



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

**M. Pearson
CLERK TO THE AUTHORITY**

**To: The Chair and Members of the Standards
Committee**

(see below)

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STANDARDS COMMITTEE

Monday, 8 April, 2019

A meeting of the Standards Committee will be held on the above date, **commencing at 10.00 am in Conference Rooms, Service Headquarters, Exeter** to consider the following matters.

M. Pearson
Clerk to the Authority

SUPPLEMENTARY AGENDA No. 1

PLEASE REFER TO THE NOTES AT THE END OF THE AGENDA LISTING SHEETS

5 Hearing Process - Right of Representation (Pages 1 - 2)

Report of the Director of Corporate Services (SC/19/2) attached.

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Thomas (Chair), Bown, Drean, Ellery (Vice-Chair), Prowse, Redman and Trail BEM

NOTES

1.	<u>Access to Information</u> Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact the person listed in the “Please ask for” section at the top of this agenda.
2.	<u>Reporting of Meetings</u> Any person attending a meeting may report (film, photograph or make an audio recording) on any part of the meeting which is open to the public – unless there is good reason not to do so, as directed by the Chair - and use any communication method, including the internet and social media (Facebook, Twitter etc.), to publish, post or otherwise share the report. The Authority accepts no liability for the content or accuracy of any such report, which should not be construed as representing the official, Authority record of the meeting. Similarly, any views expressed in such reports should not be interpreted as representing the views of the Authority. Flash photography is not permitted and any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chair or the Democratic Services Officer in attendance so that all those present may be made aware that is happening.
3.	<u>Declarations of Interests at meetings (Authority Members only)</u> If you are present at a meeting and you are aware that you have either a disclosable pecuniary interest, personal interest or non-registerable interest in any matter being considered or to be considered at the meeting then, unless you have a current and relevant dispensation in relation to the matter, you must: <ul style="list-style-type: none">(i) disclose at that meeting, by no later than commencement of consideration of the item in which you have the interest or, if later, the time at which the interest becomes apparent to you, the existence of and – for anything other than a “sensitive” interest – the nature of that interest; and then(ii) withdraw from the room or chamber during consideration of the item in which you have the relevant interest. If the interest is sensitive (as agreed with the Monitoring Officer), you need not disclose the nature of the interest but merely that you have an interest of a sensitive nature. You must still follow (i) and (ii) above. Where a dispensation has been granted to you either by the Authority or its Monitoring Officer in relation to any relevant interest, then you must act in accordance with any terms and conditions associated with that dispensation. Where you declare at a meeting a disclosable pecuniary or personal interest that you have not previously included in your Register of Interests then you must, within 28 days of the date of the meeting at which the declaration was made, ensure that your Register is updated to include details of the interest so declared.
4.	<u>Part 2 Reports</u> Members are reminded that any Part 2 reports as circulated with the agenda for this meeting contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Committee Secretary at the conclusion of the meeting for disposal.
5.	<u>Substitute Members (Committee Meetings only)</u> Members are reminded that, in accordance with Standing Order 37, the Clerk (or his representative) must be advised of any substitution prior to the start of the meeting. Members are also reminded that substitutions are not permitted for full Authority meetings.

REPORT REFERENCE NO.	SC/19/2
MEETING	STANDARDS COMMITTEE
DATE OF MEETING	8 APRIL 2019
SUBJECT OF REPORT	HEARING PROCESS – RIGHT OF REPRESENTATION
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p>(a). <i>That, in the event that the Committee approves that matters that have been subject to investigation should be determined by hearings, then the pre-hearing and hearing procedure and published guidance on making and dealing with complaints be amended to indicate that, in attending such hearings, there is no right of representation for the Subject Member;</i></p> <p>(b). <i>that the Clerk be authorised to make the amendments referred to at (a) above.</i></p>
EXECUTIVE SUMMARY	<p>Elsewhere on the agenda, report SC/19/1 outlines proposed changes to both the Authority's Code of Members' Conduct and the guidance and procedures associated with handling complaints made under the Code.</p> <p>Although not featuring as part of the Guidance and Procedures, this Authority has used, for conducting both a pre-hearing and subsequently the hearing where a matter has been subject to investigation, processes based on those used by the former Standards Board for England. Specifically, these processes provide – at the pre-hearing stage – for the hearing panel to identify whether the Subject Member is to be legally represented i.e. intimating that the Subject Member has a right of legal representation.</p> <p>While this was undoubtedly proportionate for the previous (i.e. pre-2011) Standards regime, where more serious sanctions including suspensions were available, experience in this Authority indicates that affording a right of legal representation increases the risks of hearings becoming overly adversarial and is disproportionate given that only limited sanctions can be applied in the event that a breach of the Code of Conduct is found.</p> <p>Report SC/19/1 invites the Committee to consider and determine whether it would wish matters that have been subject to formal investigation to be determined either by the full Committee (with no right of attendance by either the complainant or the Subject Member) or by a Hearing Panel. If the Committee is minded to approve the latter, then it is proposed that there should be no right of representation for the Subject Member and that both the pre-hearing and hearing process and the published guidance on making and dealing with complaints should be amended to reflect this.</p>
RESOURCE IMPLICATIONS	None.

EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and human rights legislation.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Report SC/19/1 (Review of Code of Conduct and Complaints Guidance)