



**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Nottinghamshire and City of Nottingham  
Fire and Rescue Authority

# PROPERTY UPDATE

Report of the Chief Fire Officer

**Date:** 25 September 2015

**Purpose of Report:**

To inform Members of the response to the investigation into the disposal of Dunkirk fire station.

## CONTACT OFFICER

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## **1. BACKGROUND**

- 1.1 At a meeting of Policy and Strategy Committee on 28 October 2011, Members requested an independent investigation to look into the circumstances surrounding the disposal of Dunkirk fire station and subsequent court case
- 1.2 The subsequent report from the independent investigator was received by the Policy and Strategy Committee on 24 July 2015 and the Chief Fire Officer, in conjunction with the Clerk and Treasurer to the Authority, were tasked with considering the report and formulating a response, setting out any actions that were required.
- 1.3 The report of the Chief Fire Officer was subsequently submitted to the Policy and Strategy Committee on 18 September 2015 and, after receiving that report, Members requested the Chief Fire Officer submit a further report to this meeting attaching an appropriately redacted version of the investigation report and the response to it.

## **2. REPORT**

- 2.1 The Fire Authority is committed to transparency and learning through previous experiences and therefore commissioned an independent report to consider the circumstances surrounding the disposal of Dunkirk fire station and subsequent court case.
- 2.2 Attached at Appendix A is the report of the independent investigator that has been appropriately redacted due to confidentiality clauses regarding the court case. However, this does not materially affect the contents with regards to transparency.
- 2.3 At the meeting of the Policy and Strategy committee on 18 September 2015 the Chief Fire Officer was tasked with presenting an open response to the report providing a summary of findings and any areas considered for improvement or further action.
- 2.4 It must be recognised that the process to dispose of the Dunkirk site commenced over 10 years ago. The context in which the Service now operates has moved forward, and that a significant number of processes and employees have subsequently changed.

### **Summary of Findings**

- 2.5 Throughout the process of the sale, and as the court case unfolded, there was a very complete governance chain ensuring Members were involved in a timely manner and at the correct decision points. This ensured that the Authority was able to give due consideration to the implications and make appropriate decisions based on information and advice available at that time.

- 2.6 The financial regulations of the Authority were followed appropriately and reports were provided to Members to ensure they were involved in the site disposal, consideration of bids received and the impact of the legal challenge. The Treasurer ensured that all budgetary implications were addressed in his regular reports.
- 2.7 Although due diligence was carried out on the developer to substantiate the validity of the bids for the site, there is no requirement within the procedures for this to be formally reported to Members. This is immaterial regarding the outcome of the case, however it is suggested that the procedure is reviewed and formalised to ensure Members are informed as part of the governance reporting process.
- 2.8 The scale of the property deal was the largest the Authority had been involved in for a number of years, and internal experience was limited. It is suggested that the engagement of external professionals is considered for future developments of this magnitude.
- 2.9 The investigation also considers that with the benefit of hindsight it would have worked better if all of the land was in the ownership of the Fire Authority, as this would have separated the land issues from the planning issues, and that in any event there should have been one nominated case officer for all planning enquiries.
- 2.10 There is no criticism of the performance of lawyers or consultants, however there are concerns over the way they were appointed and the suggestion that this could have been more transparent and formalised.
- 2.11 Training was provided for witnesses prior to attendance at court, however, there is an observation that this did not adequately prepare them for the way in which the case progressed in court.
- 2.12 The delay due to operational requirements between the sale of the site and completion was a fundamental issue within the case as the market fell considerably during that time.
- 2.13 It is reassuring to note that there is no evidence to suggest that any Member or Officer of the Authority demonstrated negligence or failure to carry out a duty.

### **Areas Considered for Improvement and Further Action**

#### **2.14 Due Diligence**

Due diligence is undertaken as part of any major tendering process, and going forward the outcomes of due diligence reviews will be reported to Members in all cases where the capital costs or capital receipts are likely to exceed £1million, and in all other cases where it is considered necessary by the Chief Fire Officer, Clerk and/or Treasurer.

## **2.15 Expertise of Officers**

The Authority now employs a Head of Procurement and Resources who is professionally qualified in the area of estates management. Over the past six years they have put in place a number of processes that ensure a full feasibility study is undertaken for any site considered for refurbishment, redevelopment or sale.

2.16 The feasibility studies produce a range of options for consideration, each one articulating the level of risk, complexity and potential costs involved. These studies also guide Officers to consider if expertise exists within the organisation, or if the assistance of specialist consultants is required.

2.17 When a particular course of action is agreed, a project team is established comprised of internal Officers and external consultants and specialists considered most appropriate to the scheme, and an appropriate single point of contact is nominated.

2.18 There is now substantial evidence from recent major projects that demonstrates this approach is effective, and leads to very positive outcomes and therefore no further improvements are required at this time.

## **2.19 Appointment of Lawyers**

Lawyers have been, and continue to be, appointed through a regional framework which was established following a tendering process. Lawyers are currently selected from this framework (East Midlands Lawshare) on a case by case basis dependant on scale and nature of the issue, and the relevant expertise available.

2.19 The current framework contains a robust process that ensures instructions for services are transparent, clearly recorded and agreed by both parties, therefore no further action is required in this area.

## **2.20 Appointment of Consultant Surveyors**

Where appropriate within the financial regulations of the Authority, a tender process is undertaken for the procurement of goods and/or services. However, it is common for the procurement to fall below the quantum required to trigger a formal tender process and therefore Officers are able to use their discretion to appoint the most suitable supplier.

2.21 It is recognised that approaching a single supplier is not the most transparent route, therefore to mitigate any concerns a robust single supplier process has been adopted as part of the procurement policy since 2013. This requires the rationale to be approved by the Head of Procurement and Resources and results in a transparent audit trail regarding the services required and the reasoning for selection of supplier, therefore no further action is required in this area.

## 2.22 Witness Training and Support

It has been identified that during and after the court case the witness training provided did not fully prepare them for the event. In the future, if Officers or Members are required to appear in court on behalf of the Authority, much greater consideration will be given to this area to ensure they are fully prepared and supported relative to the context of the case.

## 2.23 Delay in the Sale

The delay from the agreement for sale to the completion of contract is a significant factor in the case. This risk is considered as part of the feasibility study process undertaken when considering the disposal of a site.

2.24 Although following this course of action is not completely ruled out, where there is a delay in the completion of a contract, significant consideration is given to the risks and mechanisms to mitigate the potential impacts of them, therefore no further action is required within this area.

## 3. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report, however the independent investigation has resulted in fees and expenses totalling £28,634, of which £4,141 was paid in 2011/12 and the remainder of £24,493 was paid in 2013/14.

## 4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

There are no human resources or learning and development implications arising from this report.

## 5. EQUALITIES IMPLICATIONS

An equality impact assessment has not been undertaken as this report does seek to change policy or service provision.

## 6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

## 7. LEGAL IMPLICATIONS

The investigation report attached at Appendix A has been appropriately redacted to ensure that there are no legal implications arising from this report.

## **8. RISK MANAGEMENT IMPLICATIONS**

It is important that the Authority use every opportunity to ensure that policies and processes are as robust as possible. The instigation of an independent investigation, and subsequent receipt of the report and actions, will assist greatly in that process to mitigate risks going forward.

## **9. RECOMMENDATIONS**

It is recommended that Members:

- 9.1 Note the contents of the report;
- 9.2 Task the Chief Fire Officer to ensure that all areas considered for improvement or further action as identified within the report at 2.14 to 2.24 are implemented with immediate effect.

## **10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

John Buckley  
**CHIEF FIRE OFFICER**