

# Dorset & Wiltshire Fire and Rescue Authority

## Scheme of Delegation

### 1. Foreword

- 1.1 In order to be able to operate efficiently and effectively the Fire and Rescue Service needs a scheme of delegation which where necessary enables decisions to be made quickly and by the right person without the need for referral through tiers of managers.
- 1.2 Combination of the Dorset Fire Authority and the Wiltshire and Swindon Fire Authority has provided an opportunity revisit the old style very detailed, restrictive and list based schemes of delegation which were previously in place and to adopt a new approach.
- 1.3 As in other types of local authority, combined Fire and Rescue Authority decision making takes place within a sometimes complex legal framework within which staff are accountable to councillors appointed to the Fire Authority by its five constituent councils. This document describes how within a legal framework the Fire and Rescue Authority has been able to move away from a very detailed scheme of delegation to one which is more flexible and gives officers greater freedom to make decisions within a framework set by councillors.

### Scheme of Delegation

- 1.4 In place of a scheme of delegation listing very specific things that the Chief Fire Officer, Monitoring Officer and Treasurer are permitted to and are permitted to authorise others to do on their behalf this new scheme of delegation takes as its starting point:
  - ◆ A presumption that officers have delegated authority to exercise functions and make decisions about the service areas for which they are responsible.
  - ◆ That senior managers will delegate functions and decision making to the most appropriate levels within their services so that staff are free to do their jobs without having to needlessly refer questions through tiers of management.
  - ◆ A requirement that all staff will operate within the overall policies approved by the Fire and Rescue Authority and the limitations described in this scheme of delegation.
- 1.5 Reviewing the scheme of delegation has also provided an opportunity to be clear about the respective roles of councillors and officers. Through the introduction of local performance committees this has included defining the role of local performance committee members as the representatives of their communities and the introduction of requirements on officers to engage and consult with local performance committees before exercising any delegated authority which would have particular local impact.

### 2. How decisions are made

- 2.1 The Fire and Rescue Authority's decision making arrangements operate in accordance with section 101 of the Local Government Act 1972 under which decisions are made:
  - ◆ By the full Authority; or by a committee of the Authority; or

- ◆ By an officer exercising delegated authority.

2.2 Unlike the constituent councils the Fire and Rescue Authority does not operate executive/Cabinet style decision making arrangements. Instead all decisions are made by the full Authority or by a committee or an officer acting on behalf of the Authority.

2.3 Although not an executive/Cabinet type arrangement the Fire Authority has reserved to itself the responsibility for setting overall policy direction whilst other decisions are made by a Policy and Resources Committee which meets on a more frequent basis and which has powers to act in cases of urgency.

2.4 The decisions which the full Fire and Rescue Authority has reserved to itself are:

1. Approving the annual community safety plan (including the integrated risk management plan).
2. Approving the annual budget and setting the precept to give effect to the budget.
3. Maintaining a comprehensive performance management system to ensure that the Authority's objectives are being met.
4. Setting the treasury management strategy and policies.
5. Approving and adopting standing orders and the scheme of delegation.

2.5 As would be the case in one of the constituent councils operating executive/Cabinet type arrangements the Policy and Resources Committee operates within a policy framework and a budget prescribed by the full Fire and Rescue Authority. Unlike the constituent councils, members of the Policy and Resources Committee do not carry particular portfolio responsibilities and neither the Chairman of the Authority (who is also the Chairman of the Policy and Resources Committee) nor individual members of the Policy and Resources Committee have any individual decision making powers.

### **3. Delegations to officers**

3.1 Local authority and combined Fire and Rescue Authority decisions are made by elected members but in order for an authority to be able to function on a day to day basis the law enables the full Authority to delegate certain of its functions to officers to exercise on behalf of the Authority. In addition there are some functions which the law says must be exercised by specific officers.

3.2 The Fire and Rescue Authority's statutory officers are the Chief Fire Officer who is also the head of paid service, the Treasurer and the Monitoring Officer. The Chief Fire Officer, the other brigade managers and the Monitoring Officer are the "senior managers" for the purposes of this scheme and are accountable to the Fire and Rescue Authority for how functions are exercised and how decisions are made within the areas for which they are responsible.

3.3 Each of the old authorities' schemes of delegation were very detailed, listing functions delegated to officers, sometimes by reference to individual acts and regulations. These schemes were difficult to maintain and keep up to date and it was sometimes found that there

were gaps, meaning that action could not be taken when it was needed because officers lacked specific authority.

- 3.4 The Localism Act gave local authorities a general power of competence (a power to do anything that an ordinary individual may do, unless the law contains some prohibition or limitation on acting). At the same time the Localism Act extended the powers of fire and rescue authorities by enabling them to do anything considered appropriate for the purposes of carrying out their functions and anything considered appropriate for purposes incidental to their functions.
- 3.5 This scheme of delegation is modelled on the Localism Act approach in the sense that its starting point is a presumption that officers have delegated authority to exercise functions and make decisions in relation to the service areas for which they are responsible. This ability to act will give staff greater freedom and flexibility to act and is subject only to the requirements and limitations set out in this scheme.
- 3.6 Although the general approach in this scheme is a presumption that all officers have authority to exercise functions and make decisions in relation to the service areas for which they are responsible it is still important that this scheme should describe the roles and duties of the three statutory officers and the powers delegated to them in order to perform their duties in addition there are some specific delegations to the statutory officers which need to be set out in the scheme. These delegations may only be exercised by them personally or by an officer authorised by them in writing for that purposes. These delegations are set out at the end of this scheme.

#### **4. Conditions and limitations on the exercise of delegated authority by officers**

- 4.1 These conditions and limitations apply not only to senior managers but also to any other officer exercising delegated authority under this scheme. Senior managers must draw attention to the requirements of these conditions and limitations and through line management ensure that they are complied with.
- 4.2 Any action by an officer under delegated powers shall be in accordance with the overall policies approved by the full Fire and Rescue Authority any relevant decision of a committee of the Authority. Officers will also comply with principles for good decision making, described below.
- 4.3 If authority to act has been reserved to the full Fire and Rescue Authority or a committee then no officer may exercise delegated authority in relation to that matter without the approval of the Authority or committee. This limitation includes the ability to make key decisions. A key decision is one which has financial implications for the Authority of more than £100,000 or which will effect response standards or other aspects of service delivery to a significant extent in the area of one or more of the constituent councils. Key decisions will be made by the full Fire and Rescue Authority only as recommendations from the Policy and Resources Committee unless with the agreement of the Chairman of the Authority they are referred for decision to the Policy and Resources Committee as items of urgency.
- 4.4 Before exercising any delegated power officers must consider whether the decision to be made is of such a nature that it ought to be referred for a collective decision by the full Authority or the Policy and Resources Committee. Through the Chief Fire Officer or other

appropriate brigade manager clear communication must be maintained with the Chairman of the Authority and where appropriate with political group leaders so that they can if necessary require significant or sensitive issues to be referred to the full Fire and Rescue Authority or Policy and Resources Committee for decision.

- 4.5 Officers must also consider whether a decision proposed to be taken under delegated powers might have a particular local significance necessitating consultation with the Chairman of or wider member of a local performance committee. If members of a local performance committee object to a decision being taken under delegated powers then that decision must be referred to the full Fire and Rescue Authority or to the Policy and Resources Committee for a decision.
- 4.6 The other brigade managers have a responsibility for advising the Chief Fire Officer and elected members on strategic issues and they have an overall responsibility for the groups of services they lead and are accountable to councillors for the performance of those services. Service managers and their staff when considering the exercise of delegated authority must be alert to this accountability and should consult the appropriate brigade manager if a delegated decision is likely to be as sensitive or significant (such that the Director might need to consult with the Chief Fire Officer or councillors).
- 4.7 Delegated decisions must not involve the adoption of a new policy or major extension of an existing policy and shall exclude any instance where the magnitude or controversial nature of a proposal is such that responsibility for the decision should be taken by the full Fire and Rescue Authority. In particular key decisions must be referred to councillors for a collective decision.
- 4.8 All decisions, whether by the full Fire and Rescue Authority/a committee or by officers acting under delegated powers must be in accordance with the principles for good decision making. These are:
1. Proportionality i.e. the action should be proportionate to the desired outcome.
  2. Due consultation and taking account of professional advice.
  3. Respect for human rights and equalities law.
  4. Presumption in favour of openness
  5. Clarity of aims and desired outcomes.
  6. The decision reflects a balance of evidence or legal or financial position
  7. The requirement to be able to provide reasons for decisions
- 4.9 Increasingly there are circumstances where the Fire and Rescue Authority may enter into partnership arrangements with other local authorities, health bodies or other organisations for the shared delivery of services. These arrangements may involve shared budgets, delegations of roles across organisations, shared staffing and management structures. Under any such arrangements it may be necessary for a senior manager to give delegated authority act to someone employed by a partner body and not by the Fire and Rescue Authority. In

such cases particular care must be taken to describe in writing the limits of the extent of delegated authority to act on behalf of the Fire and Rescue Authority.

- 4.10 Where a proposed exercise of delegated authority is such that the Chairman should be consulted and the Chairman is absent or otherwise unavailable then the Vice Chairman should be consulted. Similarly in the absence of the Chairman of a committee or group leader a vice chairman or deputy should be consulted

## **5. General indemnity**

- 5.1 All councillors and officers involved in decision making on behalf of the Fire and Rescue Authority are protected by a general indemnity which protects each of them from personal liability for the consequences of action taken in good faith on behalf of the Authority.

## **6. Specific delegations**

- 6.1 The starting point for the delegated authority to staff to act is the general authorisation in section 3, above given to all officers to act within their roles. There are though instances where the Chief Fire Officer, Treasurer and Monitoring Officer retain very specific powers to act and these are listed below.

### **Chief Fire Officer Role**

The Chief Fire Officer is the Head of Paid Service responsible for operational leadership of the Fire and Rescue Service and is also the Fire and Rescue Authority's professional adviser on all matters which are not the responsibility of either the Treasurer or the Monitoring Officer.

In summary the Chief Fire Officer's duties are to:

- ◆ Advise the Fire and Rescue Authority on the discharge of its statutory responsibilities, its powers and duties
- ◆ Provide professional leadership of the service and be responsible for operational service delivery
- ◆ Ensure a cohesive policy in planning for all emergencies within the responsibility of the Fire and Rescue Authority and to take command of incidents as necessary
- ◆ Develop and deliver key strategies for discharging the Fire and Rescue Authority's statutory responsibilities.
- ◆ Recommend the resources necessary for the efficient and effective operation of the Fire and Rescue Service
- ◆ Monitor the overall expenditure of the Fire and Rescue Service budget to meet approved objectives and standards of service
- ◆ Develop and recommend to the Fire and Rescue Authority key organisational reports and plans including the Annual Community Safety Plan and Integrated Risk Management Plan.

- ◆ Maintain effective working relationships and liaise with local and national partners on Fire and Rescue Service related issues including but not limited to the other emergency services.
- ◆ Provide the Fire and Rescue Authority with professional advice on all matters relating to the future of the Service.
- ◆ To liaise with the Treasurer and the Monitoring Officer on matters relating to the operation of the Fire and Rescue Authority.

### **Powers Delegated to the Chief Fire Officer**

**To exercise all powers necessary to fulfil the role and duties of Chief Fire Officer including but not limited to the following powers**

#### **1. Operational**

- 1.1 The power to take all operational decisions in relation to the Fire and Rescue Service.

#### **2. Asset Management**

- 2.1 To authorise, in cases of urgency, the acquisition or disposal of land or any other transactions which he considers to be in the best interests of the Fire Authority, after consultation with the Chairman and the Vice-Chairman and after having taken advice from the Treasurer and the Clerk.
- 2.2 To make applications for planning permission.

#### **3. Partnership arrangements**

- 3.1 To enter, manage and invest in partnership arrangements with such other bodies (both public and private) where they directly contribute to the aims, objectives and statutory functions of the Fire and Rescue Authority.

#### **4. Fire Safety**

- 4.1 To exercise all the powers of the Fire and Rescue Authority under fire safety legislation including as an enforcement authority, statutory consultee or adviser to other agencies.

#### **5. Personnel**

- 5.1 To deal with all matters relating to the paid employment of persons by the Fire and Rescue Authority other than brigade manager roles.

#### **6. Health and Safety**

- 6.1 To discharge the responsibilities and duties of the Fire and Rescue Authority under health and safety legislation.

#### **7. General**

- 7.1 After consultation with the Chairman, Vice-Chairman and group leaders, to respond to consultation documents on behalf of the Fire and Rescue Authority.

- 7.2 After consultation with the Chairman and in exceptional circumstances only to authorise surveillance for all purposes under the Regulation of Investigatory Powers Act 2000, including where there is a likelihood of acquiring confidential information. (note the authorisation of surveillance where there is a likelihood of acquiring confidential information is personal to the Chief Fire Officer and the Monitoring Officer and may not be delegated by them to others to act on their behalf).

### **Treasurer Role**

The Treasurer is the Fire and Rescue Authority's professional adviser on financial matters.

In summary the treasurer's duties are to:

- ◆ Provide financial advice on all aspects of the Fire and Rescue Authority's activity, including strategic planning and policy making
- ◆ Advise on financial propriety
- ◆ Ensure that accurate, timely and complete financial management information is provided to the Fire and Rescue Authority and the Chief Fire Officer
- ◆ Secure the preparation of statutory and other accounts
- ◆ Secure the provision of an effective audit service and provide assurance of safe and efficient financial arrangements
- ◆ Secure treasury management, including loans and investments
- ◆ Advise in consultation with the Monitoring Officer on the safeguarding of assets, including risk management and insurance
- ◆ Arrange for the determination, issue and transfer of the precept; and
- ◆ Advise on budgetary matters including any consequent long term implications
- ◆ To liaise with the Chief Fire Officer and the Monitoring Officer on matters relating to the operation of the Fire and Rescue Authority.

### **Powers Delegated to the Treasurer**

**To exercise all powers necessary to fulfil the role and duties of Treasurer including but not limited to the following powers**

1. As "Proper Officer" in relation to the following provision of the Local Government Act 1972:
  - ◆ In Section 115(2) as the officer who shall receive all money due from every officer employed by the Authority.
  - ◆ In Section 146(1) as the officer in relation to transfers of securities on alteration of area, etc.

- ◆ In Section 151 as the officer responsible for the proper administration of the Authority's financial affairs.
- 2. "Chief Financial Officer" for the purposes of Section 6 of the Local Government and Housing Act 1989.
- 3 To incur overdraft on the Authority's bank accounts, the net pooled balance not to exceed £50,000 overdrawn at any one time.
- 4 In relation to the Local Government Pension Scheme be responsible for:
  - ◆ admission to scheme
  - ◆ application of interchange rules
  - ◆ surrender of allowances
  - ◆ reintroduction of child's pension.

### **Monitoring Officer Role**

The Monitoring Officer is the Fire and Rescue Authority's professional adviser on legal, procedural and conduct matters.

In summary the Monitoring Officer's duties are to:

- ◆ Ensure that the Fire and Rescue Authority acts within and through the law, acting as the designated Monitoring Officer under the Local Government and Housing Act 1989.
- ◆ To oversee the Fire and Rescue Authority's decision making processes, support the Chairman at Authority and Committee meetings and to ensure that decisions are recorded and implemented,
- ◆ To be responsible for the safekeeping of the Fire and Rescue Authority's Common Seal.
- ◆ To provide independent, timely and reliable advice and information on those matters which are not the responsibility of the Chief Fire Officer or the Treasurer
- ◆ To advise the Fire and Rescue Authority on its duties, powers and procedures.
- ◆ To advise the Fire and Rescue Authority and the Chief Fire Officer on issues of governance and public service policy.
- ◆ To advise the Independent Remuneration Panel and implement the agreed scheme of members' allowances.
- ◆ To keep the register of members' disclosable pecuniary interests and to respond to members' requests for advice about their interests.
- ◆ To liaise with the constituent councils about appointments to the Fire and Rescue Authority.
- ◆ To liaise with the Chief Fire Officer and the Treasurer on matters relating to the operation of the Fire and Rescue Authority.

### **Powers Delegated to the Monitoring Officer**

**To exercise all powers necessary to fulfil the role and duties of Monitoring Officer including but not limited to the following powers**

1. To be "Proper Officer" in relation to all provisions in the Local Government Act 1972 concerning:
  - ◆ Receipt of any councillor's declaration of acceptance of office or written notice of resignation.
  - ◆ The summoning of meetings
  - ◆ Receipt of notice and recording of any councillor's interest in contracts with or tenancies of premises owned by the Authority (Section 96(1)).
  - ◆ In Section 225 - the officer with whom documents shall be deposited and in Sections 229 and 234 - the officer who shall certify and authenticate documents on behalf of the Authority.
2. To be Proper Officer in relation to the provisions of the Local Government and Housing Act 1989 regarding political groups and the allocation of seats to political groups.
3. To be "Proper Officer" for the purposes of the Local Government (Access to Information) Act 1985.
4. To be Monitoring Officer under the Local Government and Housing Act 1989, the Local Government Act 2000 and the Localism Act 2011.
5. As its solicitor to institute, defend or settle legal proceedings on behalf of the Fire and Rescue Authority, to appear on behalf of the Authority in proceedings and at any tribunal, to engage counsel and to take all necessary action in connection with such proceedings.
6. To keep the Fire and Rescue Authority's common seal and sealing or sign any order, deed or other document necessary to give effect to a decision of the Authority or a committee, sub committee or officer acting under delegated powers.
7. After consultation with the Chairman and in exceptional circumstances only to authorise surveillance for all purposes under the Regulation of Investigatory Powers Act 2000, including where there is a likelihood of acquiring confidential information. (note the authorisation of surveillance where there is a likelihood of acquiring confidential information is personal to the Chief Fire Officer and the Monitoring Officer and may not be delegated by them to others to act on their behalf).
8. As the "qualified person" to determine whether information should be regarded as exempt from publication under Section 36 of the Freedom of Information Act 2000.