

# Shropshire Fire Risk Management Services Ltd. Articles of Association

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## 1 Purpose of Report

This report presents the draft Articles of Association for Shropshire Fire Risk Management Services Ltd. As the sole shareholder of the Company, the Fire Authority is asked to consider and, if appropriate, approve these Articles.

## 2 Recommendations

The Fire Authority is asked to:

- a) Note the attached draft Articles of Association;
- b) Approve the Articles of Association, including any amendments required;
- c) Decide whether Board Members should be permitted to vote on Company matters at shareholder meetings, where no conflict of interest exists; and
- d) Decide whether future “shareholder” meetings should be separated from the normal Fire Authority meetings.

## 3 Background

In April 2013 the Fire Authority agreed to establish a local authority controlled company, to be known as Shropshire Fire Risk Management Services Ltd. (SFRMS). The company went live in July 2013.

Articles of Association (the “Articles”) set out how the Company is run, governed and owned. The articles can put restrictions on the Company’s powers, which may be useful, if shareholders want comfort that the directors will not pursue certain courses of action, at least without shareholder approval. As the single shareholder in the Company, the Fire Authority must approve the Articles. A company’s Articles are a public document and have, therefore, been included for consideration in open session.

Although the Company has had a set of Articles in place since its inception, these are very generic in nature. Having now undertaken a review of the Articles, officers now present the new draft Articles for Members' consideration and approval.

#### **4 Voting Rights for Members of the Company's Board**

In 'normal' companies, where members of the Company Board are also shareholders, they would be expected to have the right to vote on decisions about the Company at shareholder's meetings, as long as they are not subject to any conflict of interest. The Fire Authority does not currently operate in this way, instead excluding Board Members from voting on Company issues.

Members are asked to consider if they wish to change the current rule in the case of their 'shareholder meetings'. If they consider this would be appropriate, officers would ensure that a statement to this effect would be included in Section 43 on page 32 of the attached Articles.

#### **5 Shareholder Meetings**

As detailed in the Appendix, when Members are acting in their capacity as a Company shareholder, they are subject to the governance rules and guidance detailed in the Company's Articles. To date, where items relating to the Company have come to the Fire Authority, these have been included on Fire Authority agendas, usually as exempt papers due to their commercial sensitivity. This can result in confusion as to which governance guidelines items should be considered under. This situation would be clarified, if items relevant to "Company shareholder" consideration were considered separately to Fire Authority matters.

Members are, therefore, asked to consider separating their shareholder meetings from Fire Authority meetings. This would help to ensure that Members are very clear about the responsibilities they are fulfilling, when considering items for their decision.

If approved, these meetings would be planned to follow existing Fire Authority meetings, but with a completely separate agenda. Members should note that any Company issue, that requires consideration specifically by the Fire Authority, will continue to come to Fire Authority meetings.

#### **6 Financial Implications**

There are no financial implications arising directly from this report, which contains historical data relating to the company's performance.

#### **7 Legal Comment**

There is no reason why Members of the Fire Authority, who are also directors of SFRMS cannot take part in debate and vote on matters relating to the Company, when being considered at meetings of the full Authority as long as they consider the following points.

Members of the Fire Authority, who are appointed directors of the Company have an overriding fiduciary duty to the company, **not to** the Authority, when dealing with the business of the Company. They have the powers and duties of company directors, while they are appointed directors, and as directors, they are answerable to the membership of the Company, i.e. the Fire Authority, in accordance with the Company's Articles of Association. However, any Member elected as a director is still bound by relevant Fire Authority codes of conduct, in so far as these codes do not conflict with their legal obligations under company law.

Therefore, Fire Authority Members and officers should be aware of, and when necessary declare, potential conflicts of interest, when carrying out their role as a Member of the authority, or when acting as directors of its trading company. The conduct of Authority Members is governed by the Authority's Code of Conduct.

## **8 Initial Impact Assessment**

As this report contains only historical data an Initial Impact Assessment has not been completed.

## **9 Equality Impact Assessment**

There are no equality or diversity implications arising from this report. An Equality Impact Assessment is not, therefore, required.

## **10 Appendix**

SFRMS Articles of Association

As the Appendix is in excess of 35 pages, a hard copy has not been included with the meeting papers but can be accessed on the Fire Authority's website via the following link:

<https://www.shropshirefire.gov.uk/meeting/3-may-2016>

## **11 Background Papers**

There are no background papers associated with this report.