

26 September 2013

Amendment to Standing Orders

Report of the Clerk

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1 Summary

- 1.1 At the request of the Authority, following discussion at its meeting on 14 June 2013, the Standards and Governance Committee has considered the range of options available for Members who are directors of 3SFire Ltd to be present at meetings of the Authority (including committee meetings) at which matters related to the company are considered. The Standards and Governance Committee is now making the following recommendations to the Authority.

2 Recommendations

- 2.1 That the Clerk be authorised to make the changes to Standing Order 2, with regards the appointment of substitute Members, as detailed in paragraph 4.6 below; and
- 2.2 That the Standards and Governance Committee keeps the situation under review and advises the Authority if it considers that any further procedural changes are required.

3 Introduction

- 3.1 At the special meeting of the Authority that took place on 26 March 2013, the matter considered by the Authority involved the company, 3SFire Ltd, established by the Authority. A number of Members are directors of the company and, as such, have disclosable pecuniary interests (DPIs) in matters relating to the company. As a result, those Members were not permitted by law¹ to participate in the discussion or vote on the matters considered at the meeting. By virtue of the Authority's Standing Orders, the Members concerned were required to withdraw from the room whilst the item was being considered.
- 3.2 Concern was raised that these Members were excluded from the discussion about the company and it was agreed that consideration should be given to their attendance at future meetings at which matters relating to the company are considered.

¹ Section 31(4) of the Localism Act 2011 provides that a Member who has a DPI in any matter being considered at a meeting of the Authority must not participate in any discussion of, or vote on, that matter at the meeting.

3.3 At the Authority meeting on 14 June 2013, the Authority considered a report which, amongst other things, recommended that Standing Order 2 be amended. The amendment was to allow for the appointment of substitute Members in the situation where a member of a Committee, being a member of a political group, is unable to participate in discussion or voting on an item of business at a meeting of that Committee by virtue of holding a disclosable pecuniary interest in that item. Following discussion, the Authority asked the Standards and Governance Committee to look at the range of options available to allow such Members to be involved in the decision making process.

4. Considerations of the Standards and Governance Committee

4.1 At its meeting on 5 July 2013, the Standards and Governance Committee considered a report setting out three available options, together with associated advantages and disadvantages, for Members who are directors of 3SFire Ltd to be present at meetings at which matters related to the company are considered.

4.2 The Committee considered the first option which involved granting a dispensation to allow these Members to participate in the discussion on matters relating to the company. For various reasons, including the risk of contravening the rules on State Aid, the Committee did not favour this option.

4.3 The Committee then considered the second option which involved amending Standing Order 10(1) to remove the requirement to withdraw from the room for a Member with a disclosable pecuniary interest by virtue of his/her directorship of a company established by the Authority. Again, the Committee did not favour this option for a number of reasons, including the risk of Members inadvertently being drawn into discussion in breach of the law.

4.4 The final option considered by the Committee involved amending Standing Order 2 to allow for the appointment of substitute Members in specified circumstances, the Committee keeping the situation under review and advising the Authority if it considers that any further procedural changes are required.

4.5 The Committee noted that Standing Order 10(1) currently provides for a Member with a DPI in a matter being considered by the Authority to make representations on the matter to the meeting, in accordance with the Authority's deputations procedure, before he/she leaves the room. This allows for the Authority to question the Member concerned before he/she leaves the room. In this way, the Member concerned may address the Authority on the matter being considered and the Authority may obtain relevant information from the Member albeit the Member may not take part in the discussion or vote on the matter.

4.6 With regard to the disclosable pecuniary interest that a Directorship of 3SFire Ltd places on a Member of the Fire Authority and the potential negative impact on the attendance at meetings of the Authority's Committees, the

Committee favoured the proposal that an amendment be made to Standing Order 2 to allow for the appointment of substitute Members. It is proposed for the amendment to have a wider application than simply to Members who are directors of 3SFire Ltd. The proposed wording, to be inserted as Standing Order 2(4), is:

“Where a member of a Committee who is a member of a political group, is unable to participate in discussion or voting on an item of business at a meeting of that Committee by virtue of holding a disclosable pecuniary interest in that item, the Clerk is authorised to appoint another Member of the same political group as a substitute member of the Committee for consideration of that item, in accordance with a request from the leader of the political group.”

4.7 The Committee is proposing that it keep the situation under review and advise the Authority if it considers that any further procedural changes are required.

4.8 The reasons for the Committee favouring this option are that the appointment of substitute Committee Members preserves political proportionality and helps to ensure that Committee meetings are quorate whilst not compromising the Authority’s position in respect of the risks identified in relation to the other two options. In particular, it avoids the risk of the directors of 3SFire Ltd, by participating in HFRA decisions concerning the company, undermining the arrangements that the Authority needs to have in place to ensure proper separation between the Authority’s decision-making and that of the company. In order not to contravene the rules on State Aid, HFRA needs to demonstrate that the company does not enjoy preferential levels of access and influence in HFRA not enjoyed by its competitors. There are no risks associated with this option.

4.9 It is proposed that the Clerk be authorised to make the necessary change to Standing Order 2.

5 Risk Analysis

5.1 The primary risks of the various options are set out in section 4 of the report.

6 People Impact Assessment

6.1 The proposals in this report are considered to be compatible with the provisions of the equality and human rights legislation.

7 Resource Implications

7.1 The option set out above, if approved, would involve a small amount of additional officer time.

Background Papers (Section 100D, Local Government Act 1972)

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of this report.

N.B. The list excludes:

Published works.

Documents that disclose exempt or confidential information as defined in the Act.

TITLE

FILE

None.