

Committee: STANDARDS

Agenda Item

Date: 14 November 2011

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Title: DRAFT VOLUNTARY CODE OF CONDUCT

Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416 Item for decision

Summary

1. At its meeting on the 18 July this committee resolved that I should prepare a draft Code of Conduct for consideration at this meeting of the Committee. This report is to seek members' views on the draft Code attached to this report.

Recommendations

2. That members approve the draft code with or without modifications

Financial Implications

3. None. There are no costs associated with the recommendations.

Background Papers

4. The following papers were referred to by the author in the preparation of this report:
 - Draft Code of Conduct being considered by the Public Law Partnership (The Public Law Partnership comprises the legal services departments of all of the district and borough councils in Essex together with Essex, Hertfordshire and Suffolk County Councils, The Lea Valley Park Authority and some Hertfordshire district councils).

Impact

5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Under the Localism Bill there is no mechanism for an appeal to an independent tribunal against decisions of the Standards Committee. The only recourse that a disaffected complainant or subject member would have is therefore by way of judicial review.

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. On the 18 July the Committee considered a report from the Constitution Working Group at its meeting on 7 June 2011 and the minutes of that meeting which contained certain recommendations. As a result the Committee resolved to request me to draft a Code of Conduct for consideration.
7. I recommended that the starting point for a voluntary code should be the existing Statutory Code of Conduct. However, as matters relating to the registration and declarations of interest are to be dealt with under secondary legislation, parts 2 and 3 of the current Code should be omitted in their entirety.
8. I recommended that paragraphs 1.2 and 1.4.1 should be omitted from any new Code as not being compatible with the proposed legislation. I also suggested deleting paragraph 1.5 as this relates to town and parish councils and should not therefore be included in the district council's Code.
9. I also suggested that members may feel able to delete paragraph 3.5 from the Code. This is the provision that a member must not conduct himself or herself in a manner which could reasonably be regarded as bringing their office or authority into disrepute. The reason I recommended deletion of this paragraph is that the majority of cases before the Adjudication Panel/First Tier Tribunal have found a breach of this provision of the Code which has not been linked with a finding of another breach of the Code of Conduct. My view at that time was that it was unlikely that circumstances would arise where a member could bring the council or the office of councillor into disrepute without breaching another provision of the Code of Conduct. However, I have since had occasion to reconsider that view. I am now of the opinion that in very limited circumstances, it would be possible to find that there had been a breach of the Code of Conduct by bringing the council into disrepute independently of the other provisions of the Code. I therefore have incorporated that provision in the attached draft. I remain of the view however, that it would not be appropriate to include a provision that members should not behave in such a way as could reasonably be regarded as bringing their office into disrepute. Looking at the Adjudication Panel/First Tier Tribunal cases where there has been a finding of bringing the office into disrepute but not the council these have been linked to other breaches of the Code of Conduct. My view is that if a member brings his office of councillor into disrepute this is really a matter for the ballot box and not the Code of Conduct. I would mention that the draft currently under consideration by the PLP does omit the whole of paragraph 3.5 of the Code.

Risk Analysis

10. There are no significant risks attached to this report.