

DEVON & SOMERSET FIRE & RESCUE AUTHORITY

SCHEME OF DELEGATIONS

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DEFINITIONS

In this Scheme of Delegations:-

"Devon and Somerset Fire and Rescue Authority"(DSFRA), hereinafter referred to as "the Authority" is the body corporate constituted in accordance with the "Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006" (hereafter referred to as the Order).

"Constituent authorities" means Devon County Council, Somerset County Council, Plymouth City Council and Torbay Borough Council.

"Member" is any councillor from the constituent authorities duly appointed to serve on the Authority.

"Chief Fire Officer" is the person duly appointed by the Authority as the executive, operational and administrative head of the Devon and Somerset Fire and Rescue Service and shall include such officers of the Service as the Chief Fire Officer specifically authorises for the purposes of this Scheme of Delegations.

"Treasurer" shall mean the person duly appointed by the Authority with responsibility for the administration of the Authority's financial affairs.

"Legal Adviser" shall mean the person duly appointed by the Authority with responsibility for affording appropriate legal advice and assistance to the Authority and its Officers to ensure compliance with all legal, statutory and judicial processes.

"Officer" shall mean all employees of the Authority including uniformed and non-uniformed staff.

"Uniformed" means a member of staff whose employment terms are conditioned under the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service (the "Grey Book") OR the National Joint Council for Brigade Managers of Fire and Rescue Services Constitution and Scheme and Conditions of Service (the "Gold Book") as appropriate.

"Non-uniformed" means a member of staff whose employment terms are conditioned under the National Joint Council for Local Government Services (the "Green Book").

"The Clerk" shall be that person so appointed by the Authority for the purpose of constitutional and administrative tasks related to the business of the Authority.

"The Senior Management Board" comprises the Chief Fire Officer, the Deputy Chief Fire Officer and the Heads of the seven functional Departments responsible for Service Operations, Community Safety, Service Planning and Review, Physical Assets, Human Resources Management and Development, Corporate Support (and Clerk to the Authority) and Financial Management (and Treasurer to the Authority). It is responsible for:

- providing leadership to the Service;
- developing, adopting and monitoring the Corporate and Service plans;

- monitoring organisational performance, receiving reports on audit and review and taking action to ensure continuous improvement;
- embedding cultural change and the values of the Service in the development of Service plans and policies;
- adopting and monitoring the revenue and capital budgets;
- ensuring that internal and external communications are of the highest standard throughout the whole of the Service;
- seeking to influence the national fire and rescue service agenda; and
- developing opportunities for collaborative or partnership working including engagement in wider community issues.

1. INTRODUCTION

(a). General Principles

- 1.1 This Scheme of Delegations operates under Section 101 of the Local Government Act 1972 (applied by virtue of the Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006) and authorises officers of the Authority to exercise the functions of the Authority as set out in this document.
- 1.2 The Scheme is without prejudice to the exercise of the Fire and Rescue Authority's functions by the Fire and Rescue Authority itself or by its committees/sub-committees.
- 1.3 An officer to whom functions have been delegated may authorise another officer to exercise those functions in his/her name. This authorisation will always be subject to the overall conditions of the Scheme of Delegations and a written record **MUST** be kept detailing the nature of the authorisation and the name of the officer so authorised.
- 1.4 In the absence of the post-holder, all matters in this Scheme of Delegations delegated to the Chief Fire Officer may be exercised:-
 - (a). In the first instance, by a Deputy Chief Fire Officer;
 - (b). In the absence of a Deputy Chief Fire Officer, by an Assistant Chief Fire Officer
- 1.5 An officer may, instead of exercising a delegated function, refer a matter to the Fire and Rescue Authority or one of its committees/sub-committees as appropriate.
- 1.6 Before exercising a delegated function an officer must consider whether to consult any other officer. In the event of a dispute between Officers as to the exercise of a delegated function the matter shall be referred to the next full meeting of the Fire and Rescue Authority or, in the event of the matter being urgent, to the Clerk following consultation with the Chair or Vice-Chair of the Authority.
- 1.7 Any reference in this Scheme to a statute includes any regulation or order made under it.
- 1.8 Any reference in this Scheme to a statute, statutory instrument, regulation, or order, rule or circular includes any modification, amendment or re-enactment of it.

(b). General Limitations

- 1.9 This Scheme does NOT delegate to officers:-
- any matter reserved to the full Authority;
 - any matter which by law may not be delegated to an Officer;
 - any matter expressly reserved to a Committee, Sub-Committee or Panel by Standing Orders, Financial Regulations (or procedures made thereunder) or Procurement and Contract Regulations (or procedures made thereunder);
 - decisions on permanent savings in the budget to achieve Authority policies;
 - the making of an order for the compulsory purchase of land;
 - the acquisition of land in advance of requirements (i.e. NOT provided for by a scheme contained within the Authority approved Capital Programme);
 - the confirmation of any order or the issue of any grant of any permission, consent, licence or other determination which is the subject of a statutory right of objection that has been duly exercised.
- 1.10 The exercise of any function delegated by this Scheme is subject to and must be in accordance with the following:-
- (i) the policies, practices and procedures of the Authority;
 - (ii) Standing Orders, Financial Regulations (and any Procedures made thereunder), Procurement and Contract Regulations (and any Procedures made thereunder) and the Treasury Management Policy;
 - (iii) the budget of the Authority;
 - (iv) Prior consultation with and involvement of other officers where their responsibilities are affected.

2. GENERAL – MATTERS DELEGATED TO THE CHIEF FIRE OFFICER, TREASURER, LEGAL ADVISER AND CLERK/MONITORING OFFICER JOINTLY AND SEVERALLY

- 2.1 To exercise all the functions of the Authority which can lawfully be delegated and which are consistent with the discharge of the officers responsibilities in accordance with his/her job description and/or principal accountabilities and the power to take such other action as an officer considers will facilitate or be conducive or incidental to the discharge of those functions. Without prejudice to the generality of this delegation, to exercise the functions set out in other parts of this Scheme subject to the qualifications therein.
- 2.2 To exercise the powers of the Authority under the Local Government Act 2003 and any Regulations/Orders made thereunder (powers to trade).

- 2.3 To exercise the functions given by Standing Orders, Financial Regulations (and any Procedures made thereunder), Procurement and Contract Regulations (and any Procedures made thereunder) and the Treasury Management Policy.
- 2.4 To appoint consultants for work directly associated with the discharge of the officer's professional responsibilities.

3. MATTERS DELEGATED TO THE TREASURER OF THE FIRE AND RESCUE AUTHORITY

- 3.1 "Proper officer" in relation to Section 112 of the Local Government Finance Act 1988, specifically the officer responsible for the proper administration of the Fire and Rescue Authority's financial affairs and the submission of reports to the Fire and Rescue Authority on the discharge of that responsibility.
- 3.2 The execution and administration of the Authority's approved Treasury Management Policy in accordance with CIPFA Standards of Professional Practice on Treasury Management.
- 3.3 Ensuring that arrangements are in place for the proper administration of the Local Government Pensions Scheme.
- 3.4 Be responsible for accounting records and control systems; and ensuring that appropriate internal audit arrangements are in place in accordance with Regulations 5 and 6 respectively of the Accounts and Audit Regulations 2003 (as amended).
- 3.5 To certify operating leases and associated Purchase Agency Agreements entered into as required to finance relevant elements of the Authority's approved Capital Programme.
- 3.6 In conjunction with the Chief Fire Officer, to approve increases in line with uniformed staff pay increases to any scheme of authorised charges approved by the Authority in accordance with the Fire and Rescue Services (England) Order 2004 or any subsequent amending Order.
- 3.7 In conjunction with the Clerk, to review and report to the Audit and Performance Review Committee of the Authority on an annual basis on the adequacy and effectiveness of the Authority's Code of Corporate Governance and the extent of compliance with it.
- 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) from the limit as identified in Financial Procedures and up to and including the limit indicated in Financial Regulations.
- (**NOTE:** in the event of any virement between both objective and subjective budget headings, the lower limit will apply)

4. **MATTERS DELEGATED TO THE CHIEF FIRE OFFICER**

(a). **General**

- 4.1 To exercise the functions of Head of Paid Service.
- 4.2 In consultation with the Legal Adviser as necessary, to institute, defend or settle legal proceedings (either in the name of the Authority or an individual officer of the Authority) at common law or under any enactment, statutory instruments order or bye law conferring functions upon the Authority (or in respect of functions undertaken by it) and to lodge an appeal in respect of any such proceedings. For the avoidance of doubt, this delegation shall extend to the taking of all procedural steps including service of notices - statutory or otherwise - counter-notices, the Laying of Informations and to any proceedings which the Chief Fire Officer considers expedient to take for the protection of the interests of the inhabitants of the Authority's area. (**NOTE: this function may also be exercised by the Clerk to the Authority**).
- 4.3 To exercise the Authority's powers as consultee under any legislation including objecting to the issue of licences, consents, registrations or permissions and/or submitting responses or representations.
- 4.4 In the absence of the post-holder and subject to consultation with appropriate officers as indicated, power to exercise any of the functions delegated to the Clerk as detailed in Section 5 below.
- 4.5 In accordance with Standing Orders and in cases of urgency ONLY, power to act on behalf of the Fire and Rescue Authority, subject ALWAYS to consultation with other officers of the Fire and Rescue Authority (as appropriate) and with the Chairman or Vice-Chairman and to a report being submitted on any action so taken to the next ordinary meeting of the Fire and Rescue Authority.
- 4.6 To negotiate and approve, in consultation with the Treasurer and/or Clerk as necessary, the settlement of claims by or against the Authority below £10,000. The settlement of any claim above this amount must be approved by the Authority.
- 4.7 In consultation with the Treasurer, to approve the making of any grant up to and including the limit as set out in Financial Regulations.

- 4.8 To approve ex gratia payments up to and including £5,000 in the case of loss or damage to an employee's clothing and equipment during the course of employment (subject to there being no negligence on the part of the employee) or in relation to any incidental expenditure arising from assault/serious injury to employees at work. Any proposal for an ex-gratia payment above £5,000 must be approved by the Authority.

(b). Operational

- 4.9 In accordance with the Fire and Rescue Services Act ("the Act") 2004:-
- (i). to exercise power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any fire and rescue authority function in accordance with Section 5;
 - (ii). to ensure that the core functions of the Authority as provided for by Sections 6 to 9 of the Act are duly exercised in accordance with the Authority's Integrated Risk Management Plan and any associated policies approved by the Authority;
 - (iii). to exercise power to respond to any other eventualities in accordance with Section 11;
 - (iv). to provide other staff/equipment for other purposes as appropriate in accordance with Section 12;
 - (v). to enter into reinforcement schemes with other fire and rescue authorities in accordance with Section 13;
 - (vi). to enter into arrangements with other employers of firefighters (excluding other fire and rescue authorities) for the discharge of firefighting, road traffic accidents or other emergencies in accordance with Section 15;
 - (vii). to enter into arrangements for the discharge of functions by others in accordance with Section 16 of the Act;
 - (viii). to exercise powers at or under sea in accordance with Section 20;
 - (ix). to provide information as requested to the Secretary of State in accordance with Section 26;
 - (x). to provide information in connection with pensions etc. in accordance with Section 35;
 - (xi). to make arrangements for water supplies in accordance with Part 5, Sections 38 to 43;
 - (xii). to authorise employees of the Authority for the purposes of Part 6, Sections 44, 45 and 46 (powers of entry in the event of an emergency and for information gathering/fire investigation purposes) and furnish them with evidence of authority.

- 4.10 To the extent not covered elsewhere in this Scheme of Delegations, decisions on operational deployment of staff, equipment etc. and the use of buildings in accordance with the approved Integrated Risk Management Plan. This delegation DOES NOT include the power to close a fire station unless that is explicitly mentioned in the approved Plan or has been the subject of a separate resolution by the Authority.
- 4.11 To enter into agreements in respect of fire alarm systems in circumstances where special arrangements are provided to transmit the call from the protected premises to the Fire and Rescue Service Mobilising Centre.
- 4.12 To offer training to outside bodies in aspects in which the Service has expertise.
- 4.13 To authorise the exercise of powers of entry, inspection and survey and the carrying out of emergency works by staff of the Service or contractors acting on behalf of the Fire and Rescue Authority and/or the Service on land or buildings.

(c). Fire Safety

- 4.14 To exercise all the powers of the Authority under the Regulatory Reform (Fire Safety) Order 2005 including, amongst other things:-
- (i). appoint inspectors in accordance Article 26(1) of the Order and furnish them with evidence of authority;
 - (ii). in accordance with Article 26(3) of the Order, make arrangements with either the Health and Safety Commission or the Office of Rail Regulations for the for the performance of the Authority's functions in relation to any particular premises;
 - (iii). in accordance with Article 28(1), to give consent to a duly appointed inspector (or any other person authorised by the Secretary of State) authorising in writing an employee of the fire and rescue service to exercise powers conferred on a fire inspector by virtue of Article 27 of the Order.

(d). Asset Management

- 4.15 To agree, following consultation with the Legal Adviser as necessary, the terms and arrangements for the acquisition (whether by purchase, lease or licence) of land and/or buildings required for Authority purposes subject to:-
- (i). prior approval of the Authority for any acquisition involving a conveyance;
 - (ii). compliance with Financial Regulations (or Procedures made thereunder) and this Scheme of Delegations in relation to thresholds for capital expenditure.
- 4.16 To agree, following consultation with the Legal Adviser as necessary, the terms and arrangements for the disposal of Authority land and/or buildings considered surplus to requirements subject to:-

- (i). prior approval of the Authority for any disposal involving a conveyance;
- (ii). compliance with Section 123 of the Local Government Act 1972.

(e). Personnel

4.17 Subject to:-

- (i) any statutory restrictions and requirements;
- (ii) any conditions of Service requirements;
- (iii) such policies, procedures and practices that may from time to time be determined by the Authority;
- (iv) the provisions of paragraph 4.18 below

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.

In particular, this delegation shall include the power to:-

- (a) effect minor variations in the establishment between uniformed and non-uniformed posts where this is in the best interests of the Service and subject to consultation with representative bodies and to there being no additional resource implications associated with the variation;
- (b) to effect changes in the establishment structure subject to any financial implications being contained from within existing resources and to compliance with the virement thresholds as contained in the Authority's Financial Regulations;
- (c) approve secondments to the Fire Service College, appropriate government department(s) and other relevant agencies subject to all costs being met by the seconding agency. Authorisation to fill vacancies in the Service arising from substantive secondments;
- (d) determine applications submitted by individual members of the Service for approval to carry on outside employment and to determine those occupations likely to present any unacceptable risk of injury or unfitness and impose limitations as appropriate;
- (e) exercise in the first instance, and in accordance with the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions and Service (the "Grey Book"), discretion on extensions of sick pay for uniformed firefighters;

- (f) consider on their individual merits requests for extensions of service beyond the normal retirement age and, if appropriate and subject to a satisfactory medical exam, to approve such requests in line with the conditions as set out in the new Grey Book and the Firefighters' Pension Scheme.
- (g) exercise discretion over broken service with another authority for the purpose of calculating service for the long service bounty scheme;
- (h) approve for membership of a Local Authority, Health Authority or other Public Body (including school/college governing body), to stand as a parliamentary candidate or be a Justice of the Peace and approval of special paid or unpaid leave in relation to these functions;
- (i) [NOTE: this sub-paragraph from the former Devon Fire and Rescue Authority Scheme of Delegations addresses discretionary powers under the Firemens' Pensions Scheme Order 1992. In light of changes to uniformed pensions schemes, including the introduction of the New Firefighters Pension Scheme 2006, these matters are still subject to clarification and will form the basis of a further report to the next Authority meeting].
- (j) [NOTE: this sub-paragraph from the former Devon Fire and Rescue Authority Scheme of Delegations addresses discretionary powers under the Firemens' Pensions Scheme Order 1992. In light of changes to uniformed pensions schemes, including the introduction of the New Firefighters Pension Scheme 2006, these matters are still subject to clarification and will form the basis of a further report to the next Authority meeting].
- (k) in consultation with the Treasurer, approve premature retirement of staff (other than uniformed firefighters) on grounds of permanent ill-health and/or the efficiency of the Service and where appropriate the exercise of discretion in respect of the award of added years.

4.18 The power in paragraph 4.17 above shall NOT include any matter:-

- (i) relating to the posts of Chief Fire Officer, Deputy and Assistant Chief Fire Officer and the Offices of Clerk, Treasurer and Legal Adviser;
- (ii) arising from a proposal for major restructuring;
- (iii) which is a major change in the Authority's or Service's policies, procedures or practices and
- (iv) under the Superannuation Acts relating to the payment and enhancement of pensions.

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.

5. MATTERS DELEGATED TO THE CLERK

- 5.1 "Monitoring Officer" for the purposes of Section 5 of the Local Government and Housing Act 1989.
- 5.2 To sign summonses to attend meetings of the Authority.
- 5.3 To receive the following notices:-
- (i) Appointment of a Member by a constituent authority;
 - (ii) Resignation by a Member;
 - (iii) Declarations of interests by Members in accordance with the Local Government Act 2000;
 - (iv) Addresses to which summons to attend meetings of the Authority are to be sent;
 - (v) Under Regulations 13 and 14 of the Local Government (Committees and Political Groups) Regulations 1990;
- 5.4 To maintain a Register of Interests for Members and Co-opted Members in accordance with Section 81 of the Local Government Act 2000;
- 5.5 To maintain a register of disclosures of personal and prejudicial interests by Members in accordance with the Code of Conduct introduced by the Local Government Act 2000;
- 5.6 To maintain a register of interests in contracts declared by Officers of the Devon and Somerset Fire and Rescue Authority in accordance with Section 117 of the Local Government Act 1972;
- 5.7 "Proper Officer" in relation to the Part VA (sections 100A to 100K)(as inserted by the Local Government (Access to Information) Act, 1985) of the Local Government Act, 1972 as the officer who:-
- (a) shall determine whether to exclude reports from agendas and connected reports of meetings of the Fire and Rescue Authority (or its committees or sub-committees) made available to public inspection on the grounds that the excluded report may, in his opinion, be considered by the meeting in the absence of the public;
 - (b) shall make a written summary (without disclosing exempt information) of the proceedings of any part of any meeting during which the public were excluded where the minute(s) of those proceedings does not provide the public with a reasonably fair and coherent record of the proceedings; and
 - (c) shall compile, and determine the contents of, lists of background papers used in the drafting of reports which are open to inspection by the public.

- 5.8 To receive, return (if appropriate) and open tenders in accordance with Procurement and Contract Regulations and any Procedures made thereunder.
- 5.9 In consultation with the Legal Adviser as necessary, to institute, defend or settle legal proceedings (either in the name of the Authority or an individual officer of the Authority) at common law or under any enactment, statutory instruments order or bye law conferring functions upon the Authority (or in respect of functions undertaken by it) and to lodge an appeal in respect of any such proceedings. For the avoidance of doubt, this delegation shall extend to the taking of all procedural steps including service of notices - statutory or otherwise - counter-notices, the Laying of Informations and to any proceedings which the Chief Fire Officer considers expedient to take for the protection of the interests of the inhabitants of the Authority's area. (**NOTE: this function may also be exercised by the Chief Fire Officer**).
- 5.10 In accordance with Standing Orders, to affix the Seal of the Authority to any relevant document.
- 5.11 To settle complaints against the Fire and Rescue Authority.

6. MATTERS DELEGATED TO THE SENIOR MANAGEMENT BOARD JOINTLY AND SEVERALLY

- 6.1 To exercise the functions given by Standing Orders, Financial Regulations (and any Procedures made thereunder), Procurement and Contract Regulations (and any Procedures made thereunder) and the Treasury Management Policy.
- 6.2 The Head of Physical Assets 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.
- 6.3 To the extent not covered elsewhere in this Scheme of Delegations and subject to compliance with Standing Orders, Financial Regulations (and any Procedures made thereunder), Procurement and Contract Regulations (and any Procedures made thereunder):-
- (a) to take all necessary actions to implement Authority or Committee decisions including committing resources within agreed budgets in the case of financial resources;
 - (b) to take all operational decisions, within agreed Authority policies, in relation to the services for which they are responsible.