

EAST SUSSEX FIRE AUTHORITY

Date 2 September 2021

Title of Report Review of the Constitution of the Fire Authority

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Background Papers

- i) The Constitution of the East Sussex Fire Authority
- ii) *Review of the Constitution of the Fire Authority*; Agenda Item 75; Meeting of the Fire Authority, 11 June 2020

Appendices

Appendix 1: Section B The Members of East Sussex Fire Authority (previously referred to as section F3)

Appendix 2: Section C1 The Fire Authority and its Panels (was section B)

Appendix 3: Section C2 The Scheme of Delegations to Officers (was section E)

Appendix 4: Section D1 Standing Orders (for Meetings) (was section C Part A General Standing Orders)

Appendix 5: Section D2 Procurement Standing Orders (was section C Part B Contract Standing Orders)

Appendix 6: Section E1(a) Guidance for Cllrs and Member Development (was section F)

Appendix 7: Section E1(c) Member Employee Relations

Appendix 8: Section E1(d) Member Allowances

Appendix 9: Section E2(a) Access to Information (was section G1)

Implications

CORPORATE RISK		LEGAL	✓
ENVIRONMENTAL		POLICY	
FINANCIAL		POLITICAL	✓
HEALTH & SAFETY		OTHER (please specify)	
HUMAN RESOURCES		CORE BRIEF	

PURPOSE OF REPORT To report on the second stage of a review of the Fire Authority's constitutional arrangements and to propose further amendments to the Constitution of the Authority.

EXECUTIVE SUMMARY A project to review and update the Authority's constitutional arrangements was initiated in 2020. At their meeting in June 2020, the Authority approved a series of minor amendments to the Authority's Constitution as part of stage 1 of the review.

Stage 2 of the review has now been completed and a further set of more substantial proposed amendments, and updated sections, are submitted to the Authority for approval.

It has not been possible to complete the review of all sections of the Constitution at this stage, and a further set of proposed changes to the remaining sections will be brought to the Authority in December 2021.

RECOMMENDATION

The Fire Authority is asked to:

- 1) approve with immediate effect the changes to the East Sussex Fire Authority's Constitution outlined in section 2 of this report, and in Appendices A to I inclusive;
- 2) authorise the Authority's Chief Fire Officer & Chief Executive to take all steps necessary or incidental to the implementation of the changes agreed by the Authority, and to amend and re-publish the constitutional documents to reflect those amendments; and
- 3) note the intention to bring a further report to the Fire Authority in December 2021 proposing additional updates to the Constitution.

1 INTRODUCTION

- 1.1 The East Sussex Fire Authority must ensure that its business is conducted in accordance with the law and that public money is properly accounted for and used economically, efficiently and effectively. However while all fire authorities are required to make effective arrangements for the governance of their affairs, including for the delegation of their powers, combined fire authorities differ from local authorities in that they are not required by law to publish a written Constitution.
- 1.2 It has been noted that the arrangements which different fire authorities have put in place for the lawful exercise of their functions differ. Some fire authorities have made arrangements which in their complexity and/or their structure resemble those of their constituent authorities. Others have adopted lighter-touch arrangements, and/or have chosen not to describe their arrangements as 'a Constitution'. While some authorities publish all of their arrangements in full, other fire authorities publish only parts of the rules and procedures they have put in place to regulate the discharge of their functions.
- 1.3 The ambition of the East Sussex Fire Authority is to ensure that the arrangements it puts in place to carry out its functions are as detailed and as comprehensive as they need to be, while being as clear and accessible as possible. To this end, the Authority is committed to reviewing its arrangements regularly to make sure that they are up to date and that they accurately reflect custom and practice as well as any specific legal requirements. The Authority also has a clear commitment to publishing its Constitution in full as a means of promoting accountability and engagement.
- 1.4 The Authority's constitutional arrangements have developed over time. A need to review and modernise the Authority's Constitution was identified in 2020, and an officer project group set up to initiate that review process. The first stage of the review was officer led and involved reviewing the Fire Authority's constitutional arrangements against those at selected other fire authorities, as well as those at its two constituent authorities. This first stage was a light touch review which aimed to identify in the first instance any simple changes which might simplify user access to the Constitution and encourage engagement with the Fire Authority's decision-

making. As a result of this first stage, some key proposals were identified which were presented to, and agreed by, the Authority in June 2020.

- 1.5 At the same meeting, it was also agreed that a further stage 2 review would be undertaken, involving a number of Members, who would be invited to consider whether more substantive changes might be made to further update and streamline arrangements going forward. A small 'Member Reference Group' was established consisting of Cllr Galley, Cllr Barnes, and Cllr West. This group were supported by DCFO O'Brien and Victoria Simpson (BHCC Legal) and focused on reviewing the main 'Standing Orders'. The outcome from that work is summarised in section 2.5.1 below.
- 1.6 As part of stage 2, officers have also taken the opportunity to review a number of other sections of the Constitution. The majority of these have been simplified and brought up to date as summarised below. In addition, more substantive and material changes have been made to 'Contract Standing Orders'. A summary of these changes is included below in section 2.5.2 and the relevant section is included as **Appendix 5**.
- 1.7 It has not been possible to complete the necessary reviews of all sections of the Constitution. Further and more substantive reviews will be completed for the Members Code of Conduct to take into account recent emerging practice from BHCC as well as to take cognisance of the recently published Fire Standards Board Code of Ethics. In addition, a detailed review of main Financial Regulations will also be undertaken and both updates will be brought to the Fire Authority in December 2021.
- 1.8 For the avoidance of doubt, the Fire Authority alone has responsibility for approving substantial changes to the Constitution, and/or for making changes to its arrangements, including its standing orders, the Scheme of Delegations to Officers, and/or the Code of Conduct for Members (Section B page 3).

2 2021: STAGE 2 REVIEW

- 2.1 The second stage of the review has involved considering the Fire Authority's constitutional arrangements further. As a result of this second stage, some key proposals for update and change have been identified in relation to further sections of the Constitution. For completeness, and to aid Members understanding of what has been reviewed so far and what is left to do, an update against the full Constitution index is provided below. For Member's awareness, the decision has been taken not to present updated sections with track changes showing. The majority of sections have been reviewed by a number of officers and the presence of a large number of track changes results in the document being unreadable. To aid the reader therefore, clean and final versions have been submitted.

2.2 Section A – Introduction and Background: A guide to East Sussex Fire Authority

The review of this section was completed as part of stage 1 of this exercise and changes were agreed by the Fire Authority in June 2020 (see background papers).

2.3 Section B – The Members of East Sussex Fire Authority (previously referred to as section F3)

This section has been updated following the outcome from the local elections and the subsequent appointments agreed at the Fire Authority AGM on the 15 June 2021. The changes proposed to this section are largely textual amendments to ensure clarity and do not fundamentally change the role of a Lead Member, or the expectations on them. The text within the body of the section has been updated to avoid unnecessary repetition. The body of the section has been condensed and rewritten in plain English in order to simplify the description and requirements of the Lead Member roles. The section has been amended to reflect the

fact that we refer to the role as Lead Members; this wasn't always the term used and by changing it we ensure continuity throughout. The updated version is included as **Appendix 1**.

2.4 **Section C – Arrangements to perform functions:**

2.4.1 **The Fire Authority and its Panels** (was section B)

The proposed changes are designed to reflect changes to the Terms of Reference as approved by the Fire Authority over the last few years, and to remove references to bodies which no longer exist, such as the Member/Officer Integrated Risk Management Forum. Additionally, it is proposed that the Independent Remuneration Advisory Group (IRAG) also be removed. Unlike the constituent authorities, the Authority is not required to consult such a group in setting its Members' Allowance Scheme. IRAG has not met since 2013. Finally, some linguistic changes are proposed for consistency with other sections of the revised constitution. The updated section is included as **Appendix 2**.

2.4.2 **The Scheme of Delegations to Officers** (was section E)

The scheme of delegations to officers has been reviewed and a small number of updates made to refresh language and terminology, and also to strengthen the distinction between the operational role of the Chief Fire Officer and the role of the Fire Authority (within the framework of existing legislation). The updated section is included as **Appendix 3**.

2.5 **Section D – Rules of Procedure:**

2.5.1 **Standing Orders (for Meetings)** (was section C Part A General Standing Orders)

The review of this section has been one of two substantial and material parts of the stage 2 review and has been led by Members with support principally provide by Victoria Simpson, Senior Lawyer with Brighton & Hove City Council. The updated section is included as **Appendix 4** and the following notes outline the key and material changes:

- a) Updates and other amends to ensure greater clarity re the Standing Orders' scope and application. This includes modifying the title of the document (to 'Standing Orders') and including a sentence of explanatory text on the title page, as well as modernised vocabulary (Members are no longer 'summonsed' to meetings, while some key records are retained in electronic form), plus the use of the gender-neutral term 'Chairperson' throughout.
- b) Modifications to assist in the smooth conduct of the Authority's business. This includes provision for the appointment each year by constituent authorities of 'Reserve Members', who may then be able to substitute on a whole meeting basis only for a Member appointed from their constituent authority who is unable to attend a specific meeting of the Authority/ one its Panels. Also, clarity regarding who may convene or re-arrange a meeting outside the programme set at the annual meeting (namely the Chief Fire Officer, having consulted with the Chairperson), and provision for all meetings to take place at a time to be determined not before 10am on any day, plus a tidying up of the 'order of business' section.
- c) Some amendments to the rules on Member engagement which a) generate an expectation that amendments will normally be submitted in writing in advance (no later than the working day which precedes the meeting), although the Chairperson retains discretion to accept amendments outside that, including during a meeting where the amendments are considered to assist in resolving matters. Also, b) the introduction of a 'six-month rule' as exists currently at both the constituent authorities.

- d) Changes to the rules on public engagement to emphasise the rights of the press and public to attend meetings where no decision to exclude on basis of confidential exempt information has been made. A deadline for public questions which falls after the agenda is published (as opposed to before the public has sight of it), and deadlines specified for those Petitions which seek to be presented at a meeting. The criteria for the subject matter of questions and petitions has been clarified while provision is made for a minimum threshold for signatories to any Petition (twenty persons, living working or studying in the areas).

2.5.2 Procurement Standing Orders (was section C Part B Contract Standing Orders)

The review of this section has been the second substantial and material part of the stage 2 review and has been led by Claire George, ESFRS Procurement Manager, with support provided by Duncan Savage, Treasurer to the Authority. The contract standing orders (CSOs) have remained in their current format for many years. The continuing transformation of the Authority's procurement function offers an opportunity to refresh the guidance and ensure it encourages the adoption of best practice. The revised Procurement Standing Orders (PSOs) are intended to support the commissioning lifecycle and address omissions created by our new ways of working.

The change in styling from CSOs to PSOs is intended to be more intuitive and clearly signal to colleagues that the Constitution applies to all purchasing activity, regardless of whether it results in a contract being awarded.

Currently the Authority's Constitution does not mandate advertisement or any specified Procurement involvement at the level of sub £50,000 expenditure. As a public sector body, we have a duty to advertise opportunities on the central Government portal Contracts Finder at a contract value of £25,000 & above. Whilst it is permissible for us to not advertise currently (where our CSOs do not mandate a tender exercise), it is not best practice.

To adhere to, and importantly to maximise competition and economic advantage, it is recommended that the Service advertise all applicable contracts above £25,000.

The updated section is included as **Appendix 5** and the following notes outline the key and material changes. In particular, new inclusions relate to:

- Lines of responsibility for both procurement & commissioners
- Contract management and performance
- Liability insurance levels
- Responsible Procurement & Social Value Act considerations
- Procurement cards
- Forward planning & category strategies
- Guidance as to the difference and application of the PSOs across agency staff, employees and consultants
- Understanding total value of a procurement at the outset, including artificial disaggregation and whole life costs
- Summary guidance table for the new thresholds, with clearly defined routes to purchase
- Guidance for developing local suppliers and for dividing contracts into lots, to encourage small and medium sized enterprises to bid for local work
- Guidance relating to the Bribery, Corruption Canvassing and Collusion legislation and Publicity
- Reference to collaboration
- Consideration of Dynamic Purchasing Systems and frameworks

- Removal of approved lists
- Voluntary Ex-Ante Transparency Notice (VEAT) guidance
- Confidentiality & Intellectual Property Rights
- Emergency purchases
- Contract novations
- Document retention periods
- Disposal of surplus goods

2.5.3 **Financial Regulations** (was section D Financial Regulations)

This section has not been reviewed at this stage and an updated section will be coming forward to the Fire Authority in December 2021.

2.6 **Section E – Codes, Protocols and Guidance:**

2.6.1 **Members Information** (was section F)

a) **Guidance for Cllrs and Member Development**

This section has been amended to reflect the changes that have been made to the New Member Induction, Member Development Handbook, the new 121 support and guidance scheme for new members, and updated information on Members Seminars. The previous version of this section contained a large introductory section containing information which is duplicated elsewhere in this Constitution and has therefore been removed. There was also reference to outdated procedures and these have been removed to ensure that the constitution accurately represents the opportunities and assistance that are available to Members. The updates section is included as **Appendix 6**.

b) **Code of Conduct**

This section has not been updated at this stage. A refreshed code of conduct which takes cognisance of local practice along with the newly released Fire Standards Code of Ethics, will be brought forward to the Authority in December 2021.

c) **Member Employee Relations**

The proposed changes to this section are in the main purely small textual amendments with a view to ensuring continuity of language and a plain English approach. It is important that both elected Members and all employees of the Authority are able to fully understand what is required of them and it is hoped that these changes make the document slightly more concise without making any change to the demands that are made on the behaviour of all employees and Members. The updated version is included as **Appendix 7**.

d) **Member Allowances**

The proposed update to this section is largely based on a need to simplify and explain the process and entitlements in plain English without duplication and the removal of advice on taxation that was surplus to the needs of the Constitution. The content remains largely the same but is presented in a clearer and simpler way in order to assist Members and the public with their understanding of what allowances we pay, how much they are, who is entitled to them and what we do not pay but can be claimed through constituent authorities. The updated section is included as **Appendix 8**.

2.6.2 Guidance

a) Access to Information (was section G1)

This section has been updated and is included as **Appendix 9**.

b) Social Media (was section G2)

This section has not been updated. This will be reviewed in line with the review of the Code of Conduct and will be brought forward to the Authority in December 2021.

c) Legislation (was section G3)

This section has been reviewed and there are no changes other than renumbering in line with the new indexing.

2.7 Members will note that section E in the reformatted Constitution also includes the Fire Authority Strategies. New and updated Fire Authority Strategies in relation to Prevention & Protection, Response & Resilience, Fleet & Equipment, and Communications, Engagement & Marketing are included elsewhere on this agenda. Section E will therefore be updated following this meeting and subject to the Fire Authority agreeing said strategies.

2.8 The Authority is asked to note at this stage the proposal for a third stage which will involve a more root and branch review of the Authority's arrangements in relation to Member Code of Conduct (and associated social media guidance) and the Authority's Financial regulations. It is anticipated at this stage that the review of the Member Code of Conduct will benefit from involvement with Members and the necessary working group will be engaged with during the Autumn.

2.9 Members are asked to note the intention to bring a further report to the Authority in December 2021 proposing additional updates to the Constitution in relation to Member Code of Conduct and Financial Regulations.