

STANDARDS COMMITTEE

(Devon & Somerset Fire & Rescue Authority)

8 April 2019

Present:

Councillors Thomas (Chair), Bown, Drean, Redman and Trail BEM.

Also in attendance:

Councillor Randall Johnson.

Apologies:

Councillors Ellery and Prowse.

* SC/10

Minutes

RESOLVED that the Minutes of the meeting held on 3 December 2018 be signed as a correct record.

SC/11

Review of Code of Conduct and Complaints Guidance

The Committee considered a report of the Director of Corporate Services (SC/19/1) on proposed revisions to the Authority's Code of Conduct, its arrangements for dealing with alleged breaches of the Code and the associated guidance documents for making a complaint and outlining the complaints process followed.

The review had been prompted by publication of the findings by the Committee on Standards in Public Life following its review of local government ethical standards as introduced by the Localism Act 2011; and by a local review in light of recent experience in dealing with complaints.

The review report by the Committee on Standards in Public Life contained a number of recommended changes to the legislation for ethical standards along with a number of "best practice" recommendations that all public authorities were encouraged to adopt. While the Devon & Somerset Fire & Rescue Authority arrangements already complied with the majority of the best practice recommendations, the report proposed amendments to give effect to those recommendations not currently addressed. Stemming from the more local review, the report identified possible changes both to the composition of the Standards Committee and arrangements for dealing with complaints which had been subject to investigation.

RESOLVED

- (a) that the Authority be recommended:
 - (i) to delegate authority to the Monitoring Officer to undertake a process for and determine the appointment of two Independent Persons (as required by the Localism Act), with the term of office for each Independent Person to be limited to two years, renewable once;
 - (ii) to approve remuneration for the Independent Persons on the basis of £100 for each standards issue they are involved in;

(iii) to grant an indemnity for the Independent Person(s) required by the Localism Act, in line with the Authority's indemnity for officers and Members, to meet any reasonable costs incurred in securing appropriate legal advice and representation in respect of any civil or criminal proceedings that may arise from their involvement in Authority standards matters – this indemnity to include the requirement that any expenditure incurred by the Authority under the indemnity be refunded in the event of any court sanction not subsequently overturned on appeal;

(iv) to amend the Approved Code of Members' Conduct by:

A. incorporating the following definition of harassment in paragraph 2.4:

"harassment" may be defined as any unwanted behaviour which the individual subject to that behaviour finds offensive or which makes them feel intimidated or humiliated. This can happen on its own or alongside other forms of discrimination. Examples of unwanted behaviour include:

- spoken or written words or abuse;
- offensive tweets, e-mails or comments on social networking sites;
- images and graffiti;
- physical gestures;
- facial expressions; and
- jokes;

B. inserting the following into the General Obligations paragraph of the Code (paragraph 4.1)(you must...)

(6) comply and co-operate fully and openly in any formal standards investigation in which you are either the Subject Member or a witness;

C. inserting the following into paragraph 4.2 of the Code (you must not...)

(10) make trivial or malicious allegations against a fellow Member (or Members) of the Authority;

(b). that the Guidance on Making a Complaint be amended by adding the words (the Public Interest Test) to the "Other Assessment Criteria" sub-heading and amending the introductory paragraph of this sub-section to read "If your complaint meets the above criteria, the Monitoring Officer (following consultation with the Independent Person) may still decide to take no further action in respect of your complaint if it is felt that further action would not be in the public interest. This is likely to be the case where one or more of the following applies:"

(c). that the complaints handling arrangements be amended as follows in relation to complaints that have been subject to investigation:

- (i) for those instances where an investigation concludes a breach of the Code and indicative sanctions, the matter be determined by a Hearings Panel comprising five Members of the Standards Committee selected by the Monitoring Officer in consultation with the Committee Chair;
 - (ii) for those instances where an investigation concludes no breach of the Code or where the recommendation is for no further action, the Monitoring Officer be delegated authority to determine the matter following consultation with the Independent Person; and
 - (iii) for all cases where a complaint has been subject to investigation, the Monitoring Officer should produce and publish on the Authority's website as soon as possible after the matter has been determined a Decision Notice setting out a brief statement of the facts, the provisions of the Code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction (or other action) applied. In the case of investigation reports where it is determined that there has been no breach of the Code, then the Subject Member concerned will not be named in the resulting Decision Notice;
- (d). that the revised arrangements at (c) above take effect for all complaints received from the date of this meeting (i.e. from 8 April 2019);
- (e). that the Clerk be authorised to:
- (i) revise the current Guidance on Making a Complaint to produce two separate documents (a Guide to Making a Complaint; and Procedures to be Followed on Receipt of a Complaint), both to be published on the website; and
 - (ii) amend the Procedures document to reflect the new arrangements as set out at (c) above.

(SEE ALSO MINUTE SC/12 BELOW).

*** SC/12**

Hearing Process - Right of Representation

The Committee considered a report of the Director of Corporate Services (SC/19/2) on issues relating to representation by Subject Members at hearings to determine Code of Conduct breaches and sanctions.

Previous hearing procedures used by the Authority had been adopted from those formerly used by the Standards Board for England. The former regime, however, had the ability to impose significant sanctions (e.g. suspending a Member) which were no longer available. Consequently, it was felt that the hearing and pre-hearing processes and explanatory documentation should be amended to provide a more proportionate approach.

RESOLVED that the pre-hearing and hearing process and associated explanatory documentation be amended to indicate that a Subject Member may be accompanied at hearings.

(SEE ALSO MINUTE SC/11 ABOVE)

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 10.00 am and finished at 11.55 am