

REPORT REFERENCE NO.	DSFRA/24/35
MEETING	DEVON & SOMERSET FIRE & RESUCE AUTHORITY
DATE OF MEETING	31 OCTOBER 2024
SUBJECT OF REPORT	PROPOSED AMENDMENT TO SCHEME OF DELEGATIONS & TERMS OF REFERENCE OF APPOINTMENTS & DISCIPLINARY COMMITTEE
LEAD OFFICER	Chief Fire Officer & Clerk to the Authority (& Monitoring Officer)
RECOMMENDATIONS	<p>(a). <i>That authority be delegated to the Chief Fire Officer to determine the appointments of Assistant Chief Fire Officer and Director and Assistant Director roles (non-operational) subject to consultation with the Authority Chair and Vice Chair on the preferred candidate for appointment; and</i></p> <p>(b). <i>that the Clerk to the Authority (& Monitoring Officer) be authorised to make the requisite changes to both the Scheme of Delegations and the Terms of Reference for the Appointments & Disciplinary Committee accordingly as set out at Appendix A of report DSFRA/24/35</i></p>
EXECUTIVE SUMMARY	<p>The Authority considered a report on the restructure of the Executive Board brought forward by the Chief Fire Officer designate on 31 July 2024 (Minute DSFRA/24/22 refers). The new structure is intended for implementation in September 2024 on the retirement of the substantive Chief Fire Officer.</p> <p>This structure had been proposed in order to improve resilience and efficiency at Executive Board level given that the existing structure had been too lean. It will, however, take some time to recruit to the new posts within the structure as the average process can take approximately six months to complete. The Chief Fire Officer is seeking an amendment to the Scheme of Delegations to align with operational independence and also this will assist with improving the efficiency of the processes.</p>
RESOURCE IMPLICATIONS	Costs associated with recruitment to posts at Executive Board level are included with the revenue budget.

EQUALITY RISKS AND BENEFITS ANALYSIS	An initial assessment has not identified any equality issues emanating from this report.
APPENDICES	<p>A. Proposed amendments to the Authority’s Scheme of Delegations and Terms of Reference for the Appointments & Disciplinary Committee</p> <p>B. Executive Board Structure September 2024</p>
BACKGROUND PAPERS	Executive Board structure – Minute DSFRA/24/22 refers

1. **INTRODUCTION**

- 1.1. The Authority considered a report on the restructure of the Executive Board brought forward by the Chief Fire Officer designate on 31 July 2024 (Minute DSFRA/22 refers) for implementation in September 2024 on the retirement of the substantive Chief Fire Officer. This structure had been proposed in order to improve resilience and efficiency at Executive Board level given that the existing structure had been too lean.
- 1.2. The structure and makeup of the new Executive Board will be fit for purpose but it will take some time to fill all of the vacancies. The post of Deputy Chief Fire Officer has been advertised recently and this process is underway (Minutes of the Appointments & Disciplinary Committee held on 15 October 2024 found elsewhere on the agenda for this meeting refer). The Executive Board structure is set out at Appendix A of this report for reference. The additional roles within the new structure yet to be advertised and filled are:
- Deputy Chief Officer – Director of Strategy and Improvement;
 - Assistant Director – People Services;
 - Director of Corporate Services; and
 - Deputy Assistant Chief Fire Officer (uniformed role required to provide the requisite numbers of staff for the Principal Officer rota *but not a member of the Executive Board*).
- 1.3. There has been a lot of change at Executive Board level in recent years and the appointment of a new Chief Fire Officer gives the opportunity for some stability at this level once the remaining posts in the new structure are filled. This will take some time as indicated above, however, given that a chief officer appointment process can take approximately 4 to 6 months on average to complete.
- 1.4. Whilst it is important to run a fair and robust selection process, the Authority may wish to consider delegation of some elements of the selection process in the spirit of increasing the operational independence of the Chief Fire Officer. Any changes made would require amendments to both the Scheme of Delegations and Terms of Reference for the Appointments & Disciplinary Committee which are set out below.

2. **CURRENT POSITION**

- 2.1. The existing Terms of Reference for the Appointments & Disciplinary Committee provide for all appointments at Executive Board level to be undertaken by the Appointments & Disciplinary Committee. These include the following provisions:

Advisory ONLY:

1. To consider and make recommendations to the Authority on the appointment of Chief Fire Officer, Monitoring Officer and Chief Financial Officer (Treasurer).

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2. To determine all other Executive Board appointments.

- 2.2. Should the Authority be minded to approve an extension to the delegation to the Chief Fire Officer, the Terms of Reference above would require amendment to reflect the changes made.
- 2.3. The Authority's Scheme of Delegations includes provision for the Chief Fire Officer - under section (e). personnel – to have 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.
- 2.4. Specifically, within paragraphs 4.19 and 4.20 of this delegation, the Chief Fire Officer can exercise the above powers:
- 4.19 Subject to:
- (a). any statutory restrictions and requirements;
 - (b). any conditions of Service requirements;
 - (c). such policies, procedures and practices that may from time to time be determined by the Authority;
 - (d). the provisions of paragraph 4.20 below
- 4.20 The power in paragraph 4.19 above shall **not** include any matter:
- (a). relating to posts appointed to the Executive Board;**
 - (b). relating to the statutory posts of Monitoring Officer and Chief Financial Officer (other than suspension of these Officers in accordance with Standing Orders);**
 - (c). arising from a proposal for major restructuring;
 - (d). which is a major change in the Authority's or Service's policies, procedures or practices; and
 - (e). under the Superannuation Acts relating to the payment and enhancement of pensions.
- 2.5. The Chief Fire Officer is seeking to amend this to increase his delegated power under operational independence. Options for consideration by the Authority are set out below in section 3 of this report.

3. **OPTIONS FOR CONSIDERATION**

Make no change to the existing delegation.

- 3.1. There is no legislative requirement to increase the delegation on appointments to the Chief Fire Officer. The key statutory requirement to adhere to is that the appointments of Chief Fire Officer, Monitoring Officer and Treasurer as Proper Officers cannot be delegated, however, and must be undertaken by the Authority.

Increase the delegation to give the Chief Fire Officer the power to make appointments up to and including Assistant Chief Fire Officer and non-operational posts within the Executive Board structure.

3.2. The Clerk to the Authority (Monitoring Officer) has sought information from other Fire & Rescue Authorities on the level of delegations to the Chief Fire Officer on such appointments.

3.3. Dorset and Wiltshire has set the following level of delegation to its Chief Fire Officer:

“To deal with all matters relating to the paid employment of persons by the authority other than the deputy chief fire officer role”.

3.4. Avon Fire & Rescue Authority, has delegated to its Chief Fire Officer:

“SD8. The chief fire officer shall, within approved budgets and policies, exercise all matters of day-to-day administration and operational management of services and functions. This delegation, which underpins the authority’s commitment to “operational independence”, shall include taking and implementing decisions including any decision which is concerned with maintaining the operation or effectiveness of those services, or with a matter incidental to the discharge of the authority’s functions, or which falls within the scope of the authority’s policy framework”.

This is subject to:

“SD10. Delegation to chief fire officer does not include: (a) any matter which by law may not be delegated to an officer”. This would include the statutory appointments referred to at paragraph 3.1 above.

3.5. Kent & Medway Fire & Rescue Authority has delegations as follows:

Scheme Of Delegation Of Powers To Chief Executive

1.1 The Chief Executive is authorised to act on behalf of and exercise all the powers of the Authority, except for those matters listed in paragraph 1.2 below, provided that any such action is in accordance with relevant legislation; the policies laid down by the Authority (including its Standing Orders, Financial Regulations, Procurement Regulations) and the Authority’s approved budget.

1.2 The following matters are specifically reserved for decision by the Authority or, if the Authority so decides, a Committee established by it:-

c) All matters relating to the appointment, and terms and conditions of employment, of the Chief Executive and such other employees as the Authority may specify under Standing Order 2.6 (as below).

2.6 All matters relating to the appointment and terms and conditions of the employment of the Chief Executive and Directors (Gold Book Officers) shall be dealt with by a Senior Officer Appointment, Conditions and Conduct (SOACC) Committee, whose chair shall be the Chair of the Authority.

- 3.6. Hampshire Fire & Rescue Authority has similarly included the following delegation to the Chief Fire Officer:
- 2.1 The Chief Fire Officer is authorised to act on behalf of and exercise all the powers of the Authority, except for those matters specifically reserved for decision by the Authority, its Standards and Governance Committee or its 3SFire CIC Stakeholder Committee as set out in the Terms of Reference of the Authority and the Terms of Reference of the Committees, provided that any such action is in accordance with relevant legislation, the policies laid down by the Authority, the Authority's approved budget and the Authority's Constitution, in particular the Authority's Financial Regulations.
- 3.7. The Authority's Terms of Reference include provision for:
People and Leadership
- To be responsible for the process of recruitment, appointment and dismissal of the Chief Fire Officer and the Deputy Chief Fire Officer.
- 3.8. The above examples give a flavour of the levels of delegation in place. It is clear that the level of delegatn on appointments to the Chief Fire Officer does vary, with Avon delegating everything from the level of Deputy Chief Fire Officer to no delegation of senior officer appointments as at Kent. Both Dorset & Wiltshire & Hampshire have delegated appointments to posts below that of Deputy Chief Fire Officer
- Increase the delegation to give the Chief Fire Officer the power to approve appointments up to and including Deputy Chief Fire Officer***
- 3.9. The examples above show that extension of the delegation on chief officer (Gold Book) appointments is already in place with some fire & resuce authorities. The role of Deputy Chief Fire Officer includes deputising for the Chief Fire Officer in his absence and thus, is pivotal to both the Authority and the Service. Both Dorset & Wiltshire and Hampshire have delegated power to the Chief Fire Officer to make appointments *below* that of Deput Chief Fire Officer whilst Kent & Medway has retained this responsibility at Authority level .

4. **OTHER CONSIDERATIONS**

- 4.1. The White Paper on Fire Reform was published on 18 May 2022 for consultation. In December 2023, the Government published its response to the consultation. One of the points set out in the Government's response was:
- "The consultation laid out the Government's fundamental position that the role of the fire and rescue service in England is clear - laid out comprehensively in legislation across three key acts of Parliament that address fire, community safety and civil contingencies. While the law may be clear, its implementation is hampered by cumbersome pay and conditions machinery and a lack of clear accountability for fire operations and resources.

The system needs to be flexible to enable chiefs to make local level decisions about staffing, whilst working productively with unions. We need fire and rescue services to be able to play a full role in protecting the community, working with health, police and other partners without getting tied up in red tape. We saw how this could work during the later stages of the pandemic, when chiefs could protect their staff and support the community without getting caught up in bureaucracy”.

4.2. It also indicated:

“The White Paper also confirmed our intention to deliver on the independent inspectorate’s recommendation that chief officers should be afforded operational independence, similar to their policing counterparts”.

4.3. The proposals in the White Paper set out plans to clarify the responsibilities of fire authorities and chief officers. The aim is to create a framework that complements existing structures while providing greater clarity and transparency in the division of responsibilities. At all times, the fire and rescue authority will be responsible for their fire service. The chief officer is effectively responsible for operationalising the authority’s strategic directions. Operational independence would provide chief officers with the ability to make decisions on practical and management issues.

4.4. The government at the time was seeking to legislate, at the earliest opportunity, to give chief officers operational independence. The Home Office also wished take action to make the responsibilities of the fire and rescue authority and the chief officer clearer, with regard to a clearer separation of strategic and operational planning requirements and the governance of services. With a national election in July 2024 and the resultant change in government, however, new legislation to enact the proposals in the White Paper have not been forthcoming.

4.5. The National Framework 2018 also states that:

6.10 To ensure greater fairness and the exchange of talent and ideas, all principal fire officer posts must be open to competition nationally, and fire and rescue authorities must take account of this in their workforce planning.

6.11 While the above requirements only extend to principal fire officers, we expect fire and rescue authorities to have regard to this principle when re-appointing at any level.

5. **CONCLUSIONS**

5.1. The White Paper on Fire Reform set the clear intent for the pursuit of operational independence for Chief Fire Officers. The Fire National Framework does suggest that there should be involvement at Authority level in Chief Officer appointments, however, particularly given their involvement at this key, strategic level.

- 5.2. It is recognised, however, that some authorities have already moved towards a position of greater operational independence for their Chief Fire Officer in terms of appointments at this level. For this Authority, it is suggested that a move in this direction could be made by delegating appointments of Assistant Chief Fire Officer and Director and Assistant Director level roles (non-operational) to the Chief Fire Officer subject to consultation with the Authority's Chair and Vice Chair on the preferred appointment. In practice, this would mean that the Chief Fire Officer (aided by the Head of People Services) would undertake the process but would advise the Authority on the appointment of his preferred candidate at the end of this process.
- 5.3. Given that the Deputy Chief Fire Officer will be responsible for deputising for the Chief Fire Officer in his absence, it is suggested that the Authority should not delegate this further with this appointment remaining with the Appointments & Disciplinary Committee.

6. **RECOMMENDATIONS**

- 6.1. If the Authority is minded to move in the direction set out at paragraph 5.2 above on Chief Officer appointments, it is recommended:
- (a). That authority be delegated to the Chief Fire Officer to determine the appointments of Assistant Chief Fire Officer and Director and Assistant Director roles (non-operational) subject to consultation with the Authority Chair and Vice Chair on the preferred candidate for appointment; and
 - (b). that the Clerk to the Authority (& Monitoring Officer) be authorised to make the requisite changes to both the Scheme of Delegations and the Terms of Reference for the Appointments & Disciplinary Committee accordingly as set out at Appendix A of report DSFRA/24/35.

SAMANTHA SHARMAN
Clerk to the Authority (& Monitoring Officer)

PROPOSED AMENDMENT TO THE SCHEME OF DELEGATIONS (CHIEF FIRE OFFICER)

- 4.19 Subject to:
- (a). any statutory restrictions and requirements;
 - (b). any conditions of Service requirements;
 - (c). such policies, procedures and practices that may from time to time be determined by the Authority;
 - (d). consultation with the Authority Chair and Vice Chair in respect of the preferred candidate for appointment to the posts of Assistant Chief Fire Officer, Director and Assistant Director (non-operational) at Executive Board level; and**
 - (e). the provisions of paragraph 4.20 below
- 4.20 The power in paragraph 4.19 above shall **not** include any matter:
- (a). relating to the posts of Chief Fire Officer and Deputy Chief Fire Officer;**
 - (b). relating to the statutory posts of Monitoring Officer and Chief Financial Officer (other than suspension of these Officers in accordance with Standing Orders;
 - (c). arising from a proposal for major restructuring;
 - (d). which is a major change in the Authority's or Service's policies, procedures or practices; and
 - (e). under the Superannuation Acts relating to the payment and enhancement of pensions.

PROPOSED AMENDMENTS TO THE TERMS OF REFERENCE FOR THE APPOINTMENTS & DISCIPLINARY COMMITTEE

Advisory ONLY:

1. To consider and make recommendations to the Authority on the appointment of Chief Fire Officer, Monitoring Officer and Chief Financial Officer (Treasurer).

Matters with Delegated Power to Act

2. To determine ~~all other Executive Board appointments~~ ***the appointment of Deputy Chief Fire Officer;***

APPENDIX B TO REPORT DSFRA/24/35

Proposed Structure Post Sept 2024

O = Operational Posts

N/O = Non-Operational Posts

