

Review of Scheme of Delegation to Officers

Report of the Clerk

For further information about this report please contact Anthea Lowe, Clerk and Monitoring Officer, on 01952 383219, or Simon Hardiman, Chief Fire Officer, on 01743 260201.

1 Purpose of Report

This report seeks the Fire Authority's approval of proposed changes to the Scheme of Delegation to Officers, following a review by Officers.

2 Recommendations

The Fire Authority is requested to approve the proposed changes to The Scheme of Delegation to Officers, as set out in the Appendix to the report.

3 Background

As part of its constitution the Fire Authority has in place The Scheme of Delegation to Officers.

Although not a legal requirement, it is deemed good practice for local authorities to review documents such as these annually.

4 Proposed Amendments

Following a review by Officers and the Legal Services Team at Telford & Wrekin Council there are numerous amendments to The Scheme of Delegation to Officers. The Scheme is attached at the Appendix to the report with deletions shown as struck through and additions and/or amendments shown in bold italics.

This review has been conducted as part of a wider Governance review and will support effective Authority delegations to appropriate officers.

5 Financial Implications

There are no financial implications arising from this report.

6 Legal Comment

The proposed changes to The Scheme of Delegation to Officers are lawful and the Fire Authority has the power to act as proposed in this report.

7 Appendix

The Scheme of Delegation to Officers

8 Background Papers

There are no background papers associated with this report.

Shropshire and Wrekin Fire and Rescue Authority

Scheme of Delegation to Officers

- 1 Conditions of Delegations**

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Shropshire and Wrekin Fire and Rescue Authority

Delegations to Officers

This scheme grants delegated powers to the Chief Fire Officer, Authority Solicitor (Monitoring Officer) and Treasurer (“the Chief Officers”) under section 101 of the Local Government Act 1972 and any other enabling powers.

~~Either of the Assistant Chief Fire Officers,~~ ***The Deputy Chief Fire Officer***, Head of Finance or Deputy Monitoring Officer may exercise these delegated powers in the absence or inability to act of the Chief Fire Officer, Treasurer or Monitoring Officer respectively.

Definitions and Interpretation

For the purposes of this protocol “Brigade Managers” are defined as:

The Chief Fire Officer, the Deputy Chief Fire Officer and the Assistant Chief Fire Officers. The Chair/ Monitoring Officer can delegate these functions to a specified Officer in exceptional circumstances.

In this scheme the powers of the Chair may, in the absence or inability to act of the Chair, be exercised by the Vice-Chair.

Any reference in this scheme to any enactment shall be deemed to include a reference to any statute incorporated therewith or any Statutory Instrument, Order in Council, Byelaws or other Order made thereunder and any enactment repealing, amending or extending the provisions thereof. Any reference to the Authority shall, where the sense allows, be deemed to include references to a Committee.

1 Conditions of Delegations

It is the duty of Chief Officers to whom the exercise of powers is delegated to keep members of the Authority properly informed of activity arising within the scope of the delegated powers given to them.

In exercising delegated powers a Chief Officer shall consult with such other officers as is appropriate in the circumstances and shall have regard to any advice given.

It shall always be open to a Chief Officer to seek authority or guidance from the Authority and to elect not to exercise delegated powers; or to consult with Members on the exercise of delegated powers.

This Scheme does **not** delegate:

- a) any matter reserved to the Authority;
- b) any matter which by law may not be delegated to an officer;
- c) any matter which would involve expenditure (whether capital or revenue) in excess of the relevant budgetary provision for that matter or in contravention of Financial Regulations;

The exercise of delegated powers by a Chief Officer under this Scheme is subject to and shall be in accordance with:

- a) the policies and procedures of the Authority and their decisions from time to time;
- b) the Authority's Standing Orders and Financial Regulations from time to time in force;
- c) the budget of the Authority.

The term "officer" means the holder of post named as having delegated powers or duties under this scheme.

2 Delegations to Chief Fire Officer

General

To make a formal response on behalf of the Authority to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive without reference first to the Authority when the timescale does not allow, after consultation with the Chair and Vice-Chair of the Authority and where relevant and necessary Chairs of the three main committees (Strategy and Resources, Standards, Audit and Performance and **Scrutiny**)

To fulfil the responsibilities and duties of the Authority in respect of the Fire and Rescue Services Act 2004. Any and all legislation including but not limited to the Local Government Act 1992.

To control all matters of day-to-day administration of the Fire and Rescue Service, which shall include taking and implementing decisions that are:

- a) concerned with maintaining the operational effectiveness of those services;
- b) matters incidental to the discharge of the Authority's functions, which fall within a policy decision taken by the Authority.

~~To make, issue and serve such notices, orders, statements and other documents as may be necessary or appropriate for those purposes or to give effect to, or carry out, any decision of his/her under powers delegated to him/her under this Scheme.~~

To submit comments on any town and country planning matter, building regulations, safety of sports grounds and other applications or licences, where the Authority is a consultee, statutory or otherwise.

Enforcement of Legislation

To make, issue and serve such notices, orders, statements and other documents as may be necessary or appropriate for those purposes or to give effect to, or carry out, any decision of his/her under powers delegated to him/her under this Scheme.

To exercise all the powers of the Authority as an enforcement authority under relevant legislation without prejudice to the generality of this provision he/she may in particular carry out the following:

Authorise the commencement of criminal proceedings (after consultation with the Authority Monitoring Officer/ Clerk) for any breach of any law or regulation, the enforcement of which the Authority is empowered to undertake;

Take appropriate action on behalf of the Authority under The Regulatory Reform (Fire Safety) Order 2005 the ("Fire Safety Order");

Designate persons as Inspectors under Article 27 of the Fire Safety Order and Section 19 of the Health and Safety at Work Etc. Act 1974;

Authorise named members of staff in writing to exercise statutory powers conferred on the Authority under Article 27 of the Fire Safety Order:

- a) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in Article 27(1) and to inspect the whole or part of the premises and anything in them, where such entry and inspection may be effected without the use of force;
- b) to make such inquiry as may be necessary for any of the following purposes –
 - i) to ascertain, as regards any premises, whether the provisions of this Order or any regulations made under it apply or have been complied with; and
 - ii) to identify the responsible person in relation to the premises;
- c) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records (including plans) –

- i) which are required to be kept by virtue of any provision of this Order or regulations made under it; or
- ii) which it is necessary for him to see for the purposes of an examination or inspection under this article,

and to inspect and take copies of, or of any entry in, the records;

- d) to require any person having responsibilities in relation to any premises (whether or not the responsible person) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this article;
- e) to take samples of any articles or substances found in any premises which he has power to enter for the purpose of ascertaining their fire resistance or flammability; and
- f) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to the safety of relevant persons, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is, in the circumstances, necessary).

Personnel

As the Head of Paid Service, the Chief Fire Officer has delegated authority:

To ensure that nationally and locally agreed conditions of service are properly implemented.

After consultation with the Treasurer to authorise the implementation of any nationally agreed pay award in respect of all employees, subject to any element of discretion being referred to the Authority for consideration.

To decide upon all personnel issues, which do not necessitate changes in the approved establishment.

To vary the grading of individual non-uniformed posts up to (but not including) Assistant Chief Officer (including progression within and between grades), having regard to the national job evaluation scheme and in consultation with the relevant trade union(s).

To make and terminate appointments of uniformed and non-uniformed staff up to (but not including) posts designated Assistant Chief Officer.

To hear appeals of uniformed and non-uniformed staff up to (but not including) posts designated Assistant Chief Fire Officer. This includes the following functions:

- a) To consider and determine appeals against grading and market factor supplement decisions
- b) To consider and determine grievances in accordance with the Grievance Procedure
- c) To consider and determine appeals against the application or interpretation of conditions of service
- d) To consider and determine any appeal against a decision of a Brigade Manager / Brigade Managers relating to individual cases of long-term sickness and pay
- e) To consider and determine any appeal against a decision of a Brigade Manager / Brigade Managers relating to the ill-health retirement or dismissal for health-related reasons of any employee
- f) To consider and determine appeals against dismissal under the disciplinary process

To ensure that the Fire Authority's disciplinary policy and procedures, based on the Advisory, Conciliation and Arbitration Service (ACAS) best practice guidance, are properly applied and enforced. ***The CFO reserves the right to employ external providers if required to exercise functions under the disciplinary policy.***

In the following matters the Chief Fire Officer shall consult the Chair of the Authority before exercising delegated powers:

- a) Approving visits abroad by officers on official business and the expenses thereof.

To take decisions in connection with legislation relating to firefighters' pensions, after having consulted with the Treasurer on budgetary implications and the Authority Solicitor on any legal basis.

To comply with the duties and obligations of the Pension Scheme Managers, as required by the Welfare Reform and Pensions Act 1999.

To agree contractual arrangements to ensure adequate resource is secured to fulfil legal obligations inclusive of statutory officer provision.

Management of Land and Property

To manage and maintain land and property daily, whether owned or leased.

To deal with any urgent matters, not otherwise delegated, in consultation with the Treasurer, Monitoring Officer, Chair and Vice-Chair.

3 Delegations to the Authority ~~Solicitor~~ Monitoring Officer/ Clerk and Protocol for the Role of Monitoring Officer

To take all necessary steps, including the obtaining of Counsel's advice, in connection with any matter concerning the Authority and incur expenditure in connection therewith.

To institute on behalf of the Authority such proceedings or take such other steps as he/she may consider necessary to:

- a) secure the payment of any debt;
- b) recover possession of any land;
- c) prosecute offences in relation to relevant legislation including the Regulatory Reform (Fire Safety) Order 2005 and the Health & Safety at Work etc Act 1974 and associated legislation.
- d) enforce the performance of any obligations due to the Authority and to take such steps as he/she may consider necessary to enforce any judgement or order obtained in any such proceedings after consultation with the Chair of the Authority;
- e) sign or affix the Authority's seal to documents necessary to give effect to property matters dealt with pursuant to these delegated powers.

To enter a defence to any claim brought against the Authority.

To execute and issue all legal documents necessary to implement decisions made by the Authority or its committees or officers in pursuance of delegated powers, except where another officer has been authorised to take such action or the Clerk has authorised him/her to do so.

To authorise any person to appear on behalf of the Authority in any court, tribunal or inquiry on any matter relating to the business of the Authority.

The above powers may be delegated to a solicitor other than the Authority Solicitor.

Protocol for the Role of Monitoring Officer

The Monitoring Officer undertakes to discharge his/her responsibilities in a manner which will enhance the reputation of the Authority. In general terms his/her ability to discharge these duties depends on excellent working relations with colleagues and Members but also on the flow of information and access to debate, particularly at early stages.

The following arrangements and understandings between the Monitoring Officer and colleagues and Members are designed to help ensure the effective discharge of his/her functions:

- a) Advance notice of meetings whether formal or informal, between Brigade Managers and/or the Treasurer and Committee Chairs or Vice Chairs will be given to the Monitoring Officer, where any procedural, vires or other constitutional issues are likely to arise.
- b) Brigade Managers and the Treasurer will alert the Monitoring Officer to all emerging issues of concern, including legality, probity, vires and constitutional issues. The Monitoring Officer will provide feedback and inform Brigade Managers and the Treasurer of general or specific issues of concern.
- c) The Monitoring Officer will have copies of all reports to Members.
- d) The Monitoring Officer will develop good liaison and working relations with the External Auditor and the Ombudsman, including giving and receiving relevant information, whether confidential or otherwise.
- e) The Monitoring Officer will have a good working relationship with the Chair and Vice Chair of the Authority and will ensure that Brigade Managers and the Treasurer have up-to-date information regarding emerging issues.
- f) The Head of Human Resources and Administration will liaise regularly with the Monitoring Officer, Deputy Monitoring Officer and Solicitor to consider and recommend action in connection with current governance issues and other matters regarding probity.
- g) In carrying out any investigation the Monitoring Officer will have unqualified access to any information held by the Authority and any employees, who can assist in the discharge of his/her functions.
- h) The Monitoring Officer will liaise with the Head of ~~Human Resources and Administration~~ **Finance** regarding monies required to enable him/her to seek Counsel's opinion on any matter concerning his/her functions.
- i) The Monitoring Officer will be responsible for preparing a training programme for Members relating to standards issues.
- j) The Monitoring Officer will report to the Authority from time to time on the Fire Authority's constitution and any necessary or desirable changes following consultation with Brigade Managers and the Treasurer.
- k) The Monitoring Officer will appoint a deputy and keep him/her briefed on emerging issues.
- l) The Monitoring Officer will keep a Register of Interests and Register of Gifts and Hospitality for the Authority and regularly remind employees and Members to keep this up-to-date.

For the purposes of this protocol “Brigade Managers” are defined as:
The Chief Fire Officer, the Deputy Chief Fire Officer and the Assistant Chief Fire Officers.

4 Delegations to the Authority Treasurer

~~To undertake all matters of~~ **To be responsible for delivering the** day-to-day financial administration for the Service, in accordance with the Standing Orders and Financial Regulations of the Authority.

In agreement with the Chief Fire Officer, and after consultation with the Chair and the Vice Chair, in cases of urgency to approve virement, supplementary revenue and capital votes not otherwise covered by the Treasurer’s delegated authority. Action taken under this delegation must be reported to the next meeting of the Authority.

Supplementary Revenue Votes

To approve supplementary revenue votes for items which are of a formal, unavoidable or relatively small amount and which are not inconsistent with approved budgetary policy and which:

- a) result from pay awards or price increases not taken into account in approved revenue votes;
- b) result from expenditure arising from the mandatory implementation of Acts of Parliament or other government directives;
- c) relate to goods, services or other expenses which were budgeted for and properly ordered or committed in the previous year but which, owing to delays in delivery or execution, have to be accounted for in the following year. (It is implicit that the original budgetary provision should remain unspent at the end of the year of provision);
- d) are urgently necessary to maintain existing services and cannot reasonably be met from appropriate approved revenue votes;
- e) do not exceed £10,000 in total for any one purpose and do not entail significant expenditure in subsequent years.

Virement (i.e. the transfer of sums approved for a specified purpose to another purpose) may be authorised by the Treasurer in accordance with Financial Standing Orders provided:

- a) there are no greater consequential revenue effects in later years;
- b) the proposals are not inconsistent with approved budgetary policy and the overall budget situation;

- c) that it does not involve the transfer of sums between votes where the activities in one of the votes are outside the control of the Authority, e.g. debt charges, pensions;
- d) that it does not involve the transfer of sums to the appointment of staff or other purpose which will commit the Authority to a significant additional level of expenditure in future years or which will initiate new policies or the extension of existing policies.

Supplementary Capital Votes

To approve supplementary capital votes subject to the limitations set out in Financial Standing Orders.

~~5~~ Interpretation

~~5.1 In this scheme the powers of the Chair may, in the absence or inability to act of the Chair, be exercised by the Vice Chair.~~

~~5.2 Any reference in this scheme to any enactment shall be deemed to include a reference to any statute incorporated therewith or any Statutory Instrument, Order in Council, Byelaws or other Order made thereunder and any enactment repealing, amending or extending the provisions thereof. Any reference to the Authority shall, where the sense allows, be deemed to include references to a Committee.~~