



Agenda item A1

By: Clerk to the Kent and Essex IFCA

To: Kent and Essex Inshore Fisheries and Conservation Authority – 26 November 2021

Subject: **Review of the Constitution and Standing Orders**

Classification Unrestricted

Summary:

This report sets out the reasons for a review of the IFCA's *Constitution and Standing Orders*. It also explains the grounds for declaring a report to be Confidential or Exempt.

Recommendations:

The Authority is asked to:

1. **NOTE** the required amendment to the Standing Orders to reflect the Localism Act 2011 in relation to member interests; and
2. **AGREE** to the inclusion of content outlining exempt and confidential information as set out in the body of the report

1. THE CONSTITUTION AND STANDING ORDERS

The Kent and Essex IFCA was established in 2010 under Statutory Instrument 2190. The IFCA's *Constitution and Standing Orders* which can be found at <https://www.kentandessex-ifca.gov.uk/about-us/committee/standing-orders> incorporated a number of sections of that Statutory Instrument.

One aspect of the *Constitution and Standing Orders* that did not appear in the Statutory Instrument were rules relating to members' Declarations of Interests. Sections 4 to 7 were adopted within the *Constitution and Standing Orders* immediately upon the IFCA's establishment. These conformed to the Law as it stood in 2010, containing definitions of personal and prejudicial interests.

The Localism Act of 2011 had the effect of abolishing these definitions of members' interests and replacing them with **Disclosable Pecuniary Interests** and **Other Significant Interests**. These definitions are set out at **Appendix 1**.

It is appropriate to amend the *Constitution and Standing Orders* so that it conforms to the Localism Act, thus ensuring a more consistent approach to managing Member interests. For reassurance, the approach taken in terms of managing Member interests thus far, in terms of personal and prejudicial interests, has been robust and appropriate to facilitate the fair and transparent transaction of the Authority's business.

2. CONFIDENTIAL AND EXEMPT REPORTS

Neither the Statutory Instrument nor the *Constitution and Standing Orders* mention Exempt or Confidential reports. The presence of the relevant legislation means that consideration of exempt and confidential information by the Authority is permissible, a clear explanation of the process and justification for doing so is not easily accessible to those interested in the work of the Authority. The definitions are set out below.

Confidential information means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of a Court Order.

There are seven categories of **Exempt information**. These are:

- (a) Information relating to any individual.
- (b) Information which is likely to reveal the identity of an individual.
- (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts.
- (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority.
- (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (f) Information which reveals that the authority proposes:
 - i. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - ii. to make an order or direction under any enactment.

- (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

In the event that information falls within one or more of these categories, it is only exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Any report that is Exempt or Confidential must clearly state under which paragraph of the Local Government Act 1972 the public is to be excluded. This also has to be set out in the agenda.

Once an item has been treated as Exempt, it may only be disclosed to a member of the public who has a right to know. This must be done by the Authority itself rather than by a member of the Authority.

It is therefore recommended that details of the management of exempt and confidential items are added to the Standing Orders.

3. RECOMMENDATION

The Authority is asked to:

1. **NOTE** the required amendment to the Standing Orders to reflect the Localism Act 2011 in relation to member interests; and
2. **AGREE** to the inclusion of content outlining exempt and confidential information as set out in the body of the report.