

Governance and Reporting to the Authority

Officers' Recommendation

That Members note the report.

Background

Sir David Calvert-Smith, DPP from 1998 to 2003 and a retired High Court judge, was instructed by the Post Office to lead a review in 2020 of over 900 prosecutions of postmasters by the Post Office and consider how to reform bodies with private prosecution functions. The on-going inquiry into the scandal has heard evidence of failings and alleged cover-ups by the Post Office and its lawyers, which led to the wrongful prosecutions and convictions.

At the Bar Council's conference, barrister Flora Page, who represented three postmasters in the Court of Appeal, suggested that to prevent future miscarriages of justice there should be greater scrutiny of companies or organisations that have a standing internal private prosecution function. It was suggested that such organisations should be required to report to the main board at least annually and subject to a compulsory code of conduct and inspection by HM Crown Prosecution Service Inspectorate.

Current Processes and Reporting

Officers recognise the importance of reporting the actions that they take on behalf of the Authority. Current reporting mechanisms include D&S IFCA's Annual Report (including investigation outcome table), external Health and Safety Audit, and external Financial Audit.

Officers also recognise the importance for Members to understand how officers undertake their duties across all aspects of the Authority's work. It is only when members have a sufficient understanding of the processes that they can effectively monitor, scrutinise and where necessary challenge the officers' actions.

Officers have already prepared and invited Authority Members to attend a presentation on how byelaws and byelaw permit conditions are developed, introduced, and reviewed.

Officers, with support from Devon County Council's democratic services, have provided training on the Authority's Standing Orders and produced a flow chart to assist Members' understanding of the Authority's decision making and voting processes. The D&S IFCA's website includes a secure area with a Members training page.

D&S IFCA has created a Governance Working Group. The Terms of Reference for the Group include reviewing the Authority's governance structure and procedures.

D&S IFCA has developed a Scheme of Delegation setting out the roles and responsibilities of Members and Senior Officers.

D&S IFCA has provided a Members' Handbook to all Authority Members providing them with a guide to the Authority's functions and how to access more information to support them in their role.

Future Developments

D&S IFCA's current Annual Plan sets out the intention for the Governance Working Group to review the Authority's Enforcement and Compliance Strategy. The review will provide the opportunity to review the current decision-making processes for determining the disposal of cases. Any Authority Member can attend the Governance Working Group's meetings and through attendance they can understand, in more detail, the processes that are currently in place and can support the review of key policies and procedures.

Currently, other than where any investigation identifies only minor offending, the Senior Enforcement Officer forwards the case file to the Authority's Prosecuting Agent for consideration. The Prosecuting Agent is bound by the Code for Crown Prosecutors and provides the Senior Enforcement Officer and Chief Officer with their advice on the evidential test and public interest test.

Where it is the opinion of the Prosecuting Agent that the evidential test has not been passed then the case must not proceed, no matter how serious or sensitive it may be. Where the evidential test is passed, the Chief Officer will consider the Prosecuting Agent's advice on the public interest and the Senior Enforcement Officer's advice on outcomes of relevant previous investigations in making their decision on how to dispose of the case. Where the Chief Officer determines that the appropriate disposal is either a Financial Administrative Penalty, Caution or Prosecution, they will provide a copy of the Decision-Making Record to the Chair of the Authority before commencing formal proceedings.

The Authority holds and shares personal information. It is important that it does so in line with relevant legislation and, accordingly, Officers adhere to D&S IFCA's Data Register and data policies. D&S IFCA publishes its Publication Scheme which sets out the types of information that are readily available to the public. The website Resource Library is an interactive Publication Scheme allowing the self-seeking of information, potentially reducing formal requests for information. When required, officers respond to Freedom of Information and Environmental Information Regulation requests.

Similar to the annual Health and Safety Audit it is intended that Officers prepare a report annually on internal monitoring of adherence to D&S IFCA's Data Register and data policies.

Through the Members' annual appraisal process, Officers would also encourage members to identify other areas of the Authority's business on which they would benefit from on-line training or through one-to-one discussions.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers

- D&S IFCA Standing Orders – Version 1.6 – April 2024
- Authority meeting minutes 21st March 2024

End.