

Purpose: Decision

Date: 13 JUNE 2017

Title: **HFRA's Constitution**

Report of the Clerk



**HAMPSHIRE  
FIRE AND  
RESCUE  
AUTHORITY**

## EXECUTIVE SUMMARY

1. This report proposes that the Authority adopt a new constitution containing all of the governance and constitutional arrangements that apply to the Authority's activities.
2. A draft of the proposed constitution is set out at Appendix 1. Key features are explained in this report along with significant changes to the previous constitutional documents.

## BACKGROUND

3. Hampshire Fire and Rescue Authority concluded a governance review in 2016 and resolved to reduce the number of members of the Authority to 10 and also to invite the Police and Crime Commissioner to become a voting member. The new Authority is constituted with effect from June 2017. The addition of the PCC is being progressed with the Home Office via an amendment to the Combination Order, but due to the snap General Election this has been delayed.
4. As part of its decision to implement the new governance model at the meeting on 7 September 2016, the Authority delegated authority to the Clerk to:  
  
*"Prepare appropriate draft revisions to the Authority's Standing Orders and Committee Terms of Reference and any other relevant governance documentation for consideration at the annual meeting of the Authority in 2017"*
5. Officers have carried out a review of all of the Authority's governance documents, on behalf of the Clerk and Monitoring Officer. The Authority's Governance Improvement Plan also recommended that various governance documents were reviewed and a "constitution" created.
6. In light of the review, the Clerk is proposing that for ease of reference and use, the revised documents are consolidated into a single constitution. A copy of the proposed constitution is attached at Appendix 1. The key changes are summarised in this report.

## KEY CHANGES IN THE NEW CONSTITUTION

7. The draft constitution contains most of the governance documents that HFRA had previously adopted, including Standing Orders, Financial Regulations, Contract Standing Orders and the Scheme of Delegation. It also includes some narrative to explain how the Authority is constituted and makes decisions and has appendices containing other relevant documents. Key changes are summarised below, but only at a high level.

7.1 **Full Authority Terms of Reference** – Part 3, section 3.1 of the Constitution contains proposed terms of reference for the Authority. These are intended to capture the key areas of business for the Authority. An indicative timetable and annual work plan is also referred to.

7.2 **Standards and Governance Committee – Terms of Reference** – Part 3, section 3.3 contains the proposed terms of reference for the Standards and Governance Committee, which will be the only standing committee in the new governance structure.

7.3 **Scheme of Delegation** – Part 3, section 3.6 contains the new Scheme of Delegation to Officers. This has been substantially changed, mostly for clarity. The most substantial change is the express delegation to the Chief Officer to do anything on behalf of the Authority that is not reserved to the Full Authority or to Standards and Governance Committee. However, the delegation to the Chief Officer is subject to the budget, the Constitution and Financial Regulations.

7.4 **Rules of Procedure** – these are set out at Part 4. Standing Orders and Contract Standing Orders have been amended slightly to reflect the new, reduced size of the Authority and the reduction to one standing committee. Financial Regulations have been more substantially amended to reflect the Authority's new Terms of Reference and revised Scheme of Delegation. Some key points for Members to note about the amended Financial Regulations are:

7.4.1 There is a proposed amendment to Financial Regulations A5 and A18, the effect of which is to increase the financial limit for budget virements that require Authority approval from £100K to £200K. The Chief Officer would be able to approve virements of up to £200K, rather than currently up to £100K. This level of authority has not been reviewed for many years. The proposed amendment is intended to ensure appropriate levels of flexibility and administrative efficiency, given the current pace of change within the organisation and fire and rescue sector generally.

7.4.2 There is also a proposed amendment to Financial Regulations A5 and A26, in respect of the financial limits for writing off debts. The proposal is to increase the level of debt which can be written off by the Chief Officer in consultation with the Chief Financial Officer from the current £5,000 to £10,000. Any proposed write off of debt above £10,000

would need to be approved by the Authority. Again, this is to ensure appropriate flexibility and administrative efficiency.

7.4.3 A new Financial Regulation B19 has been added to enable “urgent” financial decisions to be made by the Chief Financial Officer in consultation with the Chairman and Chief Officer. This would only be used where a matter is urgent (i.e. can’t wait until the next meeting of the Authority) and is felt to be in the wider interests of the Authority. This will avoid any technical arguments about the lawfulness of urgent action that the Chief Financial Officer has to take in the interests of the Authority.

7.4.4 Financial Regulation E2 has been amended slightly to clarify the Authority’s role in “overseeing” partnerships, but recognising that the Chief Officer has a wide delegation to make decisions relating to operational partnerships, within budgetary limits of Financial Regulations.

- 7.5 **Appendix 1 contains the Members Allowance Scheme.** This has been amended very slightly in accordance with the Authority’s decision in September 2017 and the reduced size of the Authority. However, the Scheme will need to be fully reviewed by the new Standards and Governance Committee and any recommended changes will need to come back to the Authority for agreement.
- 7.6 **Appendix 2 contains the arrangements for dealing with complaints against members.** These have been substantially rewritten to bring them into line with other local authorities, including Hampshire County Council. They have also been reviewed in light of a complaint that was dealt with by HFRA in 2015.
- 7.7 **Appendix 4 contains the Filming and Broadcasting Protocol,** which has been brought into line with the Authority’s agreed practice of live streaming Authority meetings.
- 7.8 **Appendix 5 contains a new Protocol for Member – Officer Relations.** This aims to set out the roles of officers and members and explain how they work together.
- 7.9 **Appendix 7** contains the Authority’s Code of Corporate Governance.
- 7.10 **Appendix 8** contains a summary of the Authority’s key statutory responsibilities. This is not intended to be an exhaustive list and is simply a summary of the key statutory provisions relating to HFRA’s functions and powers.

## SUPPORTING OUR SERVICE PLAN AND PRIORITIES

8. Having a robust and clear constitution will assist Authority Members to make lawful and robust decisions and will aid good governance. This fits with the Authority’s service plans and priorities.

## CONSULTATION

9. Public consultation is not required in order for the Authority to adopt the new constitution as it is intended to govern internal decision making of the Authority only. The constitution also reflects the decisions already made by the Authority to move to the new governance model.

## RESOURCE IMPLICATIONS

10. There are no resource implications associated with adopting the new constitution.

## LEGAL IMPLICATIONS

11. The Authority is required to have certain governance documents that set out how decisions will be made and how the Authority is governed. Having a single constitution, which will be published, will assist in ensuring robust decision making and good governance. The draft constitution has been prepared with legal input on behalf of the Clerk/Monitoring Officer to ensure compliance with the Authority's legal obligations.

## PEOPLE IMPACT ASSESSMENT

12. The proposals in this report are compatible with the provisions of equality and human rights legislation.

## RISK ANALYSIS

13. The risks of not adopting the new constitution are that the Authority's governance arrangements will not fit with the reality of the newly constituted Authority.
14. Without clear constitutional documents the Authority may act unlawfully or make unlawful decisions which could be subject to successful challenge.

## CONCLUSION

15. For the reasons set out in this report it is recommended that the Authority adopts the proposed constitution document as the Authority's Constitution.

## RECOMMENDATION

16. That the Authority adopts the proposed constitution at Appendix 1 as the Authority's Constitution with effect from the date of this decision.
17. That the Authority authorises the Clerk to finalise and publish the new constitution on the Authority's web pages so that it is accessible to officers, Members, and members of the public.

## APPENDICES ATTACHED

18. Appendix 1 – Proposed Constitution

## BACKGROUND PAPERS

19. None

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## **Appendix 1**

### **Proposed Constitution**