

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

<b>10:00</b>	<b>Friday, 08 August 2014</b>	<b>Committee Room 2, County Hall, Chelmsford, Essex</b>
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**Quorum:**

**Appointed by**

**Essex County Council**

**Councillors:**

B Archibald  
S Barker  
T Cutmore  
G Helm  
T Higgins  
R Hirst  
J Pike (Chairman)  
C Pond  
J Spence

**Appointed by Essex Fire Authority**

**Councillors:**

C Guglielmi (Essex County Council)  
T Kelly (Thurrock Borough Council)  
P Wexham (Southend Borough Council)

**For information about the meeting please ask for:**

Andy Gribben (Council and Member Support Officer)

**Telephone:** 01245 430044

**Email:** [andy.gribben@essex.gov.uk](mailto:andy.gribben@essex.gov.uk)



**Essex County Council**

## **Essex County Council and Committees Information**

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972.

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<http://www.essex.gov.uk/Your-Council/Local-Government-Essex/Pages/Visit-County-Hall.aspx>

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The Council Chamber and Committee Rooms are accessible by lift and are located on the first and second floors of County Hall.

If you have a need for documents in the following formats, large print, Braille, on disk or in alternative languages and easy read please contact the Committee Officer before the meeting takes place. If you have specific access requirements such as access to induction loops, a signer, level access or information in Braille please inform the clerk before the meeting takes place. For any further information contact the clerk.

Induction loop facilities are available in most Meeting Rooms. Specialist head sets are available from Duke Street and E Block Receptions.

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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 and Substitution Notices</b> The Clerk to report receipt (if any)	
<b>2</b>	<b>Declarations of Interest</b> To note any declarations of interest to be made by Members	
<b>3</b>	<b>Appointment of Vice-Chairman</b> To appoint a Vice-Chairman of the Committee	
<b>4</b>	<b>Minutes</b> To approve as a correct record the minutes of the meeting held on 15 January 2013	<b>5 - 8</b>
<b>5</b>	<b>Annual Review</b> To consider a report (SC/001/14) by the Monitoring Officer	<b>9 - 14</b>
<b>6</b>	<b>Proposed Review of Code of Conduct</b> To consider a report (SC/002/14) by the Monitoring Officer	<b>15 - 18</b>
<b>7</b>	<b>Future Work Programme</b> To consider a report (SC/003/140) by the Monitoring Officer	<b>19 - 20</b>
<b>8</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.

**9**

**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 15 JANUARY 2013 AT 10:00 AM**

**1. Attendance, Apologies and Substitutions**

Essex County Councillors, N Hume, M Mackrory J W Pike(Chairman), C Pond, and Southend Borough Councillor Fay Evans were present at the meeting.

The following officers were present in support throughout the meeting:

Terry Osborne (Monitoring Officer), Miles Smith (Solicitor) and Ann Coldicott (Governance Officer);

The Chairman welcomed the Independent Persons Norman Hodson and Jonathan Swan, to the meeting.

Apologies for absence were received from Mrs M Fisher Mrs E Hart, K Twitchen D Robinson, Mrs E Webster and Mrs M Webster. There were no substitutions to report.

**2. Declarations of Interest**

None.

**3. Minutes**

Approved as a correct record the minutes of the meeting held on 2 October 2012.

**4. The Role of Independent Persons for the Management of Allegations of Failure to Comply with the Members Code of Conduct**

The Committee considered a joint report by the Monitoring Officers (SC/001/13) regarding the role of statutory independent persons, following the appointment of two independent persons and the approval of arrangements for the assessment and determination of complaints at the Fire Authority meeting on 5<sup>th</sup> September 2012 and at the Council meeting on 16<sup>th</sup> October 2012.

As this was a new statutory requirement the Monitoring Officers had prepared a protocol (set out as an Appendix to the report) which set out the Council's and the Authority's arrangements for the Assessment and Determination of Allegations of Failure to Comply with the Member Code of Conduct, including the Independent Persons' role and their relationship with the Monitoring Officers, the Joint Standards Committee and the Standards (Hearings) Sub-Committee.

During discussion of this item Councillor Mackrory asked how Members would be able to contact the Independent Members. The Council's Monitoring Officer advised that she would hope to be the first point of contact regarding any

complaint and having heard the nature of the complaint would then provide contact details of the Independent Persons.

The Independent Persons stated that they need clarification as to which matters they are able to advise on.

**Resolved:**

That the Protocol set out as an Appendix to the report be agreed.

**5. Social Media Protocol for Members**

The Committee considered a joint report by the Monitoring Officers inviting them to consider the adoption of a social media protocol to assist members in their use of social media.

The draft protocol set out in the appendix to the report provided guidance to members and co-opted members of Essex County Council and the Essex Fire Authority based upon their Codes of Member Conduct. It had been drafted to assist members as they explore and develop their use of social media. They noted there had already been one workshop to assist County Council members in doing this and more were planned.

Jonathon Swan, Independent Person suggested the Protocol be forwarded to the Essex Youth Council for their input. The Monitoring Officer agreed that the Protocol was likely to require amendment in the future she would keep it under review and bring reports to the committee as necessary.

It was suggested that the term 'social media' was inadequate, and possibly misleading, as a description of the open access sources identified in the report and intended to be covered by the protocol. The Monitoring Officer was asked to discuss this issue further with the Council's Chief information Officer and, if appropriate and following consultation with the Chairman, amend the title of the protocol.

**Resolved:**

That, subject as above, the draft Protocol set out in the appendix to the report be adopted and approved

**6. New Code of Conduct – General Dispensations**

The Committee considered a report by the Deputy Monitoring Officer inviting them to consider whether dispensations should be granted to all members and co-opted members of Essex County Council in certain circumstances which would enable them to take part in the business of the Council even if the member or co-opted member has a disclosable pecuniary interest, other pecuniary interest or a personal interest relating to that particular business.

Without a dispensation members would be prevented from taking part in important issues relating to the Council and it is in the interests of people living in Essex that members are able to play a full part in the decision making on key issues. It is recommended that the Committee grant a dispensation to all members in respect of the matters set out in the recommendation below. This covers both disclosable pecuniary interests and other pecuniary interests.

Councillor Pond suggested that a Dispensation Request form be included in the pack given to newly elected Members and that the Monitoring Officer be given power to agree requests for Dispensations as soon as possible after the Election has taken place.

**Resolved:**

That the following dispensations be granted by the Monitoring Officer on receipt of a written application, to all members and co-opted members of Essex County Council until a date/ dates (also to be agreed by the Monitoring Officer) to enable them to participate in debates and to vote on any such matter, notwithstanding that they may have a Disposable Pecuniary Interest, Other Pecuniary Interest or a Personal Interest in the business being transacted and that the Monitoring Officer be so authorised regarding:

- (a) School meals or school transport and travelling expenses – where a member is a parent, grandparent or guardian of a child in full time education, or where a member is a parent governor of a school, unless the decision relates particularly to the school which his child attends.
- (b) An allowance, payment or indemnity given to members.
- (c) Any ceremonial honour given to members.
- (d) Setting council tax under the Local Government Finance Act 1992.
- (e) Other decisions to be made which do not affect the member's financial position or the financial position of a person or body described in paragraph 7.1(i) and (ii) of the Code of Member Conduct.

**7. Future Work Program and Date of Next Meeting**

The Committee considered the proposed work programme for 2013/14. The Monitoring Officer confirmed that at present there were no complaints to be investigated.

**Resolved:**

That:

- the work programme be agreed;
- the revised Social Media Common Access Protocol be added to the programme for September 2013 be agreed; and
- the next meeting take place on Monday 8 April 2013 at 10am.

There being no further business the meeting closed at 10:35 am.

Chairman





<b>Report to Essex County Council and Essex Fire Authority Joint Standards Committee</b>	
<b>Date of meeting:</b> 8 August 2014	<b>County Divisions affected by the decision:</b> All Divisions
<b>Title of report: Standards at Essex County Council – Annual Review 2014</b>	
<b>Report by</b> Terry Osborne – ECC’s Director for Corporate Law and Assurance and Monitoring Officer	
<b>Enquiries to:</b> Terry Osborne – email: <a href="mailto:terry.osborne@essex.gov.uk">terry.osborne@essex.gov.uk</a>	

## **1. Purpose of report**

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

## **2. Recommendations**

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

## **3. Background**

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

### *Selflessness*

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

### *Integrity*

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

#### *Objectivity*

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

#### *Accountability*

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

#### *Openness*

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

#### *Honesty*

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

#### *Leadership*

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

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

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

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

**Mr Norman Hodson**

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

**Mr Jonathan Swan**

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

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

**4. Review of 2013/14**

**New Code**

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

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

#### Training

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

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

#### Standards Committee

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

#### Allegations Received

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

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

## **5. Financial Implications**

5.1 This report has no financial implications.

## **6. Legal Implications**

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

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

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

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

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

## **9. Background papers**

None.



<b>Report to Essex County Council and Essex Fire Authority Joint Standards Committee</b>	
<b>Date of meeting:</b> 8 August 2014	<b>County Divisions affected by the decision:</b> All Divisions
<b>Title of report: Proposed Review of Code of Conduct</b>	
<b>Report by</b> Terry Osborne – ECC’s Director for Corporate Law and Assurance and Monitoring Officer	
<b>Enquiries to:</b> Terry Osborne – email <a href="mailto:terry.osborne@essex.gov.uk">terry.osborne@essex.gov.uk</a>	

## **1. Purpose of report**

- 1.1 This report proposes a review of the Codes of Conduct adopted by Essex County Council and Essex Fire Authority.

## **2. Recommendations**

- 2.1 That the Committee agree to a review of the Codes of Conduct.

## **3. Background**

- 3.1 The current ECC code of conduct was approved at a meeting of the full Council on 16 October 2012. The Essex Fire Authority was approved at a meeting of the authority on 5 December 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 Council 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, have used this as a starting point. This template is based to some extent on the previous national code of conduct.

- 3.4 The codes have now been in force for nearly two years. There have been no allegations at ECC which have resulted in a formal investigation or a formal decision by the Standards Committee. Officers have however had to advise on the interpretation of the code. The County Council and the Essex Fire Authority have also had a large new intake of new councillors - with two new political groups being formed on the County Council.
- 3.5 It is sensible to review any new system after it has had the chance to bed in. There are a few minor issues with the wording of the code where officers feel that the wording could be improved and members may also have suggestions about how the code could be improved. Accordingly it is suggested that now would be a good time to review the code. The Monitoring Officer of the Essex Fire Authority supports the proposal to review the EFA code alongside the ECC code in order to ensure as far as possible that the County Council code is as similar as possible to the Fire Authority Code.
- 3.6 As part of the review the Monitoring Officer would write to all ECC councillors and to all other members of the Essex Fire Authority to see if they have any proposals about the code of conduct and whether the code is causing them any difficulties in practice. We would also contact the appointed independent persons for their view.
- 3.7 We may hold an informal seminar for the committee for them to consider the issues before the Committee meets to consider the outcome of the review.
- 3.8 The Joint Committee will make recommendations to Essex County Council and to Essex Fire Authority about any changes to each code.

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

- 4.1 This report has no financial implications.

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

- 5.1 This report forms part of the Council discharging its duty under section 27 of the Localism Act 2011 to promote and maintain high standards of councillor conduct. Any changes to the Code of Conduct must be approved at a meeting of the full Council.

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

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

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



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

## **8. Background papers**

None.





Essex County Council

**Agenda item 7**

**SC/003/14**

**Committee** ECC and EFA Joint Standards Committee

**Date** 8 August 2014

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**Work Programme**

Report by Monitoring Officer

**Purpose**

A proposed work programme is set out below for approval. There are some annual reports which will appear each year on the work programme but these will be supplemented by reports that deal with issues as they arise which will be added to the work programme as necessary. The focus of the programme for the last year or so was to respond to changes in the law relating to members' conduct and standards and to ensure that the council had in place suitable practices and procedures.

**Terms of Reference**

<b>Meeting Date</b>	<b>Item</b>	<b>Type of item</b>	<b>Officer Responsible</b>
Every meeting as required	Receive updates on Legislation affecting Standards Committees.	Publications and materials.	Terry Osborne, Asst Director Corporate Law
Every meeting as required	Forward Look - Work Programme and proposed dates (if any) of future meetings	Committee Report	Andy Gribben, Council and Member Support Officer



June 2015 ( <i>or a date subsequent to the election of Chairman at the ECC Annual Meeting</i> )	Appointment of Vice-Chairman	Procedural	Andy Gribben, Council and Member Support Officer
August 2015	Annual Report of the Monitoring Officer (Including the review of the Register of Gifts and Hospitality and the Register of Members Interests)	Committee Report	Terry Osborne

**The Dates of Future Meetings:**

To be arranged.

Meetings will only be convened if there is sufficient business.