

<b>REPORT TO:</b>	<b>MERSEYSIDE FIRE AND RESCUE AUTHORITY</b>
<b>DATE:</b>	<b>4<sup>th</sup> OCTOBER 2012</b>
<b>REPORT NO.</b>	<b>CFO/139/12</b>
<b>REPORTING OFFICER:</b>	<b>DEPUTY CHIEF FIRE OFFICER</b>
<b>CONTACT OFFICER:</b>	<b>DEB APPLETON, DIRECTOR OF STRATEGIC PLANNING</b>
<b>OFFICERS CONSULTED:</b>	<b>PETER RUSHTON, DIRECTOR OF CORPORATE COMMUNICATIONS</b>
<b>SUBJECT:</b>	<b>PUBLIC CONSULTATION AND ENGAGEMENT – CENTRALISED COORDINATION AND SUPPORT</b>

**THERE ARE NO APPENDICES TO THIS REPORT**

Purpose of Report

1. To advise the Authority of the intention to adopt a centralised approach to the development of public consultation and engagement plans, to be coordinated by the Strategic Planning Directorate.

Recommendation

2. That the Authority:
  - a) Approves the proposals contained within this report to adopt a centrally coordinated approach to public consultation
  - b) Approves the establishment of a budget reserve to fund the increased amount of public consultation that will be required in relation to the anticipated budget cuts.

Introduction & Background

3. Members will be aware of the importance of ensuring that the public are consulted about potential organisational changes that impact on the services provided by MFRA.
4. *“Fire and rescue authorities are accountable to their communities for their actions and decision making. They need to have transparent processes in place to deliver this and engage with their communities to provide them with the opportunity to influence their local service. Local accountability is a vital check on the services provided by fire and rescue authorities.” (National Framework 2012)*
5. In addition, the Localism Act provides much greater opportunity for the public to scrutinise and challenge the decisions made by local authorities. For this reason it

is essential that the public are fully and effectively consulted with as the Authority develops and delivers proposals for changes to its services

6. Members have previously discussed the risks associated with inadequate public consultation and the Authority has already approved a plan for routine consultation in relation to the Integrated Risk Management Plan. The Directors of Strategic Planning and Corporate Communications have, since December 2011, given guidance and support to officers carrying out projects that require consultation and engagement, but there has been no requirement for project leaders to follow any particular process nor a requirement for centralised coordination of the preparation or implementation of consultation plans or the resulting outcomes. As a result, if the Authority was legally challenged about any of the decisions it makes it would currently be time consuming to gather together the necessary evidence of consultation and it would be difficult to demonstrate a consistent approach.
7. As a result, it is proposed that:
  - i. All project managers will consider whether consultation<sup>i</sup> or engagement<sup>ii</sup> will be required for their project. The project initiation document will be amended to include this question, advice will be provided and the Strategic Management Group/Authority report template amended to include a Consultation and Engagement section.

The Director of Strategic Planning will lead this approach and the Director of Corporate Communications and the Diversity and Consultation Manager will work together to provide advice and support to the project managers in the design and delivery of their consultation and engagement plan and activities. Advice will be sought from other officers as appropriate. Guidance will be developed to assist project managers determine the most appropriate forms of consultation for their project.

- ii. The Diversity and Consultation Manager will oversee the design and maintenance of a register of public consultation and engagement to ensure that any consultation or engagement is representative and in particular, that full account is taken of the impact on the protected characteristics. This postholder will also attend consultation and engagement events but will not run these events unless they are specifically related to equality and diversity matters. That will remain the responsibility of the project manager.

#### Equality & Diversity Implications

8. An Equality Impact Assessment is not required for this report but full EIAs will be prepared in relation to any projects that require consultation.

#### Staff Implications

9. There are no staff implications arising from this report. It should be noted that this process will not replace the current processes for staff consultation and engagement, but that the Diversity and Consultation Manager will work with the People and Organisational Development directorate to ensure that each is aware of the other's activities.

## Legal Implications

10. Legal challenges to local authority decisions often focus on a perceived lack of consultation. It is important in avoiding any application for Judicial Review by members of the public that public consultation can be shown to have been “meaningful”. This means that no decisions should be made before the outcomes of any consultation are known and have been properly considered.
11. The recent case of R v North & East Devon Health , ex parte Coughlan (2001) and other cases since have reiterated the fundamental principles of consultation and the balancing of disclosure against confidentiality as being that consultation should be:
  - At a ‘formative stage’ of a proposal
  - Give people ‘sufficient reasons’ for a proposal to allow intelligent consideration and an intelligent response
  - Allow ‘adequate time’ for responses
  - Be taken ‘conscientiously into account’ when the ultimate decision is made

Therefore the wider the consultation and the better informed the consultees, the lower the opportunity for challenge.

12. If the Authority is challenged by way of an application for Judicial Review it would be necessary to instruct Counsel – probably a QC which costs approximately £400.00 per hour. In one reported case concerning a local Authority one day alone which incorporated travel to London (necessary for such an application to be defended), drafting and preparation beforehand, cost £21,000.

## Financial Implications & Value for Money

13. Members have previously approved a proposal to continue with a combination of externally facilitated and internally run consultation events dependant on the matter being consulted upon. As a result, the routine Integrated Risk Management Plan consultation programme is contained within existing budgets, but other consultation is not. For that reason and to ensure that the necessary consultation can be carried out when required, it is proposed that the Authority sets aside a reserve of £100,000 to fund future consultation.
14. Costs will vary according to the scale and scope of the proposal being consulted on, but as an indication of potential costs; a single deliberative forum currently costs in the region of £3,500. Public meetings could be entirely externally facilitated, chaired by an independent chair at a MFRA or other location or run entirely in house, so costs will vary. On-line surveys are a low cost method of consultation. In general, a variety of consultation methods will be adopted to ensure that the consultation reaches the widest audience and also results in good quality feedback that Members can consider when making decisions.

## Risk Management, Health & Safety, and Environmental Implications

15. Meaningful and effective consultation is essential to reduce the reputational (and potentially legal) risk associated with closure of fire stations or withdrawal of services.

## Contribution to Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters”

16. The Authority faces a challenging time and difficult decisions about future service provision. It is essential that the organisation has a joined up approach to ensuring that consultation and engagement is appropriate, consistent and meaningful.

## **BACKGROUND PAPERS**

CFO/42/12 – Public Consultation 2012/13

CFO/065/12 – Public Consultation - Key Areas of Focus.

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<sup>i</sup> “the act of discussing something with somebody or with a group of people before making a decision about it” – Oxford English Dictionary

<sup>ii</sup> “being involved with somebody/something in an attempt to understand them/it” – Oxford English Dictionary