

**Report No:** RMB/26/07  
**Meeting Date:** 10<sup>th</sup> October 2007  
**Agenda Item No:** 12

## **REPORT TO THE SOUTH EAST FIRE AND RESCUE SERVICES REGIONAL MANAGEMENT BOARD**

### **Appointment of a Regional Treasurer and Legal Support to LACC and JPB**

#### **KEY ISSUE/DECISION**

1. To establish a Treasurer's post for the RMB, the Local Authority Controlled Company (LACC) and the SE Firelink and FiReControl Joint Project Board
2. To agree to 'buying in' legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board

#### **EXECUTIVE SUMMARY**

This paper seeks to consider the establishment of a Treasurer's post for the RMB. Members are asked to consider whether this post needs to be established.

With the establishment of the LACC, there is also a growing need for the provision of legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board.

Therefore this paper seeks to consider the option of 'buying in' legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board, overseen by Diane Henshaw Principal Solicitor to West Sussex County Council. This will be funded from New Burdens funding as outlined in FSC 76-2006, any residual would be shared between the nine FRSs.

#### **RECOMMENDATIONS**

1. That recruitment of a Regional Treasurer should commence immediately.
2. That agreement is given to the 'buying in' of legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board, overseen by Diane Henshaw Principal Solicitor to West Sussex County Council.

#### **REASONS FOR RECOMMENDATIONS**

Without a dedicated RMB Treasurer and specialist legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board (JPB), there is a risk that insufficient financial and legal input will be made into a number of significant issues to the ultimate detriment of the RMB's and the LACC's interests.

## **INTRODUCTION**

The RMB last debated the subject of a Regional Treasurer at its meeting on 19<sup>th</sup> October, 2005. It did so in context of the appointment of an external auditor by the Audit Commission and on the basis that a post could be established along similar lines to the Clerk of the Board. While the outcome was a decision to take no immediate action, it was also agreed that the position should be kept under review.

With the setting up of the LACC and the continued increased need for specialist legal and financial advice, the regional project team believe the time has come to review the provision of Advice to the members of the project team.

## **BACKGROUND**

The Audit Commission is required by law to appoint an auditor to all joint committees of local government bodies, as constituted under sections 101 and 102 of the Local Government Act 1972, even where the body does not intend to enter into any financial transactions in its own right and will not, therefore produce any accounts. The Audit Commission appointed a District Auditor as auditor to the RMB for the period of 1.4.04 and 31.3.09. The RMB agreed to keep this position under review. The introduction of the LACC now increases the need for a formal financial and accounting process, which, it is suggested, should be delivered by dedicated staff.

In respect of legal advice, at present Diane Henshaw Principal Solicitor to West Sussex County Council has been providing legal advice to the JPB and RMB on setting up the LACC. Due to increasing workload of the FiReControl Project and the need to obtain specialist company law advice, Diane Henshaw can no longer continue to sustain this current position.

Funding of £40k is available via New Burdens funding as outlined in FSC 76-2006 for professional advice to the LACC.

## **ANALYSIS AND COMMENTARY**

### Regional Treasurer

Despite being the largest of the nine regions in England, the South East is alone in not having a Treasurer. Of itself clearly this does not represent a reason for change, especially if there are good reasons to maintain existing arrangements. On the other hand, work demands have increased significantly in this area over the past two years and there is a risk that capacity constraints could mean that the financial aspects of several important issues are neglected. In particular:

- **FiReControl.** More work is being asked of Fire Finance Working Group, partly in connection with the business case and partly in connection with benefits management. The South East has adopted a soft approach in some of these areas to date, but more active engagement is fast becoming a necessity. Since the other regions are well placed to comply with CLG's information requests, there is a real possibility that the South East will be left at a disadvantage. This might matter less if the Region was smaller. However, when there is a direct correlation between the savings that the Fire Control Project is forecast to produce and economies of scale, the means to mount a robust defence of our position is likely to become essential.
- **Firelink.** Similar considerations to Fire Control apply, especially if we believe that the Treasury will regard the savings expected from Fire Control as a potential means of funding the additional costs associated with Firelink.
- **South East RCC Company.** Prior to the company determining its own back-office staffing arrangements, and as it starts to incur expenditure, an interim finance officer

will be needed. Though scale is unlikely to be vast at first, there will also be other unavoidable set-up activity that a Treasurer will be well placed to lead (e.g. appointment of bankers, VAT registration and the establishment of interim accounting arrangements and financial regulations).

- RMB Treasurer. The original reason for considering an appointment continues to exist. To date the external auditor has been prepared to accept a covering letter in lieu of a set of accounts, but this relaxed attitude may not continue over time, particularly if the scale of activity at regional level increases. Despite a similar lack of transactions, other RMBs have been expected to draw up accounts as well as producing a statement of internal control.
- Other modernisation workstreams. There may be value in having dedicated finance resources available to support the development of pan-RMB initiatives.

Taken in isolation there may be ways and means of handling these issues. However, as a group of items requiring fairly simultaneous action, there appears to be sufficient workload to warrant the recruitment of a Treasurer. At the moment it is unclear whether these needs will continue indefinitely and so it would seem prudent to consider offering the position as a two year fixed term appointment in the first instance. Equally, the experience of other regions suggests that a half-time post (18.5 hours per week) will be more appropriate than a full-time arrangement. It may also be that a secondment or back-filling agreement would be as suitable as a conventional appointment. Although there would be advantage in the postholder being located in Chichester, so as to be close to the RCC Project Team, if there was strong interest from somebody already working elsewhere in the Region it might be that something more flexible could be devised.

In budgetary terms, and subject to the grade at which the post is established, total costs are likely to be in the order of £40,000 (in 2007/08 prices). This figure includes an allowance for associated costs such as IT, travel and office expenses, as well as pay, national insurance and the employer's pension contribution. On the assumption that the amount would be divided equally by nine, in line with the basis on which RMB expenditure is shared, this would mean a cost per FRA of less than £5,000.

#### Provision of legal advice

With the setting up of the LACC and the establishing of the RCC there is an ever-increasing need to provide legal advice to the LACC and JPB. Work demands have increased significantly in this area over the past two years and there is a risk that capacity constraints could mean that the legal aspects of several important issues could be neglected. For example: -

LACC: To enable the LACC to function effectively it will need to obtain specialist legal advice in areas such as company and employment law.

JPB: There are a number of key HR issues that the JPB will require employment law advice e.g. TUPE transfer, Redundancies etc as well as legal advice on FRSS legal obligations under the Fire Services Act 2004.

There are several ways of providing/obtaining legal advice that could be considered. The RMB could decide to appoint a half-time post (18.5 hours per week) as legal advisor on a Grade 12 to the SE FiReControl Regional Project Team. However is the recommendation of this report that the most effective use of resources would be to 'buy in' legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board, overseen by Diane Henshaw Principal Solicitor to West Sussex County Council. This will be funded from New Burdens funding as outlined in FSC 76-2006, any residual would be shared between the nine FRSS.

The cost for legal provision, up to £40,000, will be covered by CLG grant via New Burdens funding for this year. Future financial provision may need to come from constituent Fire

Authorities and an additional report will be made at that time, although financial distribution will be made based on arrangements currently in place.

## **OPTIONS**

1. Do nothing
2. Appoint half-time post (18.5 hours per week) as regional treasurer on a 2 year fixed term contract.
3. Appoint half-time post (18.5 hours per week) as legal advisor on a Grade 12.
4. 'Buy in' legal advice to the LACC and the SE Firelink and FiReControl Joint Project Board overseen by Diane Henshaw

## **IMPLICATIONS**

### **Perceived Positive**

There is a risk that insufficient financial and legal input will be made into a number of significant issues to the ultimate detriment of the RMB's interests.

## **Perceived Negative**

Regional Treasurer - financial costs are likely to be in the order of £40,000 (in 2007/08 prices). This would mean a cost per FRA of less than £5,000.

If the do nothing option is adopted, the RMB and/or LACC may not be able to function effectively.

## **CONCLUSION**

If the RMB agrees to the recommendations it will enable the RMB to be seen to be administering its financial and legal obligations in a prudent fashion. The RMB will also be fulfilling its obligations under the National Framework for the setting up of the LACC.

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### **BACKGROUND PAPERS:**

FSC 44-2006 Government's Regional Control Centre Governance Proposals  
FSC 76-2006 FiReControl Project Implementation Funding 2007-08  
RMB Meeting 19<sup>th</sup> October, 2005 Minutes.

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