

AGENDA ITEM:

REPORT TO: Meeting of the	MERSEYSIDE FIRE & RESCUE AUTHORITY
DATE:	3 JULY 2012
REPORT NO.	CFO/090/12
REPORTING OFFICER:	MONITORING OFFICER AND CLERK TO THE AUTHORITY
CONTACT OFFICER:	JANET HENSHAW DIRECTOR LEGAL, PROCUREMENT AND DEMOCRATIC SERVICES
OFFICERS CONSULTED:	HELEN PEEK DEMOCRATIC SERVICES MANAGER
SUBJECT:	STANDARDS COMMITTEE REGULATIONS

APPENDIX	A	TITLE	Revised Code of Conduct for Members
	B		Draft Revised Committee Structure
	C		Draft Revised Terms of Reference for ELB/Audit sub Committee
	D		Proposed Procedure for dealing with allegations under the Code

ATTACHED – HARD COPY

Purpose of Report

1. To inform Members of the new Regulations relating to Member Codes of Conduct and to ask Members to consider and approve the recommendations of this report relating to changes in Committee structure and procedures regarding allegations of breaches of the Code of Conduct, which are required to comply with legislation

Recommendation

2. That Members;
 - a) Adopt the revised Code of Conduct as previously approved by the Authority at Appendix A, and
 - b) Approve the proposed changes to the Authority's Committee structure as outlined in Appendix B or such alternative structure as Members wish, and
 - c) Approve the proposed changes to the Terms of Reference for both the Executive Leadership Board and the Audit sub Committee as outlined in Appendix C, and
 - d) Approve the appointment of a joint independent person with Merseytravel, and
 - e) Consider the type of payment they wish to make to an independent person – either an allowance, a payment by hours or by expenses alone, and

- f) Approve the proposed changes to the procedures as outlined in Appendix D

Executive Summary (if report 3 pages or more long)

The Localism Act 2011 was given Royal Assent in November 2011 however many aspects of the Act did not come into force at that time and were to come into force when Commencement Orders were published. The Department for Communities and Local Government (CLG) have now published a draft Commencement Order and draft Regulations in relation to Standards Committees and the Members Code of Conduct which will come into force on 1 July 2012. This report deals with the legal requirements under this legislation and proposes a change in the committee structure to deal with allegations or complaints under the Code of Conduct and a procedure for this

Introduction & Background

- 3 The Local Government Act 2000 provided for a duty upon Local Authorities including Fire and Rescue Authorities to have a Standards Committee and sub Committees to deal with allegations made under the national Code of Conduct for elected Members. Merseyside Fire and Rescue Authority (MFRA) has fully complied with this duty.
- 4 Members will recall that the Localism Act 2011 (The Act) sections 26 to 34, gives an option to Authorities to make their own arrangements in terms of Standards Committees, and whilst they would be at liberty to continue with existing arrangements the only legal requirement would be to have arrangements in place to deal with complaints, without any requirement to have a Standards Committee, per se
- 5 The Act also relaxed the requirement for Members to comply with a national Code of Conduct and instead allows Authorities to make their arrangements in this regard, so long as they have a Code of Conduct which takes full account of the Nolan Committee's 7 Principles of Public Life. However Authorities must make arrangements for dealing with allegations made under such a Code.
- 6 Regulations and the Commencement Order in draft have now been published and these new arrangements are due to come into force on 1 July 2012. These provide for the same issues and also for definitions of what constitutes a "disclosable pecuniary interest" which again is required under the Act.

Code of Conduct

- 7 Members approved a draft Code of Conduct on 19 January 2012 and this same Code is applied across some other Authorities in Merseyside. However, because of the new Regulations and the issues around pecuniary interests, the Code has now been revised to take account of this. The new draft Code is attached as

Appendix A (revisions are shown in red) and it is recommended that Members formally adopt this in order to ensure compliance with the Act.

Sanctions

- 8 There are very few sanctions now available to Members in dealing with such allegations if they are founded. Training or development can be identified and recommended or a Member can be admonished however the Authority has no powers to suspend a Member under these Regulations or indeed the Act.
- 9 If a member however does not declare a disclosable pecuniary interests this can constitute a criminal offence and can therefore be referred to the Crown Prosecution Service.

Arrangements for dealing with allegations under the Code

- 10 Members have requested at previous meetings that the issue of whether or not to have a separate Standards Committee be further considered when Regulations were published. These are now to come into force on 1 July 2012 and arrangements need to be in place urgently.
- 11 A draft revised structure is attached at Appendix B which provides for allegations to be dealt with by an extraordinary meeting of the Audit sub Committee with referral being made to the Executive Leadership Board where allegations require further investigation or there is an appeal where a complaint is not upheld. Revised terms of reference for both Committees are attached as Appendix C (revision shown in red) and a proposed Procedure for dealing with such allegations is attached as Appendix D.
- 12 The Act requires that the arrangements put in place for dealing with allegations under the Code, must include the appointment of at least one independent person, whose views must be sought in relation to any such allegations. The Regulations provide that co opted Members who are **not** a member of the Authority's Standards Committee on 1 July 2012 but who have held such a post at any time during the 5 years ending on 30th June 2012 can fulfil this Independent Person role.
- 13 Discussions are underway with Merseytravel to share this role as few complaints are received by either Authority and it is better to share experience under these circumstances.
- 14 Members are therefore asked to approve advertising on a joint basis and consider if they wish to make a payment either by allowance or by hourly rate to such person(s) or to simply make payment for any expenses incurred. Across Merseyside District Councils and other Fire Authorities varied approaches to this payment issue are being taken.
- 15 It is recommended that Members accept these proposals or agree such other Authority committee structure as the Authority may deem appropriate

- 16 If these recommendations are accepted the procedure and associated forms will be published on the Authority's website. Furthermore training will be provided to all Members on the new Code of Conduct and training will also be provided to the Audit sub Committee and the Executive Leadership Board in dealing with allegations and the procedure for this.

Equality & Diversity Implications

- 17 There are no equality or diversity implications contained within this report. Any recruitment of an independent person would take place in line with all the Authority's policies and procedures.

Staff Implications

- 18 There are no direct staffing implications contained within this report. An Independent Person under the Act would not be an employee of the Authority.

Legal Implications

- 19 The legal implications are set out in the body of this report. The applicable legislation is the Localism Act 2012, the Localism Act (Commencement No 6 & Transitional Savings and Transitory Provisions) Order 2012, and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Financial Implications & Value for Money

- 20 There may be a cost in the appointment of an independent person. The current allowance paid to Independent Members is £623 per annum.

Risk Management, Health & Safety, and Environmental Implications

- 21 There are no direct risks or health and safety or environmental implications in this report.

Contribution to Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters”

- 22 The communities of Merseyside will be ensured that they continue to receive the best possible service from Members of the Fire and Rescue Authority with these procedures proposed in this report.

BACKGROUND PAPERS

CFO/09/12 19 January 2012
The Localism Act 2011