

GREATER MANCHESTER FIRE
AND RESCUE AUTHORITY

6 SEPTEMBER 2012

Subject: THE LOCALISM ACT 2011 NEW CODE OF CONDUCT FOR
MEMBERS AND ARRANGMENTS TO DEAL WITH COMPLAINTS

Report of the Clerk

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PURPOSE OF THE REPORT

To adopt a new Member Code of Conduct and arrangements for dealing with complaints and to appoint an Independent Person as part of the new arrangements.

EXECUTIVE SUMMARY

1. The Localism Act 2011 places a duty to promote and maintain high standards of conduct for elected and co-opted members. This includes the requirement to adopt a new Code of Conduct for Members.
2. The Act requires that the Authority also adopt arrangements for dealing with complaints of breaches of the Code of Conduct by elected members or co-opted members of Greater Manchester Fire and Rescue Authority (GMFRA). This must include provision for the appointment of at least one 'independent person' who will be consulted on complaints received.

INTRODUCTION/BACKGROUND

3. The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected members and co-opted members of the Authority. On 6th June 2012 the Government made a Commencement Order bringing the new arrangements for standards under the Localism Act into force on 1st July 2012. In order to ensure that the Authority has complaints arrangements in place the report sets out the proposed arrangements.

THE REQUIREMENTS OF THE LOCALISM ACT 2011

4. The Authority is under a duty to promote and maintain high standards of conduct for its members and co-opted members. To assist, it must adopt a Code of Conduct for Members that is consistent with the seven 'Nolan principles' of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Unlike the current arrangements of standards there will be no nationally prescribed code, so it is much left to choice as to what is included in the new code.

5. A new code must include provisions to regulate what would be known as '*pecuniary interests*' and '*interests other than pecuniary interests*'. The Government has recently published a guide for councillors titled 'Openness and transparency on personal interests' which is attached at Appendix C.
6. Under the Localism Act the Authority is also required to have in place arrangements ('Arrangements') for handling allegations that a member or co-opted member of the Authority has failed to comply with the Authority's New Code of Conduct. While the Localism Act effectively allows the Authority a wide freedom as to the form of its Arrangements, in order to comply with common law rules of natural justice and fairness it is necessary for the Authority's arrangements to set out in some detail the process for dealing with complaints and the actions which may be taken against a Member who is found in breach of the Authority's New Code. Attached at Appendix B are draft Arrangements for dealing with complaints. These have been produced as a result of collaboration with other AGMA authorities. However, the Authority is able to establish its own process, which can include the delegation of decisions on complaints against Authority Members.

PROPOSALS IN RELATION TO THE AUTHORITY'S CODE OF CONDUCT FOR MEMBERS – THE DRAFT 'AGMA' CODE OF CONDUCT FOR MEMBERS

7. The general consensus across AGMA authorities was that the Current Code was reasonably well understood and therefore was little purpose in making any major alterations to it. A summary of the principal differences between the Current Code and the draft New Code is detailed in paragraphs 8 to 20 below. A copy of the new Code is attached at Appendix A.

PART 1 OF THE NEW CODE

8. The principal change between the Old Code and the draft New Code is that there are no references in the New Code to members' conduct in private life, since the Localism Act is only concerned with conduct when Members are acting in their official capacity as a Member of the Authority or as an appointed Member of a joint committee. The draft New Code also changes the provisions of the Old Code in relation to allegations of a Member's "failure to show respect to others", which was a breach of the Old Code. Concern was expressed that this was too subjective and led to many trivial complaints. It is proposed instead that the draft New Code should prohibit "bullying or being abusive to others".

PART 2 OF THE NEW CODE

“Disclosable Pecuniary Interests” (“DPIs”)

9. On the 6 June 2012 the Government made the long-awaited Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the DPI Regulations”), which specify what constitutes a DPI for the purposes of the Localism Act. Under the Localism Act, DPIs are broadly similar to what are referred to as “Prejudicial Interests” in the Current Code. A principal difference between DPIs and Prejudicial Interests however, is that if a Member fails to take appropriate action in relation to a DPI, then Section 34 of the Localism Act provides that such failure may constitute a criminal offence, which on conviction may lead to a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years. The other major difference between DPIs and Prejudicial Interests is that DPIs are defined as being the interests not just of a Member of the Authority, but also the interests of the Member’s “Partner” (where the Member is aware of their Partner’s interest).

Definition of DPIs

10. Section 30(3) of the Localism Act defines DPIs as being an interest of a description specified by the DPI Regulations which is either:
 - (a) an interest of an Authority Member (“the Member”), or
 - (b) an interest of:
 - (i) the Member’s spouse or civil partner,
 - (ii) a person with whom the Member is living as husband and wife, or
 - (iii) a person with whom the Member is living as if they were civil partners, where the Member is aware that the other person has the interest.

The draft New Code contains a table that describes those interests of Members and their Partners that constitute DPIs (e.g. “any employment, office, trade, profession or vocation carried out for profit or gain”). The New Code advises Members of their statutory obligation under the Localism Act to notify the Authority’s Monitoring Officer of any DPIs within 28 days of being appointed as a Member of the GMFRA. The New Code also advises Members of their statutory obligation under the Localism Act in relation to non-participation where a Member is present at a meeting where they have a DPI in any matter that is being considered and that a failure to comply with the requirements of the New Code in relation to DPIs may constitute a criminal offence.

PART 3 OF THE CODE

Personal Interests other than DPIs

11. The Localism Act provides that the Authority's draft New Code must include such provisions as the Authority "considers appropriate" in respect of the registration in the Authority's Register of Member's Interests of: -
- (a) pecuniary interests, and
 - (b) interests other than pecuniary interests.

The Localism Act also provides that, subject to the specific provisions of the Localism Act in relation to the requirement for the Register of Member's Interests to record DPIs, it is for the Authority to determine what is to be entered in its Register of Member's Interests.

Notification of Personal Interests

12. The draft New Code requires Members (in addition to notifying Authority's Monitoring Officer of any DPIs in accordance with the requirements of the Localism Act and the New Code), to notify the Authority's Monitoring Officer of any "Personal Interests" as defined at Part 3 of the New Code. The "Personal Interests" that are listed at Part 3, paragraph 11.2 of the New Code are effectively those "Personal Interests" in the Old Code that are not DPIs.
13. However, it should be noted that the draft New Code only requires a Member to register in the Register of Member's Interests if he/she is in "a position of general control or management" of any body:-
- (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

While the Old Code required Members to register the mere fact of their membership of any of the above bodies, it was felt on review that simply being a member of a charity etc. (as opposed to holding a position of general control or management in such a body) did not really require registration in the Register of Member's Interests and publication on the Authority's website – particularly since membership of a company only needs to be registered where a person holds shares with a nominal value of at least £25,000 or representing more than 1% of the company's share capital. The other change requires that a Member only has to register receipt of gifts and hospitality with an estimated value of £100, as it was felt on review that the previous figure of £25 under the Old Code was too low, nor did it reflect inflation in the 12 years since it was set. It is proposed that the Authority should set its amount at £75.

Disclosure of Personal Interests

14. The draft New Code provides that where a Member has a Personal Interest (as defined by Part 3, paragraph 11.2 of the New Code or Part 3, paragraph 12.2 of the New Code) in any Authority business, and he/she attends an Authority meeting at which the business is considered, the Member concerned must disclose to that meeting the existence and nature of his/her Personal Interest as soon as the Personal Interest becomes apparent. As in the Old Code a Member must also disclose a "Personal Interest" in any Authority business where:-

"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 other council tax payers, ratepayers or inhabitants of the electoral ward(s), affected by the decision"

15. The definition of "*relevant person*" is wider than "partner" and includes the Member's wider family and close friends whose interests are not DPIs. Therefore, where a Member becomes aware that a decision involves a "*relevant person*" (such as a child or close friend of the Member), the draft New Code will require the Member to disclose this as a "Personal Interest" to the meeting, even though it does not constitute a DPI that must be disclosed under the Localism Act.

Non-participation in the case of Prejudicial Interests

16. As in the Old Code, where a Member has a "Personal Interest" in any Authority business, then the Member will 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 your judgement of the public interest and where that business –

- (a) affects your financial position or the financial position of a *relevant person*; or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any *relevant person*."

Where a Member has a Prejudicial Interest, then the draft New Code provides that (subject to a number of specific exceptions), the Member must:-

- (a) Not participate in any discussion of the matter at the meeting;
- (b) Not participate in any vote taken on the matter at the meeting;
- (c) Disclose the Prejudicial Interest to the meeting (if it is not registered in the Authority's Register of Member's Interests); and

- (d) Notify the Authority's Monitoring Officer of the Prejudicial Interest within 28 days (if it is not registered in the Authority's Register of Member's Interests and is not the subject of a pending notification).

PART 4 OF THE NEW CODE – REGISTER OF INTERESTS AND DISPENSATIONS

Authority's Register of Member's Interests

17. The draft New Code provides that any DPIs or Personal Interests notified to the Authority's Monitoring Officer will be included in the Authority's Register of Member's Interests and that, in accordance with the requirements of the Localism Act a copy of the Register will be available for public inspection and will be published on the Authority's website.

Dispensations

18. The provisions in relation to the grant of dispensations are significantly changed under the Localism Act. Under the previous standards regime, dispensations to allow a Member who had a "Prejudicial Interest" to participate in and/or vote on a matter in which they had a Prejudicial Interest could only be granted by the Authority's Standards Committee and only on one of the following two grounds:
- That at least half the members of a decision-making body have Prejudicial Interests; and
 - That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.
19. By contrast, under the Localism Act, the Authority is given the discretion to grant dispensations itself, or to delegate the power to grant dispensations to a Committee (such as a "voluntary" Standards Committee), or to the Authority's Monitoring Officer. In addition, under the Localism Act, dispensations to allow a Member who has a DPI to participate in and/or vote on a matter in which they have a DPI may be granted on one of the following grounds:-
- (a) That so many members of the Authority have DPIs in a matter that it would "impede the transaction of the business";
 - (b) That without the dispensation, the representation of different political groups on the Authority would be so upset as to alter the outcome of the vote in any matter;
 - (c) That granting the dispensation is in the interests of people living in the Greater Manchester area;
 - (d) That it is otherwise appropriate to grant the dispensation.

20. It is proposed that the Authority should delegate power to grant dispensations on any of the above grounds to the Authority's Monitoring Officer, in consultation with the Independent Person.

CURRENT POSITION

21. At the meeting of the Policy, Resources and Performance Committee on 17th May 2012 (Minute 60 refers) it was agreed that standards matters would be incorporated into the Audit and Scrutiny Committee's Terms of Reference, when the new Standards Framework came into force. This has now taken effect and the Audit and Scrutiny Committee had been renamed the 'Audit, Scrutiny and Standards Committee' with the Terms of Reference being amended accordingly. The Standards Committee was decommissioned from 1st July 2012 and the Independent Members ceased to hold office.

APPOINTMENT OF INDEPENDENT PERSON

22. At the meeting of the Policy, Resources and Performance Committee on 17th May 2012 (Minute 60 refers) the recruitment process of an Independent Person under the Localism Act was also agreed with a view to bringing a recommendation to this meeting of the Authority.
23. The Localism Act states that the Authority must appoint at least one 'Independent Person' who has not been, or previously been a Member or Officer of GMFRA in the last five years or close friend of such a person. The role of the Independent Person is as follows:-
- To be consulted by the Authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
 - May be consulted by the Authority in respect of a standards complaint at any other stage;
 - May be consulted by a Member or co-opted Member of the Authority against whom a complaint has been made.
24. An advertisement was published on the Authority's Website on 12th July 2012 and AGMA Jobs Portal with the closing date for applications being 3rd August 2012. Seven candidates were interviewed on 9th August 2012 which involved the Chairman of the Audit, Scrutiny and Standards Committee, Deputy Clerk and Authority Solicitor and Democratic Services Manager.

25. Following the interviews it is the recommendation of the Panel that Mr John Stone is appointed as Independent Person to GMFRA with a respective term of office of two years with an option to extend for a further two years subject to approval by the Authority. Mr Stone is currently an Independent Person at Stockport MBC.

OPTIONS/ALTERNATIVES

26. The alternatives are to continue with the Authority's existing Members' Code of Conduct or adopt a different code to the one proposed.

PREFERRED OPTION

26. To adopt a new Member Code of Conduct and arrangements for dealing with complaints as detailed in Appendix A and B of the report.
27. Discussions with AGMA Monitoring Officer and Standards Committee Chairs have resulted in a general agreement that a common code should, where as possible, be adopted by all ten local authorities. Therefore, it is intended that these provisions be used within each of the authorities, to ensure a consistent approach. It is however open to an individual authority to make variations as it is a local choice.
28. To appoint John Stone as the Independent Person to GMFRA with a respective term of office of two years with an option to extend for a further two years subject to approval by the Authority.

CONSULTATION

30. The Chairman of the Authority and the proposed Independent Person have been consulted on the content of the report.

RESOURCES IMPLICATIONS

31. a) It is recommended that an allowance of £297.00 is paid to the Independent Person per annum. This is subject to a separate report on the agenda titled 'Independent Remuneration Panel Second Supplementary Report – Scheme of Members' Allowances'.
- b) Human Resources (including Equality & Diversity Implications) – N/A.
- c) Legal and Constitutional – as detailed within the report.
- d) Health & Safety – N/A.
- e) Sustainability – N/A.

RECOMMENDATIONS

32. The Authority is recommended to:
- i) Adopt the recommended Code of Conduct for Members as set out at Appendix A.
 - ii) Adopt the recommended local arrangements to handle complaints about breach of the Code of Conduct for Members of the Authority as set at Appendix B.
 - iii) Give delegated power to grant Dispensations on the grounds listed in paragraph 19 of the report to the Authority's Monitoring Officer in consultation with the Independent Person.
 - iv) Appoint John Stone as the Independent Person for the Authority with a respective term of office of two years with an option to extend for a further two years subject to approval by the Authority.
 - v) Request the Authority's Monitoring Officer to make amendments to Procedure Standing Orders in order to give effect to the requirements of the Code of Conduct for Members in relation to the notification and disclosure of interests and withdrawal from an Authority meeting where a Member has either a Disclosable Pecuniary interests or a Prejudicial interest.

DONNA HALL
CLERK

LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCALGOVERNMENT ACT 1972

DOCUMENT	DATE	FILE OR OTHER REFERENCE	PLACE OF INSPECTION
Chapter 7, Sections 26 to 37 and Schedule 4 of the Localism Act 2011.	Nov 2011	www.legislation.gov.uk	Fire Service Headquarters 146 Bolton Road Swinton Manchester M27 8US
The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (S.I. 2012 No. 1463).	June 2012		
The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012 No. 1464).	June 2012		

D. Hall
(Proper Officer)
15.08.12

APPENDIX A

Pre-amble to Code of Conduct for Greater Manchester Fire and Rescue Authority Members

1. Introduction

The Greater Manchester Fire and Rescue Authority (GMFRA) is determined to provide excellent local government for the people of Greater Manchester. It promotes and maintains high standards of conduct by Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

2.1 General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

2.5 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

2.6 Openness

Members should be as open as possible about their actions and those of the GMFRA, and should be prepared to give reasons for those actions.

2.7 Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

2.8 Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the GMFRA's statutory officers, and its other employees.

2.9 Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

2.10 Stewardship

Members should do whatever they are able to do to ensure that the GMFRA uses its resources prudently and in accordance with the law.

2.11 Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

3. Training

- 3.1 Each Member must attend training on the GMFRA's Code of Conduct/ethical standards.
- 3.2 Records of attendance will be maintained by the Democratic Services Manager.

GREATER MANCHESTER FIRE AND RESCUE AUTHORITY CODE OF CONDUCT

Part 1 General provisions

1. Introduction and interpretation

- 1.1 This Code applies to you as a Member of the Greater Manchester Fire and Rescue Authority (GMFRA).
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by GMFRA. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code - "meeting" means any meeting of:-
- (a) GMFRA; and
 - (b) any of GMFRA's Committees or Sub-Committees, Joint Committees or Joint Sub-Committees;

2. Scope

- 2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a Member of GMFRA and references to your official capacity are construed accordingly.
- 2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of GMFRA on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- 3.1 You must not:-
- (a) do anything which may knowingly cause GMFRA to breach the Equality Act 2010;
 - (b) bully or be abusive to 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 the 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, GMFRA.

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:-

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of GMFRA; 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 GMFRA 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 GMFRA:-

(i) act in accordance with GMFRA's reasonable requirements; and

- (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.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
- (a) GMFRA's Chief Finance Officer; or
 - (b) GMFRA's Monitoring Officer,
- where that officer is acting pursuant to his or her personal statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by GMFRA.

Part 2 - Disclosable pecuniary interests

8. Notification of disclosable pecuniary interests

8.1 Within 28 days of becoming a Member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

(Note: Existing Members and co-opted Members of GMFRA to notify GMFRA's Monitoring Officer of disclosable pecuniary interests within 28days of the adoption of the Code of Conduct)

8.2 A 'disclosable pecuniary interest' is an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

8.3 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from GMFRA) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union

Contracts	<p>and Labour Relations (Consolidation Act) 1992 (a).</p> <p>Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and GMFRA -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	<p>Any beneficial interest in land which is within the area of Greater Manchester.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of Greater Manchester for a month or longer.</p>
Corporate Tenancies	<p>Any tenancy where (to your knowledge) -</p> <p>(a) the landlord is GMFRA; and</p> <p>(b) the tenant is a body in which you or your partner has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where -</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of Greater Manchester; and</p> <p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

8.4 For the purposes of the above:-

- (a) "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- (b) "director" includes a member of the committee of management of an industrial and provident society.

- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- (d) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9 Non participation in case of disclosable pecuniary interest

9.1 If you are present at a meeting of GMFRA, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:-

1. You must not participate in any discussion of the matter at the meeting.
2. You must not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

(Note: In addition GMFRA's Procedural Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place, and in the case of a registered (as well as an unregistered) interest to disclose it to the meeting)

10 Offences

10.1 It is a criminal offence to:-

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of appointment as a Member of GMFRA;
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register;
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the Register that you have disclosed to a meeting;
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;

- Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Part 3 - Other interests

11 Notification of personal interests

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of:-

- (a) this Code being adopted by GMFRA; or
- (b) your appointment as a Member of the GMFRA (once notification is received from the local authority),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

11.2 You have a personal interest in any business of GMFRA where it relates to or is likely to affect:-

- (a) anybody of which you are in a position of general control or management and to which you are appointed or nominated by GMFRA;
- (b) anybody:-
 - (i) exercising functions of a public nature;
 - (ii) directed to 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 in a position of general control or management;

- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £75.

12 Disclosure of interests

12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of GMFRA, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of GMFRA 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.

- 12.2 You also have a personal interest in any business of GMFRA where 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 other council tax payers, ratepayers or inhabitants of the electoral ward(s), affected by the decision;
- 12.3 In paragraph 12.2, 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 paragraph 11.2(a) or (b).
- 12.4 Where you have a personal interest in any business of GMFRA which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.5 Where you have a personal interest in any business of GMFRA of the type mentioned in paragraph 11.2(c), (gifts and hospitality) 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.
- 12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in the 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.

13 Non participation in case of prejudicial interest

- 13.1 Where you have a personal interest in any business of GMFRA 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 your judgement of the public interest and where that business: -

- (a) affects your financial position or the financial position of a person or body described in paragraph 12.3 ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of GMFRA:-

- a) You must not participate in any discussion of the matter at the meeting.
- b) You must not participate in any vote taken on the matter at the meeting.
- c) If the interest is not registered, you must disclose the interest to the meeting.
- d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

(Note: In addition GMFRA's Procedural Standing Orders require you to leave the room where the meeting is held while any discussion or vote takes place)

13.3 Where you have a prejudicial interest in any business of GMFRA, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of GMFRA in respect of—

- (a) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (b) an allowance, payment or indemnity given to Members;
- (c) any ceremonial honour given to Members;
- (c) setting council tax or a precept under the Local Government Finance Act 1992.

Part 4 - General Matters relating to Parts 2 and 3

15 Register of interests

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the Register of interests. A copy of the Register will be available for public inspection and will be published on the GMFRA's website.

16 Sensitive interests

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the Register of interests, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

17 Dispensations

GMFRA may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.

Greater Manchester Fire and Rescue Authority

Arrangements for dealing with complaints that Members have failed to comply with the Code of Conduct for Members

1. Introduction

- 1.1 This procedure applies when a complaint is received that a Member of the Greater Manchester Fire and Rescue Authority (GMFRA) has or may have failed to comply with the GMFRA Code of Conduct for Members.
- 1.2 The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member”.
- 1.3 No Member or Officer will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2. Making a complaint

- 2.1 A complaint must be made in writing either by post or e-mail to; The Monitoring Officer, Democratic Services Department, 146 Bolton Road, Swinton, Manchester, M27 8US or williamsg@manchesterfire.gov.uk
- 2.2 The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it and, at the same time, write to the Subject Member with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within five working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

3. Initial Assessment of Complaint

- 3.1 The Monitoring Officer will review the complaint and, following consultation with the Independent Person take a decision (initial assessment) as to whether it merits investigation, or another course of

action. This decision will normally be taken within 20 working days of receipt of a complaint.

The complaint will be rejected if;

- The complaint is not against one or more named Members of GMFRA;
- The Subject Member was not in office at the time of the alleged conduct.
- The complaint, if proven, would not be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.

3.2 If the complaint has not been rejected on the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected;

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the GMFRA's Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
 - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
 - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;

- Whether the complaint suggests that there is a wider problem throughout GMFRA;
- Whether it is apparent that the Subject Member is relatively inexperienced as a GMFRA Member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

The Monitoring Officer will consult with the Independent Person and then give his/her decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to the Audit, Scrutiny and Standards Committee.

4. Additional Information

- 4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation.
- 4.2 Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or GMFRA (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.3 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code of Conduct.

5. Confidentiality

- 5.1 If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.
- 5.2 As a matter of fairness and natural justice the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the

complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

- 5.3 If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member.

6. Investigation

- 6.1 The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be an GMFRA officer, an officer from another Council, or an external investigator.
- 6.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of GMFRA resources and shall be interpreted in line with these principles.
- 6.3 The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to the Monitoring Officer's decision on confidentiality.
- 6.4 At the end of their investigation, the Investigating Officer will produce a report and will send a copy of that report to the Monitoring Officer. The Investigating Officer may before that produce a draft report and send copies to the Complainant and Subject Member for comments on matters of fact. The Investigating Officer will take such comments into account before issuing their report to the Monitoring Officer.

7. Investigating Officer finding of no failure to comply with the Code of Conduct

- 7.1 Where the Investigating Officer's report finds that the Subject Member has not failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.

7.2 The Monitoring Officer will write to the Complainant and the Subject Member with a copy of the decision and the Investigating Officer's report.

7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

8 Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct.

Where the Investigating Officer's report finds that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then having consulted the Independent Person either send the matter for local hearing before the hearing panel or seek local resolution.

8.1. Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Subject Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Audit, Scrutiny and Standards Committee for information, but will take no further action. If the Complainant or the Subject Member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a local hearing without further reference to the Complainant or the Subject Member.

8.2 Local Hearing

Where, in the opinion of the Monitoring Officer, local resolution is not appropriate or the Complainant and/or Subject Member refuses to accept local resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Hearing Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, what action (if any) to take in respect of the Member.

9. Constitution of the Hearing Panel

The Hearing Panel is a sub-committee of the Audit, Scrutiny and Standards Committee. It will comprise of at least three elected

Members of the Committee of whom one should be a Member of a minority party.

The Independent Person is invited to attend all meetings of the Hearing Panel and their views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

10. The Independent Person

10.1 The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of the GMFRA.

10.2 A person is not eligible for appointment if they:

- are, a Member, co-opted Member or officer of GMFRA;
- have within the past five years been a Member, co-opted Member or officer of GMFRA,
- are a relative or close friend of a person within the bullet points above.

10.3 For the purpose of paragraph 10.2, "relative" means:

- Spouse or civil partner;
- Living with the other person as husband and wife or as if they were civil partners;
- Grandparents of the other person;
- A lineal descendant of a grandparent of the other person;
- A parent, sibling or child of the person within the above bullet points;
- A spouse or civil partner of a person within the above bullet points; or
- Living with a person within the above bullet points as husband and wife or as if they were civil partners.

11. Action

Where a Hearing Panel finds that a Subject Member has failed to comply with the Code of Conduct, GMFRA has delegated to the Hearing Panel such of its powers to take action in respect of Subject Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearing Panel may –

- Publish its findings in respect of the Subject Member's conduct;
- Report its findings to GMFRA for information;
- Recommend to GMFRA that the Member be censured;
- Instruct the Monitoring Officer to arrange training for the Member;
- Recommend to the Member's group leader (or in the case of ungrouped members recommend to GMFRA) that the Subject Member be removed from any or all committees or sub-committees of GMFRA;
- Place such restrictions on the Subject Member's access to staff, buildings or parts of buildings provided for the use of GMFRA which may be reasonable in the circumstances.

13. Withdrawal of a Complaint

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made by a Hearing Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint but shall, in taking such a decision take into account any issues which may arise under Paragraph 3.1(c) of the Code of Conduct.

14 Revision of these Arrangements

GMFRA may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearing Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure fair consideration of any matters.

15. Appeals

Subject to judicial review or a decision of a local ombudsman, there is no right of appeal against the decision of the Monitoring Officer or of a Hearing Panel.

FLOW CHART COMPLAINTS

