

Professor Colin Copus' illustrative draft Code for central and local government, revised version 10 October 2011

Preamble

Through this code Parliament recognises free and independent local councils in England accountable to local citizens. These include unitary, county, district, metropolitan district, and London borough councils. They shall enjoy independence in both powers and finance and be entitled to do all that is required at local level, within the law, to secure and improve the well-being of their citizens and communities. Parliament makes plain that within their spheres of competence, local councils have co-equal – not subordinate – status to central government and that their rights and duties shall enjoy equal protection in law.

Article One:

1. The fundamental rights and duties of local councils herein are defined protected and entrenched. They may only be changed by the consent of Parliament as authorised firstly by an elected joint committee of both Houses, and then by the approval of both Houses of Parliament as prescribed in the amendment to the 1911 Parliament Act [enabling the second chamber to reject changes to the fundamental freedoms of local governance].
2. The code represents a consensual agreement between central government and local councils. Councils, local government representative bodies, all ministers, government departments, MPs, civil servants, courts of law and all public agencies interacting with local government are bound by the articles within this agreement and will act in accordance with these articles.
3. All of the provisions of the code are subject to the law. The individual rights of citizens are not affected by this code and citizens may seek judicial review against any injustice or infringement of rights as now. Councils and government can seek legal adjudication should it be felt that a council, councils or central government are not acting in accordance with the code.

Article Two: Local Autonomy and Local Self-Government.

1. Councils' accountability is to local citizens.
2. Councils shall operate within the rule of law and with regard and respect to human rights legislation.
3. Councils are autonomous, democratically elected bodies which independently decide upon, administer and regulate the public affairs of and deal with all

matters of concern within their boundaries which are not dealt with or attended to by other governmental bodies.

4. Councils operate within a framework of an irrevocable general power of competence with a full legal personality. Powers rest with councils, acting in accordance with the national legal framework, to pass local legislation on matters affecting the affairs and interests of their area.

Article Three - Scope of Local Government

1. The powers and responsibilities of councils shall after due consultation be prescribed by statute subject to safeguards in Article 1.1.
2. Councils have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to any other authority or body.
3. Councils are to be consulted, early within the policy and decision-making processes, by the government if it is proposing reform, which will affect any council and its communities.

Article Four: Inter-Governmental Activities

1. Central and local government acting jointly shall be allowed to create inspection regimes to set and maintain service standards.

Article Five: Territorial Autonomy

1. The boundaries of local authorities are an issue for councils and their citizens. Any proposal for boundary changes must be conducted with the involvement of the Local Government Boundary Commission for England and within the law and subject to a local referendum in the area concerned.

Article Six: Council Governmental Systems

1. Local citizens through their councils have autonomy to choose their internal political decision-making systems (including, whether to adopt a directly elected mayor and cabinet, cabinet and leader, committee system, or some other political decision-making arrangement) Changes to political decision-making systems must first be subject to a binding local referendum.
2. Councils must review their political decision-making system every eight years and produce a publicly available 'Political Governance' report setting out the

effectiveness of the system and if appropriate considering alternative approaches.

3. Councils or local citizens can adopt any electoral system for use in council elections, after consultation and a binding referendum.

Article Seven: Local Government Financial Integrity

1. Local councils shall to the greatest possible extent be financially independent of central government. Equalisation will be conducted by an independent Equalisation Board on an annual basis.
2. Local citizens through their councils may raise additional sources of income in their localities in any way they wish [subject to the rule of law and human rights legislation] if they gain the consent of their electorates through a binding referendum or local propositions.
3. Local government shall be given a guaranteed annual share of the yield of income tax. This share shall be increased as and when service provision responsibilities are transferred from central to local government so that councils are always able to benefit from the growth in buoyant tax resources available to the state as a whole.
4. The process of equalisation, ensuring fairness as between local councils, shall be undertaken by a body independent of central government.
5. Councils shall be able to raise any loans which their credit rating allows and will be exclusively responsible for repayment. For the purpose of borrowing for capital investment, councils shall have access to the national capital market at their own discretion. All councils shall operate an annual balanced budget so that all outgoings, including interest repayments on borrowings, shall not exceed income.
6. Central government will not cap, or in any way limit, councils' taxation powers. Central government must consult with councils on how it will distribute and allocate government funding when using local government as an agent to pursue its own policy objectives. Government funding to councils, in pursuit of central government policy objectives is to be based on a rolling three year budget cycle to coincide with the comprehensive spending review process. Once the three year medium term budget planning process has been agreed and announced no significant changes in funding levels will be made by central government.

7. The same financial transparency standards will apply to local and central government, alike.

Article Eight: Councils' Right and Duty to Co-operate and Associate

1. Councils as independent legal entities are entitled, in any undertaking, to co-operate in any way with other councils, public and private bodies, any voluntary, charity or third-sector organisation, or with any financial, commercial or private enterprise.
2. Where more than one Council is responsible for services in a geographic area, these Councils shall co-operate to maximise the well-being of those within that area.
3. Councils are able to belong to any association for the protection and promotion of their common interests and to belong to an international association of any sort. Councils are entitled to co-operate with councils in other countries for any matter.

Article Nine: Local Referendum

1. The administration of any local referendum process shall follow standards set by the Electoral Commission, and those responsible for the conduct of any such referendum shall be accountable to the Electoral Commission for their performance against those standards.

Article Ten: Legal Protection of Local Government

1. Councils have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for the power of general competence and any other principles of local self-government or individual rights enshrined in law or contained within the code or evident in Human Rights legislation.

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