

**DEVON & SOMERSET FIRE & RESCUE AUTHORITY**

**A PROTOCOL FOR MEMBER/OFFICER RELATIONS**

**CONTENTS**

1. Introduction .....	1
2. Members' Code of Conduct Extracts .....	1
3. Support Services to Members.....	4
4. Members' access to information and to Authority documents.....	4
5. Officer/Chairman Relationships .....	6
6. Correspondence .....	7
7. Involvement of Local Councillors .....	7
8. Media Relations .....	7
9. Access to Premises .....	8
10. Bullying .....	9
11. Breaches of the Code .....	9

## **1. Introduction**

- 1.1 Unless indicated otherwise, the following definitions apply to terms used in this document:
- “Authority” includes any of its committees, working parties, joint committees etc.;
  - “Member” includes the Independent Members appointed to serve on the Authority’s Standards Committee in accordance with the requirements of the Local Government Act 2000;
  - “Officer(s)” includes all persons in the appointment of either the Authority or the Devon & Somerset Fire & Rescue Service; and
  - “Senior Management Board” comprises the Chief and Deputy Chief Fire Officers together with the Assistant Chief Fire Officers (Operations) and (Community Safety), the Head of Corporate Support (and Clerk and Monitoring Officer to the Authority), the Head of Finance (and Treasurer and Chief Financial Officer to the Authority), and the Heads of Asset Management; Human Resources Management and Development; and Service Planning and Review.
  - “Constituent authorities” means those local authorities which have the right to appoint Councillors to this Authority.
- 1.2 The purpose of this protocol is to guide Members and Officers of the Devon & Somerset Fire & Rescue Authority (hereafter referred to as “the Authority”) in their relations with one another.
- 1.3 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that may commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

## **2. Members’ Code of Conduct Extracts**

- 2.1 A relevant extract from the former National Code of Local Government Conduct for Members is reproduced overleaf, amended (as indicated by brackets) to reflect its relevance to this Authority:

*“Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate [of their appointing constituent authority] and serve only so long as their term of office lasts. Officers are responsible to the [Authority]. Their job is to give advice to councillors and the [Authority], and to carry out the [Authority’s] work under the direction and control of the [Authority], their committees and sub-committees.*

*Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.”*

2.2 Relevant extracts from the current Devon & Somerset Fire & Rescue Authority Members’ Code of Conduct (based on the Model Code of Conduct as contained in the Local Authorities [Model Code of Conduct] Order 2007) are reproduced below:

**“General obligations**

3. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause your Authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));
  - (b) bully 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 his or her Authority’s 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, your Authority.
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*
          - (aa) *reasonable and in the public interest; and*
          - (bb) *made in good faith and in compliance with the reasonable requirements of the Authority; 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 Authority 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 your Authority:*
    - (i) *act in accordance with your Authority's reasonable requirements;*
    - (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) *your Authority's Chief Finance Officer; or*
  - (b) *your Authority's Monitoring Officer,*  
*where that officer is acting pursuant to his or her statutory duties.*
- (2) *You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your Authority."*

### **3. Support Services to Members**

- 3.1 The only basis on which the Authority can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Authority. Such support services must therefore only be used on Authority business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 3.2 Members may seek officer assistance in drafting resolutions or amendments they may wish to make at a meeting. It is proper for an officer to advise on the wording of such a proposal to ensure it is accurate, practical and lawful but there can be no inference that the officer(s) supports the substance or merits of the proposition.

### **4. Members' access to information and to Authority documents**

- 4.1 Members are free to approach any officer of the Senior Management Board (as appropriate) for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Authority. A response to any such request will usually be furnished within seven working days.
- 4.2 The Authority has agreed the following principles to be followed in distributing information to its Members.

#### ***When Information is asked for by a Member***

- 4.3 If it is purely a local constituency problem or question of fact then, subject to there being no legal restriction on supplying the information, a reply will be sent only to the Member raising the question.
- 4.4 The only basis on which the Authority can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Authority. Such support services must therefore only be used on Authority business. They should never be used in connection with party political or campaigning activity or for private purposes.

#### ***Information Prepared by an Officer for the Authority Chairman or Chairman of a Committee***

- 4.5 If the information is provided at the request of the Authority Chairman or other Committee Chairman, it will not be further distributed. If the information provided for the Authority Chairman/other Committee Chairman is general information relating to a particular part of the area served by the Authority, then a copy will be sent to the Local Member(s) for information.

**Rights Under the General Law**

- 4.6 A Member also has a right to see papers where he/she genuinely has a “need to know” in connection with his/her duties as a member of the Devon & Somerset Fire & Rescue Authority. This test is easily satisfied if he/she is a Member of the Committee to which the issue relates but less so in other cases. Applications should be made to the to the Clerk of the Authority (who also serves as the Authority’s Monitoring Officer).

**Conventions Adopted Constraining the Legal Rights set out above**

- 4.7 The following Code of Guidance has been adopted by the Authority.
- (i) a Member who has a right to inspect documents should consider whether he/she has a personal or prejudicial interest in the matter covered by the document and whether any action contemplated in the light of the information obtained might conflict with the Members’ Code of Conduct;
  - (ii) a Member requiring information should make application either to the Chief Fire Officer or to the Clerk of the Authority. Applications should not be made direct to junior officers;
  - (iii) an application must allow the officer time to satisfy him/herself that record(s) do not contain exempt information which a Member cannot have access to. If they do, such material may have to be removed.

**Code of Conduct for Members Concerning the Disclosure of Confidential and Exempt Information**

- 4.8 The Authority has adopted the following guidelines in relation to the general obligation in the Members Code of Conduct concerning the disclosure of confidential and exempt information.
- 4.9 Where a Member, during the course of discussion of a Part II item (where the press and public are excluded from a meeting because of the confidential OR exempt nature of the business), is aware that he/she would wish to make a statement to the press or communicate information to a third party, they should advise the Authority/Committee (as appropriate) of their intention and at that time seek guidance as to the extent to which it would be proper for them to do so and, if possible, determine a text or form of words which would not breach the responsibility for maintaining confidentiality.
- 4.10 Where, after the meeting has closed, a Member is approached either by press or media or a member of the public for information they should, before making any comment, contact either the Clerk to the Authority or the Authority/Committee Chairman (who in turn may wish to contact the Clerk to the Authority) to seek advice, when it will be possible for the text of any statement that the Member may wish to make to be agreed.

- 4.11 Alternatively, if the Member so wishes they should refer the person enquiring to the Authority/Committee Chairman for the Chairman to make a statement on the matter after consultation with the Clerk to the Authority as necessary.
- 4.12 The above paragraphs relate to information discussed as part of a formal Authority/Committee meeting as governed by Access to Information legislation. There are other occasions where informal Member meetings (e.g. seminars or workshops) are arranged to discuss particular topics e.g. issues that might affect budget setting. It may be that information disclosed at such seminars is, at the time of the seminar, of such a sensitive nature that it could be considered confidential and that its public release at that time might be detrimental to the overall conduct of the Authority's business – albeit that such information may ultimately enter into the public domain. Members are asked to respect that:-
- seminars/workshops are advisory in nature, NOT decision making;
  - that, accordingly, legislative provisions on Access to Information do NOT apply; and
  - that at such seminars and workshops material of a sensitive/confidential may be discussed. Where this is the case, this material should not subsequently be made public and to do so might result might result in the Member concerned facing investigation for a potential breach of the Code of Conduct.

Any Member wishing further advice/guidance on this point should contact either the Clerk to the Authority or the Chief Fire Officer.

## **5. Officer/Chairman Relationships**

- 5.1 It is clearly important that there should be a close working relationship between the Chairman of the Authority and other Committee Chairmen and the officers on the Senior Management Board who report to the Authority's Committees. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 5.2 With regard to reports to Authority/Committee meetings, Members are asked to recognise that in some situations an officer on the Senior Management Board will be under a duty to submit a report on a particular matter – particularly in the case of the Chief Finance Officer and the Monitoring Officer. Similarly, an officer on the Senior Management Board will always be fully responsible for the contents of any report submitted in his/her name.
- 5.3 In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the Authority's functions) to be taken either by the full Authority; or by a duly appointed Committee/Sub-Committee; or by an officer. The law does not allow for such decisions to be taken by a Chairman or indeed by any other single member.

- 5.4 The Authority's Standing Orders provide that the Chief Fire Officer may take action between meetings of the Authority in consultation with the Chairman or Vice-Chairman when a decision is urgently required. Whilst such action is sometimes, incorrectly, referred to as "Chairman's action", it is the Officer, rather than the Chairman, who takes the action and it is the Officer who is accountable for it. This process should only be used sparingly and where it is used, a report must be submitted to the next meeting giving an account of the action taken.
- 5.5 Finally, it must be remembered that other DSFRS officers are accountable to the Chief Fire Officer. Whilst officers should always seek to assist any Member of the Authority they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Chief Fire Officer.

## **6. Correspondence**

- 6.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" must not be employed.
- 6.2 Official letters on behalf of the Authority should normally be sent out in the name of the appropriate officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear under the name of a Member, but this should be the exception rather than the norm. Letters that, for example, create obligations or give instructions on behalf of the Authority should never be sent out over the name of a Member.

## **7. Involvement of Local Councillors**

- 7.1 Whenever a public meeting is organised by the Authority to consider a local issue, the relevant local Authority Member should as a matter of course be invited to attend the meeting. Similarly, whenever the Authority undertakes any form of consultative exercise on a local issue, the local Member(s) should be notified at the outset of the exercise.

## **8. Media Relations**

- 8.1 All formal relations with the media should be conducted in accordance with the guidance contained in the Code of Recommended Practice on Local Authority Publicity and any policy of the Authority in force at the time.
- 8.2 Press releases or statements made by officers must promote or give information on Authority policy or services. They will be factual and consistent with Authority policy. They cannot be used to promote a party group.

- 8.3 Officers will keep relevant Members informed of media interest in the Authority's activities especially regarding strategic or contentious matters.
- 8.4 Before responding to enquiries from the media, officers will ensure they are authorised to do so.
- 8.5 If a Member is contacted by, or contacts, the media he/she should:
- consider whether or not it might be appropriate/beneficial to seek officer advice prior to making the press statement;
  - indicate in what capacity he/she is speaking (e.g. in a personal capacity, on behalf of the Authority, or on behalf of a political party);
  - be sure of what he/she wants to say or not to say – this is particularly relevant where the possibility may exist of disclosing confidential information;
  - consider the likely consequences for the Authority of his/her statement (e.g. commitment to a particular course of action, image, allegations of “jumping to conclusions” i.e. of having already decided on a particular course of action without having considered all the relevant issues (predetermination));
  - never give a commitment to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - consider whether to consult other relevant Members; and
  - take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of the Authority supporting any particular political issue that may benefit the election chances of the Member concerned.

## **9. Access to Premises**

- 9.1 Officers have the right to enter Authority land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 9.2 Members have a right of access to Authority land and premises in so far as this is necessary to enable them to fulfil their Authority duties.
- 9.3 When making visits in an individual capacity, Members should:
- whenever practicable, notify and make arrangements with the appropriate manager or officer in charge. Assistance with this can be obtained from the Democratic Services section;
  - comply with health and safety, security and other workplace rules; and
  - not interfere with any services or activities that may be being provided at the time of the visit.

## **10. Bullying**

- 10.1 Any act against an individual may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. While no policy statement can give guidance on every instance where such behaviour may occur, the Authority is committed to promoting standards of behaviour which reflect the proper, professional, working relationship which should exist between Members and officers at all times and to ensure normal standards of courtesy and behaviour between individuals.
- 10.2 It is unacceptable for Members or senior officers to seek to take unfair advantage of their position within the organisation. The Service has an approved policy for its employees on Bullying and Harassment setting out how such issues may be raised and how they will be dealt with. Members are reminded that the Code of Conduct imposes general obligations specifically against bullying and intimidation to treat others with respect and not to do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority. Any behaviour contrary to these general obligations would, on the face of it, be a breach of the Code exposing the Member concerned to investigation and possible sanction by the Standards Board for England.

## **11. Breaches of the Code**

- 11.1 Specific breaches of this Protocol may ultimately be the subject of either grievance or disciplinary procedure for employees. In the case of Members, where the breach results in an allegation of misconduct contrary to the provisions of the Model Code of Conduct then, depending upon the seriousness of the allegation, this could be subject either:-
- to local investigation on behalf of, and subsequently determination by, the Authority's Standards Committee; or
  - in the event of serious breaches that may result in a sanction greater than that which might be imposed by the Authority's Standards Committee in accordance with the relevant Regulations, referral for investigation and/or determination by the Standards Board for England.
- 11.2 Potential problems may be resolved by early discussion between a Member and either the Chief Fire Officer or the Clerk to the Authority. More general concerns about relationships between Members and Officers or perceived breaches of the principles embodied in this protocol can be discussed with the Independent Members of the Authority's Standards Committee.