

# LEICESTERSHIRE

## FIRE and RESCUE SERVICE

Status of Report:

Public

Agenda Item:

14

**Meeting:** Combined Fire Authority  
**Date:** 8<sup>th</sup> April 2015  
**Subject:** Review of the Constitution  
**Report by:** The Solicitor and Monitoring Officer  
**Author:** Guy Goodman  
**For:** Decision

### 1. Purpose

The purpose of this report is to present to the Combined Fire Authority (CFA) the outcomes of the Monitoring Officer's annual review of the Constitution.

### 2. Executive Summary

On undertaking the annual review of the Constitution the Monitoring Officer has identified a number of issues for Members' consideration.

### 3. Report Detail

- 3.1 Under Part 2, Article 13 of the Constitution, the Monitoring Officer is responsible, in consultation with the Treasurer, for monitoring and reviewing the operation of the Constitution to ensure that its aims and principles are given full effect and kept up to date.
- 3.2 Part 2, Article 8 (The Standards Committee) (see page 15) is wrongly titled and should read "Member Conduct Panel" in accordance with the CFA's previously agreed arrangements.
- 3.3 Part 2, Article 10.4 (Functions of the Treasurer) (see page 17) requires the addition of a new paragraph to reflect the revised pension governance arrangements set out in the Public Service Pensions Act 2013 as follows:
- (g) Firefighters' Pension Schemes*
- The Treasurer will undertake the role of Scheme Manager for the Firefighters' Pension Schemes on behalf of the CFA subject to any limitations imposed by the CFA.*
- 3.4 Part 2, Article 10.5 (Functions of the Monitoring Officer) (i) (Attendance and Advice to the Corporate Management Board) (see page 18) requires amendment to reflect that

the Board has been disbanded. The policy point here is that the Monitoring Officer should have access to the papers of and the right to attend all Officer decision-making meetings. To reflect this it is proposed that the paragraph be amended as follows:

*(i) Attendance and Advice to Officer Decision-Making Meetings*

*The Monitoring Officer shall receive advance notice of any Officer decision-making meeting and receive agenda, reports and minutes and upon request shall be permitted to attend and be heard by that meeting.*

- 3.5 It has long been the custom and practice of the CFA to permit at any of its meetings its representative bodies the right to speak for up to 3 minutes on any item on the agenda with notification prior to the start of the meeting to the Solicitor and Monitoring Officer. It is felt appropriate to now incorporate this within the Constitution. It is proposed that in Part 4, Section C (CFA Procedure Rules) that a new rule, rule 9A, should be inserted (see page 34) as follows:

***Rule 9A – Right of Recognised Trades Unions to Speak***

*9A.1 A representative from each of the trades unions recognised by the CFA shall have the right to speak at any meeting of the CFA and/or its committees on any item on the agenda.*

*9A.2 The right to speak shall only apply to an item on the agenda to which the public has not been excluded under Part 4, Section D (Access to Information Procedure Rules) rule 10.*

*9A.3 The right to speak shall only apply where the representative has notified the Solicitor and Monitoring Officer prior to the start of the meeting that the right is to be exercised for a particular item on the agenda.*

*9A.4 For the purposes of Rules 18.8 and 18.9 (Conduct of Members) the expression “member” shall be construed so as to include a representative exercising the right to speak under this rule.*

- 3.6 Part 4, Section G (Contract Procedure Rules) rule 3.5 (Use of Framework Agreements) (see page 63) needs strengthening so that it is clear that sub-contracts awarded by an appointed main contractor are subject to competition where appropriate (but recognising that main contractors have their own supply chains of tried and tested sub-contractors which benefits the CFA). It is therefore proposed that the system of quotations required under rule 5.1 b) be extended to these sub-contracts with the upper limit being the European Union (EU) threshold rather than the specified amount of £94,700.
- 3.7 Part 4, Section G (Contract Procedure Rules) rule 17 (cancellation of contract – bribery) (see page 68) needs updating to reference the replacement of the Corruption Acts 1889 to 1916 with the Bribery Act 2010.
- 3.8 The Public Contracts Regulations 2015 came into force on 26<sup>th</sup> February 2015 (some provisions will commence on 1<sup>st</sup> April 2015 and others at later dates) implementing the latest EU Procurement Directive. The Contract Procedure Rules (CPR) are being reviewed in light of the changes introduced and the necessary revisions to the

Rules will be brought to a future meeting of the CFA for approval. In the interim approval is sought to changes all references in the CPR from “Public Contracts Regulations 2006” to the “Public Contract Regulations 2015”.

- 3.9 Part 5, Section K (Anti-Fraud and Corruption Strategy) (see page 79) has been reviewed in line with recommendations for improvement identified within the Annual Governance Statement agreed by the Policy Committee in August 2014. An updated Policy Statement (attached as the **Appendix**) is proposed as a replacement for the existing statement at Section K of the Constitution. The key theme of the Policy Statement is for Members and management to support and advocate strict adherence to the anti-fraud policies and procedures and to take a zero tolerance approach to fraud and corruption in all its forms. The revised Policy Statement incorporates all the key messages from the existing Section K with additional statements at paragraph 2 on links to the achievement of objectives and at paragraph 8 with regard to partnership working.
- 3.10 Part 6 (Members Allowances Scheme) (see page 85) requires updating to reflect the increase in Members’ Allowances following the pay settlement for Support Staff.
- 3.11 Part 7 (Management Structure) (see page 86) this needs updating to reflect the appointment of Richard Chandler as Deputy Chief Fire and Rescue Officer and now as Chief Fire and Rescue Officer.
- 3.12 The annual revision to the Specified Amounts in Part 8 was agreed by the CFA on 2<sup>nd</sup> February 2015.
- 3.13 The current version of the Constitution (Edition 5.3) was approved on 12<sup>th</sup> February 2014 and is available on the CFA’s website (<http://tinyurl.com/k4ne3vn>)

#### **4. Report Implications / Impact**

##### **4.1 *Legal (including crime and disorder)***

None.

##### **4.2 *Financial (including value for money, benefits and efficiencies)***

There are no financial implications arising as a result of this report.

##### **4.3 *Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)***

None.

##### **4.4 *Staff, Service Users and Stakeholders (including the Equality Impact Assessment)***

There is no impact on equalities matters and an Equality Impact Assessment (EIA) has not been undertaken.

##### **4.5 *Environmental***

None.

#### 4.6 ***Impact upon Our Plan Objectives***

This report does not have a direct impact on any of the 6 Our Plan Objectives although good governance contributes to Objective 4 (Efficiency and Value for Money Services).

#### 5. **Recommendations**

The CFA is asked to approve:

- a) Approve the changes to the Constitution as set out in the report.
- b) Authorise the Solicitor and Monitoring Officer to make the necessary amendments to the Constitution to reflect the changes agreed.

#### 6. **Background Papers**

CFA's Constitution (Edition 5.3)

#### 7. **Appendix**

Anti-Fraud and Corruption Policy Statement

## Section K - Anti-Fraud and Corruption Policy Statement

1. For the purposes of this Statement and the Anti-Fraud and Corruption Strategy, the following definitions apply:
  - a) Fraud – the abuse of position, or false representation, or prejudicing someone's rights for personal gain.
  - b) Corruption - the deliberate misuse of a position for direct or indirect personal gain.
2. The CFA takes its responsibilities to protect the public purse very seriously and is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets. To achieve the objectives set out in Our Plan, the CFA needs to maximise the financial resources available to it. The CFA has an ongoing commitment to continue to improve its resilience to fraud, corruption and other forms of financial irregularity.
3. The CFA advocates strict adherence to its anti-fraud framework and associated policies. Whilst individual circumstances of each case will be carefully considered, in the majority of cases there will be a zero tolerance approach to fraud and corruption in all of its forms. The CFA will not tolerate fraud or corruption by its Members, Officers, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal and/or referral to the Police. The required ethical standards are included in both our Members' Code of Conduct (Section H) and Officers' Code of Conduct (Section I). Where cases have been proven, the CFA will seek compensation for losses that it has incurred.
4. The CFA fully recognises its responsibility for spending public money and holding public assets. The prevention, and if necessary the investigation, of fraud and corruption is therefore seen as an important aspect of its duties which it is committed to undertake. The procedures and also the culture of the CFA are recognised as important in ensuring a high standard of public life.
5. The CFA's general belief and expectation is that those associated with it (Members, Officers, service users, contractors and voluntary bodies) will act with honesty and integrity. In particular, Members and Officers will lead by example and will be accountable for their actions.
6. The CFA recognises, however, that it must guard itself against the possibility of fraud and corruption. To this end, it will devise systems and take specific measures that reduce its risk. In taking such measures however, due regard will be taken of the legal rights of individuals.

7. At the same time the CFA also recognises that the people associated with it, particularly its Officers, can make a significant contribution to the prevention of fraud and corruption. It will therefore seek to raise the awareness of Officers about fraud and corruption and how to report or pass on concerns.
8. The CFA will take steps to help ensure high standards of ethical behaviour are adopted in partnerships to which the CFA is a member. This will be done through applying appropriate elements of this Policy Statement to all partnership working, where it is relevant to do so. With regard to partnership working, responsibility for Codes of Conduct and policies of this nature (and so for enforcement action for breach of those codes or policies) generally lies with the relevant individual organisation in the partnership. The response of the CFA may be limited to drawing the attention of the partner organisation to its concerns.
9. The CFA recognises its duty to provide leadership and guidance on the prevention of fraud and corruption. This Policy Statement is therefore underpinned by an Anti-Fraud and Corruption Strategy. The Strategy sets out what actions the CFA proposes to take over the medium-term future to continue to develop its resilience to fraud and corruption. It sets out the key responsibilities with regard to fraud prevention, what to do if fraud is suspected and the action that will be taken by management. The CFA will ensure that the rights of people raising legitimate concerns are properly protected.