



**MINUTES OF THE GOVERNANCE AND CONSTITUTION COMMITTEE held on 8 October 2014 at Fire Service HQ at 10:00 am.**

**PRESENT:** Councillors H Mundry (Chair), M Biggin, J Houlbrook, B Livesley, R Polhill and T Sherlock

independent members: Mr R Garner, Mr M McBride, Mr W Ravenscroft

**PART 1 – MATTERS CONSIDERED IN PUBLIC**

**1 PROCEDURAL MATTERS**

The Chair reminded Members that the meeting was being audio-recorded as agreed at the Fire Authority meeting held on 24<sup>th</sup> September 2014.

**A APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**B DECLARATION OF MEMBERS' INTERESTS**

There were no declarations of Members' interests.

**C MINUTES OF THE GOVERNANCE AND CONSTITUTION COMMITTEE**

**RESOLVED: That**

**the minutes of the meeting of the Governance and Constitution Committee held on Wednesday 16<sup>th</sup> July 2014 be confirmed as a correct record.**

**ITEMS REQUIRING DISCUSSION / DECISION**

**2 OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

The Head of Legal and Democratic Services introduced this report which provided Members with further information about the implementation of the Openness of Local Government Bodies Regulations 2014. He reminded Members that an initial report detailing a draft protocol for the conduct and recording of meetings had been presented at the last meeting of this Committee and approved for adoption and inclusion in the Constitution, at the Fire Authority meeting on the 24<sup>th</sup> September. He confirmed that the Fire Authority made the decision that all Member decision-making meetings should be audio-recorded.

He explained that this report dealt with the second aspect of the Regulations relating to the requirement of a written record of certain officer decisions.

He advised Members that the Regulations did not have a significant affect on the Service as major decisions were made by Members and were publicly recorded in the minutes of the decision making meetings. He explained that not all officer decisions were covered by the new Regulations, only those made by officers under the delegated powers which were defined within the report. He advised Members that there were three categories of decision covered by the Regulations of which the one that most impacted the Service was that described as '*affect the rights of an individual*'. He explained that when officers used the Regulatory Reform (Fire Safety) Order (the Order) to enforce, prohibit and prosecute those responsible for fire safety breaches in non-domestic premises, this could impact upon the right of an individual (and their business). He confirmed that all officer decisions in relation to this Order were already documented by the Service but were not currently published on the Service's website and did not involve Members. Instead they were available on the Chief Fire Officers Association Register which was published on its website.

Members discussed the impact of publicising the decision and information contained in any written record. They felt that it might damage a business in circumstances where the enforcement was only a temporary measure. The Head of Legal and Democratic Services stated that this was a risk for the business but action would not be taken lightly and only after discussion and efforts to avoid the need to do so.

Members also suggested it would be useful to be made aware of the officer decisions made in relation to the Order which impacted businesses in their ward. The Head of Legal and Democratic Services advised Members that he would explore the best way to keep Members informed. It was suggested that decisions could be reported to a Member meeting to be recorded publicly within the minutes.

The Head of Legal and Democratic Services concluded by referring to the final category of decisions covered by the Regulations which was in relation to the awarding of contracts. He advised Members that any decision to enter into a contract which would 'materially affect' the Authority's financial position would be taken by Members rather than officers (e.g. North West Fire Control). He added that procurement decisions were published and overall the existing arrangements satisfied the requirements.

**RESOLVED: That**

- [1] the proposed approach in relation to the recording and publication of officer decisions be approved.**

**3 PETITIONS**

The Head of Legal and Democratic Services explained that this report asked Members to consider whether the Authority should develop guidance about how it engaged with petitioners and handled petitions. He referred Members to

Appendix 1 of the report which was an extract from Section 4 of the Fire Authority's Constitution concerned with the receipt of petitions and he explained that it may be helpful to develop some rules as to how the Authority engaged with petitioners and handled petitions. He wished to obtain Members views on a number of different points which were detailed within the report in an attempt to prompt discussion.

He referred Members to Appendix 2 of the report which provided a range of documents to help illustrate the various points he wished to discuss.

Initially he asked Members who they felt should be allowed to petition the Fire Authority. Members discussed this and agreed it shouldn't be restricted to electors only in Cheshire as this would exclude too many sections of the community (e.g. under 18s). They felt it should not be unduly restricted: as long as the person signing the petition had an interest in the area they could petition.

Members discussed their participation in petitions as Members of the Fire Authority and understood that they would be excluded from taking part in any debate at a Fire Authority meeting which related to the subject of any petition that they had signed. It was felt that it would be each individual Member's choice as to how best to represent their views on a particular subject which impacted constituents in their ward.

The Head of Legal and Democratic Services summarised this discussion by confirming that he would include a statement in the guidance about who was excluded from petitioning the Authority e.g. Members of the Authority and people who live and/ or work outside Cheshire who have no links to the area.

The Head of Legal and Democratic Services continued by asking Members to consider any restrictions that they would include within the guidance, in respect of the content of a petition. He referred to a list of examples provided within Appendix 2 to the report. The Committee discussed each of the points listed and produced a list of restrictions. Members agreed that the following restrictions should be included:

- Petitions about issues that were better handled as complaints
- Petitions about employees' terms and conditions of employment
- Petitions which could be defamatory, discriminate against someone or contain offensive or inappropriate language
- Petitions which accuse someone of breaking the law or codes of practice.
- Petitions which support any political party
- Petitions about the behaviour of individual officers or councillors which should be handled using other procedures.

Members discussed what they could do with a petition that related to something that they had no control over and they felt that this should also be excluded. The petition should not be accepted as it should be submitted directly to the relevant organisation or public body to which it refers.

The Head of Legal and Democratic Services asked Members who should be identified within the guidance to agree whether a petition was valid. Members agreed that the Monitoring Officer would make this decision and would refer to this Committee if any doubts arose.

Members questioned how the names and addresses detailed on a petition would be held under data protection guidelines. The Head of Legal and Democratic Services confirmed that the petition was a public document so any details provided by a petitioner would be accessible. It was reasonable to assume that people signing petitions should be aware of this.

The Head of Legal and Democratic Services referred Members to an example form which could be used to lodge a petition, detailed within Appendix 2 of the report. Members agreed that it would be useful to include this within the Fire Authority's guidance.

The Head of Legal and Democratic Services asked whether Members wished to include a threshold for the number of signatories which would be used to dictate whether and how a petition would be handled. Members concluded that a threshold should not be included as it was felt that it was important to consider the 'weight' attached to a petition taking into account the number of signatories.

Finally, the Head of Legal and Democratic Services suggested that the introduction of more formality about the way the Authority responds to a petition may be beneficial. He put forward a range of possible responses that could be listed in the guidance.

A Member commented that the process should include; some standard correspondence, e.g. an acknowledgement of the petition, confirmation that it had been considered etc.

Members agreed that the principal petitioner did not need to attend to present the petition and that the Authority would accept a petition without anyone being present at the meeting. However, if the principal petitioner wished to send someone else to present the petition on their behalf that was also acceptable.

**RESOLVED: That**

- [1] guidance about how the Authority engages with petitioners and handles petitions be prepared, taking into consideration Members feedback.**