

WYFRA	EXECUTIVE COMMITTEE	30 MARCH 2012	ITEM NO 5
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REPORT OF: DIRECTOR OF CORPORATE RESOURCES
(MONITORING OFFICER)

PURPOSE OF REPORT: TO REPORT ON THE IMPLICATIONS OF THE LOCALISM ACT 2011 ON THE ARRANGEMENTS FOR PROMOTING ETHICAL STANDARDS, THE CODE OF CONDUCT AND, FOR DEALING WITH COMPLAINTS ABOUT MEMBERS.

RECOMMENDATIONS:

1. THAT THE COMMITTEE CONSIDERS PROPOSALS SET OUT IN THIS REPORT FOR THE ADOPTION OF A REVISED CODE OF CONDUCT AND REVISED PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST MEMBERS AND THE COMPOSITION OF THE STANDARDS COMMITTEE AND DETERMINES WHETHER TO MAKE RECOMMENDATIONS ABOUT THESE MATTERS TO THE AUTHORITY IN JUNE 2012.
2. THAT THE COMMITTEE AUTHORISES THE DIRECTOR OF CORPORATE RESOURCES TO COMMENCE THE NECESSARY PROCESS TO RECRUIT AN INDEPENDENT PERSON.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT DETAILS

EXEMPTION CATEGORY:

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**BACKGROUND PAPERS
OPEN TO INSPECTION:**

SUMMARY

This report highlights the changes being brought about to ethical standards, the code of conduct and, complaints about Members by the Localism Act 2011 which it is anticipated will take full effect on 1st July 2012 and, which makes proposals for consideration by the Committee so that it can make recommendations for consideration by the full Authority meeting in June. Approval is also requested for putting in hand arrangements for the recruitment of an Independent Person subject to ratification by the full Authority at the June meeting.

1 BACKGROUND

- (1) Abolition of the Standards Board for England and right of appeal to external judicial tribunal
- (2) Abolition of the statutory requirement to have a Standards Committee which will become a matter of voluntary choice – no requirement for Independent Chair.
- (3) Continuing statutory duty to maintain high standards of ethical conduct
- (4) Continuing statutory duty to have a Code of Conduct for Members and arrangements for dealing with complaints against Members but with local choice flexibility over the content of the Code and the procedures involved for dealing with complaints.
- (5) Replacement of Standards Committee Independent Member requirement with a statutory requirement for an Independent Person whose views must be taken into account before reaching decisions on complaints which are investigated. Bar on recruitment of existing Independent Members to Independent person role.
- (6) New statutory requirements for maintenance of a register of Member's pecuniary interests and declaration of interests by Members with separate external criminal sanctions for breach
- (7) Removal of most severe penalties such as suspension or disqualification in the case of Members found in breach of the Code of Conduct – penalty restricted to formal censure.

1.1 The consequence of these changes to the statutory framework means that it has been necessary for me as Monitoring Officer to carry out a fundamental review of the fitness for purpose of the existing arrangements for promoting ethical standards, the content of the Code of Conduct and the arrangements for dealing with complaints against Members. It is also necessary to make arrangements for appointing a new Independent Person to replace the existing Independent Members. The full Authority itself has to ratify these changes and it is intended that a report will be put to the full Authority in June. The purpose of this report is to seek the views of leading Members so that they can influence the direction to be taken on the path ahead and so that they can make recommendations to the Authority. Approval is sought for interim steps necessary to ensure that the new system is up and running by 1st July 2012 namely the recruitment of an Independent Person. The Standards Committee is also being canvassed for its views and recommendations on the issues arising.

Code of Conduct

- 1.2 The choice is between adopting the existing Code of Conduct or creating a new Code which in overall terms is consistent with the 7 Nolan principles. My view as the Monitoring Officer is that the existing SBE Model Code is more prescriptive than it needs to be to comply with the revised statutory requirement and I am recommending adoption of a more streamlined version as depicted in Appendix 1. The Member pecuniary interest provisions depicted in Part 2 are subject to the content of pending statutory regulations. The existing Model Code is depicted in Appendix 2 and recently drafted ACSeS and LGA Model Codes are depicted in Appendices 3 and 4. I will comment on this aspect further at the meeting. Members are invited to indicate their preference for ratification by the Authority.

Procedure for dealing with complaints against Members

- 1.3 The Authority Procedure for dealing with the investigation and adjudication of complaints against Members was originally drafted in order to comply with the statutory regulations which are shortly to be revoked. Whilst the Authority must still have an approved procedure there will no longer be a requirement to have a review stage (ie the complainant cannot demand a review of an initial decision to reject or not investigate a complaint). Nor will Members have a right of appeal to an external judicial tribunal. The revised draft Procedure which is attached at Appendix 5 (changes tracked in red for ease of identification) takes account of these changes and also invests the (*new title) complaints sub-committee at consideration stage with the power to halt the process at that stage even if the investigation report identifies a breach of the code may have been committed. The other changes are mainly administrative in that if the proposal not to appoint a standing chair of the complaints sub-committee is accepted then the Monitoring Officer will assume complete responsibility for decisions about interim processing issues prior to any final hearing into a complaint. It is proposed that the sub- committee dealing with any final hearing should be differently constituted from that which makes initial decisions and consideration of investigation report decisions. The Independent Person will need to be consulted by the sub-committee prior to any decisions being reached post a decision to investigate stage and the most expedient way of doing that might be to enable the Independent Person to attend meetings of the sub-committee as an observer.

The Standards Committee

- 1.4 This will need to be revised to reflect the abolition of the requirement for Independent Members and its conversion into a standing ordinary committee with a requirement for political balance in appointments. It is unlikely that it will need to meet more than once or twice a year to oversee general ethical standards compliance. It may be useful for the Independent Member to be invited to attend in a non-voting observer capacity.

The Independent Person

- 1.5 In order to ensure compliance with the statutory requirement to appoint an Independent Person I am inviting the Committee to authorise me to start the recruitment process. There is a possibility that the District Councils will establish a joint pool of Independent Persons and if so I request authority to commit the Authority to participate in such an arrangement. If not then I request authorisation to put in place arrangements to recruit following public advertisement a single dedicated Independent Person whose appointment will need to be ratified by the Authority at its June meeting. A proposed outline role description is depicted in Appendix 6. A decision also needs to be made on the payment of remuneration/expenses.

2 FINANCIAL IMPLICATIONS

- 2.1 The cost of any recruitment will be met from within the existing revenue budget provision.

3 EQUALITIES AND FAIRNESS IMPLICATIONS

- 3.1 Recruitment and selection of the Independent Person should comply with the Equality and Diversity Policy.

(Draft) Code of Conduct for Members and Co-Opted Members of West Yorkshire Fire and Rescue Authority

Application and Scope

This Code applies to the conduct of Members (including Co-Opted Members) of the Authority when they act in the capacity of a Member of the Authority.

Part 1

Conduct Expected of Members

- 1 Members should endeavour to maintain high standards of personal conduct in a manner which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and, leadership.
- 2 Members should seek to promote equality and seek to avoid doing anything which might cause the Authority to breach its duties under Equalities laws.
- 3 Members must treat other persons with fairness, dignity and, respect.
- 4 Members must not act in a manner which has the effect of compromising the impartiality of public servants or other persons working for or on behalf of the Authority.
- 5 Members must not use their position as a Member to secure any improper benefit for themselves or any other person and must comply with any statutory provisions and/or rules approved by the Authority regulating the receipt of gifts and hospitality.
- 6 Members must not misuse the resources of the Authority and must comply with any policies approved by the Authority regulating their use by Members.
- 7 Members must not disclose information which is confidential without having lawful authority for such disclosure.
- 8 Members must have regard to the advice of statutory officers when those officers are acting pursuant to their statutory duties.
- 9 Members must comply with any rules approved by the Authority regulating claims for payment of remuneration allowances and expenses.
- 10 Members must when making decisions act in accordance with the relevant law, must have regard to any statutory codes of practice or guidance and, must have regard to any relevant provisions of the Authority Constitution.

Part 2

Disclosure and Registration of Interests

1 Members must register, in the Authority's Register of Members' Interests, information about their personal interests. In this code of conduct "personal interests" means:

(a) any 'Disclosable Pecuniary Interest' (as defined by any statutory provision in force from time to time) which the Member knows about and which is held by

- The Member
- The Member's spouse or civil partner, a person with whom the Member is living as husband and wife, or a person with whom the Member is living as if they were civil partners;

and

(b) any other interest held by the Member as set out in paragraph 2 below

The Member must register information about his/her personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- appointment as a Member of the Authority; and
- any change taking place in the Member's personal interests.

2 The following are personal interests for the purposes of paragraph 1 "you" means a Member/Co-Opted Member of the Authority.

- (a) Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Authority;
- (b) Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
- (c) Any business which you are involved in carrying on;
- (d) Any partnership of which you are a partner;
- (e) Any employer for whom you work;
- (f) Any contract for goods, services or works between the Authority and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
- (g) Any person (other than the Authority) who has made a payment to you in connection with you carrying out your duties as an Authority Member;
- (h) Any land in the Authority's area in which you have a beneficial interest or a licence to occupy;
- (i) Any land owned by the Authority of which you are the tenant or licensee;
- (j) Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Authority.

- 3 Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

Declaration of Interests

- 4 Where you attend a meeting of the Authority, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 3, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
- 5 Where you attend a meeting of the Authority, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 6 to a greater extent than most inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
- 6 The persons referred to in paragraph 5 are:
- (a) A member of your family;
 - (b) Any person with whom you have a close association;
 - (c) In relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
- 7 You must comply with any standing order adopted by the Authority which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

WEST YORKSHIRE FIRE AND RESCUE AUTHORITY

CODE OF CONDUCT FOR MEMBERS

(SECTION 51 LOCAL GOVERNMENT ACT 2000 AND LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007)

Part 1

General provisions

Introduction and interpretation

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (a).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code, “meeting” means any meeting of:
 - (a) the authority;
 - (b) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,
 and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or

- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3. (1) You must treat others with respect.
- (2) You must not:
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings.in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- 4. You must not:
 - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority;or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You:

- (a) must not use, or attempt to use, your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(a).
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Personal interests

8. (1) You have a personal interest in any business of your authority where either:
- (a) it relates to or is likely to affect:
 - (i) any body of which you are a member of or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest.
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
- (i) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is:

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body 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 person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Prejudicial interest generally

- 10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice our judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of:
 - (i) an allowance, payment or indemnity given to members;
 - (ii) any ceremonial honour given to members; and
 - (iii) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
 - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held:

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

Part 3

Registration of Members' Interests

Registrations of members' interests

13. (1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

(Adapted 7.9.07)

ACSeS Example Code

The Council of _____ (“the Council”) has adopted the following code which has effect from 1 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council but is not one of its elected members

The code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

General Conduct

1. You must treat others with respect.
2. You must not bully any person and you must not intimidate or attempt to intimidate any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in the annex to this Code.
7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council’s reasonable

requirements and must ensure they are not used improperly for political purposes (including party political purposes).

8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

Registration of Interests

11. Subject to paragraph 13, you must register in the Council's Register of Members Interests information about your personal interests. In this code of conduct 'your personal interests' means:
 - (a) any 'Disclosable Pecuniary Interest' (as defined by any statutory provision in force from time to time) which you know about and which is held by
 - you, or
 - your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners;
 and
 - (b) any other interests held by you as set out in paragraph 12,

You must register information about your personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
- any change taking place in your personal interests.

12. The following are personal interests for the purposes of paragraph 11(b):
- (a) Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
 - (b) Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
 - (c) Any business which you are involved in carrying on;
 - (d) Any partnership of which you are a partner;
 - (e) Any employer for whom you work;
 - (f) Any contract for goods, services or works between the Council and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
 - (g) Any person (other than the Council) who has made a payment to you in connection with you carrying out your duties as a Council Member;
 - (h) Any land in the Council's area in which you have a beneficial interest or a licence to occupy;
 - (i) Any land owned by the Council of which you are the tenant or licensee;
 - (j) Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.
13. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

Declaration of Interests

14. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 13, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.

15. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
16. The persons referred to in paragraph 15 are:
 - (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
17. You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

LGA Code

One of the key roles I have as a Member of [X Authority] is to maintain the highest standards of conduct and ethics in carrying out my obligations to the Authority and the area, my local communities and the public at large

The purpose of this Code is therefore to

- a) set out and explain the standards of conduct that are expected of me when acting as a Member of X Authority and, in so doing,
- b) provide openness and accountability to reinforce public confidence in the way in which I and other Members perform those activities.

It is rightly expected of me that, in carrying out my obligations to the Authority and the area, my local communities and the public at large, I will;

- Base my conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
- Recognise that my overriding duty as a Member is to the whole community but that I have a special duty to my constituents, including those who did not vote for me
- Ensure that my use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that I will observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
- Conduct myself in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Authority and not undertake any action which would bring the Authority, or its Members or officers generally, into disrepute.

In doing so I will behave in a way that is consistent with the following general principles of conduct. These principles will be taken into consideration should any allegation ever be made that I have breached the provisions of this Code.

“Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

This will include

1. Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially
2. Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the Authority in a proper manner
3. Exercising independent judgement and not placing myself under any obligation to individuals or organisations in a way that could compromise my ability to fulfill my duties as a Member

4. Making decisions based on listening to the interests of all parties, having due regard to professional advice and remaining objective so that, when making public appointments, awarding contracts or recommending individuals for rewards and benefits for example, choices are made on merit alone
5. Fully participating in arrangements for scrutinising my decisions, both internally and externally, including by local residents
6. Acting in a way that makes the Authority's decision making as open and transparent as is possible, so that residents and others may understand the reasoning behind our decisions and actions and be informed where holding we Members and the officers of the Authority to account
7. Restricting information only when the wider public interest or the law requires it; observing the reasonable requirements of the Authority's protocols for holding and disclosing information and those of the person who has provided information to me in confidence
8. Acting in accordance with all of the legal obligations and the policies or procedures that apply to me as a Member of the Authority, as well as those related Codes and Protocols of the Authority that are complimentary to this Code, taking opportunities to understand those obligations as and when they are offered
9. Valuing my colleagues and staff /officers by engaging with them in a manner that supports the mutual respect that is essential to good local government
10. Acting in accordance with this Code and these principles when championing the interests of the Authority and its residents and communities with other organisations as well as within this authority
11. Conscientiously fulfilling the requirements of the law and the Authority in the notification of my interests to be placed in the Authority's Register(s) of Members' Interests (available on the Authority's website) and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in communications with the Authority, its Members or officers.

- Part 2 of the Code below explains what these requirements are and what 'disclosable peculiarly interests', 'other peculiarly interests' and 'non-pecuniary interests' means

WEST YORKSHIRE FIRE AND RESCUE AUTHORITY

Procedure for the investigation and determination of allegations under the Code of Conduct against Members of the West Yorkshire Fire and Rescue Authority (including co-opted Members); ~~including the Independent Members of the Standards Committee.~~

1. Introduction

- 1.1 The procedure applies to complaints about alleged breaches by Members of the WYFRA, ~~or the Independent Members of the Standards Committee,~~ of the WYFRA Code of Conduct ~~under the Local Government Act 2000 ("the Act") and the Standards Committee (England) Regulations 2008 ("the Regulations").~~
- 1.2 For the purposes of this procedure, the person who makes the complaint is described as 'the Complainant'; and the person about whom the complaint is made is "the Member".
- 1.3 The Monitoring Officer ("the MO") may arrange for any MO functions under this procedure to be carried out by any other person; and references to the MO are to be read accordingly.

2. Initial handling of complaints

- 2.1 Any complaint received in any part of the Authority which appears to allege a breach by a Member of the Code of Conduct will be referred forthwith to the MO.
- 2.2 Following receipt of a written complaint which the MO considers to relate to the conduct of a Member and allege a breach of the code of conduct, the MO will advise the Chair of the Standards Committee and will convene a meeting of the Assessment-Complaints Sub-Committee. The MO is authorised to determine the membership of the Sub-Committee by random selection. Membership shall be drawn from Members of the Standards Committee.
- 2.3 If the complaint is not in writing, the MO will invite the Complainant to put the complaint formally in writing. The MO will consider whether, for any complaint not in writing, some option for informal resolution may be appropriate. The complaint should include:
 - (a) the complainant's name and address;
 - (b) their status, for example member of the public, fellow member or officer;
 - (c) details of who the complaint is about
 - (d) details of the alleged misconduct
- 2.4 Any standard form of complaint form developed for the Authority should also include:
 - (a) equality monitoring data if applicable (for example, nationality of the complainant); and
 - (b) a warning that the complainant's identity will normally be disclosed to the subject member, although in exceptional circumstances if certain criteria are met this information may be withheld.
- 2.5 The MO will acknowledge the complaint and will ask the Complainant to identify whether there are any reasons why the Complainant's identity should not be disclosed to the Member. The MO may also ask the Complainant for any clarification considered necessary to enable the Assessment

Complaints Sub-Committee to reach its decision; but the MO will not at this stage embark on any actual investigation of the matter.

- 2.6 For every complaint that is put into writing, the MO will determine whether to advise the Member that a complaint has been received. In some circumstances the MO will not advise the Member of the receipt of the complaint. This will involve an assessment of whether the risk of the case being prejudiced (e.g. the risk of intimidation of a complainant or witnesses or the destruction of any evidence) may outweigh the fairness of notifying the Member (e.g. the ability of the Member to preserve evidence) or whether doing so might prejudice a criminal investigation.

3. Assessment Complaints Sub-Committee

The report to the Sub-Committee

- 3.1 The MO will prepare a report for consideration by the Assessment Complaints Sub-Committee, to enable the Sub-Committee to determine whether
- a) There are any continuing grounds for not providing to the Member a summary of the complaint;
 - b) If the Complainant so requests, the Complainant's identity should be withheld from the Member;
 - c) The Sub-Committee has jurisdiction to deal with the complaint;
 - d) The complaint should be referred to the MO for investigation;
 - ~~e) The complaint should be referred to the Standards Board;~~
 - ~~f)~~ No action should be taken under the Act, in respect of the complaint; and
 - ~~f)~~ If so, whether any other informal action may be appropriate.

- 3.2 The report of the MO will:

- a) set out the complaint;
- b) identify any confirmation of the facts of the complaint which has been obtained without formal investigation.

- 3.3 The agenda papers will include the following information:

- a) the date, time and place of the hearing;
- b) the report of the MO
- c) an outline of the proposed procedure for the meeting and the criteria for the assessment of the complaint (i.e. a set of these rules).

Access to the meeting

- 3.4 ~~In accordance with the Regulations the m~~ Meetings of the Assessment Complaints Sub-Committee will not be open to the press and public who shall be excluded from the meeting.

- 3.5 The MO will arrange for a meeting of the Sub-Committee, ~~and, following consultation with the Chair of the Sub-Committee, indicate the preferred time, place and date of the meeting to take place.~~ The meeting should ordinarily take place within 20 working days from the date of receipt of the complaint. The Sub-Committee will meet during the day and will aim to complete the hearing in one sitting. If the Sub-Committee is unable to reach a decision within ~~the 20 day's period expected by the Standards Board~~ the complainant and the Member (if appropriate) will be informed of this.

Membership of the Sub-Committee

- 3.6 The ~~Assessment Complaints~~ Sub-Committee will be chaired by ~~an independent member of the Standards Committee selected by the Standards Committee, or if none is appointed, by the Chair of the Standards Committee or such independent Member as the MO nominates in consultation with the Chair. a member selected at the meeting.~~
- 3.7 The Sub-Committee will comprise three members of the Standards Committee, ~~at least one of whom shall be an independent member.~~
- 3.8 The quorum for the Sub-Committee will be two, ~~and must include at least one independent member.~~
- 3.9 A member of the Standards Committee may not sit on the Sub-Committee if he or she is the subject of the complaint or if he or she has first-hand involvement in the case (for instance as the Complainant or as a material witness in relation to the allegations) such that his or her impartiality might be challenged.
- 3.10 Each member of the Sub-Committee shall have one vote, but the chair shall have a casting vote in the event of equality of votes.

Procedure

- 3.11 The Chair will explain that the Sub-Committee may, at any time prior to the conclusion of the hearing, agree to adjourn and require the MO to seek further information or clarification on any point, ~~(but such adjournment may only take place once).~~
- 3.12 The procedure for dealing with the report about the Member shall be as set out in this guidance, subject to the Chair of the Sub-Committee being able to make any change to it that he or she thinks appropriate to enable a fair and effective hearing:
- 3.13 The Sub-Committee will examine the MO's report. The Sub-Committee may ask the MO questions about the contents of the report. The Sub-Committee can move on to consider its findings on the basis of the MO's report and responses to questions.
- 3.14 The Member who is the subject of complaint will play no role in the proceedings of the Sub-Committee.

Assessment Evaluation Criteria

- 3.15 In considering a complaint, the Sub-Committee will ~~in accordance with the Standards Board's guidance~~ carry out the initial tests, namely:
- a) Is the complaint against one or more members of the Authority?
 - b) Was the Member in office at the time of the alleged conduct and was the code of conduct in force at the time?
 - c) If proven, the complaint would the complaint be a breach of the Code of conduct?

If the Sub-committee is not satisfied in relation to any one of these tests the complaint cannot be investigated as a breach of the Code of Conduct and the complainant must be informed that no action will be taken in respect of the complaint.

3.16 In assessing a complaint the ~~Assessment-Complaints Sub-Committee~~ will assess the complaint with regard to the following criteria ~~recommended by the Standards Board~~:

- (a) Has the Complainant submitted enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action?
- (b) Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the sub-committee wish to refer the complaint to the monitoring officer of that other authority?
- (c) Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
- (d) Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- (e) Is the complaint ~~too trivial~~ not sufficiently serious to warrant further action?
- (f) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

Considerations in respect of retention of anonymity

3.17 In relation to requests for anonymity the sub-committee shall have regard to the following considerations:

- a) Does the Complainant have reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed?
- b) Is the Complainant an officer who works closely with the Member? If so, is the Complainant afraid of the consequences to their employment or of losing their job if their identity is disclosed?
- c) Does the Complainant suffer from a serious health condition, meaning that there are medical risks associated with their identity being disclosed? In such circumstances, the Sub-Committee may wish to request medical evidence of the Complainant's condition
- d) Should the Complainant be given the option of requesting a withdrawal of the complaint?
- e) Is it possible to investigate the complaint without making the Complainant's identity known?
- f) Are there any other exceptional reasons why the Complainant's identity should not be disclosed?

Decision of the ~~Assessment-Complaints~~ Sub-Committee

3.18 If it is accepted that the complaint is within its jurisdiction the Sub-Committee will reach one of the following decisions:

- a) referral of the complaint to the MO for investigation;
- b) referral of the complaint to the MO for other action;
- ~~e) referral of the complaint to the Standards Board for England; or~~
- ~~c)~~ that no action be taken.

~~Any decision of the Complaints Sub-Committee in its evaluation of the complaint to take no action shall be final.~~

- 3.19 The Sub-Committee will agree a written summary of the main points which they have considered, the conclusions they have reached on the complaint and their reasons for those conclusions. Unless the Sub-Committee has concluded that to send the summary to the Member is not in the public interest or would prejudice any subsequent investigation, this summary will be sent to the Member and will be made available to the public for inspection and on the Authority's web-site.
- 3.20 The MO will write to the Complainant, advising of the Sub-Committee's decision. ~~If the decision was to take no action, the MO will explain how the Complainant may request a review of that decision.~~ The MO will also write to the Member, advising of the decision.

~~4. Review Sub-Committee~~

- ~~4.1 If within 30 days of the written decision of the decision not to take any action is published, the Complainant requests a review, the MO will convene a meeting of the Review Sub-Committee.~~
- ~~4.2 If the Complainant supplies any further information, the Review Sub-Committee will consider whether this information suggests that a further initial assessment is needed, in which case the matter will be treated as a new complaint; subject thereto, paragraphs 2.4 and 2.5 shall apply to the Review Sub-Committee also. The MO will write to the Complainant and the Member, advising of the decision of the Review Sub-Committee.~~
- ~~4.3 In considering a complaint the Review Sub-Committee shall make the decisions and have regard to the same criteria as the Assessment Sub-Committee.~~
- ~~4.4 No member of the Assessment Sub-Committee which considers a complaint can be a member of the Review Sub-Committee which reviews that Sub-Committee's decision.~~
- ~~4.5 The Review Sub-Committee will aim to complete its review within 20 working days after receipt of the request for review.~~

~~5.4. Action following initial evaluation assessment and review~~

- ~~5.1 If the decision (either of the Assessment Sub-Committee or of the Review Sub-Committee) is to refer the matter to the Standards Board, the MO will send all relevant paperwork to the Board and will notify all parties accordingly.~~
- ~~5.4.1~~ If the decision was to refer the matter to the MO for other action, the MO will notify all parties and will take that action. As soon as possible ~~after~~ before three months have elapsed from the Sub-Committee's decision, the MO will report the outcome of that action to a further meeting of the Sub-Committee, which may give further directions.

~~6.5. Investigations~~

- ~~6.5.1~~ If the decision was to refer the matter for investigation, the MO will ~~carry out or~~ arrange that investigation, the MO will inform all parties accordingly. ~~and arrange the investigation in accordance with the Regulations and having regard to the current guidance from the Board.~~
- ~~6.5.2~~ At any stage during the investigation, the MO may refer that matter back to the Standards Complaints Sub Committee if—

(a) as a result of new evidence or information, the MO is of the opinion that the matter is—

- ~~(i) materially more serious; or~~
- (i) materially less serious

than may have seemed apparent to the Sub-Committee when they decided to refer the matter for investigation, and

- ~~(ii)~~ that the Sub-committee would have made a different decision had they been aware of that new evidence or information; or

(b) the Member—

- (i) has died; or
- (ii) is seriously ill; or
- (iii) has resigned from the Authority;

and the MO is of the opinion that in the circumstances it is no longer appropriate to continue with an investigation.

~~6.3~~ The MO shall, on completion of the investigation,

(a) make a finding—

- (i) that there has been a failure to comply with the Authority's code of conduct ("a finding of failure"); or
- (ii) that there has not been a failure to comply with the Authority' code of conduct ("a finding of no failure");

(b) prepare a written report of the investigation which contains a statement as to the finding;

(c) send a copy of that report to the Member;

(d) refer the report to

- (i) the ~~Standards-Complaints Sub~~ Committee; and
- (ii) ~~the standards committee of any other authority, other than a parish council, of which the Member is a member, if that other authority so requests.~~ to the Independent Member.

~~7.6.~~ **Consideration of report of investigation**

~~7.6.1~~ The MO will convene a meeting of the ~~Standards-Complaints Sub~~ Committee, (the Independent Member may attend this meeting in an observer capacity which will ~~consider~~ decide whether

(a) that they accept the MO's finding of no failure ("a finding of acceptance"); or

(b) that the matter should be considered at a hearing; ~~or~~

before reaching a decision the Sub Committee shall take the views of the Independent Member into account.

~~(c) that the matter should be referred to the national Adjudication Panel for determination.~~

~~7.2~~ If the ~~Standards-Complaints Sub~~ Committee make a finding of acceptance, the MO will notify all parties and, unless the Member ~~so~~ requests otherwise, will also publish the finding ~~in accordance with the Regulations.~~

~~7.3~~ If the ~~Standards-Complaints Sub~~ Committee consider that the matter should be considered at a hearing, ~~they will establish a sub-committee (to be known as a Hearing Panel), which will determine the matter in accordance with the Regulations and in the light of any relevant guidance issued by the Board;~~ the MO shall arrange to convene a meeting of the Complaints Sub Committee drawn by random selection from members who have not previously been involved in evaluating the compliant. Membership may be drawn from the whole membership of the Authority.

~~7.4~~ The ~~Hearing Panel~~ Complaints Sub Committee hearing the complaint will follow this procedure to regulate Hearings unless, on the advice of the MO – and after prior notice to the Member of any proposed changes and the reasons for them, the ~~Panel-Sub Committee~~ agree that the procedure should be modified.

~~87.~~ **Role of the Monitoring Officer and other officers**

~~87.1~~ The MO will ensure that the overall conduct of the matter is dealt with effectively in the interests of all parties concerned. The MO may adopt the role either of Investigating Officer or of legal adviser to the ~~Hearing Panel~~ Sub Committee. If the MO acts as Investigating Officer, the MO will ensure that the Deputy MO or another appointed person (who may be a person not in the employment of WYFRA) takes responsibility for ensuring the effective overall conduct of the matter and advising the ~~Hearing Panel~~ Sub Committee. In this situation, references to the MO in the following paragraphs of this procedure will, where appropriate, apply to that appointed person.

~~87.2~~ The role of the MO is to

- a) make sure all parties to the hearing understand the procedures to be followed and the powers available to the ~~Hearing Panel~~ Sub Committee;
- b) make sure that the hearing is fair and allows the matter to be dealt with as efficiently and effectively as possible;
- c) provide advice to the ~~Panel-Sub Committee~~ during the hearing and their deliberations; and
- d) help the ~~Panel-Sub Committee~~ to produce a written decision and a summary of that decision.

~~98.~~ **Notifying the Member and the Complainant.**

~~98.1~~ Within five working days of the completion of a report into an investigation, the MO will send a copy of the report to all Members of the ~~Standards-Complaints Sub~~ Committee, to the Member and, where appropriate, to the Complainant. The report will, at this stage, be provided on a confidential basis, and an undertaking of confidentiality will be sought from the Complainant, the ~~Member, and where needed, the Standards Committee.~~ Member and where needed, the Complaints Sub Committee.

~~9.2~~ ~~Where the report makes a finding of no failure, the report will be referred to the Standards Committee within 11 working days for the Committee to consider the facts within the report and decide either:~~

~~that it accepts the findings; or~~

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~~that, on the balance of probabilities, there is a case to answer and the matter should be considered at a Hearing Panel convened for that purpose.~~

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~~The Hearing Panel must convene for this purpose within three months of the completion of the report.~~

~~10. The Hearing Panel~~

~~9. Obtaining a response from the Member~~

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~~9.1~~ When notifying the Member of the complaint against him or her and providing the Member with the report ~~under paragraph 6~~, the MO will ask the Member for a written response, within fifteen working days, stating whether he or she:

disagrees with any of the findings of fact in the report, including the reasons for any disagreements;

wants to be represented at ~~the any H~~hearing, at their own expense, by a barrister or solicitor or, subject to the consent of the ~~Standards-Complaints Sub~~ Committee, some other person;

wants to give evidence ~~to the at any H~~hearing ~~Panel~~, either verbally or in writing;

wants to call any relevant witnesses to give evidence to ~~the any H~~hearing ~~Panel~~, and if so, who they are;

wants any part of ~~the a H~~hearing to be held in private, explaining the reasons;

wants any part of the report or other relevant documents to be withheld from the public, explaining the reasons.

~~9.2~~ The MO will also ask the Member to identify, in the Member's response, all those matters within the report which the Member disputes. The MO will notify the Member that the ~~Panel-Sub~~ Committee has the power to refuse to hear any new areas of dispute raised at the hearing but not notified prior to it, or may adjourn the hearing to enable the Investigating Officer to respond to them.

~~9.3~~ Upon receipt of a response from the Member, the MO will send it to the Investigating Officer for comment. The Investigating Officer will be asked specifically to say whether or not he or she:

wants to attend the hearing;

wants to call relevant witnesses to give evidence at the hearing;

wants any part of the hearing to be held in private (by virtue of Part VA of the Local Government Act 1972), and the reasons for this;

wants any part of their report or other relevant document to be withheld from the public (by virtue of Part VA of the Local Government Act 1972) and the reasons for this.

~~Calling a meeting of the Hearing Panel~~ Complaints Sub Committee to hear the complaint

~~9.4~~ ~~The MO will forward the investigation report and any responses from the Member or the Investigating Officer to the Chair of the Hearing Panel.~~ The MO is authorised to convene any necessary meeting.

- ~~+09.5~~ Although the Member and the Investigating Officer are entitled to request that any witness be called to give evidence, the MO, ~~in consultation with the Chair of Hearing Panel,~~ may limit the number of witnesses if the MO believes the requests of any party are unreasonable and/or that some witnesses will be repeating evidence which will be given by earlier witnesses and/or will not provide any evidence at all to help the Panel reach a decision. The MO or the Panel Sub Committee may also call any additional witnesses if they will assist the Hearing ~~Panel~~ in reaching a decision.
- ~~+09.6~~ The MO will, ~~in consultation with the Chair of the Hearing Panel:~~
- identify the main facts of the case that are agreed between the Investigating Officer and the Member;
 - identify the main facts of the case that are not agreed between the Investigating Officer and the Member;
 - identify which witnesses will give evidence;
 - outline the proposed procedure for the hearing, specifying for which parts of the hearing (if any) a request has been received for it to take place in private; with the reasons for that request; and
 - arrange to provide this information and the Agenda to everyone involved as a party in the hearing (including the independent person) at least five working days before the date of the hearing. Where any part of the meeting is, or is likely, to be held in private, all recipients will be advised to keep the papers strictly confidential.
- ~~+09.7~~ The agenda papers will include the following information:
- the date, time and place of the hearing;
 - the summary of the allegation;
 - a list of the main facts of the case which are agreed;
 - a list of the main facts of the case which are not agreed;
 - a note about whether the Member and/or the Investigation Officer will attend the hearing and give evidence;
 - a list of witnesses, if any, who will attend the hearing and give evidence; and
 - an outline of the proposed procedure for the hearing (i.e. a set of these rules).
- ~~+09.8~~ The meeting of the Hearing Panel Sub Committee hearing the complaint will be open to the press and public unless confidential or exempt information under Part VA of the Local Government Act 1972 and Regulations is likely to be disclosed. The Panel Sub Committee will go into private session if the Panel Sub Committee resolves to do so.
- ~~+09.9~~ The Hearing Panel Sub Committee has discretion to decide whether or not to exclude the press and public from the meeting if exempt information as defined in Part VA of the LGA 1972 and regulations will be discussed. Where the MO, ~~in consultation with the Chair of the Panel,~~ considers that the report and/or any of the written statements in response are likely to disclose exempt information and as a result it is likely that the Hearing Panel will, when considering these papers, not be open to the press and public then no copies of any documents will be provided to the press and public nor will inspection prior to the meeting be permitted.

Convening the ~~Hearing Panel~~Sub Committee

~~+09.~~10 The MO will ~~ask the Clerk to the Authority to~~ arrange for a meeting of the ~~Panel~~Sub Committee, and, ~~following consultation with the Chair of the Panel,~~ indicate the preferred time, place and date of the meeting. The meeting ~~must~~ should take place within three months from the date of completion of the Investigating Officer's report. The ~~Hearing Panel~~Sub Committee will meet during the day and will aim to complete the hearing in one sitting (i.e. avoiding the need to reconvene on another date part way through hearing the evidence). ~~The Hearing will not be held within 11 days of the report being sent to the Member unless the Member agrees it can be.~~

The composition and methodology of the ~~Hearing Panel~~Sub Committee hearing the complaint

~~+09.~~11 The ~~Hearing Panel~~Sub Committee will be chaired by ~~an independent~~ a member of the ~~Authority~~ Standards Committee selected by the ~~Standards Committee~~Sub Committee, ~~or if none is appointed, by the Chair of the Standards Committee or such independent member as the MO nominates in consultation with the Chair.~~

~~+09.~~12 The ~~Hearing Panel~~Sub Committee will comprise three members of the ~~Standards Committee~~ appointed at a meeting of the Committee, at least one of whom shall be an independent member.~~Authority. The Independent Member may attend in an observer capacity.~~

~~+09.~~13 The quorum for the ~~Panel~~Sub Committee will be two, ~~and must include at least one independent member.~~

~~+09.~~14 A member of the ~~Standards Sub~~ Committee may not ~~sit on the Panel~~adjudicate in the hearing if he or she is the subject of the complaint or if he or she has first-hand involvement in the case (for instance as the Complainant or as a material witness in relation to the allegations) such that his or her impartiality might be challenged.

~~+09.~~15 The ~~Hearing Panel~~Sub Committee will decide, on the balance of probabilities, whether the grounds for complaint are upheld: i.e. whether, on the evidence presented to the ~~Panel~~Hearing in writing and orally (if any), it is more likely than not that the Member is in breach of the Code of Conduct.

~~+09.~~16 Each member of the panel shall have one vote, but the chair shall have a casting vote in the event of equality of votes.

~~+09.~~17 The purpose of the ~~Hearing Panel~~ is to examine and test the evidence produced in the report. This requires an inquisitorial approach by the ~~Hearing Panel~~Sub Committee i.e. the need to seek information in order to establish whether or not the Member is in breach of the Code of Conduct by examining all the written evidence and questioning any relevant witnesses.

~~+09.~~18 The ~~Hearing Panel~~Sub Committee may at any time seek legal advice from the MO. Such advice will be given in the presence of the Investigating Officer and the Member, though the press, public and others present at the hearing may be excluded while this advice is given.

Agenda for and procedure at the ~~Hearing Panel~~

~~+09.~~19 The Agenda for the Meeting shall be as follows:

Quorum

Selection/Appointment of Chair

Introductions

Declarations of interest

Consideration of whether to adjourn or proceed in the absence of the Member (if the Member is not present)

Representations with reasons from the Investigating Officer and/or the Member if either consider that the hearing or any part of it should exclude the press and public under Part VA of the Local Government Act 1972, and determination of this by the Panel.

Explanation of how the hearing will be run.

- | ~~+09.~~20 Where the panel decides that it will not exclude the press and public, the MO will at that point arrange to provide copies of the reports to any press and public who are present.
- | ~~+09.~~21 The Chair will explain that the Panel-Sub Committee may, at any time prior to the conclusion of the hearing, agree to adjourn and require the MO to seek further information or undertake further investigation on any point. ~~(but such adjournment may only take place once).~~
- | ~~+09.~~22 The procedure for dealing with the report about the Member shall be as follows, subject to the Chair of the Panel-Sub Committee being able to make any change to it that he or she thinks appropriate to enable a fair and effective hearing:

Examination of the reports and written representations:

The Panel-Sub Committee will examine the written report, the Member's response to it and any further response from the Investigating Officer. The Panel-Sub Committee may ask the Investigating Officer and/or the Member questions about the contents of their reports.

If there is no disagreement about the facts, the Panel-Sub Committee can move on to consider its findings (paragraph 12 refers).

Examination of oral evidence

Where the facts of the case are not agreed, the Investigating Officer will be asked to make any representations to support the findings of fact in the report relevant to the areas of disagreement, by calling witnesses as agreed by the Chair of the Panel-Sub Committee.

At the end of the Investigating Officer's representations, the Member, the Complainant or their representatives or Members of the Panel-Sub Committee may ask questions.

The Member will then be asked to make any representations to support his or her version of the disputed facts in the report, calling supporting witnesses as agreed by the Chair of the Hearing Panel (Rule 8 refers).

At the end of the Member's representations, the Complainant, the Complainant's representative, the Investigating Officer or Members of the Panel-Sub Committee may ask questions.

Where the Member disputes any matter in the report but which he or she has not given prior notice of his or her intention to dispute, the Investigating Officer must draw this to the attention of the Panel-Sub Committee which ~~The Panel~~ may then decide:

not to hear the fact(s) in dispute;

to hear the fact(s) in dispute but invite the Investigating Officer to respond; or

to adjourn the meeting to enable the Investigating Officer to investigate and report on the disputed fact(s).

Representations on sanctions

~~10.23~~ If the ~~Hearing Panel~~Sub Committee finds the complaint to be made out, the Member will have an opportunity to make a statement in mitigation of any sanction which the ~~Hearing Panel~~Sub Committee may impose.

The decision of the ~~Hearing Panel~~Sub Committee

~~10.24~~ The ~~Hearing Panel~~Sub Committee will retire into private session to consider their findings. The ~~Hearing Panel~~Sub Committee may at any time seek legal advice from the MO. Such advice will be given in the presence of the Investigating Officer and the Member, though the press, public and others present at the hearing may be excluded while this advice is given. At any time the ~~Panel~~Sub Committee may return to ask for questions of the Investigating Officer or the Member, or to seek any further information or advice they require.

~~10.25~~ They may find one of the following:

That the Member did not fail to comply with the Code of Conduct;

That the Member has failed to comply with the Code of Conduct but that no action needs to be taken;

That the Member has failed to comply with the Code of Conduct and should be the subject of:

~~—censured;~~ 1. Formal motion of censure;

2. A formal letter setting out that the Member has failed to comply with the Code.

3. A recommendation to the Authority and/or the Member's Group Leader that the Member (subject to any statutory and constitutional requirements) be removed from Committee(s);

4. Appropriate press release/other publicity

~~—have his or her access to Authority premises and resources restricted for a period up to a maximum of six months;~~

~~—suspended or partially suspended for a maximum of six months;~~

~~—required to submit a written apology in a form specified by the panel;~~

~~—required to undertake training as specified by the panel;~~

~~—required to undertake conciliation as specified by the panel;~~

~~—suspended or partially suspended for a maximum period of six months or until such time as the Member submits a written apology as specified by the Panel;~~

~~—suspended or partially suspended for a maximum period of six months or until such time as the Member undertakes any training or conciliation specified by the Panel.~~

~~10.26 The Panel can impose one or any combination of the above sanctions. In deciding what penalty to set the Panel will consider all relevant circumstances including any mitigation statement made by the Member and any guidance~~

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~~produced by the Standards Board for England. Where any penalty other than censure is imposed, the Panel will determine the date from which that penalty will take effect; such date will not be more than six months after the date of the Panel's decision.~~

~~10.279.26~~ The ~~Hearing Panel~~Sub Committee will return from private session to enable the Chair to announce the decision of the ~~Panel~~Sub Committee and the reasons for it and the sanction they decide to impose (if any).

~~10.289.27~~ The ~~Hearing Panel~~Sub Committee will then consider in open session whether any action needs to be taken by the Authority as a result of the finding, for example reviewing any decision, policy or practice of the Authority which was the subject of the breach of the Code of Conduct; any action needed to prevent or deter further breaches of the Code of Conduct ~~or providing recompense to any person who has suffered detriment as a result of the breach.~~

~~10.~~ **Confidentiality and the disclosure of information**

~~10.1~~ No member of the Authority shall disclose any information he or she has obtained in the course of an investigation or as a result of this procedure unless:
the disclosure is made to enable the Monitoring Officer or any Investigating Officer to carry out his or her functions, or to enable the Standards Committee ~~or Complaints Sub Committee~~ to carry out ~~its~~their functions in relation to the matter;

~~the disclosure is made to enable the Appeal Tribunal of the Adjudication Panel to discharge its functions;~~

the person to whom the information relates has consented to the disclosure;

the disclosure is made following receipt of a statutory requirement for disclosure;

the information has previously and lawfully been disclosed to the public;

the disclosure is made to the Audit Commission in relation to any function specified in the Audit Commission Act 1998; or

the disclosure is made in consequence of criminal proceedings

~~11.~~ **Notice of findings**

~~11.1~~ The MO will make available, by ~~noon 1pm~~ on ~~not later than~~ the ~~first~~second working day following that on which the hearing concludes, a short written statement of the decision.

~~11.2~~ A full written draft of the decision and the reasons for it will be prepared and finalised in consultation with the Chair of the ~~Hearing Panel~~Sub Committee and circulated within two weeks of the hearing to the Member, the Complainant (where appropriate), the Investigating Officer, the Authority's Standards Committee, ~~and any other authority concerned. The decision will follow the format recommended by the Standards Board for England.~~

~~11.3~~ Subject to the provisions below, the MO shall arrange for a summary of the findings to be published ~~in at least one newspaper circulating in the Authority's area and~~ on the Authority's website.

~~11.4~~ Where the ~~Hearing Panel~~Sub Committee decide that the Member has not failed to comply with the Code of Conduct, the summary of findings specified above shall:

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state that the ~~Hearing Panel~~Sub Committee found the Member had not failed to comply with the Code of Conduct and shall give reasons for that finding; and

not be published if the Member so requests.

~~11.5~~ Where the ~~Hearing Panel~~Sub Committee decide that the Member has failed to comply with the Code of Conduct, but also decides that no action should be taken, the notice shall:

- a) state that the ~~Hearing Panel~~Sub Committee found that the Member had failed to comply with the Code of Conduct, but that no action need be taken in respect of that failure;
- b) specify the details of the failure;
- c) give reasons for the decision reached; ~~and~~
- ~~d) state that the Member concerned may apply for permission to appeal against the determination to the President of the Adjudication Panel.~~

~~11.6~~ Where the ~~Hearing Panel~~Sub Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified above shall:

- a) state that the ~~Hearing Panel~~Sub Committee found that the Member had failed to comply with the Code of Conduct;
- b) specify the details of the failure;
- c) give reasons for the decision reached;
- d) specify the sanction imposed; ~~and~~
- ~~e) state that the Member concerned may apply for permission to appeal against the determination to the President of the Adjudication Panel.~~

~~11.7~~ Copies of the agenda, reports and minutes of the hearing as well as any background papers, apart from any documents or parts of documents which relate to parts of the hearing which were held in private, will be available for public inspection for six years after the hearing.

~~12.8~~ The decision of the Sub Committee hearing the complaint shall be final but before reaching its decision, the Sub Committee shall take into account the views of the independent person.

~~13.~~ **Appealing against the decision of the Hearing Panel**

~~13.1~~ ~~Where the Hearing Panel has determined that the Member has failed to comply with the Code of Conduct, the MO shall inform the Member of his or her right to apply for permission to appeal against the finding to an appeal tribunal of the Adjudication Panel for England. The MO will also advise the Member of the deadline for submitting an appeal, along with any other relevant information.~~

(Draft)

West Yorkshire Fire and Rescue Authority

Localism Act 2011 – Standards – Independent Person

Outline of Skills required and Role Description

1. To be a person of good standing in the West Yorkshire community with a residential or business or employment link within the community and preferably with some experience of governance or ethical standards in local government or other public bodies or experience in the discharge of regulatory legal or judicial functions.
2. To demonstrate a keen interest in promoting high ethical standards in local government.
3. To have the ability to operate effectively at a high level with both elected Members and senior officers of the Authority without compromising their personal independence.
4. To discharge the statutory role of an Independent Person as set out in the Localism Act 2011 namely the ability to give their views when consulted either by an elected Member who is the subject of an allegation of misconduct contrary to the Authority Code of Conduct or by the Authority complaints sub-committee before it reaches any decision about complaints about Members which have been investigated or in any other circumstances if so requested.
5. In order to discharge the statutory role any person seeking appointment as an Independent Person will need to demonstrate the ability to expediently assimilate and assess the content of detailed investigation reports into complaints of breach of the Code of Conduct and the ability to form and give views on issues arising to both elected Members under investigation and to the complaints sub-committee prior to the sub-committee making any decisions about such matters. This may involve an assessment by the Independent Member of whether the evidence indicates that the Member subject to an allegation has breached the Code of Conduct and on the issue of whether any sanction should be imposed. The final decision on such matters is the responsibility of the complaints sub-committee. The Independent Person will be expected to attend on request meetings of the complaints sub-committee and may on occasion be required to give their views in public meetings.
6. The Independent Person will attend such other meetings as are necessary to discharge their role in the complaints process at the request of the Authority Monitoring Officer. The Independent Person may be required to undergo training relevant to the role – the expenses incurred in undergoing training will be met by the Authority.
7. The Independent Member shall if requested attend meetings of the Standards Committee or the Authority in order to assist the Authority generally in discussing and promoting high standards of ethical conduct.

8. The Independent Person will hold a statutory office under the terms of the Localism Act 2011 and shall not be an employee of the Authority. The term of office will be for a fixed term as notified to the Independent Person on appointment and will be subject to the Independent person maintaining high standards of personal conduct and compliance with the Code of Conduct. The Authority may terminate an appointment at any time for good cause.
9. An Independent Person must not be subject to any statutory bar on appointment and in particular must not have been a Member or Co-Opted Member of another relevant local authority as defined in the legislation during the last 5 years. Applicants for appointment must submit an application in the approved format and may be required to undergo CRB or other checks as deemed appropriate by the Authority and any offer of appointment may be made conditional upon and subject to satisfactory clearance.
10. The Independent Person will receive an annual payment of £..... payable quarterly in arrears together with reimbursement of reasonable travel and subsistence allowances necessarily incurred subject to the limits imposed under the Member allowances scheme. Payment will be subject to deduction of taxes and any other statutory charges by the Authority in accordance with HMRC requirements.