

REPORT REFERENCE NO.	DSFRA/19/10
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (ANNUAL MEETING)
DATE OF MEETING	7 JUNE 2019
SUBJECT OF REPORT	REVIEW OF CONSTITUTIONAL GOVERNANCE FRAMEWORK
LEAD OFFICER	Director of Corporate Services and Director of Finance
RECOMMENDATIONS	<p><i>(a). that the proposed amendment to Standing Orders identified in paragraph 3.1 of this report be approved;</i></p> <p><i>(b). that the proposed amendments to Financial Regulations as identified in paragraphs 4.5, 4.7 (and the appendix to this report), 4.8 and 4.10 be approved;</i></p> <p><i>(c). that the other, non-material and consequential changes to Financial Regulations, the Treasury Management Policy, the Scheme of Delegations and the Corporate Governance Code, as identified in paragraphs 4.1 and 4.2 and Sections 5, 6 and 7 of this report, be endorsed;</i></p> <p><i>(d). that it be noted that proposed amendments to the Authority's Code of Conduct will be considered as part of the agenda for the Authority Ordinary Meeting to commence on conclusion of this Annual Meeting; and</i></p> <p><i>(e). that, subject to (a) to (d) above, the constitutional 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 undertaken at least annually as a matter of good practice.
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing human rights and equalities legislation.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Nil.

1. **BACKGROUND**

1.1 it's the Authority's Constitutional Governance Framework documents 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;
- Contract Standing Orders;
- 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.

<https://fireauthority.dsfire.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13108>

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 based on "best practice" documents in use by other local authorities (including combined fire and rescue authorities). While there is no legal requirement for the documents to be reviewed, they are nonetheless reviewed at least annually 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.

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.
- 2.2 The outcome of the most recent review is that the majority of the documents remain fit for purpose and do not require any material amendments. The Treasury Management Policy has been amended to reflect in line with report DSFRA/19/5 (Treasury Management Strategy [including Prudential and Treasury Indicators] Report 2019-20) as approved by the Authority budget meeting on 19 February 2019 (Minute DSFRA/39[c] refers).
- 2.3 Other changes to the documents are identified below.

3. STANDING ORDERS

- 3.1 Standing Order 44 (Appointment of a Chief Fire Officer) currently provides, at sub-paragraph (2):
- “Where the post has been advertised in accordance with (b) above the Authority (or Appointments Panel specifically nominated by the Authority for this purpose) will EITHER interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the shortlist. In the event of interviews being undertaken by a nominated Appointments Panel, this Panel will subsequently make a recommendation on appointment to the Authority.”
- 3.2 It is considered that a requirement for an Appointments Panel to always make a recommendation on appointment of a Chief Fire Officer to the full Authority is somewhat over-restrictive. Consequently, it is proposed that this Standing Order be revised as indicated (new words shown in ***bold, italic***) which would then allow the Authority flexibility, when establishing the Appointments Panel, to also determine whether or not the Panel should have delegated authority to actually make the appointment:
- “Where the post has been advertised in accordance with (b) above the Authority (or Appointments Panel established for this purpose) will EITHER interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the shortlist. In the event of interviews being undertaken by a nominated Appointments Panel, ***the Panel may also be constituted with delegated authority to confirm the appointment.***”
- 3.3 The Authority is invited to approve this amendment to Standing Orders.

4. FINANCIAL REGULATIONS

- 4.1. Financial Regulations have been amended to use more gender-neutral language (i.e. replacing “he/she” with “they”). The Policy Framework has been amended to reflect that currently in place for the Authority and comprising the following documents:
- Integrated Risk Management Plan
 - Medium Term Financial Plan
 - Capital Programme
 - Capital Strategy
 - Reserves Strategy

- Treasury Management Policy Statement

4.2. The Section defining the approach to Risk Management has been updated to reflect the process currently in place and now reads:

Risk management for the Devon & Somerset Fire & Rescue Service is designed to protect the assets of the Service, ensure service continuity and facilitate innovation and opportunity. The Service risk management approach encourages officers and managers to identify, understand and control risk.

In addition to departmental risk registers, the Service maintains a Corporate Risk Register capturing the Authority's most significant risks with a focus on cross-cutting and major projects. Risk management is integrated in the planning process as part of direction setting, activity and resource planning. The risk management process involves the identification, assessment and recording of risks and mitigating activities which are then incorporated into annual directorate statements and Service plans. Additionally, as part of the risk management process, appropriate insurance arrangements are put in place to off-set any exposure to liability. Monitoring of risks is undertaken at Service level, with the Audit & Performance Review Committee having delegated responsibility to monitor the Corporate Risk Register to ensure that corporate risks are effectively managed.

4.3. The changes identified above are not considered to be material but rather an up-dating to reflect what is currently in place. In this respect, the Authority is invited to endorse the changes.

4.4. Financial Regulations currently provide the following in relation to commercial activities:

A22. 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 Board of Red One Ltd.

A23. Variations in excess of this amount must be approved either by the Resources Committee or the Authority in accordance with the limits as indicated in the Schedule to these Regulations.

A24. In relation to the variations referred to at A22 and A23 above, these are subject to any additional resources involved being matched by corresponding additional income to be generated from commercial activity.

4.5. These above references are historical, emanating from when the Authority's commercial activities were overseen by the [then] Commercial Services Committee. Red One Ltd. is, however, a separate legal entity in its own right, with responsibility for setting and maintaining its own budget. Given this, the above references (and the corresponding entry in the Schedule to the Financial Regulations) are no longer accurate and do not reflect the current position. Consequently, it is proposed that the above references (and the corresponding entry in the Schedule to the Financial Regulations) be deleted from the Financial Regulations.

4.6. It remains the case, however, that the Authority is still the sole shareholder in Red One Ltd. and in this capacity has delegated to the Resources Committee responsibility for the consideration of quarterly financial performance reports relating to Red One Ltd. in terms of expenditure on operating costs, costs recovered and profit generated.

- 4.7. Of more significance, however, it is proposed that the Schedule to Financial Regulations be revised to indicate increased financial limits for matters delegated either to the Treasurer or to the Resources Committee. The rationale for this is that the previous limits have been in place largely since combination and are no longer considered appropriate given changes over time, the size of the organisational budget and to promote effectiveness and efficiency in terms of discharging functions. A revised Schedule, indicating the proposed new limits, is attached at Appendix A to this report.
- 4.8. In the revised Schedule, it is proposed to delete the line dealing with claims made by the Authority. The rationale is that this has never occurred in the past. Also, this is dealing with claims being pursued by the Authority (i.e. recovery of money) but should it occur in the future then officers would be expected to use their judgement in settling the matter and determining whether such action should be reported to either the Resources Committee or the Authority. In exercising this judgement, officers will consider the materiality (quantum) of the claim in relation to the overall Authority budget.
- 4.9. Should the Authority be minded to agree this deletion, then it will be necessary to make a corresponding change to the Scheme of Delegations. This is addressed in Section 6 below.
- 4.10. Additionally, it is proposed to revise the Financial Regulations dealing with the management of assets to provide greater clarity in relation to the disposal of assets. Specifically, it is proposed to:
- (a). delete existing Financial Regulation C13 (shown below) as the Procurement and Contract Regulations were replaced by Contract Standing Orders (which do not contain provisions for asset disposal) in 2015 (Minute DSFRA/5 of the Authority Annual Meeting held on 28 May 2015 refers)

“C13. The relevant procedures as set out in the Authority’s Procurement and Contract Regulations will apply to the acquisition and disposal of land and buildings and to the disposal of material assets as provided for at C.12 (a) and (b) above.”
 - (b). insert the following, new Financial Regulations:

C13. In relation to Financial Regulation C12(b) (disposal of material assets), “material asset” is defined as any asset recognised on the Authority’s fixed asset register or any asset which is not subject to an agreed disposal method via replacement.

C14. Material assets will be disposed of via one of the following approved methods:

 - (a). donation to another fire and rescue service;
 - (b). donation to a charity;
 - (c). registered auction;
 - (d). public auction;
 - (e). the Defence Equipment Sales Authority or other recognised government disposal service;
 - (f). sale to other UK (including the Republic of Ireland) fire and rescue service;
 - (g). sale to or via Red One Ltd.

C15. In disposing of any short-term asset (i.e. any asset not on the fixed asset register), Departmental Heads must ensure that the disposal is in accordance with Service safety and security requirements and secures value for money.

4.11. The Authority is recommended to approve this revisions to Financial Regulations as set out in paragraphs 3.5, 3.7 (and Appendix A to this report) and 3.8 above.

5. TREASURY MANAGEMENT POLICY

5.1. As indicated previously, the has been amended in line with report DSFRA/19/5 (Treasury Management Strategy [including Prudential and Treasury Indicators] Report 2019-20) as approved by the Authority budget meeting on 19 February 2019 (Minute DSFRA/39[c] refers). As with Financial Regulations, amendments have also been made to use more gender-neutral language (i.e. replacing “he/she” with “they”).

5.2. Other changes include:

- updating the short-term overdraft facility negotiated with the Authority bankers (currently £0.1m);
- updating references in the document to relevant statutes and regulations;
- updating the insurance claim excess limit (currently £5,000 per claim).

5.3. These changes are considered incidental and arising from general updating rather than material changes. As such, the Authority is invited to endorse the changes.

6. SCHEME OF DELEGATIONS

6.1. Section 4 of the Scheme (Matters Delegated to the Chief Fire Officer) currently provides, at paragraph 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.

6.2. The 1995 Regulations referred to were, however, replaced by the Local Government Pension Scheme Regulations 2013. Additionally, the Authority approved at its meeting on 29 July 2015 (Minute DSFRA/21 refers) a range of delegations to the Chief Fire Officer as provided for by the Local Government Pension Scheme.

6.3. Given the above, paragraph 4.19 is no longer an extant reference and can be deleted from the Scheme of Delegations.

6.4. Section 8 of the Scheme (Matters Delegated to the Executive Board and the Service Leadership Team Jointly and Severally) provides, at paragraph 8.2:

“The relevant Executive Board officer to exercise the following functions as provided for in Financial Regulations, subject in all cases to informing the Treasurer of any action so taken:

- (a). To approve the financing of any individual scheme of up to and including the limit indicated in Financial Regulations from the revenue budget;
- (b). To approve any excess of estimated expenditure on an individual major capital scheme over and above approved Capital Programme provision up to the limit indicated in Financial Regulations;

- (c). To approve any excess of overall expenditure on Other Projects or Ring Fenced generic capital budgets over approved budget provision up to the limit indicated in Financial Regulations;

(NOTE: the delegations in (b) and (c) above are subject also to the additional expenditure being contained from within the overall Capital Programme limit for the year in question);
- (d). To approve the disposal of any material asset of a value up to and including the limit indicated in Financial Regulations;
- (e). To approve the writing off of any redundant stocks or equipment of a value up to and including the limit indicated in Financial Regulations;
- (f). To approve the writing off of any discrepancies between stocks and equipment actually held and the records of such stock and equipment of a value up to and including the limit indicated in Financial Regulations;

6.5. In practice, the “relevant Executive Board officer” exercising each of the delegations exercised at (a) to (f) above is the Treasurer. Consequently, it is proposed to move (a) to (f) from Section 8 to Section 3 (Matters Delegated to the Treasurer of the Fire & Rescue Authority).

6.6. The changes outlined in the paragraphs above are not considered material but rather incidental arising from a general updating. The Authority is therefore asked to endorse these changes.

6.7. Section 4 currently provides (at paragraph 4.6) for the Chief Fire Officer:

“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 Financial Regulations”

6.8. Should the proposed revision to Financial Regulations identified at paragraph 4.8 above (dealing with claims brought by the Authority) be approved, then it is recommended that, for consistency purposes, paragraph 4.6 of Section 4 of the Scheme of Delegations be amended to read:

“to negotiate and approve, in consultation with the Treasurer and/or Clerk as necessary, the settlement of other claims against the Authority up to the thresholds as set out in the Schedule to Financial Regulations”

6.9. Subject to agreement on the proposed revision to Financial Regulations, the Authority is asked to endorse this change.

7. CORPORATE GOVERNANCE CODE

7.1. Core Principle A (clarity of purpose and focus on outcomes) currently provides the following at paragraphs 2.1 and 2.2:

2.1. The Authority will produce a Corporate Plan setting out a vision and overarching aims for the fire and rescue service together with initiatives proposed for the twelve month period immediately following production of the plan and targets against which performance will be measured. This plan will be subject to annual revision following consultation as appropriate and will comply with all statutory requirements on the production of relevant plans (e.g. Integrated Risk Management Plan and associated yearly Action Plans; Best Value Performance Plan)

- 2.2. The Authority will produce and review annually a Medium Term Financial Plan (MTFP) providing a financial planning framework for at least three years.
- 7.2. The above framework has changed and over the past twelve months the Authority has considered and approved an Integrated Risk Management Plan, a Reserves Strategy and a Capital Strategy. A Fire and Rescue Plan (identifying internal organisational challenges and measures proposed to address these) has also been produced.
- 7.3. Consequently, it is proposed that paragraphs 2.1 and 2.2 be replaced with the following new paragraphs:
- 2.1. The Authority will produce an evidence-based Integrated Risk Management Plan identifying community risks and actions aimed at either eliminating or mitigating these risks. This Plan will cover a minimum three year period and will be reviewed annually. Proposed actions arising from the Integrated Risk Management Plan will be subject to public consultation as required prior to any implementation. The Integrated Risk Management Plan will also inform development of targets and measures against which Service performance can be assessed to secure continuous improvement. A Fire & Rescue Plan will also be produced identifying internal challenges faced by the organisation and measures designed to meet these challenges. Both the Integrated Risk Management Plan and Fire & Rescue Plan will inform the development of Directorate and Departmental plans.
- 2.2. The Authority will produce and review annually a Medium Term Financial Plan (MTFP), Capital Strategy and Reserves Strategy providing a financial planning framework for at least three years.
- 7.4. The changes outlined in the above paragraphs are not considered material but rather incidental arising from a general updating. The Authority is therefore asked to endorse these changes.

8. MEMBERS' CODE OF CONDUCT

- 8.1. At its meeting on 8 April 2019, the Standards Committee considered a number of proposed revisions to the Authority's Code of Conduct. The proposed revisions had been informed by the findings of an internal review of the operation of the Authority's Standards regime together with the contents of the report published by the Committee on Standards in Public Life following its review of local government ethical standards.
- 8.2. The Minutes of the Standards Committee meeting held on 8 April 2019 and the recommendations proposed to the Authority to revise the Code of Conduct are set out in the agenda for the Authority Ordinary Meeting to commence at the conclusion of this Annual Meeting.

9. CONCLUSION

- 9.1. 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.
- 9.2. In the meantime, the Authority is asked to:

- (a) approve the amendment to Standing Orders identified in paragraph 3.1 of this report;
- (b) approve the proposed amendments to Financial Regulations as identified in paragraphs 4.5, 4.7 (and the appendix to this report), 4.8 and 4.10;
- (c) endorse the other, non-material and consequential changes to Financial Regulations, the Treasury Management Policy, the Scheme of Delegations and the Corporate Governance Code, as identified in paragraphs 4.1 and 4.2 and Sections 5, 6 and 7 respectively of this report;
- (d) note that proposed amendments to the Authority's Code of Conduct as indicated in Section 8 of this report will be considered in conjunction with the Minutes of the Standards Committee meeting held on 8 April at the Authority Ordinary Meeting to commence on conclusion of this Annual Meeting; and
- (e) subject to (a) to (d) above, endorse the Constitutional Framework documents as listed in paragraph 1.1

MIKE PEARSON
Director of Corporate Services

AMY WEBB
Director of Finance

APPENDIX A TO REPORT DSFRA/19/10

SCHEDULE TO FINANCIAL REGULATIONS

Maximum Delegated Approvals (<i>all other items of income or expenditure are reserved to the full Authority</i>)	Treasurer		Resources Committee		Human Resources Management & Development Committee
	Old Limit	New Limit	Old Limit	New Limit	
<u>In-Year Virements</u>					
(a) Movement between objective budget headings (i.e. Service function headings)*	£0.100m	£0.500m	£0.200	£1.000m	
(b) Movement between subjective budget headings (i.e. individual budget headings within objective headings)*	£0.050m	£0.200m	£0.150m	£0.500m	
* In the event of any virement between both objective and subjective budget headings, the lower limit will apply					
<u>Transfers to/from or between reserves</u>					
Alternate use of or unbudgeted transfers to/from reserves to/from the revenue budget	£0.050m	£0.200m	£0.150m	£0.500m	
Movements between Earmarked or General reserves	£0.050m	£0.200m	£0.150m	£0.500m	
<u>Capital Programme</u>					
(a) Financing of individual scheme from revenue budget	£0.050m	£0.200m	£0.150m	£0.500m	
(b) Excess of estimated expenditure for individual major capital scheme over approved Capital Programme provision*	10% or £100,000 (whichever is the lesser)	No change	20% or £200,000 (whichever is the lesser)	No change	

Maximum Delegated Approvals (all other items of income or expenditure are reserved to the full Authority)	Treasurer		Resources Committee		Human Resources Management & Development Committee
	Old Limit	New Limit	Old Limit	New Limit	
(c) Excess of overall expenditure on Other Projects or Ring Fenced generic capital budgets over approved budget provision.*	5%	No change	10%	No change	
* subject always to the additional expenditure being contained from within the overall Capital Programme limit for the year in question					
Assets					
(a) Material Asset	£0.025m	No change	£0.050m	£0.100m	
(b) Redundant Stock and Equipment – individual item or cumulative amount of the same item	£0.025m	No change	£0.050m	£0.100m	
(c) Stock and equipment discrepancies – individual item or cumulative amount of the same item.	£0.010m	£0.025m	£0.050m	£0.100m	
Income and Expenditure					
Debt Write off	£0.010m	No change	£0.050m	No change	
Payment in advance of delivery of goods or services	£0.050m	No change	£0.150m	£0.200m	
Making of Grants*	£0.005m	£0.010m	£0.025m	£0.050m	
Overpayment of salary or allowance	£0.005m	£0.010m	£0.025m	£0.050m	
Loans to Devon & Somerset Fire & Rescue Authority controlled organisations	£0.050m	No change	£0.200m	No change	
* Delegated to Chief Fire Officer in consultation with the Treasurer					

Maximum Delegated Approvals (all other items of income or expenditure are reserved to the full Authority)	Treasurer		Resources Committee		Human Resources Management & Development Committee
	Old Limit	New Limit	Old Limit	New Limit	
<u>Settlement of Claims*</u>					
Employee claims	£0.025m	£0.050m	£0.075m	£0.200m	
Ex gratia payments to employees	£0.005m	£0.010m	£0.025m	£0.200m	
All other claims	£0.010m	No change	£0.050m	No change	
* excludes claims to be settled under insurance arrangements. All other delegations to the Treasurer in this category are jointly reserved to the Chief Fire Officer and Treasurer.					
Financial Implications arising from exercise of discretions under the Local Government Pension Scheme or Firefighters Pensions Schemes. (NOTE: this is a delegation to the Chief Fire Officer)	£0.025m	No Change	N/A	N/A	£0.075m