

Dorset & Wiltshire Fire and Rescue Authority

Scheme of Delegation to Officers

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1. Foreword

- 1.1 In order to be able to operate efficiently and effectively the Fire and Rescue Service (the 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 As in other types of local authority, combined Dorset & Wiltshire Fire and Rescue Authority (the Authority) decision making takes place within a sometimes complex legal framework within which staff are accountable to Members appointed to the Authority by its four constituent councils.
- 1.3 This document describes how within a legal framework the 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 Members.

Scheme of Delegation

- 1.4 In place of a scheme of delegation listing very specific things that the Chief Fire Officer, Clerk & 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 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 Members 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.

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2. How decisions are made

2.1 The 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 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 Authority has reserved to itself the responsibility for setting overall policy direction.

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

1. approval of the Community Safety Plan and any significant amendments to it or the Integrated Risk Management Programme (Communities Programme);
2. approval of any significant reports and proposals issued for public consultation;
3. approval of the annual budget and agreement as to the precept to give effect to the budget;
4. approval of the Medium Term Finance Plan;
5. maintaining a comprehensive performance management system to ensure that the Authority's objectives are being met;
6. Treasury management strategy and policies;
7. approve and adopt a scheme of standing orders

3. Delegations to officers

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

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- 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 purpose. 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 Authority any relevant decision of a committee of the Authority. Officers will also comply with principles for good decision making, described below.

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- 4.3 If authority to act has been reserved to the full 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 in excess of current provision, 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 Authority only.
- 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. Through the Chief Fire Officer or other appropriate brigade manager clear communication must be maintained with the Chair 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 Authority 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 Chair of or wider member of a Local Performance and Scrutiny Committee. If members of a Local Performance and Scrutiny Committee object to a decision being taken under delegated powers, then that decision must be referred to the full Authority 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 Members 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 Members).
- 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 Authority. Key decisions must be referred to Members for a collective decision.
- 4.8 All decisions, whether by the full Authority/a committee or by officers acting under delegated powers must be in accordance with the principles for good decision making. These are:

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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 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 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 Authority.

4.10 Where a proposed exercise of delegated authority is such that the Chair should be consulted and the Chair is absent or otherwise unavailable then the Vice Chair should be consulted. Similarly, in the absence of the Chair of a committee or group leader a Vice Chair or Deputy should be consulted.

5. General indemnity

5.1 All Members and officers involved in decision making on behalf of the 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 instances where the Chief Fire Officer, Treasurer and Clerk & Monitoring Officer retain very specific powers to act and these are listed below:

6.1.2 Chief Fire Officer Role

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

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

- ◆ advise the 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 Authority and to take command of incidents as necessary
- ◆ develop and deliver key strategies for discharging the 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 Authority's key organisational reports and plans including the 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 Authority with professional advice on all matters relating to the future of the Service
- ◆ to liaise with the Treasurer and the Clerk & Monitoring Officer on matters relating to the operation of the Authority.

6.1.3 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:

a) Operational

The power to take all operational decisions in relation to the Service.

b) Asset Management

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 Authority, after consultation with the Chair and the Vice-Chair and after having taken advice from the Treasurer and the Clerk & Monitoring Officer.

To make applications for planning permission.

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c) Partnership arrangements

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 Authority

d) Fire Safety

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

e) Personnel

To deal with all matters relating to the paid employment of persons by the Authority other than the Deputy Chief Fire Officer role.

To approve in the re-appointments of Group Managers and below (and their corporate staff equivalents). This should be only exercised 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.

f) Health and Safety

To discharge the responsibilities and duties of the Authority under health and safety legislation.

g) General

After consultation with the Chair, Vice-Chair and group leaders, to respond to consultation documents on behalf of the Authority.

After consultation with the Chair 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 Clerk & Monitoring Officer and may not be delegated by them to others to act on their behalf).

In consultation with the Chair and Clerk & Monitoring Officer, the Chief Fire Officer may sign up to external charters provided it is within the general scope of delegations associated with this role. Where this is not within scope of his delegations, the Chair in consultation with the Clerk & Monitoring Officer may decide the appropriateness of tabling this as a matter for consideration by the Authority.

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6.1.4 Treasurer Role

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

In summary the Treasurer's duties are to:

- ◆ provide financial advice on all aspects of the 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 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 Clerk & 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 Clerk & Monitoring Officer on matters relating to the operation of the Authority.

6.1.5 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:

- a) 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.
- b) "Chief Financial Officer" for the purposes of Section 6 of the Local Government and Housing Act 1989.
- c) To incur overdraft on the Authority's bank accounts, the net pooled balance not to exceed £50,000 overdrawn at any one time.

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d) 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.

6.1.6 Clerk & Monitoring Officer Role

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

In summary the Clerk & Monitoring Officer's duties are to:

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

6.1.7 Powers Delegated to the Clerk & Monitoring Officer

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

- a) To be "Proper Officer" in relation to all provisions in the Local Government Act 1972 concerning:
- ◆ receipt of any Members declaration of acceptance of office or written notice of resignation
 - ◆ the summoning of meetings

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- ◆ 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.
- b) 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.
- c) To be "Proper Officer" for the purposes of the Local Government (Access to Information) Act 1985.
- d) To be Clerk & Monitoring Officer under the Local Government and Housing Act 1989, the Local Government Act 2003 and the Localism Act 2011.
- e) As its solicitor to institute, defend or settle legal proceedings on behalf of the 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.
- f) To keep the 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.
- g) After consultation with the Chair 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 Clerk & Monitoring Officer and may not be delegated by them to others to act on their behalf).
- h) 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.