extent than the majority of other council tax payers or inhabitants of the electoral division affected by the decision.

23.12.3 Notwithstanding 23.12.4, an interest which is a **Disclosable Pecuniary Interest** is not a **Personal Interest**.

***For guidance the following note summarises the statutory definition at March 2016. The Monitoring Officer will notify all Members and update this part of the code if the law changes.***

*A member has a Disclosable Pecuniary Interest if they or their partner have an interest of a description set out in paragraphs (1) to (7) below*

*In this context 'partner' means spouse, civil partner or a person the member is living with as a spouse or civil partner. Members only have to declare interests of their partner to the extent that they know about them.*

*Disclosable Pecuniary Interests are:*

- (1) *Any employment, office, trade, profession or vocation carried on for profit or gain;*
- (2) *Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous twelve months in respect of any expenses incurred by the member in carrying out duties as a Member, or towards election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;*
- (3) *Any contract for goods, services or works which has not been fully discharged between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council;*

- (4) Any beneficial interest in any land in the Council's area;*
- (5) Any licence of any land in the Council's area (alone or jointly with others) to occupy land for a month or longer;*
- (6) Any tenancy where to the Member's knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest;*
- (7) Any beneficial interest in securities of a body where:*
  - 1. that body (to the Member's knowledge) has a place of business or land in the area of the Council; and*
  - 2. either:*
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*
    - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

**THE NOLAN PRINCIPLES**

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.