

report

meeting	NOTTINGHAMSHIRE AND CITY OF NOTTINGHAM FIRE & RESCUE AUTHORITY	
date	14 January 2005	agenda item number

REPORT OF THE CHIEF FIRE OFFICER

MEMBERS' HANDBOOK

1. PURPOSE OF REPORT

The purpose of this report is to present to Members the revised and updated Members' Handbook.

2. BACKGROUND

2.1 The Members' Handbook was originally produced in 1998 and contained limited information relating to the governance arrangements pertaining to the Nottinghamshire Fire & Rescue Service.

2.2 At its meeting of 10 December 2004 Nottinghamshire & City of Nottingham Fire & Rescue Authority approved a revised and updated draft Handbook. This was to be finally ratified at the meeting of the Standards Committee on 16 December 2004, before being brought back to full Authority for formal adoption.

3. REPORT

3.1 The revised Members' Handbook presented to Fire Authority on 10 December 2004 completely updated the original publication. It addressed many of the outcomes of the pilot Comprehensive Performance Assessment (CPA) and formally laid out the relationship between Members, their responsibilities, and Officers.

3.2 The revised Handbook also incorporated updates and revisions arising from changes to primary legislation and the commencement of the Fire & Rescue Services Act 2004.

3.3 The Standards Committee meeting of 16 December 2004 approved the document with regard to the Authority's governance arrangements and supported the structure presented to Fire Authority on 10 December 2004.

3.4 The revised handbook is presented in eight formal chapters, These are :-

- Membership of the Authority
- Officers of the Authority
- Statutory Instruments
- Standing Orders
- Financial Regulations
- Members' Allowance
- Scheme of Delegation
- Terms of Reference for Committees and Boards

3.5 In addition to the eight chapters, the Standards Committee also endorsed the addition of an Appendices Section where other relevant information, that will be of benefit to Members can be included. Examples of this are Standards Board Guidance (included in this draft) and other relevant Nottinghamshire Fire & Rescue Service policies, eg Whistleblowing Policy. Any additions could then be forwarded to Members for inclusion for their own reference.

3.6 The intention is that the Members' Handbook will be presented to each individual Fire Authority Member in a loose leaf format, so that additions and revisions can be easily addressed. All such amendments will be subject to Fire Authority and Standards Committee scrutiny.

4. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

5. PERSONNEL IMPLICATIONS

There are no direct personnel implications arising from this report.

6. EQUAL OPPORTUNITIES IMPLICATIONS

There are no direct equal opportunities implications arising from this report.

7. RISK MANAGEMENT IMPLICATIONS

7.1 The New Members' Handbook will ensure that Fire Authority Members will have at their disposal a comprehensive document to act as a point of reference for Authority duties. It will assist Members in aspects of their role which, due to the frequency of occurrence, they may be unfamiliar with.

7.2 The New Members' Handbook will address many of the outstanding governance issues, as identified in the pilot Comprehensive Performance Assessment process.

8. RECOMMENDATIONS

That Members formally adopt the updated and revised Members' Handbook.

9. BACKGROUND PAPERS FOR INSPECTION

- The Nottinghamshire and City of Nottingham Fire & Rescue Fire Authority Members' Handbook.

Paul Woods
CHIEF FIRE OFFICER



**NOTTINGHAMSHIRE &
CITY OF NOTTINGHAM
FIRE & RESCUE AUTHORITY**

**Members’
Handbook**

NOTTINGHAMSHIRE & CITY OF NOTTINGHAM FIRE & RESCUE AUTHORITY

MEMBERS' HANDBOOK

C O N T E N T S

1. Membership of the Authority

Chairman and Vice Chairman
Political Groups

Members of the Authority appointed by:-

Nottinghamshire County Council
Nottingham City Council

2. Officers

Officers of the Authority/Senior Officers of the
Nottinghamshire Fire & Rescue Service

3. Statutory Instruments

The Nottinghamshire Fire Services (Combination) Scheme
Order 1997

4. Standing Orders

1. Definitions
2. General
3. Meetings of the Authority
4. Order of Business
5. Motions
6. Amendments
7. Petitions
8. Questions
9. Minutes of Committees
10. Rules of Debate
11. Disorderly Conduct
12. Limitation of Discussion
13. Voting
14. Suspension of Standing Orders
15. Declaration of Interest
16. Tenure of Office

17. Combined Fire & Rescue Authority Fund
18. Meetings of Committees and Sub-Committees
19. The Common Seal
20. Authentication of Documents for Legal Proceedings
21. Inspections of Land, Premises, etc
22. Standing Orders relating to the Chief Fire Officer and Deputy Chief Fire Officer

5. Financial Regulations

6. Members' Allowances

7. Scheme of Delegation

8. Terms of Reference for Committees and Boards

9. Appendices

A Standards Committee Determinations – Guidance for Monitoring Officers and Standards Committees

B Local Investigations – Guidance for Monitoring Officers and Standards Committees

C Lobby Groups, Dual-Hatted Members and the Code of Conduct – Guidance for Members

D Whistleblowing Policy

E Anti-Fraud Policy (subject to approval)

F Gifts & Hospitality Policy (subject to approval)

1.

MEMBERSHIP OF THE AUTHORITY

CHAIRMAN & VICE CHAIRMAN

Chairman of the Authority
Councillor Graham Jackson
(Nottinghamshire County Council)

Vice Chairman of the Authority
Councillor Brent Charlesworth
(Nottingham City Council)

POLITICAL GROUPS

Conservative Spokesperson
Councillor Carol Pepper
(Nottinghamshire County Council)

Liberal Democratic Spokesperson
Councillor Sue Bennett
(Nottinghamshire County Council)

Political Party Breakdown

Conservative - 5
Labour – 11
Liberal Democrat – 2

MEMBERS OF THE AUTHORITY

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2.

OFFICERS OF THE AUTHORITY

Chief Fire Officer

Paul Woods MSc MCGI MI FireE

Clerk to the Fire & Rescue Authority

Tony Austin BA, Solicitor

Treasurer to the Fire & Rescue Authority

Alan Sumbly BSc, CPFA

**SENIOR OFFICERS OF THE
NOTTINGHAMSHIRE FIRE & RESCUE SERVICE**

Deputy Chief Fire Officer

vacant

**Assistant Chief Fire Officer and
Head of Information Services**

Martyn Emberson BA(hons) EDIMgt MCMI MI FireE

**Assistant Chief Fire Officer and
Head of Safety Services**

vacant

Head of Human Resources

Gina Turner CIPD

Head of Finance and Resources

Neil Timms CPFA, MIRM

Fire Service Headquarters
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NOTTINGHAM
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Tel: 0115 9670880

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STATUTORY INSTRUMENTS

1997 No. 2761

Fire Services

**The Nottinghamshire Fire Services
(Combination Scheme) Order 1997
as amended by Schedule 7 of the
Local Government Act 2003**

Made	18 November 1997
Coming into force	19 November 1997

Whereas it appears to the Secretary of State that it is expedient in the interests of efficiency that a combination scheme should be made for the areas of the fire authorities referred to in paragraph 3 of the scheme set out in the Schedule hereto ("the scheme"), and a scheme has not been submitted to him by those authorities;

And whereas notice of the general nature of the scheme has been given in accordance with section 6(2) of the Fire Services Act 1947 ("the 1947 Act");

And whereas the Secretary of State has been notified by the fire authorities concerned of their assent to the scheme;

And whereas a draft of the Order containing the draft scheme has been laid before Parliament for a period of forty days pursuant to section 6 of the Statutory Instruments Act 1946[2], and that period has expired without either House resolving that the Order be not made;

Now, therefore, in exercise of the powers conferred upon him by sections 6, 8 and 10 of the 1947 Act, and section 7(2) of the Fire Services Act 1959, the Secretary of State hereby makes the following Order:

Citation

1. This Order may be cited as the Nottinghamshire Fire Services (Combination Scheme) Order 1997 and shall come into force on the day after the day on which it is made.

Combination Scheme

2. The combination scheme set out in the Schedule to this Order, which shall be known as the Nottinghamshire Fire Services Combination Scheme, shall have effect.

George Howarth

Parliamentary Under-Secretary of State
Home Office
18th November 1997

**SCHEDULE
THE NOTTINGHAMSHIRE FIRE SERVICES COMBINATION SCHEME**

**PART I
CITATION, COMMENCEMENT AND INTERPRETATION**

Citation and Commencement

1. This scheme may be cited as the Nottinghamshire Fire Services Combination Scheme and shall come into force –
 - (a) for the purposes of constituting an Authority as the Fire & Rescue Authority for the combined area constituted by the scheme, and the performance by that Authority of any functions necessary for bringing the scheme into full operation on 1st April 1998, on the day on which the Nottinghamshire Fire Services (Combination Scheme) Order 1997[4] comes into force, and
 - (b) for all other purposes, on 1st April 1998.

Interpretation

2. In this scheme any reference to a paragraph or a Part is a reference to a paragraph or a Part of this scheme, and –

"the Authority" means the Fire & Rescue Authority constituted for the combined area by virtue of paragraph 4;

"the combined area" means the Fire & Rescue Authority area comprising the areas referred to in paragraph 3;

"the combined fire service fund" means the combined fire service fund established by virtue of paragraph 6;

"constituent authority" means a council referred to in paragraph 3; and

"the fire brigade" means, unless otherwise indicated, the fire brigade established for the combined area by virtue of paragraph 5.

PART II

GENERAL

The Combined Area

3. The areas of the following councils, namely the council of the City of Nottingham and Nottinghamshire County Council shall be combined and shall become the combined area.

Combined Fire & Rescue Authority

- 4.(1) There shall be constituted as the Fire & Rescue Authority for the combined area an Authority to be known as the Nottinghamshire and city of Nottingham Fire & Rescue Authority.
- (2) The Authority shall be constituted in accordance with the provisions of Part III.

Fire Brigade for Combined Area

- 5.(1) There shall be established a fire brigade for the combined area which shall be known as the Nottinghamshire Fire and Rescue Service, or by such other name as the Authority may determine
- (2) The first Chief Officer of the Fire Brigade shall be E. Patterson Esq.
- (3) The Authority shall submit an establishment scheme for their area to the Secretary of State in accordance with section 7 of the Fire Services Act 1959[5].

Financial Provisions etc.

- 6.(1) The expenses of the Authority shall be paid out of a combined fire service fund.
- (2) Contributions shall be paid into the combined fire service fund by constituent authorities.
7. The Authority shall appoint a treasurer of the combined fire service fund.

Officers and Employees

8. The provisions of Part V shall have effect with respect to officers and employees of the Authority.
9. The Authority may appoint such other officers and employees as they think necessary for the efficient discharge of their functions.
10. The Authority may make arrangements with any constituent Authority for the use by the Authority of the services of officers and employees of the constituent Authority and for the making of contracts and payments on behalf of the Authority by the constituent Authority.

PART III
CONSTITUTION OF COMBINED FIRE & RESCUE AUTHORITY

- 11.(1)** The Authority shall consist of not more than 25 Members save that, where the minimum number of Members of the Authority resulting from the operation of paragraph 12 would be greater than 25, the Authority shall consist of that number of Members.
- (2)** Each Member of the Authority shall be appointed by a constituent Authority from its own Members in accordance with this Part.
- 12.** Each constituent Authority shall, so far as is practicable, appoint such number of representatives to be Members of the Authority as is proportionate to the number of local government electors in its area in relation to the number of such electors in the other constituent Authority's area.
- 13.** A Member of the Authority shall come into office on the date of his appointment and shall, subject to paragraphs 14 to 16, hold office for such period or periods as shall be determined by the constituent Authority which appoints him.
- 14.** A Member of the Authority may resign his Membership by giving notice in writing to that effect to the officer of the Authority whose function it is to receive such notice.
- 15.(1)** A Member of the Authority who ceases to be a Member of the council which appointed him shall cease to be a Member of the Authority.
- (2)** A person shall be disqualified from being a Member of the Authority if he holds any paid office or employment (other than the office of chairman or vice-chairman), appointments to which are or may be made or confirmed by the Authority, by any committee or sub-committee of the Authority, or by a joint committee or board on which the Authority are represented.
- 16.(1)** Subject to sub-paragraph (2), if a Member of the Authority resigns, becomes disqualified or otherwise ceases to be a Member of the Authority before the expiry of his period of office, the council which appointed him shall appoint a representative to replace him, who shall come into office on the date of his appointment and, unless he resigns, becomes disqualified or otherwise ceases to be a Member of the Authority, shall hold office for the remainder of the period for which his predecessor would have held office had he not resigned, become disqualified or otherwise ceased to be a Member of the Authority.
- (2)** If a Member of the Authority resigns, becomes disqualified or otherwise ceases to be a Member of the Authority within six months before the end of his period of office, the council which appointed him shall not be required to appoint a representative to replace him for the remainder of such period unless, on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the Membership of the Authority exceeds one third of the number of Members of the Authority referred to in paragraph

- 17.(1)** The Authority shall elect a Chairman, and may elect a Vice-Chairman, from among its Members.
- (2) The Chairman and the Vice-Chairman, if elected, shall, subject to paragraphs 13 to 16, hold office for such period not exceeding one year as the Authority shall determine.
- (3) Sub-paragraph (2) shall not prevent a person who holds or has held office as chairman or vice-chairman, as the case may be, from being elected or re-elected to either of those offices.
- (4) On a casual vacancy occurring in the office of chairman or vice-chairman, the Authority shall elect from its Members a person to replace the chairman, and may so elect a person to replace the vice-chairman, as the case may be.
- (5) The election to replace the chairman under sub-paragraph (4) shall take place not later than the next following ordinary meeting of the Authority.
- 18.** The first meeting of the Authority shall be held as soon as it is practicable to do so and shall be convened by the chief fire officer and subsequent meetings shall be convened in such a manner as the Authority shall determine.
- 19.** At a meeting of the Authority the quorum shall be one third of the total number of Members of the Authority, or such greater number of Members as the Authority may determine, including at least one representative from each constituent Authority.
- 20.** The following provisions of the Local Government Act 1972[6], namely sections 82(1), 94 to 98, 101 to 106, 99 and Part VI of Schedule 12 shall, subject to sub-paragraph (2), apply to the Authority and its Members as if references in those provisions to a principal council or to a local authority, other than references to a parish council, were references to the Authority.

PART IV
COMBINED FIRE SERVICE FUND

- 21.** Deleted by Schedule 7 of the Local Government Act 2003.

- 22.** The Authority shall have the power to pay out of the combined fire service fund compensation to persons employed by Nottinghamshire County Council who in consequence of this scheme, or anything done thereunder, suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments.

PART V
OFFICERS AND EMPLOYEES OF THE AUTHORITY

- 23.** There shall be transferred –
- (a) to the fire brigade members of the fire brigade maintained by Nottinghamshire County Council, and
 - (b) to employment by the Authority persons employed by that council wholly or mainly for the purposes of the fire brigade maintained by that council.
- 24.** The following provisions of the Local Government Act 1972, namely sections 114, 115, 116, 117(1), (2) and (3), 118 and 119, shall apply to the officers and employees of the Authority as if references in those provisions to a local authority, other than references to a parish council, were references to the Authority.

PART VI
PROPERTY, RIGHTS AND LIABILITIES

- 25.** There shall be transferred from Nottinghamshire County Council to the Authority any property which is held by that council solely in connection with the provision of fire services, and rights and liabilities held or incurred by that council in respect of –
- (a) any contract of employment with a person transferred in accordance with paragraph 23;
 - (b) the Firemen's Pension Scheme as set out in Schedule 2 to the Firemen's Pension Scheme Order 1992[9]; and
 - (c) any contract for the provision of services or the delivery of goods solely in connection with the provision of fire services.
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a scheme which combines the areas of the council of the city of Nottingham (which would otherwise become an individual Fire & Rescue Authority on 1st April 1998 by virtue of the Local Government Act 1992) and the Nottinghamshire County Council into a combined fire area. The scheme comes into force on the same day as the Order comes into force for the purpose of doing anything which is necessary to bring the scheme fully into operation on 1st April 1998. The scheme establishes a Fire & Rescue Authority for the combined area, to be known as the Nottinghamshire and City of Nottingham Fire & Rescue Authority, and provides for the appointment and terms of office of its Members, and for meetings of the Authority. The scheme establishes a fire brigade for the combined area, to be known as the Nottinghamshire Fire and Rescue Service or by such other name as the Authority determines, appoints its first chief officer, and provides for the submission of an establishment scheme to the Secretary of State. The scheme establishes a combined fire service fund and provides for the administration of the Authority's finances. The scheme also provides for the transfer of staff, and certain property, rights and liabilities, directly from the Nottingham County Council (the Fire & Rescue Authority for the same area as the combined area prior to 1st April 1998) to the new Combined Authority.

**NOTTINGHAMSHIRE AND CITY OF NOTTINGHAM
FIRE & RESCUE AUTHORITY**

STANDING ORDERS

1. DEFINITIONS

In these Standing Orders, unless the context otherwise demands, the following terms shall have the meaning assigned to them:-

“the Authority”	Nottinghamshire & City of Nottingham Fire & Rescue Authority.
“Member”	(a) in relation to the Authority, a properly elected Member of, (i) Nottinghamshire County Council (ii) Nottingham City Council appointed as a Member of the Authority. (b) in relation to any Committee or Sub-Committee, a person appointed as a Member of the Committee and Sub-Committee.
“meeting”	a meeting of the Authority, a Committee or a Sub-Committee as the case may be.
“Committee”	a Committee or a Sub-Committee of the Authority.
“Sub-Committee”	a Sub-Committee of a Committee.
“Chief Fire Officer”	a Chief Fire Officer of a Fire Brigade maintained under the Fire Services Act 1947 and appointed under regulations made under Section 18(1)(a) of the Act as defined in Section 2 of the Local Government and Housing Act 1989.
“Group”	a political group as defined in the Local Government (Committees, etc) Regulations 1989.
“the Mover”	the Member moving a Motion or Amendment.
“the Seconder”	the Member seconding a Motion or Amendment.

“Chairman”	the Chairman of Nottinghamshire and City of Nottingham Fire & Rescue Authority or one of its subordinate bodies as the case may be.
“Chair”	the person presiding at a meeting of a Committee or one of its subordinate bodies as the case may be.
“the Roll”	the list of persons entitled to be present and to vote.

2. GENERAL

- 2.1* In the conduct of meetings of the Authority and its subordinate bodies these Standing Orders
- (a) shall be regarded primarily as a safeguard for the orderly conduct of business without unreasonable obstruction and not principally as a restriction on the right of Members to speak freely upon the business in front of them.
 - (b) shall not restrict the right of persons presiding at meetings to indicate the manner (eg “Chairman” or “Chair”) in which they prefer to be addressed.
- 2.2 In addition to Standing Orders 18.1 to 18.3, those Standing Orders marked with an asterisk shall also apply to meetings of Committees or Sub-Committees.

3. MEETINGS OF THE AUTHORITY

- 3.1 The Annual Meeting of the Authority shall be held between the first day of May and last day of June each year.
- 3.2 The Clerk shall call a special meeting of the Authority at the request of the Chairman or of any five Members.
- 3.3 The Authority shall, at each Annual Meeting, determine the dates and times of ordinary meetings of the Authority and its Committees and Sub-Committees to be held in the succeeding year.
- 3.4* At least five clear days notice shall be given of all meetings of the Authority and its Committees and Sub-Committees.
- 3.4 No business shall be transacted at a meeting of a Committee or Sub-Committee unless at least three Members of the whole numbers of the Authority, including at least one representative of each constituent Authority are present. If it is ascertained by the Chairman or the Clerk that any meeting is in-quorate, the meeting shall be adjourned for a period of not more than five minutes. If the meeting is still in-quorate at the expiry of that period, any business not already disposed of shall stand adjourned to a time then fixed by the Chairman or to the next meeting.

4. ORDER OF BUSINESS

4.1 At meetings of the Authority, with the exception of the Annual Meeting at which the election of the Chairman shall take precedence, the order of business shall be:-

- (i) The choice of a person to preside if the Chairman is absent.
- (ii) Other business having precedence by statute.
- (iii) Confirmation of the minutes of the last meeting of the Authority.
- (iv) Apologies for absence.
- (v) Declaration of interests.
- (vi) Business expressly required by statute to be done.
- (vii) Receipt of any communication laid before the Authority by the Chairman or Clerk.
- (viii) Other business of the Chairman.
- (ix) Business remaining from last meeting.
- (x) Receipt of petitions.
- (xi) Questions under Standing Order 8.1.
- (xii) Minutes of Committees and Sub-Committees.
- (xiii) Reports of the Clerk.
- (xiv) Reports of the Treasurer.
- (xv) Reports of the Chief Fire Officer.
- (xvi) Consideration of motions tabled by Members.

4.2 Business under items (i) – (v) of Standing Order 4.1 shall not be varied but other items may be varied either at the Chairman's discretion or by a Motion duly moved and seconded which shall be put without discussion.

4.3* Where, in relation to any meeting the next such meeting is a meeting called under Standing Order 3.2 the next ordinary meeting shall be treated as a suitable meeting for the purpose of confirming the Minutes of the last ordinary meeting.

5. MOTIONS

5.1 Notice of a Motion for inclusion in the agenda for the Authority shall be given in writing signed in accordance with Standing Order 5.3 below and delivered to the office of the Clerk not later than 10 am on the fourteenth working day prior to the meeting of the Authority at which it is to be considered and shall be entered in a book

to be kept at the office of the Clerk and such book shall be open to inspection during office hours by an Member of the Authority.

5.2 The Clerk, the Authority's Treasurer and the Chief Fire Officer as necessary, shall append to Notices of Motion where appropriate a formal report outlining the implications of the proposal, with the Clerk, the Authority's Treasurer and the Chief Fire Officer also having the right to speak at meetings of the Authority to give advice.

5.3 A Motion shall be signed by at least two Members and shall be moved and seconded by any two of the signatories. A Motion not so moved shall be treated as withdrawn.

5.4 No Member may be party to more than two notices of motion on the agenda at the same time.

5.5* A Member moving a Motion may, with the consent of the meeting signified without discussion

(a) alter a Motion of which she/he has given Notice,
or

(b) with the further consent of the seconder, alter a Motion which has been moved and seconded.

If (in either case) the alteration is one which could be made as an amendment thereto.

5.6* With the consent of the seconder (if she/he is still present) and of the meeting, signified without discussions, the mover of a Motion or an amendment after the mover has consent for its withdrawal

5.7 Reports from a Committee shall be moved by its Chair or in the absence of the Chair by any other Member of the Committee called by the Chairman of the Authority.

5.8 Except as next provided, at a meeting of the Authority every Motion of which Notice has not been given in the summons, whether original or amending, shall be put in writing signed by the mover and given to the Chairman after it has been seconded and thereupon presented to the meeting before further consideration of it.

5.9 Motions relating only to the following matters may be moved and seconded orally and without Notice:-

(a) Appointment of a Chairman of the same meeting (under Standing Order 4.1);

(b) Reference to or back to a Committee;

(c) Reception and adoption of reports and recommendations of Committees (under Standing Order 4.1);

(d) Leave to withdraw a Motion (under Standing Order 5.5);

(e) That the question be now put (under Standing Order 11.2);

(f) That the debate be now adjourned (under Standing Order 11.2);

(g) That the Authority do now adjourn (under Standing Order 11.2);

(h) Variation of the Order of Business (under Standing Order 4.2);

(i) That the Authority do now proceed to the next business;

- (j) Authorisation of the sealing of documents;
- (k) Suspension of Standing Orders (under Standing Order 13.1);
- (l) Exclusion of the public;
- (m) Giving any consent of the Authority required by Standing Orders;
- (n) That (the Member named) be not further heard (under Standing Order 11.1);

5.10* Motions relating to the following may, subject to Standing Order 5.9 above, be moved and seconded without Notice:-

- (a) Amendments to Motions before the Authority;
- (b) Appointment of a Committee or Sub-Committee or Members thereof so far as arising from an item included in the agenda;
- (c) Motions arising from a report of a Committee or of the Clerk, Treasurer or the Chief Fire Officer then before the Authority;
- (d) Accuracy of the Minutes of the last meeting.

5.11* At a meeting of the Authority, no Motion or amendment shall be moved to rescind any resolution of the Authority which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period, provided that such a Motion may be moved if:-

- (a) it is recommended by a Committee or Sub-Committee;
or
- (b) Notice of such Motion has been given by as many Members as would constitute a quorum of the Authority.

6. AMENDMENTS

6.1* An amendment shall be relevant to the Motion and shall be:-

- (a) to refer a subject of debate to a Committee for consideration or reconsideration;
or
- (b) to leave out words;
or
- (c) to leave out words and insert or add others;
or
- (d) to insert or add words;

but such omissions, insertion or addition of words shall not have the effect that if carried the amendment would have the same effect as voting against the Motion.

6.2* An amendment shall not be moved until any other amendment previously moved shall have been disposed of.

6.3* A Member moving an amendment shall not move a further amendment to the same Motion unless in moving the first such amendment that Member specifies the number and content of any further amendments that Member intends to move which shall be taken in succession immediately upon the determination of each previous amendment, or unless the Motion shall have been amended since the amendment last moved by that Member.

- 6.4* If an amendment be rejected other amendments may be moved on the original Motion but if an amendment resisted by the mover of the substantive Motion be carried the Motion in the name of the mover of the successful amendment and shall become the Motion upon which further amendments may be moved. The mover of an original Motion may move amendments upon it.
- 6.5* If a proposed amendment be accepted by the mover of a substantive Motion, the Motion as amended shall take the place of the original Motion and shall in the name of the mover of such original Motion. It shall thereafter become the Motion upon which further amendments may be moved.

7. PETITIONS

- 7.1 At any ordinary meeting of the Authority any Member may present a petition to the Chairman of the Authority on any matter affecting the inhabitants of the Combined Fire & Rescue Authority's area and in relation to which the Authority has powers or duties, whereupon with the consent of the Authority such petition shall be referred without debate either to the appropriate Committee for consideration or to a future meeting of the Authority.

8. QUESTIONS

- 8.1(a) At any meeting of the Authority a Member after having given notice of the text thereof in writing to the Clerk not later than 1000 am seven working days before the meeting may ask the Chairman of the Authority or nominee one or more questions on the matters within the purview of the Authority which are not included in the agenda for the meeting.
- 8.1(b) On the day after the deadline for the receipt of any question the Clerk shall send a copy of each question to every Member of the Authority by first class post.
- 8.1(c) No question shall be the subject of a speech or motion but a supplementary question by the Member asking the original question may be asked with the consent of the Chairman provided it introduces no new matter.
- 8.2 Any Member may at any time by writing to the Clerk put any question to the Chairman of the Authority and within 15 working days thereof shall be sent such reply as the Chairman or nominee, being another Member or the Clerk, the Treasurer or the Chief Fire Officer, shall think fit and every such question and the answer given shall be circulated to every Member of the Authority with the papers for the next convenient meeting thereof.

9. MINUTES OF COMMITTEES

- 9.1 The minutes of every Committee and Sub-Committee of the Authority shall be circulated to every Member of the Authority together with the papers for the next convenient meeting and at the time appointed under Standing Order 4.1 any Member may comment upon or ask questions about each set of minutes in turn and the Chair of the Committee or nominee shall give such reply as seems appropriate provided that no Motion or amendment whatsoever may be moved thereon.

10. RULES OF DEBATE

- 10.1* Members shall normally remain seated when speaking and shall address the Chairman.
- 10.2* If two or more Members wish to speak, the Chairman shall call one of them provided that subject to any resolution to terminate a debate and to the provisions of Standing Order 10.3 any Member who wishes to speak shall ordinarily be given an opportunity to do so.
- 10.3 (a) A Member who has spoken on any matter then before the Authority shall not speak again whilst it is the subject of debate, except:
- (i) to speak once on an amendment moved by another Member;
 - (ii) if the Motion has been amended since the Member last spoke, to move a further amendment;
 - (iii) where the Member's first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which the Member spoke was carried;
 - (iv) on a point of order;
 - (v) by way of explanation.
- (b) Provided that:-
- (i) a Member may formally second a Motion or amendment reserving the right to speak later in the debate;
 - (ii) if an amendment is proposed, then (1) the mover of the original motion shall be entitled to speak on any amendment to such motion immediately before the reply, and (2) the mover of the amendment shall have the right of reply at the close of the debate upon such amendment immediately before such amendment is put to the vote;
 - (iii) if an amendment is moved the mover of the original Motion shall also have the right of reply at the close of the debate on the amendment if that Member has not otherwise spoken on the amendment.
- 10.4* Where it appears to the Chairman to be for the convenience of the Authority the Chairman with the consent of the Members concerned may decide and announce in advance an intention to call named Members to speak immediately after any Motion is seconded or next before any debate upon it is summed up.
- 10.5* A Member who speaks shall speak strictly to the subject under discussion or to a question of order.
- 10.6* With the consent signified orally of a Member who has the floor, another Member may interpose a brief comment or question designed to clarify or advance debate provided that the Chairman shall not allow such exchanges to take place with such frequency that debate gives way to cross talk.
- 10.7* A Member raising a point of order must begin by stating the Standing Order or other procedural matter to which the point refers and shall thereafter state the point of order very briefly to the Chairman on the understanding that the point concerns solely the proper conduct of the Authority.

- 10.8* No point of order may be raised until a previously raised point of order has been disposed of.
- 10.9* The ruling of the Chairman upon a point of order or on the admissibility of a personal explanation shall not be open to discussion provided that before the Chairman shall rule upon any point of order she/he shall, if asked, first give an opportunity to a Member to make a brief representation thereon.

11. DISORDERLY CONDUCT

- 11.1* If at any meeting any Member in the opinion of the Chairman, notified to the Authority, misbehaves by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by obstructing the business of the Authority, the Chairman may move "that (the Member named) be not further heard" and the Motion if seconded shall be put and determined without discussion.
- 11.2* If any Member named continues the misconduct after a Motion under Standing Order 11.1 has been carried the Chairman;
- (a) shall request the Member to leave the meeting,
 - or
 - (b) may adjourn the meeting of the Authority for such period considered expedient and the Chairman's decision to adjourn shall not be open to question or discussion.
- 11.3* In the event of a general disturbance which in the opinion of the Chairman renders the due and orderly despatch of business impossible, the Chairman, in addition to any other power vested in the Chairman, may immediately adjourn the meeting of the Authority for such period as s/he may consider expedient.
- 11.4* If Member(s) of the public interrupt(s) the proceedings of any meeting the Chairman shall warn the person(s) concerned. If the interruption continues, the Chairman shall order their removal from the meeting room. In the event of a general disturbance in any part of the meeting room open to the public, the Chairman shall order that part of the meeting room cleared.
- 11.5* (a) Placards, banners, advertising materials or like items are not permitted in rooms where meetings of the Authority and its Committees or Sub-Committees are being held.
- (c) Other than for the tape recording of answers to questions where necessary, which shall be carried out only by the Clerk's staff, the use of cameras or tape recorders is allowed only with the consent of the Chairman, such consent being notified at the start of the meeting and being subject to a decision of the meeting not to allow their use.

12. LIMITATION OF DISCUSSION

- 12.1 The Chairman may, at the commencement of a meeting of the Authority inform Members present that, in the best interests of the Authority generally, or Members on an individual basis, it will be his/her intention to bring the meeting to a close at a time

which will have been determined previously, unless it appears that the meeting will finish shortly after that time. Any remaining business shall then stand over as uncompleted business until the next meeting.

- 12.2* A Member who has not spoken on the matter then before the Authority may, at the conclusion of the speech of another Member move “that the debate be now adjourned”, briefly stating that, if the Chairman is of the opinion that the matter before the meeting has been sufficiently discussed the Chairman shall, after allowing one Member briefly to speak in opposition, put the proposition without further debate and if it is carried out by a majority of the Members present and voting the Authority shall proceed to the next business. However, if the Chairman is of the opinion that the matter has not been sufficiently discussed, s/he may refuse to accept the Motion.

13. VOTING

- 13.1* With the exception of decisions about the precepts, for which the procedure shown at Standing Orders 17 shall apply, every matter shall be determined on a simple majority of the Members present and voting, signified by a show of hands, provided that if after a shown of hands two or more Members require a Division, the Clerk shall call the Roll and take the vote of each Member aloud. After counting the number voting for and against, and those abstaining or declaring themselves to be neutral on the question before the Authority the Clerk shall inform the Chairman who shall announce the result which shall be recorded together with the names of the Members in the Minutes.

- 13.2* Where no Division has taken place and immediately after a vote is taken any voting Member so requires, there shall be recorded in the minutes of the proceedings of the meeting whether that person cast his or her vote for or against the question or whether s/he abstained from voting.

- 13.3* In the case of an equality of votes upon any question the Chair shall exercise a second or casting vote to determine the matter.

14. SUSPENSION OF STANDING ORDERS

- 14.1 So far as the law allows any Standing Order may be suspended at any meeting of the Authority, providing a simple majority of the Members of the Authority present and voting, so decide.

15. DECLARATIONS OF INTEREST

- 15.1* Where any Member has given a general notice of a pecuniary interest of his/hers or of his/her spouse, and is thereby relieved of the statutory duty to declare that interest at a meeting at which a contract or other matter affecting that interest is to be considered, s/he shall nevertheless orally remind the meeting of that interest. Any such reminder shall be recorded in the Minutes of the meeting. (Declarations of interest relate to those matters associated with a Members’ role within the Fire Authority).

- 15.2* Where any Member has declared a pecuniary interest in a contract, grant, proposed contract or other matter, whether by giving a general notice or by making an oral declaration at a meeting, s/he shall withdraw from the room in which the meeting is being held while the matter is under consideration unless;
- (a) the disability to discuss, or vote upon any matter arising from, the contract or other has been removed by the Secretary of State under Section 97 of the 1972 Act,

or

 - (b) the contract, grant, proposed contract or other matter is under consideration by the meeting as part of the report of Minutes of a Committee or Sub-Committee (in the case of the Authority or of a Sub-Committee (in the case of a meeting of a Committee)), and is in either case not itself the subject of debate.
- 15.3* If the Member shall have elected to remain within easy reach, that Member shall be recalled by an appropriate officer before any further business is begun.
- 15.4* Any person, including an officer of the Authority, who is appointed to do anything in connection with the Authority, Committee or Sub-Committee which enables him/her to speak at meetings thereof, shall make the same disclosures of pecuniary interest, and shall withdraw from the room in which the meeting is being held on the same occasions, as s/he would have to do if s/he were a member of the Authority, Committee or Sub-Committee.
- 15.5 The Clerk of the Combined Fire & Rescue Authority shall record in a book to be kept for the purpose, particulars of any notice given by an officer of the Authority under section 117 of the Local Government Act 1972, of a pecuniary interest in a contract and the book shall be open during office hours to the inspection of any Member of the Authority.

16. TENURE OF OFFICE

- 16.1 A Member of the Authority who ceases to be a Member of the council which appointed him/her shall cease to be a Member of the Authority.
- 16.2 A person shall be disqualified from being a Member of the Authority if she/he holds any paid office of employment (other than the office of Chairman or Vice Chairman) appointments to which are or may be made or confirmed by the Authority by any Committee or Sub-committee of the Authority, by a joint committee or board on which the Authority are represented or by any of the constituent authorities.
- 16.3* If the Chairman of the Authority ceases to be a Member, she/he shall also cease to be Chairman.

17. COMBINED FIRE & RESCUE AUTHORITY

- 17.1 No decision may be made to give notice to each constituent council of the amount of the contribution to be paid by that council, unless the Members approving it constitute at least half of the total membership at the time of the decision.

- 17.2 Every such decision in regard to giving notice or the making of the necessary calculations shall be determined by a show of hands, following which the Clerk shall call the Roll and take the vote of each Member aloud and after counting the number declaring themselves for or against, and those abstaining or declaring themselves to be neutral on the question shall inform the Chairman who shall announce the result which shall be recorded together with the names of the Members in the minutes.

18. MEETINGS OF COMMITTEES AND SUB-COMMITTEES

- 18.1 Except where in the opinion of the Clerk a meeting is exercising a judicial or quasi-judicial function, any Member of the Authority who wishes to attend a meeting of any Committee or Sub-Committee of which she/he is not a Member shall be entitled to do so and with the consent of the meeting shall be entitled to speak on any matter on the agenda but not to vote.
- 18.2 A Member who attends a meeting under Standing Order 18.1 shall be entitled to remain in the meeting whilst a resolution excluding the public is in force.

19. THE COMMON SEAL

- 19.1 The Common Seal of the Authority shall be kept in a safe place in the custody of the Clerk of the Authority.
- 19.2 The Common Seal of the Authority shall not be affixed to any document unless the sealing has been authorised by a resolution of the Authority, a Committee or Sub-Committee or the Chief Fire Officer (in pursuance of his/her delegated duties) but a resolution of the Authority authorising the acceptance of any tender, the purchase, sale, letting or taking of any property, the presentation of any petition, memorial or address, the making of any contract or the doing of any other thing, shall be a sufficient authority for sealing any documents necessary to give effect to the resolution.
- 19.3 The Seal shall be attested in writing by the Clerk to the Authority or any other person authorised to act in that behalf and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the Seal.

20. AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS

- 20.1 Where any document will be a necessary step in legal proceedings on behalf of the Authority it shall be signed by the Clerk of the Authority unless any enactment otherwise requires or authorises, or the Authority give the necessary authority to some other person for the purpose of such proceedings.

21. INSPECTIONS OF LAND, PREMISES, ETC

- 21.1 Unless specifically authorised to do so by the Authority or a Committee or a Sub-Committee, a Member of the Authority shall not claim by virtue of his/her membership of the Authority any right to inspect or to enter on any lands or premises which the Authority have the power or duty to inspect or enter.

22. STANDING ORDERS RELATING TO THE CHIEF FIRE OFFICER, DEPUTY CHIEF FIRE OFFICER & ASSISTANT CHIEF FIRE OFFICER

- 22.1 Where the Combined Fire & Rescue Authority proposes to appoint a Chief Fire Officer, a Deputy Chief Fire Officer or an Assistant Chief Fire Officer, and it is not proposed that the appointment be made exclusively from among existing Officers,
- (a) a statement shall be drawn up specifying:-
 - (i) the duties of the Chief/Deputy Fire Officer/Assistant Chief Fire Officer, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed.
 - (b) arrangements shall be made for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it, and
 - (c) arrangements shall be made for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 22.2 (1) Where a post has been advertised as provided in Standing Order 22.1(b):-
- (a) all qualified applications for the post shall be interviewed or
 - (b) shortlist of such qualified applicants shall be selected and those included on the shortlist shall be interviewed.
- (2) Where no qualified person has applied, further arrangements shall be made for advertisement in accordance with Standing Order 22.1(b).
- 22.2 Every appointment of the Chief Fire Officer, Deputy Chief Fire Officer or Assistant Chief Fire Officer shall be made by the Combined Fire & Rescue Authority.

FINANCE STANDING ORDERS AND FINANCIAL REGULATIONS

INTRODUCTION

These Finance Standing Orders and Financial Regulations are designed to safeguard the interests of both the Fire & Rescue Authority and its employees.

They have been drawn up by the Fire & Rescue Authority Treasurer in consultation with the Chief Fire Officer and have been approved by the Fire & Rescue Authority.

They provide the framework of controls and standards necessary to achieve the proper administration of the Fire & Rescue Authority's financial affairs, while at the same time allowing the Chief Fire Officer and those who work for him maximum delegation consistent with proper financial administration.

Financial matters delegated by the Fire & Rescue Authority to the Chief Fire Officer are covered in the financial instructions issued by the Chief Fire Officer to the Service, which have been agreed with the Treasurer.

The Finance Standing Orders are supported by subsidiary financial regulations for specific activities which may be updated at any time in response to changes in working practices and to meet changed circumstances.

This volume which contains the complete set of Finance Standing Orders and Financial Regulations has been produced in loose leaf format to allow for easy explanation or have a query concerning any part of its contents, please contact Headquarters.

Further copies of Finance Standing Orders and Financial Regulations may be obtained from the Finance Department or the Treasurer.

FINANCE STANDING ORDERS

CONTENTS

1. GENERAL
 2. FINANCIAL PLANNING
 3. BUDGETARY CONTROL
 4. LAND AND BUILDINGS
 5. TENDERS AND CONTRACTS UNDER SEAL
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FINANCE STANDING ORDERS

1. GENERAL
 - 1.1. The Treasurer shall, for the purpose of Sections 112 and 114 of the Local Government Finance Act 1988, [Section 151 of the Local Government Act 1972] and the Accounts and Audit Regulations 2003, be the officer responsible for the proper administration of the Fire & Rescue Authority's financial affairs and may, subject to the Standing Orders, do all things necessary to ensure the proper administration of the Fire & Rescue Authority's financial affairs.
 - 1.2. The Chief Fire Officer shall comply with any requirement of the Treasurer issued under Finance Standing Order 1.1.
 - 1.3. As the Fire & Rescue Authority's financial adviser, the Treasurer shall report to the Fire & Rescue Authority regarding the level of financial resources proposed to be utilised in each financial year.
 - 1.4. The Chief Fire Officer shall keep the Treasurer informed with such information and at such frequency as the Treasurer may determine to enable monitoring of Fire & Rescue Authority's overall financial performance, as compared with the approved budget.
 - 1.5. The Treasurer in consultation with the Chief Fire Officer shall be responsible for making and amending from time to time such financial regulations as they consider necessary for the proper administration of the Fire & Rescue Authority's affairs, in conformity with these Finance Standing Orders. Any changes to Financial Regulations must be agreed by the Fire & Rescue Authority.

- 1.6. Notwithstanding the statutory obligations of the Treasurer, the Fire & Rescue Authority should, wherever possible, delegate responsibility for financial management to the Chief Fire Officer so that for the most part the financial administration of the Service takes place within the Service, subject to the Treasurer being satisfied that the Chief Fire Officer has made proper arrangements to take on these responsibilities.
- 1.7. The Chief Fire Officer, on behalf of the Treasurer, shall ensure that all employees of the Service are aware of and comply with the Fire & Rescue Authority's Financial Standing Orders and Financial Regulations. Failure to comply is a serious matter that must immediately be reported to the Treasurer who, in conjunction with the Chief Fire Officer, will decide what action to take.
- 1.8. The Chief Fire Officer must have in place financial instructions for use by the Service to ensure that his responsibility for the accountability and control of staff and the security, custody and control of all other resources including plant, building materials, equipment, and cash and stores throughout the Service is properly discharged. Such instructions shall be agreed with the Treasurer.
- 1.9. A copy of the current Financial Regulations shall be available for inspection to Members, Officers and the public at all reasonable times in the office of the Treasurer and the Chief Fire Officer.

2. FINANCIAL PLANNING

- 2.1. The Treasurer in consultation with the Chief Fire Officer shall agree proposals regarding budgetary guidelines for the forthcoming financial year not later than November of each year that support the strategies contained in the Fire Service Business Plan.
- 2.2. The Treasurer and Chief Fire Officer shall submit budgetary guidelines to the Fire & Rescue Authority for approval.
- 2.3. Within the overall budgetary guidelines agreed with the Treasurer, the Chief Fire Officer will draw up a detailed programme of capital expenditure and detailed estimates of income and expenditure for the following financial year that support the strategies contained in the Annual Business Plan, which will be presented to the Fire & Rescue Authority for approval.
- 2.4. The Chief Fire Officer shall draw up a statement of capital expenditure and estimates of income and expenditure for future periods beyond the following financial year in a format and for a period agreed with the Treasurer.
- 2.5. The treasurer will advise the Fire & Rescue Authority on the determination of the precept and the associated levels of Council Tax.
- 2.6. The Fire & Rescue Authority shall before the 1st March in any year, determine the appropriate level of precept and council tax and issue such notices as may be required to the billing authorities.

2.7. Each Member of the Fire & Rescue Authority shall normally be provided with a copy of the budget proposals, together with a statement by the Treasurer of the effect on the Fire & Rescue Authority's finances and the precept to be set, at least seven days before the Fire & Rescue Authority meeting at which such matters will be considered.

2.8. The Treasurer will arrange for the issue and receipt of the precept.

3. BUDGETARY CONTROL

3.1. It shall be the duty of the Fire & Rescue Authority to monitor and regulate its financial performance during the currency of each budget period.

3.2. Amounts provided under the several heads of the approved annual revenue budget shall not be diverted to other purposes except as allowed by Financial Regulations or as agreed by the Fire & Rescue Authority.

3.3. The inclusion of items in the approved detailed revenue budget shall constitute Authority for the Chief Fire Officer to incur such expenditure.

3.4. The Chief Fire Officer is authorised to transfer budget provision from one main budget heading to another (virement) in accordance with Financial Regulations.

3.5. Where any proposed virement does not meet the criteria set out in Financial Regulations, the Chief Fire Officer must present a report to the Fire & Rescue Authority on proposals to vary the approved annual revenue budget.

3.6. Subject to the limits set out in the Financial Regulations, inclusion of a project in the detailed capital programme and annual revenue budget for the following financial year shall constitute Authority to incur expenditure on such schemes, provided that the total revenue costs of any such schemes do not exceed the amounts set out in the detailed annual estimates.

3.7. Where the costs of any scheme covered by Finance Standing Order 3.6 either vary from or within the amounts set aside in the approved budget, the Chief Fire Officer shall prepare a report to the Fire & Rescue Authority setting out the variances on expenditure from those included in the detailed estimates together with proposals for how any overall increase in expenditure is to be met.

3.8. Inclusion of a project with a start date in a capital programme beyond the financial year covered by the detailed estimates does not constitute Authority to incur expenditure other than provided for in Financial Regulations, until the Fire & Rescue Authority has received and approved a report as required by Financial Regulations.

3.9. The Treasurer shall submit a report to the Fire & Rescue Authority on each year's signed statutory annual accounts before the 31st July of the following year or such other date as may be determined by regulation.

3.10. Summary capital and revenue budget monitoring statements in a format agreed between the Chief Fire Officer and the Treasurer must be provided to the Treasurer as required and presented to the Fire & Rescue Authority at the next practical meeting.

3.11. The Chief Fire Officer shall provide reasons for any variations from the detailed annual budget to the Treasurer upon request.

4. LAND AND BUILDINGS

4.1. Plans for the rationalisation or expansion of the Service estate, together with provision for the upkeep of the estate, shall be included in the detailed budget agreed by the Fire & Rescue Authority.

4.2. The inclusion of any proposed transaction of land and property in the detailed annual budget for the following financial year shall constitute Authority of the Chief Fire Officer to enter into such a transaction without further reference to the Fire & Rescue Authority provided that they Financial Regulations relating to the Acquisition and Disposal of Land are followed.

4.3. Any transaction relating to land and buildings where the total proceeds of sale or acquisition costs exceed £25,000 require the prior approval of the Fire & Rescue Authority.

5. TENDERS AND CONTRACTS UNDER SEAL

5.1. All contracts for works, goods and services including the employment of consultants and specialist advisers shall be made in accordance with Financial Regulations.

5.2. Where contracts are awarded competitive tenders must be sought to ensure that the Fire & Rescue Authority secures the best value for money and is seen to act fairly in giving interested parties an opportunity to tender on equal terms.

5.3. The Treasurer and Chief Fire Officer must ensure that throughout the tendering process Government legislation and EC directives are complied with and that the interests of the Fire & Rescue Authority and its employees are properly safeguarded.

5.4. The Fire & Rescue Authority is not bound to accept the lowest, or any tender, but if a tender other than that which is most financially advantageous to the Authority is accepted, it must be approved by the Fire & Rescue Authority.

FINANCIAL REGULATIONS

CONTENTS

1. INTRODUCTION
 2. ACCOUNTING SYSTEMS/RETENTION OF RECORDS
 3. AUDIT
 4. REVENUE EXPENDITURE
 5. CAPITAL EXPENDITURE
 6. BANKING
 7. INVESTMENT AND BORROWING
 8. INSURANCE ARRANGEMENTS
 9. CONTRACTS AND PROCUREMENT
 10. TENDERING PROCEDURES
 11. PAYMENT FOR WORKS, GOODS AND SERVICES
 12. PAYMENT OF SALARIES, WAGES AND PENSIONS
 13. TRAVELLING, SUBSISTENCE AND MEMBERS' ALLOWANCES
 14. ASSETS
 15. ACQUISITION AND DISPOSAL OF LAND AND BUILDINGS
 16. GIFTS, LOANS AND SPONSORSHIP
 17. INFORMATION TECHNOLOGY
-
-

FINANCIAL REGULATIONS

1. INTRODUCTION
 - 1.1. These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Fire & Rescue Authority's financial affairs and are designed to safeguard the interests of both the Fire & Rescue Authority and its employees. They must be read in conjunction with the Fire & Rescue Authority's Finance Standing Orders and the Service's financial instruction

- 1.2. The Treasurer, after consultation with the Clerk to the Fire & Rescue Authority, may vary, waive or suspend any Financial Regulation.
- 1.3. The Chief Fire Officer may delegate his/her responsibilities under these Regulations to specific senior officers. An approved list will be maintained identifying these officers and their responsibilities.
- 1.4. The Chief Fire Officer shall advise the Treasurer with respect to any matter within his/her purview, including any matter which is liable to materially affect the finances of the Fire & Rescue Authority, before any provision or other commitment is incurred, or before he/she reports to the Fire & Rescue Authority.
- 1.5. The Treasurer shall have the right to attend meetings with outside bodies where matters of major financial significance are to be discussed, and in such cases the Chief Fire Officer will inform the Treasurer and the Fire & Rescue Authority in advance if practical, or otherwise as soon as possible.
- 1.6. The Treasurer shall see all reports going to the Fire & Rescue Authority and have the opportunity to insert appropriate written comments.
- 1.7. The Chief Fire Officer must inform the Clerk to the Fire & Rescue Authority of all matters where the Fire & Rescue Authority might have a legal claim against an outside body and of all occasions where there is a likelihood that the Fire & Rescue Authority will be sued by an outside body.
- 1.8. The Chief Fire Officer may waive these Financial Regulations in order to respond to an emergency operational situation and will inform the Treasurer and the Fire & Rescue Authority accordingly at the earliest opportunity.
- 1.9. Copies of the Financial Regulations may be obtained from the Finance Department or the Treasurer.

2. ACCOUNTING SYSTEMS & RETENTION OF RECORDS

- 2.1. All accounting systems, procedures and supporting records shall be in a form agreed by the Treasurer. They should provide information that is useful for both stewardship and management responsibilities.
- 2.2. The Treasurer must approve any new systems or procedures for the maintenance of financial records or records of assets and liabilities before such changes are introduced.
- 2.3. The Fire & Rescue Authority's standards or accounting must accord with the Accounting Code of Practice and the Code of Practice on Prudential Accounting.
- 2.4. The Chief Fire Officer is responsible for ensuring that all necessary approvals for Government grant and reimbursements or contributions from outside bodies are obtained where appropriate towards the expenditure of the Service.

- 2.5. The Chief Fire Officer shall be responsible for ensuring the proper transfer of all financial records and assets, e.g. stocks, stores, imprests, inventories, valuables, cash, etc when an officer ceases to be the responsible accounting officer.
- 2.6. The following principles shall be observed in the allocation of accounting duties:
 - (a) The duties of providing information regarding sums due to or from the Fire & Rescue Authority and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
 - (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- 2.7. The Chief Fire Officer must draw up a schedule outlining the minimum period of retention of financial records which must be agreed with the Treasurer.

3. AUDIT

- 3.1. The Treasurer shall maintain an adequate and effective internal audit of Fire & Rescue Authority's accounts/activities, in accordance with the Accounts and Audit Regulations 2003.
- 3.2. The Treasurer or a nominated representative shall, at reasonable notice where practicable, have access to such records, assets, premises and personnel, and shall be entitled to receive such information and explanation that is necessary, for the proper fulfilment of the Treasurer's duties.
- 3.3. The Treasurer or a nominated representative shall independently appraise financial and other systems and the arrangements made by the Chief Fire Officer for securing the economic, efficient and effective use of resources in accordance with a plan drawn up in consultation with the Chief Fire Officer.
- 3.4. If an irregularity occurs is suspected, which may involve financial loss, the Chief Fire Officer must report it immediately to the Treasurer or vice versa.
- 3.5. The Treasurer must forward to the Chief Fire Officer any Internal Audit report on any matter affecting the Service.
- 3.6. The Chief Fire Officer may also arrange for value for money audits, which may be undertaken by other than by the Treasurer or his nominated representative. Reports arising from such audits should be copied to the Treasurer where appropriate.
- 3.7. The Fire & Rescue Authority is a legal entity and its accounts are subject to external audit.

4. REVENUE EXPENDITURE

- 4.1. The Financial Regulations covering Revenue Expenditure must be read in conjunction with the Finance Standing Orders.

- 4.2. It is the Chief Fire Officer's responsibility to ensure that detailed budget preparation takes place, that the amounts included in the annual revenue budget are realistic and that there has been correct application of budget conventions and procedures.
- 4.3. Where there is uncertainty about the proper approach to be adopted in preparing the detailed budget, guidance must be sought from the Treasurer.
- 4.4. Once the annual budget has been approved by the Fire & Rescue Authority, the Chief Fire Officer is responsible for controlling expenditure within it and must have in place arrangements to monitor it on a monthly basis.
- 4.5. The Chief Fire Officer is authorised to transfer budget provision from one main budget head to another provided that such virement does not vary existing policy, or involve a significant future financial commitment, or exceed £50,000.
- 4.6. The Chief Fire Officer must provide the Treasurer with explanations of significant variations from the budget which cannot be remedied by the virement rules.
- 4.7. Details of any proposals for the employment of consultants or specialist advisers must be included in the annual budget. Any proposal to employ consultants or specialist advisers for purposes not provided for in the annual budget and in excess of £15,000 per contract(s) of service must be agreed with the Treasurer and will be subject to an annual report to the Fire & Rescue Authority.

5. CAPITAL EXPENDITURE

- 5.1. The financial regulations must be read in conjunction with the Finance Standing Orders.
- 5.2. Having regard to appropriate professional advice, the Chief Fire Officer must prepare a detailed capital programme which supports the strategy set out in the Business Plan.
- 5.3. For each new technology or building project included in the first year of the capital programme the following details must be separately shown:
 - (a) How the scheme fits into the overall business plan.
 - (b) The estimated capital costs and phasing.
 - (c) The timescales for starting and completing the scheme.
 - (d) The estimated annual revenue costs for the scheme analysed between financing costs staffing costs and other revenue costs and incorporating the eventual revenue costs in a full year of operating the scheme.
- 5.4. A latest estimated cost report must be taken to Authority for all new technology or building schemes included in the first year of the capital programme where the total capital cost is £500,000 or more or the estimated full year additional revenue costs are £200,000 or more prior to tenders being invited for the scheme.

5.5. In addition to the information required in 5.3. above the capital costs for the purpose of the latest estimated cost report should be analysed into:

- (a) Land acquisition costs
- (b) Construction costs
- (c) Plant, equipment or furniture costs
- (d) Professional fees or consultancy costs
- (e) Hardware and software costs
- (f) Any other relevant costs.

5.6. Provided the scope of the scheme remains unchanged the Chief Fire Officer is authorised to incur expenditure on any scheme with a capital cost of up to £500,000 or full year revenue costs of up to £200,000 with an approved start date in the first year of the capital programme, provided that the requirements of Financial Regulation 5.3. have been complied with and the capital and revenue costs do not exceed the amounts shown in the detailed annual budget.

5.7. Where the capital or revenue costs of any scheme covered by Financial Regulation 5.6. cannot be contained within the amounts shown in the detailed annual budget the Chief Fire Officer must identify the reasons for the variances in expenditure from those included in the detailed estimates, and notify the Treasurer of proposals for meeting any overall increase in expenditure.

5.8. Where it becomes apparent that the tender sum for a capital scheme will be exceeded by 5% or £25,000 whichever is the lower the Chief Fire Officer shall prepare a report to the Fire & Rescue Authority setting out the reasons for the increased cost together with proposals for how it will be met.

5.9. In respect of variable price works contracts, the Chief Fire Officer shall periodically review the cost and report to the Fire & Rescue Authority if the budget provision for the contract is likely to be exceeded by 5% or £25,000.

5.10. The Chief Fire Officer is not authorised to enter into any contractual commitment for schemes with start dates in year two of the capital programme or beyond before a report has been approved by the Fire & Rescue Authority.

5.11. The detailed annual estimates must include a summary showing how the total capital programme is to be financed.

5.12. The Chief Fire Officer must comply with any requirements issued by the Officer of the Deputy Prime Minister in respect of building schemes controlled by them.

6. BANKING AND INCOME

6.1. These Financial Regulations must be read in conjunction with the Service's Financial Instructions.

6.2. The Treasurer is responsible for all banking arrangements and must authorise the creation or closure of any Fire & Rescue Authority accounts. All bank accounts shall have an official title and in no circumstances shall a bank account be opened or operated in the name of an individual.

- 6.3. The Chief Fire Officer is responsible for the daily management and operation of all bank accounts including the regular reconciliation of bank accounts with banking records at not less than monthly intervals.
- 6.4. The Chief Fire Officer is responsible for arranging appropriate imprest accounts and associated banking facilities.
- 6.5. All cheques drawn on the Fire & Rescue Authority account shall bear the printed signature of the Treasurer or be signed by the Treasurer or any officer authorised by the Treasurer. In any case all cheques issued by the Authority should bear a minimum of two authorised signatures.
- 6.6. The Chief Fire Officer will ensure that all income is properly accounted for, secure, safeguarded and paid into the Authority's bank account properly and intact.
- 6.7. No income may be paid into any imprest account or used to defray expenditure.

7. INVESTMENT AND BORROWING

- 7.1. The Treasurer is responsible for arranging the investment of Fire & Rescue Authority funds in accordance with policies approved by the Fire & Rescue Authority.
- 7.2. The Treasurer will ensure the investment of money on the best available terms, in accordance with prudent investment policies, taking into account present and anticipated economic conditions and projected cash flow of funds.
- 7.3. The Treasurer shall ensure that a report is taken to the Fire & Rescue Authority on an annual basis setting out the policies and procedures to be employed for all investments and borrowing.
- 7.4. This report will include the limits prescribed within the Prudential Code procedures and processes for the monitoring reporting on such limits.
- 7.5. The Treasurer shall ensure that a report is taken to the Fire & Rescue Authority on an annual basis which sets out the investment policy for the Authority and authorises the use of a range of potential borrowers, such report should again be in compliance with the Prudential Code.

8. INSURANCE ARRANGEMENTS

- 8.1. The general policy on insurance should be agreed by the Fire & Rescue Authority.
- 8.2. The Treasurer must advise the Fire & Rescue Authority on appropriate insurance arrangements for the following:
 - (a) Fire & Rescue Authority employees
 - (b) Fire & Rescue Authority Members
 - (c) Buildings
 - (d) Liabilities
 - (e) Vehicles and other assets
 - (f) All other risks.

8.3. The Chief Fire Officer is responsible for securing insurance arrangements in accordance with the policy laid down by the Fire & Rescue Authority.

9. CONTRACTS AND PROCUREMENTS

9.1. These Financial Regulations must be read in conjunction with Finance Standing Orders.

9.2. Unless otherwise stated, these Regulations shall apply to all contracts, whether for the supply of goods, materials, professional or technical services or for the execution of works.

9.3. Every contract and order shall be in a form drawn up or approved by the Clerk to the Fire & Rescue Authority.

9.4. The Chief Fire Officer has delegated power to make contracts on behalf of the Fire & Rescue Authority and manage the tendering and contract process.

9.5. All contracts, including, where appropriate, nominated sub-contracts and contracts with nominated suppliers shall comply with these Regulations and no exception or amendment to any of their provisions shall be made, other than with the express written approval of the Clerk to the Fire & Rescue Authority and the Treasurer, where it is believed to be in the best interests of the Fire & Rescue Authority to do so.

9.6. Unless otherwise stated, the term 'contract' shall mean any agreement between the Fire & Rescue Authority and any other part, which is intended to be legally binding. The term therefore applies to all formal contracts, together with all orders placed on behalf of the Fire & Rescue Authority.

9.7. Members or employees who have a direct or indirect pecuniary interest in a contract shall not be supplied with or given access to any tender documents, contracts or other information relating thereto without the Authority of the Clerk to the Fire & Rescue Authority.

9.8. All contracts and related matters shall comply with any legislation and/or overriding requirements of the European Community and/or Her Majesty's Government, for the time being in force.

9.9. Where any of these Regulations may affect the action of a tenderer or successful contractor, then a clear reference to that Regulation shall be contained in the tender documents.

9.10. No contracts shall be made on behalf of any body not covered by the Local Authorities Goods and Services Act 1970 unless otherwise agreed by the Treasurer and the Clerk to the Fire & Rescue Authority.

9.11. An official order shall be issued for all work, goods or services to be supplied to the Fire & Rescue Authority, where the tender accepted is less than £50,000 (see also para. 11.2.).

- 9.12. A formal contract shall be entered into for all work, goods or services to be supplied to the Fire & Rescue Authority, where the tender accepted is £50,000 or more. Construction and maintenance contracts and such other contracts as the Clerk to the Fire & Rescue Authority deems appropriate shall be executed as speciality contracts (i.e. generally under seal).
- 9.13. No work may be commenced on site or goods or material ordered until either an official order has been issued, or a formal contract and a bond, in accordance with Financial Regulation 10.9., has been duly executed by the contractor and returned to the Authority.
- 9.14. The Chief Fire Officer shall maintain written guidelines on the minimum standards or record keeping required of employees supervising contracts.

10. TENDERING PROCEDURES

- 10.1. The method of selecting tenderers for contracts shall be agreed with the Treasurer. The letting of a contract or series of contracts whose aggregate value exceeds the regularly updated EC threshold figure must, where applicable, comply with prevailing EC directives in respect of tendering procedures, technical specifications, the selection of tenderers and the awarding of contracts.
- 10.2. Where the estimated cost is £50,000 or more, a minimum of six tenders are to be invited.
- 10.3. Where the estimated cost is under £50,000, a minimum of three tenders are to be invited.
- 10.4. Financial Regulations 10.1. to 10.3. need not be applied if:
- (a) The estimated expenditure is £25,000 or less and the Chief Fire Officer does not consider it practicable to obtain tenders; in which case a minimum of three alternative quotations in writing shall be sought. If the estimated expenditure is less than £250 and alternative written quotations cannot be obtained, the Treasurer must be satisfied that adequate efforts have been made to secure value for money.
 - (b) Tenders have been invited by a recognised consortium or similar body.
 - (c) In the case of contracts for the supply of goods or materials, where the goods or materials are sold only at a fixed price and no reasonable satisfactory alternative is available;
 - (d) The work to be executed or the good or materials to be supplied constitute an extension of an existing contract, and the necessary budget provision exists.
 - (e) The work to be executed or the good or materials to be supplied are required so urgently as not to permit the invitation of tenders;
 - (f) The work to be executed or the goods or materials to be supplied consist of repairs to or parts for existing proprietary machinery, where such repairs or parts are specific to that machinery;

- 10.5. The Chief Fire Officer shall maintain a written register of all instances where Financial Regulations 10.1. to 10.3. have not been complied with, together with the reasons and will present an annual report on these instances to the Fire & Rescue Authority.
- 10.6. The opening of tenders shall be in accordance with procedures agreed with the Treasurer and contained within Financial Instructions.
- 10.7. The Chief Fire Officer shall maintain a register of all tenders accepted, which shall in each case list all the tenders received and which shall be in a form approved by the Clerk to the Fire & Rescue Authority and the Treasurer.
- 10.8. Where deemed appropriate by the Clerk to the Fire & Rescue Authority and the Treasurer contracts under seal which are for the execution of work or for the supply of good or materials by a particular date or series of dates shall provide for liquidated and ascertained damages of an amount to be specified in each such contract by them.
- 10.9. The Clerk to the Fire & Rescue Authority will advise the Chief Fire Officer on circumstances where there is a requirement to provide security for the due performance of any contract exceeding £250,000. The nature and amount of any such security shall be specified as a provisional item in the conditions of tender and be in a form and obtained from an institution approved by the Treasurer.
- 10.10. Every extra or variation on a contract for the execution of works shall be authorised in writing by the Chief Fire Officer or by a consultant appointed by the Chief Fire Officer.
- 10.11. Claims from contractors in respect of matters not clearly within the terms of the contract shall be referred to the Clerk to the Fire & Rescue Authority for consideration of the Authority's legal liability as soon as they are known. Valid claims for loss and expense arising from delay and disruption shall be notified to the Fire & Rescue Authority where they are likely to exceed £50,000 in value or where there is a possibility of legal proceedings, including arbitration procedures as provided for by the conditions of contract, being commenced.
- 10.12. Unless the Treasurer and the Clerk to the Fire & Rescue Authority agree otherwise liquidated and ascertained damages, where allowed for, shall be applied in respect of contracts not completed within the original contract period, together with any extensions of time granted in accordance with the contract.

11. PAYMENT FOR WORKS, GOODS AND SERVICES

- 11.1. Before authorising an official order, or any process which may lead to a payment, employees, shall:-
 - (a) ensure they are authorised to order or process the payment;
 - (b) satisfy themselves that the works/goods/services are a proper charge on the funds under their control;
 - (c) ensure there is adequate budget provision;
 - (d) satisfy themselves that the works/goods/services have been received, conform in all respects with an official order and are acceptable in every way;
 - (e) ensure prices, arithmetic and discounts are correct.

- 11.2. Official orders are not necessary for supplies of public utility services, for periodic payments such as rent and rates, for imprest purchases or such other exceptions as the Chief Fire Officer or Treasurer may approve.
- 11.3. The duties of ordering, receiving goods and certifying invoices for payment must not be performed by the same officer without prior agreement of the Treasurer.
- 11.4. Where contracts provide for payment to be made by instalments, the Chief Fire Officer shall maintain a contract register in a form approved by the Treasurer which shall show the state of account on each contract between the Authority and the contractor together with any other payments and any related professional fees.
- 11.5. Payments to contractors on accounts of works contracts shall be made only on a certificate which shall show the total amount of contract, the value of work executed to date, retention money, amount paid to date and the amount now certified. Such certificates shall be issued by the Chief Fire Officer or the consultant authorised to do so.

12. PAYMENT OF SALARIES, WAGES AND PENSIONS

- 12.1. The payment of salaries, wages, pension or other emoluments shall be made only by the Chief Fire Officer through the payroll system.
- 12.2. All appointments, terminations of employment, absences and any other changes which may affect the pay or pension of present and past employees and pensioners must be notified to the Chief Fire Officer.

13. TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES

- 13.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be in accordance with the Financial Instructions.

14. ASSETS

- 14.1. The Chief Fire Officer is responsible for the security of all assets under his control and shall maintain an asset register where appropriate.
- 14.2. Assets include land, property, money, stocks stores, furniture, equipment and electronic data.
- 14.3. Records relating to these assets and the method frequency of stores and inventory checks shall be agreed with the Treasurer.
- 14.4. Where assets are disposed of (including written off) such disposal shall be in accordance with procedures agreed with the Treasurer.
- 14.5. As a general principle disposals, shall, wherever possible, be subject to competition.

15. DISPOSAL AND ACQUISITION OF LAND AND BUILDINGS

- 15.1. These Financial Regulations must be read in conjunction with the Fire & Rescue Authority's Standing Orders and Finance Standing Orders.
- 15.2. Members or employees who have a direct or indirect pecuniary interest in the disposal or acquisition of any Fire & Rescue Authority land or buildings shall declare that interest and shall not be supplied with or given any access to any tender documents, contracts or other information relating thereto, without the express written authority of the Clerk to the Fire & Rescue Authority.
- 15.3. Every effort shall be made to maximise the consideration realised by the Fire & Rescue Authority on the disposal of land and buildings.
- 15.4. The Clerk to the Fire & Rescue Authority will draw up detailed guidelines to be issued to any consultant or agent appointed on behalf of the Fire & Rescue Authority to acquire or dispose of property on behalf of the Fire & Rescue Authority.
- 15.5. Any consultant or agent appointed by the Fire & Rescue Authority to dispose of property on their behalf shall comply with the procedures contained in these Regulations.
- 15.6. All disposals and acquisitions shall be effected in accordance with the general law operative at the time of the acquisition or disposal.
- 15.7. The Chief Fire Officer or his nominee shall maintain a record of all land and buildings owned by the Fire & Rescue Authority.

16. GIFTS, LOANS AND SPONSORSHIP

- 16.1. The Chief Fire Officer must issue policy and procedural guidelines governing the acceptance of gifts, loans and sponsorship to the Authority and its employees which must be approved by the Fire & Rescue Authority.
- 16.2. Any individual gift, loan or sponsorship deal with a market value of £100 or more must be approved by the Fire & Rescue Authority before it is accepted.
- 16.3. A register of all significant gifts, loans and sponsorships, with their market value, must be maintained by the Chief Fire Officer.

17. COMPUTERS AND INFORMATION TECHNOLOGY

- 17.1. The Chief Fire Officer is responsible for ensuring that all relevant legislation governing the use of computers is complied with and must issue internal guidelines and instructions to the Service governing the use of such equipment.

MEMBERS' ALLOWANCES

This is the Nottinghamshire and City of Nottingham Fire & Rescue Authority Members' Allowance Scheme, covering the allowances which can be claimed by Members (including Co-opted Members) of Nottinghamshire and City of Nottingham Fire & Rescue Authority.

CONTENTS

Section 1	:	The Scheme and Summary of Allowances Payable
Section 2	:	Basic Allowance
Section 3	:	Special Responsibility Allowance
Section 4	:	Travelling and Subsistence Allowance
Section 5	:	How to Claim Travelling & Subsistence Allowance
Section 6	:	Co-optees' Allowance
Section 7	:	Income Tax and Welfare Benefits
Schedule 1	:	Rates of Basic, Special Responsibility & Co-optees' Allowances
Schedule 2	:	Part Year Entitlement
Schedule 3	:	Travelling and Subsistence Rates
Schedule 4	:	Approved Duties

SECTION 1: THE SCHEME AND SUMMARY OF ALLOWANCES PAYABLE

1.1 THE SCHEME

- 1.1.1 This is the Nottinghamshire and City of Nottingham Fire & Rescue Authority Members' Allowance Scheme ["the Scheme"] for the payment of Members' Allowances. The Scheme is based on the provisions contained in the Local Authorities (Members' Allowances) (England) Regulations 2003 as may be amended from time to time ["the Regulations"]. It also has regard to relevant Government guidance. At a meeting on 19 December 2003 the Nottinghamshire and City of Nottingham Fire & Rescue Authority ["the Authority"] approved the Scheme to take effect on and from 1 April 2004.
- 1.1.2 The Scheme shall have effect without time limit and may be amended or revoked in accordance with the Regulations.
- 1.1.3 The Scheme shall have effect and be construed in accordance with the Regulations. In the event of any inconsistencies between the Scheme and the Regulations, the Regulations shall prevail.
- 1.1.4 Any procedures or requirements of the Regulations which are not expressly incorporated in the Scheme are hereby deemed to have been so incorporated.
- 1.1.5 A reference herein to a Schedule shall be deemed to be a reference to a Schedule in the Scheme unless there appears to be a contrary intention. A reference to a Member or a Co-optee shall be to a Member or Co-optee of the Authority.
- 1.1.6 A year, for the purposes of the Scheme, starts on 1 April and ends on 31 March.

1.2 SUMMARY OF ALLOWANCES PAYABLE AND AMENDMENTS TO THE SCHEME

- 1.2.1 Section 2 of the Scheme provides for the payment of an annual Basic Allowance for each Member of the Authority.
- 1.2.2 Section 3 of the Scheme provides for an annual Special Responsibility Allowance for those Members who have special duties and/or hold particular posts.
- 1.2.3 Sections 4 and 5 of the Scheme provide for Travelling and Subsistence Allowances for all Members and Co-opted Members of the Authority and explain how claims should be made.
- 1.2.4 Section 6 of the Scheme provides for an annual Co-optees Allowance. Eligible for this are Co-optees such as the independent persons appointed by the Authority to serve on the Standards Committee of the Authority.
- 1.2.5 Where an amendment is to be made by the Authority to the Scheme which affects an Allowance payable in the year in which the amendment is made, the Authority may decide that the entitlement to that Allowance is to apply with effect from the beginning of the year in which the amendment is made, i.e. to backdate the amendment to that extent.
- 1.2.6 The Authority will review the levels of allowances on an annual basis.

1.3 TAX AND NATIONAL INSURANCE

- 1.3.1 Section 7 of the Scheme mentions liability to Income Tax and the national insurance arrangements for Members and Co-optees of the Authority. These sections do not deal with entitlements under the Scheme and are only brief summaries for

information. The Authority does not guarantee that they are necessarily accurate or appropriate for individual Members or Co-optees. It is for Members and Co-optees to satisfy themselves personally that their tax and national insurance arrangements are in order and they should consult their own advisers as they think fit about these matters.

1.4 RESPONSIBILITY TO SUBMIT ACCURATE CLAIMS

- 1.4.1 It is important that Members and Co-optees are aware of their responsibility to submit accurate claims and to be able to demonstrate that they did incur any expenditure for which they are claiming.

1.5 PUBLIC RECORD OF PAYMENTS AND AVAILABILITY OF THE SCHEME

- 1.5.1 The Authority maintains a record showing payments made to Members and Co-optees in accordance with the Scheme. The record is kept available for public inspection during normal office opening hours at the Authority's principal office (Fire HQ, Bestwood Lodge, Arnold, Nottingham). The record may be inspected free of charge by any local government elector for the areas Nottinghamshire and the City of Nottingham, these being the areas within which the Authority exercises its functions. A copy of the record will be supplied to any person who so requests and who pays the Authority's reasonable fee as determined by the Authority.
- 1.5.2 Copies of the Scheme are made available for inspection by the public at the Authority's principal office (Fire HQ, Bestwood Lodge, Arnold, Nottingham) during normal office opening hours. A copy will be supplied to any person who so requests and who pays the Authority's reasonable fee as determined by the Authority.
- 1.5.3 Any person wishing to inspect the record of payments or the Scheme should contact the Head of Finance and Resources.

1.6 FORGOING ENTITLEMENT TO ALLOWANCES

- 1.6.1 A Member or Co-optee may elect to forgo entitlement or any part of his/her entitlement to allowances under the Scheme, by notifying the Chief Fire Officer in writing. In practice this relates to the Basic Allowance, Special Responsibility Allowance and Co-optees Allowance, which are the allowances which will otherwise be paid automatically.

1.7 ADVICE & QUERIES

- 1.7.1 Any Member or Co-optee requiring advice about how best to maintain records to authenticate claims or with any other queries about the Scheme should contact the Head of Finance and Resources.

SECTION 2: BASIC ALLOWANCE

- 2.1 The Basic Allowance is paid to all Members of the Authority at the same rate. It is intended to recognise the time commitment of all Members, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings.
- 2.2 The amount and payment of the Basic Allowance are as stated in Schedule 1. Part Year entitlement will be assessed in accordance with Schedule 2.
- 2.3 Co-optees are not eligible for the Basic Allowance.
- 2.4 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Authority in accordance with part III of the Local Government Act 2000 or regulations made thereunder, the part of the Basic Allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Authority for that period of suspension or partial suspension. The Standards Committee of the Authority shall determine whether or not to withhold the Basic Allowance in such circumstances.
- 2.5 The Basic Allowance is subject to Income Tax and National Insurance Contributions (see Section 7).

SECTION 3: SPECIAL RESPONSIBILITY ALLOWANCE

- 3.1 Special Responsibility Allowances enable payments to be made to Members who have special duties and/or hold particular posts and can be of different amounts. The categories of special responsibilities are set out in the Regulations.
- 3.2 The amounts and payment of Special Responsibility Allowances are as stated in Schedule 1. Part Year entitlement will be assessed in accordance with Schedule 2.
- 3.3 Co-optees are not eligible for Special Responsibility Allowance.
- 3.4 Only one Special Responsibility Allowance is payable per Member. If more than one such allowance appears to be payable, the Member may elect which allowance shall be paid, but in the event of failure to elect, s/he will be deemed to have elected to receive the Special Responsibility Allowance which is the greatest.
- 3.5 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Authority in accordance with part III of the Local Government Act 2000 or regulations made thereunder, the part of any Special Responsibility Allowance payable to him/her in respect of the responsibilities or duties from which he/she is suspended or partially suspended may be withheld by the Authority for that period of suspension or partial suspension. The Standards Committee of the Authority shall determine whether or not to withhold Special Responsibility Allowance in such circumstances.
- 3.6 Special Responsibility Allowance is subject to Income Tax and National Insurance Contributions (see Section 7).

SECTION 4: TRAVELLING AND SUBSISTENCE ALLOWANCE

4.1 Travelling Allowances

- 4.1.1 Members, including Co-optees, may claim travelling expenses for travel undertaken in connection with Approved Duties. Details of the Travelling Allowances which may be claimed are set out in Schedule 3. The duties which are Approved Duties for which a claim may be made are set out in Schedule 4.
- 4.1.2 Please note that proper VAT receipts are required for expenses including parking fees in order for the Authority to validate claims and to reclaim VAT. Members should ask for/keep these, wherever possible, and attach them to claim forms.
- 4.1.3 When travelling by train Members should obtain rail tickets from Headquarters in order that the Authority can take advantage of preferential rates. In the first instance please contact the Secretary to the Chief Fire Officer to organise rail tickets. Tickets for air travel can also be obtained from Headquarters in the same way.
- 4.1.4 Claims for Travel Allowances are not subject to deductions for Income Tax and National Insurance (see Section 7)

4.2 SUBSISTENCE ALLOWANCES

- 4.2.1 Members, including Co-optees, may claim subsistence for costs of refreshments and accommodation, necessarily incurred, when undertaking Approved Duties. Details of the Subsistence Allowances which may be claimed are set out in Schedule 3. The duties which are Approved Duties for which a claim may be made are set out in Schedule 4.
- 4.2.2 Members are not entitled to claim subsistence allowances where suitable refreshments are provided for them while they are undertaking the approved duty. In calculating the length of time it has taken to perform an approved duty, such as a meeting, Members are entitled to include reasonable travelling time in getting to and from the meeting place.
- 4.2.3 Members are not entitled to claim subsistence where suitable accommodation is provided for them while they are undertaking the approved duty. Normally accommodation will be booked for Members and the Authority will pay direct. Members should always get in touch with the Secretary to the Chief Fire Officer prior to arranging and paying for accommodation themselves.
- 4.2.4 Please note that proper VAT receipts are needed in order for the Authority to validate claims and to reclaim VAT. Wherever possible Members should ask for/keep these and attach them to claim forms.

4.3 FOREIGN TRAVEL

- 4.3.1 Members may travel outside the UK only with the express permission of the Fire & Rescue Authority. If there are cases of extreme urgency which require prior approval this may be given by the Chairman and the Chief Fire Officer but must be ratified subsequently by the Fire & Rescue Authority.
- 4.3.2 All arrangements for travel outside the UK must be made by the Secretary to the Chief Fire Officer who will confirm that the necessary approvals have been obtained before making any arrangements.

- 4.3.3 The Head of Finance and Resources will maintain a record of all travel outside the UK, which will be available for public inspection. The record will include information in respect of cost, destination and Members attending.
- 4.3.4 Consideration will be given in each case to the most cost effective and convenient method of travel, taking into account any health or disability issues.
- 4.3.5 Economy Class travel will be used wherever possible for flights within the EU, with flights outside the EU considered on their individual merit.
- 4.3.6 All accommodation will be booked through the Secretary to the Chief Fire Officer and will be in good standard mid range hotels with appropriate business facilities and in safe areas with reasonable access to the venues to be visited. Where all inclusive packages are available for conferences the advantages of these offers will be evaluated.
- 4.3.7 Subsistence will be paid on the basis of a daily rate for each 24 hour period. Subsistence is to cover all expenses when outside the UK including travel, laundry, telephone calls and all meals. The rate of subsistence will be £75.00 per 24 hour period.
- 4.3.8 Where meals are provided as part of the conference or visit a deduction of 20% will be made for each meal provided irrespective of whether meals are actually taken, unless there are sound reasons for not doing so.
- 4.3.9 Receipts should be obtained wherever possible.

SECTION 5: HOW TO CLAIM TRAVELLING AND SUBSISTENCE ALLOWANCE

- 5.1 In this section "Members" includes Co-optees.
- 5.2 Claims for Travelling and/or Subsistence Allowance must be submitted on the standard form.
- 5.3 The form includes the following declaration which must be completed:-

"I declare I have incurred expenditure on travelling and/or subsistence for the purpose of enabling me to perform approved duties as a Member or Co-opted Member of Nottinghamshire and City of Nottingham Fire & Rescue Authority and that the rates are in accordance with those determined by the Authority. I declare that the statements in my claim are correct. I have not made and will not make any other claim under any enactment for the same travelling and/or subsistence."
- 5.4 Claim forms are kept by the Finance and Resources Section from whom additional forms may also be obtained.
- 5.5 There is no formal deadline for processing claims for travel and subsistence and these will be paid as quickly as possible. Payments of other allowances will be made monthly. All payments will be made by BACS.
- 5.6 All claims should be submitted no later than 3 months after the date of the duty attended.
- 5.7 Members should note that it is their responsibility to ensure that any claims submitted are accurate, and that they can demonstrate that they attended meetings for which they are claiming allowances etc. It is suggested that this can best be done by Members maintaining diary records of meetings attended, showing the dates of the

meetings and duration. Where there is an attendance book at the meeting, the Members must sign the attendance book.

- 5.8 Members should also note that, as mentioned in Section 1 above, the Authority has to maintain a record showing payments made to Members which is open to public inspection.

SECTION 6: CO-OPTEEES' ALLOWANCE

- 6.1 Co-optees' Allowance enables payments to be made to Co-optees in respect of attendance at conferences and meetings and can be of different amounts for different Co-optees.
- 6.2 The amounts and payment of Co-optees Allowance are as stated in Schedule 1. Part Year entitlement will be assessed in accordance with Schedule 2. These amounts are in addition to any Travelling or Subsistence Allowance which may be claimed by Co-optees under sections 4 and 5 of the Scheme.
- 6.2.1 Where a Co-optee is suspended or partially suspended from his/her responsibilities or duties as a Co-optee of the Authority in accordance with part III of the Local Government Act 2000 or regulations made thereunder, any Co-optees Allowance payable to him/her in respect of the responsibilities or duties from which he/she is suspended or partially suspended may be withheld by the Authority for that period of suspension or partial suspension. The Standards Committee of the Authority shall determine whether or not to withhold Co-optees' Allowance in such circumstances.
- 6.2.2 Co-optees' Allowance is subject to Income Tax and National Insurance Contributions (see Section 7).

SECTION 7: INCOME TAX & WELFARE BENEFITS

7.1 Income Tax

- 7.1.1 Basic and Special Responsibility Allowances are subject to Income Tax as they are payments made in respect of the duties of an office. Travelling and Subsistence Allowance is not normally subject to Income Tax if it is paid in respect of actual costs necessarily incurred in connection with the Approved Duty. Appropriate records should be kept to satisfy the Tax Office. Subsistence Allowance where no receipt is provided is subject to Income Tax.
- 7.1.2 The Inland Revenue is notified of the names and addresses of all Members who claim taxable allowances. Tax is deducted at basic rate until the Inland Revenue notify the Authority of the appropriate tax code for each Member.
- 7.1.3 Some expenses incurred by Members in the course of Authority duties as Members may be deductible against tax. Any Member who believes that some of his/her expenses as a Member may be tax deductible, should contact his/her Tax Office.
- 7.1.4 The Authority's Tax Office is

Inland Revenue
Nottingham 1 TSO
Castle Meadow
Castle Meadow Road
Nottingham NG2 1AB
Tax Reference Number : 507/588999
Tel: 0115 9741000

7.2 NATIONAL INSURANCE CONTRIBUTIONS

- 7.2.1 Basic and Special Responsibility Allowance payments will attract National Insurance (NI) contributions at levels which vary depending on the total earnings of Members.
- 7.2.2 Some Members may not be liable to any NI Contributions on Allowances if they fulfil any of the following criteria:
 - (a) Their total earnings are less than the specified minimum limits set out by the Inland Revenue
 - (b) They are men aged 65 or over
 - (c) They are women aged 60 or over
- 7.2.3 There is no NI liability if total earnings are less than the specified minimum, currently £378 per month.
- 7.2.4 Some Members, who are married women or widows who have elected to pay reduced rate contributions for NI, may also need to have their NI Contributions on allowances calculated at a reduced rate.
- 7.2.5 Members who are self-employed may also be subject to different levels of NI Contributions.
- 7.2.6 Members who believe that they fall into any of the above categories should contact the Department of Social Security (DSS) to obtain the appropriate certificates.

7.3 STATUTORY SICK PAY

- 7.3.1 Provided certain requirements are satisfied, Members may be able to claim Statutory Sick Pay from the Authority.

7.4 SOCIAL SECURITY BENEFITS

- 7.4.1 The receipt of allowances may affect Members who are receiving Social Security Benefits. All allowances should be declared to the DSS who will be able to advise Members about the way in which allowances affect benefits such as Income Support.
- 7.4.2 Members should note that failure to disclose any allowances to the DSS may result in prosecution.

Schedule 1

1.1 Payments

1.1.1 Payments shall be made, in respect of Basic and Special Responsibility and Co-optees Allowances, in arrears in instalments of one-twelfth of the amount specified in the Scheme on the last working day of each month (unless otherwise notified).

1.2 Rates of Basic, Special Responsibility and Co-optees' Allowances

Allowance	Amount
Basic	£ 500 pa
Special Responsibility	
(a) Chair(man) of the Authority	£16,800 pa
(b) Vice Chair(man) of the Authority	£5,000 pa
(c) Leaders of minority Groups	£500 pa
Co-optees'	
(a) As Chair of Standards Committee	£ 500 pa
(b) Any other Co-optee	£ 300 pa

Schedule 2

2.1 Part-Year Entitlement

2.1.1 The following will apply if in the course of a year

- (a) the scheme is amended or
- (b) a Member (excluding any Co-optee) becomes, or ceases to be a Member, or
- (c) a Member (excluding any Co-optee) accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable or
- (d) a Co-optee becomes, or ceases to be a Co-optee.

2.2 Amendments to the Scheme

2.2.1 If one or more amendments to the Scheme are made which take effect after 1 April for the year in question and change the amount(s) of any Allowance to which Members are entitled, the effect on Members' entitlement will be as follows.

2.2.2 If the amendment is backdated to the start of the year, Members' entitlement shall be adjusted accordingly.

2.2.3 Otherwise the Members' entitlement shall reflect the changes in the rate of Allowance and the period(s) during which each rate was in force.

2.3 Members for part year only

- 2.3.1 Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, his/her entitlement to Basic Allowance shall be to the payment of the appropriate proportion of the Basic Allowance:
- (a) for the number of days during which his/her term of office as a Member subsists and
 - (b) at the rate or rates applicable to that Allowance while his/her term of office as a Member subsists.

2.4 Members performing special responsibilities for part year only

- 2.4.1 Where a Member carries out any special responsibility such as entitles him/her to a Special Responsibility Allowance during part only of a year, his/her entitlement shall be to payment of the appropriate proportion of the Special Responsibility Allowance
- (a) for the number of days during which that Member has such special responsibility and
 - (b) at the rate or rates applicable to that Allowance while the Member had such special responsibility.

2.5 Co-optees for part year only

- 2.5.1 Where the appointment of a Co-optee begins or ends otherwise than at the beginning or end of a year, his/her entitlement to Co-optees' Allowance shall be to the payment of the appropriate proportion of the Co-optees' Allowance.
- (a) for the number of days during which his/her appointment as a Co-optee subsists and
 - (b) at the rate or rates applicable to him/her as a Co-optee while his/her appointment as a Co-optee subsists.

Schedule 3

Travelling and Subsistence Rates

3.1 Public Transport

- 3.1.1 The Authority will reimburse actual cost of coach travel or first class rail fares. When travelling by train Members should obtain rail tickets from Headquarters. In the first, instance please contact the Secretary to the Chief Fire Officer as soon as travel arrangements have been confirmed and s/he will arrange for tickets to be issued. If Members/Co-optees need to purchase their own tickets they should submit their receipt or ticket when claiming reimbursement.
- 3.1.2 Long distance travel by public transport is encouraged but may be undertaken by private car and if so the Authority will pay Members/Co-optees the appropriate car mileage allowance shown below.
- 3.1.3 For local travel Members may choose either:
- (a) the appropriate car or cycle mileage allowance shown below or
 - (b) to buy a bus ticket and claim later

3.1.4 Taxi fares may be claimed but only (a) in cases of urgency or (b) for meetings outside normal working hours (8.30 a.m. - 6.30 p.m.) and, in either case, where there is no suitable public transport available. Receipts should be produced.

3.2 Car Mileage Allowances

3.2.1 Capacity

The rate for travel by a Members own Solo Motorcycle shall be:

Up to 500cc	23.2p per mile
Over 500cc	28.5p per mile

The rate for travel by motor vehicle will be:

Up to 1199cc	40.4p per mile
exceeding 1199cc	50.5p per mile

3.2.2 Supplement for Passengers

An additional 2.3p per mile for each passenger carried may be claimed.

The distance claimed for mileage should be the shortest most reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.

Cycle Allowance 20.0p per mile

Day Subsistence

The amounts below are the maximum which can be claimed.

Eligibility is based on the time of day meals are taken and time away from home, as follows: -

Breakfast allowance £5.57	-	more than four hours' absence before 11.00am
Lunch allowance £7.70	-	more than four hours' absence including 12 noon – 2.00pm
Tea allowance £3.04	-	more than four hours' absence including 3.00pm – 6.00pm
Evening Meal allowance £9.54	-	more than four hours' absence ending after 7.00pm
Out of Pocket Expenses £4.31	-	single night
£17.26	-	Weekly

Where meals are necessarily taken on trains and the cost of the meal is not included in the ticket price the actual price of the meal will be reimbursed.

3.3 Overnight Subsistence

3.3.1 Where a Member attends a UK meeting or event which involves an overnight stay, hotel accommodation will be booked and paid for by the Fire & Rescue Authority unless otherwise agreed by the Chief Fire Officer in consultation with the Chairman.

3.3.2 Where an overnight stay is required, overnight subsistence may be claimed up to a maximum of £115.00

3.3.3 Receipts should be produced for all subsistence claimed.

3.3.4 Any rate paid in respect of overnight allowances shall be deemed to cover a continuous period of 24 hours.

Schedule 4

Approved Duties

4.1 Approved Duties for the claim of Travelling and Subsistence Allowances

4.1.1 Members of the Fire & Rescue Authority may claim both travelling and subsistence allowances for a range of “approved” duties as follows:

- i) Any attendance as an appointed Member at meetings of the Fire & Rescue Authority or any working party, panel or consultative group convened by the Authority to which Members of at least two political parties have been invited.
- ii) An attendance at a meeting of any other body to which the Member has been appointed by the Fire & Rescue Authority.
- iii) Seminars or training sessions organised by the Fire & Rescue Authority where attendance is open to Members of more than one political group.
- iv) Any attendance at a meeting of a group called by the Chief Fire Officer expressly for the purpose of discussing Fire & Rescue Authority business.
- v) Pre Agenda meetings of the Fire & Rescue Authority.
- vi) Formal visits approved by the Fire & Rescue Authority.
- vii) Group Management meetings if applicable.
- viii) Meetings with representatives of the constituent authorities, District Councils in Nottinghamshire and other Fire & Rescue Authority Members within the region.
- ix) Visits and duties outside the County area but within Great Britain for a period not exceeding 72 hours in connection with the discharge of the functions of the Fire & Rescue Authority made by the Chairman or Minority Party spokesperson(s).
- x) Attendance at seminars etc. to address non-political bodies at national and regional level on subjects related to the Fire & Rescue Authority by the Chair or Minority Party spokesperson(s).
- xi) Attendance at seminars and conferences as approved by the Fire & Rescue Authority.
- xii) Any attendance upon land or premises within the County area for the purposes of, or in connection with the discharge of the functions of the Fire & Rescue Authority, such duties to include:

Consultation with Officers

Visits to Fire & Rescue Authority premises to acquaint themselves with conditions there when formally arranged with the Chief Fire Officer.

Organised visits to exhibitions relating to the functions of the Fire & Rescue Authority.

Organised visits to sites and premises associated with actual or proposed projects of the Fire & Rescue Authority.

Visits to Fire H.Q to deal with essential correspondence, paperwork etc. relating to the Fire & Rescue Authority.

4.1.2 Members may not claim either travelling or subsistence allowances for the following responsibilities:

- i) Disciplinary matters within a Group
- ii) Correspondence relating to Group policy
- iii) Matters relating to the internal organisation of a Group
- iv) Taking up a constituent's grievance with anyone other than the Combined Fire & Rescue Authority.
- v) Attendance at a local function to presents awards or cheques
- vi) Social engagements.

4.2 Approved Duties (Travelling Allowance only)

4.2.1 Approved duties for the payment of travelling allowance only are as follows:-

- Attendance by formal invitation at any Fire & Rescue Authority organised hospitality function.
- Attendance as a representative of the Fire & Rescue Authority at a local function to present an award or cheque.
- Attendance by invitation at a County Council, District Council, City Council or Parish Council meeting to participate in the discussion of a Fire & Rescue Authority function (subject to prior approval of the Chief Fire Officer).

SCHEME OF DELEGATION

For this scheme

- Fire & Rescue Authority means the Nottinghamshire and City of Nottingham Fire & Rescue Authority.
- Financial Regulations means the Finance Standing Orders, Financial Regulations and Codes of Procedures, etc approved from time to time by the Nottinghamshire and City of Nottingham Fire & Rescue Authority.
- Personnel Regulations means the Personnel Regulations and Personnel Handbook approved from time to time by the Nottinghamshire & City of Nottingham Fire & Rescue Authority.

Section 1

General Delegation to the Chief Fire Officer

The Chief Fire Officer shall exercise the following powers:

1. Subject to any provisions of statute and subject to any overriding authority of Financial Regulations and Personnel Regulations, the Chief Fire Officer shall have the authority to take any action with regard to any matter within the purview of his/her appointment subject to the following principles:-
 - a. The Chief Fire Officer shall not be empowered to deviate from the approved policies of the Fire & Rescue Authority.
 - b. The Chief Fire Officer shall not be empowered to initiate significant matters of new policy without the approval of the Fire & Rescue Authority.
 - c. The Chief Fire Officer shall not use his/her delegated powers in any way which would produce an imbalance between the approved policies of the Fire & Rescue Authority; he/she shall be able to exercise discretion on virement between approved budget headings provided that this action does not produce a significant change of emphasis in Fire & Rescue Authority policies, and is exercised in accordance with Financial Regulations.
 - d. The Chief Fire Officer shall be empowered to appoint and manage staff within the Establishing Scheme approved by the Fire & Rescue Authority and in accordance with Personnel regulations, but shall not appoint staff at the level of Deputy Chief Fire Officer or Assistant Chief Fire Officer without the approval of the Fire & Rescue Authority.
 - e. The Chief Fire Officer shall report at regular intervals to the Fire & Rescue Authority setting out in narrative form the principal use made by him/her of the powers delegated by this resolution or otherwise, together with any uses which the Chief Fire Officer considers to be particularly important or unusual.
 - f. The Chief Fire Officer is empowered to enter into contracts only within Financial Regulations and Codes of Procedures.

2. To designate in writing such other Officers as the Chief Fire Officer thinks fit to exercise any authority delegated to the Chief Fire Officer under this scheme of delegation or otherwise.
3. To exercise the statutory powers described in the Specific Delegation to the Chief Fire Officer contained in this Scheme as set out below and any similar powers in relation to any amended, consequential or re-enacted Act, regulation or Order.

General Delegation to the Treasurer and the Clerk/Monitoring Officer

There is delegated to the Treasurer and to the Clerk/Monitoring Officer authority to take any action within the purview of their respective appointments, subject to the relevant general principles applying to the exercise of delegated powers by the Chief Fire Officer.

Section 2

Powers Delegated to the Chief Fire Officer

- (i) There is delegated to the Chief Fire Officer authority to exercise the powers and duties of the Fire & Rescue Authority, and of any body for which the Fire & Rescue Authority act as agent, in respect of:-

- The Fire & Rescue Services Act 2004 and the Fire Precautions Act 1971.
- Appointments and authorisations, issue and transfer of licences, issue serving and enforcement of prohibition and improvement notices, granting or refusal of exemptions, the issue of responses and the institution of proceedings under the following enactment's:-

Factories Act 1971
 Fire Precautions Act 1971, Modified 1987
 The Fire & Rescue Services Act 2004
 Office, Shops & Railway Premises Act 1973
 Place of Work Regulations

Animal Boarding Establishments Act 1963
 Building Regulations 1991
 Building Act 1985

Caravan Sites Control & Development of Act 1960
 Children & Young Persons Act 1933 amended 1952
 Children's Act 1989
 Chronically Sick and Disabled Persons Act 1970
 Cinemas Act 1985
 Cinematograph amended Act 1982
 Construction (Design & Maintenance) Regulations
 Construction (Health, Safety & Welfare) Regulations
 Control of Substances Hazardous to Health and (Amendment Regs 1990)
 Control of Explosive Regulations 1991

Radioactive Substances Act Exemption Order 1985
 Radioactive Substances Act 1960
 Registered Homes Act 1960
 Riding Establishments Act 1964
 Road Traffic Act 1974
 Road Vehicle Lighting Regulations 1989

Safety Signs & Signals Regulations 1996
Safety at Sports Grounds Act 1975

Theatres Act 1968
Thermal Insulation (Industrial Buildings) Act 1952 & 1972
Town & Country Planning Act 1971

Water Act 1945, 1981 & 1989

(ii) Land and Buildings

In compliance with Finance Standing Orders, Financial Regulations, statutory requirements and sound business practice, to manage and authorise the financing, procurement and disposal of goods, services and capital projects and to maintain asset registers.

(iii) Firefighters' Pensions

The Chief Fire Officer may exercise the Fire & Rescue Authority's discretionary powers under the Firefighters' Pension Scheme.

(iv) Ex-Gratia Payments

The Chief Fire Officer may determine claims for ex-gratia payments, etc up to £250 in respect of incidents affecting both employees and volunteers whilst they are carrying out duties at the request of the Fire & Rescue Authority and where damage is caused to their personal belongings.

(v) Extensions to Sick Pay Requests

To consider all individual cases of extensions to sick pay and to determine a defined time-scale for the period of the extension if agreed. Decisions of the Personnel Committee will be final and not open to appeal.

(vi) Urgency Matters

To determine any matter where a decision is required before the next full meeting of the Combined Fire Authority, subject to consultation with the Chairman, Vice Chairman and Opposition Spokespersons of that Authority.

TERMS OF REFERENCE FOR COMMITTEES & BOARDS

1. Combined Fire & Rescue Authority

To lead and support the delivery of effective and risk managed services for Community Safety and wellbeing.

To agree strategy and resources for future delivery of services for Community Safety and wellbeing.

To assess the effectiveness of current services for Community Safety and wellbeing.

Membership

12 Nottinghamshire County Council
6 Nottingham City Council

18 TOTAL

Quorum

6 Members

2. Personnel Committee

Membership

4 Labour Group
1 Conservative Group
1 Liberal Democrat Group

6 TOTAL

Quorum

3 Members

Introduction

The Nottinghamshire and City of Nottingham Fire & Rescue Authority are responsible for overseeing the corporate personnel function within the Brigade. This includes handling those Personnel and Industrial Relations issues that require an involvement at Member level. The Fire & Rescue Authority will discharge this part of its work through the Personnel Committee created to handle various types of personnel related matters. These matters to include appeals, grievances which arise from time to time either on an individual or collective basis, and dealing with the appointment of the Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer(s).

The Personnel Committee shall comprise Elected Members of the Fire & Rescue Authority. Details of the main Terms of Reference are given below. The Personnel Committee will not be concerned with general personnel policy related items, which will continue to be referred to the full Combined Fire & Rescue Authority. Appropriate Officers of the Authority, ie the Clerk to the Fire & Rescue Authority and the Head of Human Resources will advise the Personnel Committee.

Terms of Reference

Grading Appeals

To hear and decide on grading appeals and appeals relating to equal pay. Decisions of the Personnel Committee are to be without prejudice to any rights of the individual to pursue matters elsewhere.

Grievances, Recruitment, Appeals, Complaints, etc

To hear appeals brought to Member level through formal processes, eg grievance and harassment complaints procedures and recruitment appeals. Decisions of the Personnel Committee are to be without prejudice to any rights of any party to pursue matters elsewhere.

Appointments to the Post of Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer

To act as the Appointing Body for the post of Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer. To select for shortlist and interview and to appoint to the post of Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer.

3. Standards Board

Membership

3 Members of the Authority (one from each political group) and one independent co-opted Member.

Terms of Reference

To promote and maintain high standards of conduct by Members and co-opted Members.

To advise the Authority on the adoption or revision of its code of conduct, to monitor its operation and to assist Members and co-opted Members in observing it.

To arrange training and advice for Members and co-opted Members on matters relating to the Authority's code of conduct.

To consider matters referred to it under relevant legislation.

Model Code of Conduct

General Provisions

Scope

- a. A Member must observe the Authority's code of conduct whenever he:-

conducts the business of the Authority;
conducts the business of the office to which he has been elected or appointed; or
acts as a representative of the Authority, and references to a Member's official capacity shall be construed accordingly.
- b. An Authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a Member undertaken other than in an official capacity.
- c. Where a Member acts as a representative of the Authority –

on another relevant Authority, he must, when acting for that other Authority, comply with that other Authority's code of conduct; or

on any other body, he must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- d. In this code, "Member" includes a co-opted Member of an Authority.

General Obligations

A Member must:-

- a. promote equality by not discriminating unlawfully against any person;
- b. treat others with respect; and
- c. not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

A Member must not:-

- a. disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
- b. prevent another person from gaining access to information to which that person is entitled by law.

A Member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or Authority into disrepute.

A Member:-

- a. must not be in his official capacity, or any other circumstance, use his position as a Member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
- b. must, when using or authorising the use by others of the resources of the Authority,
 - (i) act in accordance with the Authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which the Member has been elected or appointed.

A Member must when reaching decisions have regard to any relevant advice provided to him by:-

- a. the Authority's Chief Finance Officer acting in pursuance of his duties under Section 114 of the Local Government Finance Act 1988 or an equivalent provision in any regulations made under Section 6(6) of the Local Government and Housing Act 1989; and
- b. the Authority's Monitoring Officer acting in pursuance of his duties under Section 5(2) of the Local Government and Housing Act 1989.

A Member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the Authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

Interests

Personal Interests

A Member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 13 and 14 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers, or inhabitants of the Authority's area, the well-being or financial position of himself, a relative or a friend or:-

- a. any employment or business carried on by such persons;
- b. any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- c. any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- d. any body listed in sub-paragraphs (a) to (e) of paragraph 14 below in which such persons hold a position of general control or management.

In this paragraph:-

- a. "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- b. "partner" in sub-paragraph (2)(a) above means a Member of a couple who live together.

Disclosure of Personal Interests

A Member with a personal interest in a matter who attends a meeting of the Authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Prejudicial Interests

Subject to next paragraph, a Member with a personal interest in a matter also has a prejudicial interest in that matter if 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 the Member's judgement of the public interest.

A Member may regard himself as not having a prejudicial interest in a matter if that matter relates to:-

- a. another relevant Authority of which he is a Member;
- b. another public Authority in which he holds a position of general control or management;
- c. a body to which he has been appointed or nominated by the Authority as its representative;
- d. the housing functions of the Authority where the Member holds a tenancy or lease with a relevant Authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the Member's tenancy or lease;
- e. the functions of the Authority in respect of school meals, transport and travelling expenses, where the Member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
- f. the functions of the Authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of such pay from a relevant Authority; and
- g. any functions of the Authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

Participation in Relation to Disclosed Interests

A Member with a prejudicial interest in any matter must:-

- a. withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation^[37] from the Authority's standards committee; and
- b. not seek improperly to influence a decision about that matter.

For the purposes of this Part, "meeting" means any meeting of :-

- a. the Authority; or
- b. any of the Authority's committees, sub-committees, joint committees, joint sub-committees, or advisory committees.

The Register Of Members' Interests

Registration of Financial and Other Interests

Within 28 days of the provisions of an Authority's code of conduct being adopted or applied to that Authority or within 28 days of his election or appointment office (if that is later), a Member must register his financial interests in the Authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the Authority's monitoring officer of:-

- a. any employment or business carried on by him;
- b. the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
- c. the name of any person, other than a relevant Authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
- d. the name of any corporate body which has a place of business or land in the Authority's area, and in which the Member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- e. a description of any contract for goods, services or works made between the Authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- f. the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the Authority;
- g. the address or other description (sufficient to identify the location) of any land where the landlord is the Authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and

- h. the address or other description (sufficient to identify the location) of any land in the Authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.

Within 28 days of the provisions of the Authority's code of conduct being adopted or applied to that Authority or within 28 days of his election or appointment to office (if that is later), a Member must register his other interests in the Authority's register maintained under Section 81 (1) of the Local Government Act 2000 by providing written notification to the Authority's Monitoring Officer of his membership of or position of general control or management in any:-

- a. body to which he has been appointed or nominated by the Authority as its representative;
- b. public authority or body exercising functions of a public nature;
- c. company, industrial and provident society, charity, or body directed to charitable purposes;
- d. body whose principal purposes include the influence of public opinion or policy; and
- e. trade union or professional association.

A Member must within 28 days of becoming aware of any changes to the interests specified under paragraphs 13 and 14 above, provide written notification to the Authority's monitoring officer of that change.

Registration of Gifts and Hospitality

A Member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the Authority's monitoring officer of the existence and nature of that gift or hospitality.

5. Improvement and Development Board

Membership

6 Members of the Authority comprising four Labour and two Conservative Group Members.

Introduction

The Improvement and Development Board (IDB) is an ad hoc panel comprising six Members of the Nottinghamshire and City of Nottingham Fire & Rescue Authority and as such will have Elected Members appointed to it from the Fire & Rescue Authority on the basis that the Fire & Rescue Authority shall determine. A quorum will be two elected Members.

In addition there will be representation from officers and representative bodies.

The IDB will be chaired by the chair of the Fire & Rescue Authority or another Member as required.

The IDB will meet at least four times per annum on a programme designed to integrate with the set meeting dates of the Fire & Rescue Authority. The meeting dates will be approved by the Fire & Rescue Authority in its annual meeting publication list, but this will not stop the elected Members adding, deleting or changing dates.

The role of IDB is a discussion/advisory forum not a decision making forum therefore any outcomes from Improvement and Development Board will go to Fire & Rescue Authority for approval.

Role of The Improvement and Development Board

The ethos behind Improvement and Development Board is to aid the service to develop in the future by learning from the past, assisting with the present, and looking forward to providing direction for the future. The purpose of this is to assist in the development of a learning organisation that links together the political, employee and managerial perspectives.

IDB is not an addition or substitute for the approved negotiating, grievance or discipline processes of the Authority or Organisation. At no time will it engage in these areas of activity.

The Role of IDB will be to look at three distinct areas of service performance. These briefly being:

Past Performance – where it will continue with it's previous role relating to Best Value.

Current Performance – Where Elected Members will be able to enquire into current activity so as to assist in development.

Future Vision – the purpose is to enable the Service to link and engage with the Political priorities of the Authority via its Business Planning process.

IDB will act as the link between the Fire & Rescue Authority and the Fire and Rescue Service Performance Management Group. As such IDB will receive the minutes of the Performance Management Group.

In addition IDB will regularly be presented with up to date Performance Indicators so that the organisations progress can be assessed.

Specific References

Past Performance

Review current performance in comparison with previous performance using a range of agreed performance indicators.

Ensure that appropriate action plans are put in place to address areas where targets have not been met.

Review and evaluate external consultation processes.

Over see and direct Best Value reviews as required by legislation.

Current Performance

Monitor and enquire into selected aspects of the Fire and Rescue Services current performance.

Monitor and enquire into the business planning process with emphasis on the integration of team plans, section plans, departmental plans and the service plan, so as to aid the linkage between plans and the Authority's priorities.

Monitor and enquire into the content of the business plans described above.

Undertake sample audit trails following specific elements of the Business Plans from the bottom to top of the organisation.

Encourage the Performance Management Group in its ownership of performance and planning, and request appropriate feedback through the performance review process.

Encourage the engagement of Fire & Rescue Authority Members in the day to day activities of the Fire and Rescue Service, so as to aid the Service to achieve its objectives.

Ensure that there is clear direction from the Fire & Rescue Authority that is reflected in the Fire and Rescue Services aims, objectives and aspirations.

Aid with current internal and external communication processes.

Future Vision

Ensure that an annual Integrated Risk Management Plan is produced.

Ensure that the methodology used to produce the Integrated Risk Management Plan is robust, valid and appropriate.

Ensure that Framework Document issues are incorporated into IRMP and the wider planning process.

Ensure that the future direction, development and improvement of the Fire and Rescue Service are influenced by the findings of the annual Integrated Risk Management Plan.

Ensure that, within the business planning for the Fire and Rescue Service, regard is given to the regional strategic objectives set by the Regional Management Board.

Assist with the establishment of future performance indicators that meet the changing needs of the Authority and the Service.

Establish areas of future improvement that have not previously been highlighted by the performance management structure.

Assist with the design of future communication structures.

6. Ad-Hoc Members' Group on Equalities

Membership

4 Members of the Authority comprising three Labour Group and one Conservative Group Members.

Terms of Reference

The Group considers equality and diversity issues in depth and advises the Fire & Rescue Authority on these.

NOTTINGHAMSHIRE FIRE & RESCUE SERVICE



POLICY ON THE CONFIDENTIAL REPORTING OF CONCERNS IN THE WORKPLACE

**CONFIDENTIAL REPORTING POLICY
April 2003**

CONTENTS

1.	INTRODUCTION	3
2.	THE POLICY	
	2.1 Authority of the Policy	3
	2.2 Scope of the Policy	3
	2.3 The Policy	4
3.	REPORTING CONCERNS	5
4.	THE RESPONSIBLE OFFICER	6
5.	SAFEGUARDS	6
6.	TAKING FURTHER ACTION	7
7.	GUIDANCE NOTES	8
8.	Appendices	
	Appendix A List of external contacts	9

1. Introduction

- 1.1 Staff are often the first to realise that there is something wrong within the organisation. However they may not express their concerns because of fear of recrimination through harassment and victimisation or believe that it is simply not their business. They may also feel that they are being disloyal to their colleagues and the organisation. In these circumstances, it might be considered easier to ignore the concern rather than make what might be a just suspicion of malpractice.
- 1.2 The Public Interest Disclosures Act provides protection for employees from harassment and victimisation as a result of identifying malpractice. This is providing the disclosure of such matters is clearly in the public interest and is made in good faith. "The policy does not replace the existing channels for raising complaints in relation to work issues, i.e. via the grievance procedure or through the Joint Consultative process".
- 1.3 This policy and guidance note outlines the steps staff should take to bring serious situations to the attention of the Service and indicates how matters can be expedited thoroughly, discreetly and in a confidential way.
- 1.4 We believe in openness and honesty and are committed to the highest levels of accountability. This procedure for reporting concerns at work makes clear that you can do so without fear of victimisation, harassment, discrimination or disadvantage.

2. The Policy

2.1 Authority of the Policy

The Policy represents the position held by Nottinghamshire and City of Nottingham Fire Authority in respect of the confidential reporting of incidence of wrongdoing in terms of breach of criminal or civil law or mal-administration that may amount to a breach of the law. The Head of Human Resources will assume responsibility for its implementation and monitoring.

2.2 Scope of the Policy

The policy applies to all Authority personnel, its customers and those who provide it with goods and services.

The policy serves to:

- Remind them of their duty to report serious concerns
- Encourage them to feel confident in raising such concerns and to question and act as appropriate
- Provide avenues for them to raise those concerns and receive feedback on any action taken.
- Make sure that they receive a response to their concerns and are aware of how to pursue them if not satisfied, and
- Reassure them that they will be protected from possible reprisals or victimisation if they have reasonable belief that they have acted in good faith.

2.3 The Policy

Nottinghamshire Fire and Rescue Service values its employees and respects their right to fair and reasonable treatment at work. Working practices should be based on openness, accountability and integrity. Where this is not the case, employees have the right to question and report their concerns and expect to have them dealt with effectively with due regard to confidentiality.

The policy is intended to cover the following concerns:

- Conduct that is an offence or breach of the law
- Disclosures related to the miscarriage of justice
- Health and safety risks, including risks to the public as well as staff
- Damage to the environment
- Unauthorised use of public funds
- Possible fraud, corruption or other financial irregularity
- Other unethical conduct
- Serious concerns about any aspect of service provision or the conduct of officers, Members or others acting on behalf of the Service can also be reported under the Confidential Reporting Policy. This may include:
 - Worries about standards that, from experience, you do not believe the Brigade subscribes to
 - Something that falls below established standards of practice
 - Something that is against Service policies
 - Things that amount to improper conduct

2.4 The policy is not intended to replace the existing procedure for raising individual grievances. Advice should be sought to determine the correct procedure to be followed in any given circumstance.

3. Reporting Concerns

3.1 Where concerns exist they should be reported at the earliest opportunity. You should raise these with your immediate Line Manager where possible. This will be dependent on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. Where appropriate your Line Manager will bring the issue to the attention of the Head of Department.

Where the issue is of a more serious nature or you feel unable to raise it with your Line Manager you should raise your concern either personally or in writing to:

The Assistant Chief Fire Officer (Information Services)
Nottinghamshire Fire & Rescue Service
Bestwood Lodge
Arnold
Nottingham NG5 8PD

All correspondence should be marked 'PRIVATE AND CONFIDENTIAL'

3.2 Although concerns raised anonymously will be investigated, it is preferable that employees identify themselves to enable further contact to be made if additional information or clarification of any point is required. You are not expected to prove beyond doubt the truth of any allegation. However, you will need to be prepared to demonstrate that there are reasonable grounds for your concern.

- 3.3 You may wish to consider discussing your concern with a colleague first as you could find it easier to express your concerns about the matter if others have had similar experiences or share the same concern. You may also wish to inform or seek advice from your Trade Union, which can raise the issue on your behalf if you do not feel confident about doing so yourself.
- 3.4 Once a report has been submitted you will be advised of the next steps and any applicable timetable. At this stage of the process, confidentiality will be maintained by both parties to ensure that the matter can be dealt with in the appropriate way, avoid prejudice and protect individual rights.
- 3.5 In some cases, it may not always be possible to preserve the confidence between the employee and the Brigade Responsible Officer if the matter reported is serious enough to involve agencies such as the police or other external agency such as the Health and Safety Executive.
- 3.6 In responding to your concern it will be necessary to 'test' the ground. This should not be seen as either an acceptance or rejection of your concern. In all cases a management investigation will take place. Dependent on the seriousness of the allegations it may be necessary to refer it outside the Brigade to external auditors, the police or be subjected to an independent inquiry.
- 3.6 You will be informed of the outcome of any investigation. This will be subject to any legal constraints that may apply due to the nature of the issue.
- 3.7 Nottinghamshire Fire and Rescue Service will take all necessary steps to minimise any difficulties that you may experience as a result of raising a concern. If for instance you are required to give evidence in disciplinary or criminal proceedings, then arrangements will be made for you to receive advice and guidance about the procedures.
- 3.8 There may be instances when a concern is raised based on a genuine belief that something is wrong at a particular time, but is subsequently demonstrated to be false or inaccurate. In such circumstances, you will be advised accordingly. Provided that the Service is satisfied that you acted in good faith and had a genuine belief that such a situation should be reported, no further action will be taken. However, anyone raising malicious concerns i.e. knowingly reporting a false allegation of misconduct or malpractice with the intent of discrediting another individual or the Service, then the individual raising the complaint may be subject to the appropriate disciplinary procedures.

4. Responsible Officer

- 4.1 The Assistant Chief Fire Officer (Information Services) will have overall responsibility for the policy and any concern that cannot be dealt with through the line management chain should be directed to that person. If your concern relates to the conduct of that person then this should be raised with another member of the Brigade Management Team. If you do not feel sufficiently confident in any member of this team then you should consider raising your concerns with The Clerk to the Fire Authority:

(Nottingham City Council, City Secretaries' Department, Guild Hall, South Sherwood Street. NG1 4BT)

5. Safeguards

- 5.1 The decision to report your concerns can be a difficult one to make. If what is being said is true then there should be nothing to fear because you will be performing a duty to the public and the Service.
- 5.2 Nottinghamshire Fire and Rescue Service will not tolerate any harassment or victimisation and will take the necessary action to protect you if you raise a concern in good faith. Your status within the Brigade will not influence any investigation into allegations of malpractice.
- 5.3 Details of the allegations or any subsequent investigation will not be retained as part of your personal record.

6. Taking Further Action

- 6.1 This policy is intended to provide you with a means of raising concerns within the Service. It is hoped that this policy will satisfy your concerns with the actions taken. However if you feel that it is right to raise the issue outside of the Service then the following are possible points of contact:
- Your local Citizen Advice Bureau
 - The External Auditor
 - The police
 - Other professional or regulatory organisations. E.g. Data Protection Registrar
 - Public Concern at Work, an independent organisation established to offer helpline advice on such matters
 - Local Government Ombudsman

(See Appendix A for more details)

7. Guidance Notes

7.1 When to use the Policy

If an incident occurs that causes you concern ask yourself some questions:

- Is this situation unacceptable to me?
- Is this wasteful?
- Could this be done better?

If the answer is yes then consider using the policy. You may wish to seek confirmation by speaking with others first. However you must remember that you are expected to raise concerns in good faith and can expect matters to be investigated properly and fairly.

7.2 Managers

In responding to staff concerns, managers should:

- Be responsive to staff concerns
- Make a note of the details
- Evaluate the allegation objectively
- Notify the appropriate person
- Keep staff informed

Managers should avoid:

- Being dismissive of suspicions raised by staff
- Conveying suspicions to anyone other than the appropriate person(Retain confidentiality)
- Approaching or making accusations directly
- Attempting to investigate the matter themselves

7.3 The Brigade (Responsible Person)

The Service through the Responsible Person or nominated officer will:

- Respond to staff concerns
- Investigate the allegations objectively
- Deal with matters promptly
- Deal with matters confidential
- Give feedback to the person raising concerns

Outside Agencies that may be contacted

Citizens Advice Bureau
Castle Gate House
Castle Gate
Nottingham

Data Protection Registrar
Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

External Auditors
PricewaterhouseCoopers
Victoria House
Milton Street
Nottingham

Health and Safety Executive
The Pearson Building
55 Upper Parliament Street
Nottingham

Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO 30 5FZ

Police
Your Local Police Station

Public Concern at Work
Suite 306
16 Baldwins Gardens
London
EC1N 7RJ

Trade Union Representative

Appendix A

1

Introduction

Under the *Local Authorities (Code of Conduct) (Local Determination) Regulations 2003*, Ethical Standards Officers (ESOs) can refer completed investigation reports to monitoring officers for Standards Committees to determine (decide) whether or not a member has failed to follow the Code of Conduct and, if so, what penalty should be applied, if any.

Standards Committees should be familiar with the regulations and have effective procedures in place to make sure that they can determine cases fairly and consistently.

The process for dealing with matters at a local level should be the same for all members, no matter what political party they represent or what level of local government they represent. Standards Committees of district and unitary authorities fulfil the same role in relation to parish and town councils in their area. In this case, Standards Committees can set up sub-committees to deal with town and parish council matters.

Standards Committees only have the power to determine whether or not

a member has failed to follow the Code of Conduct following a referral from an ESO. If someone makes an allegation about a member's conduct direct to the authority, it should refer the matter to The Standards Board for England for consideration, provided the person making the allegation has not done so already. If The Standards Board for England does not refer an allegation to an ESO for investigation, the Standards Committee of the authority involved may still want to consider whether general lessons can be learnt from the allegation or incident.

A decision by The Standards Board for England not to refer a matter for investigation does not prevent the Monitoring Officer having an informal discussion with the member concerned about the incident that gave rise to the allegation and how similar incidents might be avoided in future.

Please note that the local determination regulations do not cover investigations at a local level. The Office of the Deputy Prime Minister plans to issue more regulations to provide a framework for ESOs to refer matters to monitoring officers for investigation.

Standards Committee determinations
Guidance for monitoring officers and Standards Committees

[The local determination process](#)

The main purpose of the Standards Committee's hearing is to decide whether or not a member has failed to follow the authority's Code of Conduct and, if so, to decide whether or not any penalty should be applied and what form any penalty should take.

This section provides practical procedural information for Standards Committees on how to prepare for and hold a hearing and tell the relevant people of the decision.

[ESO referrals](#)

The Standards Board for England carefully assesses all the allegations that it receives. It considers, among other things, the seriousness of the allegation and makes a judgement as to whether or not the allegation should be investigated. If The Standards Board for England believes an investigation is needed, it will pass the matter to an ESO.

ESOs work for The Standards Board for England but their responsibilities and powers are set out in the *Local Government Act 2000*. Neither The Standards Board for England nor the Government can interfere with an investigation by an ESO.

An ESO will investigate an allegation referred by The Standards Board for England to decide which of the following four findings is appropriate in the circumstances:

- 1 there is no evidence that the member has failed to follow any part of the Code of Conduct;
- 2 no action needs to be taken in relation to the matters investigated;
- 3 the matter should be referred to the Monitoring Officer of the relevant authority for local determination; or
- 4 the matter should be referred to The Adjudication Panel for England.

[What will ESOs refer?](#)

Matters that the ESO is likely to refer for local determination include:

3

- matters that are of an entirely local nature and do not affect broader national issues; and
- matters that do not appear to need the heavier penalties available to The Adjudication Panel for England.

However, ESOs will refer matters on a case-by-case basis as all the relevant circumstances will need to be considered. An ESO is unlikely to refer a case where it would be difficult or inappropriate to try to resolve it locally, for example, if there is an allegation that serious bullying and harassment has taken place in the authority.

When an ESO refers a matter to the Monitoring Officer of the relevant authority, the Monitoring Officer must arrange for the authority's Standards Committee to consider the ESO's report and determine the matter. Under the local determination regulations, an ESO will only refer a matter to a Standards Committee after completing his or her investigation. Standards Committees should not re-open the investigation. However, the member who the allegation has been made about has the right to give relevant evidence to the Standards Committee and, if more evidence becomes available after the completion of the ESO's investigation, the Standards Committee may consider that evidence during the course of its hearing.

Timing of the Standards Committee hearing

The Standards Committee must hold a hearing in relation to an allegation within three months of the Monitoring Officer receiving the ESO's report. When the Monitoring Officer receives a report, he or she must give a copy of that report to the member who the allegation has been made about. Normally, hearings should take place at least 14 days after the member who the allegation has been made about receives a copy of the ESO's report from the Monitoring Officer. However, the hearing can be held less than 14 days after the member receives a copy of the ESO's report if the member agrees.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

If the member who the allegation has been made about does not go to the hearing, the Standards Committee may consider the ESO's report in the member's absence. If the Standards Committee is satisfied with the member's reason for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

If the Standards Committee does not hear the matter within three months of receiving the ESO's report, the committee will be failing in its legal duty and may face judicial review proceedings. The committee cannot refer the matter back to The Standards Board for England.

Scheduling a hearing

Except in complicated cases, Standards Committees should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. When scheduling hearings, committees should bear in mind that late-night hearings are not ideal for effective decision-making.

The pre-hearing process

Authorities should use a pre-hearing process to:

- identify whether the member who the allegation has been made about disagrees with any of the findings of fact in the ESO's report;
- decide whether or not those disagreements are significant to the hearing;
- decide whether or not to hear evidence about those disagreements during the hearing;
- decide whether or not there are any parts of the hearing that should be held in private; and
- decide whether or not any parts of the ESO's report or other documents should be withheld from the public.

It is important for everyone involved to recognise that the pre-hearing process will only deal with procedural issues.

5

Format

The pre-hearing process should usually be carried out in writing, although occasionally a face-to-face meeting between the Chair, the people involved and their representatives may be necessary.

The member's response

The officer providing administrative support to the Standards Committee, in consultation with the Chair of the committee, should write to the member concerned to propose a date for the hearing, outline the hearing procedure and the member's rights. They should also ask for a written response from the member, within a set time, to find out whether or not he or she:

- disagrees with any of the findings of fact in the ESO's report, including the reasons for any disagreements;
- wants to be represented at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Standards Committee, either verbally or in writing;
- wants to call relevant witnesses to give evidence to the Standards Committee;
- wants any part of the hearing to be held in private;
- wants any part of the ESO's report or other relevant documents to be withheld from the public; and
- can come to the hearing.

We recommend that Standards Committees ask members to make clear all the disagreements with the findings of fact in the ESO's report during this pre-hearing process. This will allow the committee to decide what witnesses will be needed. Standards Committees should not allow members to raise new disagreements over findings of fact in the ESO's report at the hearing unless there are good reasons for doing so, such as new evidence becoming available.

There are model forms to help the member respond to the Standards Committee in Appendix 1. These include forms to identify any findings of fact that he or she disagrees with (Form A) and outline any further evidence for the Standards Committee (Form B).

Standards Committee determinations

Guidance for monitoring officers and Standards Committees

The ESO's response

The Standards Board for England recommends that the Standards Committee also invites the relevant ESO to comment on the member's response, within a set time, to say whether or not he or she:

- wants to be represented at the hearing;
- wants to call relevant witnesses to give evidence to the Standards Committee;
- wants any part of the hearing to be held in private; and
- wants any part of the ESO's report or other relevant documents to be withheld from the public.

Other witnesses

The Standards Committee may also arrange for any other witnesses to be present who it feels may help in determining the case, including the person who made the original allegation. However, the committee cannot order witnesses to appear or give evidence.

The pre-hearing process summary

When the Standards Committee has received a response from the member concerned and the ESO, the Chair of the Standards Committee, in consultation with the legal advisor to the committee, should then write to everyone involved at least two weeks before the hearing to:

- set the date, time and place for the hearing;
- summarise the allegation;
- outline the main facts of the case that are agreed;
- outline the main facts which are not agreed;
- note whether the member concerned or the ESO will go to

or be represented at the hearing;

- list those witnesses, if any, who will be asked to give evidence; and
- outline the proposed procedure for the hearing.

There is a checklist for this pre-hearing process summary document in Appendix 1 (Form F).

7

The hearing

Standards Committees should work fairly and in a way that encourages the confidence of members and the public. The model hearing procedures (in Appendix 2) are intended to give Standards Committees a consistent approach to determining matters locally. The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

The Standards Committee

Under current law, a Standards Committee may not delegate (allocate responsibility for) determination of a case to a sub-committee. However, a case relating to a town or parish councillor can be delegated to a sub-committee which has been set up to deal with town and parish council matters. All members of the Standards Committee may take part in a hearing if they choose. However, we recommend that a small number of members (three or five) take part in the determination as it is fairer and more efficient to hold a hearing before a small group.

Proposed amendments in the Local Government Bill, which is currently before Parliament, will allow Standards Committees to formally delegate responsibility for local determinations to a sub-committee.

Currently, at least three members of the Standards Committee, including at least one who is an independent member of the committee, must be present at each meeting. If a case relates to a parish councillor, one of the committee members present must be a parish councillor.

If the proposed amendments in the Local Government Bill come into force, we recommend that the Standards Committee sets up a panel of three or five members to make determinations on cases of misconduct. When it is determining a case, the Standards Committee should be recognised as truly fair and politically unbiased, so that members of the public and members of the authority have confidence in its procedures and findings.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

To encourage confidence and remove any perception of political interference, we recommend that one of the independent members of the Standards Committee chairs the hearing.

Representatives

The member who the allegation has been made about may choose to be represented by counsel or a solicitor, or any other person they wish. If the member concerned wants to have a non-legal representative, the member must tell the Standards Committee in advance. The Standards Committee should normally give permission for members to be represented by a person they choose, but may refuse permission if the representative is directly involved in the matter being determined.

The Standards Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Witnesses

Although the member who the allegation has been made about is entitled to call any witnesses he or she wants, the Standards Committee may limit the number of witnesses if it believes the number called is unreasonable.

The Standards Committee also has the right to govern its own procedures as long as it acts fairly. For this reason, the Standards Committee may choose not to hear from certain witnesses if it believes that they will simply be repeating evidence of earlier witnesses or if a witness will not be providing evidence that will assist the Standards Committee to reach its decision.

Evidence

The Standards Committee controls the procedure and evidence presented at a hearing, including the way witnesses are questioned. The member who the allegation has been made about must be allowed to make representations, either verbally or in writing. If the member prefers, these representations can be made through his or her nominated

9

representative. The member who the allegation has been made about must also be given the opportunity to give evidence to the Standards Committee and call witnesses to give evidence.

In many cases, the Standards Committee may not need to consider any evidence other than the ESO's report. If more evidence is needed or if people do not agree with certain findings of fact in the ESO's report, the Standards Committee may need to hear from witnesses.

The Standards Committee can question witnesses directly. It can also allow witnesses to be questioned and cross-examined by the member who the allegation has been made about or the ESO or their representatives. The Standards Committee can ask that these questions be directed through the Chair.

The finding of the Standards Committee

Following its hearing, the Standards Committee can make one of the following findings:

- the member has not failed to follow the authority's Code of Conduct;
- the member has failed to follow the authority's Code of Conduct, but no action needs to be taken; or
- the member has failed to follow the authority's Code of Conduct and should be penalised.

Penalties

If the Standards Committee finds that a member has failed to follow the Code of Conduct and that he or she should be penalised, it may do any one or a combination of the following:

- censure the member. This is the only form of penalty available when dealing with a person who is no longer a member of the authority;
- restrict the member's access to the resources of the relevant authority for up to three months, which could include limiting his or her access to the premises of the relevant authority;
- suspend or partly suspend the member for up to three months; or
- suspend or partly suspend the member for up to three months on the

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any conciliation that the Standards Committee orders them to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee. Suspension or partial suspension will normally start immediately after the Standards Committee has made its decision. However, if the Standards Committee chooses, the penalty may start at any time up to six months following its decision. This may be appropriate if the penalty would otherwise have little effect on the member, for example, in the case of a suspension or partial suspension, if there are no authority or committee

meetings which the member would normally go to in the period following the conclusion of the hearing.

Periods of suspension or partial suspension set by a Standards Committee do not count towards the six-month limit for absences from authority meetings, after which a member would normally be removed from office under Section 85 of the *Local Government Act 1972*.

Deciding a penalty

When deciding a penalty, the Standards Committee should make sure that it is reasonable and in proportion to the member's behaviour. Before deciding what penalty to set, the Standards Committee should consider the following questions, along with any other relevant circumstances.

- What was the member's intention? Did the member know that he or she was failing to follow the Code of Conduct?
- Did the member get advice from officers before the incident? Was that advice acted on in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
- What was the result of failing to follow the Code of Conduct?
- How serious was the incident?
- Does the member accept he or she was at fault?
- Did the member apologise to the relevant people?

11

- Has the member previously been warned or reprimanded for similar misconduct?
- Has the member failed to follow the Code of Conduct before?
- Is the member likely to do the same thing again?

So, for example, if a member has repeatedly or blatantly misused the authority's information technology resources, the Standards Committee may consider withdrawing those resources from the member.

Suspension may be appropriate for more serious cases, such as those involving:

- bullying officers;
- trying to gain an advantage or disadvantage for themselves or others; or
- dishonesty or breaches of trust.

Penalties involving restricting access to an authority's premises or equipment should not unnecessarily restrict a member's ability to carry out his or her responsibilities as an elected representative or co-opted member.

There may be other factors, specific to the local environment, that the Standards Committee may also consider relevant when deciding what penalty to set.

When deciding on an appropriate penalty, the Standards Committee may want to consider decisions made by other Standards Committees and case tribunals drawn from The Adjudication Panel for England that deal with similar types of cases. To help Standards Committees, we will put appropriate summaries of Standards Committee decisions on our website at www.standardsboard.co.uk

Notice of the Standards Committee's findings

The Standards Committee should announce its decision at the end of the hearing. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the committee will normally also draft minutes of the meeting.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

As soon as is reasonably practical after the hearing, the Standards Committee must give its full written decision to the relevant people.

We recommend that the Standards Committee give its full written decision to those people within two weeks. The relevant people include:

- the member who is the subject of the finding;
- the ESO concerned;
- the Standards Committees of any other authorities concerned;
- any parish councils concerned; and
- any person who made the allegation.

Making the findings public

The Standards Committee must also arrange for a summary of the decision and reasons for that decision to be published in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities.

If the Standards Committee finds that a member did not fail to follow the authority's Code of Conduct, the public summary must say this, and give reasons for this finding. In these cases, the member involved is also entitled to ask that no summary of the decision should be passed to local newspapers.

If the Standards Committee finds that a member failed to follow the Code of Conduct, but that no action is needed, the public summary must say that the member failed to follow the Code, outline what happened and give reasons for the Standards Committee's decision not to take any action.

If the Standards Committee finds that a member failed to follow the Code and it sets a penalty, the public summary must say that the member failed to follow the Code of Conduct, outline what happened, explain what penalty has been set and give reasons for the decision made by the Standards Committee.

The Standards Committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.

13

Full written decision format

For consistency and thoroughness, we recommend that the Standards Committee use the following format for its full written decision. A model format for the full written decision is available on our website at www.standardsboard.co.uk

The front cover of the Standards Committee's full written decision should include:

- the name of the authority;
- the name of the member who the allegation has been made about;
- the name of the person who made the original allegation (unless there are good reasons for keeping his or her identity confidential);
- case reference numbers of the principal authority and The Standards Board for England;
- the name of the Standards Committee member who chaired the hearing;
- the names of the Standards Committee members who took part in the hearing;
- the name of the Monitoring Officer;
- the name of the ESO who referred the matter;
- the name of the clerk of the hearing or other administrative officer;
- the date of the hearing; and
- the date of the report.

The Standards Committee's full written decision should include:

- a summary of the allegation;
- the relevant section or sections of the Code of Conduct;

- a summary of the evidence considered and representations made;
- the findings of fact, including the reasons for them;
- the finding as to whether or not the member failed to follow the Code of Conduct, including the reasons for that finding;
- the penalties applied, if any, including the reasons for any penalties; and
- the right to appeal.

Standards Committee determinations

Guidance for monitoring officers and Standards Committees

Public access to hearings and documents

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair.

Confidential information and 'exempt information'

The regulations state that a modified version of the rules about access to information contained in Part VA of the *Local Government Act 1972* should apply to Standards Committees making local determinations. This means that there is a clear presumption that hearings should be held in public. There are two circumstances in which hearings (or parts of hearings) can or should be held in private.

1 A hearing must be held in private where this is necessary to prevent confidential information being revealed. Confidential information means information that has been provided by a Government department under the condition that it must not be revealed, as well as information that cannot be revealed under any legislation or by a court order.

2 The law also gives the Standards Committee the power to hold a private meeting to prevent 'exempt information' being revealed to the public. The categories of 'exempt information' are those set out in Schedule 12A to the *Local Government Act 1972* (see Appendix 3). However, the regulations also provide for four other categories of 'exempt information'.

a Information relating to the personal circumstances of any person.

b Information which must be kept confidential, for example, under a contract.

c Information relating to national security.

d The deliberations of the Standards Committee when hearing matters referred by an ESO.

The rules about confidential information are different from the rules about 'exempt information'. Standards Committees must hold some parts of a

¹⁵

meeting in private where confidential information is likely to be revealed. However, they have the discretion to decide whether or not to exclude the public if 'exempt information' may be revealed.

Deciding to withhold 'exempt information'

Standards Committees should carefully consider any decision to withhold exempt information from the public. Although the legal position is not entirely clear, The Standards Board for England advises that Standards Committees should follow Article 6 of the *European Convention on Human Rights*, as there may be an obligation to do so under Section 6(1) of the *Human Rights Act 1998*. But, in any case, the Standards Committee has a duty to act fairly and in line with the rules of natural justice.

Please note that Article 6 favours public hearings, except in specific circumstances, for example, in the interests of national security or to protect the private lives of everyone involved. Article 6 is discussed in Appendix 4.

If a Standards Committee decides to exclude the public to prevent 'exempt information' being revealed, it should only exclude the public for part of the proceedings. For example, if a witness' evidence is likely to

reveal 'exempt information', the public will only have to be excluded while that witness is giving evidence.

If evidence is heard in private, people should be warned not to mention that evidence during the public parts of the hearing, or outside the hearing. The Standards Committee may also need to use appropriate initials to protect the identity of witnesses during the hearing and in any public documentation.

[Access to documents](#)

The statutory rules about access to information which apply to Standards Committees do not simply relate to public attendance at hearings. They also establish the general principle that the agenda and reports to be discussed should be available for public inspection before and during a hearing. Copies of the agenda, reports and minutes of a hearing, as well as any background papers, must be available for public inspection for a Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

specific period of up to six years after that hearing has taken place. The ESO's report will be one of the reports before the Standards Committee. The regulations also state that the agenda, reports and minutes of district and unitary authority Standards Committee meetings must be sent to any parish councils involved.

Normally, the agenda and reports for a meeting must be made available to the public before the meeting. However, an officer appointed by the authority has the power to prevent any part of a report being made public if it relates to a part of the meeting which, in his or her opinion, is likely to be held in private. The Standards Board for England recommends that this power should be exercised where one of the people involved has requested that a document be kept confidential.

After a hearing, sections of the committee's reports which relate to parts of the hearing held in private will not have to be made available for public inspection. The same principle applies to the minutes of any hearing. When considering whether to exclude the public from a hearing, the Standards Committee will also need to say which parts of the reports before the committee are not to be made available for public inspection.

[Appeals to The Adjudication Panel for England](#)

The member who is the subject of a Standards Committee finding may apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding. Please see page 48 for contact details.

The President must receive the member's written application within 21 days of the member receiving notice of the Standards Committee's decision. In this application, the member must outline the reasons for the proposed appeal and whether or not he or she wants the appeal carried out in writing or in person.

When deciding whether or not to grant permission to appeal, the President will consider whether or not there is a reasonable chance of the appeal being successful, either in whole or in part.

17

The President will give the member concerned his or her written decision within 21 days of receiving the application. The President will also give his or her written decision to:

- the ESO concerned;
- the Standards Committee that made the original finding;
- the Standards Committees of any other authorities concerned;
- any parish councils concerned; and
- any person who made the allegation.

If the President refuses to give permission, he or she will explain

the reasons for that decision.

Appeal tribunals

If permission is granted, the President of The Adjudication Panel for England will arrange for a tribunal to deal with the member's appeal. The tribunal will be made up of at least three members appointed by the President and may include the President.

Any member of The Adjudication Panel for England with an interest in the matter may not be a member of the appeal tribunal. Likewise, any member of The Adjudication Panel for England who has been a member or officer of the authority concerned within the last five years cannot take part.

If the member does not agree to have the appeal carried out in writing, the appeal tribunal will hold a hearing. The tribunal must give the member at least 21 days' notice of the date of the hearing.

The member can be represented at the appeal hearing by counsel, a solicitor or any other person they choose. If the member wants to have a non-legal representative, the member must get permission from the tribunal beforehand, who may prevent that person acting as a representative if he or she is directly involved in the case.

The appeal tribunal can decide its own procedures. It is likely, however, that both the ESO and the Standards Committee will be given the opportunity to make representations in relation to the appeal and, in an appropriate case, to go to or be represented at the appeal hearing.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

If the member agrees to have the appeal carried out in writing, the tribunal may still decide to hold a hearing at which the member can attend in person and be represented as outlined above. However, the tribunal may choose to carry out the appeal entirely through written representations.

If, after being given reasonable notice, the member fails to go to or be represented at an appeal hearing, the tribunal may determine the matter in the member's absence. However, if the tribunal is satisfied that there is a good reason for the member's absence, it should postpone the hearing to another date.

Outcome of the appeal

The appeal tribunal will consider whether or not to uphold or dismiss the finding or part of the finding made by the Standards Committee.

If the tribunal upholds the Standards Committee's finding, or part of the finding, it may:

- approve the penalty set by the Standards Committee;
- require the Standards Committee to set a penalty if it has not already done so; or
- require the Standards Committee to set a different penalty to that already set.

If the tribunal dismisses the finding of the Standards Committee, the decision and any resulting penalty will no longer apply. The Standards Committee must act on any directions given by the appeal tribunal.

Notice of the appeal tribunal's decision

The appeal tribunal will give written notice of its decision to:

- the member who is the subject of the decision;
- the ESO concerned;
- the Standards Committee that made the original finding;
- the Standards Committees of any other authorities concerned;
- any parish councils concerned; and
- any person who made the allegation.

19

The tribunal will also publish a summary of its decision in one or more

of the newspapers circulating in the area of the authorities concerned.

Costs

Members are responsible for meeting the cost of any representation at a Standards Committee hearing or appeal tribunal.

The Office of the Deputy Prime Minister is looking into allowing authorities to cover the costs of members going to and being represented at hearings and appeal tribunals.

The role of the Monitoring Officer

Monitoring officers need to be aware of the potential conflicts involved in advising the Standards Committee and advising members.

Advising the Standards Committee

It is important that Standards Committees receive high quality, independent advice. For this reason, we recommend that a Monitoring Officer should be the main advisor to the Standards Committee, unless they have an interest in the matter that would prevent them from performing this role independently. If this situation arises, a Monitoring Officer should arrange for another appropriately qualified officer to advise the Standards Committee.

In advising the Standards Committee, the Monitoring Officer or other legal advisor's role is to:

- make sure that members of the Standards Committee understand their powers and procedures;
- make sure that the determination procedure is fair and will allow the allegation to be dealt with as efficiently and effectively as possible;
- make sure that the member who the allegation has been made about understands the procedures the Standards Committee will follow;
- provide advice to the Standards Committee during the hearing and their deliberations; and
- help the Standards Committee produce a written decision and a summary of that decision.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

Advising members

Monitoring officers play an important role in advising their members on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the Standards Committee at a later stage. However, conflicts of interest are not likely to arise simply from informal discussions between members and monitoring officers.

We recommend that monitoring officers consider options for reducing the likelihood of such conflicts, including:

- arranging for another officer to advise members; or
- continuing to advise members, identifying possible scenarios that may lead to future conflicts, and reassuring themselves that if their advice could be material to an investigation, they have another appropriately experienced officer who is prepared to support the Standards Committee in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the Standards Committee.

For more information

For more information about this guide or about The Standards Board for England more generally, please contact us on 0845 078 8181 or e-mail enquiries@standardsboard.co.uk. Or, please visit our website at www.standardsboard.co.uk

APPENDIX 1

Model documentation for the pre-hearing process

Authorities should use a pre-hearing process to:

- identify whether the member who the allegation has been made about disagrees with any findings of fact in the ESO's report;
- decide whether those disagreements are significant to the hearing;
- decide whether to hear evidence about those disagreements during the hearing;
- decide whether or not there are any parts of the hearings that should be held in private; and
- decide whether or not any parts of the ESO's report or other documents should be withheld from the public.

Below is a checklist for authorities to use before the hearing. At the end of Appendix 1 is model documentation to support it. The documentation is intended to give authorities a consistent approach to help them decide what the relevant issues are before the hearing itself. It is not compulsory.

Pre-hearing process checklist for authorities

The Monitoring Officer must give a copy of the ESO's referred report to the member who the allegation has been made about.

The officer providing administrative support to the committee, in consultation with the Chair of the committee, should:

- provide a copy of the Standards Committee's pre-hearing and hearing procedures to the member who the allegation has been made about;
- outline the member's rights and responsibilities;
- propose a date for the hearing;
- ask for a written response from the member by a set time to find out whether he or she:

– disagrees with any of the findings of fact in the ESO's report, including the reasons for any disagreements;

Standards Committee determinations

Guidance for monitoring officers and Standards Committees

– wants to be represented at the hearing by a solicitor, barrister or any other person, noting that the committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined;

– wants to give evidence to the Standards Committee, either verbally or in writing;

– wants to call relevant witnesses to give evidence to the Standards Committee;

– can come to the hearing on the proposed date;

– wants any part of the hearing to be held in private; and

– wants any part of the ESO's report or other relevant documents to be withheld from the public;

• send a copy of the member's response to the ESO and invite the ESO to say by a set time whether he or she:

– wants to be represented at the hearing;

– wants to call relevant witnesses to give evidence to the Standards Committee;

– wants any part of the hearing to be held in private;

– wants any part of the ESO's report or other relevant documents to be withheld from the public; and

– wants to invite any other witnesses the committee feels are appropriate.

The Chair of the committee, in consultation with the legal advisor to the committee, should then:

- confirm a date, time and place for the hearing;
- confirm the main facts of the case that are agreed;
- confirm the main facts which are not agreed;
- confirm which witnesses will give evidence;
- outline the proposed procedure for the hearing; and
- provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing.

23

Checklist for members

The officer providing administrative support to the committee, in consultation with the Chair of the committee, should make sure that the member who the allegation has been made about is aware of the following points.

Pre-hearing process

The member concerned has the right to:

- go to the hearing and present his or her case;
- call a reasonable number of witnesses to give relevant evidence to the Standards Committee; and
- be represented at the hearing by a solicitor, barrister or any other person, noting that the committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined.

Any disagreements with the findings of fact in the ESO's report must be raised during the pre-hearing process. The Standards Committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.

The member does not have to go to the hearing or be represented. If the member chooses not to go to the hearing, the committee may make a determination in his or her absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the Standards Committee is persuaded that there is good reason to exclude the public, in line with the relevant access to information and human rights legislation.

Hearing process

After considering the written and verbal presentations, the Standards Committee will reach and announce its findings of fact, whether or not the member has failed to follow the Code of Conduct and whether or not Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

a penalty should be set. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the Standards Committee will give the member concerned its full written decision within two weeks of the end of the hearing.

If the Standards Committee decides that the member has failed to follow the Code of Conduct and that the member should be penalised, it may do any one or a combination of the following:

- censure the member. This is the only form of penalty available when dealing with a person who is no longer a member of the authority;
- restrict the member's access to the resources of the relevant authority for up to three months, which could include limiting his or her access to the premises of the relevant authority;
- suspend or partly suspend the member for up to three months; or
- suspend or partly suspend the member for up to three months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any

conciliation that the Standards Committee orders them to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee.

Penalties may start immediately or up to six months after the hearing, if the Standards Committee wishes.

The Standards Committee will also arrange to publish a summary of its findings, reasons for its findings and any penalty set in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the Standards Committee finds that the member has not broken the Code, the member can ask the Standards Committee not to have this information published.

The member who is the subject of a Standards Committee finding has the right to apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding.

25

Pre-hearing process forms

These forms are a guide only. Authorities should prepare their own forms as appropriate.

Form A provides an example table to help the member identify any disagreements about the findings of fact in the ESO's report.

Form B helps the member set out any other evidence that is relevant to the allegation.

Form C helps the member set out any representations the Standards Committee should take account of if the member is found to have broken the Code of Conduct.

Forms D and E cover details of the hearing and the witnesses who will give evidence.

Form F is a checklist of what should be included in the pre-hearing process summary.

27

Please enter the number of any paragraph where you disagree with the findings of fact in the ESO's report, and give your reasons and your suggested alternative.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

FORM A

Member's response to the evidence set out in the ESO's report

Paragraph number Reasons for disagreeing with the findings of fact provided Suggestion as to how the paragraph should read

from the ESO's report in that paragraph

Please attach separate sheets if necessary.

29

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

FORM B

Other evidence relevant to the allegation

Paragraph number Details of the evidence

1

2

3

4

5

Please attach separate sheets if necessary.

31 Standards Committee determinations
Guidance for monitoring officers and Standards Committees
FORM C

Representations to be taken into account if a member is found to have failed to follow the Code of Conduct
Paragraph number Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension

1

2

3

4

5

Please attach separate sheets if necessary.

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a member has failed to follow the Code of Conduct.

Please note that no such finding has been made yet.

Standards Committee determinations
Guidance for monitoring officers and Standards Committees
FORM D

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

1

The proposed date for the YES Reason:

Standards Committee hearing is given in the accompanying letter. Are you planning to go NO to the hearing?

If 'No', please explain why.

2

Are you going to present your YES

own case?
NO

3

If you are not presenting your YES Name:

own case, will a representative present it for you? NO

If 'Yes', please state the name of your representative.

4 Is your representative a **YES** **Qualifications:** practising solicitor or barrister? If 'Yes', please give his or her **NO** legal qualifications. Then go to question **6**. If 'No', please go to question **5**.

5 Does your representative **YES** **Details:** have any connection with the case? **NO** If 'Yes', please give details.

6 Are you going to call any **YES** witnesses? If 'Yes', please fill in Form E. **NO**

7 Do you, your representative or **YES** **Details:** your witnesses have any access difficulties (for example, is wheelchair access needed)? **NO** If 'Yes', please give details.

8 Do you, your representative **YES** **Details:** or witnesses have any special needs (for example, is an interpreter needed)? **NO** If 'Yes', please give details.

9 Do you want any part of the **YES** **Reasons:** hearing to be held in private? If 'Yes', please give reasons. **NO**

10 Do you want any part of the **YES** **Reasons:** relevant documents to be withheld from public inspection? If 'Yes', please give reasons. **NO**

Please attach separate sheets if necessary.
Standards Committee determinations
[Guidance for monitoring officers and Standards Committees](#)

FORM E

Details of proposed witnesses to be called

Name of witness or witnesses **1**

2

3

WITNESS 1

a Will the witness give evidence **YES** **Outline of evidence:**
about the allegation?
If 'Yes', please provide an **NO**
outline of the evidence the
witness will give.

b Will the witness give evidence **YES** **Outline of evidence:**
about what action the Standards
Committee should take if it finds
that the Code of Conduct has **NO**
not been followed?
If 'Yes', please provide an
outline of the evidence the
witness will give.

35

WITNESS 2

a Will the witness give evidence **YES** **Outline of evidence:**
about the allegation?
If 'Yes', please provide an **NO**
outline of the evidence the
witness will give.

b Will the witness give evidence **YES** **Outline of evidence:**
about what action the Standards
Committee should take if it finds
that the Code of Conduct has **NO**
not been followed?
If 'Yes', please provide an
outline of the evidence the
witness will give.

WITNESS 3

a Will the witness give evidence **YES** **Outline of evidence:**
about the allegation?
If 'Yes', please provide an **NO**
outline of the evidence the
witness will give.

b Will the witness give evidence **YES** **Outline of evidence:**
about what action the Standards
Committee should take if it finds
that the Code of Conduct has **NO**
not been followed?
If 'Yes', please provide an
outline of the evidence the
witness will give.

Please attach separate sheets if necessary.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

FORM F

[Checklist for the pre-hearing process summary](#)

After the Standards Committee has received responses from the member

who the allegation has been made about and the ESO, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

- the name of the authority;
- the name of the member who the allegation has been made about;
- the name of the person who made the original allegation (unless there are good reasons to keep his or her identity confidential);
- case reference numbers of the principal authority and The Standards Board for England;
- the name of the Standards Committee member who will chair the hearing;
- the name of the Monitoring Officer;
- the name of the ESO who referred the matter;
- the name of the clerk of the hearing or other administrative officer;
- the date the pre-hearing process summary was produced;
- the date, time and place of the hearing;
- a summary of the allegation;
- the relevant section or sections of the Code of Conduct;
- the findings of fact in the ESO's report that are agreed;
- the findings of fact in the ESO's report that are not agreed;
- whether or not the member or the ESO will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

37

APPENDIX 2

Model hearing procedures for the Standards Committee

The Standards Committee needs to have an efficient and effective hearing process. This will help the committee to deal with all the issues that need to be resolved in a way that is fair to the member. It will also reduce the prospects of any successful appeal.

These model procedures are intended to give Standards Committees a consistent approach to determining matters locally. They are based on a model developed by Peter Keith-Lucas of Wragge and Co Solicitors. The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

Interpretation

1 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member's nominated representative.

2 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.

3 'Committee' also refers to 'a standards sub-committee'.

4 'Legal advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Standards Committee determinations

Guidance for monitoring officers and Standards Committees

Representation

5 The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee,

another person.

Legal advice

6 The committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the member and the investigator if they are present.

Setting the scene

7 After all the members and everyone involved have been formally introduced, the Chair should explain how the committee is going to run the hearing.

Preliminary procedural issues

8 The committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

9 After dealing with any preliminary issues, the committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

10 If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.

11 If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.

³⁹

12 The member should then have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

13 At any time, the committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

14 If the member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

15 If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

a continue with the hearing, relying on the information in the investigator's report;

b allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or

c postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.

16 The committee will usually move to another room to consider the representations and evidence in private.

17 On their return, the Chair will announce the committee's findings of fact.

Did the member fail to follow the Code?

18 The committee then needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.

19 The member should be invited to give relevant reasons why the committee should not decide that he or she has failed to follow the Code.

20 The committee should then consider any verbal or written representations from the investigator.

21 The committee may, at any time, question anyone involved on any point they raise in their representations.

22 The member should be invited to make any final relevant points.

23 The committee will then move to another room to consider the representations.

24 On their return, the Chair will announce the committee's decision as to whether or not the member has failed to follow the Code of Conduct.

If the member has not failed to follow the Code of Conduct

25 If the committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

If the member has failed to follow the Code

26 If the committee decides that the member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the member as to:

a whether or not the committee should set a penalty; and

b what form any penalty should take.

⁴¹

27 The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

28 The committee will then move to another room to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.

29 On their return, the Chair will announce the committee's decision.

Recommendations to the authority

30 After considering any verbal or written representations from the investigator, the committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The written decision

31 The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

APPENDIX 3

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by standards committees)

1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority.

2 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder appointed by:

a a magistrates' court committee;

b a probation committee within the meaning of the *Probation Service Act 1993*; or

c a local probation board within the meaning of the *Criminal Justice and Court Services Act 2000*.

2A Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the *Criminal Justice and Court Services Act 2000*.

3 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.

4 Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

5 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.

6 Information relating to the adoption, care, fostering or education of any particular child.

43

7 Information relating to the financial or business affairs of any particular person (other than the authority).

8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

10 The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.

12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:

a any legal proceedings by or against the authority; or

b the determination of any matter, affecting the authority.

(whether in either case, proceedings have been commenced or are in contemplation).

13 Information which, if disclosed to the public, would reveal that the authority proposes:

a to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

b to make an order or direction under any enactment.

14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

15 The identity of a protected informant.

16 Information relating to the personal circumstances of any person.

17 Information which is subject to any obligation of confidentiality.

18 Information which relates in any way to matters concerning national

security.

19 The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part III of the *Local Government Act 2000* in reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the *Local Government Act 2000*.

Source: Appendix 3 is an extract from the *Local Government Act 1972* (as modified in relation to local determination by Standards Committees).

Please note that Plain English Campaign's Crystal Mark does not apply to Appendix 3.

45

APPENDIX 4

Excluding the public from hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

1 At the hearing, the committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the committee considers that 'confidential information' is likely to be revealed during the hearing, the committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.

2 The committee also has the power to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are listed in Appendix 3. The committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The committee also has a duty to act fairly and in line with the rules of natural justice.

3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:

a morals;

b public order;

c justice;

d national security in a democratic society; or

e protecting young people under 18 and the private lives of anyone involved.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

4 There should be a public hearing unless the committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.

5 The committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'.

6 Conflicting rights often have to be balanced against each other. The

committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the committee) may interfere with this right unless it is:

a in line with the law; and

b necessary in a democratic society in the interests of:

i national security;

ii public safety;

iii the economic wellbeing of the country;

iv preventing crime or disorder;

v protecting people's health and morals (which would include protecting standards of behaviour in public life); or

vi protecting people's rights and freedoms.

⁴⁷

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

7 In relation to people's rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.

8 The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

Standards Committee determinations

[Guidance for monitoring officers and Standards Committees](#)

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Appendix B

1

Referring allegations

The *Local Government Act 2000* enables ethical standards officers to refer allegations that a member has breached the Code of Conduct to monitoring officers. The regulations set out the framework under which this can be done.

An ethical standards officer may refer an allegation at any point before they complete an investigation into the allegation. When considering whether to refer the allegation, ethical standards officers will use their discretion and take into account all relevant circumstances. For example, the ethical standards officer is more likely to refer those cases in which:

- the matter does not appear to need the heavier penalties available only to The Adjudication Panel for England;
- the allegation is of an entirely local nature and does not raise matters of principle;
- the initial investigation by an ethical standards officer has highlighted issues that are more to do with the effective governance of the authority than an individual's misconduct.

The ethical standards officer is less likely to refer cases if there is evidence that a local investigation would be perceived as unfair or biased or there

are any relevant local political issues that may have a bearing on the investigation.

When referring an allegation, the ethical standards officer will forward a copy of the allegation letter, along with any other significant information that they consider appropriate. Relevant legislation such as the *Data Protection Act 1998* and the *Human Rights Act 1998* may sometimes affect whether they are able to forward the original allegation letter. Where, for example, a letter contains allegations against multiple members but only one member is the subject of the investigation, the ethical standards officer may edit the allegation letter before sending it to you.

Ethical standards officers can also refer completed investigation reports to monitoring officers for local determination by a standards committee. This is a separate process explained in The Standards Board for England's guidance, *Standards committee determinations*.

Local investigations

Guidance for monitoring officers and standards committees

Disclosure of information

Section 63 of the *Local Government Act 2000* limits the circumstances in which information obtained by an ethical standards officer during an investigation can be disclosed. Any person who discloses information in breach of section 63 is guilty of an offence.

If an ethical standards officer refers an allegation to you part-way through an investigation into that allegation, under section 63 (as amended by the regulations), they are allowed to disclose any information that they have obtained during the investigation to enable you to carry out your duties. There may, however, be circumstances in which the ethical standards officer will be unable to disclose information — for example, where the Secretary of State has advised them that the disclosure would not be in the public interest.

The information that a monitoring officer obtains during the course of a local investigation is not covered by section 63 of the Act, but you should treat this information as confidential until the investigation is completed.

Directions

Not all referrals from an ethical standards officer will require investigation. Under the regulations, an ethical standards officer can decide that some form of action other than investigation or determination is required at a local level. This is most likely to happen in situations where the ethical standards officer considers that a case has broad relevance for the ethical governance of an authority. The ethical standards officer may, for example, direct you to make recommendations to your standards committee about wider issues for the authority raised by the case, or ensure that the parties concerned attempt some form of reconciliation.

You should report back to the ethical standards officer within three months of receiving the directions on the outcome of your actions or with details of your proposed actions. If an ethical standards officer is not satisfied with the action taken or proposed to be taken, they may require you to arrange for the publication of a statement giving details of the direction and your reasons for not fully implementing the direction.

3

Getting started

When an ethical standards officer refers an allegation for local investigation, in addition to sending it to you, they will notify the member who is the subject of the allegation, the person who made the complaint, and the clerk of any relevant town or parish council if the subject member is a town or parish councillor.

Regulation 5(2)(a) states that you must also inform these parties when you

receive a matter for local investigation. You should explain to them what will happen next, say that you will be in contact again, and provide any directions that you want to make regarding the forthcoming investigation.

Notifying the standards committee

At this stage, you should simply let your standards committee know that you are carrying out an investigation. In order to protect the confidentiality of your information, you should do this by confidential memo to the chair and all members. The memo should not name the complainant or the member against whom the allegation has been made, and should not be considered at a standards committee meeting. Keep the memo brief to avoid the perception of prejudice in your investigation and the subsequent standards committee determination.

Conducting your investigation

When carrying out local investigations, you should be aware at all times of your obligations under the *Data Protection Act 1998*, the *Human Rights Act 1998* and other relevant legislation.

We will publish a separate guide to conducting investigations at a later date. This will not be statutory guidance and is therefore not included here.

Evidence of new breaches

During the course of an investigation, you may uncover evidence of conduct by members that breaches the Code of Conduct but extends beyond the scope of the investigation referred to you.

Your powers relate only to the allegation that you have been given. If you uncover evidence of a possible breach that does not directly relate to the

Local investigations

Guidance for monitoring officers and standards committees

investigation, you should ask the person from whom you have obtained the information to make an allegation to The Standards Board for England, or make an allegation yourself. You should not investigate it.

Monitoring officers have no jurisdiction to investigate additional matters identified; only ethical standards officers have the power, under section 59(1)(b) of the *Local Government Act 2000*, to extend an investigation.

Referring cases back to ethical standards officers

During the course of an investigation, circumstances may arise that prompt you to ask an ethical standards officer to take the case back from you.

These circumstances could include:

- **Evidence of further breaches**

You may uncover evidence of a further possible breach that relates directly to the investigation, revealing, for instance, a consistent pattern of behaviour.

- **Obstruction of an investigation**

For example, where a member refuses to co-operate with your investigation. The member must be attempting to derail the investigation. The ethical standards officer is likely to accept a case back only if he or she believes you have genuinely been prevented from completing the investigation.

Cases where an officer obstructs an investigation are not a matter for The Standards Board for England. It may, however, be a disciplinary matter for your authority to consider under the terms of the officer's contract of employment.

When you request an investigation to be referred back, you must state in writing to the ethical standards officer the reasons why you believe it should be referred back. All requests should be made prior to the completion of your investigation.

You can ask an ethical standards officer to take a case back only once during the course of an investigation, so it is important to make sure you

are satisfied that it is the correct course of action to take.

5

The ethical standards officer will respond to your request within 21 days. They will either direct you to continue with your investigation or accept the matter back as requested.

Confidentiality

We appreciate that it may be difficult at times to ensure complete confidentiality about an investigation within your authority. Even so, during your investigation, it is good practice to treat the information that you gather as confidential. This will help to ensure that your investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as biased, and preserves the integrity of the investigation. (The fact that an investigation is being conducted does not need to remain confidential.)

We recommend that you also ask the people you interview, and anyone else aware of the investigation, to maintain confidentiality, and you should remind members of their obligation under paragraph 3(a) of the Code of Conduct not to disclose information that they have received in confidence. You should not disclose information obtained in an investigation unless:

- the disclosure will assist ethical standards officers to perform their statutory functions;
- the disclosure will assist the monitoring officer to perform his or her statutory functions;
- you have permission from the person to whom the information relates to disclose it;
- the information has already lawfully been made public;
- the disclosure is made for the purposes of criminal proceedings in the UK.

Any draft report that you issue on the outcome of the investigation should be marked as confidential, to preserve the integrity of any further investigation that you may need to undertake. Final reports should be made available for public inspection at your authority unless they contain confidential or exempt information as defined by part VA of the *Local Government Act 1972*.

Local investigations

Guidance for monitoring officers and standards committees

Information about confidentiality in relation to standards committee hearings is included in our guidance, *Standards committee determinations*.

Producing draft and final reports

When you have concluded your investigation, you should consider whether to produce a draft report before your final report. A draft report is issued to key parties in the investigation for review and comment, giving you the opportunity to check facts and ensure that all aspects of the case have been explored in sufficient detail.

When deciding whether to produce a draft report, ask yourself:

- Are the facts in the matter complex or ambiguous?
- Are the facts of the case disputed?
- Do the parties expect to receive a draft for comment?

Report checklist

Your report should contain the information listed below. The level of detail required will vary for each report, depending on the complexity of information to be considered and presented.

- a 'confidential' marking (draft reports only);
- a 'draft' or 'final' marking;
- the date;
- the legislation under which the investigation is being carried out;

- a summary of the allegation;
- the relevant sections of the Code of Conduct;
- evidence;
- your findings of fact;
- your reasoning;
- your finding as to whether there has been a failure to comply with the Code of Conduct.

Draft reports should also state that the report does not necessarily represent your final finding, and explain that you will present a final report to the standards committee once you have considered any comments received on the draft report.

7

Final reports should state that the report represents your final findings and will be presented to the standards committee, and include documents that you have relied on in reaching your conclusions, such as:

- background documents of telephone conversations, letters, and notes of interviews with witnesses;
- a chronology of events.

Issuing draft reports

If you decide to issue a draft report, copies should be sent to the complainant and the member who is the subject of the allegation for comment. You do not need to send the draft to other witnesses or parties interviewed, although you should confirm their statements before issuing the report. And you do not need to send it to the relevant parish clerk.

At this stage, members may make representations in whatever manner is most convenient for them. Responses to your draft may reveal the need for further investigation, or they may add nothing of relevance. There may be occasions when responses reveal a need for further investigation and result in such significant changes to the report that you may wish to consider whether to issue a second draft. Once you have considered whether the responses add anything of substance to the investigation, you will be able to make your final conclusions and recommendations.

Final reports

The final report should be sent to:

- the member who is the subject of the allegation;
- the person who made the allegation;
- the standards committee of your authority;
- the clerk of any relevant town or parish council;
- the ethical standards officer who referred the matter for investigation.

If you find that there has been no breach of the Code of Conduct, you should explain in a covering letter to the people listed above that the report will be sent to the standards committee for consideration.

Local investigations

Guidance for monitoring officers and standards committees

If you find that there has been a breach of the Code of Conduct, you should make clear that there will be a hearing into the allegations.

The report should be accompanied by information explaining the circumstances under which the standards committee may conduct a hearing into the allegations, and the procedure for these events.

Consideration of the final report

If you find that there **has not been a breach** of the Code of Conduct, the standards committee must decide at a meeting if it agrees with that finding.

At this meeting, the standards committee should simply consider the report; it should not seek to interview witnesses or take representations from the parties. The standards committee's role at this stage is to decide

whether, based on the facts set out in the report, it agrees with your finding or believes there is a case to answer.

If the standards committee agrees that the Code of Conduct has not been breached, you should arrange for a notice to be published. The notice should state the standards committee's finding, and give reasons for it. In these cases, the member involved is entitled to ask that the notice not be passed to local newspapers.

If the standards committee decides there is a case to answer, the full committee, or an appointed sub-group of the committee, will hold a hearing to make a final determination on whether the Code of Conduct was breached. The standards committee's decision to hold a hearing will be based on careful consideration of the information in your report and on other information given by witnesses.

Standards committees may, at this point, make recommendations to their authorities on matters arising from the report.

If you find that there **has been a breach** of the Code of Conduct, you must refer it to the standards committee, or an appointed sub-group of the committee, for determination.

9

Hearings

You will need to arrange a standards committee hearing if the final report concludes that there was a breach of the Code of Conduct or the standards committee, having considered a report that concludes there was no breach, decides there is a case to answer.

The hearing must be held within three months of issuing the final report. It must also be carried out in accordance with the *Local Authorities (Code of Conduct)(Local Determination) Regulations 2003* as amended by the 2004 regulations, and our guidance, *Standards committee determinations*.

During the course of a hearing, the standards committee may decide that it needs additional information in order to reach a decision. Under regulation 6(9), it can ask you to obtain further information or undertake further investigation. It can make this request only once per case.

On occasion, a standards committee may decide that the sanctions available to it are not adequate for the seriousness of the situation, or that the evidence indicates that the alleged breach is more serious than initially thought, and the case should be not be dealt with at the local level. In this situation, it may, under regulation 6(10), write to the ethical standards officer to request that the original allegation be referred back to the ethical standards officer for investigation. The standards committee must set out reasons why the case should be referred back. It can make this request only once and must be made before completion of the hearing.

The ethical standards officer must respond to the request within 21 days. Regulation 6(11) enables them to direct the standards committee to continue with the hearing or stop the hearing and recall the matter for further investigation. Where the ethical standards officer directs the standards committee to continue with the hearing, the hearing must be held within three months of the direction.

Penalties

If a standards committee finds that a member has failed to follow the Code of Conduct, it can impose a number of penalties. The scope of these penalties has been expanded since we published our previous

Local investigations

Guidance for monitoring officers and standards committees

guidance on standards committee determinations. *The Local Authority (Code of Conduct)(Local Determination)(Amendment) Regulations 2004* provide additional penalties and greater flexibility for standards committees, and apply both to cases investigated locally and to those

investigated by an ethical standards officer before being sent back to the standards committee for local determination.

Under the new regulations, standards committees can impose one, or any combination, of the following:

- censure the member;
- restrict the member's access to the premises and resources of the relevant authority for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the member's ability to perform his or her duties as a member;
- order the member to submit a written apology in a form satisfactory to the standards committee;
- order the member to undertake training specified by the standards committee;
- order the member to participate in a conciliation process specified by the standards committee;
- suspend, or partially suspend, the member for up to three months;
- suspend, or partially suspend, the member for up to three months, or until such time as the member submits a written apology that is accepted by the standards committee;
- suspend, or partially suspend, the member for up to three months, or until such time as the member undertakes any training or conciliation ordered by the standards committee.

Any conciliation process should have an agreed timeframe for resolution.

The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.

11

At the end of a hearing

As soon as is reasonably practical after the hearing, the standards committee must give its full written decision to the relevant people. We recommend that the standards committee give its full written decision to those people within two weeks.

Conflicts of interest

Monitoring officers have four main roles in relation to the Code of Conduct:

- to provide advice to the standards committee;
- to advise members who are the subject of an allegation and the person making the allegation;
- to deal with cases of alleged misconduct referred to them by an ethical standards officer (this is a statutory role that can be delegated);
- to advise members about conduct issues before any alleged misconduct takes place.

An investigation could potentially create a conflict of interest between these roles. For example, if you were asked to investigate an allegation against a member that you had advised on the same issue, it is likely that a conflict of interest would arise. In these situations, you should delegate the investigation to somebody else.

Advising standards committees

In previous guidance, we recommended that monitoring officers should act as main advisers to standards committees on cases referred by an ethical standards officer for local determination unless they have an interest in the matter that would prevent them from performing the role independently. It is vital that standards committees have access to appropriate advice on cases that have been referred for local investigation, as well as those

referred only for determination.

The Standards Board for England believes that you should not conduct an investigation and advise the standards committee on the same case. You therefore need to consider whether it is more important to investigate the matter and delegate the role of advising the standards committee or delegate the investigative role.

Personal conflicts

Take care to avoid any personal conflicts of interest. If you find that you have a direct or indirect interest in a local investigation — for example, you have a direct financial interest in the subject of the allegation or a family member or friend is involved — you must not participate. Instead, you should notify the standards committee, the member concerned, the complainant and the ethical standards officer, explaining:

- that you will not take part in the investigation;
- the nature of your interest;
- who will carry out the investigation in your place.

Delegation of investigations

Under section 113 of the *Local Government Act 2003*, monitoring officers can delegate investigations to their deputy or to any other person they wish to conduct a local investigation. As with monitoring officers, deputies and nominated people do not have to be legally qualified but are obliged to follow guidance issued for monitoring officers.

Under section 5(1)(b) of the *Local Government and Housing Act 1989*, local authorities must provide you with sufficient resources to perform your duties. Deputies have the right to the same support as monitoring officers. In many authorities, monitoring officers will be able to appoint a member of staff to carry out their investigation. Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities to make sure that an experienced officer is available to carry out an investigation, should the need arise. Authorities may also decide to hire suitable people from outside the organisation to carry out investigations.

To ensure that there is no confusion concerning the role and authority of the person delegated to conduct the investigation, monitoring officers should use a formally instituted procedure to record that they have delegated their investigative role to another person. You must inform an ethical standards officer if you delegate an investigation, in case they need to provide the investigator with more information.

Local investigations

Guidance for monitoring officers and standards committees

Introduction

In the guidance *How do I register and declare interests and register gifts and hospitality?* we outlined your general responsibilities to register and declare interests that might affect the performance of your duties as a member. But for members of lobby groups and members who sit on more than one relevant authority and other public bodies (dual-hatted members), deciding whether you have an interest, and whether that interest is personal or prejudicial, can sometimes be difficult. It can also be difficult to know when to rely on paragraph 10(2) of the Code of Conduct (paragraph 9(2) for parish councils) to allow you to participate in meetings.

This guide will help you decide how to act in these circumstances. It's in three parts:

- **Membership of lobby groups**

Practical advice and examples to help you understand when membership of a lobby or campaign group may give rise to personal and prejudicial interests, and other important principles and legal requirements to consider when you are making decisions.

- **Dual-hatted members and paragraph 10(2)**

Explains the interests that can arise from service on other authorities and public bodies, and provides practical advice and examples to help you decide when to rely on the paragraph to participate in meetings.

- **If you have a prejudicial interest**

Advice on what you can do if you have a prejudicial interest.

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

Membership of lobby groups

As a member of your authority, you are at the heart of local democracy, making a difference in people's daily lives. You represent people in your area and take forward concerns of individuals, neighbourhoods and interest groups, drive change, participate in community and action groups, and make decisions for the benefit of the community as a whole. Sometimes, these roles and responsibilities conflict, and you need to strike a balance between representation, driving change and ensuring the

authority can even-handedly decide matters on their merits — and be seen to be doing so.

Remember that the Model Code of Conduct is not the only thing you need to consider: it does not change the legal principles that apply to decisionmaking in your authority. You must also act in accordance with the General Principles which underpin the Code of Conduct. So, for example, you should not place yourself in situations where your honesty and integrity may be questioned, and you must reach your own conclusions on the issues before you. The law requires you to take decisions fairly, on the merits known to you at the time you make the decision. You should not reach a final conclusion before you come to take a decision on an issue. This guidance only covers interests and issues that arise from your membership of a lobby or campaign group. As with any matter, you must also consider whether or not you have a personal or prejudicial interest in the issue due to personal circumstances. For example, it may affect your house or job, or those of your family and friends.

Principles

When you are considering what interests arise from your membership of a lobby or campaign group, you should keep in mind the General Principles that underpin the Code of Conduct, set out in the *Relevant Authorities (General Principles) Order 2001*.

The first General Principle states that members should "serve only the public interest". It would be wholly unreasonable to expect you to be devoid of general views about a range of local issues. In fact, you may

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well have been elected because of your views on those issues. The Standards Board for England believes that it would not serve the public interest for people with strong views on local issues to be discouraged from involvement in local government.

However, you also need to consider other principles:

- the second General Principle states: "members should not place themselves in situations where their honesty or integrity may be questioned";
- the third General Principle states: "members should make decisions on merit";
- the sixth General Principle states: "members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions".

Your statements and activities should not create the impression that your views on a matter are fixed, and that you will not fairly consider the evidence or arguments presented to you when you are making a decision. Public confidence in the probity of decision making is paramount.

Personal interests arising from membership of lobby groups

Membership of lobby and campaign groups should be included on your register of interests, as these are bodies "whose principle purposes include the influence of public opinion or policy". The Code of Conduct requires you to declare a personal interest in any matter that relates to an interest you must include in your register of interests. So you are required to declare a personal interest if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority.

You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your decisions. You can continue to participate unless the interest is also prejudicial.

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

Even if your lobby group does not keep a formal membership list, the Code of Conduct still applies to you in the same way. If you are acting as a member — perhaps attending meetings or participating in group activities — you should still register your membership of the group and declare interests following the guidance in this booklet.

Prejudicial interests arising from membership of lobby groups

Under the Code of Conduct, you only have to withdraw from an item in a meeting in which you have a personal interest, if that interest is also prejudicial — that is, if the issue is so significant that a member of the public with knowledge of the relevant facts would reasonably think that your judgment of the public interest is likely to be prejudiced. As always, each case depends on its merits. You should consider the points outlined below in each case, to help you decide whether or not your personal interest is also prejudicial.

If you have a prejudicial interest in a matter, you should declare the existence and nature of the interest and withdraw from the meeting before the matter is discussed. You should not attempt to influence improperly the discussion or decision.

Direct impact on lobby and campaign groups

If the matter to be discussed will have a direct impact on a lobby or campaign group you belong to, you are likely to have a prejudicial interest. This includes anything that directly affects the rights and obligations of a group to which you belong.

For instance, if, during your council work, you discuss whether to grant funding to your lobby group, or to approve a planning application submitted by the group, you would normally have a prejudicial interest. You should never take part in discussions of this nature.

Indirect impact on lobby and campaign groups

Matters that relate to the things a group campaigns on or has expressed public opinions about, without affecting the operation of the group directly, have an indirect impact on that group. If the matter to be discussed relates

5

indirectly to a lobby or campaign group you belong to, you may have a personal or prejudicial interest in it.

To determine if you have a prejudicial interest in a matter of indirect impact, consider the following factors:

- the nature of the matter to be discussed;
- the nature of your involvement with the lobby or campaign group;
- the publicly expressed views of the lobby or campaign group;
- what you have said or done in relation to the particular issue.

You must weigh up all these factors in relation to the specific matter being discussed and consider whether a reasonable member of the public who knows the relevant facts would think it likely that your judgment of the public interest would be prejudiced. These factors are explained in more detail below.

Factors to consider

The more focused your group is on a particular issue, the more involved and active you have been, and the more committed you appear to a particular outcome, the more likely it is that your interest will be prejudicial. The test is not whether your approach to a particular issue will be affected by an interest, but whether an informed member of the public would think there is a real possibility that you could be biased. In these circumstances, always seek advice from your monitoring officer or parish clerk.

The nature of the matter is one of the most important factors to consider, and one to which The Standards Board for England gives particular weight.

In our view, a reasonable member of the public who knows the relevant facts will appreciate that those involved in local government are likely to have strong views on a range of issues, based on their experiences and political outlook. These views may have been reflected in the member's election manifesto; even members with no political affiliation may have sought election on the basis of their views on matters of local controversy. Therefore, members will tend to have an opinion on many matters that arise, and these opinions may be reflected in membership of particular campaign or lobby groups.

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

The Standards Board for England believes that, in many cases, opinions of this kind may not amount to a prejudicial interest, even if you belong to a campaign or lobby group. Campaigning about a particular issue does not, in our view, indicate a possibility that you will not fairly consider the evidence and arguments presented. Simply approaching the issue from a particular point of view does not make an interest prejudicial. This is particularly relevant to budget issues and matters of broad policy, such as setting key priorities in fields like education, transport and social services. In our view, it is highly unlikely that campaigning on issues of this kind will amount to a prejudicial interest.

You may need to consider discussions on policy decisions and implementation more carefully. Here, specific decisions are being made about specific places, individuals and organisations. The Code of Conduct is not intended to prevent you from campaigning on issues like these, but it is possible that you could identify yourself so closely with a particular outcome that an informed member of the public would reasonably think your judgment was prejudiced.

Regulatory matters, such as planning and licensing, are particularly sensitive. For instance, if you are considering planning applications, you must follow a formal administrative process involving rules of procedure and rights of appeal, and you are expected to act reasonably and fairly when making your decisions. In both planning and licensing matters, the public is entitled to make applications and have them determined in accordance with the law. Often, individual rights under the *European Convention on Human Rights* are involved.

In our view, you should adopt a particularly cautious approach to planning and licensing matters. Membership of a group that campaigns for or against a particular planning or licensing application may well constitute a prejudicial interest. You should avoid committing yourself on any matter that may fall to be decided by you as a member of a planning or licensing committee.

Different considerations apply when an authority is consulted for its views on a matter in which it does not have the power to take a final decision.

7

A reasonable and informed member of the public would accept that campaigners should be able to participate in consultation, even in consultation on planning and licensing matters. In these cases, you should declare a personal, but not prejudicial, interest, even if you have campaigned heavily on the issue.

Executive members

If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests. It makes no difference if your interests arise through your involvement in a lobby or campaign group. So if your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions,

providing you declare your interest. You can also exercise delegated powers in the matter.

If you have a prejudicial interest in a matter, you are barred from discussions and decision-making about that matter in cabinet. You also should not participate in any early consideration of, or exercise any delegated powers in, that matter. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence. However, you can still be called to give evidence on the matter to an overview and scrutiny committee.

Examples of indirect impact on lobby groups

These are hypothetical examples to help illustrate our general views.

In a real situation, you must be careful to consider all the relevant circumstances on their merits, and seek the advice of your monitoring officer or parish clerk if you are in any doubt. He or she can provide specific advice about your situation, help you decide if you have an interest, and whether that interest is personal or prejudicial.

If you were a senior member of a **national research and lobby group** which made strong representations to your council about the council's transport plan, you would have a personal interest in any discussions

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

involving that transport plan. However, that interest would not be prejudicial.

If you were an annual member of **English Heritage**, you would have a personal interest when determining an application for listed building status if English Heritage had expressed support for the application. However, that interest would not be prejudicial unless other factors were involved.

If English Heritage had not expressed a view on the application, you would not have a personal or prejudicial interest.

If you were a leading and active campaigner in the **Coalition of Developers Against a National Park**, you would have a personal interest when considering a government consultation paper on a proposal for a new national park in your authority's area. However, this interest would not be prejudicial.

If you were a leading campaigner in the **Expand Our Leisure Centre** campaign, you would have a personal interest when discussing your authority's capital plan if it involved some change to the leisure facilities in your authority's area. However, as this project is only one part of the plan, you would not have a prejudicial interest in the whole discussion and decision on the plan. Clearly, if you were part of the committee discussing whether to expand that individual leisure centre, you would have a prejudicial interest.

If you were the main public spokesperson for the **Save Our Primary School** action group, you would have a personal, and probably prejudicial, interest in any decision by the council about the future of the school. In this case, your very close association with the campaign group would be likely to be viewed as impairing your judgment of the public interest. If you were an ordinary member of the action group without any active role in the campaign, you would have a personal, but not prejudicial, interest.

If you were a vocal member of the **No More Incinerators** group, and sat on a planning committee to determine an application for a new incinerator, you would have a personal and prejudicial interest in the matter. Your participation might also be challenged on the grounds of predetermination — see the following section: 'Have I made up my mind about the issue?'

9

Have I made up my mind about the issue?

This guidance reflects what should be current normal practice in local government when dealing with the impact of membership of lobby and campaign groups. The Model Code of Conduct has not introduced new restrictions.

As noted earlier, you should not reach a final conclusion on an issue before you come to take a decision on it. This doesn't mean you cannot form a view about the matter before the meeting, but if you have formed a provisional view, you must still be willing to consider all arguments presented at the meeting and be open to persuasion on the merits of the case. If you are not, your decision might be open to legal challenge because of the common law concept of predetermination. This is a legal concept that the courts have always applied to local authority decisionmaking. It predates the Code of Conduct and is not altered by it. In our view, the courts are the appropriate forum for determining if a decision is flawed because a member was not open to persuasion on the merits of the case.

For instance, if you made a particular issue a centrepiece of your election campaign, or were elected on the basis of a single-issue campaign, but are not a member of a related lobby group, you will not have a personal or prejudicial interest under the Code of Conduct. However, you still need to consider whether you are genuinely open to persuasion about the matter. A member of the executive asked to draw up proposals for discussion at cabinet is entitled to form a preliminary view on the proposals. Such a preliminary view would not normally mean that you were closed to persuasion when the matter was discussed in detail at the cabinet. Publicly stating that you are open to persuasion may not be sufficient to prove you are not predetermined. You must genuinely be open to persuasion. Clearly a statement such as "This application will only get approval over my dead body," would be a strong indication that you are not open to persuasion on the merits of the case.

For further advice about the law on predetermination, contact your monitoring officer or parish clerk.

Declaring interests relating to lobby groups

— questions to ask yourself

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

Does the issue affect the lobby or campaign group **directly** (for example, its funding or property)?

Does the issue affect the lobby or campaign group **indirectly** (does it relate to the group's publicly expressed views)?

You have no interest to declare and can take part in the meeting and vote, providing you have considered if you have an interest as a result of any other personal circumstances.

No

Yes

Yes

No

You need to consider:

- the nature of the matter to be discussed;
- the nature of your involvement with the lobby or campaign group;
- the publicly expressed views of the lobby or campaigning group;
- what you have said or done in relation to the particular issue.

Would a member of the public, with all the facts, reasonably think your interest is so significant that your decision on the matter would be prejudiced by it?

You can take part in the meeting and vote, after declaring the existence and nature of your personal interest.

You must leave the room after declaring the existence and nature of your prejudicial interest, and not try to influence improperly the decision.

It is likely that you have a prejudicial interest.

No

Yes

Dual-hatted members and paragraph 10(2)

Paragraph 10(2) deals with situations where members have interests arising from service on other authorities and public bodies — such as a governor on a school board or a trustee of a village hall — where the rules in relation to prejudicial interests might interfere with the proper conduct of authority business.

In the Model Code of Conduct for parish councils, it's actually paragraph 9(2), but the provisions are similar. In this guidance, where we refer to paragraph 10(2), we also mean 9(2) for parish councils.

This guidance provides our view on what the paragraph aims to achieve, and how you should consider your interests in the circumstances it describes. Ethical standards officers also apply these principles when investigating allegations about these kinds of interests.

Given the difficulty of this area, you should always seek the advice of your monitoring officer or parish clerk when considering these kinds of interests. He or she can provide specific advice about your situation, help you decide if you have an interest, and whether that interest is personal or prejudicial.

The aims of paragraph 10

Paragraph 10 aims to balance three principles:

- that members must withdraw from consideration of issues where their interests conflict with their public duties;
- that the rules on interests should not obstruct members who are involved in other forms of public service, such as another tier of local government;
- that the rules on interests are not intended to interfere with the proper conduct of council business.

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

Paragraph 10 of the Model Code of Conduct for local authorities states:

10.1 Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if

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 the member's judgement of the public interest.

10.2 A member may regard himself as not having a prejudicial interest in a matter if that matter relates to:

- a. another relevant authority of which he is a member;*
- b. another public authority in which he holds a position of general control or management;*
- c. a body to which he has been appointed or nominated by the authority as its representative;*
- d. the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;*
- e. the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;*
- f. the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and*
- g. the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.*

13

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

The provisions of sub-paragraphs 10(2)(d–g) differ slightly in all the Model Codes of Conduct, reflecting the varied powers and responsibilities of each authority, but they serve broadly the same function.

The provisions of sub-paragraphs 10(2)(d–g) apply to a specific set of situations that commonly arise during authority business, such as setting allowances for members of the authority. In these areas, it is clear that members will not have a prejudicial interest in related discussions and members should have no difficulty applying the provisions.

However, interpretation of sub-paragraphs 10(2)(a–c) can sometimes be difficult because they apply to a much broader set of situations, where members belong to outside bodies. Reliance on these sub-paragraphs requires greater care.

Understanding sub-paragraphs a–c

This section of the Code of Conduct is intended to remind members that some interests arising from involvement in other forms of public service should not unduly restrict the activities of the members concerned.

If you have a personal interest in a matter as a result of your membership of one of these groups, you still need to consider whether that interest is prejudicial. You should apply the same test as for any interest: would a reasonable member of the public who knew all the relevant facts think that your interest was so strong that your judgment would be prejudiced? Many interests that arise from service on other public bodies or as a representative of the authority will not be prejudicial. A reasonable member of the public will recognise that there is no objection, in principle, to an individual serving on a number of public bodies, and the fact that an issue may relate to membership of another such body will not necessarily

indicate that the member's judgment of the public interest will be prejudiced.

However, in some cases a reasonable member of the public might consider that such an interest is prejudicial. These provisions do not exempt you from the rules governing prejudicial interests, so if your

15

interest is prejudicial, you must withdraw from the room and not attempt improperly to influence the discussion.

Dual-hatted members

Considering a matter at more than one authority

The Code of Conduct does not automatically prevent you from considering the same issue at more than one tier of local government, including speaking and voting in both tiers. The reference in paragraph 10(2)(a) to members of "another relevant authority" reinforces this point.

So, for example, if an issue comes up for discussion at both the parish and district level, and you sit on both authorities, you should:

- at the parish level, make it clear that you will reconsider the matter at the district level, taking into account all relevant evidence and representations at the district tier;
- at the district level, declare a personal (but not prejudicial) interest arising from your membership of the parish council which has already expressed a view on the matter, and make it clear that the parish council's view does not bind you and that you are considering the matter afresh.

These guidelines apply even if a proposal has a direct impact on a particular location. For example, to continue the example of a parish and district councillor, there is no objection, in principle, to you speaking and voting on issues in the district council's development plan that particularly affect your parish. Of course, you must still consider if you have a prejudicial interest arising from the impact of the proposals on your well-being or financial position. In such circumstances, it would not be appropriate for you to rely on paragraph 10(2).

Considering applications for decision, such as licensing and planning

In some situations, it is unrealistic to expect a member of the public to believe you would disregard the interests of another public body on which you serve. For example, you should not sit on decision-making bodies, such as planning and licensing committees, when they decide applications

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

from an authority on which you also serve. Even though these situations fall within the scope of sub-paragraphs 10(2)(a) and (b), a reasonable member of the public would think that your judgment is likely to be prejudiced. In addition, a legal challenge could be made against the authority's decision-making process if you participate in these circumstances.

Another common situation is a contract between the two authorities, such as a parish council renewing its lease on a building owned by a district council. In this case, a member of both bodies could not participate in negotiations over the lease renewal. He or she would clearly have a conflict between seeking the highest possible rent for the district council and the lowest rent for the parish council.

Members of outside bodies

Discussing matters that relate to the body generally

As with all interests, a member of the public with all the relevant facts is less likely to think that your judgment would be prejudiced if the matter you are discussing relates indirectly, or in a general way, to the group you belong to, or will otherwise not have a significant impact on that group.

For instance, if you are a school governor, you will not have a prejudicial interest in setting broad education objectives and spending priorities for the council: clearly, these discussions relate to all schools. However, you are likely to have a prejudicial interest in matters that relate specifically to the school of which you are a governor, such as a decision on whether to close your school.

Members of outside bodies

With an advisory role at council

If you are a member of an outside group and a related issue comes up for discussion at your authority, but you are participating in an advisory capacity, in our view, you are likely to have few problems. For example, it would be entirely appropriate for a county councillor who was also a school governor to take part in an all-party committee advising the

17

council's executive on a private finance initiative scheme affecting the member's school. The school governor's knowledge and experience of local schools would be invaluable to the work of the advisory committee. The fact that the county councillor was not a member of the decisionmaking body (the executive) means that there would be no question of improper decision-making.

Similarly, where the decision-making power has been delegated to an individual portfolio-holder, a member of the executive who was also governor of the school affected could properly take part in executive discussions, provided he or she was not the decision-taker on the particular issue.

Members of parish community groups

It is common for parish councillors to be involved with other community bodies, such as a village hall management committee or its trustees. Sometimes, the parish council may nominate you to represent the council on one of these bodies. Overlapping responsibilities of this kind are a normal part of life in small communities, and these circumstances are covered by paragraph 9(2)(c) of the Code of Conduct for parish councils. In many circumstances, it will be appropriate for you to participate in council discussions and decisions relating to the relevant body. However, if there could be a genuine conflict between the interests of the parish council and the outside body on important matters of principle or the allocation of significant public funds, a member of the public would think that your close involvement in the body is likely to prejudice your judgment of the public interest.

Understanding parts d–g

The second part of paragraph 10(2) relates to interests that are likely to arise frequently in the course of authority business. In the Model Codes of Conduct for local authorities, fire and joint authorities, and national park and the Broads authorities, there are four sub-paragraphs (d–g); in the Model Codes of Conduct for parish councils and police authorities, there are only two — (d) and (e).

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

You do not need to declare a prejudicial interest in situations covered by these parts of the Code of Conduct, but you should still declare a personal interest. The rules on prejudicial interests are not intended to interfere with the proper conduct of council business, and these sub-paragraphs help to ensure that they don't.

For instance, one of the sub-paragraphs enables members to set the level of certain allowances that it defines. Similarly, if you are a local authority tenant, you are allowed to discuss matters relating to the housing functions of your authority, provided that you do not have rent arrears of more than

two months and the matters under discussion do not relate to your tenancy. In each case, you should still declare a personal interest, but you can remain and participate in the meeting.

19

If you have a prejudicial interest

If you have a prejudicial interest in a matter to be discussed, you must leave the room and not seek to influence improperly the decision. Faced with this situation, there are a number of things you can do instead, and some additional things that you cannot do.

What you can do

As a councillor or member of another authority, your status means that you give up certain rights that other members of the public may exercise, such as the right to speak about your own planning applications. However, you can still present your views to the meeting through some other means that do not involve improperly influencing the decision:

- you can make written representations, providing you disclose the existence and nature of your interest and do not seek preferential consideration for your representations. Such written representations in a private capacity can be made to officers involved, but not to individual members;
- in the case of planning applications, you can use a professional representative to make an application on your behalf, avoiding any appearance of impropriety;
- if constituents from your area have views about a matter in which you have a prejudicial interest, you could arrange for another member of the authority to present those views. You should formally advise your constituents about your interest and inform them that the other member will represent their views on the issue. When representing the views of your constituents, the other member should make it clear to the committee or officers that he or she is acting in your place because you have a prejudicial interest in the matter.

What you cannot do

- You cannot be present in the public gallery or speak as a member of the public, even during separate public discussion sessions.
- You should not make written representations to members of the relevant committee (you should submit them only to the relevant officers).

Lobby groups, dual-hatted members and the Code of Conduct

Guidance for members

- To prevent any appearance of improper influence, you should avoid discussing the matter with any member of the authority, even to ask a ward councillor to present your views in your absence (but you are permitted to approach other members to represent the views of your constituents).
- You should certainly not attempt to lobby committee members about the matter, before or after a meeting, attempt to use your status as a member to influence consideration of a submission, or try to get officers to change a decision or recommendation.