



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/10
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (ANNUAL MEETING)
DATE OF MEETING	30 MAY 2011
SUBJECT OF REPORT	REVIEW OF CONSTITUTIONAL GOVERNANCE FRAMEWORK DOCUMENTS
LEAD OFFICER	Joint report of the Clerk to the Authority and the Treasurer
RECOMMENDATIONS	<p>(a) <i>that, in relation to the apportionment of Authority seats to constituent authorities in accordance with the requirements of the Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006:</i></p> <p>(i) <i>the action of the Chief Fire Officer in authorising, following consultation with the Chairman and in accordance with Standing Order 27, the Clerk to undertake the necessary calculation for the current year and notify constituent authorities to enable relevant appointments at their annual meetings be noted;</i></p> <p>(ii) <i>that, for future years, the Clerk be delegated authority to undertake the necessary calculation on an annual basis and to notify constituent authorities of the resultant entitlement to places on the Authority in sufficient time to enable the relevant appointments to be made;</i></p> <p>(b) <i>that the proposed revisions to Financial Regulations as set out in Section 3 and Appendix A of this report be approved;</i></p> <p>(c) <i>that, subject to (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 proposals for further amendments to the documents may be submitted to future meetings of the Authority as and when required.</i></p>

EXECUTIVE SUMMARY	<p>This report sets out information on a review of the Authority's constitutional governance framework documents (Standing Orders, Financial Regulations etc).</p> <p>It also addresses an issue in relation to the appointment by constituent authorities of Members to this Authority in accordance with the provisions of the relevant statutory instrument establishing the Authority (the Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006).</p>
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISK AND BENEFIT ASSESSMENT (ERBA)	An initial assessment has revealed that there are no equality issues arising from this report.
APPENDICES	A. Proposed Revised Schedule to Financial Regulations
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 report 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. Indeed, in practice the documents tend to be “dynamic” and are amended as and when the need arises.
- 1.4 When undertaking the annual review 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 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.

1.6 The remainder of this report comments, however, on the outcome of the annual review and also raises an issue in relation to the operation of the Combination Scheme Order (the statutory instrument establishing, under the Fire and Rescue Service Act 2004, this combined authority) and its requirements in relation to the appointment of Members by constituent authorities.

2. STANDING ORDERS

2.1 As indicated, the Authority's constitutional framework documents – while subject to annual review – are, in effect, dynamic documents and are revised as and when the need arises. By way of evidence, the Authority's current Standing Orders were revised in December 2011 to facilitate, in response to representations made by the Fire Brigades Union, easier access by representative bodies to address full Authority meetings (Minute DSFRA/59 refers).

2.2 Elsewhere on the agenda for this meeting is a report addressing changes to the current Standards regime introduced by the Localism Act 2011. The commencement date for these changes is, however, yet to be announced but once they come into effect it is likely that they will require consequential changes to Standing Orders. This will be reported to a future meeting as necessary.

3. FINANCIAL REGULATIONS

3.1 At its meeting on 5 April 2012, the Commercial Services Committee considered recommendations by the Treasurer in relation to delegated financial limits for investment towards commercial activities and resolved to recommend these to the Authority for approval (Minute CSC/42 refers). These recommendations require, amongst other things, revisions to the Authority's Financial Regulations.

3.2 The proposed revisions are set out below and are now commended to the Authority for approval.

Proposed revisions to Financial Regulations

(i) Insertion of the following after Financial Regulation A18 (with the consequential renumbering of other Financial Regulations):

“(e) Commercial Services Board

A19 The Commercial Services Board comprises the officers currently appointed to the Senior Management Board. Its remit is to oversee all commercial activities undertaken by the Service on behalf of the Authority, including those through Red One Ltd.”

(ii) Insertion of the following after existing Financial Regulation A25 (which, following the consequential renumbering indicated in (i) above, will become Financial Regulation A26:

“(f) Commercial Activities

A27 Variations in the commercial services budget (including approval to additional resources) up to and including the maximum as indicated in the Schedule to these Regulations, may be made by the Commercial Services Board.

A28 Variations in excess of this amount must be approved either by the Commercial Services Committee or the Authority in accordance with the limits as indicated in the Schedule to these Regulations.

A29 In relation to the variations referred to at A27 and A28 above, these are subject to any additional resources involved being matched by corresponding additional income to be generated from commercial activities.”

(iii) Revised Schedule (see Appendix)

4. PROCUREMENT AND CONTRACT REGULATIONS

4.1 The Service is currently in the process of reviewing, as part of the Business Support Improvement Programme, its procurement arrangements with the aims of simplification, clarification and improved efficiency. This will entail in due course modifications to the current Procurement and Contract Regulations.

4.2 The current Regulations remain fit for purpose but the Authority is asked to note that revisions will be submitted for approval in due course.

5. OTHER GOVERNANCE FRAMEWORK DOCUMENTS

5.1 Following the annual review, and with the exception of Standing Orders addressed elsewhere on this agenda, no amendments are being proposed to any other of the existing documents. As previously mentioned, however, the Service is currently embarked on a significant business transformation programme designed to best equip it to meet anticipated challenges over the next few years and to enable it to achieve its stated ambition of being an “excellent” organisation. At present, as part of this programme, two fundamental reviews are being undertaken of both service delivery and service support which could, in turn, require consequential amendments to the Authority’s constitutional framework documents. Proposals for such amendments will be submitted as and when required.

6. APPOINTMENT OF MEMBERS TO THE AUTHORITY BY CONSTITUENT AUTHORITIES

6.1 As has been previously reported, this Authority is a combined fire and rescue authority and a “body corporate” (i.e. a separate, legal entity) established by the Devon & Somerset Fire & Rescue Authority (Combination Scheme) Order 2006 (“the Order”) – a statutory instrument made under the Fire & Rescue Services Act 2004.

6.2 The Order, amongst other things, provides a formula – by relevant electoral roll - for the appointment of Members to the Authority by constituent authorities and stipulates that the maximum size of the Authority should not exceed 25 Members except where application of the formula would dictate otherwise.

6.3 The Order is, however, silent as to a number of issues relating to this, such as who should undertake the implied calculation and on what basis, how often it should be undertaken and how the results should be interpreted (i.e. rounding any fractions up or down).

6.4 Legal advice has been sought on the above issues which can be summarised as follows:

- it would be appropriate for this Authority – as a separate legal entity – to undertake the calculation and notify the constituent authorities accordingly as to the number of places open to them to appoint to;
- that, in undertaking the calculation, it would not be unreasonable to use the local government electoral roll statistics published by the Office for National Statistics. These are published on an annual basis, at around March/April time, so it would be reasonable to undertake the calculation at this time and notify constituent authorities to enable them to make appointments at their annual meetings;
- that, in interpreting the results, it would be appropriate to round up or down, as the case may be, to the nearest whole number.

6.5 As previously mentioned, the Combination Scheme governs the establishment and operation of the Authority. As such, any failure to comply with its requirements could result in decisions of the Authority being challenged under judicial review and, should this prove successful, rendered null and void thereby exposing the Authority to financial and reputational risk.

6.6 The necessary calculation has recently been undertaken using the local government electoral roll statistics as at December 2011 – the most recent available on the Office for National Statistics website. The results of this are shown in the table below:

Authority	Electoral Roll	Ratio for seat allocation	No. of seats	No. of seats rounded to nearest whole number
Devon County Council	597,240	$597,240/1,302,431 \times 25$	11.46	11
Somerset County Council	418,968	$418,968/1,302,431 \times 25$	8.04	8
Plymouth City Council	180,946	$180,946/1,302,431 \times 25$	3.47	3
Torbay Council	105,277	$105,277/1,302,431 \times 25$	2.02	2
TOTAL	1,302,431			24

6.7 As can be seen, the result indicates that a model of 25 does not work, whereas a model of 24 does. The results need to be interpreted in the context of the other terms of the Order which stipulate that, other than for application of the formula, the Authority shall comprise of “**not more** than 25 Members.” Clearly, 24 is less than 25 and so is a permissible model in the context of the Order.

6.8 Timing has prevented this issue from being brought before the Authority for decision in the current year and consequently the Chief Fire Officer authorised myself, following consultation with the Chairman and in accordance with the provisions of Standing Order 27, to notify constituent authorities of the outcome of the calculation in sufficient time for appointments to be made at their annual meetings this year. The Authority is asked to note this course of action.

6.9

Going forward, it is proposed that I be delegated authority to undertake the necessary calculation on an annual basis, using the most up-to-date local government electoral roll statistics available on the Office for National Statistics website, and to write to the constituent authorities in sufficient time to enable relevant appointments to be made at their annual meeting. The Authority is asked to approve this course of action.

M PEARSON
Clerk to the Authority

KEVIN WOODWARD
Treasurer

PROPOSED REVISED SCHEDULE TO FINANCIAL REGULATIONS

	Resources Committee	Full Authority
<u>In-Year Virements</u>		
(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 which as such are delegated entirely to the Chief Fire Officer.		

<u>Commercial Activity</u>		
	Commercial Services Committee	Full Authority
Variations on commercial services budget (including approval of additional resources, subject to these being matched by corresponding income)	£50,000	£150,000