



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/11
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (ANNUAL MEETING)
DATE OF MEETING	28 MAY 2010
SUBJECT OF REPORT	REVIEW OF CONSTITUTIONAL GOVERNANCE FRAMEWORK DOCUMENTS
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>that the proposed revisions to the Authority's Scheme of Delegations and Financial Regulations as set out in Section 2 of this report be approved;</i></p> <p>(b) <i>that the Clerk be authorised to make consequential amendments to the Constitutional Framework governance documents, to reflect changes in job titles and re-alignment of responsibilities arising from the Senior Management Board restructure, and to issue revised documents accordingly;</i></p> <p>(c) <i>that, subject to (a) and (b) above, the constitutional governance framework documents as listed at paragraph 1.1 of this report be endorsed;</i></p> <p>(d) <i>that it be noted that further amendments to the documents may be submitted to future meetings of the Authority as and when required.</i></p>
EXECUTIVE SUMMARY	This report sets out information on a review of the Authority's constitutional governance framework documents (Standing Orders, Financial Regulations etc) and, where appropriate, makes recommendations for changes.
RESOURCE IMPLICATIONS	Nil.
EQUALITY IMPACT ASSESSMENT	An initial assessment has revealed that there are no equality issues arising from this report.
APPENDICES	A. Current Section 4 of Scheme of Delegations
LIST OF BACKGROUND PAPERS	Nil.

1. **BACKGROUND**

1.1 At its inaugural meeting on 11 April 2007 the Authority approved a number of “in-principle” decisions previously approved by the Shadow Authority, including its Constitutional Governance Framework documents (Minute DSFRA/5 refers). These documents now include, amongst other things:-

- The Accountabilities, Roles and Responsibilities of Members of the Devon & Somerset Fire & Rescue Authority
- Members’ Code of Conduct;
- Member/Officer Protocol;
- Policy on Gifts and Hospitality;
- Scheme of Members Allowances;
- Standing Orders;
- Financial Regulations;
- Procurement and Contract Regulations;
- Scheme of Delegations;
- Corporate Governance Code;
- Treasury Management Policy;
- Strategy on the Prevention and Detection of Fraud and Corruption; and
- “Whistleblowing” Code (Confidential Reporting Policy).

1.2 The constitutional operation of the Authority also features a Committee structure (with associated terms of reference). This is addressed by a Schedule elsewhere on the agenda for this meeting.

1.3 The documents referred to above were drafted by reference to a number of sources, some statutory; some based upon “models” issued either by central government or by professional bodies (e.g. the Chartered Institute for Public Finance Accountancy – CIPFA); and others best practice. While there is no legal requirement for the documents to be reviewed, it is nonetheless considered best practice to review the documents at least on an annual basis to ensure that they continue to be “fit for purpose”. This clearly does not preclude making revisions at any time to any of the documents where this might be required by changes in legislation or internal structure; or the approval of new documents to enhance the governance framework. Recent examples of this include:

- Approval by the Authority, at its meeting on 6 May 2009, of a document setting out the accountabilities, roles and responsibilities of a Devon & Somerset Fire & Rescue Authority Member (Minute DSFRA/98 refers).
- revisions to the Financial Regulations, Scheme of Delegations, Member/Officer Protocol and Strategy on the Prevention of Fraud and Corruption approved by the Authority at its Annual Meeting held on 14 July 2009 (Minute DSFRA/6 refers);
- revisions to the Treasury Management Policy (to insert additional clauses as recommended in the revised CIPFA Treasury Management Code of Practice 2009), and associated, consequential revisions to the Terms of Reference of the Resources Committee, approved by the Authority at its Budget Meeting on 19 February 2010 (Minute DSFRA/47(b) refers).

- 1.4 When reviewing any of the Authority's constitutional governance framework documents due regard is taken of:
- any current "best practice" models;
 - any existing national guidance and model documents;
 - similar documents in use by other combined fire and rescue authorities; and
 - similar documents in use by constituent authorities.
- 1.5 Each of the Authority's Constitutional Framework documents have again been subject to initial review over the last twelve months and will continue to be subject to ongoing review with any further proposed revisions submitted to future meetings of the Authority as required. Following the initial review it, it will be necessary to make minor, consequential revisions to a number of these documents to reflect revised job titles and the re-allocation of officer responsibilities arising from the restructure of the Senior Management Board (SMB), as endorsed by the Authority at its meeting on 14 December 2009 (Minute DSFRA/39 refers). Work to identify where changes will be required as commenced and it is recommended that – as the changes are not substantial but merely reflect responsibilities under the new SMB structure – the Clerk be authorised to effect these changes and to issue revised documents as appropriate.
- 1.6 With the exception of the minor, consequential, changes arising from the revised SMB structure, it is considered that majority of the Constitutional Governance Framework documents remain "fit for purpose" and require – at this stage - no amendment or modification.
- 1.7 Members will be aware, however, of the Service aspiration to excellence and the associated business transformation programme commenced in the current financial year and featuring, amongst other things, fundamental reviews of both Service support and Service delivery. It is likely that, as this programme progresses, further changes to the Constitutional Governance Framework documents may be required. These will be submitted to the Authority for consideration as and when the need arises.
- 1.8 The remainder of this report deals with proposed revisions to the Authority's approved Scheme of Delegations.

2. SCHEME OF DELEGATIONS AND FINANCIAL REGULATIONS

- 2.1 In reviewing the Authority's approved Scheme of Delegations, it is felt that they would benefit from further clarification in relation to the general and personnel matters delegated to the Chief Fire Officer – specifically in relation to the settlement of claims against the Authority, and the making of ex-gratia payments and the making of compromise agreements related to employment issues. These are currently covered in Section 4 of the Scheme of Delegations, which is reproduced at Appendix A for ease of reference.
- 2.2 As with many of the matters delegated, it is accepted that there is a fine balance to be drawn between promoting efficiency and effective management in what can properly be delegated to officer level and those matters where it is proper that decision making should be exercised by Members. In achieving this balance a number of factors need to be considered such as appropriate safeguards on public expenditure and transparency of process.

- 2.3 Such an approach has already been adopted for several areas (e.g. virements, stock write-offs, debt write-offs) with Financial Regulations specifying appropriate levels for decision making by the Treasurer, the Resources Committee or the full Authority as the case may be.
- 2.4 As with any large organisation, the Service is required to have in place processes to address any claims that may be made against it, ranging from third-party insurance claims through to employment-related matters such as Employment Tribunal decisions or compromise agreements. It is felt that it is in these areas that further clarity to the Scheme of Delegations is needed to align the process with that already in place for matters such as virements etc.
- 2.5 Consequently, the following revisions are proposed to the Scheme of Delegations:
- (a) the addition of the following sentence to the end of this paragraph 4.2:
“Any claim settled in accordance with this delegation will be subject to the provisions of paragraph 4.6 below”
 - (b) a revision to paragraph 4.6 to read:
“To negotiate and approve, in consultation with the Treasurer and/or Clerk as necessary, the settlement of claims by or against the Authority up to the thresholds as set out in the Schedule to the Financial Regulations.”
 - (c) a revision to paragraph 4.8 to read:
“To approve ex gratia payments up to the thresholds as set out in the Schedule to the Financial Regulations in the case of loss or damage to an employee’s clothing and equipment during the course of employment (subject to there being no negligence on the part of the employee) or in relation to any incidental expenditure arising from assault/serious injury to employees at work.”
- 2.6 In relation to existing sub-paragraphs 4.17 (i) and (j), further clarification is still being sought from the Department for Communities and Local Government on those matters that can be properly delegated under both the old and new Firefighters Pensions Scheme. Once this information has been obtained a further report will be submitted to the Authority.
- 2.7 The thresholds associated with the revisions proposed at paragraph 2.5 (a) to (d) above are set out – shown in grey - in the proposed revised Schedule to Financial Regulations as reproduced overleaf.

	Resources Committee	Full Authority
<i>In-Year Virements</i>		
(a) Movement between objective budget headings (i.e. Service function headings)*	£100,000	£200,000
(b) Movement between subjective budget headings (i.e. individual budget headings within objective headings)*	£50,000	£150,000
* In the event of any virement between both objective and subjective budget headings, the lower limit will apply		
<u>Capital Programme</u>		
(a) Financing of individual scheme from revenue budget	£50,000	£150,000
(b) Excess of estimated expenditure for individual major capital scheme over approved Capital Programme provision *	10% or £100,000 (whichever is the lesser)	20% or £200,000 (whichever is the lesser)
(c) Excess of overall expenditure on Other Projects or Ring Fenced generic capital budgets over approved budget provision. *	5%	10%
* subject always to the additional expenditure being contained from within the overall Capital Programme limit for the year in question		
<u>Assets</u>		
(a) Material Asset	£25,000	£50,000
(b) Redundant Stock and Equipment – individual item or cumulative amount of the same item	£25,000	£50,000
(c) Stock and equipment discrepancies – individual item or cumulative amount of the same item.	£10,000	£50,000
<u>Income and Expenditure</u>		
Debt Write off	£10,000	£50,000
Overpayment of salary or allowance	£5,000	£25,000
Making of Grants	£5,000	£25,000
<u>Settlement of Claims*</u>		
Employee claims	£25,000	£75,000
Ex gratia payments to employees	£5,000	£25,000
Claims made by the Authority	£50,000	£100,000
All other claims	£10,000	£50,000
* excludes claims covered by insurance arrangements as such are delegated entirely to the Chief Fire Officer.		

3. CONCLUSION

3.1 As indicated earlier, the Authority's constitutional framework governance documents have been subject to initial review and this report identifies proposed amendments to certain of these documents arising from this review.

3.2 The review progress is a dynamic rather than static one and consequently further revisions to the documents may be submitted to future Authority meetings as and when the need arises.

MIKE PEARSON
Clerk to the Authority

SCHEME OF DELEGATIONS SECTION 4

MATTERS DELEGATED TO THE CHIEF FIRE OFFICER

(a) General

- 4.1 To exercise the functions of Head of Paid Service.
- 4.2 In consultation with the Legal Adviser as necessary, to institute, defend or settle legal proceedings (either in the name of the Authority or an individual officer of the Authority) at common law or under any enactment, statutory instruments order or bye law conferring functions upon the Authority (or in respect of functions undertaken by it) and to lodge an appeal in respect of any such proceedings. For the avoidance of doubt, this delegation shall extend to the taking of all procedural steps including service of notices - statutory or otherwise - counter-notices, the Laying of Informations and to any proceedings which the Chief Fire Officer considers expedient to take for the protection of the interests of the inhabitants of the Authority's area. **(NOTE: this function may also be exercised by the Clerk to the Authority).**
- 4.3 To exercise the Authority's powers as consultee under any legislation including objecting to the issue of licences, consents, registrations or permissions and/or submitting responses or representations.
- 4.4 In the absence of the post-holder and subject to consultation with appropriate officers as indicated, power to exercise any of the functions delegated to the Clerk as detailed in Section 5 below.
- 4.5 In accordance with Standing Orders and in cases of urgency ONLY, power to act on behalf of the Fire and Rescue Authority, subject ALWAYS to consultation with other officers of the Fire and Rescue Authority (as appropriate) and with the Chairman or Vice-Chairman and to a report being submitted on any action so taken to the next ordinary meeting of the Fire and Rescue Authority.
- 4.6 To negotiate and approve, in consultation with the Treasurer and/or Clerk as necessary, the settlement of claims by or against the Authority below £10,000. The settlement of any claim above this amount must be approved by the Authority.
- 4.7 In consultation with the Treasurer, to approve the making of any grant up to and including the limit as set out in Financial Regulations.
- 4.8 To approve ex gratia payments up to and including £5,000 in the case of loss or damage to an employee's clothing and equipment during the course of employment (subject to there being no negligence on the part of the employee) or in relation to any incidental expenditure arising from assault/serious injury to employees at work. Any proposal for an ex-gratia payment above £5,000 must be approved by the Authority.

(b). Operational

- 4.9 In accordance with the Fire and Rescue Services Act (“the Act”) 2004:-
- (i). to exercise power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any fire and rescue authority function in accordance with Section 5;
 - (ii). to ensure that the core functions of the Authority as provided for by Sections 6 to 9 of the Act are duly exercised in accordance with the Authority’s Integrated Risk Management Plan and any associated policies approved by the Authority;
 - (iii). to exercise power to respond to any other eventualities in accordance with Section 11;
 - (iv). to provide other staff/equipment for other purposes as appropriate in accordance with Section 12;
 - (v). to enter into reinforcement schemes with other fire and rescue authorities in accordance with Section 13;
 - (vi). to enter into arrangements with other employers of firefighters (excluding other fire and rescue authorities) for the discharge of firefighting, road traffic accidents or other emergencies in accordance with Section 15;
 - (vii). to enter into arrangements for the discharge of functions by others in accordance with Section 16 of the Act;
 - (viii). to exercise powers at or under sea in accordance with Section 20;
 - (ix). to provide information as requested to the Secretary of State in accordance with Section 26;
 - (x). to provide information in connection with pensions etc. in accordance with Section 35;
 - (xi). to make arrangements for water supplies in accordance with Part 5, Sections 38 to 43;
 - (xii). to authorise employees of the Authority for the purposes of Part 6, Sections 44, 45 and 46 (powers of entry in the event of an emergency and for information gathering/fire investigation purposes) and furnish them with evidence of authority.
- 4.10 To the extent not covered elsewhere in this Scheme of Delegations, decisions on operational deployment of staff, equipment etc. and the use of buildings in accordance with the approved Integrated Risk Management Plan. This delegation DOES NOT include the power to close a fire station unless that is explicitly mentioned in the approved Plan or has been the subject of a separate resolution by the Authority.
- 4.11 To enter into agreements in respect of fire alarm systems in circumstances where special arrangements are provided to transmit the call from the protected premises to the Fire and Rescue Service Mobilising Centre.
- 4.12 To offer training to outside bodies in aspects in which the Service has expertise.
- 4.13 To authorise the exercise of powers of entry, inspection and survey and the carrying out of emergency works by staff of the Service or contractors acting on behalf of the Fire and Rescue Authority and/or the Service on land or buildings.

(c). Fire Safety

4.14 To exercise all the powers of the Authority under the Regulatory Reform (Fire Safety) Order 2005 including, amongst other things:-

- (i). appoint inspectors in accordance Article 26(1) of the Order and furnish them with evidence of authority;
- (ii). in accordance with Article 26(3) of the Order, make arrangements with either the Health and Safety Commission or the Office of Rail Regulations for the for the performance of the Authority's functions in relation to any particular premises;
- (iii). in accordance with Article 28(1), to give consent to a duly appointed inspector (or any other person authorised by the Secretary of State) authorising in writing an employee of the fire and rescue service to exercise powers conferred on a fire inspector by virtue of Article 27 of the Order.

(d). Asset Management

4.15 To agree, following consultation with the Legal Adviser as necessary, the terms and arrangements for the acquisition (whether by purchase, lease or licence) of land and/or buildings required for Authority purposes subject to:-

- (i). prior approval of the Authority for any acquisition involving a conveyance;
- (ii). compliance with Financial Regulations (or Procedures made thereunder) and this Scheme of Delegations in relation to thresholds for capital expenditure.

4.16 To agree, following consultation with the Legal Adviser as necessary, the terms and arrangements for the disposal of Authority land and/or buildings considered surplus to requirements subject to:-

- (i). prior approval of the Authority for any disposal involving a conveyance;
- (ii). compliance with Section 123 of the Local Government Act 1972.

(e). Personnel

4.17 Subject to:-

- (i). any statutory restrictions and requirements;
- (ii). any conditions of Service requirements;
- (iii). such policies, procedures and practices that may from time to time be determined by the Authority;
- (iv). the provisions of paragraph 4.18 below

the power to deal with all matters relating to the appointment (including the method of appointment), suspension, dismissal, relegation, pay, promotion, supervision, compensation, conditions of service, redundancy, recruitment, qualification, training, health, safety, welfare, housing allowances and the provision of telephones and pay and any other matters relating to the paid employment of persons by the Service, both uniformed and non-uniformed.

In particular, this delegation shall include the power to:-

- (a) effect minor variations in the establishment between uniformed and non-uniformed posts where this is in the best interests of the Service and subject to consultation with representative bodies and to there being no additional resource implications associated with the variation;
- (b) to effect changes in the establishment structure subject to any financial implications being contained from within existing resources and to compliance with the virement thresholds as contained in the Authority's Financial Regulations;
- (c) approve secondments to the Fire Service College, appropriate government department(s) and other relevant agencies subject to all costs being met by the seconding agency. Authorisation to fill vacancies in the Service arising from substantive secondments;
- (d) determine applications submitted by individual members of the Service for approval to carry on outside employment and to determine those occupations likely to present any unacceptable risk of injury or unfitness and impose limitations as appropriate;
- (e) exercise in the first instance, and in accordance with the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions and Service (the "Grey Book"), discretion on extensions of sick pay for uniformed firefighters;
- (f) consider on their individual merits requests for extensions of service beyond the normal retirement age and, if appropriate and subject to a satisfactory medical exam, to approve such requests in line with the conditions as set out in the new Grey Book and the Firefighters' Pension Scheme.
- (g) exercise discretion over broken service with another authority for the purpose of calculating service for the long service bounty scheme;
- (h) approve for membership of a Local Authority, Health Authority or other Public Body (including school/college governing body), to stand as a parliamentary candidate or be a Justice of the Peace and approval of special paid or unpaid leave in relation to these functions;
- (i) [NOTE: this sub-paragraph from the former Devon Fire and Rescue Authority Scheme of Delegations addresses discretionary powers under the Firemens' Pensions Scheme Order 1992. In light of changes to uniformed pensions schemes, including the introduction of the New Firefighters Pension Scheme 2006, these matters are still subject to clarification and will form the basis of a further report to the next Authority meeting].
- (j) [NOTE: this sub-paragraph from the former Devon Fire and Rescue Authority Scheme of Delegations addresses discretionary powers under the Firemens' Pensions Scheme Order 1992. In light of changes to uniformed pensions schemes, including the introduction of the New Firefighters Pension Scheme 2006, these matters are still subject to clarification and will form the basis of a further report to the next Authority meeting].
- (k) in consultation with the Treasurer, approve premature retirement of staff (other than uniformed firefighters) on grounds of permanent ill-health and/or the efficiency of the Service and where appropriate the exercise of discretion in respect of the award of added years.

4.18 The power in paragraph 4.17 above shall NOT include any matter:-

- (i). relating to the posts of Chief Fire Officer, Deputy and Assistant Chief Fire Officer and the Offices of Clerk, Treasurer and Legal Adviser;

- (ii). arising from a proposal for major restructuring;
- (iii). which is a major change in the Authority's or Service's policies, procedures or practices and
- (iv). under the Superannuation Acts relating to the payment and enhancement of pensions.

4.19 Jointly with the Treasurer, to agree in the best interests of employees under Regulation H6 of the Local Government Pensions Scheme Regulations, 1995, to commute pension payments in cases of exceptional ill-health.