

19 September 2012

**Localism Act 2011– An Update on the Changes to the Standards Regime
Report of the Clerk**

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1 Summary

- 1.1 This report provides an update on progress with the introduction of new arrangements for promoting and maintaining high standards of Member conduct under the Localism Act 2011.

2 Recommendations

- 2.1 That the arrangements for handling allegations of failure to comply with the Members' Code of Conduct, set out in Schedule 1 to the report, be approved.
- 2.2 That the recommendations of the Selection Panel meeting on 6th September regarding the appointment of the Independent Person (to be reported to the meeting) be agreed and that the Authority approve the payment of a sum of £500 per annum to the Independent Person in respect of their time and expenses incurred in carrying out the role.
- 2.3 That adoption of the Code of Conduct in Schedule 2 to the report be confirmed.
- 2.4 That work to explore the possibility of a common code of conduct continue over the coming months, with a view to presenting a report back to HLOWLA on a future occasion, progress in this respect to be reported to Standards and Governance Committee.

3 Background

- 3.1 At its meeting on 6 June 2012, the Authority received a report on the changes to the standards regime introduced by the Localism Act with effect from 1 July 2012. The Authority agreed:
- that a new Code of Conduct for Members be adopted and publicised via the Authority's website
 - that a new Standards and Governance Committee be established, in place of the former Standards Committee and Governance Committee

- that the Standards and Governance Committee review arrangements for handling allegations of failure to comply with the Code, and recommend relevant procedures to the Authority for approval
- that authority be delegated to the Standards and Governance Committee to oversee the process of recruitment of an independent person, and make a recommendation to the Authority for appointment
- that the Clerk, in consultation with the Chairman, be authorised to make any further minor or consequential amendments to these arrangements, where necessary to ensure compliance with regulations and guidance when published by Government
- that scope for co-operation and collaboration with other authorities continue to be explored, and the position reviewed in September 2012

3.2 Standards and Governance Committee met on 28 June 2012 to consider the matters referred to it. This report provides an update on the position.

4. Arrangements for Handling Allegations of Failure to Comply with the Member Code of Conduct

4.1 Following the steer given at the meeting of the Authority on 6th June, the proposed approach is to modify existing procedures for handling of complaints against Members, where necessary, to comply with the Localism Act, rather than investing the time and resource that would be required to undertake a more fundamental rewrite. This is due to a number of considerations, as follows:

- the fact that, over a number of years now, there has been a complete absence of complaints to consider
- the scope of complaints that will fall to be considered under the Authority's own arrangements is now reduced compared to that applying previously, with more serious allegations regarding disclosure of pecuniary interests being dealt with in future under the criminal law
- the existing procedures are robust and will ensure the fair and thorough consideration of any complaint, if and when received
- following the abolition of the Standards Board for England, there is now greater discretion in the application of the procedures in practice e.g. greater scope for resolution of a complaint at initial assessment stage by action other than investigation
- the Authority is pursuing discussions through Hampshire and Isle of Wight Local Authorities (HIOWLA) with a view to possible collaboration in complaints handling for the longer term. This may result in new joint arrangements in any event

- the arrangements can be revised further by the Standards and Governance Committee, if considered necessary at a later date, subject to approval by the Authority.

4.2 The amended arrangements for handling complaints against Members are attached in Schedule 1 to the report. In particular, Members will note at paragraph 18.1.3 of the arrangements that the sanctions have been modified, to comply with the Act. The Act removes the previous array of sanctions and does not give the Authority any powers to impose sanctions such as suspension or requirements for training. So, where a failure to comply with the Code of Conduct is found, the range of sanctions which the Authority can now take in respect of the Member is limited to censure and such other actions which are permitted under general local government law.

4.3 Following the meeting of the Standards and Governance Committee, and in the light of the regulations and guidance that have since been published, certain further minor amendments have been made to the proposed arrangements to ensure compliance with the Act's requirements, and these additional amendments are shown highlighted in Schedule 1 to the report. Standards and Governance Committee asked that a flowchart be added, showing how the process operated. This is now included at Appendix C to Schedule 1 (see page 26).

5 Involvement of Independent Person

5.1 The Act requires that the Authority appoint at least one 'independent person' whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate. There are certain restrictions on who may be appointed, and there must be an advertised recruitment process, with the appointment approved by a majority of Members.

5.2 A person is considered not to be "independent" if –

- he/she is, or has been within the last 5 years, an elected or co-opted Member or an officer of the Authority (although the co-opted independent members of the former Standards Committee would be eligible for appointment if they resign their position before 1 July 2012. However, they are only eligible for appointment for the period until 30 June 2013); or
- he/she is a relative or close friend of a current elected or co-opted member or officer of the Authority.

5.3 The functions of the Independent Person(s) are:-

- They must be consulted by the Authority before it makes its decision on an allegation that a Member has failed to comply with the Code of Conduct that it has decided to investigate, and

- They may be consulted by a Member or Co-opted Member of the Authority against whom a complaint has been made.

5.4 At its meeting on 28 June 2012, the Standards and Governance Committee agreed the selection criteria for the recruitment of the Independent Person and that applications would be sought via the Authority's website. The recommendation of the Selection Panel for appointment is set out in the confidential appendix to this report.

5.5 It is permissible to pay a sum in respect of time and expenses incurred by the Independent Person, subject to the approval of the Authority. The Standards and Governance Committee agreed to recommend to the Authority a payment of £500 per annum.

6. Disclosure of Interests and Confirmation of the Code

6.1 At its meeting on 6 June 2012, the Government had still not published the necessary regulations defining disclosable pecuniary interests. While it is possible to include provision in a Code of Conduct for additional pecuniary and other interests to be disclosed, the absence of the regulations made it difficult to judge at that stage whether this was required.

6.2 The Authority therefore decided not to make any provision for interests other than disclosable pecuniary interests to be disclosed, leaving it for Standards and Governance Committee to review the position when the regulations became available, and for the Authority to be advised as to whether the Committee felt any change to this position is appropriate.

6.3 The Government has now published the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The pecuniary interests which must be disclosed by Members from 1 July 2012 are set out in Part 3 of the Code of Conduct, in Schedule 2 to the report. The main changes from the requirements on disclosure of personal interests under the previous Code of Conduct are that it is no longer necessary to disclose:

- Membership of other local authorities, public or charitable bodies and lobby groups, and
- Receipt of gift or hospitality with an estimated value of at least £25

6.4 The Committee gave particular consideration to receipt of gifts and hospitality. However, it was felt that requiring disclosure of only those interests specified by Government as disclosable pecuniary interests was appropriate and proportionate. In reaching this conclusion, it was noted that it is always open to any Member to disclose further pecuniary or non-pecuniary interests at any time, where they consider this appropriate having regard to their general responsibilities under the Code.

- 6.5 The Committee therefore decided to recommend to the Authority that the Authority's Code of Conduct should not require the disclosure of any pecuniary or other interests other than those legally prescribed as disclosable pecuniary interests.
- 6.6 The Code of Conduct approved at the meeting on 6th June has now been updated (see Schedule 2 to the report) to include the relevant categories of disclosable pecuniary interest as provided in regulations, and with no requirement made for disclosure of any additional pecuniary or non-pecuniary interests. It is proposed that the adoption of the Code in this final form be confirmed by the Authority.

7 HIOWLA Discussions

- 7.1 At its meeting on 6 June 2012, the Authority agreed to explore scope for co-operation and collaboration with other local authorities in Hampshire, in connection with the development of a common code of conduct and arrangements for handling complaints.
- 7.2 This issue was considered by HIOWLA Leaders at its meeting on 22 June 2012 and it was agreed that there is merit in exploring scope for a Hampshire-wide code of conduct. In view of the fact that a common code of conduct would not be in place by 1 July 2012, HIOWLA considered that member authorities needed to proceed to implement their own arrangements.
- 7.3 Work to explore the possibility of a common code of conduct will continue over the coming months and will be the subject of a report back to HIOWLA on a future occasion. It is proposed that progress in this respect be reported to Standards and Governance Committee.

8 Conclusion

- 8.1 The report sets out the proposed modified arrangements for handling allegations of failure to comply with the Members' Code of Conduct, together with the Standards and Governance Committee's recommendations concerning the Authority's Code of Conduct and the issue of an allowance to be paid to the Independent Person. The report also updates the Authority about the progress of the Independent Person recruitment process and the HIOWLA discussions concerning a common code of conduct.

9 Equality Impact Assessment

- 9.1 The proposed modified arrangements for handling allegations of failure to comply with the Members' Code of Conduct complies with equalities legislation.

Section 100D – Local Government Act 1972 – background papers

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of this report.

N.B. The list excludes:

Published works.

Documents that disclose exempt or confidential information as defined in the Act.

None.

Schedule 1

Hampshire Fire and Rescue Authority Standards and Governance Committee

Arrangements for Assessment, Investigation and Determination of a Complaint that a Member has failed to Comply with the Members' Code of Conduct

1. Application of these Arrangements

- 1.1. These are the Arrangements to be followed by the Standards and Governance Committee of the Hampshire Fire and Rescue Authority in the assessment, investigation and determination of a complaint that any Member of the Authority has failed to comply with the Members' Code of Conduct. The Arrangements will be followed and applied in accordance with the requirements of the Localism Act 2011.

2. Receipt of Complaint

- 2.1. A complaint shall be made in writing addressed to the Chairman, Standards and Governance Committee, c/o the Clerk to Hampshire Fire and Rescue Authority, The Castle, Winchester SO30 8UJ. The Complaint Form at Appendix A shall be used for this purpose. A completed Complaint Form may be submitted electronically or by email by following the instructions on the Authority's website.
- 2.2. Anonymous complaints will not normally be considered unless the complaint is accompanied by documentary or photographic evidence indicating an exceptionally serious or significant matter.

3. Convening of Meeting of the Standards Assessment Sub-Committee

- 3.1. In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Assessment Sub-Committee, from amongst the Members of the Standards and Governance Committee, provided that at all times the composition of the Sub-Committee complies with Paragraph 3.2.

- 3.2. The Standards Assessment Sub-Committee shall comprise three members.
- 3.3. The meeting shall normally take place within 20 working days of the date of receipt of the complaint.

4. Notification to Member

- 4.1. The Monitoring Officer shall provide the Member who is the subject of the allegation with written notification that a complaint has been made, the name of the complainant (unless the complainant has requested confidentiality in section 6 of the Complaint Form) and the relevant paragraphs of the Code of Conduct that may have been breached. The notification shall state that a written summary of the allegation can only be provided once the Standards Assessment Sub-Committee has met to consider the complaint, and the date of this meeting, if known.

5. Independent Member

5.1 The Authority is required by law to appoint an independent person (“the Independent Person”) whose views must be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate (see paragraph 18.2).

5.2 The views of the Independent Person may also be sought by:

5.2.1 The Authority in relation to a complaint that it has decided not to investigate; and

5.2.2 A Member, or Co-opted Member, of the Authority who is the subject of a complaint.

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6. Terms of Reference of Standards Assessment Sub-Committee

- 6.1. The Standards Assessment Sub-Committee is established to receive allegations that a Member of the Authority has failed to comply with the Authority’s Members’ Code of Conduct.
- 6.2. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation to see if it falls within the Authority’s jurisdiction and shall then do one of the following:
 - 6.2.1. Refer the allegation to the Monitoring Officer with an instruction that he/she arrange a formal investigation of the allegation or (after consultation with the Monitoring Officer) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or

- 6.2.2. Decide that no action should be taken in respect of the allegation; or
- 6.2.3. Where the allegation is in respect of a person who is no longer a Member of the Authority but is a Member of another relevant authority (as defined in Section 27(6) of the Localism Act 2011) refer the allegation to the Monitoring Officer of that other Authority.
- 6.3. In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix B.
- 6.4. The Standards Assessment Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation, and the Member the subject of it, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given, and reference made to the right to request a review of that decision under Paragraph 7 below. This notification shall normally be given within five working days of the decision being made.
- 6.5. The notification to the Member concerned under Paragraph 6.4 shall include the name of the complainant and a written summary of the allegation, unless the Sub-Committee determines that to do so would be contrary to the public interest or would prejudice any person's ability to investigate the allegation.
- 6.6. When a matter is referred to the Monitoring Officer for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the allegation. The Sub-Committee makes no findings of fact on the matter. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code of Conduct, and that some action should be taken in response to the complaint.

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7. Right to Request a Review

- 7.1. Where a decision is made by the Standards Assessment Sub-Committee that no action should be taken in respect of the allegation, the person who made the allegation may make a request for that decision to be reviewed. The request shall be made in writing addressed to the Chairman, Standards and Governance Committee, c/o the Clerk to Hampshire Fire and Rescue Authority, The Castle, Winchester SO30 8UJ. The request must be received within 30 days of notification being given under Para 6.4 above.
- 7.2. On receipt of a request for review, it shall be passed to the Monitoring Officer.

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8. Convening of Meeting of the Standards Review Sub-Committee

8.1. In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Review Sub-Committee, from amongst the Members of the Standards and Governance Committee, provided that at all times the composition of the Sub-Committee complies with Paragraphs 8.2 and 8.3. The meeting shall take place within 20 working days of the date of receipt of the request for review, where practicable, and certainly within a maximum of three months from that date.

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8.2. The Standards Review Sub-Committee shall comprise three members.

8.3. The Standards Review Sub-Committee shall not include any member who was a member of the Standards Assessment Sub-Committee whose decision to take no action is subject to review. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

9. Notification to Member

9.1. The Monitoring Officer shall notify the Member who is the subject of the allegation that a request for review has been received.

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10. Terms of Reference of Standards Review Sub-Committee

10.1. The Standards Review Sub-Committee is established to review, upon the request of the person who has made an allegation that a Member of the Authority has failed or may have failed to comply with the Authority's Code of Conduct, a decision of the Standards Assessment Sub-Committee that no action be taken in respect of that allegation.

10.2. Upon receipt of such request for a review and any accompanying report by the Monitoring Officer the Standards Review Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following :-

10.2.1. Refer the allegation to the Monitoring Officer with an instruction that he/she arrange a formal investigation of the allegation or (after consultation with the Monitoring Officer) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or

10.2.2. Decide that no action should be taken in respect of the allegation; or

10.2.3. Where the allegation is in respect of a person who is no longer a Member of the Authority but is a Member of

another relevant authority (as defined in Section 27(6) of the Localism Act 2011) refer the allegation to the Monitoring Officer of that other Authority.

- 10.3. In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix B.
- 10.4. The Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation, and the Member concerned, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given. This notification shall normally be given within five working days of the decision being made.
- 10.5. When a matter is referred for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the allegation. The Sub-Committee makes no findings of fact on the matter. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code of Conduct, and that some action should be taken in response to the complaint.

11. Meetings in Private

- 11.1. Meetings of the Standards Assessment Sub-Committee and Standards Review Sub-Committee shall consider and determine whether or not the press and public should be excluded from the meeting in accordance with Part VA of and Schedule 12A to the Local Government Act 1972

12. Referral for Steps other than Investigation

- 12.1. Where the Standards Assessment Sub-Committee or Standards Review Sub-Committee has consulted the Monitoring Officer with a view to making a direction to take steps other than investigation that involve conciliation, the Monitoring Officer shall contact the person making the allegation, and the Member the subject of it, seeking confirmation that they would co-operate with the action proposed if such a direction were made. It must be made clear that the decision to take other action, if pursued, will close the opportunity for the complaint to be fully investigated. The Monitoring Officer shall inform the Sub-Committee of the responses received from the complainant and Member.
- 12.2. Where a direction is then made to take steps other than investigation, the Monitoring Officer shall produce a written report of the action taken or proposed. The report shall be considered by the Standards and Governance Committee within three months of the direction being given. This meeting shall normally be open to the press and public, unless the Committee decides that, in accordance

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with Part VA of and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.

- 12.3. If the Standards and Governance Committee is not satisfied with the action specified in the report, it shall give a further direction to the Monitoring Officer to take such further steps as appear appropriate.
- 12.4. If the Standards and Governance Committee is satisfied with the action specified in the report, it shall authorise the Monitoring Officer to give written notice to that effect to the person making the allegation and the Member the subject of it.

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13. Referral for Investigation

- 13.1. Where the Standards Assessment Sub-Committee or Standards Review Sub-Committee has referred the matter to the Monitoring Officer for investigation, the Monitoring Officer shall arrange for such investigation to be carried out by the Deputy Monitoring Officer, or other person the Monitoring Officer considers to be suitably qualified and experienced to undertake the task("the Investigating Officer"). This may include:
 - 13.1.1. making inquiries of such persons as the Investigating Officer considers necessary or expedient;
 - 13.1.2. requiring such persons to give such information or explanation as the Investigating Officer considers expedient;
 - 13.1.3. inspection of such documents as the Investigating Officer considers expedient.
- 13.2. The Monitoring Officer may refer the matter back to the Standards Assessment Sub-Committee if, as a result of new evidence or information, he is of the opinion that the matter is materially less serious than may have been apparent when the decision to refer the matter for investigation was made, and that the Sub-Committee would have made a different decision had it been aware of that new evidence or information. The Monitoring Officer may also refer the matter back to the Sub-Committee if the Member the subject of the allegation has died, resigned, or is seriously ill, and he is of the opinion that it is no longer appropriate to continue with an investigation.
- 13.3. Where the matter is referred back to the Standards Assessment Sub-Committee under Paragraph 13.2, the Sub-Committee may make any of the decisions referred to in Paragraph 6.2 above.

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- 13.4. On completion of an investigation, the Investigating Officer shall prepare a written report of the investigation making one of the following findings:
- 13.4.1. that there has been a failure to comply with the Code of Conduct; or
 - 13.4.2. that there has not been a failure to comply with the Code of Conduct
- 13.5. The Monitoring Officer shall send a copy of the Investigating Officer's report to the Member the subject of the allegation, and to the Standards and Governance Committee. The Standards and Governance Committee shall then arrange for the report to be considered at a hearing of the Standards Consideration Sub-Committee.

14. Convening a meeting of the Standards Consideration Sub-Committee

- 14.1. In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Consideration Sub-Committee, from amongst the Members of the Standards and Governance Committee, provided that at all times the composition of the Sub-Committee complies with Paragraph 14.2.
- 14.2. The Standards Consideration Sub-Committee shall comprise three members . Membership may include any member who has participated in consideration of the allegation at a meeting of the Standards Assessment Sub-Committee or Standards Review Sub-Committee at an earlier stage.
- 14.3. This meeting shall not normally be open to the press and public, provided that the Sub-Committee decides that, in accordance with Part VA of and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.

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15. Terms of Reference of the Standards Consideration Sub-Committee

- 15.1. The Standards Consideration Sub-Committee shall be responsible for determining whether:
- 15.1.1. It accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct; or
 - 15.1.2. The matter should be referred to consideration at a hearing before the Standards Hearings Sub-Committee; or

16. Finding of No Failure

- 16.1. Where a finding of no failure is made under Paragraph 15.1, the Monitoring Officer shall give written notification of this to the person who made the allegation, and the Member the subject of it. Deleted: 4
- 16.2. The Monitoring Officer shall also arrange for a notice to be published on the Authority's website, stating that there has been no failure to comply with the Code of Conduct, unless the Member the subject of the allegation requests that no such notice be published.

17. Convening a meeting of the Standards Hearings Sub-Committee

- 17.1. Where the Standards Consideration Sub-Committee decides that the matter should be referred for consideration at a hearing before the Standards Hearings Sub-Committee, then, in consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Hearings Sub-Committee for this purpose. The Sub-Committee shall be appointed from amongst the Members of the Standards Committee, provided that at all times the composition of the Sub-Committee complies with Paragraph 17.2. Deleted: Assessment
- 17.2. The Standards Hearings Sub-Committee shall comprise three members. Membership may include any member who has participated in consideration of the allegation at a meeting of the Standards Assessment Sub-Committee, Standards Review Sub-Committee or Standards Consideration Sub-Committee at an earlier stage.
- 17.3. The meeting shall be held within three months of the date of completion of the Investigating Officer's report (or as soon as reasonably practicable thereafter) and at least fourteen days after the date on which the Monitoring Officer sent the Investigating Officer's report to the Member the subject of the allegation, under Paragraph 13.5 above (unless the Member agrees to it being held earlier). Deleted: m
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- 17.4. This meeting shall normally be open to the press and public, unless the Sub-Committee decides that, in accordance with Part VA of and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.
- 17.5. The meeting of the Standards Hearings Sub-Committee may consider the report in the subject Member's absence if the subject Member does not attend the hearing. If the Sub-Committee is satisfied with the subject Member's reasons for not being able to attend the meeting, it may arrange for the hearing to take place on another date. Deleted: m
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18. Terms of Reference of Standards Hearings Sub-Committee

18.1. The Standards Hearings Sub-Committee is established to hold a hearing and make one of the following findings:

18.1.1. that the Member did not fail to comply with the Code of Conduct; or

18.1.2. that the Member did fail to comply with the Code of Conduct, but that no action needs to be taken in respect of the matters considered at the hearing; or

18.1.3. that the Member did fail to comply with the Code of Conduct and that one of, or any combination of, the following sanctions should be imposed:

18.1.3.1. censure of the Member:

18.1.3.2. restriction for a period not exceeding six months of that Member's access to the premises of the Authority or that Member's use of the resources of the Authority, provided that those restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the Member's ability to perform the functions of a Member;

18.1.3.3. recommending to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Authority;

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18.1.3.4. reports its findings to the Authority and/or the relevant authority responsible for appointing the Member to the Authority.

18.2. Before it makes its decision on the complaint, the Standards Hearings Sub-Committee shall seek, and take into account, the views of the Independent Person appointed by the Authority for this purpose.

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18.3. Any sanction imposed shall take effect immediately, except where the Sub-Committee directs that it shall take effect on a later date within the following six months.

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19. Pre-Hearing Procedure

19.1. In consultation with the Chairman of the Standards and Governance Committee, the Monitoring Officer shall write to the subject Member proposing a date for the hearing. The letter shall outline the hearing procedure, and the Member's rights, asking for a response within a

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set time. The letter shall enquire whether the subject Member:

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- 19.1.1. wants to be represented at the hearing by a solicitor, barrister or other person;
- 19.1.2. disagrees with any of the findings in the investigation report, including reasons for any disagreements;
- 19.1.3. wants to give evidence at the hearing, either verbally or in writing;
- 19.1.4. wants to call relevant witnesses to give evidence and, if so to provide outlines or statements of the evidence those witnesses intend to give;
- 19.1.5. wants any part of the hearing to be held in private:
- 19.1.6. wants to have any part of the investigation report or other documents withheld from the public, and
- 19.1.7. can attend the hearing.

19.2. The Monitoring Officer shall send a copy of the subject Member's response to the Investigating Officer, inviting them to say by a set date whether they wish to:

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- 19.2.1. be represented at the hearing:
- 19.2.2. call relevant witnesses to give evidence;
- 19.2.3. have any part of the hearing held in private; and
- 19.2.4. have any part of the investigation report or other documents withheld from the public.

19.3. The Monitoring Officer shall advise the Standards Hearings Sub-Committee as necessary on any matter arising out of the subject Member's response. At least two weeks before the hearing, the Monitoring Officer shall send a pre-hearing process summary to everyone involved in the complaint. This should set the date, time and place for the hearing, summarise the allegation, outline the main facts that are agreed and those which are not agreed, note whether the subject Member will attend and be represented, list the witnesses who intend to give evidence, and outline the procedure to be followed at the hearing.

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20. Hearing Procedure

20.1. The hearing is a formal meeting of the Authority and is not a court of law. It does not hear evidence under oath, but it does decide

factual evidence on the balance of probabilities. The hearing will be conducted in a demonstrably fair, independent and politically impartial way, so that members of the public and members of the Authority have confidence in the Authority's procedures and findings.

- 20.2. The procedure followed at the hearing will be confirmed in the pre-hearing process summary referred to in Paragraph 19.3.

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21. Notification of Findings

- 21.1. Within a period of 14 days of the Standards Hearings Sub-Committee making its finding on the matter, the Monitoring Officer shall give written notice of the finding and the reasons for it to the Member the subject of the finding, the person who made the allegation,. A summary of the finding and reasons for it shall be placed on the Authority's website.

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- 21.2. Where the finding is that there was no failure to comply with the Code of Conduct, a summary of the finding and reasons for it shall not be placed on the Authority's website if the Member the subject of the finding so requests.

Appendix A: Complaint Form
Appendix B: Local Assessment Criteria
Appendix C: Complaint Handling Flowchart
Adopted by the Hampshire Fire and Rescue Authority
Date: 2012

Appendix A



HAMPSHIRE FIRE AND RESCUE AUTHORITY Standards and Governance Committee

Complaint form

To be used if you wish to make an allegation that a Member of the Authority has failed to comply with the Members Code of Conduct.

Your details

1. Please provide us with 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 will tell the following people that you have made this complaint:

- The member(s) you are complaining about
- The Clerk to the Authority

We will 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. If you have serious concerns

The Sub-Committee will assess on the basis of your written submission and any additional relevant material that the Clerk to the Authority may produce whether your allegation is likely to reflect a failure to comply with the Members' Code of Conduct. If it is considered necessary to do so, the Sub-Committee has a range of options available to it. This can include referral for a full investigation by the Clerk to the Authority, mediation or no further action if it is considered that any failure to comply with the Code of Conduct is of a trivial nature.

The Sub-Committee will meet to consider and determine the matter within 20 working days.

If the Sub-Committee decides that no further action is required in respect of your complaint, you may, within 30 days, ask for that decision to be reviewed. This review will be undertaken by the Standards Review Sub-Committee which consists of three Members. The Review Sub-Committee will have the same range of options available to it as the Standards Assessment Sub-Committee. The Review Sub-Committee will, however, have up to three months to consider and determine the review of your allegations and how they should be dealt with.

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If either the Standards Assessment or Review Sub-Committee decide that an investigation is required into your complaint, the Clerk to the Authority or someone appointed by him will be instructed to undertake it. You will be given further information at that time should an investigation be necessary.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their authority.

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the Member has done that you believe breached 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 breached the Code of Conduct.

A copy of the Authority's Members' Code of Conduct can be found at the following Web address: <http://www.hantsfire.gov.uk/hfra-modelcode.htm>

Alternatively, a paper copy can be obtained from the Clerk to the Authority by writing to :

The Clerk to the Authority, Hampshire Fire and Rescue Authority, ~~Corporate Services~~, The Castle, Winchester, SO23 8UJ

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- You should be specific, wherever possible, 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 it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint and the outcome from this complaints process that you would like to see happen. Continue on a separate sheet if there is not enough space on this form.

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

6. 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

details of your complaint unless you have good reason to justify the Authority doing so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Clerk to the Authority 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:

Additional Help

7. Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of equalities legislation, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

This complaint should be submitted to the Chairman of the Standards and Governance Committee, c/o the Clerk to the Authority, by sending to the following contact addresses:

By post to : The Clerk to the Authority, Hampshire Fire and Rescue
Authority, ~~Corporate Services~~, The Castle, Winchester,
SO23 8UU

~~Deleted: Chief~~

~~Deleted: Executive's
Department~~

Or by e-mail to: kevin.gardner@hants.gov.uk

Appendix B: LOCAL ASSESSMENT CRITERIA

The following criteria shall be applied by the Standards Assessment Sub-Committee and the Standards Review Sub-Committee when considering allegations that a Member has failed to comply with the Members' Code of Conduct.

1. Is the complaint within the jurisdiction of the Committee?
2. Is it a complaint against one or more named Members or co-opted Members of the Authority covered by the Members' Code of Conduct?
3. Was the named Member in office at the time of the alleged conduct and the Code of Conduct was in force at the time?
4. Would the complaint, if proven, be a breach of the Code under which the Member was operating at the time of the alleged misconduct?

NOTE If the complaint fails one or more of the above tests, it cannot be investigated as a breach of the Code.

5. Is there prima facie evidence of a breach of the Code?
6. Is it serious enough to warrant a sanction?
7. Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and is there no other avenue left to deal with it except investigation?
8. In considering the case, the Sub-Committee will take into account the time that has passed since the alleged conduct occurred.
9. Would an investigation serve a useful purpose?
10. Is the case suitable for local investigation?
11. It appears that the complaint is really about dissatisfaction with a council decision.
12. There is not enough information currently available to justify a decision to refer the matter for investigation.

Factors to consider when deciding whether the identity of the complainant and/or a written summary of the allegation should be disclosed to the Member the subject of the allegation

13. Are there reasonable grounds for believing that the complainant will be at risk of physical harm if their identity is disclosed?
14. Is the complainant an officer who works closely with the Member and is afraid of the consequences to their employment if their identity is disclosed?
15. Is there evidence of any medical risks associated with the complainant's identity being disclosed?

16. Is it feasible for the complaint to be investigated without the complainant's identity being disclosed (e.g. where the allegation is bullying of the complainant)?
17. Are there reasonable grounds for believing that disclosure of the complainant's identity and/or the provision of a written summary of the allegation, may lead to intimidation of witnesses or the destruction of evidence?

Hampshire Fire and Rescue Authority

Members' Code of Conduct

This Code is adopted pursuant to the Authority's statutory duty to promote and maintain high standards of conduct by members and co-opted members of the Authority. It applies to all members and co-opted members, when acting in their role as a member or co-opted member of the Authority.

This Code is not intended to be an exhaustive list of all the obligations placed on members and co-opted members of this Authority. It is your responsibility to comply with the following provisions of this Code as well as other legal obligations beyond the scope of this Code.

This Code is based on and consistent with the following principles:

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Part 1: General obligations of members and co-opted members

1. You must treat others with respect.
2. You must not do anything which may cause the Authority to breach equalities legislation.
3. You must not bully any person.
4. You must not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.
5. You must not do anything which compromises the impartiality of the Authority's officers.
6. You must not disclose confidential information (other than in very limited circumstances permitted by law, and following consultation with the Authority's Monitoring Officer).
7. You must not prevent a person from gaining access to information to which they are entitled.
8. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute.
9. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.
10. You must, when using or authorising the use by others of the resources of the Authority, act in accordance with the Authority's reasonable requirements, and ensure that the resources are not used improperly for political purposes.
11. You must have regard to the Code of Recommended Practice on Local Authority Publicity.
12. When reaching decisions, you must have regard to relevant advice from the Authority's officers, and give reasons for decisions.

Part 2: Registration and Disclosure of Interests

13. You must, within 28 days of becoming a member or co-opted member, notify the Authority's Monitoring Officer of any disclosable pecuniary interest as set out in Part 3 of the Code, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners, and where you are aware that that other person has

that interest. The Authority's Monitoring Officer will cause the interest notified to be entered in the Authority's Register of Interests.

14. Where a disclosable pecuniary interest has not been entered in the Register of Interests, and it is a disclosable pecuniary interest in any matter being considered at a meeting of the Authority, committee or sub-committee at which you are present, you must disclose the interest to the meeting, except where the matter is a 'sensitive interest'.¹ Where the interest is a 'sensitive interest', you must disclose merely the fact that you have a disclosable pecuniary interest in the matter concerned.
15. Where you have a disclosable pecuniary interest in any matter being considered at a meeting of the Authority, committee or sub-committee, you must not participate in discussion of, or vote on, that matter, and must withdraw from the room where the meeting is being held, unless you have obtained a dispensation from the Standards and Governance Committee. However, this does not prevent you from making representations on the matter to the meeting, in accordance with the Authority's deputations procedure, provided that you withdraw from the room when those representations are concluded and before any discussion or vote takes place.
16. Following any disclosure of an interest not on the Authority's Register of Interests maintained by the Authority's Monitoring Officer, or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
17. You are not required to register or disclose any pecuniary or other interest that is not a disclosable pecuniary interest set out in Part 3 of the Code.

Part 3: Disclosable Pecuniary Interests

18. In accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the pecuniary interests required to be disclosed are set out below:

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 ⁽²⁾ .
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant 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.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of

⁽²⁾ 1992 c. 52.

a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Adopted by the Hampshire Fire and Rescue Authority

Date: 6th June 2012