

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

STANDARDS COMMITTEE

22 JULY 2013

1. ROLE OF INDEPENDENT PERSONS

Report of the Clerk to the Authority and Monitoring Officer

RECOMMENDED

- 1.1 That the Standards Committee consider and comment on the Role of the Independent Person - Five Key Lessons Learnt document (Appendix 2).
- 1.2 That the Standards Committee consider for approval the draft Protocol relating to the role of the Independent Person (Appendix 1) and following such approval any consequential amendments required to the arrangements for dealing with Standards Allegations under the Localism Act 2011 be carried out by the Monitoring Officer.

2. PURPOSE OF REPORT

- 1.1 In accordance with the Localism Act 2011, arrangements must be put in place for the appointment by the Authority of at least one Independent Person whose views must be sought and taken into account by the Authority before it makes its decision on an allegation against an elected Member that it has decided to investigate. The Independent Person's views may be sought by a Member or co-opted Member of the Authority if that person's behaviour is the subject of an allegation, and may also be sought by the Authority in relation to an allegation it has not yet decided to investigate.
- 1.2 A draft Protocol has been developed based on a version produced by Hoey Ainscough Associates Ltd (Appendix 1). This will provide more clarity on the role of the Independent Person(s).
- 1.3 Appendix 2 contains some learning from other authorities regarding the role of Independent Person(s) and was collated by Hoey Ainscough Associates Ltd.

3. **BACKGROUND**

- 3.1 The arrangements for investigations and decisions on allegations must include the appointment of at least one Independent Person whose views are sought and taken into account by an Authority before it makes its decision on an allegation which has been investigated. The arrangements may also provide for the views of the same Independent Person to be sought on other standards related issues and Members against whom allegations have been made may also seek the views of the Independent Person.
- 3.2 Legislation does not clarify or define the role the Independent Person is intended to perform. "Conflict" in the role could arise. For example, they could arguably advise the Authority that it should proceed with an investigation and at the same time advise the Member complained against as to how he should respond to the investigation. Generally however the Independent Person is likely to ensure that due process is being followed.
- 3.3 The Authority, on 25 June 2013, approved a process for managing Standards complaints under the Localism Act 2011 (Appendix 3).

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 An Equality Impact Assessment has not been carried out as this report essentially contains an explanation of the new legislation and the steps required by the Authority to implement this. The Authority should nevertheless have due regard to the equalities duties when establishing its standards framework.

5. **LEGAL IMPLICATIONS**

- 5.1 Section 27 of the Localism Act 2011 requires Authorities to promote and maintain high standards of conduct by Members and co-opted Members of the Authorities. This has to be done within the context of a Code of Conduct which is based on the seven principles of public life. The Act requires Authorities to have in place mechanisms to investigate allegations that a Member has not complied with their Code of Conduct, and arrangements under which decisions on allegations may be made.

- 5.2 Section 28(7) requires Authorities to appoint at least one Independent Person to advise the Authority before it makes a decision on an allegation. The Independent Person also advises a Member facing an allegation who has sought the views of that person. There are restrictions on who can be appointed as the Independent Person, in general the Independent Person cannot be a councillor, an officer of the Fire Service or their relative or close friend.

6. **FINANCIAL IMPLICATIONS**

- 6.1 Implementation of the new legislation will require some additional work by officers and members although this and maintenance of the new framework are very unlikely to place any new significant financial pressures on the Authority.

**N SHARMA
CLERK TO THE AUTHORITY
AND MONITORING OFFICER**

Background Papers
Localism Act 2011