

COMBINED FIRE AUTHORITY – 9TH JULY 2015

REPORT OF THE CHIEF FIRE OFFICER

REVISED GOVERNANCE STRUCTURE FOR THE COMBINED FIRE AUTHORITY

Purpose

1. The purpose of this report is to propose a revised governance structure for the Combined Fire Authority (CFA) following consultation with the constituent authorities.

Previous Decision

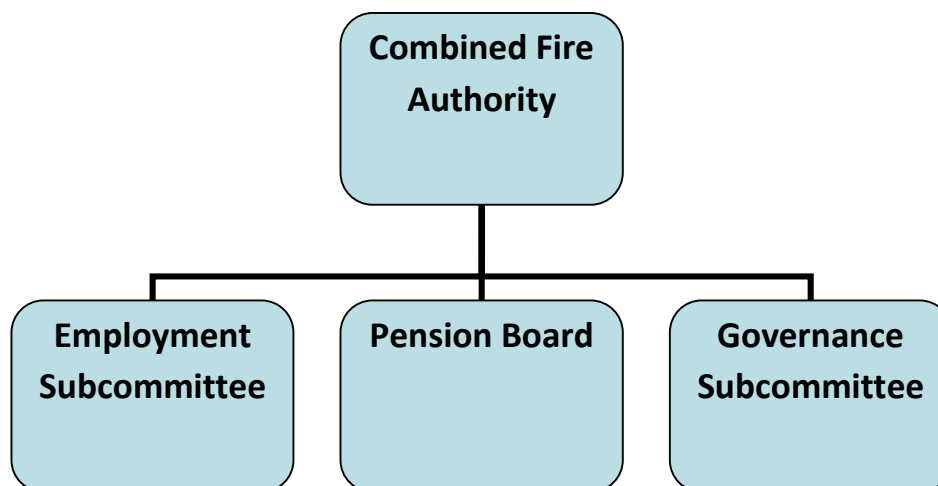
2. At the CFA meeting in June, the Chief Fire Officer (CFO) was requested, in consultation with the constituent authorities, to review the current governance structure of the CFA with a view to submitting proposals to the next meeting on a proposed structure which would streamline the decision making process, allow the CFA to focus on the strategic direction of the service, and enable the CFO to respond quickly and effectively to the changing needs and demands of the service. In this case I have consulted mainly with the County Solicitor of Leicestershire County Council.

Background

3. The CFA was established in 1996 by virtue of the Leicestershire Fire Service (Combination Scheme) Order 1996 and is a precepting authority. The current Constitution of the CFA is based on the modular constitution issued following the Local Government Act 2000 and the CFA operates an Executive/Scrutiny model of decision making. In addition to the CFA, there is a Policy Committee which is effectively the Executive Body and a separate overview and scrutiny committee. Members who serve on the Policy Committee cannot be members of the Overview and Scrutiny Committee. There is no particular governance model specified by statute. The decision to adopt an Executive/Scrutiny model was taken by the CFA in 2005 shortly after it became a precepting authority. Any decision to alter the governance arrangements would therefore be a matter for the CFA itself.

New Governance Model

4. In discussions with officers from the constituent authorities the following governance structure (shown in diagrammatic form below) is recommended. The proposals outlined reduce the number of committees.



Details of the roles and responsibilities of the CFA and its proposed two subcommittees are set out in the Appendix 1 to this report.

5. The proposals as outlined below will mean that the CFA itself, rather than the Policy Committee, will become the main decision making body. The role of members on the CFA would therefore cover the following:-

- collectively determining the revenue and capital budget and the key policies of the Authority;
- representing their communities and bringing their views into the CFA's decision-making process i.e. become the advocate of and for their communities;
- contributing to the good governance of the CFA and actively encouraging community participation and public involvement in decision-making;
- responding to the public's enquiries and representations, fairly and impartially;
- being available to represent the CFA on other bodies as necessary.

It is proposed that the CFA will meet five times a year, four ordinary meetings and an annual meeting.

6. Two Subcommittees are proposed with decision making powers. The Governance Subcommittee will focus on the promotion of high standards and reviewing, on a quarterly basis, performance and risk management reports. The Governance Subcommittee will meet four times a year. It will appoint Panels as necessary to deal with issues concerning Member Conduct and Allowances. The Employment Subcommittee will meet as and when required to deal with any staffing matters which have not been delegated to the Chief Fire Officer. It will also appoint a Panel to deal with employment appeals.

7. The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 came into effect on 1st April 2015 and require the CFA to establish a Pensions Board. The role of the Board is to ensure the effective and efficient governance and administration of the Scheme. It must also ensure compliance with relevant legislation or requirements imposed by the Pensions Regulator. The proposed terms of reference of the Pension Board are also set out in Appendix 1 to this report. DCLG guidance on the operation of the Pension Board running to 70 pages has recently been received and is being studied. This will be picked up in the review work over the summer referred to in paragraph 17.

8. The membership of the Board is a matter for the CFA but it must ensure that the Board 'must include an equal number, which is no less than 4 in total, of employer representatives (i.e. members of the CFA) and scheme member representatives (i.e. employees) and must be satisfied that persons appointed to the Board have 'the capacity and understanding to represent employers/members on the local pension board'. The suggestion is that the Board membership should number six, three members of the CFA and three employee representatives.

9. The proposed structure makes no provision for a separate scrutiny body on the basis that all members appointed would be decision makers on the CFA and such could not then undertake a scrutiny role. It would be matter for the constituent authorities as to how they hold their representatives on the CFA to account.

Members are requested to indicate whether the proposed new governance arrangements now outlined are acceptable.

Size of the CFA

10. The current size of the CFA is 17 members. The 1996 Combination Order states that *"Each constituent authority shall, so far as is practicable, appoint such number of representatives to be members of the Authority as is proportionate to the number of local government electors in its area in relation to the number of such electors in each of the other constituent authorities' areas."* The following are the electorate figures for 2014 as obtained from electoral registration data on Council websites:-

Leicestershire	520,616	(66.8%)
Leicester	230,216	(29.5%)
Rutland	28,550	(3.7%)
Total	779,382	(100%)

This results in the following breakdown:

CFA	Leicestershire	Leicester	Rutland
17 Members	11	5	1

11. The size of the CFA would be kept under review.”

Revisions to the CFA Constitution

12. Working on the assumption that members are minded to move forward with the new governance structure outlined above, work is being undertaken on those parts of the Constitution which directly relate to the operation of the CFA. A summary of changes to reflect the new structure are outlined below.

Part 2 – The Constitutional Framework

13. The main changes being made relate to the Articles which refer to the decision making process. The previous arrangements which referred to a Policy Committee and Overview and Scrutiny Committee will be deleted and replaced with the new terms of reference of the CFA and its subcommittees.

Part 3 – Decision Making

14. This part of the Constitution set out the respective responsibilities between the CFA and the Chief Fire Officer (CFO) and the detailed responsibilities of the CFO. Given the decision of the CFA in June to review the governance structure to enable it *‘focus on the strategic direction of the service, and enable the CFO to respond quickly and effectively to the changing needs and demands of the service’* a review of the current scheme of delegation to officers will be necessary. This work will take place over the summer with a view to reporting back to the CFA in September.

Part 4 – Procedure Rules

15. Two of the procedure rules are dealt with in this report - Meeting Procedure Rules (Standing Orders) (Section C) and the Access to Information Rules (Section D). No changes are proposed to the Access to Information Rules.
16. Proposed amendments to the CFA Meeting Procedure Rules are aimed at achieving a degree of consistency with the rules operated by the Constituent Authorities. The key changes relate to Rule 9a and Rule 33.

i) Rule 9a – Right of Recognised Trade Unions to speak

That right is being retained but is now referred to as the right to make representations. As such Trade Unions will be able to submit written representations for consideration by the CFA subject to such representation being received one day before the meeting so as to ensure that CFA members have had the opportunity to consider the representation and take their own advice and soundings as necessary

ahead of the meeting. The Monitoring Officer should be advised of any request to speak one day before the CFA meeting and, where possible and in the interest of transparency a note of the key points to be raised should accompany such notification.

ii) Rule 33 – Public Participation

The current rule allows members of the public to ask questions, submit petitions and make presentations at a meeting. The latter – the option of making a presentation to the CFA - is being deleted. This provision has rarely been used. These changes will bring the CFA in line with procedures adopted by the constituent authorities.

17. The remaining rules covered in this Section are:-
Section E – Officer Employment Procedure Rules
Section F – Financial Procedure Rules
Section G – Contract Procedure Rules

At this stage these have not been reviewed, the intention is to undertake a review of these over the summer with a view to reporting any proposed changes to the CFA in September.

Part 5 – Conduct and Probity

18. No changes are proposed to the Section dealing with the Member Code of Conduct. Further discussions need to take place regarding the remaining sections outlined below to ensure consistency with any changes made to the Officer Employment Rules, Financial and Contract Procedure Rules and changes in the delegation to officers:-

Section I – Officer Code of Conduct
Section J – Complaints Procedure
Section K – Anti Fraud and Corruption Strategy
Section L – Protocol for the Chairman and Chief Fire Officer
Section M – Member and Officer Indemnity

Part 6 – Members’ Allowance

19. No changes are proposed at this stage. If the proposals in this report were to be agreed and members minded to wish to review the Members’ Allowance Scheme, it would be necessary to constitute the Independent Remuneration Panel to advise on such matters.

Part 7 – Management Structure

120. The Management Structure will be amended to reflect recent changes agreed.

Part 8 – Specified Amounts

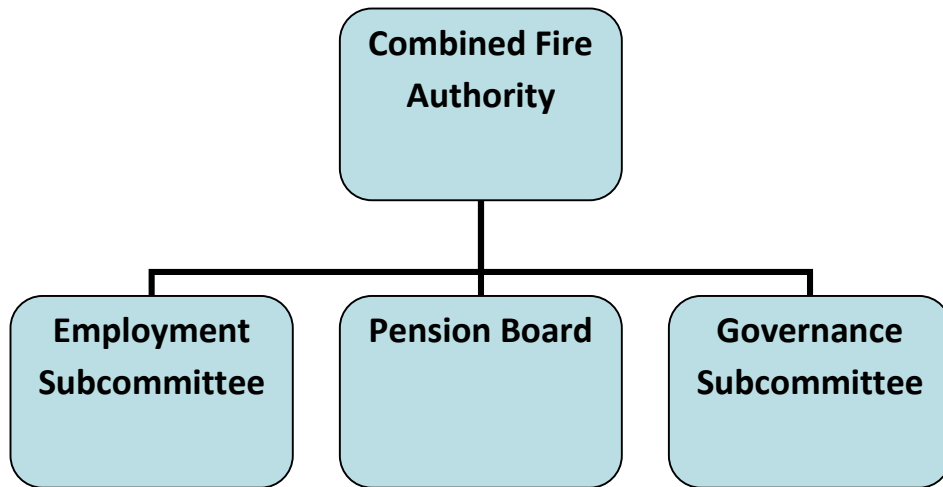
21. These amounts will need to be reviewed as part of the revisions made to the delegations to officers, the Financial and Contract Procedure rules.

Members are asked to

- i) consider the proposed changes to the CFA Articles and Meeting Procedure Rules and indicate whether these are supported;**
- ii) note that further work will be undertaken over the summer on other aspects of the CFA Constitution with a view to bringing a report to the CFA meeting in September which will incorporate all the necessary changes to the Constitution.**

Officer to contact

Richard Chandler – Chief Fire Officer



Combined Fire Authority

The role of the CFA shall include:-

- a) Determination of the policy and strategy relating to the objectives of the Authority and its priorities including approval of its Strategic plan and other plans identified in the Authority's Plan Framework;
- b) Approving the Authority's revenue and capital budget strategy, revenue and capital budgets including any in-year changes, the precept level and the Statement of Accounts;
- c) Ensuring that the Authority fulfils its statutory responsibilities and duties including those under the relevant Fire and Rescue Services Acts and Regulations;
- d) Dealing with questions and petitions from the public;
- e) Receiving quarterly reports on the performance of the Authority against its approved budget and targets within strategic plans;
- f) Receiving reports and recommendations from its Subcommittees arising from the discussions and investigations;
- g) Approving changes to the Constitution of the CFA;
- h) Making appointments to outside bodies;
- i) Approving the Members Allowances Scheme;
- j) Appoint persons to the posts of Chief Fire Officer, the Deputy Chief Fire Officer, the Treasurer (Section 151 Officer) and the Monitoring Officer;
- k) Any other matters which, by law, must be reserved to the CFA.

Corporate Governance Subcommittee

The Corporate Governance Committee shall not have power to appoint any subcommittees except in relation to deal with any panels required to enable it to discharge its responsibilities. {Independent Remuneration Panel and appointment of Independent persons to a Panel to deal with conduct matters}.

The role of the Subcommittee shall include:-

Corporate Governance Matters

- (a) The promotion and maintenance of high standards within the Authority in relation to the operation of its Code of Governance and in particular to ensure
 - (i) that an adequate risk management framework and associated control environment is in place;
 - (ii) that the Authority's financial and non-financial performance is properly monitored;
 - (iii) proper oversight of the financial reporting processes;
 - (iv) that the Authority's Treasury Management arrangements are appropriate and regularly monitored.
- (b) Reviewing the Authority's Code of Governance as necessary and make recommendations to the CFA to ensure that it remains relevant to the Authority's work and practices.
- (c) Satisfy itself that the Authority's Statement of Accounts including the Annual Governance Statement have been prepared in accordance with best practice.
- (d) Making recommendations to the CFA on any amendments required to the Financial Procedure Rules and Contract Procedure Rules.
- (e) Monitoring the adequacy and effectiveness of the external audit of the Authority's services and functions and to:-
 - (i) consider the nature and scope of the external audit of the Authority's services and functions;
 - (ii) consider external audit reports and management letters;
 - (iii) monitor the Authority's response to the external auditors' findings and the implementation of external audit recommendations.
- (f) Monitoring the adequacy and effectiveness of the Internal Audit Service and to:-
 - (i) consider the annual Internal Audit plan;
 - (ii) monitor progress against the plan through the receipt of periodic progress reports and an annual Internal Audit report;
 - (iii) consider major Internal Audit findings and recommendations;
 - (v) monitor the response to major Internal Audit findings and the implementation of its recommendations.

- (g) Monitoring the effectiveness of officer arrangements for ensuring an adequate internal control environment and combating fraud and corruption.
- (h) Monitoring the arrangements for the identification, monitoring and management of strategic and operational risk within the Authority.
- (i) Liaising with the other bodies as appropriate on matters of corporate governance and financial accountability.
- (j) Advising on training for members of the Authority on matters relating to the Corporate Governance of the Authority.

Standards of Conduct Matters

- (k) The promotion and maintenance of high standards of conduct by members of the Authority, including:-
 - (i) Advising the CFA on the adoption or revision of its Code of Conduct;
 - (ii) Monitoring and advising the CFA about the operation of its Code of Conduct in the light of best practice and changes in the law.
- (l) Ensuring that all members of the CFA have access to training in all aspects of the Code, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code.
- (m) Making arrangements for the appointment of independent persons whose views must be sought about allegations of a breach of the Members' Code of Conduct in accordance with the provisions of the Localism Act 2011.
- (n) Making payments or providing other benefits in cases of maladministration under section 92 of the Local Government Act 2000.
- (o) Making arrangements for members to receive dispensations to speak on, or participate in matters in which they have interests.
- (p) Subject to the powers of the Employment Subcommittee in relation to Local Conditions of Service, advising as necessary on matters relating to the conduct of employees and procedures relating to the handling of complaints, including "whistle blowing".

Constitutional Matters

- (q) **Members' Allowances Scheme.** Advising the CFA on the Members' Allowances Scheme [*Note: approval of the scheme cannot be delegated by the CFA to a committee.*]
- (r) **Constitution.** Advising the CFA on the Constitution.

Employment Subcommittee

(The Employment Committee shall not have the power to appoint subcommittees except in relation to the appointment of an Appeals Panel to deal with disciplinary matters relating to the Chief Fire and Rescue Officer, the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer.)

The role of the Subcommittee shall include:-

- (a) To determine suspension decisions in respect of the Chief Fire and Rescue Officer, the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer.
- (b) To hear disciplinary proceedings against the Chief Fire and Rescue Officer, the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer.
- (c) To recommend for approval by the CFA the appointment of the Chief Fire and Rescue Officer, the *Deputy Chief Fire and Rescue Officer, the *Monitoring Officer and the *Treasurer.

*{For the appointment of the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer, the Chief Fire and Rescue Officer shall act as the principal adviser to the Employment Subcommittee and/or the CFA}.

- (d) Acting on behalf of the CFA as the body to deal with any collective dispute that has not been resolved by discussions with the Chief Fire and Rescue Officer.

Employment Subcommittee Appeals Panel

The role of the Employment Subcommittee Appeals Panel shall include:-

- (a) To hear appeals against disciplinary decisions made by the Employment Subcommittee lodged by the Chief Fire and Rescue Officer, the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer.
- (b) To hear appeals under the grievance procedure by the Chief Fire and Rescue Officer, the Deputy Chief Fire and Rescue Officer, the Monitoring Officer and the Treasurer.
- (c) To hear appeals under the Firefighters Pension Schemes.

Pension Board

1. The Pension Board shall not have the power to appoint subcommittees.
2. Subject to the delegations described in paragraph 3 below, the functions delegated to the Board shall be:-

- a) To assist the County Council, as administering authority, in securing compliance with:-
 - i) Legislation in force for the time being; and
 - ii) Requirements imposed by the Pensions Regulator in relation to the Scheme.
 - b) To assist the County Council, as administering authority, in ensuring the effective and efficient governance and administration of the Scheme.
3. The extent to which the non-executive powers within the Board's remit have been delegated to Chief Fire Officer or Chief Financial Officer, either by the CFA or by the Board (or by any of the bodies previously charged with the functions now within its remit), will be found in the:-
- (a) general scheme of delegation to officers;
 - (b) Financial Procedure Rules; and
 - (c) record of specific delegations maintained by the Monitoring Officer for public inspection.