

Review of Scheme of Delegation to Officers

Report of the Clerk

For further information about this report please contact Sharon Lloyd, Corporate Support Manager, on 01743 260210.

1 Purpose of Report

This report reviews the Fire Authority's Scheme of Delegation to Officers and asks Members to consider and decide upon the amendments proposed.

2 Recommendations

The Fire Authority is requested to consider and decide upon the amendments proposed to the Scheme of Delegation to Officers, attached as an appendix to this report.

3 Background

Although not a legal requirement, it is deemed good practice for local authorities to review annually their Scheme of Delegations to Officers.

This report would normally be brought to the Annual Meeting of the Fire Authority, which takes place in June. This year, however, officers waited for the review of Financial Regulations to be completed (see item 9 on the agenda for this meeting), as some amendments proposed in that document were likely to impact upon the Scheme of Delegation to Officers.

4 Review

Officers have now reviewed the Scheme of Delegation to Officers and recommend the amendments indicated in the appendix to this report (additions are shown in bold italics and deletions struck through). The more significant changes proposed are listed overleaf. During the review officers cross referenced with the draft Financial Regulations to ensure that there is no disparity between the two documents.

It is also recommended that some references to specific legislation are removed to avoid the need to amend the document whenever changes in the law occur.

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- 3.6** *To make arrangements for the secure custody of all title deeds relating to Fire Authority property, whether owned, licensed or leased.*

This reflects what currently happens.

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6 *Delegations relating to Partnerships*

- 6.1** *To the Risk Management Group
To approve entering into individual partnerships (other than those required by statute)*

- 6.2** *To Lead Officers
To operate within the parameters defined in the Service's Brigade Order Administration 5 - Partnerships*

These additions are proposed to tie in with the draft Financial Regulations, strengthening corporate governance relating to partnerships.

5 **Financial Implications**

There are no financial implications arising from this report.

6 **Legal Comment**

The proposed changes to the Scheme of Delegation to Officers are lawful and the Fire Authority has the power to act as proposed in this report.

7 **Appendix**

Draft Scheme of Delegation to Officers

8 **Background Papers**

There are no background papers associated with this report.

Shropshire and Wrekin Fire and Rescue Authority Draft Scheme of Delegations to Officers

This scheme grants delegated powers to the Chief Fire Officer, Authority Solicitor (Monitoring Officer) and Treasurer (“the Chief Officers”) under section 101 of the Local Government Act 1972 and any other enabling powers.

The Deputy Chief Fire Officer, Assistant Chief Fire Officer*, Head of Finance or Deputy Monitoring Officer may exercise these delegated powers in the absence or inability to act of the Chief Fire Officer, Treasurer or Monitoring Officer respectively.

* In the first instance such powers would be delegated to the Deputy Chief Fire Officer and then, in his / her absence or inability to act, to the Assistant Chief Fire Officer.

1 Conditions of Delegations

- 1.1 It is the duty of Chief Officers to whom the exercise of powers is delegated to keep ~~m~~Members of the Authority properly informed of activity arising within the scope of the delegated powers given to them.
- 1.2 In exercising delegated powers a Chief Officer shall consult with such other officers as is appropriate in the circumstances and shall have regard to any advice given.
- 1.3 It shall always be open to a Chief Officer to seek authority or guidance from the Authority and to elect not to exercise delegated powers; or to consult with Members on the exercise of delegated powers.
- 1.4 This Scheme does **not** delegate:
 - a) any matter reserved to the Authority;
 - b) any matter which may by law not be delegated to an officer;
 - c) any matter which would involve expenditure (whether capital or revenue) in excess of the relevant budgetary provision for that matter or in contravention of Financial Regulations.
- 1.5 The exercise of delegated powers by a Chief Officer shall be in accordance with:
 - a) the policies of the Authority and their decisions from time to time;
 - b) the Authority’s Standing Orders and Financial Regulations from time to time in force.
- 1.6 The term “officer” means the holder of post named as having delegated powers or duties under this scheme.

2 Delegations to Chief Fire Officer

2.1 General

- 2.1.1 To make a formal response on behalf of the Authority to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive without reference first to the Authority when the timescale does not allow, after consultation with the Chair and Vice-Chair of the Authority and Chairs of the three main committees – Strategy and Resources, Audit and Performance Management and Standards and Human Resources (if relevant).
- 2.1.2 To control all matters of day-to-day administration of the Fire and Rescue Service, which shall include taking and implementing decisions that are:
- a) concerned with maintaining the operational effectiveness of those services;
 - b) matters incidental to the discharge of the Authority's functions, which fall within a policy decision taken by the Authority.
- 2.1.3 To make, issue and serve such notices, orders, statements and other documents as may be necessary or appropriate for those purposes or to give effect to, or carry out, any decision of his/her under powers delegated to him/her under this Scheme.
- 2.1.4 To submit comments on any town and country planning matter, building regulations, safety of sports grounds and other applications or licences, where the Authority is a consultee, statutory or otherwise.

2.2 Enforcement of Legislation

- 2.2.1 To exercise all the powers of the Authority as an enforcement authority under relevant legislation. Without prejudice to the generality of this provision he/she may in particular carry out the following:
- 2.2.2 Authorise the commencement of criminal proceedings (after consultation with the Authority Solicitor) for any breach of any law or regulation, the enforcement of which the Authority is empowered to undertake;
- 2.2.3 Take appropriate action on behalf of the Authority under The Regulatory Reform (Fire Safety) Order 2005;
- 2.2.4 Designate persons as Inspectors under Article 26 of the Fire Safety Order;
- 2.2.5 Authorise named members of staff in writing to exercise statutory powers conferred on the Authority under Article 27 of the Fire Safety Order:
- a) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned above and to inspect the whole or part of the premises and anything in them, where such entry and inspection may be effected without the use of force;

- b) to make such inquiry as may be necessary for any of the following purposes –
 - i) to ascertain, as regards any premises, whether the provisions of this Order or any regulations made under it apply or have been complied with; and
 - ii) to identify the responsible person in relation to the premises;
- c) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records (including plans) –
 - i) which are required to be kept by virtue of any provision of this Order or regulations made under it; or
 - ii) which it is necessary for him to see for the purposes of an examination or inspection under this article, and to inspect and take copies of, or of any entry in, the records;
- d) to require any person having responsibilities in relation to any premises (whether or not the responsible person) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this article;
- e) to take samples of any articles or substances found in any premises which he has power to enter for the purpose of ascertaining their fire resistance or flammability; and
- f) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to the safety of relevant persons, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is, in the circumstances, necessary).

2.3 Personnel

- 2.3.1 To ensure that nationally and locally agreed conditions of service are properly implemented.
- 2.3.2 After consultation with the Treasurer to authorise the implementation of any nationally agreed pay award in respect of all employees, subject to any element of discretion being referred to the Authority for consideration.
- 2.3.3 To decide upon all personnel issues, which do not necessitate changes in the approved establishment.
- 2.3.4 To vary the grading of individual non-uniformed posts up to (but not including) Assistant Chief Officer (including progression within and between grades), having regard to the national job evaluation scheme and in consultation with the relevant trade union(s).

- 2.3.5 To make **appointments** and terminate **employment** ~~appointments~~ of uniformed and non-uniformed staff up to (but not including) posts designated Assistant Chief Officer.
- 2.3.6 To ensure that the Fire Authority's disciplinary policy and procedures, based on the Advisory, Conciliation and Arbitration Service (ACAS) best practice guidance, are properly applied and enforced.
- 2.3.7 In the following matters the Chief Fire Officer shall consult the Chair of the Authority before exercising delegated powers:
- a) Approving visits abroad by officers on official business and the expenses thereof.
- 2.3.8 To take decisions in connection with legislation relating to firefighters' pensions, after having consulted with the Treasurer on budgetary implications and the Authority Solicitor on any legal basis.
- 2.3.9 To comply with the duties and obligations of the Pension Scheme Managers, as required by **relevant legislation** ~~the Welfare Reform and Pensions Act 1999.~~

2.4 Management of Land and Property

- 2.4.1 To manage and maintain land and property daily, whether owned or leased.
- 2.4.2 To deal with any urgent matters, not otherwise delegated, in consultation with the Treasurer, Chair and Vice-Chair.

3 Delegations to the Authority Solicitor

- 3.1 To take all necessary steps, including the obtaining of Counsel's advice, in connection with any matter concerning the Authority and incur expenditure in connection therewith.
- 3.2 To institute on behalf of the Authority such proceedings or take such other steps as he/she may consider necessary to:
- a) secure the payment of any debt;
 - b) recover possession of any land;
 - e) ~~prosecute under the Authority's enforcement powers including under the Regulatory Reform (Fire Safety) Order 2005~~
 - d) enforce the performance of any obligations due to the Authority and to take such steps as he/she may consider necessary to enforce any judgement or order obtained in any such proceedings after consultation with the Chair of the Authority;
 - e) sign or affix the Authority's seal to documents necessary to give effect to property matters dealt with pursuant to these delegated powers.

- 3.3 To enter a defence to any claim brought against the Authority.
- 3.4 To execute and issue all legal documents necessary to implement decisions made by the Authority or its committees or officers in pursuance of delegated powers, except where another officer has been authorised to take such action or the Clerk has authorised him/her to do so.
- 3.5 To authorise any person to appear on behalf of the Authority in any court, tribunal or inquiry on any matter relating to the business of the Authority.
- 3.6 ***To make arrangements for the secure custody of all title deeds relating to Fire Authority property, whether owned, licensed or leased.***
- 3.7 The above powers may be delegated to a solicitor other than the Authority Solicitor.

4 Delegations to the Authority Treasurer

- 4.1 To undertake all matters of day-to-day financial administration for the Service, in accordance with the Standing Orders and Financial Regulations of the Authority.
- 4.2 In agreement with the Chief Fire Officer, and after consultation with the Chair and the Vice Chair, in cases of urgency to approve virement, supplementary revenue and capital votes not otherwise covered by the Treasurer's delegated authority. Action taken under this delegation must be reported to the next meeting of the Authority.

4.3 Supplementary Revenue Votes

- 4.3.1 To approve supplementary revenue votes for items which are of a formal, unavoidable or relatively small amount and which are not inconsistent with approved budgetary policy and which:
 - a) result from pay awards or price increases not taken into account in approved revenue votes;
 - b) result from expenditure arising from the mandatory implementation of Acts of Parliament or other government directives;
 - c) relate to goods, services or other expenses which were budgeted for and properly ordered or committed in the previous year but which, owing to delays in delivery or execution, have to be accounted for in the following year. (It is implicit that the original budgetary provision should remain unspent at the end of the year of provision);
 - d) are urgently necessary to maintain existing services and cannot reasonably be met from appropriate approved revenue votes;
 - e) do not exceed £10,000 in total for any one purpose and do not entail significant expenditure in subsequent years.

4.4 Virement

4.4.1 To authorise virement (i.e. the transfer of sums approved for a specified purpose to another purpose) ~~may be authorised by the Treasurer~~ in accordance with Financial **Regulations and** Standing Orders provided:

- a) there are no greater consequential revenue effects in later years;
- b) the proposals are not inconsistent with approved budgetary policy and the overall budget situation;
- c) that it does not involve the transfer of sums between votes where the activities in one of the votes are outside the control of the Authority, e.g. debt charges, pensions;
- d) that it does not involve the transfer of sums to the appointment of staff or other purpose which will commit the Authority to a significant additional level of expenditure in future years or which will initiate new policies or the extension of existing policies.

4.5 Supplementary Capital Votes

4.5.1 To approve supplementary capital votes subject to the limitations set out in Financial **Regulations and** Standing Orders.

5 Delegations relating to Partnerships

6.1 To the Risk Management Group
To approve entering into individual partnerships (other than those required by statute)

6.2 To Lead Officers
To operate within the parameters defined in the Service's Brigade Order Administration 5 - Partnerships

6 Interpretation

- 6.1 In this scheme the powers of the Chair may in the absence or inability to act of the Chair be exercised by the Vice-Chair.
- 6.2 Any reference in this scheme to any enactment shall be deemed to include a reference to any statute incorporated therewith or any Statutory Instrument, Order in Council, Byelaws or other Order made thereunder and any enactment repealing, amending or extending the provisions thereof. Any reference to the Authority shall, where the sense allows be deemed to include references to a Committee.