



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

Shadow Authority

Purpose: Approval

Date: **10 FEBRUARY 2021**

Title: **HAMPSHIRE AND ISLE OF WIGHT FIRE AND RESCUE
AUTHORITY STATUTORY OFFICER APPOINTMENTS**

Report of Chief Fire Officer

SUMMARY

1. This report seeks approval from the Hampshire and Isle of Wight Fire and Rescue Shadow Authority to appoint the Chief Fire Officer (CFO) to ensure the general administration of the new combined Hampshire and Isle of Wight Fire & Rescue Authority (HIWFRA) from 1 April 2021.
2. The report also seeks approval for appointment of the Monitoring Officer for the new combined Hampshire and Isle of Wight Fire and Rescue Authority (HIWFRA).

BACKGROUND

3. Hampshire Fire and Rescue Authority (HFRA) and HIWFRA are treated as “local authorities” for the purposes of various Local Government legal requirements. Therefore, many of the democratic requirements imposed on councils under the Local Government Act 1972, the Local Government and Housing Act 1989 and the Localism Act 2011 also apply to HFRA/HIWFRA.
4. Historically, the Chief Executive of Hampshire County Council (HCC) is appointed as the Clerk and Monitoring Officer to HFRA and the Monitoring Officer appoints a Deputy to carry out the day to day activities. This originally happened when HFRA was created following a transfer of the fire and rescue functions from HCC. As Clerk, the HCC Chief Executive can arrange for the discharge of the democratic functions on behalf of HFRA by the HCC’s Democratic Services team (under Service Level Agreement). As the majority of members of HFRA were (and still are) also Hampshire County Councillors, this makes sense and ensures that the democratic

processes are undertaken efficiently and effectively, and in conjunction with the HCC's calendar of meetings. Current arrangements also include the appointment of the section 151 officer, a statutory appointment under the Local Government Act 1972, to ensure the proper administration of financial affairs. The current Chief Financial Officer is Rob Carr.

5. The current arrangements facilitate access to HCC's democratic functions and Modern gov subscription. It also enables the current HFRA to meet its obligations to publish notices of meetings and grant access to agendas and papers by these being published/available at HCC offices.
6. Current Hampshire and Isle of Wight Shadow Authority Members have expressed views that they wish the new Authority to be independent from HCC. Members requested the exploration of alternative options to HCC's Chief Executive being appointed Clerk and Monitoring Officer. Members feel that this does not properly reflect the independence of the new HIWFRA. However, they do acknowledge that the services received by HCC's Democratic Services teams needs to continue. Members would like to see report agenda's, reports and minutes being published in the CFO's name.

DEMOCRATIC SERVICES FUNCTIONS

7. Key democratic requirements from legislation include:
 - (a) The statutory requirement to designate a Monitoring Officer pursuant to section 5 of the Local Government and Housing Act 1989 and provide them with enough staff, accommodation, and other resources to discharge their duties. The Monitoring Officer's duties include ensuring that the Authority acts lawfully and that there is no maladministration. The Monitoring Officer also has a statutory duty to produce reports where it appears the Authority is acting or is likely to act unlawfully;
 - (b) The requirement to allow members of the public to access agendas, papers, minutes and other documents relating to meetings of the Authority "*at the offices of the council*" (or FRA), pursuant to Part VA of the Local Government Act 1972;
 - (c) Publishing notices of meetings of the Authority at the "*council's offices*" (or FRA) five clear days before a meeting in accordance with Schedule 12 of the Local Government Act 1972.
8. The term 'Clerk' is an historical title given to an individual to ensure the general administration of an Authority. It is not a statutory position. Any appropriate individual can be appointed into this role and do not need to be known as the Clerk.

9. Democratic Services provide a range of activity each municipal year including:

- Inviting the constituent authorities to nominate members to the fire authority;
- Arranging for members to declare their political groups;
- Calculating the authority's proportionality table and drafting the annual appointments report for appointments to committees, etc;
- Scheduling meetings of the authority, its committees and member briefings on dates that members are available;
- Arranging for completion and publication of members' declarations of interests forms;
- Facilitating the required review of the member allowance scheme including obtaining the views of the chairs of the constituent authorities' remuneration panels;
- Making arrangements for recruitment activities involving members (eg. for membership of the Pension Panel, or Chief Fire Officer recruitment);
- Publishing details of the allowances actually paid to members during each year;
- Managing the process for handling any complaints against members;
- Dealing with publication of papers for meetings;
- Maintaining the constitution.

SOLUTION

10. There is no legal requirement for the new combined HIWFRA to appoint the Chief Executive of HCC as its Clerk and Monitoring Officer. The Authority could choose to change the current arrangements. An option would be for the CFO to be appointed to administer the Authority and a separate Monitoring Officer be appointed. It is recommended that this be the HCC Deputy Head of Legal Services, Paul Hodgson. This would enable the Monitoring Officer and Democratic services functions to continue to be provided by HCC's Democratic Services teams. This is logical given that the majority of members of the new HIWFRA continue to be HCC Members.

It would also mean that the current arrangements for the publishing of papers through the Mod Gov application could continue. The arrangements for notices of meetings to be placed at HCC HQ and for inspection of papers there by the public (if requested) would continue. It is also recommended for continuity, that Rob Carr be appointed as the section 151 officer for the Authority.

SUPPORTING OUR SAFETY PLAN AND PRIORITIES

11. The HIWFRS Safety Plan 2020-2025 states our commitment to ensure public value is gained through our decisions and actions delivering efficient and effective public services. The recommended approach of appointing the CFO to administer the Authority supports this priority.
12. The recommended approach of appointing the CFO to ensure the general administration of the Authority also supports strong governance and builds on an already established relationship with HCC. This is in line with the Fire and Rescue National Framework for England.

RESOURCE IMPLICATIONS

13. Democratic Services activities and Monitoring Officer duties are currently provided by HCC and would continue to be provided in the same way should the CFO be appointed to administer the HIWFRA and the HCC Deputy Head of Legal Services, Paul Hodgson, be appointed as Monitoring Officer. The Democratic Services team would continue to operate under the same Service Level Agreement (SLA). There are no resource implications as a result of recommending the continued appointment of Rob Carr as the section 151 officer.

IMPACT ASSESSMENTS

14. The full impact of the recommended option has been taken into account during the completion of a stage one impact assessment. The stage one impact assessment has not resulted in any impact being highlighted.

LEGAL IMPLICATIONS

15. There are no legal implications as a result of the CFO being appointed to administer the HIWFRA. Amendments will need to be made to the HIWFRA Constitution to reflect the change and it is recommended that the Monitoring Officer be authorised to make such changes to be brought to the April 2021 HIWFRA meeting.

OPTIONS

16. **Option One:** Continue with current arrangements and appoint the Chief Executive of HCC as Clerk and Monitoring Officer of the new combined HIWFRA.

This option will result in no change to current working practices. The new combined HIWFRA have expressed a principle to operate independently of any of the Unitary or County Authorities that make up the HIWFRA. Continuing with this appointment will not achieve the desire for the administration of the Authority to be led independently.

17. **Option Two:** Appoint Deputy HCC Head of Legal Services, Paul Hodgson, as Monitoring Officer and Rob Carr as the Chief Financial Officer and section 151 officer to the new combined HIWFRA, and appoint the CFO to lead the administration of the Authority.

This option provides a solution to the HIWFRA's desire to be independent of any of the Unitary or County Authorities. It will ensure that the HIWFRA is operating legally under section 5 of the Local Government and Housing Act 1989 and will ensure the Authority is complying with the Local Government Act 1972. It will provide a new model for the new combined HIWFRA. It will also provide for Democratic Services to be provided in the same way it currently is under the SLA. This is the preferred option.

RISK ANALYSIS

18. The new combined HIWFRA have expressed a desire to demonstrate independence from any of the Unitary or County Authorities. To create independence, it is recommended that **Option Two** within this report be approved. There is a risk that should Option Two not be approved and current working practices continue, the independence sought by Members in leading the administration of the Authority won't be achieved.

EVALUATION

19. The recommendation within this report has been evaluated as the most appropriate action to take to ensure the HIWFRA demonstrates independence from all the Unitary and County Authorities.

CONCLUSION

20. The current model for ensuring the Authority comply with Section 5 of the Local Government and Housing Act 1989 and the Local Government Act 1972 has been reviewed and another option which demonstrates independence from HCC is being recommended.

21. This option provides a legally compliant governance model to ensure the new combined HIWFRA operates efficiently and effectively.

RECOMMENDATION

22. That the appointment of the Chief Fire Officer, to ensure the administration of the new combined Hampshire and Isle of Wight Fire & Rescue Authority, be approved by the Shadow Authority for commencement on 1 April 2021.
23. That the appointment of Hampshire County Council's Deputy Head of Legal Services, Paul Hodgson, as Monitoring Officer be approved by the Shadow Authority for commencement on 1 April 2021.
24. That the appointment of Rob Carr as Chief Financial Officer and Section 151 officer be approved by the Shadow Authority for commencement on 1 April 2021.
25. That the Shadow Authority delegate the Monitoring Officer to make any consequential changes to the HIWFRA constitution to be brought to the HIWFRA for approval on 14 April 2021.

Contact:

Matt Robertson, Director of Corporate Services,
matt.robertson@hantsfire.gov.uk, 07918 887532.