

Revised Code of Conduct for Members of Shropshire and Wrekin Fire Authority

Report of the Clerk

For further information about this report please contact Sue Kembrey, Clerk and Monitoring Officer to the Fire Authority on 01952 383200.

1 Purpose of Report

A revised Model Code of Conduct for elected Members has come into effect following a consultation process. Before the revised code can apply to Members of this authority it needs to be adopted by the Fire Authority.

2 Recommendations

The Fire Authority is asked to:

- a) Consider the Model Code of Conduct issued by the Secretary of State for Communities and Local Government as set out in the Local Authorities (Model Code of Conduct) Order 2007 ["the Code"] together with a preamble incorporating the ten general principles governing the conduct of members ("the preamble"), in place of the existing code; and
- b) Delegate authority to its Standards Committee to agree adoption of the Code together with any alterations / amendments.

3 Background

On 4 April 2007 a revised code of conduct for elected members was laid before Parliament and came into force on 3 May 2007. The revised code replaces the four separate Codes of Conduct issued in 2001 that covered that covered Local Authorities, Parish Councils, National Parks and Broads Authorities and Police Authorities. The creation of the final version of the revised code of conduct follows a public consultation for which the Fire Authority provided a response.



4 Changes to the Draft Code

As a result of the consultation, there have been a number of changes to the draft Code of Conduct which was previously consulted upon. The final version of the revised Code of Conduct is set out in the Local Authorities (Model Code of Conduct) Order 2007 and is attached to this report at Appendix A.

The changes when compared to the existing Code of Conduct are significant and this is illustrated by the fact that the Standards Board Guidance for the new Code of Conduct is 32 pages in length. A very brief summary of the contents of the revised Code are set out below:

- a) The wording of the revised Code is different. Rather than referring to a member of an Authority in the third person it refers directly to the member as “you”.
- b) It states that the Code should be read together with the general principles described by the Secretary of State. These are the principles set out in the Relevant Authorities (General Principles) Order 2001 attached to this report at Appendix B. Whilst not mandatory, it is suggested that any adoption of the revised Code of Conduct includes the ten principles of conduct in public life as a preamble to the revised Code (the principles being selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership). It is suggested that the inclusion of the principles at the beginning of the Code would provide some context for the requirements of the Code itself.
- c) The opening section of the revised Code makes it clear that it applies to individual members and it is their responsibility to ensure that they comply with it. The Code will apply whenever a member conducts business on behalf of their Authority or when members act, claim to act or give the impression that they are acting as a representative of the Authority. In addition, when members are acting outside of their official capacity the Code will only apply if the actions of a member constitute a criminal offence for which they have been convicted. The three instances set out in the Code where it would apply in this instance relate to intimidation, bringing the office or Authority into disrepute and/or improperly seeking an advantage.
- d) General obligations are set out under the revised Code which specifically includes reference to bullying and intimidation of others. There is also reference to members not doing anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority. The obligation in the previous Code to promote equality by not discriminating unlawfully against any person has been replaced with an obligation not to do anything which may



cause the Authority to breach any of the equality enactments (as defined in Section 33 of the Equalities Act 2006).

- e) There have been considerable changes to the rules on disclosure of confidential information. Whilst there still remains an obligation not to disclose confidential information there are certain exceptions in cases where; the member has been given the consent of the appropriately authorised person to disclose the information, is required by law to do so, where the disclosure is made to a third party for the purpose of obtaining professional advice providing the third party agrees not to disclose the information to any other person and/or the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Authority. There remains a requirement for members not to prevent another person from gaining access to information to which that person is entitled by law.
- f) The obligation for members not to conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute remains.
- g) The provisions that a member must not use their position to improperly confer or secure for themselves or any other person an advantage or disadvantage and the provisions in terms of misuse of resources also remain in the revised Code.
- h) When reaching decisions members must have regard to any relevant advice provided by the Authority's Chief Finance Officer or the Authority's Monitoring Officer where those officers are acting in pursuance of their respective statutory duties. Further, members must give reasons for all decisions in accordance with any statutory requirements and/or any reasonable additional requirements imposed by the Authority.
- i) The revised Code contains a number of changes to the area of personal interests. New personal interests have been added to the current list, for example the need to declare an interest in any business of the Authority where it relates or is likely to affect the interests of any person from whom the member has received a gift or hospitality with an estimated value of at least £25 (within the previous 3 years). Some personal interests, if of a sensitive nature, can be excluded from the Register of Interest forms if agreed to by the Monitoring Officer and the nature of such interests do not have to be declared when the business of the Authority that it relates to is considered (although the need to declare an interest still remains). Interests that relate to any body of which the Council is a member or in a position of general control or management to which they were appointed or nominated by the Authority, and/or any body exercising functions of a public nature only need to be disclosed to a meeting when addressing the meeting on that particular business.



- j) The previous definition of a personal interest in respect of only applying when it relates to a matter if a decision on it affects to a greater extent than other Council Tax payers, rate payers or inhabitants of the Authority's area, the well being or financial of himself, a relative or a friend has been revised. "Relative" and "friend" have been removed and replaced by "a member of your family or any person with whom the member has a close association". The reference to Council Tax payers, rate payers or inhabitants of the Authority's area has been replaced by "other Council Tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision" (or "other Council Tax payers, rate payers or inhabitants of your Authority's area" in cases of Authorities without electoral divisions or wards).
- k) The basic test in respect of prejudicial interests remains the same as in the previous Code of Conduct in that where a member has a personal interest in any business of the Authority they will also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest. However, the new Code clarifies where a prejudicial interest does not arise, that being where the business of the Authority being discussed does not affect the member's financial position or the financial position of a personal body described in paragraph 8 of the Code (this is the paragraph detailing where a personal interest arises), where it does not relate to determining of any approval, consent, licence, conditional registration in relation to the member concerned or any personal body described in paragraph 8 of the Code or in matters relating to the specific exemptions such as housing, school meals, school transport, travel expenses, statutory sick pay, members allowances payments or indemnities, ceremonial honours and/or setting of council tax. Again, this is different to the previous Code and members should familiarise themselves fully with all of the changes and the specific nature of the exemptions allowed.
- l) There are changes to the involvement which is allowed in matters where members have a personal and prejudicial interest. As before, the principle rule remains that members with a personal and prejudicial interest in any business of the Authority must withdraw from the room or chamber where the meeting is considering the business which the prejudicial interest relates to. It also remains the case that there is an exemption from doing so if the member concerned has obtained an appropriate dispensation from the Authority's Standards Committee. In addition, however, the Code provides in paragraph 12(2) that where the Authority are discussing business in which the member has a personal and prejudicial interest, if the meeting is also open to the public and members of the public attending are also allowed to make representations at the meeting, the member is allowed to make representations, answer questions and/or give evidence providing they



ensure that they withdraw from the chamber immediately after they have done so.

- m) Members are still required to complete a Register of Interests form within 28 days of acceptance of office and to make appropriate amendments within 28 days of any changes taking place. There is now a category of sensitive information which, by agreement with the Monitoring Officer, can be excluded from the Register of Interest form but records of which will still need to be retained by the Monitoring Officer.

5 The Code

In summary, the revised Code is an attempt to address some problems which were experienced with the previous version of the Code. The intent appears to be to clarify the obligations upon elected members, be more specific as to when a personal interest arises and allow Members more opportunity to make representations at Fire Authority meetings.

It is recommended that the Code of Conduct (attached at Appendix C) is considered by the Fire Authority. It is also the case that the adoption of the Code is required within 6 months of the date when it was laid before Parliament. Accordingly, if the Code has not been adopted on or before 1 October 2007 it will automatically apply.

It is further recommended that the Fire Authority delegates to its Standards Committee authority to further consider and adopt the Code of Conduct together with any alterations / amendments including the date of adoption.

6 Financial Implications

There are no financial implications associated with this report

7 Legal Comment

The legal implications are as outlined in the body of the report,

8 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.



9 Appendices

Appendix A The Local Authority (Model Code of Conduct) Order 2007 –
Statutory Instrument 2007 no. 1159

Appendix B The Relevant Authorities (General Principles) Order 2001
Statutory Instrument 2001 no. 1401

Appendix C Shropshire and Wrekin Fire Authority Code of Conduct

10 Background Papers

Standards Committee Meeting 16 April 2007 – Paper 12, Revised Model
Code of Conduct

CFA Meeting 13 June 2007 – Item 4. Minutes of meeting 25 April 2007

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	*

