

## **APPENDIX**

### **West Midlands Fire and Rescue Authority Matters reserved to the Authority**

Where these matters have been delegated to Committees/Panels this is indicated – see key below.

#### **1. Governance**

- 1.1 Appointment of committees and panels, their terms of reference, appointment of chairs and vice chairs [with the exception of the Standards Committee], Section 41 members and appointments to other bodies].
- 1.2 Approval and variation of Authority procedural Standing Orders, procurement standing orders and Financial Regulations and any other standing orders/procedures/protocols deemed to be reserved to the Authority.
- 1.3 Approval of the members' allowances scheme.
- 1.4 Establishment of a Standards Committee and appointment of independent members of the Standards Committee.
- 1.5 Overview of corporate governance and the regulatory framework [APM].

#### **2. Finance and land matters**

- 2.1 Capital and revenue budget setting including setting the precept and budget monitoring.
- 2.2 Approval of the accounts and the annual governance statement.
- 2.3 Approval of Property Asset Management Plan.
- 2.4 Acquisition and disposal of land and property where not otherwise delegated to the Chief Fire Officer.

- 2.5 Overview of internal and external audit functions [APM].
- 2.6 Matters reserved to the Authority under financial regulations and procurement standing orders including approving:
  - The procurement process in respect of tenders with value in excess of £100,000 [E];
  - The award of contracts valued in excess of £100k where it is proposed to accept a tender other than the most economically advantageous or lowest price, or where there is no budget provision, or in any case where the Committee has reserved the right to approve the award of a contract [E];
  - Virement in excess of £100k [E];
- 2.7 Approval of sponsorship arrangements in excess of £100,000 [E];
- 2.8 Overview of the Authority's risk management strategy as defined in the Financial Regulations [APM].

### **3. Human Resources**

- 3.1 Approval of any significant changes in staffing models and organisational structures, pay and conditions of service; approval of the staffing structure and pay and conditions of service for principal and statutory officers.
- 3.2 Appointment of Chief Fire Officer, Deputy and Assistant Chief Fire Officers and Directors [P]; appointment of the Clerk, Monitoring Officer and Treasurer.
- 3.3 Discipline and dismissal of the Chief Fire Officer, Clerk, Monitoring Officer and Treasurer.
- 3.4 Deciding appeals under the firefighter pension schemes and the local government superannuation regulations [A].
- 3.5 Deciding on trade disputes under the national conditions of service for uniformed and non-uniformed personnel [A].

#### **4. Service delivery**

- 4.1 Setting of policy and strategy and approval of any changes to policy and strategy relating to the functions of the Authority under the Fire and Rescue Services Act 2004 and any other relevant legislation;
- 4.2 Responding to statutory consultations [excluding technical operational matters];
- 4.3 Approval of the Plan [the Authority's strategic planning document][E] and approval of any significant matters arising from the IRMP process [E, including matters that can be dealt with locally as part of the modernisation agenda].

#### **5. Generally**

- 5.1 Any other matters which must by law be reserved to the Authority.

Key

[A] Appeals Committee

[APM] Audit and Performance Management Committee

[E] Executive Committee

[P] Principal Officers' Staffing Committee

## **West Midlands Fire and Rescue Authority Scheme of Delegation to Officers**

This scheme grants powers to Officers to exercise powers and carry out duties of the Authority under various Statutes, Orders, Regulations and Byelaws and at Common Law. The scheme should be read in conjunction with the document 'Matters reserved to the Authority' and will be reviewed at each Annual Meeting of the Authority and otherwise as necessary. Paragraph 33 of the Authority's Procedural Standing Orders also applies to the scheme of delegation.

### **1. Conditions of Delegations**

- 1.1** It is the duty of Officers to whom the exercise of powers is delegated to keep Members of the Authority informed of activity arising within the scope of the delegated powers given to them.
- 1.2** In exercising delegated powers, Officers shall consult with each other as appropriate in the circumstances and shall have regard to any advice given.
- 1.3** It shall always be open to an Officer to seek authority or guidance from the Authority (particularly Statutory Officers) and to elect not to exercise delegated powers; or to consult with Members on the exercise of delegated powers.
- 1.4** The exercise of delegated powers by an Officer shall be in accordance with :-
  - (a) The policies of the Authority and their decisions from time to Time;
  - (b) The Authority's Standing Orders and Financial Regulations.
- 1.5** A written record will be kept of all actions taken under delegated authority.

## **2. Powers not to be delegated**

### **2.1 This Scheme does not delegate:-**

- (a) Any matter reserved to the Authority.
- (b) Any matter that must not by law be delegated to an Officer.

### **Powers should not be delegated:**

- 2.2** Where to do so would effectively result in the Officer making a decision reviewing their own decision in relation to pension and disciplinary matters.
- 2.3** Where to do so would result in a breach of the Authority's Contract Standing Orders for the time being in force.
- 2.4** In respect of action constituting the entering into of sponsorship arrangements, the value of which exceeds £50,000.
- 2.6** In respect of action constituting the appointment or dismissal of the Chief Fire Officer, the Deputy Chief Fire Officer, an Assistant Chief Fire Officer, Director of Corporate Services, Director of Human Resources, Director of Finance and Procurement, the Clerk, Monitoring Officer or the Treasurer.
- 2.7** Where to do so would result in the Authority incurring expenditure for which no budgetary provision exists within the budget heads for which the Officer proposing to exercise delegated powers is responsible.
- 2.8** Where to do so would result in expenditure entailing the virement of sums totaling in excess of £100k from one budget line approved by the Authority to another budget line.
- 2.9** No Officer other than the Treasurer shall have the power to write off debts due to the Authority.
- 2.10** The term "Officer" means the holder of a post named as having delegated powers or duties under this scheme.

### **3. Delegations to the Chief Fire Officer**

- 3.1** To control all matters relating to the day-to-day administration of the Authority's functions under the Fire and Rescue Service Act 2004 and any other enabling legislation which shall include taking and implementing decisions that are:-
- (a) Concerned with maintaining the operational effectiveness of the Service, including the temporary deployment of resources;
  - (b) Matters incidental to the discharge of the Authority's functions which fall within a policy decision taken by the Authority.
- 3.2** To make, sign, issue and serve such Notices, Orders, Statements and other documents as may be necessary or appropriate for the above purposes (3.1) or to give effect to, or carry out his/her decision under powers delegated to him/her under this scheme.
- 3.3** To submit comments on any town & country planning matter, Building Regulations, Safety of Sports Grounds and other applications or licences, where the Authority is a consultee, statutory or otherwise.
- 3.4** To exercise all the powers of the Authority as an enforcement authority under relevant legislation, without prejudice to the generality of this position he/she may in particular:-
- 3.4.1 Authorise the commencement of criminal proceedings (after consultation with the Clerk to the Authority) for any breach of any law or regulation, the enforcement of which the Authority is empowered to undertake.
  - 3.4.2 Take appropriate action on behalf of the Authority under the Regulatory Reform (Fire Safety) Order 2005.
  - 3.4.3 Designate persons as Inspectors under Article 26 of the Fire Safety Order 2005 and the Health and Safety at Work Act 1974.
  - 3.4.4 Authorise named members of staff in writing to exercise statutory powers conferred on the Authority under

Article 27 of the Fire Safety Order 2005.

- 3.5** To ensure that nationally and locally agreed conditions of service are properly implemented in line with agreed Authority policies.
- 3.6** 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.
- 3.7** To manage all staff and staffing structures and decide on personnel issues in line with agreed Authority policies.
- 3.8** To vary the grading of individual posts up to (but not including) Assistant Chief Fire Officer/Directors (including progression within and between grades), having regard to the national Job Evaluation Scheme.
- 3.9** To make and terminate appointments, including voluntary and compulsory redundancy, of uniformed and non uniformed staff up to (but not including) those appointments to be made/terminated by the Principal Officers' Staffing Committee, save for any matters reserved for decision by the Authority.
- 3.10** To determine and implement acting-up arrangements in respect of vacancies occurring at Assistant Chief Fire Officer/Director level, subject to regular review in accordance with the Authority's employment policies.
- 3.11** To ensure that the Fire Authority's employment policies and procedures are based on best practice guidance and are properly applied and enforced.
- 3.12** To make determinations, in consultation with the Treasurer and the Chair of the Authority, in relation to discretionary elements of the Local Government Pension Scheme/ Firefighters Pension Scheme and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

- 3.13** To hear disputes under the first stage of the Internal Disputes Resolution Procedure, which have been lodged in relation to the Firefighters Pension Scheme or the Local Government Pension Scheme.
- 3.14** To manage and maintain land and property on a day-to-day basis, whether owned or leased, including determining requests received for the use of the Authority's premises and to waive or vary charges in appropriate circumstances or in circumstances where this is beneficial to the Authority.
- 3.15** To deal with urgent matters, not otherwise delegated, in consultation with the Clerk, Treasurer and Chair and Vice Chair in accordance with the process set out in paragraph 17 of the Authority's Procedural Standing Orders.
- 3.16** To undertake all matters of day-to-day financial administration for the Service, in accordance with the Standing Orders and Financial Regulations of the Authority.
- 3.17** To approve virement on budgets under his control of amounts up to £100,000 on any one budget head during the year, subject to consultation with the Directors affected by the virement and notification to the Treasurer and in accordance with the scheme of virement set out in the Financial Regulations. Virement in excess of £100,000 requires the approval of the Executive Committee.
- 3.18** Subject to 3.20 below, to authorise disposal or write off of redundant stocks and equipment by competitive quote or auction unless, following consultation with the Treasurer, the Executive Committee approves otherwise in a particular case.
- 3.19** Subject to 3.20 below, to dispose of scrap or old/obsolete items of stock or equipment in accordance with procurement standing orders unless otherwise agreed with the Treasurer, and where the estimated value exceeds £10,000, disposal is to be by tender.

**Comment:** As per Financial Regulations – these need to be amended by substitution of word consultation for approval  
Check Exec Ctee for include this provision

**Comment:** 3.94 of Fin regs

**Comment:** 3.109 of fin regs

- 3.20** To approve requests for items of obsolete equipment and uniform to be donated overseas or in the UK [excluding fire appliances, which will be disposed of on the open market].
- 3.21** To approve sponsorship arrangements up to £100,000, subject to consultation with the Chair of the Authority.
- 3.22** To implement and maintain a register of interests in accordance with the Authority's Code of Conduct for officers.
- 3.23** To issue any certificate required under Section 3 of the Local Government and Housing Act 1989 and to determine whether posts should be included in the list of politically restricted posts; and to maintain the list of politically restricted posts.
- 3.24** To seek repudiation from trade unions of any industrial action that does not comply with the legal process set out in the Trades Union and Labour Relations (Consolidation) Act 1992; in consultation with the Treasurer, to take such measures to mitigate risk to the community in the event of a firefighters' strike or any type of industrial action by Authority employees and to report such action and associated expenditure to the Executive Committee; and to pursue the recovery of actual and necessary expenditure on contingency arrangements with CLG and the LGA.
- 3.25** The Chief Fire Officer (and in his/her absence the Deputy Chief Fire Officer) may further delegate to any member of the Corporate Board as appropriate. In the event of the inability of the Chief Fire Officer to act due to absence or a conflict of interest, the authority to act as prescribed in any individual delegation will pass to the officer of the Service who holds management responsibility for the said post/postholder, except where otherwise indicated within the delegation itself.
- 3.26** Officers appointed to posts at Assistant Chief Fire Officer and Director level of the Authority shall have all of the powers set out above subject to appropriate delegation by the Chief/Deputy Chief Fire Officer, the restrictions set out in paragraph 1 above, and the matter of the exercise of delegated powers being within

the role and area of responsibility of that Assistant Chief Fire Officer/Director.

#### **4. Delegations to the Clerk to the Authority/Monitoring Officer**

- 4.1 To act as the Proper Officer for the purposes of the Local Government (Access to Information) Act 1985 and the Local Government and Housing Act 1989, Section 15 (proportionality on committees).
- 4.2 To act as Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act 1989 with all powers and duties under the Act.
- 4.3 To implement and maintain a register of interests in accordance with the Authority's Code of Conduct for Members.
- 4.4 To take all necessary steps, including the obtaining of Counsel's advice, in connection with any matter concerning legal advice to and representation of the Authority and incur expenditure in connection therewith.
- 4.5 To institute on behalf of the Authority such proceedings or to 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) Enforce the performance of any obligations due to the Authority and to take such steps as he/she may consider necessary to enforce any judgment or order obtained in any such proceedings after consultation with the Chair of the Authority;
  - (d) Sign or affix, where necessary, the Authority's common seal to documents.
- 4.6 To take any necessary action to give effect to, or carry out any decision of the Authority, or the Chief Fire Officer acting under his delegated powers, with regard to the acquisition or disposal of land and premises, the management of leasehold land and premises [including the letting, underletting, licensing, re-letting and surrender of land, property or facilities under the control of the Authority for up to ten years with rent reviews at five-yearly

intervals, management of tenancies of residential properties, the grant of rights of way, wayleaves and easements, consents to assign and alteration and variation of user.

- 4.7 To enter a defence to any claim brought against the Authority.
- 4.8 To execute and issue all legal documents (including all contracts) 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.
- 4.9 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.
- 4.10 The above powers may be delegated to a solicitor other than the Authority Solicitor.
- 4.11 To deal with urgent matters, not otherwise delegated, in consultation with the Chief Fire Officer, Treasurer, Chair and Vice Chair and in accordance with the process set out in paragraph 17 of the Authority's Procedural Standing Orders.

## **5. Delegations to the Authority Treasurer**

- 5.1 To act as the officer responsible for the administration of the Authority's financial affairs in accordance with Section 73 of the Local Government Act 1985.
- 5.2 To write off as irrecoverable individual items of general income up to and including £5,000 in accordance with the provisions of the Financial Regulations.
- 5.3 To make determinations relating to capital expenditure required in any particular year in accordance with the Local Government Act 2003.
- 5.4 To determine the accounting procedures and audit arrangements for the Authority.

**Comment:** Should this link to 5.1?

- 5.5 To deal with urgent matters, not otherwise delegated, in consultation with the Chief Fire Officer, Treasurer, Chair and Vice Chair and in accordance with the process set out in paragraph 17 of the Authority's Procedural Standing Orders.

## **6. Delegations to miscellaneous officers**

### **Fire safety officers**

- 6.1 To undertake fire safety inspections under the Regulatory Reform (Fire Safety) Order 2005 on behalf of the Crown Property Inspection Group.

### **Director of Finance and Procurement**

- 6.2 To award tenders and agree extensions and variations of contracts and exemptions in accordance with Standing Order 1/8 [procurement procedures] except where decisions are reserved to the Executive Committee of the Authority.
- 6.3 To approve the procurement process in respect of tenders with value of up to £100,000.

## **7. Interpretation**

- 7.1 In this scheme, the powers of the Chair may, in the absence or unavailability of the Chair, be exercised by the Vice Chair.
- 7.2 Any relevance 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 Bylaws or other Order made there under and any enactment repealing, amending or extending the provision thereof. Any reference to the Authority shall, where the sense allows, be deemed to include references to a Committee.