

MINUTES OF A MEETING OF THE ESSEX COUNTY COUNCIL AND ESSEX FIRE AUTHORITY JOINT STANDARDS COMMITTEE HELD AT COUNTY HALL, CHELMSFORD, ON 2 OCTOBER 2012 AT 10:30 AM

1. Attendance, Apologies and Substitutions

Essex County Councillors Mrs M Fisher, N Hume, M Mackrory J W Pike, C Pond, D Robinson and Mrs M Webster 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);

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

2. Declarations of Interest

None.

3. Appointment of Chairman and Vice-Chairman

Councillor J Pike and Councillor D Robinson were appointed Chairman and Vice-Chairman respectively.

4. Membership

Membership of the Committee was confirmed as set out below. The Committee noted that Mrs Mavis Webster is an Essex County Council appointee and Mrs Elizabeth Webster is an Essex Fire Authority appointee.

ECC	EFA
Mrs M Fisher	Fay Evans (Southend Borough Council)
Mrs E Hart	C Kent (Thurrock Borough Council)
N Hume	Mrs E Webster (Essex County Council)
M Mackrory	
J Pike	
C Pond	
D Robinson	
K Twitchen (ex officio)	
Mrs M Webster	

5. The Localism Act 2011 – The Amended Standards Regime

The Committee considered the proposed new Member Code of Conduct for ECC and revised arrangements for the determination of complaints of breach of the Code following changes to the standards regime introduced by the Localism Act 2011.

The Committee were reminded of their earlier agreement that whilst there was no statutory duty on the Council to appoint a Standards Committee the Council wished to have in place a body of elected members who would be responsible for upholding the Code of Conduct, promoting high standards of conduct amongst members and hearing complaints of failure by members to comply with the Code. Accordingly, the committee expressed its desire to retain a non-executive standards committee.

Since 2008 the Council and the Fire Authority had discharged their statutory standards responsibilities through a joint committee. This arrangement had worked well and therefore it was recommended that this arrangement should continue. The Fire Authority had confirmed their continuing commitment to this approach.

The membership, quorum and terms of reference of the ECC and EFA Joint Standards Committee were agreed and are set out at Appendix 1 of these minutes.

The committee noted that the Act repeals the requirements for separate committees to deal with referrals, reviews and hearings and enables the Council to establish its own process for dealing with complaints, which can include delegation of decisions on complaints. As the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

The Committee noted there was no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

It was therefore recommended that the arrangements as set out in the report be adopted for the management and determination of complaints of failure to comply with the Code of Conduct.

The Act no longer gives the Council or its Standards Committee any powers to impose sanctions such as suspension, requiring training or an apology although training or an apology can still be a recommendation. The committee noted the type of 'sanctions' that may now be imposed in the case of a breach and these were described fully in the report.

The Committee noted that the draft code required members to withdraw from a meeting at which business was to be transacted in which they had a pecuniary interest. Members of the committee asked whether this would apply to a discussion or meeting with an officer. The Monitoring Officer agreed to give further consideration to the definition of "meeting" in paragraph 1 of the draft

code and also the wording of other paragraphs affected as a consequence of any re-wording. Any further changes would be circulated to members of the committee before onward submission to Full Council.

Members asked the Monitoring Officer to issue further guidance regarding DPI's and OPI's by way of a briefing to all Members.

Recommendation:

- The Committee agreed to authorise the Monitoring Officer to consult on and then make appropriate changes to the draft Code before onward submission of the final draft to the Council and to make the following recommendations to **the Council to:**
- retain the Joint Standards Committee with the Essex Fire Authority and a Standards (Hearings) Sub-Committee with the membership, quorum and terms of reference set out in Appendix 1 of the report and appended to these minutes
- adopt a new member Code of Conduct To adopt the revised arrangements and delegations set out in Paragraph 7.8 of the report for the management and determination of complaints against members
- appoint Mr Norman Hodson and Mr Jonathan Swan as independent persons under Section.28 of the Localism Act 2011

6. Dates of Future Meetings

The Committee noted that the Governance Officer would consult them regarding dates for future meetings of this committee:

There being no further business the meeting closed at 11:10 am.

Chairman

Appendix 1

Membership, Quorum and Terms of Reference ECC EFA Joint Standards Committee

Membership

- 12 members (9 to be appointed by the Council and 3 to be appointed by the Fire Authority)
- Only one member of the Council's Executive may be appointed to the Committee and/or Sub-Committee

Quorum

- The quorum of the committee shall be three members.

Terms of Reference

- To advise the Council and the Fire Authority on a local Code of Conduct for members and to promote, develop and maintain high standards of conduct by members and co-opted members of the Council and the Fire Authority
- To grant dispensations under Section 33 of the Localism Act 2011 to councillors and co-opted members.
- To appoint a Standards (Hearings) Sub-Committee to
 - Conduct hearings into allegations of misconduct against members and determine whether and which sanction should be applied
 - Determine any other matters relating to the investigation or determination of allegations of misconduct referred to it by the Monitoring Officer
 - Grant dispensations under Section 33 of the Localism Act 2011 to councillors and co-opted members in matters of urgency

Independent Person(s)

At least one independent person must be appointed who:

- **must** be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

- **may** be consulted by the authority in respect of a standards complaint at any other stage; and
- **may** be consulted by a member or co-opted member of the Council against whom a complaint has been made although it would not normally be appropriate for an Independent Person who has been consulted by a member against whom a complaint has been made to then also advise the Hearing sub-committee on that complaint. For this reason, and to cover any periods of absence, the Council will appoint two Independent Persons