

## **LOCALISM ACT 2011 – A SUMMARY OF THE MAIN PROVISIONS**

### **CHAPTER 7**

#### **STANDARDS**

##### **Section 27 – Duty to promote and maintain high standards of conduct**

**The Fire Authority must promote and maintain high standards of conduct by its Members and co-opted members.**

(Section 27(1))

**In order to do so, the Fire Authority must adopt a code dealing with the conduct that is expected of Members and co-opted members when they are acting in that capacity.**

(Section 27(2))

A “co-opted member” is a person who is not a member of the Authority but who—

- (a) is a member of any committee or sub-committee of the authority, or
  - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
- and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee

(Section 27(4))

##### **Section 28 – Codes of conduct**

**The Fire Authority must secure that a code adopted by it under section 27(2) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—**

- (a) **selflessness;**
- (b) **integrity;**
- (c) **objectivity;**
- (d) **accountability;**
- (e) **openness;**
- (f) **honesty;**
- (g) **leadership**

(Section 28(1)).

**The code of conduct must include provisions that the Authority considers appropriate in respect of the registration in its register, and disclosure, of—**

- (a) **pecuniary interests, and**
- (b) **interests other than pecuniary interests**

(Section 28(2)).

**The content of the code of conduct is not limited by Sections 29 to 34 (Register of Interests, Disclosure of Pecuniary Interests on Taking Office, Pecuniary Interests in Matters Considered at Meetings or by a Single Member, Sensitive Interests, Dispensations Allowing Members with Pecuniary Interests to Participate and Offences) but nothing in the code of conduct can prejudice the operation of those sections.**

(Section 28(3))

**Non-compliance with the code of conduct can only be dealt with in accordance with arrangements made under subsection (6) and a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code**

(Section 28(4))

**The Fire Authority is able to —**

- (a) revise its existing code of conduct, or**
- (b) adopt a code of conduct to replace its existing code of conduct**

(Section 28(5)).

**Only the Fire Authority can adopt, revise or replace a code of conduct.**

(Section 28(13))

**The Fire Authority must arrange to publicise the adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.**

(Section 28(12))

**The Fire Authority must have in place—**

- (a) arrangements under which allegations can be investigated, and**
- (b) arrangements under which decisions on allegations can be made**

(section 28(6)).

**Allegation means a written allegation that a Member or co-opted member of the Authority has failed to comply with the Authority's code of conduct.**

(Section 28(9))

**If the Fire Authority finds that a Member or co-opted member has failed to comply with its code of conduct (whether or not the finding is made following an investigation) it may have regard to the failure in deciding—**

- (a) whether to take action in relation to the member or co-opted member, and**
- (b) what action to take**

(Section 28(11)).

**The arrangements for the investigation of allegations and for decisions to be made must include provision for the appointment by the Authority of at least one independent person—**

- (a) whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate, and
- (b) whose views may be sought—
  - (i) by the Authority in relation to an allegation in circumstances not within paragraph (a),
  - (ii) by a Member or co-opted member of the Authority if that person's behaviour is the subject of an allegation (section 28(7))

**The independent person cannot be a Member, co-opted member or officer of the authority (or a relative or close friend of any of these) and cannot be appointed until at least five years have elapsed since they last held such an office with the Authority.**

(Section 28(8))

**In order to appoint an independent person the Fire Authority must advertise a vacancy in such manner as it considers is likely to bring it to the attention of the public and an application form must be submitted by any individual seeking to be appointed. An appointment must be approved by a majority of the Members of the Authority.**

(Section 28(8))

**The payment of allowances and expenses to the independent person in connection with his/her performance of the duties does not affect his/her independence.**

(Section 28(8))

### **Section 29 – Register of interests**

**The monitoring officer must establish and maintain a register of interests of Members and co-opted members of the Authority.**

(Section 29(1))

**The Fire Authority must determine what is to be entered in the register.**

(Section 29(2))

**The monitoring officer must secure—**

- (a) that a copy of the register is available for inspection at a place in the Authority's area at all reasonable hours, and
  - (b) that the register is published on the Authority's website.
- (Section 29(5))

**These provisions are subject to the Section 32 provisions concerned with 'sensitive interests'.**

(Section 29(8))

**Section 30 – Disclosure of pecuniary interests on taking office**

**A Member or co-opted member must, before the end of 28 days beginning with the day on which the person becomes a Member or co-opted member of the Authority, notify the Authority’s monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.**

(Section 30(1))

**Upon re-election or re-appointment the register must be updated to cover any new disclosable pecuniary interests.**

Section 30(2)

**A pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either—**

- (a) it is an interest of M’s, or**
  - (b) it is an interest of—**
    - (i) M’s spouse or civil partner,**
    - (ii) a person with whom M is living as husband and wife, or**
    - (iii) a person with whom M is living as if they were civil partners,**
- and M is aware that that other person has the interest.**

(Section 30(3))

**Interests notified to the monitoring officer are to be recorded in the register whether they are disclosable pecuniary interests, or not.**

(Section 30(4))

**Section 31 – Pecuniary interests in matters considered at meetings or by a single member**

**If a Member or co-opted member of the Fire Authority—**

- (a) is present at a meeting of the Authority or of any committee or sub-committee,**
  - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and**
  - (c) is aware that disclosable pecuniary interest exists in relation to the matter**
- then the following provisions apply.**

(Section 31(1))

**If the interest is not entered in the Authority’s register, the Member or co-opted member must disclose the interest to the meeting.**

(Section 31(2))

And

**If the interest is not entered in the Authority's register and is not the subject of a pending notification, the Member or co-opted member must notify the Authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.**

(Section 31(3))

And

**The Member or co-opted member may not—**

- (a) participate, or participate further, in any discussion of the matter at the meeting, or**
  - (b) participate in any vote, or further vote, taken on the matter at the meeting,**  
**(unless a dispensation is given under section 33).**
- (Section 31(4))

### **Section 32 – Sensitive interests**

**If a Member or co-opted member of the Fire Authority has an interest (whether or not a disclosable pecuniary interest), and the nature of the interest is such that the Member or co-opted member, and the monitoring officer, consider that disclosure of the details of the interest could lead to the Member or co-opted member (or a person connected with the Member or co-opted member) being subject to violence or intimidation the following provisions apply.**

(Section 32(1))

**If the interest is entered in the register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the Member or co-opted member has an interest the details of which are withheld under this subsection).**

(Section 32(2))

**If a Member or co-opted member is to disclose an interest (to a meeting) that is not in the register and is covered by these provisions, then the disclosure will be limited to the fact that the Member or co-opted member has a disclosable pecuniary interest (not the detail).**

(Section 32(3))

### **Section 33 – Dispensations from section 31(4)**

**The Fire Authority may grant a dispensation to a Member or co-opted member allowing him/her to take part in a debate and/or vote on a matter notwithstanding the restrictions in section 31(4) which flow from the Member or co-opted member having a disclosable pecuniary interest.**

(Section 33(1))

**The process requires a written request to be made to the proper officer.**

(Section 33(1))

**The Fire Authority can only grant a dispensation if, after having had regard to all relevant circumstances, it—**

- (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,**
- (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,**
- (c) considers that granting the dispensation is in the interests of persons living in the authority's area, or**
- (d) considers that it is otherwise appropriate to grant a dispensation.**  
(Section 33(2))

**A dispensation must specify the period for which it has effect (and be for no more than four years).**

(Section 33(3))

### **Section 34 – Offences**

**A person commits an offence if, without reasonable excuse, the person—**

- (a) fails to comply with an obligation imposed on the person by section 30(1) (disclosure of interests on taking office), or 31(2) (disclosure of interests at meeting that were not on register), or 31(3) (notification of interests not on register that were made at meeting)**
- (b) participates in any discussion or vote in contravention of section 31(4).**  
(Section 34(1))

**A person commits an offence if under section 30(1) or 31(2) or (3) the person provides information that is false or misleading and the person—**

- (a) knows that the information is false or misleading, or**
- (b) is reckless as to whether the information is true and not misleading.**  
(Section 34(2))

**Only the Director of Public Prosecutions can institute proceedings and there are time limits.**

(Section 34(5) and (6)-(8))

**A person who is guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).**

(Section 34(3))

**A court dealing with a person for an offence may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a Member or co-opted member of the authority in question or any other relevant authority.**

(Section 34(4))