



AGENDA ITEM: 16

NORTH WALES FIRE AND RESCUE AUTHORITY

23rd October 2006

COMPLAINTS PROCEDURE – STAGE 3

**Report by Ian Miller,
Clerk to the Authority**

Purpose of Report

1. To seek the Fire Authority's approval of the Executive Panel's recommendations on a procedure to handle complaints submitted to the Authority under stage 3 of the complaints procedure.

Background

2. The complaints procedure was adopted by the Authority in 1996. It set out three stages, the third of which was "the person may request that the matter is brought to the attention of the Fire Authority, which is a committee of elected councillors. This Committee will consider the matter and take appropriate action to resolve the complaint". The policy makes clear that the complaints procedure will not remove any right of the individual to take legal proceedings against the Authority – this would also include the right to complain to the Public Services Ombudsman if there was an allegation of maladministration.



Background *(continued)*

3. The Service Administrative Policy and Procedure Order (SAPPO) of August 2005 and a public leaflet about the complaints procedure reflect this policy. Both refer to the complaint going "directly to the fire authority" and that the complainant will receive a written response.
4. None of these documents spells out in detail how a complaint would be handled at the third stage. No complaint has previously reached this stage although a request for a third stage hearing and "the opportunity of personally addressing the Fire Authority members" has been received recently.

Advice

5. It is necessary to devise a procedure that delivers the spirit of the extant policy. It is submitted that it is unreasonable to expect that such complaints would be heard by the full fire authority or even by the Executive Panel. Practice in other local government bodies is generally to involve a small committee of members to hear appeals or complaints. A sub-committee of three members of the Executive Panel is recommended for this purpose.
6. In terms of the procedure at the hearing, none of the documents states explicitly that the complainant will have the right to attend and speak. However this could be considered to be a matter of good practice since excluding the complainant from a hearing may risk the perception that the hearing will not be fair and that members will be unduly influenced by officers. The references to stage 3 complaints going "directly" to members does not have to be interpreted as allowing the complainant to attend and speak, because a complaint might be dealt with on the basis of written representations.



Advice *(continued)*

7. On balance, it is recommended that the hearing should be based principally on a written statement from the complainant and a written response from the Assistant Chief Fire Officer – Service Support. These statements would be shared with both parties in advance of the hearing. While both the complainant and the officer would attend the hearing, this would be solely for the purpose of answering any questions that members may have of them in respect of their written statements. Assuming that the Authority agrees with this approach, the format for a hearing would be:
 - introductions;
 - members of the sub-committee have opportunity to ask any questions of the complainant in respect of what is set out in the written statement;
 - members of the sub-committee have opportunity to ask any questions of the fire and rescue service officer in respect of the written response;
 - complainant and fire and rescue service officer withdraw while the sub-committee considers the matter and reaches conclusions;
 - the sub-committee informs the complainant of its decision in writing.

Information

8. Having considered the above advice the Authority's Executive Panel, at its meeting on 9th October, subsequently approved the recommended procedure to deal with the stage 3 complaint already received. It also recommended that the Authority should adopt this procedure to deal with any such complaints in future.



Recommendations

9. The Authority is invited to ratify the Executive Panel's proposals:
 - 9.1 that the above arrangements be adopted for the purpose of hearing any stage 3 complaint in future;
 - 9.2 that the Executive Panel should be responsible for appointing a sub-committee of three members to hear third stage complaints; and
 - 9.3 that the format for hearing any third stage complaint be as set out in paragraph 7.