

Confirmation of Code of Conduct and Standards Issues

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

To consider final arrangements for the new standards regime at the Authority in accordance with the provisions of the Localism Act 2011 and regulations made under it, which have come into force since this matter was last considered by the Authority on 13 February 2012.

2 Recommendations

That the Authority endorses its decisions made on 13 February, namely:

- a) Approve the Code of Conduct, attached at Appendix A, for adoption as the Authority's Code of Conduct to come into effect immediately;
- b) That the Code of Conduct includes specific provisions requiring that the Member leave the room, when he/she has a disclosable pecuniary interest;
- c) That a Standards Committee is established with a membership of 5;
- d) That Members confirm the arrangements for dealing with complaints and making decisions about complaints that have been investigated, as set out in Appendix B;
- e) Note that a recommendation regarding the appointment of the Independent Person will be brought to the Authority at its meeting on 26 September 2012; and
- f) That Members determine that the political balance requirements under the Local Government and Housing Act 1989 be disapplied in respect of the Standards Committee.

3 Background

The Localism Act 2011 and regulations require the Fire Authority to change its standards regime in the manner outlined in the report considered by the Authority in February 2012. This report finalises the arrangements to be adopted.

Regulations published on 8 June 2012 include provisions, which mean that the Fire Authority must re-visit a number of decisions made previously and make some further decisions.

4 The Current Position

Standards Committee

Terms of reference for the Standards Committee are set out in report 11b – Committee Membership and Constitution, for consideration by the Fire Authority.

Code of Conduct

The proposed Code of Conduct for consideration by Members is attached at Appendix A. Some minor changes (shown in bold italics) have been made since it was brought to the Fire Authority in February.

Breaches of the Code

The Fire Authority has to have in place arrangements for investigations and consideration of investigation reports for complaints against its Members. The proposed arrangements are set out at Appendix B for Members' approval. Members will note that discretion is given to the Monitoring Officer to decide what to do with a complaint.

The Independent Person

Arrangements are currently in hand to recruit the Independent Person and a further report will be brought to the Fire Authority at its meeting on 26 September 2012.

Disclosable Pecuniary Interests and the Register of Interests

Regulations have now defined Disclosable Pecuniary Interests, which must be disclosed. Generally this will be required within 28 days of taking office or at a meeting when it becomes apparent that a Member or their spouse or partner has a Disclosable Pecuniary Interest.

A Register of Interests is already available for public inspection and on the Authority's web-site.

Offences

West Mercia Police have been briefed about the new criminal offences.

Political Balance Requirements

Following enactment of the Localism Act 2011 and Regulations it is now a requirement that the Fire Authority's Standards Committee is politically balanced. The Authority may, however, agree that the political balance requirements do not apply to the Committee, provided no Member votes against the motion.

5 Financial Implications

The previous legislative framework for dealing with an allegation of breach of the Code of Conduct was cumbersome, time-consuming and costly. Fortunately, however, the Fire Authority was never called upon to implement the previous framework.

The opportunity to deal with an allegation expeditiously and efficiently under locally agreed procedures will reduce any potential financial burden on the Authority.

6 Legal Comment

The Authority has a legal obligation to put in place a standards regime that will meet the requirements of the Localism Act 2011 and regulations made under it. Supporting regulations were issued on 8 June and require the Authority to confirm its agreement to the proposals previously considered on 13 February 2012.

There are statutory requirements relating to matters, such as publicising the adoption of the new Code of Conduct and publication of the new Register of Interest forms. The Monitoring Officer will ensure that these provisions are met.

The appointment of the Independent Person will require approval by the full Fire Authority. This will be brought before the Authority when the recruitment panel is in a position to make a recommendation for the appointment.

In order for the requirement for the Standards Committee to be politically balanced to be disapplied, no Member must vote against the proposal.

7 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 not discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

8 Appendices

Appendix A

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

Appendix B

Managing Complaints about Members

9 Background Papers

UK Parliament Localism Act 2011 and Regulations made under it

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

What	When	How	Impact on Meetings
Disclosable Pecuniary Interests	Within 28 days of election or re-election (if not already entered)	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
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 – depending upon the circumstances	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:

<p>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</p>	<p>Monitoring Officer</p>
<p>The political balance is affected to the extent that it could affect the outcome of a vote relating to the business.</p>	<p>Standards Committee Monitoring Officer</p>
<p>The dispensation is in the interests of persons living in the [authority's] area of the Fire Authority.</p>	<p>Standards Committee</p>
<p>It is otherwise appropriate to grant a dispensation.</p>	<p>Standards Committee</p>

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:

Jonathan Eatough
Telford & Wrekin Council
Civic Offices
PO Box 215
Telford
TF3 4LF

Telephone: (01952) 383200

Email: jonathan.eatough@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 [*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 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 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