

REPORT REFERENCE NO.	DSFRA/20/7
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (Budget Meeting)
DATE OF MEETING	18 FEBRUARY 2020
SUBJECT OF REPORT	PRINCIPAL OFFICER CONSIDERATIONS
LEAD OFFICER	Chief Fire Officer
RECOMMENDATIONS	<p>(a). <i>that, on retirement of the current post-holder, a national, open competitive process be undertaken for the post of Deputy Chief Fire Officer;</i></p> <p>(b). <i>that, in accordance with its existing terms of reference, the appointments process be undertaken by the Appraisals and Disciplinary Committee (acting as the Appointments Panel);</i></p> <p>(c). <i>that the Authority delegates authority to the Appraisals and Disciplinary Committee to confirm an appointment following the appointments process;</i></p> <p>(d). <i>that, on retirement of the current Assistant Chief Fire Officer (Service Delivery):</i></p> <p style="padding-left: 40px;">(i) <i>the substantive Assistant Chief Fire Officer (Service Delivery) post be held vacant with the resultant budget used to temporarily promote existing staff to Assistant Chief Fire Officer on a developmental basis; and</i></p> <p style="padding-left: 40px;">(ii) <i>that the Chief Fire Officer be delegated authority to effect any such temporary promotion;</i></p> <p>(e). <i>that the Authority places on record its appreciation for the contributions made by the Deputy Chief Fire Officer and Assistant Chief Fire Officer (Service Delivery) to the effective and efficient operation of the Devon & Somerset Fire & Rescue Service.</i></p>
EXECUTIVE SUMMARY	<p>The current Deputy Chief Fire Officer has submitted formal written notice of his intention to retire on 30 April 2020. The current Assistant Chief Fire Officer (Service Delivery) has submitted formal written notice of his intention to retire on 21 April 2020.</p> <p>This paper now sets out proposals to address the resultant vacancies from these retirements.</p>
RESOURCE IMPLICATIONS	These will be contained from within existing resources.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and human rights legislation.

APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	The Fire & Rescue Services Act 2004 The Fire & Rescue Service National Framework for England (current version – May 2018)

1. INTRODUCTION

- 1.1. The current Deputy Chief Fire Officer has submitted formal written notice of his intention to retire on 30 April 2020. Additionally, the current Assistant Chief Fire Officer (Service Delivery) has submitted formal written notice of his intention to retire on 21 April 2020. Both individuals are members of the Firefighters Pension Scheme 1992 (“the Scheme”) and would suffer considerable financial detriment were they not to retire at this time due to the operation of the Scheme and pension taxation penalties.
- 1.2. This report sets out relevant considerations and proposals for filling the resulting two vacancies.

2. FIRE & RESCUE NATIONAL FRAMEWORK FOR ENGLAND

- 2.1. Section 21 of the Fire & Rescue Services Act 2004 (“the Act”) requires the Secretary of State to prepare a Fire & Rescue National Framework (“the Framework”) setting out priorities and objectives for fire and rescue authorities in discharging their functions. Section 21(7) of the Act requires fire and rescue authorities to “have regard to” the Framework when carrying out their functions. Section 22 empowers the Secretary of State to intervene (requiring an authority either to do something, stop doing something, or not to do something) if it is considered that the authority is failing, or is likely to fail to act in accordance with the Framework.
- 2.2. Paragraph 6.10 of the Framework sets out the following in relation to the substantive appointment to principal fire officer posts (i.e. those of Area Manager or above):

“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”.
- 2.3. Also of relevance are the following paragraphs of the Framework on retirement and re-appointment to principal fire officer posts:
 - 6.8. Fire and rescue authorities must not re-appoint principal fire officers after retirement to their previous, or a similar, post save for in exceptional circumstances when such a decision is necessary in the interests of public safety. Any such appointment must be transparent, justifiable and time limited.
 - 6.9. In the exceptional circumstance that a re-appointment is necessary in the interests of public safety, this decision should be subject to agreement by a public vote of the elected members of the fire and rescue authority.... The reason why the re-appointment was necessary in the interests of public safety, and alternative approaches were deemed not appropriate, must be published and the principal fire officer’s pension must be abated until they cease to be employed by a fire and rescue authority.
- 2.4. However, a national, open competitive process should not preclude a retired principal fire officer from applying for any position being advertised because doing so could expose the Authority to a potential claim for age discrimination. In essence, therefore, the appointment of a retired principal fire officer on the basis of being the best candidate for the post advertised and following a fair and open competition process, would be entirely consistent with paragraph 6.10 of the Framework and it is understood that the principles of paragraphs 6.8 and 6.9 would not apply.

- 2.5. Should a retired principal fire officer be re-employed, however, then – in accordance with the Authority’s approved Pay Policy Statement - the individual’s pension would be abated such that the income from the gross annual rate of pay in the new employment together with the gross annual pension (after commutation) would not exceed the gross annual rate of pay immediately prior to the individual’s retirement.

3. DEPUTY CHIEF FIRE OFFICER

- 3.1. In light of the provisions of the Framework, which the Authority is required to “have regard to” by virtue of Section 21(7) of the Act, it is proposed that – on the retirement of the current post-holder – the post of Deputy Chief Fire Officer should be subject to open, national competition. The current Deputy Chief Fire Officer has indicated that he would be interested in applying for the position if so advertised.

- 3.2. The existing Terms of Reference for the Appraisals and Disciplinary Committee contain the following:

6. To provide in the first instance for membership of Appointments Panels for the posts of Chief Fire Officer, Deputy Chief Fire Officer, Assistant Chief Fire Officer, Treasurer and Monitoring Officer.

- 3.3. Given this, it is proposed that the Appraisals & Disciplinary Committee should, acting as the Appointments Panel, undertake the appointments process and should be delegated authority to confirm an appointment to the post.

4. ASSISTANT CHIEF FIRE OFFICER (SERVICE DELIVERY)

- 4.1. The Service has embarked on a major transformative initiative, the Safer Together Programme, designed amongst other things to deliver a blended approach to its prevention, protection and response activities to better align its existing resources to the community risks identified in the Integrated Risk Management Plan.

- 4.2. A number of officers at Area Manager level have been and will continue to be influential in the development and delivery of the Programme. It is considered that the retirement of the Assistant Chief Fire Officer (Service Delivery) presents an opportunity to develop these individuals further. The temporary promotion of one such individual to cover the period of absence of the Temporary Assistant Chief Fire Officer (Service Improvement), as referenced elsewhere on this agenda, bears evidence to the success of such an approach.

- 4.3. Consequently it is proposed that, on retirement of the current Assistant Chief Fire Officer (Service Delivery), the substantive post should be held vacant with the associated budget being used to temporarily promote existing staff to Assistant Chief Fire Officer as a developmental opportunity. It is also proposed that the Chief Fire Officer be given delegated authority effect any such temporary promotion. In addition to providing the opportunity for individual development, this approach would also secure a degree of stability at senior management level which will aid in securing success in delivering the Safer Together Programme.

- 4.4. As this is not a substantive principal fire officer appointment it is considered that this approach would be compatible with existing Framework provisions. Arrangements for a substantive appointment will be made at a future time.

5. CONCLUSION

- 5.1. The Authority is invited to consider this report and to approve the proposals as set out in relation to the forthcoming retirements of the Deputy Chief Fire Officer and Assistant Chief Fire Officer (Service Delivery).

LEE HOWELL
Chief Fire Officer