

REPORT REFERENCE NO.	DDC/18/1
MEETING	DETERMINATIONS AND DISPENSATIONS COMMITTEE
DATE OF MEETING	9 APRIL 2018
SUBJECT OF REPORT	REVIEW OF CURRENT STANDARDS ARRANGEMENTS
LEAD OFFICER	Director of Corporate Services (Clerk to the Authority)
RECOMMENDATIONS	<p><i>That the Committee review, with a view to recommending to the Authority approval of:</i></p> <ul style="list-style-type: none"> <i>(a). the revised Members Code of Conduct as contained at Appendix A to this report;</i> <i>(b). the revised form for Declaration of Members' Registerable Interests, as set out at Appendix B;</i> <i>(c). the revised Guide to Making a Complaint, as set out at Appendix C (with the Director of Corporate Services [Clerk to the Authority] authorised to make any consequential changes stemming from approval of [d] below);</i> <i>(d). the renaming of this Committee to the Standards Committee; and</i> <i>(e). the revised Terms of Reference for the Standards Committee, as set out at Appendix D.</i>
EXECUTIVE SUMMARY	<p>In November 2016, this Committee met to consider allegations of a breach by a Member of the Authority of the existing Code of Conduct. Stemming from this meeting was a recommendation to review the Code of Conduct to ensure compliance with best practice and arrange, on adoption of any revised Code, for the provision of relevant training both on the revised Code generally and the registration and declaration of interests specifically.</p> <p>While the review has not progressed as rapidly as might otherwise have been the case, it has now been completed. Accordingly, a revised Code of Practice, together with associated Declaration of Interests form and Guidance on Making a Complaint, are now attached to this report for consideration with a view to recommending to the Authority for approval.</p> <p>Additionally, as a result of undertaking the review, revised Terms of Reference are now proposed along with a recommendation to consider amending the name of this Committee to the Standards Committee (for transparency purposes).</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	<ul style="list-style-type: none"> A. Proposed revised Members Code of Conduct. B. Revised Registration of Interests form. C. Revised Guidance on Making a Complaint. D. Revised Terms of Reference
LIST OF BACKGROUND PAPERS	<ul style="list-style-type: none"> A. Localism Act 2011. B. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. C. "Openness and transparency on personal interests – A guide for Councillors" issued by the Department for Communities and Local Government in September 2013. D. Report DSFRA/11/31 (Localism Act 2011) to the Authority meeting held on 16 December 2011 and the Minutes of that meeting. E. Report DSFRA/12/11 (Localism Act 2011 - New Member Conduct Provisions – appointment of independent person) to the Annual Authority Meeting held on 30 May 2012 and the Minutes of that meeting. F. Report DSFRA/12/23 (Localism Act 2011 – New Member Conduct Regime) to the Authority meeting held on 30 July 2012 and the Minutes of that meeting. G. The Local Authorities (Model Code of Conduct) Order 2007. H. Plymouth City Council Code of Conduct. I. Torbay Council Code of Conduct. J. Devon County Council Code of Conduct. K. Somerset County Council Code of Conduct. L. Avon Fire Authority Code of Conduct. M. Dorset & Wiltshire Fire & Rescue Authority Code of Conduct.

1. INTRODUCTION

- 1.1. The Localism Act 2011 (“the Act”) introduced significant changes to the previous standards regime. The requirement to adopt a Model Code of Conduct, mandated in Regulations, was abolished as was the Standards Board for England established to address complaints made under that Code. Instead, a duty was placed on all relevant authorities (including the Devon & Somerset Fire & Rescue Authority) to promote and maintain high standards of conduct by its Members and Co-opted Members. In discharging this duty, authorities are required to:
- adopt a code of conduct to be followed by its Members and Co-opted Members when acting in that capacity. The code must reflect the Nolan principles (selflessness; integrity; objectivity; accountability; openness; honesty; leadership) and contain provisions for the registration and disclosure of pecuniary and other interests;
 - put in place “arrangements” to investigate and determine allegations of breaches of the code, with the “arrangements” to feature an “independent person” (not a Member or officer of the Authority) whose views must be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.
- 1.2. The Act requires Authority Members to register and declare “disclosable pecuniary interests”, with subsequent Regulations specifying the types of disclosable pecuniary interests requiring to be registered and declared. The Act made failure to register and declare disclosable pecuniary interests an offence carrying a fine, on summary conviction, not exceeding level 5 on the standard scale (£5,000). The Act also gives flexibility for an authority to specify and adopt other, registerable interests. Finally, the Act requires the registerable interests of individual Members to be published.
- 1.3. In accordance with the provisions of the Act, the Devon & Somerset Fire & Rescue Authority at its meeting on 30 July 2012 adopted a Code of Conduct and approved arrangements for dealing with alleged breaches of this Code.
- 1.4. The Code then adopted (which remains in force to date) enshrines the seven “Nolan” principles as required by the Act and also reflects requirements contained in Regulations made under the Act relating to Disclosable Pecuniary Interests. Additionally, the Code also reflects many of the provisions contained in the former Model Code, the Authority at the time accepting the view that these were consistent with the minimum standards that should be expected of someone in public office and that consequently to move away from these would be a retrograde step.
- 1.5. The Code has remained in place since 2012 but, arising from a hearing in November 2016 on alleged breaches of the Code, has now been subject to review to ensure compliance with current best practice.

2. OUTCOME OF REVIEW

- 2.1 As indicated, other than prescribed disclosable pecuniary interests and ensuring that the contents are, when taken as a whole, consistent with the Nolan general principles of public life, the contents of Code of Conduct are a matter for each individual local authority to determine. In undertaking the review, account has been taken of:
- the contents of the previous, prescribed Model Code;
 - the requirements of the Localism Act, and any Regulations and guidance subsequently issued;

- a sample of other local authority codes (including the Codes of constituent authorities and other combined fire and rescue authorities);
- the Code of Conduct for Cornwall Council (which provides legal advice to the Authority and undertook the investigation on the alleged breach in 2016).

2.2 In the main, there was found to be a great deal of consistency in terms of the basic content of the Codes examined (perhaps unsurprising given the requirements for all Codes to be consistent with the Nolan principles and to require the registration and declaration of prescribed disclosable pecuniary interests).

2.3 The main differences tended to relate to those other interests which authorities had considered appropriate to be registered and those interests which, while not requiring registration, should nonetheless still be declared at meetings. In addressing these aspects, consideration has been given to statutory requirements, the contents of other Codes examined and guidance issued by the [then] Department for Communities and Local Government on “Openness and transparency on personal interests”. Additionally, account has been taken of the contents of the former Model Code (in so far as this defined personal interests and how these should be treated i.e. registered and/or disclosed at meetings), given that Authority was previously of the view that these were consistent with the minimum standards that should be expected of someone in public office and that to move away from these would be a retrograde step.

2.4 A proposed revised Code is now attached at Appendix A. Content-wise, the Code is broadly the same as that currently in force but following the review the opportunity has been taken to:

- clarify personal interests that should be registered to make them more consistent with the Nolan principles and with registerable, non-pecuniary interests as set out in the former Model Code;
- reflect the provisions of the former Model Code in relation to non-registerable interests;
- clarify the requirements in relation to the declaration of disclosable pecuniary, personal and non-registerable interests at meetings; and
- generally, reformat the lay-out of the Code to assist transparency and understanding.

2.5 The Committee is invited to consider the revised Code with a view to recommending its approval to the Authority. Should the revised Code be approved, it will be necessary to modify the Registration of Interests form. A draft form, reflecting the revised Code, is attached at Appendix B and – subject to its decision on the revised Code – the Committee is asked to recommend this for approval by the Authority.

3. **OTHER ISSUES**

Guidance on making a complaint

3.1 In addition to proposed revisions to the Code of Conduct and associated Registration of Interests form, the opportunity has also been taken to review and revise as appropriate the public-facing guidance on making a complaint under the Code.

3.2 Proposed revised guidance is now attached at Appendix C. The revisions proposed are:

- the inclusion of two additional criteria to feature as part of the initial assessment procedures. These are shown highlighted (under the “Other Assessment Criteria” sub-heading) and are proposed for inclusion in the interests of greater certainty and clarity and to make the process more robust, proportionate and balanced;
- inclusion of a new Section 12 setting out, for clarity purposes, courses of action that might follow if an allegation passes the initial assessment criteria.

3.3 The Committee is asked to consider the revised guidance with a view to recommending its approval to the Authority.

Name and Terms of Reference of the Committee

3.4 Finally, as part of the review the opportunity has been taken to revisit the Terms of Reference of this Committee. Suggested revised Terms of Reference, amended to more appropriately reflect the wider, statutory, requirement to promote and maintain high standards of conduct.

3.5 For similar reasons and in the interests of transparency, it is also suggested that the Committee be renamed the Standards Committee (this being the most commonly used name for committees with similar rolls in other public authorities).

3.6 The Committee is invited to consider these proposals with a view to recommending their approval to the Authority.

MIKE PEARSON

Director of Corporate Services (Clerk to the Authority)