



HUMBERSIDE FIRE AUTHORITY

Investigation into whistleblowing allegations against named officers of the Humberside Fire and Rescue Service



May 2021

FINAL

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Investigation into whistleblowing allegations against named officers of the Humberside Fire and Rescue Service

Executive Summary

INTRODUCTION

1. TIAA has carried out an investigation review under the Authority's Whistleblowing procedure into anonymous allegations made against named officers of the Humberside Fire and Rescue Service (HFRS). For the purposes of this report 'the Authority' refers to the body of Councillors which is responsible for the HFRS.

SUMMARY OF FINDINGS

2. There are two separate matters referred to in the allegations. The allegations are:

Allegation 1: Through the actions of the Chief Fire Officer HFR Solutions has provided risk assessment work for Fortifire. Fortifire is a wholly owned subsidiary of Ignis Holdings Ltd. The Chief Fire Officer and the Deputy Chief Fire Officer are directors of Ignis Holdings Ltd. As a consequence there is conflict of interest in that the Chief Fire Officer and Deputy Chief Fire Officer both jointly and severally personally benefited from their position with the HFRS.

Allegation 2: The Chief Fire Officer and the Deputy Chief Fire Officer have manipulated the Humberside Fire Authority to re-engage them against clear Government direction for significant personal financial gain. This included removing a member of staff before the paper on the re-engagement of the Deputy Chief Fire Officer was presented to the Authority.

3. The investigation identified no evidence of a breach of matters set out in the Public Interest Disclosure Act 1998 in relation to the disclosures contained in the two allegations. Shortcomings in the Authority and the HFRS governance arrangements in relation to the Nolan Principles were however identified which could give rise to a perception of possible impropriety. Consequently, it is concluded that the whistleblowing allegations were made in good faith and met the criteria for them to be protected under the Public Interest Disclosure Act 1998.

SCOPE OF THE REVIEW

4. The scope of the review was to establish whether there is any substance to the anonymous allegations received by the Authority's Governance, Audit and Scrutiny Committee. The review also sought to establish and assess the extent that appropriate actions have been taken to minimise a similar reoccurrence.
5. Due to the COVID-19 restrictions, the review was conducted remotely.
6. Both the HFR Solutions CIC and Ignis Holdings Ltd (and its subsidiaries) are separate legal entities; access to information from or regarding them in relation to the matters raised in the allegations was limited to obtaining representations.

Findings

WHISTLEBLOWING DISCLOSURES

8. Whistleblowing law is contained in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). The Department for Business Innovation and Skills 'Guidance for Employers and Code of Practice' states that, for allegations to be covered by whistleblowing law, the person making a disclosure must reasonably believe two things. The first is that they are acting in the public interest. The second thing that the whistleblower must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
- criminal offences (this may include, for example, types of financial impropriety such as fraud);
 - failure to comply with an obligation set out in law;
 - miscarriages of justice;
 - endangering of someone's health and safety;
 - damage to the environment; or
 - covering up wrongdoing in the above categories.
9. To protect the Whistleblower the actual wording has not been reproduced in this report; instead the matters have been summarised into two distinct allegations.
10. Failures to comply with internal operating processes, unless these result in one or more of the above categories being contravened, are therefore outside the remit of a whistleblowing investigation.

ALLEGATION OF OUTSIDE BUSINESS INTERESTS

11. **Allegation 1:** Through the actions of the Chief Fire Officer HFR Solutions has provided risk assessment work for Fortifire. Fortifire is a wholly owned subsidiary of Ignis Holdings Ltd. The Chief Fire Officer and the Deputy Chief Fire Officer are directors of Ignis Holdings Ltd. As a consequence there is conflict of interest in that the Chief Fire Officer and Deputy Chief Fire Officer both jointly and severally personally benefited from their position with the HFRS.
- 11.1 Companies House records confirm that both the Chief Fire Officer and the Deputy Chief Fire Officer have been Companies House Directors of Ignis Holdings Ltd. Both became shareholders and Directors on the incorporation of the Company on 31st October 2019 and both resigned on 29th October 2020. At the time the Chief Fire Officer and the Deputy Chief Fire Officer were Directors there were three other Directors of the Company. Each Director had an equal shareholding in the Company. The stated purpose of the Company is "activities of other holding companies not elsewhere classified".
- 11.2 Ignis Holdings Ltd has two subsidiary companies – Fortifire Fire And Safety Ltd and Fortifire Fire Door Testing Ltd. Companies House records show each of these companies was incorporated on 1st November 2019. Each of these companies has a sole Director, who is also a Director of Ignis Holdings Ltd. The shareholding of both companies is held by Ignis Holdings Ltd. The stated purpose of both companies is "other professional, scientific and technical activities not elsewhere classified". On the Fortifire website (Fortifire.co.uk) the stated business activity is providing complete fire safety solutions. None of these companies has yet filed their first annual accounts with Companies House and they have until 31st July/1st August 2021 to do so, therefore the level of trading carried out has not been established.
- 11.3 There have been no payments made by the HFRS to Ignis Holdings Ltd or Fortifire.
- 11.4 HFR Solutions is a separate legal entity which is registered at Companies House as a Community Interest Company providing 'fire service activities'. The Chief Fire Officer, in their personal capacity, is on the Board of HFR Solutions; they received no payment for discharging this role. It is understood that, unrelated to this investigation, the Chief Fire Officer is in the process of resigning from the Board of HFR Solutions.

- 11.5 It is understood that payments have been made by HFR Solutions to Fortifire for works carried out on their behalf.

12. Assessment of evidence in relation to Allegation 1

The findings are:

- The facts in relation to the involvement of the Chief Fire Officer and the Deputy Chief Fire Officer with an external commercial company are correct. Under the Authority's outside employment policy, which has been in existence for at least 4 years, there was no requirement for either the Chief Fire Officer or the Deputy Chief Fire Officer to either obtain permission or declare their interest in the external commercial company, as neither the company nor its wholly owned subsidiaries was trading directly with the HFRS.
- The external accountant for Ignis Holdings Ltd and its subsidiaries has advised that during the period when the Chief Fire Officer and the Deputy Chief Fire Officer were Directors of Ignis Holdings Limited, the company did not trade or receive any income or remuneration (including dividends) from any source, including from its subsidiary companies. Nor have/will they thereafter.
- The facts in relation to one of the subsidiary companies of the external commercial company carrying out work for HFR Solutions are correct. It is understood that the Chief Fire Officer had declared their interest in Ignis Holdings Ltd to HFR Solutions. No evidence was obtained which indicates that the Chief Fire Officer, in their role as a Director of HFR Solutions, directly or indirectly allocated the risk assessment work to be carried out to Fortifire. It is understood that the interface with Fortifire on the work delivered was neither the Chief Fire Officer nor the Deputy Chief Fire Officer.
- HFR Solutions has confirmed that the use of Fortifire as a provider of services to HFR Solutions was entirely in accordance with the organisational procurement policy requiring them to achieve 'approved supplier status' by providing all relevant documentation etc.; use of their services was based entirely upon price and quality and at no point did the process differ from that for any other supplier. Neither the composition of the Ignis Holdings Ltd or the Fortifire Boards had any bearing upon or provided unfair advantage in the selection of Fortifire as a HFR Solutions supplier. Furthermore, HFR Solutions has confirmed that the actions of the Chief Fire Officer, in their personal capacity as a Board member of the company, are not of any concern to HFR Solutions and have in no way brought the CIC into disrepute.

Assessment: There is no evidence to support the allegation or that any of the categories set out in the Public Interest Disclosure Act 1998 were breached.

ALLEGATION RELATING TO RE-ENGAGEMENTS

13. **Allegation 2:** The Chief Fire Officer and the Deputy Chief Fire Officer have manipulated the Humberside Fire Authority to re-engage them against clear Government direction for significant personal financial gain. This included removing a member of staff before the paper on the re-engagement of the Deputy Chief Fire Officer was presented to the Authority.
- 13.1 The retirement of Principal Fire Officers, who are members of the 1992 Firefighters Pension Scheme, and their subsequent re-engagement by their Fire Authority is not unique to the Humberside Fire Authority. In 2017, before the re-engagement of either Officer, the Government set out their expectations when such a position arises in The Fire and Rescue National Framework which includes a specific section on "Re-engagement of Senior Officers".
- 13.2 Under the Abatement rules, firefighters who are re-employed following retirement cannot receive annual remuneration plus annual pension in excess of the remuneration received immediately prior to retirement.

14. Assessment of evidence in relation to Allegation 2:

The findings are:

- The issue is whether the Authority was provided with all the necessary information to be assured that the decision arrived at in terms of the re-engagement of the Chief Fire Officer was open and transparent and in accordance with the Framework. The evidence confirms that the Authority followed its due process in terms of the re-engagement of the Chief Fire Officer. The draft paper on the proposed re-engagement was reviewed by a number of post holders, including the Section 151 Officer and the Monitoring Officer. Furthermore, Counsel advice was sought and obtained to ensure the paper presented to the Authority did not act ultra vires its authority. Subsequent to the Authority approving the re-engagement of the Chief Fire Officer, the decision was widely publicised by the Authority and no challenge to the decision was received.
- The evidence confirms the Authority followed its due process in terms of the re-engagement of the Deputy Chief Fire Officer. In November 2018, the Authority approved in principle that all fire officers on retirement could be re-engaged and this expressly included the Deputy Chief Fire Officer. In September 2020, the Authority received and approved a paper on the retirement and re-engagement of the Deputy Chief Fire Officer. It is noted that no fresh Counsel advice was obtained for the proposal to re-engage the Deputy Chief Fire Officer. As part of this investigation, fresh advice was obtained from Counsel and this affirmed the appointment was lawful.
- There is no evidence to support the part of the allegation that the departure of a member of staff was connected to the re-engagement of the Deputy Chief Fire Officer. The HFRS external legal advisors have confirmed the departure of the member of staff was not related to the re-engagement of the Deputy Chief Fire Officer.
- The 'significant financial gain' appears to refer to alleged inappropriate actions by the Chief Fire Officer which enabled them to be re-engaged by the Authority and consequently to be receiving remuneration after they had retired, when otherwise this might not have occurred. There is no evidence to support that the Chief Fire Officer either directly or inappropriately influenced the decision of the Authority to permit their direct re-employment at the time of retiring. Furthermore, the Chief Fire Officer excluded them self from the part of the Authority meeting at which the matter of their re-engagement was considered. The then Minister of State for Policing and the Fire Service reviewed the Authority's decision on the direct re-engagement of the Chief Fire Officer and subsequent to that review no further action was required from the Authority. Furthermore, it is also understood that both individuals would have been able to apply if the posts had been advertised in an open recruitment.
- It is noted that there was no significant financial gain in terms of the actual remuneration packages being more than either person was previously receiving, as both individuals were re-engaged on fixed term contracts and both individuals received the same pay as in their previous substantive roles, but their overall remuneration package was reduced by the removal of the employer's contribution to the Firefighters Pension Scheme.

Assessment: There is no evidence to support the allegations or that any of the categories set out in the Public Interest Disclosure Act 1998 were breached.

MATTERS FOR CONSIDERATION

15. The Authority/HFRS is a public body and consequently the Nolan Principles apply. All firefighters are 'public servants' and the Nolan Principles are the basis of the ethical standards expected of public office holders. There were a number of matters in relation to the interpretation of the Nolan Principles by the Chief Fire Officer and the Deputy Chief Fire Officer for which explanations were obtained. The explanations for these matters provided by both the Chief Fire Officer and the Deputy Chief Fire Officer corroborated the findings of this investigation that there is no evidence of any intention to contravene the Nolan Principles or the Authority/HFRS procedures. The need, however, for the procedures to be strengthened to minimise any future risk of perceived breaches of some of the Nolan Principles was identified. Looking to the future, these matters will be addressed by the recommendations made in this report.

16. There would appear to have been no recent training or guidance for Principal grade staff on the application of the Nolan Principles. **Recommendation 1 refers.**
17. An extract from the Authority's Annual Governance Statement 2019/20 states that "The Authority's Code of Conduct is aligned to the Seven Principles of Public Life (The 'Nolan Principles') and applies equally to Members and all employees of the Authority. This is factually incorrect, as there is a separate Code of Conduct for HFRS staff. **Recommendation 2 refers.**
18. As with other Fire services, whilst there is a Code of Conduct for Authority Members, there is no comparable Code for Principal Officers. This does not appear to be a deficiency which is unique to the HFRS. Without a Code of Conduct for Principal Officers, the interpretation of the Nolan Principles becomes subjective. Due to the levels of responsibility held by Principal Officers, compliance with the Nolan Principles becomes more complex and clear guidance is required. Any Code for Principal Officers needs to be separate for any Code of Conduct for fire officers and staff. **Recommendation 3 refers.**
19. It would be useful if any such Code of Conduct adopts a UK-wide standard. In September 2020, the National Fire Chiefs Council issued a draft 'Core Code of Ethics for Fire & Rescue Services (England)'. It is noted that this draft Code does not provide any guidance on restrictions on outside employment. **Recommendation 4 refers.**
20. Whilst the current outside employment procedure may be appropriate for non-Principal grade officers, advice should be taken on introducing a separate outside employment procedure for Principal grade officers which minimises opportunities for any perception as well as actuality of non-compliance with the Nolan Principles. At the very least, this could be introduced into the contracts of employment for the successor Chief and Deputy Chief Fire Officers. **Recommendation 5 refers.**
21. A key consideration needs to be how the Authority is able to demonstrate to the public, as well as Members and HFRS staff, that there is complete transparency regarding outside business-related activities of each of the most senior members of HFRS staff. Whilst there is a Register of Interest for Authority Members, there is no similar Register for senior HFRS staff. The HFRS does not appear to be the only fire service which does not have a senior staff Register of Interests. A publicly available Register of Interests for all Principal grade officer grade staff which is reviewed, at least annually, by the Governance, Audit and Scrutiny Committee would provide a strong level of transparency and accountability. This Register could include all external business-related interests, irrespective of whether they are paid and/or have any potential interface with the Authority/HFRS. **Recommendation 6 refers.**

OTHER MATTERS

22. During the investigation it was established that the records of applications to carry out outside employment (Form PER 27) held by the HR Department are not complete. **Recommendation 7 refers.**
 23. The key requirement of a Whistleblowing policy is the need to ensure that the person or persons charged with determining what action may be required following the outcome of any Whistleblowing Investigation is demonstrably independent. The current HFRS Whistleblowing Policy should be reviewed and amended to include the right of the Monitoring Officer to act as the Authorised Officer, or indeed to appoint an external party, to carry out this role when the allegations impinge on the roles of the key governance monitoring posts within the Authority and/or the HFRS. **Recommendation 8 refers.**
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