



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/14/7
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (ANNUAL MEETING)
DATE OF MEETING	29 MAY 2014
SUBJECT OF REPORT	REVIEW OF CONSTITUTIONAL GOVERNANCE FRAMEWORK DOCUMENTS
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>that, once the relevant Regulations come into force, the Clerk be authorised to make those amendments to Standing Orders and meeting agenda sheets as indicated in paragraphs 2.3 and 2.4 of this report;</i></p> <p>(b) <i>that, in relation to Financial Regulations:</i></p> <p>(i) <i>the proposed change to Financial Regulation D7, as identified in paragraph 2.5 and 2.6 of this report and dealing with advance payments, be approved;</i></p> <p>(ii) <i>the change to Financial Regulations arising from clarification of governance arrangements for commercial trading activities, as identified in paragraph 2.7, be noted;</i></p> <p>(iii) <i>the consequential changes to Financial Regulations arising from the management restructure, as outlined in paragraph 2.8 of this report, be noted;</i></p> <p>(c) <i>that, in relation the Scheme of Delegations:</i></p> <p>(i) <i>the revisions as identified in paragraph 2.9 of this report be endorsed;</i></p> <p>(ii) <i>the revisions as identified in paragraph 2.11 be approved;</i></p> <p>(d) <i>that the revisions to the Corporate Governance Code, Strategy for the Prevention and Detection of Fraud and Corruption and “Whistleblowing” Code (Confidential Reporting Strategy), as indicated in paragraphs 2.13 and 2.15 of this report, be noted;</i></p> <p>(e) <i>that, subject to (a) to (d) above, the constitutional governance framework documents as listed at paragraph 1.1 of this report be endorsed.</i></p>

EXECUTIVE SUMMARY	This report sets out information on the most recent review of the Authority's constitutional governance framework documents (Standing Orders, Financial Regulations etc). which, while not a statutory requirement, is nonetheless undertaken at least annually as a matter of good practice.
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISKS AND BENEFITS ASSESSMENT (ERBA)	The contents of this report are considered compatible with equalities and human rights legislation.
APPENDICES	Nil.
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 Authority Constitutional Governance Framework documents may be viewed on the Authority’s website by following the link below.

www.dsfire.gov.uk/FireAuthority/ConstitutionalGovernance

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.

2. OUTCOME OF MOST RECENT REVIEW

2.1 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. The following changes or proposed changes are set out below:

Standing Orders

2.2 At the time of producing this report, it is anticipated that the Government will shortly enact the Openness of Local Government bodies Regulations 2014. The consultation on these Regulations was reported to the Authority Budget Meeting on 24 February 2014 (Minute DSFRA/50 refers). The Regulations will, once enacted, introduce two new requirements on the Authority:

1. a requirement to allow "reporting" (video/audio recording and commentary) of Authority meetings by any press and public attending; and
2. a requirement for certain decisions exercised by officers under either a specific or general delegation from the Authority to be both recorded in writing and made available to the public (including production on the Authority's website).

2.3 The first of these requirements will require an amendment to the Authority's existing Standing Orders. Consequently, it is proposed that – once the Regulations are brought into force – the Clerk should be authorised to amend Standing Orders as follows:

- deletion of existing Standing Order 4(7) (preventing video and audio recordings of meetings except with the consent of the Chairman and prohibiting the display of publicity/campaign material by the public [including representative bodies] in meeting rooms during meetings);
- insertion of new Standing Order 4(7) as follows:

"When meetings are open to the public, any person attending may report (i.e. film, photograph or make an audio recording of the meeting) on the meeting and use any communication method, including the internet, to publish, post or otherwise share the results of such reporting activity"
- insertion of a new Standing Order 4(8) as follows:

"The display within the meeting room of any publicity/campaign material by the public (including employees or representative bodies of the Devon and Somerset Fire and Rescue Service) and/or press) is not permitted"
- the renumbering of existing Standing Orders 4(8) and 4(9) accordingly.

2.4 It is also proposed that a note advising that meetings may be recorded by any public or press attending should be included on the agenda sheets for all Authority meetings to which the Access to Information requirements apply. The proposed wording for this note is set out below and the Authority is asked to authorise the Clerk to make this change once the Regulations come into force.

Reporting of meetings

Any person attending a meeting may report (film, photograph or make an audio recording) on any part of the meeting which is open to the public and use any communication method, including the internet and social media (Facebook, Twitter etc.), to publish, post or otherwise share the report. The Authority accepts no liability for the content or accuracy of any such report, which should not be construed as representing the official, Authority record of the meeting. Similarly, any views expressed in such reports should not be interpreted as representing the views of the Authority.

Financial Regulations

- 2.5 Following a recent issue as reported to the Resources Committee on 3 February 2014 (Minute *RC/18 refers), an opportunity has been taken to amend Financial Regulations in relation to controls on advance payments and to clarify the position in relation to officer delegations for overpayments of salary or allowance (which are already provided for in the Schedule to the Regulations). The wording of revised Financial Regulation is shown below:

Financial Regulation D7

Current Wording:-

The approval of the Authority will be required:

- (a) *to write off any debt in excess of the limit as set out in the Schedule to these Financial Regulations;*
- (b) *for the making of any grant in excess of the limit as set out in the Schedule to these Financial Regulations*

Revised Wording (shown in bold):-

*The approval of the **Resources Committee or Authority, as appropriate**, will be required:*

- (a) *to write off any debt in excess of the limit as set out in the Schedule to these Financial Regulations;*
- (b) ***to write off any overpayment of salary or allowance in excess of the limit as set out in the Schedule to these Financial Regulations***
- (c) ***for the making of any payment in advance of delivery of goods or services in excess of the limit as set out in the Schedule to these Financial Regulations;***
- (d) *for the making of any grant in excess of the limit as set out in the Schedule to these Financial Regulations.*

- 2.6 It is proposed that the limits referred to in the new Financial Regulation D7(b) should be those previously agreed and contained in Financial Regulations for in-year virements between subjective budget headings:

- making of advance payments delegated to officers – up to and including £50,000;
- making of advance payments – Resources Committee approval required – between £50,000 and £150,000;
- making of advance payments – full Authority approval required – in excess of £150,000

The Authority is invited to approve the above changes, which will also necessitate a change to the Authority's Scheme of Delegations – see paragraph 2.10 below.

- 2.7 Financial Regulations have also been amended to reflect the actual position in relation to the governance arrangements of the Authority's commercial trading activities, which are now dealt with exclusively through Red1 Ltd, with the Commercial Services Committee exercising democratic oversight on behalf of the Authority. This has resulted in the deletion of the following:

Reference to the Commercial Services Board (Financial Regulations, paragraph A18) – this Board no longer exists;

Reference to Commercial Activities (Financial Regulations, paragraphs A26 to A28) – no longer reflect governance arrangements.

The Authority is invited to note this change.

- 2.8 The Authority has also been informed previously of the slimming down of the top team and re-alignment of strategic and day-to-day management responsibilities (Minute DSFRA/12, Authority ordinary meeting 30 May 2013 refers). Accordingly, Financial Regulations have now been revised to reflect the new management structure (i.e. references to former bodies [e.g. Senior Management Board] replaced by references to current bodies [i.e. Executive Board, Service Leadership Team and Extended Leadership Team]), as appropriate. These amendments are incidental and do not materially affect the content of the Regulations. To this effect, the Authority is asked to note the changes.

Scheme of Delegations

- 2.9 This document has been revised as follows, largely as a result of the previously-mentioned change in management structure:

- in the Definitions section, deletion of reference to Senior Management Board and substitution by reference to Executive Board and Service Leadership Team
- paragraph 1.4 – re-worded to read: “In the absence of the post-holder, all matters in this Scheme of Delegations delegated to the Chief Fire Officer may be exercised by another member of the Executive Board, depending on availability”;
- paragraph 3.7 – deletion of reference to “Annual Governance Statement” and substitution by reference to “Annual Statement of Assurance”. This latter document incorporates all of the contents of the former Annual Governance Statement (including the governance statement to accompany the Statement of Accounts, as required by the Accounts and Audit [England] Regulations 2011) but also complies with the most recent iteration of the Fire and Rescue Service National Framework which requires fire and rescue authorities to provide annual assurance on financial, governance and operational matters and show how they have had due regard to the expectations set out in their integrated risk management plan and the requirements included in the Framework;
- paragraphs 4.17(i) and (j) – dealing with delegations to the Chief Fire Officer in relation to the Firefighters Pensions Schemes – have been replaced with a simplified, consolidated paragraph 4.17(i) providing a delegation to exercise those functions that may be delegated under the Pensions Schemes;

- change of heading for Section 6 (deletion of reference to Senior Management Board and substitution by reference to Executive Board and Service Leadership Team);
- deletion of “Director of Service Support” and substitution by “Relevant Principal Officer” in paragraph 6.2, dealing with functions provided for in Financial Regulations and relating to the capital programme (financing individual schemes; approving excess expenditure on major schemes and Other Projects and ring-fenced generic budgets), the disposal of material assets and the writing off of redundant stocks/equipment (or discrepancies between actual stocks/equipment held and records of such) – in each case, subject to the limits indicated in Financial Regulations.

2.10 These changes represent minor rather than major, material changes. As such, the Authority is invited to endorse them.

2.11 A change to Financial Regulations, primarily relating to advance payments, was proposed earlier in this report – paragraph 2.6 above refers. On the basis that the Authority is minded to approve this revision, it will be necessary to also revise the approved Scheme of Delegations – Matters delegated to the Treasurer, as follows (the revisions shown in ***bold, italics***):

Revised Scheme of Delegations paragraph 3.8:

In accordance with Financial Regulations and any Procedures made thereunder:

- (a) to approve virements between objective (Service function) budget headings up to and including the limit indicated in Financial Regulations;
- (b) To approve virements between subjective budget headings (individual budget headings WITHIN objective headings) up to and including the limit indicated in Financial Regulations;
- (c) ***to approve debt write-offs up to and including the limit indicated in Financial Regulations;***
- (d) ***to approve overpayments of salary or allowance up to and including the limit indicated in Financial Regulations;***
- (e) ***to approve advance payments for goods and/or services up to and including the limit indicated in Financial Regulations.***

Financial Regulations already, by implication, provide for officer decisions on debt write-offs and salary/allowance overpayments. The above revisions clarify these as specific to the Treasurer and also provide for the Treasurer to approve advance payments up to the limits identified. The Authority is invited to approve the above revision to the Scheme of Delegations.

2.12 Additionally, the relevant legislative documents governing the old and new Firefighters Pensions Schemes are currently being reviewed in the context of identifying and clarifying those matters that could be delegated to officers and those that should remain within the purview of the Authority. It is intended to submit a report on the outcome of this to the next meeting of the Human Resources Management & Development Committee with a view to an appropriate recommendation then being made to the next Authority meeting.

Corporate Governance Code

2.13 Since the last review:

- the Audit Commission has ceased to exist, so reference to this body in the Code has been deleted;
- reference to the “Annual Governance Statement” has been replaced by reference to the Annual Statement of Assurance (see paragraph 2.7 above);
- the opportunity has been taken to revise the Code to reflect the new management structure (i.e. references to former bodies [e.g. Senior Management Board] replaced by references to current bodies [i.e. Executive Board, Service Leadership Team and Extended Leadership Team]), as appropriate.

2.14 These revisions are incidental and do not materially alter the content of the Code. Consequently, the Authority is asked to note the revisions made.

Strategy on the Prevention and Detection of Fraud and Corruption and “Whistleblowing” (Confidential Reporting) Code

2.15 As with the other documents mentioned earlier, the opportunity has been taken to revise these documents to reflect the new management structure (i.e. references to former bodies [e.g. Senior Management Board] replaced by references to current bodies [i.e. Executive Board, Service Leadership Team and Extended Leadership Team]), as appropriate. These revisions are incidental and do not materially alter the contents. Consequently, the Authority is asked to note the revisions made.

3. CONCLUSION

3.1 As indicated in this report, the Authority’s constitutional documents have again been subject to review over the last twelve months with incidental changes highlighted and others identified for approval.

3.2 As previously reported, the Service has a commitment to continuous improvement to achieve and sustain its stated ambition of being an “excellent” organisation. As part of this, the Authority’s constitutional governance framework documents will continue to be subject to ongoing review with any further proposals for amendments being submitted as and when required.

M PEARSON
Clerk to the Authority