



Inshore Fisheries and  
Conservation Authority

**Finance & Personnel  
Sub-Committee Meeting**

**To be held at:**

**EIFCA Offices, 6 North Lynn Business Village  
Bergen Way, King's Lynn, PE30 2JG**

**26 September 2012  
10.30 hours**

Meeting: **Finance and Personnel Sub-Committee**  
Date: 26 September 2012  
Time: 10.30 hours  
Venue: Eastern IFCA Office  
6 North Lynn Business Village, Bergen Way  
King's Lynn, Norfolk PE30 2JG



*"Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry."*

### **Agenda**

- 1 Welcome by the Chair
- 2 Apologies for absence
- 3 Declaration of members' interests

### **Action Items**

- 4 Minutes of the Finance and Personnel Sub-Committee meetings on 27 June 2012 and 25 July 2012
- 5 Matters Arising
- 6 Funds Management *Report of the Head of Finance*
- 7 Review of the Financial Regulations *Report of the Head of Finance*
- 8 Staff Consultation policy *Report of the Head of HR*
- 9 Operational changes following implementation of the staffing structure  
*Report of the Acting Chief Executive*
- 10 To consider whether under Section 100(A) of the Local Government Act 1972, the public should be excluded from the meeting for items 11 and 12 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act and that the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.
- 11 Review and confirmation of posts following probation  
*Report of the Acting Chief Executive*
- 12 Additional resource for constitutional base for the Authority  
*Report of the Acting Chief Executive*

### **Information Items**

- 13 Progress on the Salary Review  
*Information report of the Head of HR*
- 14 Any other urgent business  
To consider any other items which the Chair is of the opinion are matters of urgency by reason of special circumstances which must be specified

### **12.15 hours: Joint Discussion with the Regulatory and Compliance Sub-Committee**

- 15 Review of Standing Orders and advice of Lincolnshire, Norfolk and Suffolk Monitoring Officers on a draft Constitution for the Eastern IFCA  
*To make recommendations to the Authority meeting on 31 October 2012*

Eden Hannam  
Acting Chief Executive Officer  
Date: 14 September 2012

## Finance & Personnel Sub-Committee

*"EIFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economical benefits to ensure healthy seas, sustainable fisheries and a viable industry".*



A meeting of the Finance & Personnel Sub-Committee took place at the EIFCA office on 27 June 2012 at 14.00 hours

### Members Present:

|                         |          |                                |
|-------------------------|----------|--------------------------------|
| Cllr Tony Goldson       | Chairman | Suffolk County Council         |
| Mr Peter Barham         |          | Marine Management Organisation |
| Cllr Brian Hannah       |          | Norfolk County Council         |
| Cllr Hilary Thompson    |          | Norfolk County Council         |
| Cllr Tony Turner MBE JP |          | Lincolnshire County Council    |
| Cllr Stephen Williams   |          | Lincolnshire County Council    |
| Mr Stephen Worrall      |          | Marine Management Organisation |

### Eastern IFCA Officers Present:

|                  |                                |
|------------------|--------------------------------|
| Eden Hannam      | Acting Chief Executive Officer |
| Julian Gregory   | Head of Marine Protection      |
| Christine Hurley | Head of Finance                |
| Nichola Freer    | Head of HR                     |

### Clerk:

Mary Clancy

### **F&P12/20 Item 1: Welcome by the Chair**

The Chair welcomed Julian Gregory to his first meeting of the Finance & Personnel Sub-Committee.

### **F&P12/21 Item 2: Apologies for Absence**

Apologies for absence were received from Councillor Ken Sale.

### **F&P12/22 Item 3: Declarations of Interest**

There were no declarations of interest.

### **F&P12/23 Item 4: Minutes of the Finance and Personnel Sub-Committee meeting held on 15 March 2012**

Members agreed to accept the minutes as a true record of proceedings.

### **F&P12/24 Item 5: Matters Arising**

There were no matters arising from the minutes.

### **F&P12/25 Item 6: Election of Vice-Chair of the Sub-Committee**

Cllr Tony Goldson nominated Cllr Stephen Williams as Vice-Chair. This was seconded by Cllr Brian Hannah. There were no other nominations.

**Cllr Williams was elected unanimously as Vice-Chair of the Finance & Personnel Sub-Committee.**

**F&P12/26 Item 7: To receive and approve the Statement of Accounts for the year ended 31 March 2012 and to authorise transfers to and from the Authority's Reserve Funds, prior to submission to the full Authority at the Statutory Meeting to be held on the 25 July 2012**

The Head of Finance tabled the Audit Commission Annual Return form for Small Bodies, which had to be certified at the meeting. She explained that the Audit Commission classed the Eastern IFCA as a small body because it had a turnover of less than £6.5 million.

She made a detailed presentation of the contents of the report and the Annual Return form taking members through each page of the report and the form. In particular, she explained that, in the balance sheet, she had separated out the Eastern IFCA's own funds and those which the Authority managed in relation to the Wash Fishery Order and other Wash projects. She pointed out the total underspend for the year of £484,787 and explained that it was due to: an underspend of New Burdens money; savings resulting from vacant posts during the year; and miscellaneous income from shellfish sampling, CEFAS sea angling surveys and two days' hire of *ESF Protector III* to the Marine Management Organisation. Members were asked to authorise the transfer of this underspend to the new Operational Reserve. She reminded members that the proposal to set up the Operational Reserve had been discussed at the Sub-Committee's meeting on 26 January 2012.

Members were also asked to authorise the transfer of the sum of £795 from the Eastern IFCA Contingency Reserve to the General Expenditure account.

Cllr Tony Turner asked for clarification of establishment expenses in section 4 of the notes to the Statement of Accounts. The Head of Finance explained that this was operational expenditure on items such as telephones, stationery, advertising and subscriptions, legal and professional expenses, New Burden funding expenses, etc. Cllr Turner said it would be helpful to separate out legal expenses in future and the Head of Finance agreed to do this.

Cllr Turner also said it would be useful to see how salary costs differed from those of the old Eastern Sea Fisheries Joint Committee. The Head of Finance explained that the costs for new posts shown in section 5 of the notes to the Statement of Accounts were for part of the year only as new staff had come into post in the last quarter of the year. She said the whole year cost for the new posts would be £164,000 from the New Burden funding.

Cllr Turner expressed concern that the number of staff working directly with the fishing industry had been reduced and that boats were not patrolling as often as they should. He said that he intended to raise this issue with the new CEO. However, the Chair said that the Eastern IFCA had a different role from that of the previous Sea Fisheries Joint Committee as it was responsible for conservation and research as well as for policing the fisheries. Stephen Worrall said that the under-use of assets had been a concern for some time and he expected that *RV Three Counties* should be well used as it was suitable for survey-work. The Acting CEO replied that *RV Three Counties* was heavily used by the Eastern IFCA and, as a result, it was difficult to raise revenue from charter work because of the impact on the Authority's work if hire periods had to be extended, for example, because of bad weather. Also, more lucrative longer-term charters were not viable because the vessel was needed by the Authority. However, he was looking to maximise revenue from short-term charters - for periods of a few days - that would not impact so negatively on the Authority's work.

**1. Members resolved to:**

- a) approve the Statement of Accounts and the Annual Governance Statement for the year ended 31 March 2012, and
- b) approve and sign the Annual Return to the Audit Commission which was tabled at the meeting.

**Proposed:** Stephen Worrall

**Seconded:** Peter Barham

**All Agreed**

**2. Members further resolved to:**

- a) authorise the creation of an additional 'ear-marked' reserve, the Operational Reserve, in accordance with the Authority's Finance Regulation 3.5, and
- b) authorise transfers of funds to and from 'ear-marked' reserves, in accordance with the Authority's Finance Regulation 3.4, as set out in the report.

**Proposed:** Cllr Brian Hannah

**Seconded:** Cllr Stephen Williams

**All Agreed**

**F&P12/27 Item 8: Report on the Internal Audit for 2011/2012**

The Head of Finance introduced the report. She explained that the Audit had been carried out satisfactorily by Norfolk Audit Services and that officers were recommending that they be re-engaged to carry out the Internal Audit for 2012/2013.

She said that the Audit had identified some minor concerns with some invoice authorisations as there had been a few occasions when staff had signed orders for sums above their authorisation limit. However, this had had no impact as she checked all invoice authorisations before payment. New arrangements were now in place to stop this happening in the future.

A problem had also been identified with late payment of Eastern IFCA invoices by Natural England. This had occurred during reorganisation in Natural England's finance department and was not expected to continue. Cllr Williams suggested that the Authority should consider charging interest if late payment was a persistent problem and the Acting CEO was asked to consider this if the situation did not improve.

**Members resolved to appoint Norfolk Audit Services to carry out the internal audit for the Eastern IFCA for 2012/2013.**

**Proposed:** Stephen Worrall

**Seconded:** Peter Barham

**All Agreed**

**F&P12/28 Item 9: To consider a policy on Time Off In Lieu (TOIL) for Eastern IFCA staff**

The Head of HR introduced the report and the proposed policy. She explained that TOIL mainly affected the Inshore Fishery and Conservation Officers. The proposed policy provided a clear framework for staff and managers setting out who was entitled to TOIL and when.

Cllr Williams asked whether staff would be consulted and the Head of HR said that Unison had been asked for comments and it was intended to circulate the proposal to staff for consultation on 18 July 2012. The Head of Marine Protection added that there was an outstanding issue related to the availability of TOIL for staff who will be working on annualised contracts but officers did not consider that this affected the current proposal to adopt a TOIL policy, which had been under consideration for some time.

**It was resolved to agree the policy for Time Off In Lieu as set out in Appendix 2 to the report.**

**Proposed:** Stephen Worrall  
**Seconded:** Cllr Stephen Williams  
**All Agreed**

**F&P12/29 Item 10: To consider a policy on expenses for Eastern IFCA staff**

The Head of HR introduced the report. She explained that a new policy was necessary to clarify entitlement to expenses. She said there had been consultation with Unison and the intention was to circulate the proposal to staff on 18 July 2012 for consultation.

**It was resolved to agree the policy on expenses set out in Appendix 2 to the report.**

**Proposed:** Cllr Hilary Thompson  
**Seconded:** Peter Barham  
**All Agreed**

**F&P12/30 Item 11: To consider a policy on consultation with Eastern IFCA staff**

The Head of HR introduced the report. She explained that, in the past, there had been no need for a staff consultation policy as very little change had occurred in the Eastern Sea Fisheries Joint Committee for a long period of time. However, since the establishment of the Eastern IFCA with its expanded remit, there had been a considerable amount of change which was likely to continue in the future as the Authority developed its role. The Head of HR said that the policy in Appendix 2 to the report had been drafted before her appointment.

Mr Worrall was concerned that the proposed policy looked as if it was intended for external rather than internal consultation and he queried whether it was appropriate for staff. The Head of HR said that it had been her predecessor's intention to draft a single policy for internal and external use. Mr Worrall referred to the discussion that had taken place at the Planning & Communication Sub-Committee that morning about the Authority's communication and engagement Strategy. Members of that Sub-Committee had been concerned about the need for a clearer focus on staff consultation and Mr Barham added that the Community Development Officer had reported the limited response she had received to the staff consultation that she had carried out in relation to this Strategy. Mr Barham said that officers had agreed to produce a structure for the communication and engagement strategy for the next Authority meeting on 25 July 2012, but that the Sub-Committee had agreed to report to the Finance & Personnel Sub-Committee their view that a separate, dedicated approach to consultation with staff was required. Mr Worrall considered that the policy that was before the Finance & Personnel Sub-Committee was not sufficiently tailored to staff needs and the Head of HR should develop a separate consultation policy for staff. He thought that the proposals in Appendix 2 could be useful to the Community Development Officer as the basis for an external consultation policy.

The Acting CEO said that the regular staff meetings and weekly newsletters that he had put in place had improved communication with staff but there was a need for a more structured, joined up approach to communication and consultation across the Authority. Cllr Hilary Thompson thought that this was a good basis on which to build the policy. Cllr Williams pointed out that the proposed policy did not say anything about teamwork.

**It was resolved to defer decision on this item and to ask the Head of HR and the Acting CEO to report to the next meeting of the Sub-Committee on a policy for consultation with staff.**

**Proposed:** Cllr Stephen Williams

**Seconded:** Peter Barham

**All Agreed**

**F&P12/31 Item 12: To adopt a new Code of Conduct for Members and agree relevant amendments to the Authority's Standing Orders**

As Chair of the Planning & Communication Sub-Committee, Mr Barham reported the outcome of the discussion about the draft Code of Conduct that had taken place at that Sub-Committee that morning. The Sub-Committee had been asked to consider the draft Code and make recommendations to the Finance & Personnel Sub-Committee which had delegated authority to adopt it. All Authority members had been consulted on the draft Code and there had been two responses, both of which favoured the proposals.

In particular, the Sub-Committee had discussed the responsibility of the Authority for enforcing the Code and agreed that the inclusion of the requirement to sign acceptance of it was a useful way of encouraging compliance.

The Sub-Committee had recommended that the Finance & Personnel Sub-Committee should adopt the draft Code with the following amendments:

- Section 7 should be amended to expand on the non-registrable interests that should be declared at meetings. Members were concerned that it should be clear that Authority members should declare at meetings all pecuniary and non-pecuniary interests that might be relevant to matters being discussed.
- In the fourth from last paragraph of Section 3, the reference to the Deputy CEO should be amended to refer to the appropriate senior manager. This was to clarify that members could raise concerns about the management or performance of staff with the appropriate head of service, and not only with the CEO. This amendment recognized the hierarchical management structure of the Authority and the role of the senior management team in this structure.
- The references to 'general' and 'additional' members in the draft should be clarified in the final version.

The Planning & Communication Sub-Committee also recommended that the Authority should publish the fact that registers of members' interests and of declarations of gifts and hospitality were kept and could be made available for public inspection. However, Sub-Committee members did not consider it necessary or appropriate to publish the registers on the Authority's website.

There was some discussion about this recommendation and the requirement in the Localism Act that councils should publish their registers of members' interests on their websites. However, members agreed that the difference between the broad role of elected members of councils and the limited role of MMO appointees to IFCA's meant that it was not necessary to treat them in the same way, and the law did not require this. It was considered satisfactory to make it known that the registers existed and could be inspected.

Cllr Turner asked whether other IFCA's would have different codes of conduct and whether it would be more appropriate to pursue a single code for all IFCA's. The Clerk explained that it was up to IFCA's to decide on their own code and that it was possible that the Monitoring Officers for other IFCA's could reach a different view on the relevance of the Localism Act from that expressed by the Suffolk and Norfolk Monitoring Officers. These factors

could make it difficult to develop a single code in the near future. The Chair considered that it was necessary for the Eastern IFCA to have a code of conduct now, and Mr Barham proposed that the Association of IFCAs should consider whether the Eastern IFCA Code should be adopted nationally.

There was some discussion about including county councillors with the remit of the Code but the Clerk explained that the Localism Act required them to be bound by their council's code when acting on council business, which included acting as members of joint committees like the Eastern IFCA.

**Having considered the report and the recommendations of the Planning & Communication Sub-Committee, members resolved to accept:**

- a) the amendments to the Code of Conduct proposed by that Sub-Committee, and**
- b) the Sub-Committee's proposal that the Eastern IFCA should publish that registers of members' interests and of declarations of gifts and hospitality were kept and could be made available for public inspection.**

**Proposed:** Cllr Stephen Williams

**Seconded:** Stephen Worrall

**All Agreed**

**Members further resolved to adopt the Code of Conduct as amended, and agree the recommendations set out in the report as amended.**

**Proposed:** Cllr Brian Hannah

**Seconded:** Cllr Hilary Thompson

**All Agreed**

**Members also resolved to refer the Code of Conduct to the Association of IFCAs with the request that it be considered for national adoption.**

**Proposed:** Cllr Stephen Williams

**Seconded:** Cllr Tony Turner

**All Agreed**

#### **F&P12/32 Item 13: Terms and conditions review - update**

The Head of HR introduced the report which was for information only. She said that the intention was to implement the terms and conditions review, with the exception of the salary review, by the end of October 2012. The salary review would follow the terms and conditions review and be completed by the end of 2012.

Concerning the salary review, there was no robust rationale for the proposal made in November 2011 to move all staff to a 37 hour working week and so this proposal was to be removed from the review and reconsidered in 2013. During 2012, all job descriptions would be reviewed, updated and put into a consistent format, and jobs would be evaluated. Proposals arising from this review would be brought back to the Sub-Committee for consideration before the end of 2012.

Cllr Williams considered that there should be an appraisal policy which would reward effort and achievement and Cllr Goldson added that this should be affordable for the Authority. Cllr Turner asked whether new staff were aware of the Authority's current arrangements for progression and the Acting CEO replied that they were as they had been appointed on the current salary scales. He also said that Defra required IFCAs to produce training and development plans for staff and, to achieve this, it was necessary to review roles and job sizes and methods of performance review.

**F&P12/33 Item 14: Outcome of recruitment process for a new Chief Executive Officer**

The Chair reported that Captain Philip Haslem had been appointed as CEO of the Eastern IFCA. All members had been notified in writing of the appointment.

**F&P12/34 Item 15: Referral from the 5<sup>th</sup> Eastern IFCA meeting on 25 April 2012: Funding of Eastern IFCA vessels and their operating costs**

The Acting CEO reported that the Gibraltar police service were interested in buying *ESF Protector III* and had requested a formal survey. The Head of Marine Protection would be contacting Suffolk County Council's procurement service for advice on the sale should it progress.

Cllr Williams said that a reduction in the Eastern IFCA's harbour fees at the new marina at Sutton Bridge might be a possibility but the Acting CEO reported that he was discussing the options with the parties involved but the issues were complex and this seemed an unlikely outcome. The Head of Finance reported that the next rent review was due in December 2013.

**F&P12/35 Item 16: Any other urgent business**

There was no other business.

The meeting closed at 15.03 hours.

## Finance & Personnel Sub-Committee

*"EIFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economical benefits to ensure healthy seas, sustainable fisheries and a viable industry".*



A meeting of the Finance & Personnel Sub-Committee took place at the EIFCA office on 25 July 2012 at 09.30 hours

### Members Present:

|                    |          |                                |
|--------------------|----------|--------------------------------|
| Cllr Tony Goldson  | Chairman | Suffolk County Council         |
| Cllr Ken Sale      |          | Suffolk County Council         |
| Mr Stephen Worrall |          | Marine Management Organisation |

### Eastern IFCA Officers Present:

|                  |                                |
|------------------|--------------------------------|
| Eden Hannam      | Acting Chief Executive Officer |
| Nichola Freer    | Head of HR                     |
| Julian Gregory   | Head of Marine Protection      |
| Christine Hurley | Head of Finance                |

### Clerk:

Mary Clancy

### F&P12/36 **Item 1: Welcome by the Chair**

The Chair welcomed members to the meeting.

### F&P12/37 **Item 2: Apologies for Absence**

Apologies for absence were received from Councillors Brian Hannah, Hilary Thompson, Tony Turner and Stephen Williams, and from Peter Barham.

### F&P12/38 **Item 3: Declarations of Interest**

There were no declarations of interest.

### F&P12/39 **Item 4: Minutes of the Finance and Personnel Sub-Committee meeting held on 15 March 2012**

The minutes were not taken as they had not been circulated with the agenda as a result of an oversight.

### F&P12/40 **Item 5: Matters Arising**

This item was not taken.

### F&P12/41 **Item 6: To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for items 7 and 8 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Act**

The Sub-Committee was satisfied that, in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**It was resolved that, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for items 7, 8, 9 and 10 on the grounds that they involve the likely**

**disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Act.**

**Proposed:** Cllr Ken Sale

**Seconded:** Stephen Worrall

**All agreed**

**F&P12/42 Item 7: Update on the appointment of a Chief Executive Officer**

The Head of HR gave an update on the recruitment of the new Chief Executive Officer. As reported to the last meeting of this Sub-Committee, Captain Philip Haslam was the candidate selected by the recruitment panel, made up of members of this Sub-Committee, following a process of competitive recruitment. It was now necessary to formally resolve to confirm his appointment.

**It was resolved to formally appoint Captain Philip Haslam as the new Chief Executive of the Eastern IFCA.**

**Proposed:** Cllr Tony Goldson

**Seconded:** Stephen Worrall

**All Agreed**

**F&P12/43 Item 8: Staff probationary periods**

The Head of HR reported that two Research Officers, Olle Åkesson and Lindsey Smith, had reached the end of their probationary periods. She reported that both officers had successfully completed their first six months of service and she wished to confirm them in their posts.

It was resolved to confirm Olle Åkesson and Lindsey Smith in the posts of Research Officer with the Eastern IFCA.

**Proposed:** Stephen Worrall

**Seconded:** Cllr Ken Sale

**All Agreed**

**F&P12/35 Item 16: Any other urgent business**

There was no other business.

The meeting closed at 09.50 hours.

**26<sup>th</sup> September 2012**

***Funds Management***

To consider the implication of medium term investment of a proportion of the Authority’s funds.

**Issue Statement:** The recent sale of ESF Protector III has resulted in a significant increase in funds which could attract a beneficial higher interest rate if invested in a nine month fixed rate bond.

**Background**

Traditionally Vessel Replacement and Vessel Contingency Fund reserves have been invested in Suffolk County Council’s seven day account. The funds are readily available (at seven days’ notice) but the interest rate (currently 0.56% pa) although higher than that of the Authority’s Active Saver account (0.38% pa) is not as good as that of a nine month Barclays Fixed Rate Bond which will be available from 12<sup>th</sup> October 2012 at 1.5% pa.

**Comment and recommendations**

The funds which could be invested are those which would potentially be available for a replacement vessel, and amount to almost £1,000,000 i.e:

|   |                 |
|---|-----------------|
|   | £               |
| Existing Vessel Replacement Fund                    | 353,200         |
| Proceeds from the Sale of ESF Protector III         | 530,000         |
| ESF Protector III’s part of Vessel Contingency Fund | <u>103,700</u>  |
|   | <u>£986,900</u> |
|   |                 |
| Comparison of Interest achievable over 9 months     | £               |
| Barclays Nine-month Fixed Rate Bond                 | 11,250          |
| Current Suffolk County Council Seven Day Account    | 4,200           |

The disadvantage with the Barclays Fixed Rate Bond is that the funds would not be available until 12<sup>th</sup> July 2013.

For 2012/2013 there is approximately £85,000 left in the budget for ESF Protector III which could be used for chartering vessels in the interim.

At present there is no timetable of events for procuring a replacement for ESF Protector III which would determine when deposits / stage payments would be required.

There may be a potential problem if funds are required before July 2013 relating to purchase of a replacement vessel or to supplement chartering costs. However, the Authority does have other ‘ear-marked’ reserves e.g Operational Reserve Fund (£484,787) and the remainder of the Vessel Contingency Fund (£103,700) but members would have to formally approve any utilisation of these funds at the time.

Members may consider investing additional funds from these ‘ear-marked’ reserves in the Fixed Term Bond to maximise the interest earned.

**Resolutions:**

**Members are asked to:**

- 1) Note that there is potential for earning higher interest on a proportion of the Authority's funds and to recommend**
- 2) that £1,000,000 should be invested in a nine-month fixed rate bond  
or**
- 3) that £1,000,000 plus a proportion of the Authority's Operational Reserve be invested in a nine month fixed rate bond.  
or**
- 4) that the funds continue to be invested with Suffolk County Council with availability at seven days' notice.**

**Background documents**

1. Statement of Accounts for Eastern IFCA for year-ending 31<sup>st</sup> March 2012
2. Notice of Barclays Business Fixed Rate Bond No 82

Christine Hurley  
Head of Finance

18<sup>th</sup> September 2012

**Vision**

Inshore Fisheries and Conservation Authorities will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry.

**Finance & Personnel Sub-Committee**

**26 September 2012**

**Agenda Item 7**

***Review of Financial Regulations***

To review and revise the Authority's Financial Regulations

**Issue Statement:**

It is proposed to review the Authority's Financial Regulations to coincide with the timing of the review of Standing Orders and draft constitution prepared by the Clerk (agenda item 15).

**Background:**

The Financial Regulations are based on an Audit Commission model for a large Parish/District Council. They were last reviewed in April 2011 at the first Eastern IFCA Statutory Meeting and would normally be due for review in April 2013.

**Comment:**

The Proposed Financial Regulations are attached as Appendix 1 and revisions are shown in *italics*.

- Paragraphs 2.3 and 2.4 are additional and relate to the arrangements for the payment of Levies by the County Councils. These have been included in Eastern IFCA's Standing Orders under Discharge of Functions but have not previously been included in the Financial Regulations.
- Paragraph 4.1 has been amended to refer to the latest Account and Audit Regulations.
- Paragraph 5.3 has been amended to include BACS as a method of payment.
- Paragraph 8 previously referred to Loans and Investments, under the new legislation IFCAs are not allowed to borrow, therefore the reference to Loans has been removed.

**Recommendation:**

**Members are asked to approve the revised Financial Regulations.**

**Background documents**

1. Accounts and Audit Regulations 1996
2. Eastern Inshore Fisheries and Conservation Order 2010
3. Accounts and Audit (England) Regulations 2011
4. Eastern IFCA Financial Regulations approved at the Statutory Meeting 1<sup>st</sup> April 2011

Christine Hurley  
Head of Finance  
17<sup>th</sup> September 2012

## **APPENDIX 1**

### **Eastern Inshore Fisheries and Conservation Authority Financial Regulations September 2012**

#### **1 General**

- 1.1 These financial regulations shall govern the conduct of the financial transactions of the Authority and may only be amended or varied by resolution of the Authority.
- 1.2 The Responsible Financial Officer (RFO) shall be the Chief Executive Officer who shall be responsible for the proper administration of the Authority's financial affairs.
- 1.3 The RFO shall be responsible for the production of financial management information.

#### **2 Annual Estimates**

- 2.1 Detailed estimates of income and expenditure on revenue services, and receipts and payments on capital account, shall be prepared each year by the RFO. Proposals in respect of revenue services and capital projects in a rolling three year forecast shall also be prepared each year by the RFO.
- 2.2 The Finance and Personnel Sub-Committee shall review the estimates and make a recommendation to the Authority not later than the end of January in each year on the precept to be levied for the ensuing financial year.
- 2.3 *All expenses incurred by the Authority within the agreed budgets are to be met by the relevant County Councils.*
- 2.4 *Orders for the payment of money by the County Councils (Levies) must be signed by the Chair, or in the Chair's absence, the Vice-Chair, and the Chief Executive Officer.*
- 2.5 The annual capital and revenue budgets shall form the basis of financial control for the ensuing year.

#### **3 Budgetary Control**

- 3.1 Expenditure on the revenue account may be incurred up to the amounts included in the budget.
- 3.2 The RFO shall when requested provide the Authority with a statement of income and expenditure to date under each head of the approved annual revenue and capital budgets.
- 3.3 The RFO may incur expenditure on behalf of the Authority which is necessary to carry out any repair replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure. The RFO shall report the action to the Authority as soon as practicable thereafter.
- 3.4 Unspent provisions in the revenue budget shall not be carried forward to a subsequent year other than as balances to reduce subsequent levy calls unless authorised by the Authority.
- 3.5 Notwithstanding 3.4 above, the RFO shall be responsible for identifying and establishing specific earmarked reserves where appropriate.
- 3.6 No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving expenditure on capital account unless the Authority or Sub-Committee concerned are satisfied that it is contained in the

rolling capital programme and that the necessary capital funds are available, or the requisite borrowing approval can be obtained.

- 3.7 All capital works shall be administered in accordance with Authority's procedures and financial regulations relating to contracts.

#### **4 Accounts and Audit Commission**

- 4.1 All accounting procedures and financial records of the Authority shall be determined by the RFO as required by the Accounts and Audit Regulations 1996 and the *Accounts and Audit (England) Regulations 2011*.

- 4.2 The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and Personnel Sub-Committee by no later than 30th June in any one year. The Finance and Personnel Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the Authority at the July Authority Meeting.

- 4.3 The RFO shall be responsible for maintaining an adequate and effective system of internal audit of the Authority's accounting, financial and other operations in accordance with Regulation No.5 of the Accounts and Audit Regulations 1996.

- 4.3.1 As part of the effective system of internal audit the Authority shall appoint a suitable person who is removed from the decision making process of the Authority who shall be responsible for undertaking an internal audit from time to time but at least annually.

- 4.3.2 Any officer or member of the Authority shall, if the RFO requires, make available such documents of the Authority which relate to their accounting and other records as appear to the RFO to be necessary for the purpose of the audit and shall supply the RFO with such information and explanation as the RFO considers necessary for that purpose.

#### **5 Banking Arrangements and Cheques**

- 5.1 The Authority's banking arrangements shall be made by the RFO and approved by the Authority. A Current Account shall be maintained at the bank, to cover general expenses and a Salary & Wages Account to cover payroll. In addition to these the RFO is authorised to operate such bank accounts he/she may consider necessary in order to optimise income from interest bearing accounts.

- 5.2 A schedule of payments made and monies received shall be prepared by the RFO and presented to the Authority at their Meetings. If the schedule is in order it shall be authorised by a resolution of the Authority and signed by the Chair or Vice Chair.

- 5.3 BACS, Cheques, Direct Debits and Standing Orders drawn on the Current bank Account in accordance with the schedule referred to in the previous paragraph shall be signed by two duly authorised signatories in accordance with current bank mandates resolved by the Authority.

- 5.4 Monthly lists of payments made by cheque or direct debit/standing order will be prepared by the RFO and approved by the Chair or Vice-Chair.

#### **6 Payment of Accounts**

- 6.1 All payments other than petty cash transactions shall be effected by cheque or other order drawn on the Authority's bankers.

- 6.2 All invoices for payment shall be examined, verified and certified by the officer issuing the order. Before certifying an invoice the officer shall satisfy him/herself that the work, goods or services to which the invoice relates have been received, carried out, examined and approved.

6.3 Duly certified invoices shall be passed to the RFO who shall examine them in relation to arithmetical accuracy and authorisation, and shall code them to the appropriate expenditure head. The RFO shall take all possible steps to settle all invoices submitted, and which are in order, within 30 days of their receipt.

6.4 All duly certified invoices will be summarised in the schedule referred to in 5.2 above.

## **7 Payment of Salaries and Wages**

7.1 The payment of salaries and wages shall be made by the RFO from the payroll account in accordance with the payroll records.

7.2 All time sheets shall be certified as to accuracy by or on behalf of the RFO.

## **8 Investments**

8.1 All investments under the control of the Authority shall be negotiated by the RFO in the name of the Authority.

8.2 All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.

## **9 Income**

9.1 The collection of all sums due to the Authority for work done, services rendered or goods supplied shall be the responsibility of, and under the supervision, of the RFO.

9.2 The RFO will review all fees and charges as necessary.

9.3 Any bad debts shall be reported to the Authority.

9.4 All sums received on behalf of the Authority shall either be paid to the RFO for banking or be banked by the officer collecting the money as directed by the RFO. In all cases all receipts shall be deposited with the Authority's bankers as soon as possible.

9.5 A reference to the related debt, or otherwise, indicating the origin of each cheque, shall be entered on the paying in slip.

9.6 Personal cheques shall not be cashed out of money held on behalf of the Authority.

## **10 Orders for Work, Goods and Services**

10.1 An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash purposes. Copies of orders issued shall be maintained.

10.2 Order books shall be controlled by the RFO.

10.3 All officers are responsible for obtaining value for money at all times. An officer issuing an official order is to ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction.

10.4 All officers are required to comply with the requisite authorisation to undertake a transaction as specified in internal memoranda issued by the RFO.

## **11 Contracts**

11.1 Procedures as to contracts are as follows:

(a) Every contract whether made by the Authority or by a Sub-Committee to which the power of making contracts has been delegated shall comply with these procedures, and no exception from any of the following provisions of these procedures shall be made otherwise than by direction of the Authority or in an emergency by such a Sub-Committee as aforesaid provided that these procedures shall not apply to contracts which relate to items (i) to (v) below:

(i) for the supply, of gas, electricity, water, sewerage and telephone services

- (ii) for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants.
  - (iii) for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant.
  - (iv) for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Authority.
  - (v) for goods or materials proposed to be purchased which are proprietary articles and/or which are sold only at fixed price, or for which there is only one source of supply.
- (b) Where it is intended to enter into a contract, other than specified in (c) below:
- (i) exceeding £5,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out on paragraph (a) the RFO shall invite quotations from at least three appropriate firms.
  - (ii) if less than three quotations are received or if all three quotations are identical the RFO may make such arrangements as he thinks fit for procuring the goods or materials or executing the works.
- (c) Where it is intended to enter into a contract for major capital expenditure relating to e.g. new vessels and or their replacement, buildings etc. the RFO shall invite tenders from at least three appropriate firms.
- (d) When applications are made to waive procedures relating to contracts to enable a tender to be negotiated without competition the reason shall be embodied in a recommendation to the Authority.
- (e) Every exception made by a Sub-Committee to which the power of making contracts has been delegated shall be reported to the Authority and the report shall specify the emergency by which the exception shall have been justified.
- (f) Such invitation to tender shall state the general nature of the intended contract and the RFO shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the RFO and the last date by which such tenders should reach the RFO in the ordinary course of post. Each tendering firm shall be supplied with a specially marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.
- (g) All sealed tenders shall be opened at the same time on the prescribed date by the RFO or the properly authorised deputy in the presence of at least one member of the Authority.
- (h) If less than three tenders are received or if all three tenders are identical the Authority may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.
- (i) The Authority shall not be obliged to accept the lowest of any tender. Justification of the chosen tender must be given in writing to the Authority.
- (j) Any invitation to tender issued under these procedures shall contain a statement to the effect that procedures 11.1(c) to 11.1(i) will be adhered to.

## **12 Payments Under Contracts for Building or Other Construction Works**

- 12.1 Payments on account of the contract sum shall be made within the time specified in the contract by the RFO upon authorised certificates of the architect or other consultants engaged to supervise the contract.
- 12.2 Where contracts provide for payment by instalments the RFO shall maintain a record of all such payments. In any case when it is estimated that the total cost of work carried out under a contract, excluding fluctuation clauses, will exceed the

contract sum by 1% or more a report shall be submitted to the appropriate Committee.

- 12.3 Any variation to a contract or addition to or omission from a contract must be approved by the RFO in writing, the appropriate Committee being informed where the final cost is likely to exceed the financial provision.

### **13 Assets**

- 13.1 The RFO shall make appropriate arrangement for the custody of all title deeds or assets owned by the Authority. The RFO shall ensure a record is maintained of all assets owned by the Authority, recording the location, extent, plan, reference, purchase details, nature of the interest, tenancies granted, rents payable and purpose for which held in accordance with Regulation No.4(3)(b) of the Account and Audit Regulations 1996.

- 13.2 No asset exceeding the £10,000 de-minimis level recommended by District Audit shall be sold, leased or otherwise disposed of without the authority of the Authority.

### **14 Insurance**

- 14.1 The RFO shall effect all insurances and negotiate all claims on the Authority's insurers.

- 14.2 The RFO shall be responsible for insuring all new risks, properties, vessels or vehicles and any alterations affecting existing insurances.

- 14.3 The RFO shall keep a record of all insurances effected by the Authority and the property and risks covered thereby and annually review it.

- 14.4 The RFO shall be notified of any loss liability or damage or of any event likely to lead to a claim.

- 14.5 All members and employees of the Authority shall be included in suitable fidelity guarantee, professional indemnity, and Directors and Officers insurances.

### **15 Revisions of Financial Regulations**

- 15.1 It shall be the duty of the RFO to review the financial regulations at a maximum interval of two years and to report to the Authority accordingly.

**Vision**

Inshore Fisheries and Conservation Authorities will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry.

**Finance & Personnel Sub-Committee**

**Agenda Item 8**

**26 September 2012**

***Staff Communication and Consultation Policy***

Item deferred by the Finance & Personnel Sub-Committee on 27 June 2012

**Background**

At the Finance & Personnel Sub-Committee meeting on 27 June 2012, the Sub-Committee agreed to defer the decision on item 11 (*To consider a policy on consultation with Eastern IFCA staff*) and asked the Head of HR and Acting CEO to report to the next Sub-Committee meeting on such policy.

**Comment and recommendations**

Members are asked to note that due to current priority workload demands on the Head of HR's time, the Acting CEO has agreed with her that this piece of work is not a current priority and that it should be deferred until the next meeting.

**Resolution:**

**Members are asked to defer consideration of the Staff Communication and Consultation Policy until the next meeting of the Finance & Personnel Sub-Committee**

Nichola Freer  
Head of HR  
18 September 2012

**Background documents**

1. Minutes of the Finance & Personnel Sub-Committee meeting on 27 June 2012 – Item 11

**26 September 2012**

### ***Operational changes following implementation of the staffing structure***

As part of implementing the new structure, there have been some operational issues that could require agreement from the Sub-Committee to resolve. The proposal is that there should be a delegation to the Chief Executive to amend minor operational staff management and function issues.

**Problem/Issue Statement:** Following the staff restructure, all delegations regarding managing the new structure reside with the Finance & Personnel Sub-Committee. This means on minor and technical issues either a sub-committee meeting must be called, or the issue wait until the next scheduled meeting.

**Background:** The Authority only agreed a new structure in 2012, with many minor issues still needing to be resolved. In the absence of a CEO many of these issues still remain unresolved.

**Comment and recommendations:** This paper proposes that minor and technical 'day-to-day' issues such as reporting lines, job descriptions and titles should be able to be resolved by the Chief Executive Officer of the IFCA. To do this, the ability to make these operational decisions need to be confirmed by the Sub-committee. An example of this is that with the sale of *Protector III*, the skipper is currently managing aspects of the shore based operations. The reporting lines for this are different from what was proposed in the structure. Other examples include with the development of job descriptions titles and job activities may differ slightly from the original structure. Major structural changes would still need full involvement of the Authority.

**Financial implications:** This paper has no financial implications.

**Regulatory implications:** This paper has no regulatory implications.

#### **Resolutions:**

**Members are asked to:**

- 1. Note that currently all delegations regarding the restructure sit with the Finance and Personnel Sub Committee.**
- 2. Agree that the Chief Executive Officer should have the ability to make small day-to-day decisions such as reporting lines, job descriptions and titles.**
- 3. Delegate to the Chief Executive Officer (or his deputy) the ability to make these decisions for minor and technical issues.**

#### **Background documents**

None

Eden Hannam  
Acting Chief Executive  
18 September 2012

***Progress on the Salary Review***

Following the previous report received by the Authority on 27 June 2012, the Head of HR would like to report on the following progress.

**Background**

A period of final consultation for the terms and condition review was entered into in July 2012 with both the staff and Unison. The consultation will conclude on 26 October 2012. We aim to have a negotiated agreement with Unison by this time. If this is the case, then the executive team will take the outcome of the consultation and their recommendations to the Authority on 31 October. Depending on the Authority's response, we propose any changes to take effect from 5 November 2012.

**Comment and recommendations**

With regard to the salary review, three pieces of work were outlined that required completion. The Head of HR can report on the following progress:

1. Revisit all job descriptions and update each to ensure it is relevant, up to date and in a consistent format

The task of reviewing and updating the 16 different roles has been undertaken by the Head of HR. Each job holder and line manager has been engaged in this process and will contribute to the updating and re-writing of each job description. This is both a large and complex task to complete due to the contribution required of the relevant Officers and the level of detail and input required. It is taking an average of 8 hours per job to complete. This task will be completed by 4 October 2012.

2. To complete a job sizing/evaluation exercise against the updated job descriptions

To ensure this exercise remains impartial and transparent, the Head of HR has secured the support of the Reward team at Norfolk County Council. This team of job evaluation experts will review each job description and evaluate them giving consideration to the Authority's agreed staff structure and original salary proposal circulated in December 2011. This work should be complete by the end of October 2012.

3. To re-submit a proposal for revised salaries / salary scale

Once the job evaluation outputs and feedback are returned, the executive team will then develop the original proposal accordingly and re-submit their recommendations for Authority agreement. It is anticipated that a revised proposal will be ready for submission by the end of November 2012.

The Head of HR aims to have formal consultation for the salary proposals complete by end of March 2013, so that any changes can take effect from 1 April 2012. If circumstances prevent consultation concluding with agreement by this date, then any changes once agreement has been met will be back-dated to 1 April 2012, subject to the Authority's agreement.

**Background documents**

1. Minutes of the Finance & Personnel Sub-Committee meeting on 27 June 2012: Agenda item 13 *Terms and conditions review - update*

Nichola Freer, Head of HR  
18 September 2012

***Review of Standing Orders and Advice of Lincolnshire, Norfolk and Suffolk Monitoring Officers on a draft Constitution for the Eastern IFCA***

Members are asked to make recommendations for decision at the meeting of the Eastern Inshore Fisheries and Conservation Authority on 31 October 2012.

**Issue Statement:** At its meeting on 25 July 2012, the Authority received a paper setting out a draft Constitution for the Eastern IFCA, including revised standing orders. Members were advised at the meeting that the Monitoring Officer for Lincolnshire County Council had offered to commission legal advice on the standing orders and proposed Constitution approach, on behalf of the Monitoring Officers of all three county councils. The Authority accepted this offer and decided to refer discussion of the legal advice and the draft Constitution to the Finance & Personnel and Regulatory & Compliance Sub-Committees who were also asked to make recommendations for consideration at the Authority meeting on 31 October 2012.

The report to the July meeting of the Authority is attached as Appendix 1. It sets out a detailed explanation of the proposed draft Constitution and, in particular, the revised standing orders. The advice commissioned by the Monitoring Officer is attached as Appendix 2.

**Background:** On 25 April 2012, the Authority agreed to carry out a full review of its standing orders. The standing orders had been adopted at the 1<sup>st</sup> Transition Meeting in October 2010 and were largely those of the Eastern Sea Fisheries Joint Committee with some amendments. Since then, it had become clear that the complex legal basis for the governance of the Eastern IFCA required a different approach. Therefore; it was proposed that the Authority should consider adopting a Constitution which would contain all of its corporate governance policies including up-to-date and comprehensive standing orders; a schedule of delegations showing which powers of the Eastern IFCA had been delegated to officers, sub-committees or individual members; the Non-elected Members' Code of conduct; and other policies such as the Financial Regulations and the Fraud and Corruption policy.

This approach would enable the Authority to locate its main governance documents in one place, making it easier to refer to them and keep them updated. It would also make them more accessible to stakeholders and members of the public, contributing to a greater awareness and understanding of the corporate governance framework within which the Authority operates.

At its meeting on 25 July 2012, the Authority considered the draft Constitution, together with the offer of the Lincolnshire County Council Monitoring Officer to commission legal advice on the draft standing orders and the proposed Constitution approach on behalf of all three county councils of which the Eastern IFCA is a joint committee (the other two councils being Suffolk County Council and Norfolk County Council). This advice was offered at no cost to the Eastern IFCA.

While the county councils have no legal power to make standing orders for the Authority, their Monitoring Officers do have a legal role in ensuring that the Eastern IFCA operates

within the law. This role arises from the Authority's status as a joint committee of the three county councils. Therefore, the support of the Monitoring Officers would provide a helpful external validation of the Authority's constitutional status enabling it be confident that its approach to corporate governance is sound.

The Authority decided to accept the Lincolnshire County Council Monitoring Officer's offer and agreed to refer further discussion of the draft Constitution to the Finance & Personnel and Regulatory & Compliance Sub-Committees who were also asked to consider the legal advice when it was received and to make recommendations to the next Authority meeting on 31 October 2012.

### **Comment and recommendations:**

#### Comment

The Monitoring Officer commissioned the Assistant Director – Legal Services Lincolnshire to provide the advice. She was given copies of the report to the Authority's July meeting (entitled 'Review of the Authority's Standing Orders') and the Non-elected Members' Code of Conduct which was adopted by the Authority in June 2012. The Assistant Director's note to the Monitoring Officer setting out her advice is in Appendix 2 to this report. Her main points are summarised as follows:

- The majority of the provisions in the standing orders are prescribed by the law which covers the Eastern IFCA and the additional provisions seem entirely sensible.
- The Eastern IFCA is not bound by the Localism Act but its council members are subject to their council's code of conduct under that Act. Similarly, officer representatives of appointing organisations are bound by their employee codes. However, it seems sensible for the Eastern IFCA to set out an expectation of member behaviour and there are sensible provisions in the Constitution allowing member organisations to act if appointee behaviour falls short.

The Assistant Director also draws attention to new Access to Information provisions which came into effect on 10 September 2012 for councils operating executive arrangements under the Local Government Act 2000. These are contained in the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Although these provisions do not apply to IFCA's, the Assistant Director points out that, for councillor members, they will become the standard for determining public access to information about local authority decisions. She suggests that the Eastern IFCA might wish to consider adopting in the future the forward notice provisions for 'key decisions' and the recording and publication of officer 'executive' decisions. The forward notice provisions require the publication of prescribed information about a 'key decision' (including an exempt - 'below the line' – decision) at least 28 days before the decision is to be made (with provisions for urgent decisions), and 'key decisions' are defined as those which involve significant expenditure or savings, or which have a significant effect on communities in two or more council wards or divisions. Any 'key decisions' made by officers or individual members under delegated powers must also be recorded in a prescribed form similar to the minute of a committee 'key decision' and must be published on the council's website.

#### Recommendations

In line with the Authority's July decision, members are asked to consider the proposals for revised standing orders and a Constitution for the Eastern IFCA as set out in the report at Appendix 1, as well as the Assistant Director's advice contained in Appendix 2. In particular, members are asked to consider the following issues:

- Is the deadline in the standing orders for circulating agendas and reports for ordinary sub-committee meetings – at least 5 clear working days before the date of the meeting - appropriate? In considering this issue, members should note that for meetings of the full Authority this deadline is statutory. 5 clear working days is generally considered to be the minimum notice period required to give both

members and interested individuals sufficient time to read meeting papers and make any additional enquiries they consider necessary before the meeting.

- Should the Constitution be available for public access on the Eastern IFCA's website?
- Should the Authority review the restriction on eligibility for the offices of Chair and Vice-Chair at its meeting in January 2013?
- Should officers be asked to carry out a review of delegations of function and make initial recommendations to the Authority meeting on 31 October 2012? This will give the Eastern IFCA's new Chief Executive Officer the opportunity to consider the need for further delegations to improve the management and decision-making efficiency of the organisation.
- Should the Authority consider whether to adopt procedures relating to the forward planning and recording of 'key decisions'?

**Consultation:** As indicated above, there has been consultation with the Lincolnshire County Council Monitoring Officer. He has circulated the advice in Appendix 2 to the Monitoring Officers for Norfolk and Suffolk County Councils at, at the time of writing had received no dissenting comments. The Clerk will update members at the meeting.

**Financial implications:** There are no additional financial or resource requirements arising from the adoption of the draft Constitution.

**Regulatory implications:** There are no regulatory implications in terms of the Eastern IFCA's regulatory powers under the Marine and Coastal Access Act 2009.

**Publicity:** Members are asked to consider whether the Constitution should be published on the Authority's website.

#### **Resolutions:**

- 1. To recommend that, at its meeting on 31 October 2012, the Authority should:**
  - a) accept the advice commissioned by the Lincolnshire County Council Monitoring Officer as set out in Appendix 2;**
  - b) adopt the Constitution set out in Appendix 1 (*subject to any amendments agreed by the Finance & Personnel and Regulation & Compliance Sub-Committees*);**
  - c) agree that the Constitution should be published on the Eastern IFCA's website;**
  - d) review the current restriction on members' eligibility for the offices of Chair and Vice-Chair of the Authority at its meeting in January 2013;**
  - e) ask officers to review the applicability of the new Access to Information provisions to the Eastern IFCA's decision-making and make recommendations to a future Authority meeting.**
- 2. To ask officers to begin a review of delegations of function and make initial recommendations to the Authority meeting on 31 October 2012.**

#### **Background documents**

1. 6<sup>th</sup> Eastern IFCA 25 July 2012: Agenda item 11 - Review of the Authority's Standing Orders
2. Eastern IFCA Standing Orders
3. Marine and Coastal Access Act 2009
4. Eastern Inshore Fisheries and Conservation Order 2010

Mary Clancy  
Contracted Clerk to the Eastern IFCA  
18 September 2012

### 6<sup>th</sup> Eastern IFCA

#### Agenda Item: 11

25 July 2012

#### Review of the Authority's Standing Orders

1. At its meeting on 25 April 2012, the Authority agreed to carry out a full review of its standing orders at the 6<sup>th</sup> Eastern IFCA meeting on 25 July 2012.

#### Background to the review

2. The Authority's current standing orders were adopted at the 1<sup>st</sup> Transition meeting on 11 October 2010 and are based on those of the Eastern Sea Fisheries Joint Committee with amendments to reflect some of the requirements in the Eastern Inshore Fisheries and Conservation Order 2010.
3. While the standing orders were suitable for the more limited remit of the Joint Committee, it has become increasingly clear that a different approach is required to reflect the complex legal basis of the Eastern IFCA. Officers are therefore proposing that the Authority adopts a constitution which will include comprehensive standing orders; a schedule of delegations indicating which powers of the Eastern IFCA have been delegated to officers, sub-committees or individual members; the Members' Code of conduct; and the Authority's key governance policies such as the financial regulations and the fraud and corruption policy.
4. This approach would locate all the Authority's IFCA's key governance documents in the one place making it easier to ensure that they are kept up-to-date as the organisation develops and as changes in the law, policy guidance or good practice occur. It would also increase the transparency of the Authority by making it easier for stakeholders and members of the public to understand the legal, policy and administrative framework within which the Authority operates. To this end, officers propose that that the Constitution, if adopted is posted on the website.

#### The draft Constitution

5. The proposed draft Constitution for the Eastern IFCA is attached as Appendix A. Chapters 1 and 4 are new documents and are included in Appendix A. The other proposed chapters are existing Authority documents that have been agreed by the Authority in the past and, therefore, have not been repeated in Appendix A.

#### Chapter 1: Standing orders

6. The first part of the proposed Constitution is the standing orders for the Authority. In order to distinguish between elements that are statutory requirements and those that are the choice of the Authority, the statutory requirements are indicated in footnotes. The purpose of the footnotes is also to make it easier for officers and members to find the legal sources that govern the Authority's administrative arrangements, taking into account that the Eastern IFCA does not employ a legal officer.
7. Section 1 of the standing orders sets out the requirements for membership of the Eastern IFCA, including the composition of the Authority and the circumstances in which membership of the Authority can come to an end. Most of this section consists of statutory requirements.
8. Section 2 sets out the Eastern IFCA's requirement that members attend at least 50% of the total number of meetings they are eligible to attend in a year, and its stipulation that no substitutes for members of the Authority will be allowed.
9. The sanction available to the Authority where members fail to attend the required number of meetings is to request the appointing authority to reconsider the appointment.

10. Sections 3 and 4 contain provisions for the appointment of the Chair and Vice-Chair of the Eastern IFCA. The Authority has decided that the Chair and Vice-Chair should be council members and has appointed council members to these offices until April 2013. As this is no longer a legal requirement, some members have indicated that this decision should be reconsidered at an appropriate time in the future. Officers are recommending that the decision should be reviewed at the Authority's meeting in January 2013.
11. This section also includes a role description for Chair of the Authority, as well as the circumstances in which the term of office of a Chair or Vice-Chair can come to an end, most of which are statutory.
12. Section 5 deals with meetings of the full Authority and contains provisions that are in the current standing orders as well as statutory provisions. Section 6 contains the legal quorum for full Authority meetings.
13. Section 7 sets out the timescales for producing agendas and reports for meetings of the full Authority and sub-committees, as well as provisions for dealing with exempt or confidential ('below the line') items, and for making agendas and papers available to the public.
14. Arrangements for meetings of the full Authority must comply with the statutory timescales in this section, (which are mainly contained in the Local Government Act 1972 as amended by more recent legislation, including the Local Government [Access to Information] Act 1985 and subsequent amendments). The timescales are intended to give members of the public sufficient time to read agendas and papers for local government meetings, and to lobby their councillors or representatives in advance of the meeting if they wish to do so, as well as arranging to attend in person. However, the Marine and Coastal Access Act has not applied these statutory requirements to sub-committees of IFCA's, only to full Authority meetings. Similarly, the legal constraint on late agenda items, also set out in Section 7, only applies to full Authority meetings.
15. The Authority's current standing orders are unclear as to whether it intended to apply the same timescales to sub-committees as to the full Authority. This section has been drafted on the basis that the same standards are applied. However, the Authority could apply different timescales for sub-committee meetings – for example, a three clear working day deadline for circulation of sub-committee agendas and papers rather than the statutory five days. If so, members may wish to consider whether this, arguably less transparent, approach is appropriate for sub-committees that have delegated decision-making powers and so are, in effect, acting as if they were the full Authority.
16. Again, Section 8 deals with the statutory requirements which apply to the full Authority for the management of minutes and records of decisions. The current standing orders apply these to sub-committees also.
17. Paragraphs 9.1-9.27 of Section 9 sets out some procedural rules for conducting meetings which largely codify the Authority's current practice and reflect the informal, consensual but rigorous approach of the Eastern IFCA to decision-making. The rules are described in some detail to enable members (particularly those who have not been council members), and officers who are new to local government meetings, to understand the Eastern IFCA's procedures and conventions more easily. Section 9 also contains more formal rules of debate which could be useful in dealing with matters where consensus is more difficult and more formality is required. However, the Authority may not see a need for more formal rules and may wish to leave them out of the standing orders.
18. Section 10 repeats the Authority's current restriction on recording meetings, and sections 11 and 12 largely codify the Authority's current practices in relation to sub-committees and informal working groups.
19. Section 13 deals with the participation of people who are not Eastern IFCA members in the Authority's meetings. In particular, it recognises the right of the Chair of a

meeting to invite public participation if this is considered appropriate. It also clarifies the current right of members of the public to raise an issue at a meeting by writing to the CEO in advance. Officers propose that such requests should be submitted at least two days before the meeting and, where the CEO and the Chair of the meeting decide not to put the matter forward, the person concerned will get a prompt written response to the issue they have raised. Again this is intended to codify current practice.

20. Section 14 clarifies procedure for holding an extraordinary meeting, based on the statutory requirements for extraordinary meetings of the full Authority. Extraordinary meetings are called at shorter notice than ordinary meetings for urgent purposes only.
21. Finally, Section 15 sets out the main legal exemption criteria which enable an item for a meeting to be treated as 'below the line'. The current standing orders apply the statutory provisions for excluding the public from a full Authority meeting (of which the criteria are a part), to sub-committee meetings because sub-committee meetings are also held in public. Decisions on exemptions are also subject to the requirements of the Freedom of Information Act 2000.

#### Chapter 2: Members' Code of Conduct

22. The new Code of Conduct was recently adopted by the Finance & Personnel Sub-Committee on behalf of the Authority.

#### Chapter 3: Marine Management Organisation appointees: Terms and conditions of appointment

23. The MMO's terms and conditions of appointment for appointees are currently available on its website. It is proposed to include them in the Eastern IFCA's Constitution for ease of reference, particularly for new members who are not MMO appointees and for officers. The MMO document has not been attached to this report but can be seen at the following link: [MMO terms of reference](#)

#### Chapter 4: Scheme of Delegations

24. Article 17 of the Eastern Inshore Fisheries and Conservation Authority Order 2010 permits the Authority to delegate any of its functions to a member, employee or sub-committee of the Authority. The purpose of a scheme of delegations is to set out, and maintain up-to-date, a record of the functions that a body has delegated to ensure, in particular, that decision-makers are clear about the authority for their actions.
25. The draft scheme of delegations is Appendix 2 to this report. It is incomplete as it only sets out the functions that the full Authority has delegated to sub-committees, the Chief Executive and the Chair and Vice-Chair on an ongoing basis, by way of specific resolution at meetings.
26. Currently, few functions are delegated to individual members and, in delegating functions to sub-committees, the Authority did not specify that the sub-committees had the power to delegate further to individual members or officers. To ensure that all necessary delegations are in place taking into account the changes taking place in the organisation, officers propose that a report is presented to the next full Authority meeting on 25 October 2012 reviewing all current delegations and making recommendations for the future. The review should include those delegations that have been made for specific, one-off, purposes to see whether they indicate a need for a more extensive, ongoing delegation of functions to ensure the Authority's efficiency.

#### Chapters 5 and 6: Financial Regulations and the Fraud and Corruption Policy

27. It is usual for the constitutions of complex organisations to include governance policies related to financial management and the prevention of organisational crime. The Authority may consider it appropriate to include in the Constitution other regulatory and management policies

## Recommendations

28. Members are asked to consider the following options:
- a) Does the Authority agree to adopt a 'constitution' approach as described in the report, instead of its current 'stand-alone' standing orders?
  - b) Does the Authority wish to adopt the Constitution in Appendix A to the report?
  - c) If the Authority wishes to adopt the appended Constitution, does it wish to:
    - i) Reduce the timescales in the standing orders for producing sub-committee agendas and reports from 5 clear working days to 3 clear working days, or
    - ii) keep them at 5 clear working days in line with the full Authority?
    - iii) Include in the standing orders formal rules of debate for use if required?
    - iv) Include additional governance policies in the Constitution?
    - v) Make the Constitution available on the Eastern IFCA's website?
  - d) Does the Authority agree to review the restriction on eligibility for the offices of Chair and Vice-Chair at its meeting in January 2013?
  - e) Does the Authority agree to request officers to carry out a full review of current delegations of function and whether further delegations are needed to ensure the efficiency of the organisation?

## Background Documents

1. Eastern IFCA Standing Orders
2. Marine and Coastal Access Act 2009
3. Eastern Inshore Fisheries and Conservation Order 2010

Mary Clancy  
Contracted Clerk to the Eastern IFCA  
17 July 2012

## APPENDIX A

# EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY CONSTITUTION

The Eastern Inshore Fisheries and Conservation Authority (the Eastern IFCA) was established under Chapter 1 of Part 6 of the Marine and Coastal Access Act 2009 and the Eastern Inshore Fisheries and Conservation Order 2010. It is a stand-alone joint committee of Lincolnshire, Norfolk and Suffolk County Councils.

The Eastern IFCA has defined its purpose and vision as follows:

*"Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry."*

In this Constitution, the Eastern IFCA sets out how it will operate, how its decisions will be made and the procedures that it will follow in order to ensure efficient, transparent and accountable decision-making in line with its purpose and vision, its policies and legal requirements. The Constitution will be reviewed annually at the Eastern IFCA's April meeting.

### Contents

- 1. Standing Orders**
- 2. Members' Code of conduct**
- 3. Marine Management Organisation appointees : Terms and conditions of appointment**
- 4. Scheme of Delegations**
- 5. Financial Regulations**
- 6. Fraud and Corruption Policy**
- 7. *Any other governance policies***

# EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY CONSTITUTION

## CHAPTER 1: STANDING ORDERS

The Standing Orders for the Eastern IFCA include provisions required under the Marine and Coastal Access Act 2009, the Eastern Inshore Fisheries and Conservation Order 2010 and the Local Government Act 1972 as well as provisions adopted by the Authority. The footnotes indicate the statutory provisions.

### 1. Membership of the Eastern Inshore Fisheries and Conservation Authority

- 1.1 The Authority is made up of 21 members as follows<sup>1</sup>:
- Seven county councillors appointed by Lincolnshire County Council (two members), Norfolk County Council (three members) and Suffolk County Council (two members);
  - 12 'general' members appointed by the Marine Management Organisation (MMO) who are:
    - a) *'persons acquainted with the needs and opinions of the fishing community of the district, and*
    - b) *persons with knowledge of, or expertise in, marine environmental matters.*<sup>2</sup>
  - Two 'additional' members appointed by Natural England and the Environment Agency.<sup>3</sup>
- 1.2 One 'general' member must be an employee of the MMO.<sup>4</sup>
- 1.3 A person is not eligible for appointment or re-appointment as a member of the Eastern IFCA if they have been convicted of a criminal offence and the conviction is not spent for the purposes of the Rehabilitation of Offenders Act 1974(1).<sup>5</sup>
- 1.4 The proceedings of the Eastern IFCA will not be invalidated if a vacancy occurs or if there is a defect in the election or qualifications of any member.<sup>6</sup>

#### Terms of appointment

- 1.5 The terms of appointment of each member are determined by their appointing organisation.<sup>7</sup> The terms of appointment for members appointed by the MMO are in Section 3 of this Constitution.
- 1.6 The maximum period of appointment for each member is ten years from 1 October 2010 or the date from which the member is appointed, if later.

#### Resignation of a member

- 1.7 A member may resign from the Eastern IFCA by giving written notice to the Authority and to their appointing body.<sup>8</sup>

#### Suspension of a member

- 1.8 If criminal proceedings are started against a member, the Eastern IFCA or the appointing body may suspend the member's appointment. If the member's appointment is suspended, they will also be suspended from acting as an office-holder on behalf of the Authority.
- 1.9 The suspension will end if the member is acquitted of the offence or the proceedings are discontinued or withdrawn.

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<sup>1</sup> Article 5(1) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>2</sup> Section 151(2) Marine and Coastal Access Act 2009

<sup>3</sup> Article 5(4) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>4</sup> Article 5(2)(b) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>5</sup> Article 12 Eastern IFCA Order 2010

<sup>6</sup> Paragraph 43 Schedule 12 Local Government Act 1972

<sup>7</sup> Article 6(2) Eastern IFCA Order 2010

<sup>8</sup> Article 9(1) Eastern IFCA Order 2010

- 1.10 If a council member's membership of their county council is suspended by that county council, their membership of the Eastern IFCA will also be suspended, as will be their ability to act as an office-holder for the Authority. This includes the offices of Chair and Vice-Chair of the Authority.<sup>9</sup>
- 1.11 If the council member's suspension ends, it will be up to the relevant county council to decide whether to re-appoint the member to the Eastern IFCA.

#### Termination of membership

- 1.12 A member's appointment to the Eastern IFCA ends if:
- a) the member is convicted of an offence under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - b) the member receives a fine under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - c) the member ceases to be a member of the county council that appointed them to the Authority.<sup>10</sup>
- 1.14 The Authority may terminate a member's appointment if the member is convicted of any other criminal offence other than those in paragraph 1.12.<sup>11</sup>
- 1.15 A member's appointment also ends when they reach the end of their term of appointment.

### **2. Members' attendance at meetings**

- 2.1 In each year, a member must attend no less than 50% of the total number of meetings of the full Authority and of sub-committees to which they have been appointed. A year is defined as the period from 1 April to 31 March.
- 2.2 If a member fails to attend the required number of meetings, the Chair of the Authority may ask the appointing organisation to reconsider the appointment of the member.
- 2.3 No substitutes are allowed for members of the Authority.

### **3. Appointment of the Chair of the Eastern IFCA**

- 3.1 At the April meeting of the Authority, members will elect a Chair who will serve for the year beginning with the meeting at which they are elected and ending with the April meeting the following year.<sup>12</sup>
- 3.2 The Chair must be a council member from one of the three county councils.
- 3.3 A member is not eligible to stand as Chair if they have previously been removed from this office<sup>13</sup> or from the office of Vice-Chair<sup>14</sup>.
- 3.4 The Chair may stand for re-election for a second year but will not be eligible for election to the post of Chair again for a period of two years following the end of their term of office (whether this is one or two years).
- 3.5 Nominations for the post of Chair will be made orally to the Clerk of the Eastern IFCA at the April meeting and the election will be by vote of the members present.
- 3.6 If there is an equal number of votes for the members nominated, the Clerk will decide the election by lot.

#### Role of the Chair of the Eastern IFCA

- 3.7 The role of the Chair of the Eastern IFCA is to:

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<sup>9</sup> Article 10 Eastern IFCA Order 2010

<sup>10</sup> Article 11(1) Eastern IFCA Order 2010

<sup>11</sup> Article 11(2) Eastern IFCA Order 2010

<sup>12</sup> Article 7 Eastern IFCA Order 2010

<sup>13</sup> Article 8(6) Eastern IFCA Order 2010

<sup>14</sup> Article 14(5) Eastern IFCA Order 2010

- ensure that the Authority is able to carry out the business at its meetings efficiently, in line with the its plans and policies, legal duties, Constitution and standing orders, and
- enable members to participate fully in discussions and decisions so that the Authority can benefit from their experience and expertise, and their knowledge of the interests of the Eastern IFCA’s communities and stakeholders.

3.8 In fulfilling this role, the Chair will work closely with, and take advice from the Authority’s CEO and professional officers and its Clerk.

3.9 The Chair will also attend such meetings and functions as are necessary in order to represent the interests of the Eastern IFCA on the advice of the CEO and, as appropriate, the Clerk.

Resignation of the Chair of the Eastern IFCA

3.10 The Chair of the Eastern IFCA may resign the office by giving notice in writing to the Authority.<sup>15</sup>

3.11 Following the resignation of the Chair, the Authority must appoint another eligible member to the office until the next April meeting of the Authority.<sup>16</sup>

Removal from the office of the Chair of the Eastern IFCA

3.12 The Authority may remove a member from the office of chair if it considers that the member is failing, or has failed, to discharge the duties of chair in accordance with legal requirements and its standing orders. The member concerned is not eligible to be re-appointed as Chair<sup>17</sup> or appointed as Vice-Chair.<sup>18</sup>

3.13 Following the removal of the Chair, the Authority must appoint another eligible member to the office until the next April meeting of the Authority.<sup>19</sup>

Termination of appointment of the Chair of the Eastern IFCA

3.14 Where the appointment of a member who is also the Chair of the Eastern IFCA is terminated or comes to an end, the Authority must appoint another eligible member to the office of Chair.<sup>20</sup> A member who has previously been removed from the office of Chair or Vice-chair cannot be appointed as Chair.<sup>21</sup>

3.15 The member appointed as Chair holds the office until the next April meeting of the Eastern IFCA.<sup>22</sup>

**4. Appointment of the Vice-Chair of the Eastern IFCA**

4.1 At the April meeting of the Authority, members will elect a Vice-Chair for the year beginning with the meeting at which they elected and ending with the April meeting the following year. The Vice-Chair will chair meetings of the Authority in the absence of the Chair<sup>23</sup>

4.2 The Vice-Chair must be a council member from one of the three county councils.

4.3 A council member cannot be appointed or re-appointed as Vice-Chair if they have been previously removed from this office or from the office of Chair.<sup>24</sup>

4.4 The Vice-Chair may be appointed for a further year.

<sup>15</sup> Article 9(2) Eastern IFCA Order 2010

<sup>16</sup> Article 9(3),(4) and (5) Eastern IFCA Order 2010

<sup>17</sup> Article 8(1),(2) and (6) Eastern IFCA Order 2010

<sup>18</sup> Article 14(5) Eastern IFCA Order 2010

<sup>19</sup> Article 8(5) Eastern IFCA Order 2010

<sup>20</sup> Article 11(3) Eastern IFCA Order 2010

<sup>21</sup> Articles 8(6) and 14(5) Eastern IFCA Order 2010

<sup>22</sup> Article 7(4) Eastern IFCA Order 2010

<sup>23</sup> Article 14(1) Eastern IFCA Order 2010

<sup>24</sup> Article 14(4) and (5) Eastern IFCA Order 2010

- 4.5 The Vice-Chair is eligible for appointment to the office of Chair on serving either one or two terms as Vice-Chair.

Resignation, removal from office or termination of the appointment of the Vice-Chair of the Eastern IFCA

- 4.6 Paragraphs 3.10-3.15 of these standing orders apply to the Vice-Chair as to the Chair.<sup>25</sup>

**5. Meetings of the full Authority**

- 5.1 Meetings of the full Authority will take place quarterly in January, April, July and October each year.
- 5.2 The date and time of meetings for the following year will be agreed at the October meeting.
- 5.3 Meetings will be held at locations which are convenient for members which provide access for the members of the public who might wish to attend.
- 5.4 If the Chair is absent from a meeting of the full Authority, the Vice-Chair will take the role. If both the Chair and Vice-Chair are absent, members will elect a member to chair the meeting.<sup>26</sup> The Clerk will take the chair to conduct the election. The member so elected must be a council member. Election will be by way of seconded nomination and vote.
- 5.5 The full Authority may delegate any of the Eastern IFCA's functions to a sub-committee, member or employee of the Authority if it considers it expedient to do so.<sup>27</sup>

**6. Quorum for a meeting of the full Authority**

- 6.1 The quorum for a meeting of the full Authority is six, including at least one council member and one member appointed by the MMO (a 'general' member).<sup>28</sup>

**7. Access to agendas and papers for ordinary meetings of the full Authority and its sub-committees**

- 7.1 The Clerk will give up to 10, but not less than five, clear days' notice of any meeting by emailing details of the meeting to all relevant members. The CEO will ensure that the notice of meeting is posted on the Authority's website and at its office when it is sent to members.<sup>29</sup>
- 7.2 The Clerk will email copies of the agenda and papers for a meeting to members at least five clear days before the date of the meeting. The CEO will ensure that copies of the agenda and papers are posted to the Authority's website and are made available for inspection at the Authority's office when they are emailed to members.<sup>30</sup>
- 7.3 Five clear days has been defined in case law as excluding the day of the meeting and the date on which the member receives the agenda or paper, and weekends and public holidays.

Late agenda items

- 7.4 An item of business for a meeting may not be added to an agenda less than five clear working days before the date of a meeting or tabled at the meeting, unless the Chair of the meeting decides that there are special circumstances which make

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<sup>25</sup> Article 14(3) Eastern IFCA Order 2010

<sup>26</sup> Article 14(2) Eastern IFCA Order 2010

<sup>27</sup> Article 17 Eastern IFCA Order 2010

<sup>28</sup> Article 13(1) Eastern IFCA Order 2010

<sup>29</sup> Section 100A(6)(a) Local Government Act 1972

<sup>30</sup> Section 100B(3) Local Government Act 1972

the late item a matter of urgency and require it to be considered at the meeting. The special circumstances must be recorded in the minutes for the meeting.<sup>31</sup>

- 7.5 Special circumstances justifying the addition of a late item to an agenda will generally occur where significant information or circumstances arise within the five clear working day period which could not reasonably have been known or anticipated before the agenda for the meeting was agreed and published.
- 7.6 If the Chair agrees to add an item to an agenda, the revised agenda and the relevant paper will be circulated to members, and then posted to the Authority's website and made available for public inspection at the Authority's office.<sup>32</sup>
- 7.7 The Clerk may withhold a paper from public inspection if the paper contains exempt or confidential information. Every copy of an exempt or confidential paper will be marked "not for publication"<sup>33</sup> and the exemption category will be indicated on the paper.<sup>34</sup> The exemption categories are set out in paragraph 15.1 of these standing orders.

#### Background documents

- 7.8 The author of a paper relating to an item on the agenda for a meeting will set out, at the end of the paper, a list of background documents which contain facts or matters on which the report, or an important part of it, was based and which the author has relied on in preparing the report. The list of background papers should exclude published works and must exclude documents which disclose exempt or confidential information.<sup>35</sup>
- 7.9 The Clerk will ensure that a copy of each document included in the list of background documents is kept and made available for public inspection for four years after the date of any meeting or decision.

#### Form in which agendas and papers will be made available

- 7.10 Agendas and papers for meetings will be circulated to members in electronic form by email. A member may request a hard copy of any document.
- 7.11 Agendas and papers that have not been withheld from public inspection will be available to the members of the public in electronic form on the Authority's website. Such documents will also be available in hard copy form at the relevant meeting.<sup>36</sup>

### **8. Access to minutes and records of decisions**

- 8.1 The minutes of the proceedings of each meeting will be kept by the Clerk in a loose leaf folder maintained for that purpose, the pages of which will be consecutively numbered.<sup>37</sup>
- 8.2 The minutes will be presented for members to confirm as an accurate record at the next suitable<sup>38</sup> meeting of the relevant body and the Chair of the meeting will sign the minutes and initial each page.<sup>39</sup>
- 8.3 The minutes will not be open to discussion but members may propose corrections or additions where they identify inaccuracies or omissions.
- 8.4 The minutes will include a list of members present at the meeting.<sup>40</sup>

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<sup>31</sup> Section 100B(4) Local Government Act 1972

<sup>32</sup> Section 100B(3)(b) Local Government Act 1972

<sup>33</sup> Section 100B(5) Local Government Act 1972

<sup>34</sup> Schedule 12A Local Government Act 1972

<sup>35</sup> Section 100D Local Government Act 1972

<sup>36</sup> Section 100B(6) Local Government Act 1972

<sup>37</sup> Paragraph 41(2) Schedule 12, Local Government Act 1972

<sup>38</sup> Paragraph 41(4) Schedule 12, Local Government Act 1972

<sup>39</sup> Paragraph 41(2) Schedule 12, Local Government Act 1972

<sup>40</sup> Paragraph 40 Schedule 12, Local Government Act 1972

- 8.5 Members can request a copy of the unconfirmed minutes of a meeting for their personal information but unconfirmed minutes will not normally be published until after they have been agreed by the relevant meeting.
- 8.6 The Clerk will keep and make available for public inspection for six years after a meeting of the Authority or a sub-committee:
- the minutes of the meeting, except for any part of the minutes that includes exempt or confidential information, and
  - a disclosable summary of any proceedings during a part of the meeting that was not open to the public, if the published minutes do not provide a reasonably fair and coherent record of those proceedings.<sup>41</sup>

## **9. Rules of procedure for ordinary meetings of the full Authority or Sub-Committees**

### Order of business

- 9.1 The business to be conducted will be dealt with in the order set out in the agenda, unless the Chair decides to vary the order.
- 9.2 The format for the agenda will normally be as follows:
- Item 1: Welcome by the Chair
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: Minutes of the last meeting
  - Item 5: Matters Arising
- Items for decision
- Items for information
- Last Item: Any other urgent business
- 9.3 At the April meeting of the full Authority, the first item on the agenda will be the election of the Chair of the Authority. For this item, the Clerk will take the chair to conduct the election.
- 9.4 The fourth item on the agenda for the April full Authority meeting will be the election of the Vice-Chair. This will come before the items for decision.
- 9.5 If the Chair and Vice-Chair are absent from a full Authority meeting, the election of a Chair for the duration of the meeting will become the first item on the agenda. For this item, the Clerk will take the chair to conduct the election.
- 9.6 If it is necessary for the full Authority to appoint a member to a sub-committee, this will be the sixth item on the agenda and will come before the items for decision.
- 9.7 Urgent business items will only be taken at any meeting if the Chair is satisfied that the item is urgent and could not reasonably have been included in the published agenda for the meeting.
- 9.8 At the end of any meeting, the Chair may invite members to remain for informal discussion of matters put forward by officers or members but these discussions will not form part of the business of the meeting and no formal decisions will be taken.

### Exclusion of the public and the media from a meeting

- 9.9 The media and the public will be excluded from meetings whenever it is likely that exempt or confidential information will be disclosed.<sup>42</sup>
- 9.10 The decision to exclude the media and the public must be made by a resolution of the meeting which must state the reasons for the exclusion.<sup>43</sup> The reasons must be recorded in the minutes of the meeting.

<sup>41</sup> Section 100C Local Government Act 1972

<sup>42</sup> Section 110A(2) and (3) Local Government Act 1972

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<sup>43</sup> Section 110A(4) and (5) Local Government Act 1972

## Motions

- 9.11 A member may put forward a motion for debate at any meeting. The motion may propose the resolution contained in a paper for an item on the agenda, or a resolution formulated at the meeting if the paper contains options or no specific proposals, or it may propose an amendment to a resolution.
- 9.12 All motions must be seconded by another member present.
- 9.13 A motion may be put forward orally unless the Chair requires it to be put in writing. In this case, the written motion must be signed by the proposer and given to the Clerk as soon as it has been seconded.
- 9.14 Where the motion is an amendment to an original resolution, it must be considered and voted on before the resolution is put to the meeting. If the amendment is carried by a majority vote, the amended resolution becomes the substantive resolution to be considered by the meeting. Further amendments to the substantive resolution may be moved.
- 9.15 If an amendment is not carried, further amendments to the original resolution may be moved.
- 9.16 Members may put forward procedural motions during the course of a debate. These are as follows:
- to refer the matter to officers or to the full Authority or to a sub-committee, as relevant, for further consideration
  - to withdraw a motion
  - to postpone consideration of the matter
  - to move to a vote
  - to adjourn a meeting
  - to suspend Standing Orders

## Rules of debate

- 9.17 The CEO will decide in advance of a meeting who should present an item on the agenda. This will normally be the report author, but may be a relevant senior manager or Eastern IFCA member where appropriate.
- 9.18 Following the presentation of the report, the Chair will open the item to general debate. In order to encourage participation by all members and support the consensual approach of the Eastern IFCA, debates will normally follow the procedure set out in paragraphs 9.19-9.27 below. (Where the Chair determines that a more formal process of debate is required, the procedure in paragraphs 9.28-9.34 below will be followed.)
- 9.19 Members will indicate their wish to speak by raising their hand. The Chair will aim to take speakers in the order in which they indicate.
- 9.20 At the Chair's discretion, members may speak more than once on an item.
- 9.21 In the course of debate, members may ask officers for clarification or information. At the Chair's discretion, officers may enter the debate to contribute information or explanations.
- 9.22 The Chair will determine when the debate should be closed.
- 9.23 Where the item requires a decision, and a resolution has been proposed in the paper, the Chair will put the resolution to the meeting and will ask for a mover and a seconder. If no amendments to the resolution are proposed, the Chair will put the resolution to the vote.
- 9.24 If a member indicates that they wish to amend the resolution, the Chair will request a seconder. The Chair will then invite the mover of the amendment to speak, before opening a general debate on the amendment.

- 9.25 When the debate has been closed, the Chair will put the amended resolution to the vote.
- 9.26 If the amendment is carried, it becomes the substantive resolution before the meeting. If no more amendments are proposed, the Chair will normally put the substantive resolution to the vote. If the Chair considers that further information or debate is required to enable members to take an informed decision on the substantive resolution, they may invite further general debate before putting it to the vote.
- 9.27 If a resolution, whether amended or not, is put to the vote and is not carried, the Chair will either invite members to put forward a new resolution for consideration, or will defer the decision to a future meeting. In deciding the most appropriate course of action, the Chair will take the advice of the CEO (or, in the absence of the CEO, the most senior officer present at the meeting), and the Clerk.

#### Rules of formal debate

- 9.28 Should the Chair decide that a more formal structure for debate is necessary, the following procedure will be used.
- 9.29 Where the meeting is debating an original or substantive resolution (not an amendment) proposed by a member, speakers will be taken in the following order:
- The proposer of the resolution
  - The seconder of the resolution
  - Members in the order in which they indicate
  - The proposer of the resolution, exercising the right to reply
- 9.30 Where the meeting is considering an amendment to a resolution, speakers will be taken in the following order:
- The proposer of the amendment
  - The seconder of the amendment
  - Members in the order in which they indicate
- 9.31 The seconder can reserve their right to speak until later in the debate.
- 9.32 The proposer of an amendment will not have the right to reply. If the amendment is carried, they will be able to speak again to propose the substantive resolution.
- 9.33 Except for the proposer of an original or substantive resolution, members will only be entitled to speak once unless they are raising a point of information or a point of order. A point of information must offer relevant factual information or clarification only, and not include argument or opinion; a point of order must identify how the Authority's standing orders have been breached. The Chair will determine whether the point of information or order is admissible.
- 9.34 When the proposer has exercised the right to reply, the Chair will put the resolution to the vote.

#### Reconsidering resolutions agreed by the full Authority or a sub-committee

- 9.35 No resolution agreed by the full Authority or a sub-committee will normally be reconsidered within 6 months of the date the decision was made.
- 9.36 Where the CEO considers it necessary to reconsider a decision within this period, the agenda item will state the reason for considering the matter again and the changes proposed to the agreed resolution.

#### Voting

- 9.37 All members of the Eastern IFCA or of a sub-committee who are present at a meeting of the Authority or of the relevant sub-committee will be entitled to vote, unless they have declared an interest under the Members' Code of Conduct which

prohibits them from voting, or the vote is on the setting of the Authority's annual budget.<sup>44</sup>

- 9.38 Only council members of the Authority can vote on the setting of the annual budget.
- 9.39 Voting at all meetings will be by a show of hands unless the Chair or a member requests a recorded vote. In this case, the Clerk will ask each member present to declare their vote and this will be recorded in the minutes of the meeting.
- 9.40 A resolution or amendment will be deemed to be carried if it receives a simple majority of the votes of those present. Where an equal number of votes are cast for and against a resolution, the Chair of the meeting will have a second or casting vote.<sup>45</sup>

#### Suspension of rules of procedure

- 9.41 The rules of procedure set out in paragraphs 9.1-9.40 may be suspended by a vote of the majority of members of present at a meeting, with the exception of paragraphs 9.1-9.10 and 9.35-9.40.

### **10. Audio-visual recording devices**

- 10.1 The use of audio/visual recording devices by any person at a meeting of the full Authority or a sub-committee is not allowed unless the majority of members present agree to authorise their use.

### **11. Sub-Committees of the Eastern IFCA**

- 11.1 The Authority may establish sub-committees with responsibility for considering or determining functions of the Eastern IFCA.<sup>46</sup>
- 11.2 A sub-committee's power to make decisions on behalf of the Eastern IFCA, or to make recommendations to the full Authority for determination, will be stated in the resolution establishing the sub-committee and will be included by the Clerk in the Eastern IFCA's Schedule of Delegations (Section 4 of the Eastern IFCA's Constitution).
- 11.3 With the agreement of the Chair of a sub-committee, the CEO can refer back to the full Authority for decision a matter which has been delegated to a sub-committee, where it is in the interests of the Eastern IFCA that the matter is determined by the full Authority.<sup>47</sup>
- 11.4 A sub-committee may refer to the full Authority a matter which has been delegated to it where this is in interests of the Eastern IFCA and a majority of sub-committee members agree.<sup>48</sup>
- 11.5 Sub-committees will follow the Rules of Procedure for ordinary meetings set out paragraphs 9.1-9.40 (excluding 9.3-9.6).
- 11.6 The lead officer for the sub-committee will make a written report to the next meeting of the full Authority following the sub-committee's meeting, summarising the discussion and decisions or recommendations of the sub-committee.
- 11.7 Meetings of sub-committees will be held at locations which are convenient for members and which also provide access for the members of the public who might wish to attend.

#### Quorum

- 11.8 The quorum for a sub-committee will be one third of the total membership.

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<sup>44</sup> Note that section 180(4) of the Marine and Coastal Access Act allows council members to veto the Authority's proposed budget

<sup>45</sup> Paragraph 39(1)and(2) Schedule 12 Local Government Act 1972

<sup>46</sup> Article 17(1) Eastern IFCA Order 2010

<sup>47</sup> Article 17(3) Eastern IFCA Order 2010

<sup>48</sup> Article 17(3) Eastern IFCA Order 2010

## Membership

- 11.9 Only members of the Eastern IFCA are eligible to be members of a sub-committee.<sup>49</sup> Any member is eligible to be appointed to any sub-committee.
- 11.10 Each sub-committee will consist of at least nine members of the Authority, including the Chair and Vice-Chair as ex-officio members.
- 11.11 There is no limit to the term that a member can serve on a sub-committee.
- 11.12 Where a vacancy occurs as a result of a member leaving a sub-committee, a replacement member will be appointed by the full Authority at the next meeting following the vacancy.

## Chair and Vice-Chair

- 11.13 Any member of a sub-committee is eligible to stand as Chair or Vice-Chair.
- 11.14 Where the office of Chair or Vice-Chair becomes vacant, members of the sub-committee will elect a Chair or Vice-Chair at the next meeting following the vacancy. The clerk will take the meeting to conduct the election of a Chair.
- 11.15 Nominations for the post of Chair or Vice-Chair will be made orally to the Clerk at the meeting and the election will be by majority vote of the members present.
- 11.16 If there is an equal number of votes for the members nominated, the Clerk will decide the election by lot.
- 11.17 In the absence of both the Chair and Vice-Chair of a sub-committee, the Chair or Vice-Chair of the Authority shall act as Chair for the duration of the meeting.
- 11.18 Should the Chairs and Vice-Chairs of the sub-committee and the Authority not be present, members of the sub-committee will elect one of their number as Chair for the duration of the meeting.

## The role of the Chair of a sub-committee

- 11.19 The role of the Chair of a sub-committee of the Eastern IFCA is to:
- ensure that the sub-committee carries out its business efficiently and lawfully within the remit it has been given by the Authority and in line with the Authority's plans and policies, legal duties, Constitution and standing orders, and
  - enable members to participate fully in discussions and decisions so that the sub-committee can benefit from their experience and expertise, and their knowledge of the interests of the Eastern IFCA's communities and stakeholders.
- 11.20 In fulfilling this role, the Chair will work closely with, and take advice from the Authority's CEO and professional officers and its Clerk.
- 11.21 The Chair will also represent the Eastern IFCA at meetings and functions if requested to do so by the Chair of the Authority and the CEO.

## Substitutes

- 11.22 Any member of the Authority can act as a substitute for a member of a Sub-Committee.
- 11.23 A member who wishes to be substituted at a meeting will, before the date of the meeting, notify the Clerk of the name of the substitute.

## **12. Appointment of working groups**

- 12.1 The Authority or any of its sub-committees may set up informal working groups to examine matters that are within the remit of the Authority or sub-committee. The resolution setting up the working group will define its terms or reference.
- 12.2 Any member or officer of the authority may be a member of a working group.

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<sup>49</sup> Article 17(2) Eastern IFCA Order 2010

12.3 The working group will report back to the meeting that set it up.

### **13. Participation in meetings by members of the public and representatives of partner organisations**

#### Members of the public

- 13.1 All meetings of the full Authority and its sub-committees will be open to members of the public, except where a resolution to exclude the press and public has been agreed by the full Authority or the sub-committee.<sup>50</sup>
- 13.2 Members of the public may not make comments or ask questions at the meeting, unless invited to do so by the Chair of the meeting.
- 13.3 Members of the public may submit written questions or comments for consideration at a meeting. The question or comment should concern with an item on the agenda for the meeting.
- 13.4 The question or comment must reach the CEO at least two days before the date of the meeting. The CEO and the Chair of the Authority will decide whether it is appropriate to put the matter to the meeting.
- 13.5 If it is decided not to put the matter to the meeting, the CEO will ensure that a prompt written response is sent to the member of the public concerned.
- 13.6 Members of the public can also ask individual members to raise issues at a meeting as long as the issue concerns an item on the agenda for the meeting.

#### Representatives of the MMO, Natural England, the Environment Agency and other partner agencies

- 13.7 The members appointed by the Environment Agency and Natural England, and the member appointed as an MMO employee may invite a colleague or colleagues to present information with the prior consent of the CEO.
- 13.8 The CEO, in consultation with the Chair of the meeting, may allow representatives of other partner agencies to present information.

### **14. Extraordinary Meetings**

- 14.1 After consulting the CEO, the relevant Chair or any three members may summon an extraordinary meeting of the full Authority or a sub-committee, for a reason relating to the functions of the Eastern IFCA that they consider urgent, by giving notice to the Clerk.
- 14.2 The Clerk will call a meeting of the full Authority or sub-committee within three clear working days of receiving such a notice.
- 14.3 The agenda for an extraordinary meeting will be as follows:
  - Item 1: Welcome by the Chair
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: The purpose for which an extraordinary meeting has been summoned
  - Item 5: Any other urgent business
- 14.4 No other items, including minutes of the last meeting, will be taken at an extraordinary meeting.<sup>51</sup>
- 14.5 The rules of procedure set out in paragraphs 9.9-9.40 will apply to extraordinary meetings.

### **15. Exempt information under Schedule 12A of the Local Government Act 1972**

- 15.1 The exemption categories referred to in paragraph 1.49 are as follows<sup>52</sup>:

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<sup>50</sup> Section 100A Local Government Act 1972

<sup>51</sup> Paragraph 41(4) Schedule 12, Local Government Act 1972

- Information relating to any individual
- Information which is likely to reveal the identity of an individual
- Information relating to the financial or business affairs of any particular person (including the authority holding the information)
- Information relating to any consultations or negotiations or contemplated negotiations in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
- Information which reveals that the authority proposes –
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or;
  - (ii) to make an order or direction under any enactment
- Information relating to an action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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<sup>52</sup> The exemption categories must be interpreted in the light of the Freedom of Information Act 2000 and the advice of the Information Commissioner

# **EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY CONSTITUTION**

## **CHAPTER 2: SCHEME OF DELEGATIONS**

### **Finance & Personnel Sub-Committee** *(agreed by the Authority on 1 April 2011)*

#### Terms of reference

- To provide an opportunity for detailed discussion and consideration of operational and financial matters including the approval of accounts
- To oversee the development and implementation of a staff development and training strategy
- To consider legislation, policies and procedures that have implications for personnel employed by the authority
- To consider matters relating to the recruitment, remuneration and retention of personnel
- Individuals are drawn from this sub-committee to sit on interview panels

#### Scope of delegation

Decision making powers in all matters within the terms of reference except for the setting of the levy – this remains the responsibility of the full Authority

### **Marine Protected Areas Sub-Committee** *(agreed by the Authority on 1 April 2011)*

#### Terms of reference

- To consider matters related to the management and administration of all marine protected areas in the district

#### Scope of delegation

- Decision making powers related to the management and administration of the WFO 1992
- Recommendations to the full Authority for determination of all other matters within the terms of reference

### **Planning & Communication Sub-Committee** *(agreed by the Authority on 1 April 2011)*

#### Terms of reference

- To oversee the development and implementation of the Authority's vision and strategic planning to deliver the Defra high level objectives
- Preparation of the Authority's annual plan and annual report
- To oversee the development and implementation of a strategic stakeholder engagement and communication strategy
- To oversee the Authority's vessels' operations and their replacement

#### Scope of delegation

- Recommendations to the full Authority for determination of all matters within the terms of reference
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### **Regulatory & Compliance Sub-Committee** *(agreed by the Authority on 1 April 2011)*

#### Terms of reference

- To review the applicability of all Sea Fisheries Committee legacy byelaws
- To oversee the development and implementation of new regulations including byelaws
- To review standing orders relating to enforcement activities

- To oversee the development and implementation of a risk-based enforcement strategy

#### Scope of delegation

Recommendations to the Authority for determination

**Chair of the Eastern IFCA** *(agreed by the Authority on 11 October 2011 and included in standing orders of the time)*

- Authority to sign orders for the payment of money which the Authority may from time to time issue to the respective County Councils, jointly with the CEO

**Vice-Chair of Eastern IFCA** *(agreed by the Authority on 11 October 2011 and included in standing orders of the time)*

- In the absence of the Chair, authority to sign orders for the payment of money which the Authority may from time to time issue to the respective County Councils, jointly with the CEO

#### **Chief Executive Officer**

- Decision-making responsibility for all matters related to the recruitment, retention, management and remuneration of the Authority's staff that have not been delegated to the Finance & Personnel Sub-Committee or reserved to the full Authority *(derived from job description)*
- To be the Eastern IFCA's designated Financial Officer under Section 151 of the Local Government Act *(derived from job description)*
- Decision-making responsibility for all matters related to the Authority's financial management that have not been delegated to the Finance & Personnel Sub-Committee or reserved to the full Authority *(derived from job description)*
- Authority to instigate and take legal proceedings for offences under any legislation which empowers the Authority to take legal proceedings in accordance with Section 101(1) & (10) of the Local Government Act 1972, after consultation with the Chair and Vice-Chair of the Authority *(agreed by the Authority on 11 October 2011 and included in standing orders of the time)*.
- Authority to make an Emergency Byelaw as described within Section 157 of the Marine and Coastal Access Act 2009 after consultation with the Chair and Vice Chair of the Authority and notification of the Chair and Vice Chair of the Regulatory and Compliance Sub-Committee. On making the Emergency Byelaw, the CEO must call an extraordinary meeting of the full Authority *(agreed by the Authority on 27 July 2011)*.
- Authority to sign orders for the payment of money which the Joint Committee from time to time may issue to the respective County Councils, jointly with Chair, or in the Chair's absence, the Vice-Chair *(agreed by the Authority on 11 October 2011 and included in standing orders of the time)*.

*Together we are stronger*

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Note to David O'Connor – Monitoring Officer LCC – re EIFCA proposed Standing Orders and Code of Conduct.

I have read through the proposed Standing Orders and supporting paper provided by Mary Clancy. The majority of what is provided is as prescribed by the law which covers this body and the additional provisions seem entirely sensible.

As regards the proposed Code of Conduct, it needs to be borne in mind that the EIFCA is not in law independently formally bound by the new arrangements under the Localism Act. Its Councillor members are bound under their respective Council codes (though of course under the new arrangements these can all be different) and any complaint against them would fall to be dealt with under their respective Code and formally adopted arrangements for handling complaints. Likewise the officer representatives will fall under the discipline of their own organisations. That said, it seems sensible for the EIFCA to set out an agreed uniform expectation of behaviour and there are sensible provisions in the constitution allowing member organisations to act should they deem it appropriate if behaviour falls short of that.

I have drawn Mary's attention to the new Access to Information provisions coming into effect for Executives on 10<sup>th</sup> September 2012 – again these do not strictly apply to the EIFCA, only to LA executives but they will soon become the template against which the Councillor members are used to operating within their own Councils and may be something the EIFCA wish to look at adopting in the future, particularly as regards the forward notice provisions for 'key decisions' and the recording and publication of officer 'executive' decisions.

Please don't hesitate to come back to me if I can be of any further help.

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