

TO: Cambridgeshire and Peterborough Fire Authority

FROM: Chief Fire Officer – Chris Strickland

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RESULTS OF CONSULTATION WITH REPRESENTATIVE BODIES – CHANGES TO DISCIPLINARY POLICY AND PROCEDURE

1. Purpose

- 1.1 The purpose of this report is to update the Fire Authority on the consultation with representative bodies undertaken during November and December 2021 regarding proposed changes to the Discipline Policy and Procedure, specifically changes relating to the procedures for hearing appeals against dismissal.
- 1.2 This relates directly to the proposed changes to the Fire Authority's Terms of Reference and Scheme of Delegation, as discussed at the meeting of the Authority held on 4 November 2021.

2. Recommendations

- 2.1 The Authority is asked to;
 - 2.1.1 note the outcome of the consultation process undertaken with all representative bodies,
 - 2.1.2 note the resultant changes to the Authority's Terms of Reference and Scheme of Delegation, at Appendices 1 and 2 to this report.

3. Risk Assessment

- 3.1 **Political** – the proposed changes have been subject to consultation with the representative bodies in the interests of transparency and fairness.
- 3.2 **Legislative** – the proposed changes align with the police reforms in the Policing and Crime Act 2017 and are compliant with the requirements of the Local Government Act 1972.

4. Background

- 4.1 On 4 November 2021 Members received and agreed proposed changes to Fire Authority constitutional documents subject to consultation on one aspect, namely the proposal to remove the role of the Fire Authority to hear appeals against dismissal of staff.

- 4.2 Members agreed in principle to these changes and resolved to receive a further report at the conclusion of the consultation. This report sets out the consultation process and outcomes.

5. Consultation Process and Outcomes

- 5.1 Consultation was undertaken by Officers on behalf of the Chief Fire Officer during the period 22 November to 24 December 2021. All representative bodies were invited to submit their views and comments during the consultation period.
- 5.2 The consultation asked representative bodies to comment on proposed changes to the wording of the Discipline Policy and Procedure, to remove reference to appeals against dismissal being heard by the Fire Authority and to replace with reference to appeals against dismissal being heard by a higher level of manager than the level which heard the previous stage.
- 5.3 For clarity, the Discipline Policy and Procedure already states that hearings where one of the possible outcomes is dismissal must be heard by at least an Area Commander (including professional support staff equivalent). This means that any appeals against dismissal will, in practice, be heard by a member of the Chief Officer Group.
- 5.4 Officers responded fully to the comments received from representative bodies and no issues were raised which give cause to amend the proposed wording changes to the Discipline Policy and Procedure.
- 5.5 A summary of the main issues raised and the responses given are set out below;

- 5.5.1 **Comment:** Concern that decisions by the Chief Fire Officer (CFO) could (a) lead to a biased decision and (b) increase the risk of accusations of the CFO not wanting to overturn the decision of one of his senior managers.

Response: Any appeals would be heard not only by the CFO but by one of the Chief Officer Group, and these Officers are highly regarded and highly qualified to be able to make objective decisions based on facts. This group offers diversity in both operational and non-operational perspective and the three individuals bring their own unique skills sets to decision making. They would be fully able to make informed and evidenced based judgements without bias.

- 5.5.2 **Comment:** Appeal decisions should be left for a neutral panel to decide an outcome. This would ensure total objectivity.

Response: The change will better support operational independence, which promotes clear lines between the governance role of the Fire Authority and the responsibility of the CFO for operational matters. This separation of roles is also supported by ACAS, whose guidance on appeals is that an appeal should be heard by a manager who has not previously been involved in the case.

Our proposal is fully compliant with legal requirements and the ACAS Code of Practice and of course there remains an independent right of challenge to an employment tribunal. It is right that senior Officers should be accountable for employment decisions and we feel that accountability for dismissals should sit with the senior team rather than be placed on Members of the Fire Authority who are one step removed from day to day employment issues.

- 5.5.3 **Comment:** There is a need to recognise that hearing a case and dismissing a person, whether as part of the case hearing or appeal, can be stressful for the manager hearing the case. The advantage of an independent panel is to allow a decision by a majority to carry. No individual is expected to bear the responsibility and potential guilt of dismissing a member of staff by themselves.

Response: We are also very keen to support both the development of our staff and their welfare. We are satisfied that we have sufficient support in place to help our staff in these difficult cases.

- 5.5.4 **Comment:** If we ever lose the Fire Authority, it may be useful to have a ready made policy change to implement at that point. I would be happy to input into such a policy, to be kept in reserve, until the point at which our Authority is disbanded.

Response: In terms of governance change, a Police and Fire Commissioner would be stepping into the shoes of a Fire Authority and so the principles that we are trying to implement now would ensure that dismissal appeals are retained at operational level. We believe this change means accountability will be at an appropriate level regardless of governance arrangements.

6. Analysis of Responses

- 6.1 The views of the representative bodies is welcomed however they do not fundamentally alter the view of the Monitoring Officer that the proposals are fair, legally compliant and align with the principles within legislation that support operational decision making is retained under the remit of the CFO. On this basis, the recommendation is that the changes as proposed are not altered following the consultation.

BIBLIOGRAPHY

Source Document	Location	Contact Officer
Discipline Policy and Procedure	HQ Hinchingsbrooke Cottage Brampton Road Huntingdon	Samantha Smith Head of People 01480 444500 samantha.smith@cambsfire.gov.uk