

Ethical Framework Matters

Report of the Chief Fire Officer

For further information about this report please contact Rod Hammerton, Chief Fire Officer, on 01743 260201.

1 Purpose of Report

This report deals with ethical framework matters, namely a review of the Members' Code of Conduct and related documents.

2 Recommendations

Members are asked to:

- a) Note the review of, and agree the proposed amendments to, the Members' Code of Conduct;
- b) Note the review of related procedures and documents, and agree the proposed amendments to:
 - Code of Conduct Complaints Procedure
 - Code of Conduct Complaints form
 - Disclosable Pecuniary Interests Form
 - Dispensation Procedure; and
- c) Make recommendations accordingly to the Fire Authority.

3 Background

It is considered good practice to review the Members' Code of Conduct annually and this action is included in the Committee's Work Plan. The Work Plan also states out that officers will review the following procedures and documents and report to the Committee, if significant changes are required:

- Code of Conduct complaints procedure;
- Complaints form;
- Disclosable pecuniary interest form; and
- Dispensations procedure.

4 Members' Code of Conduct

Attached as an appendix to this report is the Fire Authority's current Code of Conduct, which takes into account the Nolan Principles.

Having reviewed the Code, Officers recommend an addition setting out the circumstances in which Members can participate in decision making without the need to seek a dispensation. These amendments are shown in bold italics in Appendix A to the report.

5 Related Procedures and Documents

Officers have also reviewed the following procedures and documents and propose the amendments as set out to below to these documents. These amendments are in the appendices to the report with deletions being struck through and additions shown in bold italics.

- **Code of Conduct Complaints Procedure, attached at Appendix B**
Minor amendments are recommended to reflect the change in Monitoring Officer
- **Code of Conduct Complaints Form, attached at Appendix C**
Minor amendments are recommended to reflect the change in Monitoring Officer
- **Disclosable Pecuniary Interest Form, attached at Appendix D**
There are no amendments required in this document.
- **Dispensations Procedure, attached at Appendix E**
Amendments are recommended to this document to clarify the processes for submitting a dispensation application to either the Monitoring Officer or the Standards, Audit and Performance Committee. Information has also been included on the criteria that will be used to determine if a dispensation will be granted. A Dispensation Request form has also been developed and is attached to the Procedure.

6 Financial Implications

There are no financial implications arising from this report.

7 Legal Comment

The statutory requirements for the Code of Conduct and ethical framework for Members is set out at part 1, chapter 7 of the Localism Act 2011. The Fire Authority's Code of Conduct is compliant with this legislation. Any proposed changes to the Code must be formally adopted by the full Fire Authority and publicised.

8 Initial Impact Assessment

An Initial Impact Assessment is not required.

9 Appendices

Appendix A

Fire Authority Members' Code of Conduct

Appendix B

Fire Authority Code of Conduct Complaints Procedure

Appendix C

Fire Authority Code of Conduct Complaints Form

Appendix D

Fire Authority Disclosable Pecuniary Interest Form

Appendix E

Fire Authority Dispensation Procedure

10 Background Papers

The Localism Act 2011

Shropshire and Wrekin Fire and Rescue Authority Members' Code of Conduct Standards of Conduct

Members (including all voting, co-opted members) of Shropshire and Wrekin Fire and Rescue Authority will at all times promote and maintain high standards of conduct when they are acting in that capacity. To do this, Members should:

Serve only the public interest and treat everyone that they deal with equitably and with respect	Selflessness
<p>Not place themselves in a position where they either are, or give the appearance that they are, under any financial or other obligation to anyone that might seek to influence them in the performance of their duties as a Member</p> <p>Not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends</p> <p>Only use the resources of the Authority in accordance with reasonable requirements set out for their use from time to time</p> <p>Declare and resolve their interests in accordance with the law and with the provisions of this Code of Conduct</p> <p>Declare gifts and hospitality that they receive in accordance with the Fire Authority's Protocol on Gifts and Hospitality</p>	Integrity
Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias	Objectivity
Be accountable to the public for their decisions and actions and co-operate fully with any scrutiny appropriate to their particular role or office	Accountability
Be as open as possible about their decisions and actions and give reasons for their decisions and actions. Information should not be withheld from the public, unless there are clear and lawful reasons for doing so and which they can reasonably be expected to know, is either exempt or confidential and is not to be disclosed to protect the wider public interest.	Openness

<p>Holders of public office should be truthful. Declare any private interests that relate to their duties as a Member and do whatever is necessary to resolve any conflict in such a way that protects the public interest</p>	Honesty
<p>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</p>	Leadership

Disclosable Pecuniary Interests

Registration of Disclosable Pecuniary Interests

The Monitoring Officer of the Shropshire and Wrekin Fire and Rescue Authority will maintain a Register of Interests which can be found at:

<http://www.shropshirefire.gov.uk/managing-service/fra-members>

or viewed at Shropshire Fire and Rescue Service by contacting either:

Lynn Ince, Executive Support Officer

Telephone: 01743 260225, email lynn.ince@shropshirefire.gov.uk or

Germaine Worker, Head of Human Resources and Administration

Telephone 01743 260210, email germaine.worker@shropshirefire.gov.uk

You will have a Disclosable Pecuniary Interest (DPI) under this Code if:-

(a) such interest meets the definition prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012; and

(b) It is either an interest of yourself; or it is an interest of:

(i) Your spouse or civil partner; or

(ii) A person with whom you are living as husband and wife; or

(iii) A person with whom you are living as if you were civil partners;

and you are aware that the other person has the interest.

Disclosure of Interests

What	When	How	Impact on Meetings
Disclosable Pecuniary Interests	Within 28 days of election or re-election (if not already entered), or of becoming aware of any new disclosable pecuniary interest, or changes to existing disclosable pecuniary interest	In writing to the Monitoring Officer, detailing the existence and nature of the interest	Member cannot participate in, or vote on, the matter and will leave the room during debate and voting on the issue
Previously undeclared Disclosable Pecuniary Interest			
Before a meeting	Within 28 days of the date of disclosure of a Disclosable Pecuniary Interest at a meeting	In writing to the Monitoring Officer, detailing the existence and nature of the interest	Member cannot participate in, or vote on, the matter and will leave the room during debate and voting on the issue
During a meeting	As soon as the Member is aware that they have a Disclosable Pecuniary Interest	Verbally to the meeting, detailing the existence and nature of the interest	Member cannot participate, participate further, vote or further vote on the matter and will leave the room during debate and voting on the issue
Sensitive Interests, i.e. those where the Monitoring Officer agrees with the Member that the disclosure of the interest could lead to the Member being subject to violence or intimidation	As above – depending upon the circumstances	As above, but detailing the existence, not the nature, of the interest	As above

Dispensations can be granted as indicated **below** after considering the relevant circumstances:

The number of Members precluded from transacting the business is so great that it would impede the business of the Fire Authority or any committee	Monitoring Officer
The political balance is affected to the extent that it could affect the outcome of a vote relating to the business.	Monitoring Officer
The dispensation is in the interests of persons living in the area of the Fire Authority.	Standards, Audit and Performance Committee
It is otherwise appropriate to grant a dispensation.	Standards, Audit and Performance Committee

Where the decision relates to one of the functions of the Authority set out below Members may participate in that decision without the need to seek a dispensation:

- 1. An allowance, payment or indemnity given to Members***
- 2. Setting a precept under the Local Government Finance Act 1992***

Shropshire and Wrekin Fire and Rescue Authority

Managing Complaints about Members

All Members of the Fire Authority have to comply with a Code of Conduct that details what is expected of them when they carry out their role as a Member of the Fire Authority.

This document explains how to make a complaint about a Member of the Fire Authority, if you think that they might have breached the Fire Authority's Member Code of Conduct.

The Code of Conduct

You can get a copy of the Fire Authority's Member Code of Conduct by following this link

<https://www.shropshirefire.gov.uk/sites/default/files/00%20-%20Section%2012%20frontsheet.pdf>

or by contacting the Monitoring Officer, whose contact details are provided below.

Can I be confident that my complaint will be properly dealt with?

The law requires the Fire Authority to appoint an Independent Person: a person who has nothing to do with the Authority, other than in this role, who must be consulted at various stages during the complaints process, and whose role is to ensure that all complaints are dealt with fairly.

Making a Complaint

Write to the Monitoring Officer:

Jonathan Eatough **Anthea Lowe**
Telford & Wrekin Council
Darby House
Lawn Central
Telford
Shropshire
TF3 4LF

Telephone: 01952 383200 **383219**

Email: jonathan.eatough@telford.gov.uk anthea.lowe@telford.gov.uk

The Monitoring Officer is an officer of the Fire Authority, who is responsible for administering this complaints system.

There is a form for you to use to complain, which can be accessed via the following link:

<http://www.shropshirefire.gov.uk/managing-service/fire-and-rescue-authority/complaint-about-member>

You do not need to use it, but the information requested on the form will be required and it could delay the process, if you do not include all of this information.

What happens next?

The Monitoring Officer aims to acknowledge receipt of your complaint within 5 working days of receiving it.

The Monitoring Officer will review your complaint, discuss it with the Independent Person and write to you to inform you whether or not he/she has decided to refer it for investigation. Normally this will be within 14 working days of receiving your complaint. Sometimes the Monitoring Officer may refer your complaint for consideration by the Fire Authority's Appeals Panel where, for example he / she has previously advised on the matter or the complaint is particularly sensitive.

The Monitoring Officer might ask for more information. He / she might also ask for information from the Member, about whom you are complaining, or the Council, of which they are a member.

The Monitoring Officer might seek to resolve the complaint informally, i.e. before deciding to refer your complaint for investigation. Obviously, your views are important here but, if the Monitoring Officer believes that the proposed solution is reasonable, for example acceptance that behaviour was unacceptable and an offered apology, this might affect the decision of the Monitoring Officer about whether or not the complaint merits formal investigation.

Investigations

If referring for formal investigation, the Monitoring Officer will appoint an Investigating Officer, who will contact you and the Member about whom you have complained and undertake any other such investigations as he/she considers appropriate for the purposes of the investigation. In exceptional cases your identity will be protected for some or all of the investigation. If you consider that it would be appropriate to do this in your case, you must let the Monitoring Officer know when you make your complaint. This would generally only be done where providing your details might prejudice the investigation.

The Investigating Officer will publish a draft report for consideration by you and the Member, about whom you have complained. Once any comments have been considered by the Investigating Officer a Final Report will be produced and sent to the Monitoring Officer. The Final Report will then be considered by the Monitoring Officer, who may either accept the report or ask the investigating Officer to re-consider his/her report.

Investigation Finding of No Breach

The Monitoring Officer will write to you and the Member, about whom you have complained, enclosing a copy of the Final Report and confirming that no further action is required.

Investigation Finding of Breach

The Monitoring Officer will write to you and the Member, about whom you have complained, enclosing a copy of the Final Report, and will either seek local resolution or will convene a hearing of the Appeals Panel.

Local Resolution

If, at any time before, during, or after, the investigation the Monitoring Officer, the Independent Person and you all agree a fair resolution of the complaint in a way that promotes high standards of conduct and the Member complies with the suggested resolution, then the Monitoring Officer will report the matter to the Standards, Audit and Performance Committee for information but will take no further action.

Hearing

If local resolution is not possible then the Monitoring Officer will convene a meeting of the Appeals Panel for it to consider the Investigating Officer's Report and the views of the Independent Person on the allegation and to determine whether or not there has been a breach of the Fire Authority's Code of Conduct and, if so, what action, if any, to take in respect of the Member.

Hearing Procedure

The Hearing Procedure is detailed below but may be changed by the Chair of the Committee, if he / she considers that it is appropriate to do so.

Note

You might be asked by the Investigating Officer to attend and give evidence to the Appeals Panel.

Pre Hearing

1. Notification of hearing date (Investigation Report already provided to the Member)
2. Invitation to Member to submit list of further documents/ witnesses that he/she wishes to call
3. Circulation of papers

Hearing

4. Introductions
5. Chair explains the process to be followed

6. Investigating Officer presents his/her report (and may ask witnesses to attend if necessary)
7. Members of the Appeals Panel may ask questions
8. Member or his/ her representative may ask questions
9. Member or his/ her representative responds to the Investigation Report (and may ask witnesses to attend if necessary)
10. Members of the Appeals Panel may ask questions
11. The Investigating Officer may ask questions
12. The Committee will retire to consider whether or not it considers that there has been a breach of the Fire Authority's Code of Conduct

Decision – No Breach

13. The complaint is dismissed.

Decision – Breach

14. After offering the Member complained about, or his / her representative an opportunity to speak, the Hearings Panel will consider what action, if any, to take in respect of the Member.

Actions

15. There are no provisions in law to apply sanctions to the Member found to be in breach of the Code of Conduct, so any actions are aimed at securing the continuing ability of the Fire Authority to discharge its functions effectively and might include the following:
 - Reporting its findings to the Fire Authority, considering a censure motion;
 - Recommend to the Member's Group Leader (or the Fire Authority, if they are not part of a Group) that he/she be removed from some or all Committees or Sub-Committees and/or outside appointments;
 - Recommending that the Member attend training; and/or
 - Withdrawing facilities provided to the Member, including restricting access to premises, except as necessary to attend Fire Authority meetings

**Shropshire and Wrekin Fire and Rescue Authority
Complaint relating to a Breach of the Authority's Code of Conduct**

Name of the Member/s

Please provide the name of the Member/s you believe has/have breached the Code of Conduct

Name/s

Details of Your Complaint

Please provide details of your complaint in the space below. If you need to, please continue on a separate sheet and add copies of additional documents.

In your complaint you should identify why you think the Member has breached the Fire Authority's Code of Conduct. You must include all the information that you wish to have taken into account, for example:

- You should be specific about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what the Member said.
- Where you can, you should provide the dates of the alleged incident/s.
- You should confirm, if there were any witnesses to the alleged conduct and provide their names and contact details, if possible.
- You should provide any relevant background information.

About you

Please provide full contact details, to enable us to contact you

Name	
Address	
Telephone Home Mobile	
Email	

Note

Unless you have a good reason, which you explain in your complaint, your name and details of your complaint will be available to the Member/s that you are complaining about and will be publicly available and used for the purposes of an investigation, if it goes that far.

Signed

Date

Please send your completed form and other information that you wish to be considered to the Monitoring Officer at monitoringofficer@telford.gov.uk or via post to the following address:

The Monitoring Officer
Telford & Wrekin Council
Darby House
Lawn Central
Telford
Shropshire
TF3 4JA

Additional Help

If you need any help in completing this form, please contact the Monitoring Officer on 01952 383200 **383219** or by e-mail (see above).



Shropshire and Wrekin
Fire and Rescue Authority

Disclosable Pecuniary Interests

Name:	
Authority:	Shropshire and Wrekin Fire and Rescue Authority
Address:	
Telephone:	
E-mail:	

Every Member¹ is required to register and disclose certain interests **and those of their Partner²** where they are aware of the existence of such interests.

<p>Employment, office, trade, profession or vocation Any employment, office, trade, profession or vocation carried on for profit or gain by you or your partner</p>	
<p>Sponsorship Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period³ in respect of any expenses incurred by you in carrying out your duties as a member, or towards your 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.</p>	
<p>Contracts Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest⁴) and the Authority — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>	

-
- 1 “member” means a member of the authority and includes a co-opted member
 - 2 Partner includes your spouse, civil partner or person, with whom you are living, as if they were your spouse or civil partner
 - 3 “relevant period” means the period of 12 months ending with the day, on which you give a notification of its existence
 - 4 “body in which the relevant person has a beneficial interest” means a firm, in which you or your partner is a partner or a body corporate, of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest; and “director” includes a member of the committee of management of an industrial and provident society

<p>Land Any beneficial interest in land⁵, which is within the area of the Authority⁷</p>	
<p>Licences Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer</p>	
<p>Corporate tenancies Any tenancy where (to your knowledge): (a) the landlord is the Authority; and (b) the tenant is a body in which you or your partner has a beneficial interest.</p>	
<p>Securities Any beneficial interest in securities⁶ of a body where: (a) that body (to your knowledge) has a place of business or land in the area of the Authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) 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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>	

Notes on sensitive interests

An interest is sensitive if you and the Monitoring Officer agree that its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation. The nature of your sensitive interest will not appear in the published register of interests, but it may be recorded that you have a sensitive interest.

I understand that I must write to the Monitoring Officer to tell him about any disclosure of a disclosable pecuniary interest made at a meeting which is not already included above within 28 days of making the disclosure.

Signed: **Dated:**

**Please return to Executive Support Officer, Shropshire Fire and Rescue Service
Headquarters, St Michaels Street, Shrewsbury, Shropshire, SY1 2HJ.**

- 5 "land" excludes an easement, servitude, interest or right in or over land, which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
- 6 "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society
- 7 "Authority" in the context of disclosable interests includes the area of both Shropshire Council and Telford & Wrekin Council

Shropshire and Wrekin Fire and Rescue Authority Standards, Audit and Performance Committee Dispensations Procedure

The procedure for the consideration of dispensation applications by this Committee would be as follows:

- Upon receipt of a dispensation application, the Head of Human Resources and Administration, in liaison with the Clerk and Monitoring Officer, will (where necessary) arrange a special meeting of the Standards, Audit and Performance Committee.
- A formal agenda for the meeting will be produced and dispatched, together with the dispensation application (and any covering report) in order to comply with the access to information rules and, therefore, to be received no less than five working days prior to the meeting of the Committee to consider the matter.
- In some limited circumstances there is provision for the matter to be considered as an urgent item by the Committee. This would be at the discretion of the Chair of the Committee and such circumstances should be avoided, wherever possible.
- The Committee, upon making its decision, is required to produce a written record of that decision. It is advisable that reasons are also provided as to why the dispensation has been either allowed or refused.

Circumstances in which Dispensations May be Granted

The provisions of Part 1, Chapter 7 of the Localism Act 2011 state that a Member cannot:

- (a) Participate, or participate further, in any discussion of a matter at a meeting or
- (b) Participate in any vote, or further vote, taken on the matter at the meeting

if the Member has a disclosable pecuniary interest in the matter being considered.

The Fire Authority's Member Code of Conduct (see Section 12 of the Member Handbook) confirms the position and the requirement for the Member to leave the room.

Members can, however, apply for a dispensation to take part in those meetings, if they believe that their failure to take part may cause one or more of the following four outcomes (set out in the Code of Conduct):

The number of Members precluded from transacting the business is so great that it would impede the business of the Fire Authority or any committee	Monitoring Officer
The political balance is affected to the extent that it could affect the outcome of a vote relating to the business.	Monitoring Officer
The dispensation is in the interests of persons living in area of the Fire Authority.	Standards, Audit and Performance Committee
It is otherwise appropriate to grant a dispensation.	Standards, Audit and Performance Committee

Members can make an application for a dispensation in writing to take part in meetings, where they would otherwise have a disclosable pecuniary interest for consideration by either the Monitoring Officer or the Standards, Audit and Performance Committee, depending upon the reason for the dispensation.

Any member who wishes to apply for a dispensation must fully complete the attached form and submit it to the Head of Human Resources and Administration at least 15 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.

In order to avoid delay Members must ensure that they give full details of the grounds for their request and submit it to the Head of Human Resources and Administration as soon as they become aware that a dispensation is necessary.

A request for dispensation must be made on an individual basis. Group applications are not permitted.

Applications to the Monitoring Officer

The procedure for the consideration of dispensation applications by the Monitoring Officer will be as follows:

- **Upon receipt of a relevant dispensation application the Head of Human Resources and Administration will pass the application to the Monitoring Officer.**
- **The Monitoring Officer will consider requests for dispensation in the order in which they are received having regard to the criteria and terms set out below.**
- **The Monitoring Officer will notify the Member of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.**
- **If the Monitoring Officer does not fully grant the dispensation requested by the Member, that Member can make a request to the Head of Human Resources and Administration that the application be referred to the Standards, Audit and Performance Committee as soon as is reasonably practicable.**

In the absence of the Monitoring Officer, or in the event of a vacancy, the officer appointed as Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer

Applications to Standards, Audit and Performance Committee

The procedure for the consideration of dispensation applications by this Committee will be as follows:

- **Upon receipt of a relevant dispensation application, the Head of Human Resources and Administration, in liaison with the Monitoring Officer, will (where necessary) arrange a special meeting of the Standards, Audit and Performance Committee.**
- **A formal agenda for the meeting will be produced and dispatched, together with the dispensation application (and any covering report) in order to comply with the access to information rules and, therefore, to be received no less than five working days prior to the meeting of the Committee to consider the matter.**
- **In some limited circumstances there is provision for the matter to be considered as an urgent item by the Committee. This would be at the discretion of the Chair of the Committee and such circumstances should be avoided, wherever possible.**

- ***The Committee, upon making its decision, is required to produce a written record of that decision. It is advisable that reasons are also provided as to why the dispensation has been either allowed or refused.***

Criteria for determination of requests

In reaching a decision on a request for a dispensation the Monitoring Officer or the Committee (as appropriate) will take into account:

- a) the nature of the Member's prejudicial interest***
- b) The extent to which the request could have been avoided or other arrangements could be made***
- c) the need to maintain public confidence in the conduct of the Authority's business***
- d) The extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation***
- e) the possible outcome of the proposed vote***
- f) the need for efficient and effective conduct of the Authority's business any other relevant circumstances.***

Terms of dispensations

Dispensations may be granted:

- a) for one meeting;***
- b) for a period not exceeding 4 years.***

Dispensations may allow the Member:

- a) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or***
- b) to participate in any vote, or further vote, taken on the matter at the meeting(s).***

If a dispensation is granted, the Member may remain in the room where the meeting considering the business is being held.

Disclosure of decision

Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates

A copy of the dispensation will be kept with the Register of Members' Interests.

DISPENSATION REQUEST FORM

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form, please contact the Head of Human Resources and Administration.

Your name	
Decision-making body in respect of which you require a dispensation	
Details of your membership of that body	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes / No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes / No

Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)

--	--

Signed:

Dated:

Please send your completed form to:

**Head of Human Resources and Administration
Shropshire Fire and Rescue Service
Headquarters
St Michael's Street
Shrewsbury
Shropshire
SY1 2HJ**

Or by email to: germaine.worker@shropshirefire.gov.uk