

# Lancashire Combined Fire Authority

Meeting to be held on 16 December 2024

## His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) thematic inspection into the handling of misconduct in Fire and Rescue Services

(Appendix A refers)

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### Executive Summary

In July 2023, the Home Secretary commissioned HMICFRS to conduct an inspection of the handling of misconduct in Fire and Rescue Services in England. The report was published on the 1 August 2024 and identified a number of issues across the Services inspected and a set of recommendations. The report below details those findings, the recommendations and the Service's current position against the recommendations.

The report also details how members of the public and staff can raise issues of concern, how they would be investigated and dealt with.

### Recommendation

The Fire Authority are asked to note the report.

## 1. Background

On the 13 July 2023, the Home Secretary commissioned HMICFRS to undertake a thematic inspection into the handling of misconduct in Fire and Rescue Services (FRSs) in England. The commission built on a series of critical reports into organisational culture across FRSs and the findings of the HMI spotlight report on values and culture in FRSs published in March 2023.

The inspection took place between October 2023 and January 2024 and carried out detailed inspections of ten FRSs: Cornwall, Dorset and Wiltshire, Greater Manchester, Humberside, Kent, Lincolnshire, Northamptonshire, Staffordshire, Tyne and Wear, and West Midlands. These services were selected to be a representative sample of FRSs across England in terms of size, location, governance structures and performance. The report was published on the 1 August 2024.

The thematic inspection planned to examine;

- a) the extent to which services are identifying and investigating misconduct.
- b) the effectiveness of misconduct processes and how consistently they are applied.

- c) how confident fire and rescue service staff are in raising concerns and in misconduct processes; and
- d) the role of fire and rescue authorities and other organisations in handling misconduct.

The inspection found that whilst bad behaviour could occur anywhere in services, poor behaviour occurred disproportionately on Watches and whilst Watches can be sources of strength, cultures in tightly knit watches and some on-call stations could become toxic when they form 'in groups' and 'out groups'.

In addition, many members of staff were identified as having a lack of confidence in misconduct processes and it was also identified that there was a lack of training. The inspection made a series of recommendations and, attached at appendix A, is the detail in relation to the Service's progress against those actions.

The Service has taken a proactive approach to reviewing the learning from these reports. Progress in relation to this learning and progress against the HMI spotlight report are reported to the Equality, Diversity, Inclusion and Culture (EDIC) Board and also reported to the Fire Authority alongside the Equality, Diversity and Inclusion (EDI) Annual Report, with relevant actions also being included in the EDI Member Champion report.

## **2. Reporting areas of concern**

In terms of supporting individuals to highlight areas of concern, the Service has launched its anonymous reporting helpline, Safecall, and undertaken a communication campaign advising members of staff of the various ways in which matters of concern can be raised.

Where individuals wish to raise complaints about their own employment, the Grievance Procedure and Bullying and Harassment Policy can be utilised.

### **2.1 Grievances**

All members of staff have the right to raise a grievance. Within Lancashire Fire and Rescue Service (LFRS) seven grievances have been raised this financial year which relate to twenty eight members of staff. This compares to nine grievances last year and eight the year before.

### **2.2 Disciplinary**

The Disciplinary Procedure is applied in cases of misconduct, the initial stages can be an informal fact finding or a formal investigative process. The findings from those processes will determine the next stage. On occasion an informal fact finding and investigation can result in no further action.

Since this financial year fifteen disciplinary investigations have begun and from those six cases have been concluded which resulted in:

- One 6-month warning.
- One 12-month warning.
- One dismissal.

- Two resignations, where the investigation was concluded and would have resulted in dismissal.
- One resignation linked to a failure to respond.

Nine cases remain under investigation.

### **2.3 Bullying and Harassment**

This year the Service has received no complaints of bullying and harassment and last year two complaints were received.

### **2.4 Whistleblowing and Safecall**

Issues of concern can also come in via numerous routes utilising Safecall, the Grievance Procedure or Whistleblowing Policy.

The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures which may include:

- Conduct which is an offence or a breach of law (e.g., misconduct in public office)
- Disclosures related to miscarriages of justice
- Health and Safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption (also see the anti-bribery policy)
- Other unethical conduct (e.g. serious breaches of the LFRS Code of Conduct or the LCFA Principles in Public Life)

Where a matter is reported using Safecall it may then be investigated as a Safecall under the Disciplinary or Grievance Procedure depending on the nature of the case.

Since 1 April 2023 to 31 March 2024, six matters of concern were raised utilising Safecall, all of the cases related to behaviour.

Further to the matters being raised the following action occurred:

- Mediation between two individuals and no further action.
- Recruitment and Selection Investigation – no further action.
- Formal investigation resulting in a management letter, additional training.
- Formal investigation resulting in a management letter, additional training.
- Matter investigated under the Grievance Procedure.
- Matter investigated under the Whistleblowing Procedure.

Since 1 April 2024, there have been two complaints utilising Safecall, one matter is under investigation, the other anonymous complaint has been challenging to deal with as no place of work or person is identifiable but the concerns raised will be the subject of training.

### **2.5 Complaints**

Members of the public can make complaints against members of staff and these are initially investigated by the line manager. If misconduct is found to have occurred the matter is passed to Human Resources (HR) where the matter is investigated under the relevant procedure. In this financial year there have been eighteen complaints.

### **Business risk**

A failure to challenge and deal with behaviour that is contrary to the Service values and the Core Code of Ethics can undermine public trust and confidence.

### **Environmental impact**

There is no environmental impact arising from the report.

### **Equality and diversity implications**

Where there are complaints or concerns which relate to any form of harassment, bullying or any form of discrimination these will be fully investigated and appropriate action taken.

### **HR implications**

There are no HR implications arising from the report.

### **Financial implications**

There are no financial issues arising from the report.

### **Legal implications**

There are no legal implications arising from the report.

## **Local Government (Access to Information) Act 1985**

### **List of background papers**

Paper:

Date: 02/12/2024

Contact: Liz Sandiford

Reason for inclusion in Part 2 if appropriate:

## **Appendix A**

### **HMICFRS recommendations and the current position of Lancashire Fire and Rescue Service (LFRS).**

- **Recommendation 1**

By 1 February 2025, chief fire officers should, as a priority, make sure their staff are aware of and follow the Core Code of Ethics. Services should build the code into all relevant policies and practices.

A range of communication tools have been utilised to communicate the Code of Ethics and the Code has been built into all policies, practices and training.

- **Recommendation 2**

By 1 February 2025, chief fire officers should make sure a policy for probationary staff is in place. This policy should make clear that services can immediately dismiss probationers who fail to meet the required standards of behaviour set out in the Core Code of Ethics and the Code of Ethics fire standard.

The probationary policy makes reference to people behaving in accordance with the Code of Ethics and Service values and individuals can be dismissed where they fail to meet the required standards of behaviour.

- **Recommendation 3**

By 1 May 2025, chief fire officers should make sure their workforce plans allow staff to be moved from a wholetime watch to a different watch or station, within their contractual requirements, proactively and reactively as required.

By 1 May 2025, chief fire officers should also make sure firefighters who are promoted are posted to a different watch or station, including when the promotion is temporary, for two months or more. If this is not possible, chief fire officers should show how the risks of reinforcing a negative culture have been addressed.

Some staff do not understand service policies on social media use. It would be helpful to know exactly what is and is not allowed as they felt that so many things can be taken the wrong way.

The Service's workforce plans and contracts allow for members of staff to be transferred. Often people who are promoted will be transferred, but transfer of staff has to be considered in the context of skills required within functional departments and within different stations depending on the specialist equipment and training demands at that station, for example SRT and Boat. In addition the Service has a number of different shift systems, some members of staff want to work day duty, others 224 and Day Crewing Plus (DCP). The shift system is dependent on individuals personal circumstances. For members of staff who undertake the Flexible Day Crewing (FDC) they are required to live within five minutes of the turn in time of the station.

A communication campaign has been completed in relation to social media. In addition it is talked about regularly at induction and staff meetings so all members of staff are aware of the standards.

- **Recommendation 4**

By 1 February 2025, chief fire officers should make sure their services create or have access to dedicated professional standards function to oversee the investigation of concerns raised within a service or from an external source. This should oversee cases to make sure they are investigated in a fair and transparent way, manage complex cases directly and act as a point of contact for all staff involved.

The Service has expanded the role of the Service Solicitor to include the professional standards function to oversee all cases and to ensure that any learning from cases is applied. LFRS officers who undertake investigations attend ACAS training in how to investigate and are supported by a fully qualified member of staff from Human Resources, they act as a point of contact for all staff involved. Regular case management meetings takes place to ensure that cases are being progressed.

- **Recommendation 5**

By 1 November 2024, chief fire officers should make sure all staff understand how to raise a concern and use grievance and whistle-blowing processes. Chief fire officers should:

- make sure staff know how services will handle responses and maintain confidentiality and anonymity; and
- explain how staff can access services' whistle-blowing capability and the difference between whistle-blowing and other processes for raising concerns.

The Service has delivered a campaign of how members of staff can raise issues of concern. The awareness of staff is evaluated using feedback from the staff survey.

- **Recommendation 6**

By 1 February 2025, chief fire officers should make sure a programme of training is in place for all supervisors and managers on how to manage staff performance and welfare and how to raise an issue. It should be supported by relevant policies and procedures. Training should include:

- staff welfare and absence management;
- the process for managing individual staff performance, addressing poor performance and potential misconduct issues;
- how to handle difficult conversations and resolve issues informally, if appropriate, when a concern is identified; and
- clarifying the role of HR services in helping managers to deal with staff concerns and misconduct issues.

Chief fire officers should make sure all managers and supervisors attend the training programme.

The Service has a supervisory and middle manager development programme which includes Human Resources modules which include performance management and absence management. The programmes are supplemented by additional training for middle managers on how to conduct an investigation and report writing. In addition those in a leadership role attend development on how to handle difficult conversations and other leadership development events. Line managers have ready access to a Human Resources Business Partner to give advice and guidance on people management issues.

- **Recommendation 7**

By 1 May 2025, chief fire officers should make sure the policies and processes for misconduct are consistent for all staff and are fairly applied within their respective conditions of employment. By 1 August 2025, the National Joint Council for Local Authority Fire and Rescue Services and the National Joint Council for Local Government Services, supported by the National Fire Chiefs Council, should make misconduct processes consistent for all staff, irrespective of the terms and conditions of their employment. Many investigations don't have clear terms of reference. The terms of reference should be the starting point for any misconduct investigation. They should clearly set out:

- how the person concerned is alleged to have breached the standards expected
- who the investigator will be
- the provisional time frame for the investigation
- the relevant policies and procedures to be followed; and
- the sources of the evidence that should be collected, including the people who should be interviewed.

Without clear terms of reference to guide it, an investigation is less likely to be effective.

Further to the training delivered by ACAS the importance of the terms of reference is stressed and investigating officers are trained on the formulation of the terms of reference.

- **Recommendation 8**

By 1 November 2024, chief fire officers should make sure all allegations of misconduct are handled in a consistent way and staff have confidence in misconduct processes. Chief fire officers should carry out a full review of the processes, from initial identification of a misconduct issue through to the resolution or outcome. This should include a review of how services;

- monitor and manage investigations;
- maintain accurate records; and
- adhere to required timescales.

The Service has a case conference process and all cases are overseen by the Head of People with an additional safeguard more recently implemented in terms of the new role of Legal Services and Standards Manager. This provides for consistency in decision making.

- **Recommendation 9**

By 1 August 2025, chief fire officers should introduce a case management system if they do not already have one.

The Service currently has a system whereby it monitors the progress of cases. Plans are being implemented which will automate the recording of cases into the HR system, facilitating a case management system. It is anticipated that this will be completed by January 2025. This will allow the Executive Board to review cases and other workforce demographics via a People Dashboard within ITrent.

- **Recommendation 10**

By 1 May 2025, chief fire officers should make sure their services have enough capacity to carry out their misconduct investigations. They should consider using external investigators or a similar independent resource to support the process if required.

The Service has a professionally qualified and experienced Human Resources Team which supports the investigation process. The Team has been supplemented by the Service Solicitor when complex cases arise and has a contract with an external company to be utilised where there are capacity issues, or an external investigator is needed.

- **Recommendation 11**

By 1 May 2025, chief fire officers should review the training their services provide for supervisors and managers who investigate misconduct issues at all levels.

ACAS training is provided to those who investigate misconduct cases and ongoing support is provided by HR Business Partners. The roles and responsibilities of those involved in the investigation process is clearly defined in the policy and the disciplinary investigative guidance documentation. Welfare support is offered to all those involved in investigative arrangements and individuals are signposted to Employee Assistance and safeguarded as required.

- **Recommendation 12**

With immediate effect, chief fire officers should make sure all staff are aware of the welfare support, including occupational health support, that is available to staff involved in misconduct processes.

All letters to all parties signpost to support. The service has a management disciplinary support pack which gives guidance to line managers. This has recently been updated to stress the importance of welfare to all those involved in the process.

- **Recommendation 13**

By 1 November 2024, fire and rescue authorities and chief fire officers should consider varying the approach to hearing appeals so that appeals for complex or serious cases are heard by a panel rather than one person.



By 1 February 2025, fire and rescue authorities and chief fire officers should make sure all service managers and members of fire and rescue authorities who hear appeals receive appropriate training. People retiring or resigning during a misconduct case has a negative effect on morale and the culture in the fire and rescue service. In our values and culture spotlight report we noted that when someone is due to be dismissed for misconduct, they can retire or resign instead. We considered this evasion of the sanction to be a significant flaw in misconduct arrangements and recommended that such cases be continued to conclusion in the person's absence.

Officers who undertake investigations, hearings and appeals are appropriately trained. Whilst individuals can choose to resign or retire pending an investigation the investigation process would be concluded and an outcome received. The Service has a consistent appeals process and currently comprises a Panel of a Senior Officer and a HR Advisor.

- **Recommendation 14**

By 1 November 2025, chief fire officers should implement a process that makes sure they can oversee and scrutinise their services' performance relating to misconduct issues. This process should provide:

- a strategic overview of performance and analysis of trends, including disproportionality;
- regular reporting of issues, outcomes and trends to the fire and rescue authority; and
- identification of learning outcomes and how they will be shared with fire and rescue service staff, to prevent repeat behaviours.

Services need to identify learning from misconduct cases and find appropriate ways of sharing it with their staff.

A report is presented to the Equality, Diversity, Inclusion and Culture (EDIC) Board. This includes identifying if there is a disproportionate impact on any particular equality group. In addition, as part of the performance management arrangements relating to the People Strategy, a progress report is considered at Corporate Programme Board. Further to the disciplinary investigative process an evaluation is completed, and supplementary actions are delivered. This may include communication, training, debriefing.

- **Recommendation 15**

We propose a national system is established to address the concerns that smaller services with relatively few cases have raised with us about protecting confidentiality. We also urge chief fire officers to identify practical solutions to help learning at the service level. These could include, but are not limited to, communicating only the learning and not the case itself, and batching cases and communicating the learning from them as a batch.

Any local learning from investigations and hearings is captured through the evaluation process and implemented.