



**Hampshire
& Isle of Wight**
FIRE & RESCUE AUTHORITY

Full Authority

Purpose: Approval

Date: **14 April 2021**

Title: **UPDATES TO HIWFRA CONSTITUTION**

Report of Monitoring Officer

SUMMARY

1. This report seeks the approval of the Authority to a number of minor changes to the Constitution.
2. Most of the changes are a result of the Authority's decision on 10 February 2021 to delegate democratic functions previously undertaken by the Clerk to the Chief Fire Officer and to appoint Hampshire County Council's Deputy Head of Legal Services as the Monitoring Officer. Other changes are related to the change of status of 3SFire Ltd to a Community Interest Company (CIC), the potential continuation of virtual meetings, the effects of Brexit on procurement legislation and previous decisions of the Authority.

BACKGROUND

3. The Authority adopted a Constitution at its inaugural meeting in June 2020. At that time, and whilst the Authority was operating as a "Shadow Authority", not all parts of the Constitution were applicable until 1 April 2021. All parts of the Constitution are now applicable. This paper recommends some minor amendments to the Constitution, as set out at Appendix A and explained below.

Democratic and Monitoring Officer Functions

4. At its meeting in February 2021, the Authority agreed to delegate the democratic functions that were previously undertaken by the Clerk to the Chief Fire Officer. The Authority also appointed the Deputy Head of Legal Services at the County Council as the Monitoring Officer and delegated

authority to the Monitoring Officer to make consequential amendments to the Constitution, to be brought back to this meeting.

5. In light of the change to the clerking arrangements, all references to the “Clerk” in the previous version of the Constitution have been changed to the “Chief Fire Officer” or “Monitoring Officer” as appropriate in the version attached at Appendix A. These are minor technical changes, which should not have any significant implications for the operation of the Authority.

Change of Status of 3SFire Ltd

6. At its meeting in February 2021, HFRA agreed to 3SFire Ltd becoming a Community Interest Company and changing its name. As a result, references in the Constitution to “3SFire Ltd” have been changed to “3SFire Community Interest Company” to reflect the change in status.
7. Also, the title of the Stakeholder Committee has been changed to “3SFire Community Interest Company Stakeholder Committee” and its Terms of Reference (page 13 Appendix A) have been updated to cross refer to the company’s new Articles of Association.

Changes to Contract Standing Orders

8. Brexit has resulted in some changes to the applicability of EU legislation in respect of public procurement. Therefore, Contract Standing Orders have been amended to reflect this. The substantive processes required under Contract Standing Orders (page 60 Appendix A) have not changed.
9. A minor change has also been made to remove the reference (page 63 Appendix A, paragraph 2.7) to the Chief of Staff’s role in publishing a Corporate Procurement Strategy. The Authority is not required to publish such a strategy and in any event, this is an operational matter that does not need to be referred to in Contract Standing Orders.

Other Minor Amendments

10. The requirement for the Authority to approve virements from an existing employee budget for the appointment of new permanent members of staff (page 7 Appendix A - Authority’s Terms of Reference), has been amended for clarity as this is an operational matter that should sit within the delegations to the Chief Fire Officer. The amendment clarifies that the Authority approves all virements from non-pay budget to pay budget. However, it enables the Chief Fire Officer to approve all spending from within approved pay budgets, which links to the operational independence of the Chief Fire Officer
11. The reference (page 10 Appendix A) in the Authority’s Terms of Reference to appointments to the Local Crime and Disorder Reduction Panels has

been removed in line with a decision of the Authority in 2017. The Authority agreed to delegate local delivery to Officers (Group Managers), with central support from headquarters, to ensure maximum efficiency and effectiveness of the Authority, and therefore no formal Member appointments are required. Again, this links to the operational independence of the Chief Fire Officer.

12. There is an additional annual report listed in the Authority's Terms of Reference (page 11 Appendix A). This annual report aims to demonstrate the commitment to collaboration initiatives and activities across the Service. The addition of this report annually contributes towards meeting the statutory requirements of the Policing and Crime Act 2017 and the Fire and Rescue National Framework. There are also some minor changes to the Standards and Governance Committee's Terms of Reference to refer to scrutiny of alignment to the standards set by the Fire Standards Board (page 13 of Appendix A).
13. The Pension Board's Terms of Reference (page 15 Appendix A) have been updated to the version approved by the Authority at its meeting in February 2021.
14. Standing Orders (page 29 Appendix A) and the Protocol for Filming and Broadcasting (page 97 Appendix A) have been amended very slightly to reflect the potential for virtual meetings to continue. Further amendments may be required depending on further changes to the legislation.
15. The Member Allowance Scheme approved by the Authority at its February meeting has been added at Appendix 1 (page 78 Appendix A) and has replaced the previous version.
16. A new Communications Protocol reflecting the new combined Authority has been added at Appendix 6 (page 105 Appendix A) to replace the previous version.
- 16.
17. Finally, some minor changes have been made to the "Complaints" form at page 88, to improve the format and streamline the process for submitting a complaint and also to the Protocol for Member – Officer Relations (page 103) to reflect the current approach to Member Development.

RESOURCE IMPLICATIONS

17. There are no financial or resource implications from the contents of this paper.

IMPACT ASSESSMENTS

18. There are no specific equality or other impacts arising from the proposals contained in this paper.

LEGAL IMPLICATIONS

19. The Authority's Constitutional arrangements should be kept up to date in order to ensure lawful decision making and good governance. The proposals in this paper ensure that the Authority's Constitutional arrangements are up to date and compliant with Local Government legal requirements.

OPTIONS

20. Option 1 (Recommended) – That HIWFRA approves and adopts the amended version of the Constitution at Appendix A.
21. Option 2 – That HIWFRA does not approve the amended version of the Constitution at Appendix A.

RISK ANALYSIS

22. Option 1 ensures that the Authority's Constitution is up to date and reflects the current operation of the Authority and so is the preferred option.
23. Option 2 would mean the Authority has a Constitution that is not up to date and does not reflect the current operation of the Authority. It could therefore create some flaws in the Authority's governance arrangements and ultimately lead to challenges to decision making.

CONCLUSION

24. Option 1 is recommended, as this will ensure the Authority's Constitution is up to date and reflects the current operation of the Authority. This will ensure good governance and will also minimise the risk of challenge to the Authority's decision making.

RECOMMENDATION

25. That the Authority approves and adopts the updated version of the Constitution attached at Appendix A.

APPENDICES ATTACHED

26. Appendix A – updated version of HIWFRA's Constitution

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