

EAST SUSSEX FIRE AUTHORITY

Date 9 December 2021

Title of Report Review of the Constitution of the Fire Authority – Members Code of Conduct and associated Guidance, Procedure and Officer Delegations

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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
- iii) *Review of the Constitution of the Fire Authority*; Agenda Item 129; Meeting of the Fire Authority, 2 September 2021
- iv) Model Councillor Code of Conduct, [published](#) by the Local Government Association

Appendices

- Appendix A: Code of Conduct
- Appendix B: Procedure for Dealing with Allegations of Breaches of the Code of Conduct
- Appendix C: Guidance on Correspondence including Social Media
- Appendix D: Scheme of Delegations to Officers (extract)

Implications

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

PURPOSE OF REPORT To report on the third stage of a review of the Fire Authority's constitutional arrangements and to propose further amendments to the Member's Code of Conduct and associated Guidance, Procedure and Officer Delegations for publication in the Authority's Constitution

EXECUTIVE SUMMARY A project to review and update the Authority's constitutional arrangements was initiated in 2020. At its 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 was subsequently completed and a further set of proposed amendments, and updated sections, was approved by the Fire Authority in September 2021.

This report concludes stage 3 of the review. It seeks Fire Authority approval for a revised Member Code of Conduct and Procedure for Dealing with Complaints Against Members, as well as a new Guidance for Members on Correspondence including Social Media (to be substituted for the current Social Media Protocol). It also proposes that the provisions in the Scheme of Delegations to Officers which relate to Member conduct be updated.

Stage 4 of the review consists of a substantial review and updating of the Financial Regulations of the Fire Authority, and it is the intention to bring this forward to the next meeting of the Authority in February 2022.

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 D 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 February 2022 proposing additional updates to the Constitution in the form of revisions to the Authority's Financial Regulations.

1 INTRODUCTION

- 1.1 The East Sussex Fire Authority ('the 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. 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 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 has put in place to carry out its functions lawfully 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 constitutional 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 has also made a 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 was 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 formally approved by, the Authority in June 2020.
- 1.5 As part of stage 2, a Working Group of Members was convened to provide input into proposals to review and update other sections of the Constitution, including substantive changes to the Authority's 'Contract Standing Orders' and 'Rules of Procedure'. The outcomes from this stage of the review were presented to, and formally approved by, the Authority in September 2021.
- 1.6 At the same meeting of the Authority, it was noted that a further stage 3 review would be undertaken to review the Member Code of Conduct and associated guidance to take into account recent emerging practice from Brighton & Hove City Council while building into arrangements reference to the recently published Core Code of Ethics for Fire and Rescue Services. Input from the Working Group of Members was sought and the outcome of the work subsequently carried out by officers is summarised in section 2.2 below.
- 1.7 It has not been possible to complete the necessary reviews of all sections of the Constitution. A further substantive review - of the Authority's Financial Regulations - will be completed in due course and the outcomes brought to the February 2022 meeting of the Authority.
- 1.8 For the avoidance of doubt: while the Scrutiny & Audit Panel has delegated authority for (amongst other things) developing procedures relating to Member conduct and advising the Authority in this area, only the full Fire Authority has authority to approve substantial changes to the Constitution, and/or to make such key changes to its arrangements as the Scheme of Delegations to Officers (Section C2) and the Code of Conduct for Members (Section B page 3). While proposals to make changes to the Code may be suggested to the Fire Authority by the Scrutiny & Audit Panel, in this instance these proposals originated from a staged review of key constitutional provisions undertaken with an early steer from a dedicated Working Group of Members. That Group's input was sought on the approach to be applied to these

Member conduct arrangements. The proposals appended here have additionally been forwarded to all Fire Authority members before this Report and its appendices were finalised in order to provide an opportunity to all Members to input on this part of the constitutional review before formal Fire Authority approval is sought.

2 2021: STAGE 3 REVIEW

- 2.1 The third stage of the review has involved considering the Fire Authority's constitutional arrangements further. In particular, the review has considered the current Member Code of Conduct, guidance for dealing with complaints against members, and social media guidance provided to Members. For Member awareness, the decision has been taken not to present updated sections with track changes showing. Most 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.

Section E 1 (b) – Code of Conduct for Members

- 2.2 The Fire Authority's arrangements in relation to the Code of Conduct for Members have not been substantively reviewed since the Localism Act 2011 came into force. When this review began, the Working Group was asked to note that the Local Government Association had carried out a substantial piece of work which involved consulting with key stakeholders to generate a model Code of Conduct. That model Code forms the basis for the recommended revised Code of Conduct for Members (see Appendix A).
- 2.3 There are some key differences to the Authority's existing Code including in terms of format and style (there is guidance embedded in the Code after each requirement, plus a more detailed approach throughout). Some key elements of the current Code have however been retained, including the appending of the seven principles of public life, as well as the current definition of an 'Other Registrable Interest', and the distinction between prejudicial and non-prejudicial interests. The draft makes explicit reference to the Authority's commitment to support the Fire & Rescue Services' implementation of the national Core Code of Ethics. It also retains the requirement in the current Code of Conduct that members have regard to advice given by the Authority's Monitoring Officer and Chief Finance Officer where they are carrying out their statutory duties and also give reasons for their decisions. These requirements (although not in the LGA model Code) form part and parcel of the Authority's existing Code and are also included in its constituent authorities' Codes. For this reason, they have been included in the draft Code appended for the Authority to consider.
- 2.4 The new Code anticipates that the Monitoring Officer will have delegated authority to provide dispensations to members in accordance with the criteria outlined in relevant law. Delegated authority to the Monitoring Officer in these terms does not currently exist in the existing Scheme of Delegations to Officers, but it is recommended that provision is made (alongside retention of the power of the Scrutiny & Audit panel to provide dispensations in the alternative) to ensure a quicker turnaround where members seek to participate in a meeting which is imminent. Appendix D provides suggested wording for the additional proposed delegation, while suggesting some updating wording to the provisions which give the Monitoring Officer delegated authority to deal with Member complaints within the agreed framework.

Section E 1 (tbc) – Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members

- 2.5 At the same time, the existing procedure for dealing with complaints was considered. It was noted that Brighton & Hove City Council had recently revised its procedure so as to generate a new process for dealing with complaints which amongst other things was clearer about the key principles to be applied when assessing complaints received in at preliminary assessment stage. Members will note that more detailed criteria are suggested against which new complaints would fall to be considered, a key question being whether referral for formal investigation is considered on the facts to be both proportionate and necessary in the public interest. See attached Appendix B

Section E 2 (b) – Guidance on Correspondence including social media

- 2.6 Finally, the Social Media Protocol had not been refreshed for some years either. The revised Guidance on Correspondence including Social Media (see Appendix C) includes many of the key elements of the existing Protocol, but places greater emphasis on the key point that online communications are to be assessed in the same way as all other types of communications, all of which are subject to the same key expectations. The proposed Guidance aims to be a resource which may assist Members in amongst other things managing the expectations of those who communicate with them.