

Review of Publicity and Guidance Documents for Code of Conduct Complaints

Report of the Clerk and Monitoring Officer

For further information about this report please contact:

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1 Purpose of Report

This report provides details of the proposed changes to documentation used to publicise the local Code of Conduct complaints system and to confirm the publicity, which will be undertaken to inform the public of these changes.

2 Recommendations

The Committee is asked to approve the new documentation, attached as appendices to this report, subject to any comments or amendments, which they consider appropriate.

3 Background

The local system for filtering Code of Conduct complaints came into force on the 8 May 2008 and documentation was initially prepared, based on the guidance set out by Standards for England. This has been made available by placing the documents on the Fire Authority's website and providing hard copies of the documentation to members of the public, who have requested them.

The following documents have now been reviewed and updated for consideration by this Committee.

- **Public notice providing basic details of the complaints system**
- **Complaint form and guidance**

Public notice providing basic details of the complaints system

Attached at Appendix A is an updated version of the public notice, setting out basic details of the complaints system in a straightforward way. This document will be placed on the notice boards in the reception areas at Brigade Headquarters, Shrewsbury and the Training Centre, Telford. In addition the document will be made available on the Fire Authority's website.

The Committee may wish to consider whether there should be further distribution of this notice.

Complaint form and guidance

The Committee commented upon the original complaint form at its last meeting and a new form has been prepared, which incorporates those comments (attached at Appendix B).

Attached at Appendix C1 there is a guidance document, which includes the new complaint form. A list of 'frequently asked questions' has also been prepared (attached at Appendix C2). Unfortunately, there is a significant amount of information to be provided to members of the public, given the complexity of the system. Officers have, however, tried to ensure that the documentation is as straightforward and easy-to-understand as possible.

It is intended that this documentation will be available to the public electronically and in hard copy from Brigade Headquarters, Shrewsbury and the Training Centre, Telford. It will also be made available on the Fire Authority's website.

4 Summary

The new local filtering system for considering Code of Conduct complaints has now been in place for some 20 months. It is appropriate to review the documentation and the publicity, which informs the public about their right to make a complaint to the Standards Committee. Updated documents have been produced to assist the public with regard to the complaint process.

5 Financial Implications

The cost of producing and circulating the new documents will be minimal and can be met from within existing resources. Furthermore, electronic distribution will help to minimise costs.

6 Legal Comment

The Standards for England Guidance states that the Standards Committee should take responsibility for publicising the local complaints system and the Committee is required by statute to give consideration to that Guidance.

The guidance is not, however, prescriptive as to what specifically needs to be done. The decision on how the local system is to be publicised is, therefore, a matter for the Standards Committee.

There is no legal requirement to produce guidance, which supports the Code of Conduct complaints procedure. Such guidance is, however, recommended, as it helps to keep the public informed about the complaints system. Furthermore, it should assist the Standards Committee in dealing with complaints, as it sets out all of the information, which is required in order to make an assessment of a complaint.

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 no discriminatory practices or differential impacts upon specific groups arising specifically from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

8 Appendices

Appendix A

Public notice regarding Complaints System

Appendix B

Complaint Form

Appendix C1

Guidance on Complaints

Appendix C2

Frequently asked questions regarding complaints

9 Background Papers

The Local Government and Public Involvement in Health Act 2007

The Standards Committee (England) Regulations 2008

The Standards for England Guidance – The Role of Makeup of Standards Committees

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology	*	West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*

Shropshire and Wrekin Fire and Rescue Authority

Process for Making Complaints about Members

The responsibility for considering complaints that Members may have breached their Code of Conduct rests with the Standards Committee of Shropshire and Wrekin Fire and Rescue Authority.

If you want to complain about the conduct of a Member of the Fire Authority, please submit your complaint in writing to:

Chair of the Standards Committee
C/o Corporate Services Manager
Shropshire Fire and Rescue Authority
St Michael's Street
Shrewsbury
SY1 2HJ

The Standards Committee can only deal with complaints about the behaviour of a Member and will not deal with complaints about things that are not covered by the Authority's Code of Conduct. If you make a complaint to the Standards Committee, it must be about why you think a Member has not followed the Code of Conduct.

If you want to discuss the matter informally or require a copy of the Code of Conduct and complaint form, please contact:

Sharon Lloyd, Corporate Services Manager,
Telephone on 01743 260210 or
Email sharon.lloyd@shropshirefire.gov.uk

Alternatively, a copy of the Fire Authority's complaint form and guidance can be found on our website:

www.shropshirefire.gov.uk

Further information about the Code of Conduct for Members can be found on the Standards for England website:

www.standardsforengland.gov.uk

Shropshire and Wrekin Fire and Rescue Authority Complaint about a Member

This form is to be used for making a complaint to the Standards Committee about a Member of Shropshire and Wrekin Fire and Rescue Authority. Please send your completed form and any additional papers in support of your complaint to:

Chair of the Standards Committee
C/o Corporate Services Manager
Shropshire Fire and Rescue Authority
St Michael's Street
Shrewsbury
SY1 2HJ

Section 1 - Your details

1 (a) Please give your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint. However, we may tell the following people that you have made this complaint:

- the Member(s) you are complaining about
- the Monitoring Officer of the Authority

We may tell them your name and give them a summary of your complaint. We will give them full details of your complaint, where necessary or appropriate to be able to deal with it. We may also use your name in documentation that will be available to the public.

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 3 of this form.

1 (b) Please tell us which complainant type best describes you:

- Member of the public
- Elected or Co-opted Member of an authority
- Non-Elected, Independent Member of a Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other – please state

Section 2 – Your Complaint

2 (a) We have produced a guide to making a complaint, which accompanies this complaint form. If the guide is not attached to this form, you can obtain a copy by visiting www.shropshirefire.gov.uk or by contacting the Corporate Services Manager on 01743 260210 (email sharon.lloyd@shropshire.gov.uk)

2 (b) Please give the name of the Member(s) you believe have breached the Fire Authority's Code of Conduct

Title	First name	Last name

2 (c) Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Sub-Committee, when it decides whether to take any action on your complaint.

Important Note

It is often possible to deal with complaints without formal investigation and hearing. In such cases it is important that appropriate action to seek to achieve resolution of the matter is undertaken without delay.

When setting out your complaint please advise if you are **not** willing for attempts to be made to seek early informal resolution of your complaint.

If you do not so indicate, we **may** seek resolution of your complaint prior to it being submitted to the Referral Sub-Committee of the Standards Committee. To assist us in doing this it would be helpful if you could outline what particular action or remedy you are seeking by making this complaint.

Please provide us with details of your complaint and complete all of the following sections, if possible. Continue on a separate sheet, if there is not enough space on this form. We suggest you include the following:

- The date(s) when the incident(s) took place (if you can't provide an exact date then please give a general timeframe)
- The section(s) of the Code of Conduct, which you think has been breached
- All of the details, including the names and contact details of any witnesses (you will need to be specific about what exactly was said or done)
- Any relevant background information
- Details of any documentation that you are including to support your complaint
- What outcome you are seeking by making this complaint

Continued.....



- 3** Please note that by completing this complaint form you are providing your consent for your name to be provided to the Members(s), who is (are) subject to the complaint and for your name to be included in documentation that will be available to the public.

Only complete this next section, if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, we believe Members, who are complained about, have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint, unless you have good reason to believe that providing this information would:

- put your personal safety at risk;
- be contrary to the public interest; or
- in some way prejudice any investigation.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances, where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

4 Additional Help

Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you, if you have a disability that prevents you from making your complaint in writing. If you need any support in completing this form, please let us know as soon as possible by contacting (01743) 260200.

If you need any of this information in large print or on tape, please contact us on (01743) 260200.

Difficulty in speaking English?

We can also help, if English is not your first language. Please contact us about our Translation and Interpretation Services on (01743) 260200.

Signed.....

Date.....

Equality monitoring questions

About you:

To help us meet our duties under equality legislation and in line with the Authority's policy on equality and diversity please provide us with the following details.

You do not have to complete this section if you don't want to, but it may help us to monitor and improve our services if you do. Please answer any questions you feel comfortable with.

This information will not be passed to the person dealing with your report.

(please tick your response)

Are you? Male Female

What age group are you? 0-11 12-17 18-24 25-39 40-64 65+

What is your ethnicity?

White		Mixed		Asian or Asian British		Black or Black British		Chinese or Other Ethnic Group	
White British		White and Black Caribbean		Indian		Caribbean		Chinese	
White Irish		White and Black African		Pakistani		African		Gypsy	
		White and Asian		Bangladeshi					
Any Other White background		Any other Mixed background		Any other Asian Background		Any other Black Background		Any other Ethnic Background	

Do you consider yourself to have a disability?

Yes No Rather not say

Do you belong to any particular religion or hold particular beliefs?

Christian Muslim Sikh Hindu No Religion Rather not say
Other Religion (please state)

Shropshire and Wrekin Fire and Rescue Authority Guidance on Complaints about Members

1. Introduction

This guidance provides information about the system for making complaints about Shropshire and Wrekin Fire and Rescue Authority Members. It is particularly intended for those people, who wish to make a complaint about a Member and require further information as to how to do so. This guidance relates specifically to the system followed by Shropshire and Wrekin Fire and Rescue Authority Standards Committee.

2. How to make a complaint

If you wish to make a complaint about the behaviour or actions undertaken by a Member, you can make a formal complaint to Shropshire and Wrekin Fire and Rescue Authority's Standards Committee. The Standards Committee has been designated in legislation to consider the complaints, which relate to Members.

After being elected, all Members sign a declaration, undertaking to abide by the terms of the Members' Code of Conduct. The Code of Conduct adopted by Shropshire and Wrekin Fire and Rescue Authority is attached to this guidance at Appendix 1. If you wish to complain about a Member, you may wish to review the terms of the Code of Conduct to see which particular element of the Code you believe has been breached.

3. Preparing and submitting your complaint

Your complaint should be set out in writing and you should sign and date it. To assist you a complaint form has been prepared for you to use, if you wish. A copy of the complaint form is attached at Appendix 3. You do not have to use the complaint form but it may assist the Standards Committee, when considering your complaint, if you have provided all of the details requested in the form. When submitting your complaint, it is recommended that you include as much information as possible and attach any evidence, upon which you want to rely. This could include letters, emails, statements, copies of Fire Authority meeting minutes etc.

You will need to send your complaint to:

The Chair of the Standards Committee,
c/o Corporate Services Manager
Shropshire and Wrekin Fire and Rescue Authority
St Michael's Street
Shrewsbury
Shropshire
SY1 2HJ

What happens when my complaint has been received?

The Corporate Services Manager for Shropshire and Wrekin Fire and Rescue Authority will receive your complaint on behalf of the Chair of the Standards Committee. Arrangements will be made for a group of Members from the Standards Committee (known as the Referrals Sub-Committee) to meet and make an initial assessment of your complaint. This should happen within twenty working days of receiving your complaint.

You will normally be contacted, confirming that the Referral Sub-Committee meeting will go ahead and the date by which it is expected your complaint will have been assessed. The Standards Committee has prepared a protocol for dealing with the receipt of complaints, which is attached to this guidance at Appendix 4. The protocol includes information as to work, which may be undertaken by the Corporate Services Manager, before the complaint is assessed. This could include contacting you for further information.

It is also expected that the Member, who is the subject of the complaint will be notified that you have made the complaint and some brief details provided to them. In cases where you do not want your name to be supplied to the Member, who you have complained about, you can put this in the complaint form attached at Appendix 3. However, it will ultimately be a decision for the Referral Sub-Committee to decide whether or not this information is released to the Member concerned.

5. How will my complaint be assessed?

When the Referrals Sub-Committee meets they will not be deciding whether or not your complaint amounts to a breach of the Members Code. Instead they will be making an initial decision as to what further work will be needed to decide whether or not your complaint will be upheld. This meeting will be in private and both the person complaining and the Member, who is subject to the complaint, will not be able to attend.

The Referrals Sub-Committee has a criterion to use as a guide as to what decision it should make. A copy of this criterion is attached at Appendix 5. If the Sub-Committee decides that the complaint relates to an aspect of the Code of Conduct and that it is sufficiently serious to be investigated, it can ask that an investigation is undertaken locally under the direction of the Monitoring Officer. Alternatively, it could refer the matter to Standards for England in order for them to undertake an investigation. This will depend upon how serious it considers the potential breach to be.

However, if the Sub-Committee decides that the matter should not be investigated, it can either decide that no further action should be taken or some other action, such as asking the Member concerned to attend training or that mediation takes place between the person, who has made the complaint, and the Member, who has been complained about. You will be informed about the Referral Sub-Committee's decision normally within five working days of the meeting taking place.

6. What happens if I disagree with the decision that the Referral Sub-Committee have made?

If the Sub-Committee has decided that your complaint does not require any further action, then you can ask for that decision to be reviewed by writing to the Corporate Services Manager within thirty days of the Referral Sub-Committee taking place. When you write in you will be asked to set out why you want a review and also whether or not there is any information, which you think has not been considered.

A Review Sub-Committee of the Standards Committee will then be set up and this will be made up of a different group of Members from the Standards Committee that considered the complaint initially. The Review Sub-Committee will meet within three months of the review being requested and have the same powers available to them as the Referrals Sub-Committee. If the Review Sub-Committee decides that no further action is to be taken, then you have no further right of review by the Standards Committee.

7. What happens if the matter is investigated?

An investigation may be undertaken locally, either by an officer of Shropshire and Wrekin Fire and Rescue Authority or by an external investigator employed by the Authority. If your complaint is more serious, then it will be investigated by an Ethical Standards Officer, who is instructed by Standards for England. You should expect to be contacted as part of that investigation and asked to answer questions in order to obtain further information.

Normally, within three months of the complaint being referred for investigation a report will be prepared and submitted back to the Standards Committee. If the investigation indicates that there has been a breach of the Code of Conduct, then the matter will proceed to a Standards Committee hearing. As part of that hearing process, you may be asked to attend and give evidence.

If the matter is more serious, then the complaint will be dealt with by the Adjudication Panel for England, which is independent of Shropshire and Wrekin Fire and Rescue Authority, and, similarly, you may be asked to give evidence there. The Adjudication Panel for England can also be used by any Member, who wishes to appeal against a decision of the Standards Committee after an investigation and hearing, which has found them to be in breach of the Code of Conduct.

8. Further Information

A list of frequently asked questions is attached at Appendix 6 of this guidance.

Further information can also be obtained by visiting the Standards for England website at:

www.standardsforengland.gov.uk

or the website for the Adjudication Panel for England at:

www.adjudicationpanel.co.uk

Contact details for the Corporate Services Manager of Shropshire and Wrekin Fire and Rescue Authority are set out below.

Mrs Sharon Lloyd
Corporate Services Manager
01743 260210
sharon.lloyd@shropshire.gov.uk

Frequently Asked Questions

- 1. I want to complain about the actions of a Member but I do not want to do this formally. Is there an informal way, in which I can raise issues or concerns, or do I have to provide a written complaint?**

If you do not want to follow the route of a formal complaint, then you can raise issues you have about an individual Member without having to do so. You can raise your concerns by contacting the Corporate Services Manager at Shropshire and Wrekin Fire and Rescue Authority (the contact details are set out in the main guidance note). If you do wish to raise the matter informally, you should make this clear in any correspondence, including email and any telephone calls. If you do not make this clear, then the matter may be considered as a formal complaint and go through the formal process.

If your complaint is informal, it may not always be possible for any action to be taken against the Member concerned and the Member may not even be contacted to inform them of the issue. If your informal complaint relates to any serious misconduct, which amounts to a criminal offence, the matter may be referred to the appropriate enforcement body, such as the police.

- 2. What if my complaint involves the Authority itself but there were some Members involved in the decision making?**

The Standards Committee deals solely with complaints about Members. If you have a complaint with regard to any actions undertaken by the Authority itself, then you should pursue the matter via the corporate complaints system, which you can access by visiting the Fire Authority's website at:

www.shropshirefire.gov.uk

or by telephoning (01743) 260200.

- 3. Can I make an anonymous complaint?**

There is nothing to prevent you from making a complaint without providing your own personal details. However, it is more likely that your complaint will not be proceeded with, if you do not provide your name and address. How anonymous complaints may be dealt with is set out in the criteria adopted by the Standards Committee, set out in Appendix 4.

If you do wish your name to be withheld during the complaint investigation process, you can make a request to do this, when you send in your complaint (please see the section on the complaint form at Appendix 3). However, it will ultimately be up to the Committee as to whether or not your name will be revealed to the Member, against whom you have made the complaint. Your

name may also be used when a summary of the complaint is made available to the public.

4. I do not want my complaint to go through a full investigation process. I think that a simple apology would resolve the matter. Can I set this out in my complaint?

Yes. The complaint form allows you the opportunity to set out how you would like the matter to be resolved. There is no guarantee that it will be undertaken in this way but it may be that if you express a preference, the Corporate Services Manager can speak to the Member concerned and see whether or not there is an amicable way of resolving any issues. However, if the matter is more serious the Referral Sub-Committee may still decide that an investigation is appropriate.

5. I wish to make a complaint about something that happened some time ago and the Member concerned has since resigned. Can I make a complaint to the Standards Committee about that ex Member?

There is nothing to prevent you from making a complaint but the Standards Committee will not have the jurisdiction to order an investigation into a former Member. If the behaviour concerned amounts to a criminal offence or involves serious corporate governance issues, then the Standards Committee may ask the appropriate enforcement body or the Authority's Auditors to look at the complaint but the matter will not be considered by the Standards Committee.

6. I have made a complaint but now wish to withdraw it. Can I do this?

You can withdraw your complaint at any point during the process. However, if your complaint relates to a serious allegation and the Standards Committee considers that it would be in the public interest to continue to look into it, the investigation may continue. If you do wish to withdraw a complaint, you should write to the Corporate Services Manager, confirming that you wish to do so and setting out the reason why, as soon as you have decided that you want to do this.

7. The incident I want to complain about relates to a criminal investigation against the Member concerned. Can I still make the complaint?

Yes. However, it is likely that the Standards Committee would delay an investigation until any criminal investigation and proceedings have been concluded. This is to ensure that the Standards Committee would not be prejudging any criminal proceedings but also to make sure that any Standards Committee investigation did not prejudice any criminal investigational proceedings which were ongoing.

8. What is a Standards Committee?

Shropshire and Wrekin Fire and Rescue Authority is required by law to have a Standards Committee. The Committee is responsible for promoting high standards of behaviour and conduct, particularly for Members of the Authority. Its responsibilities include ensuring that there is appropriate Code of Conduct training for Members and making recommendations to the Authority about the Code of Conduct and appointments within the Standards Committee. The Standards Committee is currently made up of 8 Members as follows:

- Four independent Members, who are not elected but are appointed by the Authority. They are not representatives of any political group of the Authority and it is their responsibility to act as the Chair of the Standards Committee and any Sub-Committees. Their impartiality is to ensure the integrity of the processes undertaken by the Standards Committee and ensure fairness.
- Four elected Members from the Fire Authority, appointed from Shropshire Council and Telford & Wrekin Council

9. What are the Referral and Review Sub-Committees?

The law states that any complaint has to be considered initially by Sub-Committees of the Standards Committee. This means that some of the Members of the Standards Committee will meet together as a Sub-Committee to make decisions regarding the complaints that are received. Currently the Sub-Committees are made up of any 4 of the Members of the Standards Committee but must be chaired by one of the independent Members. There must also be at least 1 elected Member present during the Sub-Committee meetings. The Review Sub-Committee is made up in the same way but must contain a different group of Members from those, who made the initial assessment. If the matter goes to an investigation and a full hearing, the Standards Committee will set up a Hearing Panel, which will contain a number of Members but again will be chaired by an Independent Member.

10. What sanctions can Members receive, if they are found to have breached the Code of Conduct?

Members can receive one of any number of sanctions, which can be anything from a reprimand up to disqualification. The Shropshire and Wrekin Fire and Rescue Authority Standards Committee can impose a maximum sanction of six months suspension from office. If the matter is more serious, it will be referred for consideration by the Adjudication Panel for England, which has the power to disqualify Members. There are a number of sanctions in between a reprimand and a disqualification, such as ordering a Member to undertake training, ordering that the Member should make a written apology, or partial suspensions from office for shorter periods.