

The Way Forward for Standards

Report of the Clerk and Monitoring Officer

For further information about this report please contact Jonathan Eatough, Clerk and Monitoring Officer, on 01952 383200 or Sharon Lloyd, Corporate Services Manager, on 01743 260210.

1 Purpose of Report

This report follows up on a report to this Committee on 21 November 2011 that considered the future of the standards regime in the light of the provisions of the Localism Act 2011. The meeting agreed at that time that the Monitoring Officer would report back to the Committee with proposals for the development of a new standards regime.

2 Recommendations

The Committee is asked to recommend to the Fire Authority:

- a) A Code of Conduct, subject to the Monitoring Officer, in consultation with Group Leaders, adding provisions that would cover the management of interests, as provided for in the Localism Act 2012 and regulations made under it;
- b) That the Code of Conduct include specific provisions requiring that the Member would leave the room when he/ she has a disclosable pecuniary interest;
- c) That a Standards Committee is established with terms of reference, which include the oversight of the duty to promote and maintain high standards of conduct by Members of the Fire Authority, the consideration of Investigation Reports arising from complaints that a Member of the Fire Authority has breached the Code of Conduct and the granting of dispensations;

- d) That Members determine an appropriate number of Members to sit on the Standards Committee;
- e) Arrangements for dealing with complaints and making decisions about complaints that have been investigated; and

The Committee approve:

- f) Arrangements for the appointment of an Independent Person by delegating authority to the Monitoring Officer to undertake the recruitment of an Independent Person, either solely for the Fire Authority or for a combined appointment for the Fire Authority, Telford & Wrekin Council and Shropshire Council together, as the Monitoring Officer considers most appropriate, whilst ensuring that a Recruitment Panel represents the interests of the Fire Authority.

3 Background

The Localism Act 2011 requires the Fire Authority to change its standards regime in the manner outlined in the report in November 2011. Since then, in discussion with the Monitoring Officer at Shropshire Council, a number of proposals have been developed for consideration by Members. These are:

A new Code of Conduct

- Authorities will be required to adopt a Code of Conduct, which is consistent with the Nolan Principles of Public Life, a draft that has been developed in consultation with the Monitoring Officer at Shropshire Council is attached at Appendix A.
- The Code will refer to a requirement to maintain a new register of interests. Whilst we await regulations to define what these will look like it, is reasonable to expect that they will be broadly equivalent to the current prejudicial interests. Note these interests will cover not just the Member's interests but those of his / her spouse / civil partner.

Standards Committee

- That the Fire Authority establish a Standards Committee that is proportionate and comprises Members that meet, as required, to consider matters referred to it by the Monitoring Officer; and
- That the Standards Committee can appoint sub committees to delegate some or all of its functions.

Dealing with Complaints

- That the Fire Authority adopt arrangements for dealing with complaints of breaches of the Code of Conduct by its Members. It is proposed that complaints be dealt with in accordance with the document “Managing Complaints about Members”, attached at Appendix B to this report.

Independent Persons

- The arrangements adopted by the Fire Authority must include provision for the appointment by the Authority of at least one Independent Person.
- The Independent Person(s) 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 and they may also be consulted in respect of a standards complaint at any other stage. A Member or co-opted Member of the Fire Authority, against whom a complaint has been made, may also consult them.
- The appointment is made through a process of public advertisement, application and appointment by a positive vote of a majority of all Members of the Fire Authority (not just of those present and voting).
- A person is considered not to be “independent” if:

They are, or have been within the last 5 years, an elected or co-opted Member or an officer of the Fire Authority (this may preclude any of the current co-opted Independent Members of Standards Committee from being appointed as an Independent Person, although the position in this regard is still under debate); or they are a relative or close friend of such a person.

A relative includes:

- (a) the candidate’s spouse or civil partner;
 - (b) any person, with whom the candidate is living as if they are spouses or civil partners;
 - (c) the candidate’s grandparent;
 - (d) any person, who is a lineal descendent of the candidate’s grandparent;
 - (e) a parent, brother, sister or child of anyone in paragraphs (a) or (b);
 - (f) the spouse or civil partner of anyone within paragraphs (c), (d) or (e); or
 - (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.
- Remuneration can be paid but in comparison the role of Independent Person is likely to be less onerous than that of the current Chair of Standards Committee. He/she will need to be available to be consulted by the Monitoring Officer and Members, against whom a complaint has been made. It is suggested that travelling and subsistence allowances only would be payable initially, with a proviso that the position could be reviewed as necessary.

- It is proposed that the Monitoring Officer be given delegated authority to undertake the recruitment of an Independent Person, either solely for the Fire Authority or for a combined appointment for the Fire Authority, Telford & Wrekin Council and Shropshire Council together, as appropriate, whilst ensuring that a Recruitment Panel represents the interests of the Fire Authority.

Timing

- Members are asked to note that the new regime is now likely to be implemented with effect from 1 July 2012.

4 Financial Implications

The current legislative framework for dealing with an allegation of breach of the Code of Conduct is cumbersome, time-consuming and costly. Fortunately, the Fire Authority has not, to date, needed to implement this framework.

The opportunity to deal with an allegation expeditiously and efficiently under locally agreed procedures would reduce any potential financial burden in the future.

5 Legal Comment

The Authority has a legal obligation to put in place a standards regime that will meet the requirement of the Localism Act 2011 and regulations made under it.

6 Equality Impact Assessment

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

7 Appendices

Appendix A

Draft Code of Conduct

Appendix B

Draft arrangements for Managing Complaints about Members

8 Background Papers

UK Parliament 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>Only use the resources of the Authority in accordance with reasonable requirements set out for their use from time to time</p> <p>Declare 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
Make decisions on merit and in the public interest, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.	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. They should not disclose information given to them, which they can reasonably be expected to know was either exempt or confidential and is not to be disclosed to protect the wider public interest.	Openness

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	Honesty
Promote and support these principles by leadership, and by example, and act in a way that secures or preserves public confidence	Leadership

Pecuniary and Non- 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:

www.shropshirefire.gov.uk

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

Sharon Lloyd, Corporate Services Manager

Telephone 01743 260210, email sharon.lloyd@shropshirefire.gov.uk

To be completed once we have seen the regulations but perhaps ...

What	When	How	Impact on Meetings
Disclosable Pecuniary Interests	Within 28 days of election	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 (hopefully defined in the regulations)	In writing to the Monitoring Officer, detailing the existence and nature of the interest	Member cannot participate in, or vote on, the matter
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
Sensitive Interests – i.e. those where the Monitoring Officer agrees with the Member that the disclosure of the interest could lead the Member being subject to violence or intimidation	As above	As above, but detailing the existence, not the nature, of the interest	As above

Dispensations can be granted as indicated 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.	Standards Committee
The dispensation is in the interests of persons living in the [<i>authority's</i>] area.	Standards Committee
It is otherwise appropriate to grant a dispensation.	Standards Committee

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 [*insert link*] 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 to 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, [*insert appropriate address details and e-mail address*]

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 [*insert link*]. 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 Standards Committee, 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 Investigation 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 Fire Authority's Standards Committee.

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 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 Fire Authority's Standards Committee 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 considers that it is appropriate to do so:

Note

You might be asked by the Investigating Officer to attend and give evidence to the Standards Committee.

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 Standards Committee 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 Standards Committee 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 Standards Committee 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