

Status of Report: Public

Meeting: Corporate Governance Committee

Date: 13 July 2023

Subject: Governance update

Report by: The Monitoring Officer

Author: Lauren Haslam, Monitoring Officer

For: Decision

Purpose

1. The purpose of this report is to update and provide assurance to the Corporate Governance Committee (CGC) on governance and ethical issues.

Recommendation

2. It is recommended that the Committee
 - a. notes the update provided on governance and ethical issues;
 - b. confirms its wishes in relation to the appointment of independent members of the Committee;
 - c. approves the Anti-fraud and Corruption policy and authorises the Monitoring officer to make any minor amendments to the policy as may be required following consultation with the recognised Trade Unions;
 - d. asks the CFA to approve the changes to the Constitution which flow from the adoption of the Anti-fraud and Corruption policy.

Executive Summary

3. The report updates the Committee on the operation of core governance policies and how these are monitored on behalf of the CFA and introduces a new policy to strengthen the governance framework .

Background

The Role of the Monitoring Officer

4. The Constitution of the CFA vests certain functions in the Monitoring Officer including maintaining the Constitution, ensuring lawfulness of decision making and maintaining various registers in relation to members' and officers' interests, gifts and hospitality, whistleblowing, and politically restricted posts. The purpose of this is to promote high standards and public confidence in the CFA's governance and ethical arrangements.
5. There have been no occasions where the Monitoring Officer has had reason to believe that there was a likelihood that the CFA was about to take a decision that would be unlawful or give rise to maladministration. Consequently, no

reports have been issued to the CFA under Sections 5(2) of the Local Government and Housing Act 1989.

The Register of Members interests

6. The Localism Act 2011 requires members to register their Disclosable Pecuniary Interests and the Constitution of the CFA requires the registration of other registerable interests within 28 days of appointment to office as a member. The Register is maintained by the Democratic Services Officer supporting the CFA.
7. The Register of members' interests (attached at Appendix A) has been completed by all members of the CFA, as required.

The Register of Officer's interests

8. The CFA Constitution recognises that an officer must not allow their private interests to conflict with their public duty and the CFA has adopted a Service Policy (Code of Conduct for Directors, managers, and employees) on the registration and declaration of officers' interests which sets out the arrangements for this. The register of interests is reviewed at regular intervals by the Area Manager, Service Assurance, and the Monitoring Officer. In addition, the register is periodically subject to review by officers from the Internal Audit and Assurance Service. Officers are alerted to the requirements in the register as part of the induction process and periodic regular reminders.
9. The CFA takes part in the biennial National Fraud Initiative (NFI) which matches electronic data within and between public and private sector bodies to prevent and detect fraud. These bodies include police authorities, local probation boards, fire and rescue authorities as well as local councils, health bodies and several private sector bodies. Its remit is wide reaching – pensions, payroll, creditors, conflicts of interest etc. With specific regard to conflicts of interest matches, e.g. secondary employments, business and pecuniary interests, where anomalies are identified these can be cross checked back to the Service's register of interests to confirm they have been declared with any issues arising subsequently addressed on a case-by-case basis with the officer concerned. The NFI was last undertaken between October 2022 and February 2023 ..No instances of fraudulent activity were noted from the work undertaken. However five duplicate payments were noted (payments made to two different vendors in each case). Four had been identified through business as usual processes and funds recovered prior to the NFI exercise. The fifth one was only identified as a result of the data matching exercise and funds have been recovered. The total value of all duplicate payments is £3,640.82. The value of the fifth payment, identified as a result of the NFI data matching exercise, is £675.00. An action plan has been prepared to mitigate risk of duplicate payments in future.

The Register of Gifts and Hospitality

10. As above, the CFA Constitution requires that officers comply with the CFA's policy on the acceptance of gifts and hospitality. The CFA's policy has been updated and approved by SMT and the staff consultation forum. The Policy sets out the principles on when a gift/hospitality may be accepted and arrangements for this. In accordance with the policy the register is reviewed at regular intervals by the Area Manager, Service Assurance and the Monitoring Officer. Where issues are identified these are addressed on a case-by-case basis with the officer concerned. As set out above, steps are taken to remind officers of the obligations in relation to this issue at regular intervals and since this approval, an article has been produced for Service Matters (staff communication) and computer screen savers are being used to remind staff of their responsibilities. This method is being adopted rather than utilising the traditional method of posters on noticeboards as it is believed to be a more certain way of ensuring the message is received.

Whistleblowing

11. The service operates a whistleblowing Policy and continues to promote access to Protect (formerly Public Concern at Work) which is an independent whistleblowing charity providing free, confidential advice to workers on whether or how to raise a public interest concern. The policy is due for review and will be reviewed over the next 12 months to ensure that it remains fit for purpose. Over the period 2022-23 there have been no whistleblowing referrals received by the Monitoring Officer.

Politically Restricted Posts

12. A small number of posts are subject to political restriction by operation of law under the Local Government and Housing Act 1989 which disqualifies the post holder from undertaking certain political activities. For those officers affected, their contracts of employment incorporate the restriction and a list of politically restricted posts (attached at Appendix B) is maintained by the Monitoring Officer and reviewed annually.

Standards Issues and Complaints

13. The Constitution confers responsibility on this Committee for the promotion and maintenance of high standards of conduct by members of the CFA. That obligation is achieved through the maintenance of a Member Code of Conduct. There have been no complaints in relation to members under the Code during the period 2022-23.
14. In 2022/23 there have been no complaints made to the Local Government and Social Care Ombudsman.

Core Code of Ethics

15. In May 2021, in response to Sir Thomas Winsor's recommendation in the State of Fire report 2019, a new Core Code of Ethics for fire and rescue

services was launched by the Local Government Association, the National Fire Chiefs Council and the Association of Police and Crime Commissioners. Developed in consultation with the sector, the Core Code is designed to help FRS employees act in the best way towards each other and while serving the public. The Core Code sets out five ethical principles, based on the Seven Principles of Public Life, which provide a basis for promoting good behaviour and challenging inappropriate behaviour.

16. The Code is supported by guidance and examples of how the ethics can be demonstrated. The Fire Standards is an organisation that is producing standards for the Fire Sector nationally. These formed part of the last inspection by HMICFRS and it is positive that the work in this area was commented on in the inspection report which stated:
- 'There has been a significant change in senior leadership since our first round of inspections. Staff have reported an improving culture and confidence in the senior leadership team to build effective relationships. The service has established its own values and behaviours, which staff are familiar with and which are in line with the Code of Ethics¹.'*

Future arrangements

(a) Local Audit requirements

17. The Government provided its detailed response to recommendations from 'The Independent review into the oversight of local audit and the transparency of local authority financial reporting', (the Redmond Review). One key response is that the Government is intending to mandate audit committees and also make it a statutory requirement for FRAs (as with councils in England) to have at least one independent member on the audit committee as part of local (external) audit reforms. This committee performs the functions of the audit committee for the CFA. At present, the timescale for the introduction of the relevant legislation is not clear.
19. In the interim, the government is encouraging FRAs and LAs to establish their arrangements in line with CIPFA's Audit Committees : practical guidance for local authorities and police which was revised in 2022. In its revised position statement issued in May 2022 CIPFA advised: -
- 'The audit committees of local authorities should include co-opted independent members in accordance with the appropriate legislation. Where there is no legislative direction to include co-opted independent members, CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise.'*
20. Both the Leicester City Council and Leicestershire County Council have recently recruited independent members (1 in the case of the City Council and two in the case of the County Council)to sit on each of their respective

¹ HMICFRS summary report 20 January 2023

committees with audit functions. Rutland County Council doesn't have an independent member on its Audit & Risk Committee. The options available to the CFA are as follows;

- a. to identify if two (one from each LA) of the independent members appointed by Leicester City Council and Leicestershire County Council would be willing and available to sit on this Committee in rotation;
 - b. to undertake a separate recruitment exercise to appoint independent members;
 - c. to await the introduction of the legislation to mandate the appointment of independent members.
21. It should be noted that option (c) above would mean that the CFA is not following CIPFA best practice. If either of options (a) or (b) are preferred than it should be noted that it will be necessary to request that the CFA amend the constitution to revise the Terms of Reference for this Committee to allow the Independent Member appointment.

(b) Anti-Fraud and corruption Policy

21. The CFA has long since had Counter Fraud statement but it is appropriate to strengthen this with a formal policy. A draft Anti-Fraud Anti-Bribery and Corruption policy is attached as Appendix C which seeks to clearly set out the CFA's policy and commitment stating

'As a Service we will:

- *Protect our valuable resources by ensuring they are not lost through fraud, but are used to serve our communities;*
- *Create and promote a robust "anti-fraud" culture across the organisation which highlights our Zero tolerance of fraud, bribery, corruption and theft;*
- *Nurture an environment that enables the reporting of any genuine suspicions of fraudulent or illegal activity;*
- *Ensure the rights of those raising legitimate concerns are properly protected. However we will not tolerate malicious allegations or those motivated by personal gain, if proven disciplinary or legal action may be taken*
- *Ensure effective Counter Fraud systems and procedures are in place which :*
 - *Ensure that the resources dedicated to combatting fraud are sufficient and those involved are appropriately skilled;*
 - *Proactively deter, prevent and detect fraud, bribery, corruption and theft;*
 - *Identify emerging fraud risks and provide proactive advice to key stakeholders to assist in the prevention of fraud in these areas;*
 - *Investigate suspected or detected fraud, bribery, corruption or theft;*
 - *Enable us to apply appropriate sanctions, including criminal and or civil proceedings to recover losses where appropriate; and*
- *Work with partners and other investigative bodies to strengthen and continuously improve our resilient to fraud, bribery and corruption'.*

22. The policy is supported by procedural guidance which is attached as Appendix D setting out how incidents will be tackled and confirming a zero tolerance approach and noting that '*CFA Members and Senior Management are ideally positioned to influence the ethical tone of the organisation and play a crucial role in fostering a culture of high ethical standards and integrity*'.
23. The policy will be subject to consultation with the recognised Trade Unions and if there are any minor amendments as a result of this exercise it is suggested that authority be granted to the Monitoring Officer to make these changes. If there are substantial changes the policy will be brought back to this Committee for further consideration. If the policy is approved by the Committee it will be necessary to make minor consequential amendments to the Constitution as shown in Appendix E. The Constitution may only be amended by the CFA.

Report Implications/Impact

24. Legal (including crime and disorder)

The governance requirements above are underpinned by legislation in the Localism Act 2011 and Local Government and Housing Act 1989, constitutional requirements and best practice.

25. Financial (including value for money, benefits and efficiencies)

The controls and measures referred to in this report help the CFA to manage its financial obligations and reduce the risk of fraud.

26. Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)

The controls and measures referred to in this report help the CFA to manage its risk in the areas identified.

27. Staff, Service Users and Stakeholders (including the Equality Impact Assessment)

The obligations affect all staff and members. There are no equality implications.

28. Environmental

There are no environmental implications arising from this report.

29. Impact upon "Our Plan" Objectives

The CFA is responsible for delivering an effective fire and rescue service to Leicester, Leicestershire and Rutland and to provide clear leadership for residents and communities. The governance and ethical measures in place

provide assurance that the Service operates with transparency and accountability.

Background Papers

<https://www.gov.uk/government/publications/local-authority-financial-reporting-and-external-audit-government-response-to-the-redmond-review>

<https://www.justiceinspectors.gov.uk/hmicfrs/frs-assessment/frs-2021/leicestershire/>

Appendices

Appendix A - Register of Members' Interests

Appendix B - Register of politically restricted posts

Appendix C- Anti Fraud Policy

Appendix D – Anti Fraud Procedure

Appendix E- Proposed amendment of the Constitution

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