



MINUTES OF THE GOVERNANCE AND CONSTITUTION COMMITTEE held on 3 August 2012 at Fire Service HQ at 10:00 am.

PRESENT: Councillors H Mundry (Chair), M Biggin, J Leather and T Sherlock

Independent Members: Mr R Garner, Mr M McBride and Mr W Ravenscroft

PART 1 – MATTERS CONSIDERED IN PUBLIC

1 PROCEDURAL MATTERS

A CHAIR AND MEMBERSHIP OF COMMITTEE 2012/13

Members were asked to note the membership of the Committee for 2012/13, as agreed by the Fire Authority at its Annual General Meeting (AGM) on 13 June 2012 and listed below:

Councillors:

H Mundry - Chair

M Biggin

J Leather

B Livesley

R Polhill

T Sherlock

Members also noted that Mr R Garner, Mr M McBride and Mr W Ravenscroft attended this committee in a non-voting advisory capacity.

TERMS OF REFERENCE

The Terms of Reference for the Governance and Constitution Committee, which were approved at the AGM on 13 June 2012, were also noted.

B APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor B Livesley and R Polhill.

C DECLARATION OF MEMBERS' INTERESTS

There were no declarations of Members' interests

Members discussed whether independent members should be asked to declare interests. The Head of Legal and Democratic Services explained that the Authority had approved a Code of Conduct for Elected Members to ensure that

the legislative requirements of the Localism Act were adhered to. The Governance and Constitution Committee would be reviewing both the Code of Conduct and the Register of Interests over the coming months to agree whether the Authority should introduce a more expansive local Code. The Committee would also review whether the Independent Members on the Authority should be subject to the Code.

D MINUTES OF THE STANDARDS COMMITTEE

RESOLVED: That

the minutes of the meeting of the Standards Committee held on 16 May 2012, be confirmed as a correct record.

ITEMS REQUIRING DISCUSSION / DECISION

2 APPOINTMENT OF INDEPENDENT PERSONS - PROCESS

The Head of Legal and Democratic Services introduced this report which provided details of the proposed process for the appointment of Independent Persons to the Fire Authority and Members were asked to provide guidance on a number of issues raised in the report.

Section 28(7) of the Localism Act 2011 placed a duty on the Fire Authority to appoint at least one Independent Person. Under the Act the Authority were required to advertise and secure applications for the role and an appointment could only be made if a majority of Members of the Fire Authority were in favour.

The Head of Legal and Democratic Services explained that the Fire Authority had indicated that it wished to secure the appointment of a pool of Independent Persons working in conjunction with the constituent authorities. This had not proved possible but further collaborative work had been undertaken with colleagues in Cheshire West and Chester.

Members discussed the proposals, and provided guidance, where appropriate, to allow officers to finalise the process for the appointment of Independent Persons.

Application Pack/Recruitment Process

The draft information pack for applicants had been attached as an appendix to the report. The pack included an updated version of the previously approved outline of skills required and role description. Members provided the following guidance:

- That the application pack and outline of skills, role description and selection criteria were acceptable subject to the following changes:
 - An improvement to the section related to the potential payment of an allowance;

- The introduction of a section in the Application Form asking whether an applicant had any interests that may affect their independence;
- The removal of the 'bar' on applications from members of a Political Party.
- That the Chair and two other elected Members of the Committee (representing the political groups) with the support of the Head of Legal and Democratic Services should consider the applications, carry out the interviews and make recommendations to the Fire Authority;
- That two Independent Persons be appointed, with applicants being ranked prior to being invited to interview;
- That the appointments be for a term of 3 years.

Advertisement

The Act did not specify how the role should be advertised and it was proposed that the role be advertised by press release and the Authority's website. Constituent Authorities would also receive a copy of the advertisement to pass on to their Independent Persons and Independent Members.

RESOLVED: That

- [1] the Head of Legal and Democratic Services be required to act upon the guidance provided by the Committee and finalise and commence the process for the appointment of Independent Persons.**

3 PROCEDURE FOR DEALING WITH COMPLAINTS ABOUT A BREACH OF THE MEMBERS' CODE OF CONDUCT - APPEAL

The Head of Legal and Democratic Services introduced this report which asked Members to consider whether to include an appeal in the procedure for dealing with complaints about a breach of the Members' Code of Conduct. The Fire Authority had adopted the procedure at its last meeting but this was subject to a requirement for a review by the Governance and Constitution Committee relating to the lack of a right to appeal.

The report provided information on the legal requirement and other authorities approach regarding the provision of an appeal in their procedure for handling complaints. There was no legal requirement for an appeal and most other authorities had decided not to provide for an appeal. The Head of Legal and Democratic Services explained that the constituent authorities intended to have hearings in all cases whereas the current drafted procedure adopted by the Fire Authority anticipated only having hearings in more complex matters.

Members discussed the procedure and it was suggested that the procedure should include an option for Members to request a hearing in all cases and also that an appeal process, whereby the appeal was heard by the Authority's Group Spokespersons, should be included. The appeal process to only be available in circumstances where there was an allegation that the process had not been followed or that there was evidence of bias on the part of one or more of the

decision makers (i.e. an appeal could not be lodged simply because a Member was dissatisfied with the decision).

RESOLVED: That

- [1] the Authority's procedure for dealing with a breach of the Members Code of Conduct be amended to include the option to request a hearing and also to provide for an appeal; and**
- [2] the revised procedure be submitted to the Fire Authority for approval.**