

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

5 OCTOBER 2020

1. REVIEW OF CONSTITUTION – ROLES AND RESPONSIBILITIES AND DECISION MAKING

Report of the Clerk and Monitoring Officer

RECOMMENDED

THAT Members approve the proposed amendments to the Fire Authority Constitution as set out in section 3.6 and Appendix's 1 -7.

THAT Members approve that the Clerk make any further consequential amendments to the constitution in consultation with the Chair, Vice Chair and opposition Leader

THAT members note the further development required to consider the role definitions for statutory officers and article and terms of reference for Scrutiny Committee.

2. PURPOSE OF REPORT

2.1 This report is submitted to Members to provide an overview and rationale for the proposed changes to the constitution.

2.2 Following recommendations from the RWHR Independent Cultural Review of the Service, the HMICFRS State of Fire report and developing definitions from LGA Leading Fire Report, as well as NFCC sector progression recommendations (Fit for Future), this report focuses on the clarification of roles and responsibilities of the Fire Authority as the governing body and of the CFO and Officers.

3. BACKGROUND

3.1 The WFMRA constitution sets out the expectation that the constitution will be reviewed on an annual basis. This review consistently focuses on the development of articles and scheme of delegations as appropriate. A review of roles and responsibilities/scheme of delegations was not undertaken in the

3.2 **Roles and responsibilities - sector improvement**

3.2.1 During the latter half of 2019 the outcomes of the RWHR Independent Cultural Review and HMICFRS 'State of Fire' report, have identified areas for improvement focusing on the clarification of roles and responsibilities of both the governing body and officers, both locally and across the sector.

3.2.2 The RWHR Independent Cultural Review resulted in a recommendation which identified the need to *'set out the roles and responsibilities of the Chair, CFO, Members and SET to reduce confusion.'*

3.2.3 The HMICFRS State of Fire report has recommended that:

'By September 2020, the Home Office should consider the case for legislating to give chief fire officers operational independence. In the meantime, it should issue clear guidance, possibly through an amendment to the Fire and Rescue National Framework for England, on the demarcation between those responsible for governance and operational decision making by the chief fire officer.'

3.2.4 The LGA 'Leading the Fire' report provided clarity in defining the role of Fire Authority Members as being responsible, with support from officers, for:

- *determining the policy direction of their FRS;*
- *setting a budget to fund delivery of that policy direction;*
- *and undertaking scrutiny to ensure that intended outcomes are being achieved efficiently, effectively and in accordance with statutory requirements. Providing effective assurance of decisions made.*

3.2.5 This report also recognised that in order to achieve these roles and responsibilities, Fire Authority members rely heavily on the professional experience and expertise of their senior officer colleagues to:

- *provide advice, so that FRA members can take strategic policy decisions from a well-informed position,*
- *implement the policy decisions that members have taken in an efficient, effective and timely manner and*

- *report progress on implementation of the decisions in question, and the extent to which they are achieving their intended objectives*

3.3 Legal roles and responsibilities

3.3.1 The legal role of the Fire Authority is underpinned by the Fire and Rescue Services Act, Regulatory Reform Order, Emergency Order, Civil Contingencies Act and the National Framework which incorporates the duties of these Acts, but also the requirements for governance and assurance of performance.

3.3.2 The Fire Authority is responsible to communities and their local authorities for ensuring the Service delivers against the requirements of the above legislation within a governance framework.

3.3.3 The CFO is accountable to the Authority and communities for ensuring the delivery of the roles set out in this legislation in a safe, assertive and effective way as set out in the National Framework 2018.

3.3.4 Whilst the Authority is legally responsible as a corporate body, any challenges (including legal challenges) to the way in which these roles are delivered hold the CFO to account as an individual (for any civil or criminal liability).

3.3.5 The Fire Authority is the employer of all staff and have appointed the role of Head of Paid Service as set out in the Local Government and Housing Act 1989, to the CFO. This role is responsible for the employment, structure and proper management of all staff. The Head of Paid Service also provides the CFO with the authority to develop an organisational culture, which he or she feels can deliver the strategic agenda of the Authority. In delivering this role the Fire Authority has a responsibility to ensure that the Head of Paid Service has the proper resources to manage the Service aligned to its strategic agenda.

3.4 WMFRA roles and responsibilities

3.4.1 In recognition of the sector and local improvement outcomes outlined in section 3.2, a series of meetings have taken place between December 2019 and August 2020 with the Chair, CFO and Statutory Officers to review the constitution with the aim of providing clarity of:

- The decision making and roles and responsibilities of the Fire Authority and CFO
- Revised CFO delegations aligned to role and decision-making definitions
- The role of scrutiny as the Fire Authority mechanism for assurance of decision making

3.4.2 In line with the LGA 'Leading the Fire' definitions, recognising the legal roles set out in legislation and the National Framework 2018, the role definitions set out below are proposed to be included in the Fire Authority constitution.

3.4.3 **Fire Authority**

It is the role of the Fire Authority to make and scrutinise decisions based on 'public safety, efficiency and effectiveness' in keeping the community safer, stronger and healthier.

3.4.4 To manage these responsibilities the role of the Authority is to (Fire Services Act 2004 & National Framework):

- Set a Strategy for what the FRS priorities and outcomes are – what it should achieve
- Set a budget to fund delivery of the Strategy
- Secure assurance that the budget is being spent wisely on delivering the Strategy set by the Authority, with 'public safety', 'efficiency' and 'effectiveness' as priorities.

3.4.5 These roles are carried out through the Fire Authority with areas of responsibility delegated within its committee structure, for example Audit and Risk and Scrutiny committees.

3.4.6 **The CFO**

The role of the CFO is 'operationally independent', enabling the CFO to make decisions regarding the operation of the Service to deliver the approved Authority Strategy. It is recognised that elements of this role may be delegated to other officers (usually SET members) where appropriate. It is the role of the CFO to:

- provide professional and technical advice, so that Authority members are able to take strategic policy decisions from a well-informed and evidence-based position,

- implement those strategic decisions that members have taken in an efficient, effective and timely manner,
- report progress on implementation of the Strategy and the extent to which they are achieving their intended objectives.

3.4.7 The role of the CFO is politically independent and therefore it is not the role of the CFO or officers to provide advice on political decisions or, align any professional and technical advice to political matters.

3.5 **Decision Making**

3.5.1 Aligned to the above proposed roles and responsibilities and to support understanding of these, as well as identifying how this impacts on the current roles set out in the Fire Authority Constitution, the definitions set out below are proposed for inclusion in the constitution. Within the context of the Fire Authority:

3.5.2 **Political Decisions** are those which:

- are based on the policies, objectives, stated aims and ambitions or activities of a political party to which an individual belongs
- represent the interests of their electorate

3.5.3 **Governance Decisions** are those which:

- take into account the whole environment the Service operates within both internally and externally (save for political matters)
- provide a framework of wider community focused outcomes, which meet the priorities and commitments of the integrated risk management plan.
- are high level in design and provide direction for what 'needs' to be achieved (outcomes), not the detail of 'how' to achieve them.

3.5.4 Within the context of the role of the CFO, **Operational Decisions** are those which:

- direct and detail 'how' the strategic priorities and outcomes are achieved to meet the priorities of the IRMP
- manage resources (people, finance, fleet, assets) in the most appropriate way to achieve the priorities of the IRMP.
- are aligned to the role of the Head of Paid Service and the

- CFO, as set out in the constitution and appropriate legislation are day to day business which can be determined through the Authority's delegations and Service's decision-making structures.

3.6 **Role of Scrutiny**

3.6.1 There is an expectation set out in the National Framework for Fire and Rescue Authorities 2018 that effective scrutiny frameworks will be in place for both the scrutiny of strategic policy, as well as performance.

3.6.2 Effective governance enables decisions to be scrutinised effectively and appropriately. The role of scrutiny is to test the veracity of advice and information as well as exploring the quality and basis of decision making. Aligned to the role of the Fire Authority and CFO as proposed in this report (section 3.4), scrutiny should scrutinise decisions made or to be made, on the basis of public safety aligned to the following definitions:

- **Pre scrutiny** enables changes proposed to strategic policy decisions to be scrutinised. These are decisions which if implemented, would change the strategic priorities and outcomes agreed by the Fire Authority (for example, matters contained in Authority 'forward plan' for approval).
- **Post scrutiny** enables the Fire Authority to seek assurance around operational decisions already made by the CFO and other officers in the delivery of strategic priorities and outcomes (for example: training, partnership working).

3.7 **Proposed Fire Authority Constitutional changes**

3.7.1 These proposed changes/amendments to the constitution will be made and will reflect in changes to a number of articles in the Authority's Constitution.

3.7.2 These proposed changes have been overlaid with the outcomes of the HMICFRS 'State of Fire' report and LGA 'Leading Fire' document, considering as well as the Authority supported WMCA draft Order (prior to its amendment by the HO).

3.7.3 The detailed changes are set out in Appendix 1, in summary these changes are:

- Article 2 ‘Members of the Authority’, insert an overview of the ‘Role of the Authority in section 2.2.(Appendix 1)
- Article 5 ‘Citizens of the Authority’ has been moved to **Article 3** to follow Article 2 ‘Members of the Authority’
- Article 13 ‘Decision Making’ has been moved to **Article 4** and now contains the decision-making definitions set out above in section 3.5.(Appendix 2)
- Article 4 now also contains a definition for where recommendations are ‘for approval’ or ‘to note.’ (Appendix 2)
 - Recommendations to ‘**note**’ will be where: *decisions fall within the delegations and financial thresholds of officers as set out in Articles 4 and 5 and Part 3, Scheme of Delegations to this constitution and are centred on the delivery of an agreed Authority strategy.*
 - Recommendations to ‘**approve**’ will be where: *decisions which are outside of the delegations and financial thresholds of officers and/or are decisions which will require a review of the agreed Authority strategy.*
- Article 12 ‘Officer’ has moved to **Article 5** which is now ‘**Role and Functions of Officers**’ and has been revised to contain the role definition for the CFO as set out above in section 3.4. (Appendix 3)
- Article 4, ‘Matters for Authority’ has been moved to ‘**Article 6**’ (Appendix 6) and continues to contain those matters which only the Fire Authority can approve. Changes/amendment have been made to include:
 - The role definition for the Authority as set out above in section 3.4
 - Amendments to the governance role specifically in relation to Collaborations and defining the CFO role
 - Clearer explanation and definition of the role of the Fire Authority in approving the Authority’s 3 year rolling Strategy, aligned to the role of the Fire Authority.
 - The approvals of virements and sponsorship arrangements increasing from £100k to £250k before requiring Authority approval (aligning to existing procurement delegations).

- The authorisation that the CFO can exceed the £250k expenditure limit in exceptional circumstances, specifically in relation to operational incidents, where a risk-based assessment identifies the need to acquire specific resources in excess of £250k.
 - The process of recruitment for the DCFO and ACFO's will be led by the CFO to enable suitable appointment, recommending candidate(s) to the Appointments Committee.
 - The use of the term 'significant' will mean '*matters which may exceed officer financial approvals or may have the potential to change the approved strategic direction and/or policy of the Authority.*'
- The Scheme of Delegations has been amended in line with the roles and responsibilities and decision-making definitions and to reflect where appropriate, the changes cited in the above bullet points. (Appendix 7)

3.7.4 These proposed changes are set out as they will be drafted in the constitution in Appendix 1-7 and highlighted in yellow background. All proposals aim to enable the Fire Authority and CFO to operate against clear definitions regarding roles, responsibilities and spheres of decision making. Thereby providing the most effective approach to the CFOs delivery of the Authority approved Strategy.

3.7.5 The proposed changes also aim to remove duplication, provide consistency of interpretation of roles and delegations and create a constitution which is reflective of future sector and possible legislative change.

4. **EQUALITY IMPACT ASSESSMENT**

The matters contained in this report will not lead to do not relate to a policy change.

5. **LEGAL IMPLICATIONS**

The recommendations in this report ensure the effective and efficient delivery of Fire and Rescue Authority Services as set out on the Fire and Rescue Services Act, Regulatory Reform Order, Emergency Order, Civil Contingencies Act and the National Framework which incorporates the duties of these Acts, but also the requirements for governance and assurance of performance.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications to the approval of recommendations in this report.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

BACKGROUND PAPERS

WMFRA Constitution 2019

LGA Leading the Fire

HMICFRS State of Fire Report 2019

RWHR Independent Cultural Review June 2019

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KAREN GOWREESUNKER CLERK TO AUTHORITY

SATINDER SAHOTA

MONITORING OFFICER

Article 2 – Members of the Authority

2.1 Composition and Eligibility

- (i) Composition – 2.1 (i) The Authority comprises of 18 members, 15 of whom are elected councillors, two co-opted members and a further membership to be held by the West Midlands Police and Crime Commissioner. The 15 members will be elected from the seven constituent district councils comprising the West Midlands.

Role Purpose:

- A wider consideration of collaborative opportunities through being more reflective of its partnerships
 - Wider support of the priorities of public services across the West Midlands to enable increased value for local communities
 - A more diverse membership providing for increased challenge and scrutiny.
- (ii) The constituent councils appoint members to the Authority at their annual meetings each year and in accordance with the provisions of the Local Government Act 1985. These appointments are made in the following proportions, which reflect the size of the population of each Council:-

<u>Council</u>	
Birmingham	4
Coventry	2
Dudley	2
Sandwell	2
Solihull	1
Walsall	2
Wolverhampton	2

Each Council’s appointments must also reflect its political make up, in accordance with the Local Government and Housing Act 1989.

- (iii) Members may be removed by their appointing council, subject to their council complying with the statutory requirements of the Local Government Act 1985 as to periods of notification etc.

- (iv) The Police and Crime Commissioner by virtue of the Policing and Crime Bill 2017, Chapter 2, section 7 may only be appointed to the Authority in response to a request made by the Commissioner to the Authority or, in the case of a subcommittee, to the appointing committee.

2.2 Roles and Functions of Members

It is the role of the Fire Authority to make and scrutinise decisions on the basis of 'public safety, efficiency and effectiveness' in keeping the community safer, stronger and healthier. A full description of the role of the Authority is set out in Article 6.

All members are expected to:-

- (i) act corporately for the good governance of the Authority, balancing the needs of the whole community of West Midlands with their role of local representative;
- (ii) to actively represent, promote and support the work of the Authority in the provision of Fire and Rescue Services within the whole area and community of West Midlands;

- (iii) on a regular basis, to attend meetings of the Authority and any committees, sub-committees, fora or external bodies to which the member has been appointed and to fully participate in policy formulation and decision making including the development of strategic policies, determination of the budget and approving 'The Plan' in accordance with principles of good public governance, including a requirement to act at all times in accordance with:
- statutory and other legal requirements
 - the code of conduct for members
 - standing orders of the Authority
 - the member/officer protocol
- (iv) represent the Authority throughout the West Midlands;
- (v) if appointed by the Authority to an external body; to represent the interests of the Authority on that body;
- (vi) to be actively aware of all issues inside and outside of the Authority, relevant to the provision of fire and rescue services in order to fulfil a community leadership and representative function, working as necessary in partnership with other local organisations in order to effectively promote the safety and well-being of the whole community of West Midlands;
- (vii) to actively engage in training and development to respond to the growing complexities and demands on fire and rescue services, to enable them to carry out their role to their full potential and to assist the Service in making West Midlands safer, as set out in the Member Development Strategy.

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- (viii) Co-opted members whilst not full voting members are expected to:
- Support the Authority in its actions promoting good

- governance of the Authority, balancing the needs of the whole community of the West Midlands
- Support and actively promote the work of the Authority in the provision of fire and rescue services across the whole of the West Midlands

 - On a regular basis attend meetings of the Authority and any committees/sub committees

 - Promote Effective Collaboration

 - At all times, act in accordance with the code of conduct and standing orders for the Authority where applicable

 - Be actively aware of the issues internal and external relevant to the provision of services to promote a safer, stronger and healthier West Midlands Community.

2.3 Chair and Vice Chair of the Authority

The Chair and Vice Chair of the Authority will be elected by the Authority at its annual meeting.

2.4 Roles and Responsibilities of Designated Office Holders

2.4.1 Chair of the Authority

The Chair will preside over Authority meetings and ensure that they are conducted in accordance with the standing orders and procedural rules of the Authority as set out in Part 4 of this Constitution.

The Authority has approved a role description for the Chair, as follows:-

To provide overall political leadership and strategic policy direction to the Authority.

To ensure continuous improvement in service delivery and the implementation of best practice through the application of Authority policy and all relevant legislation, regulations, directives and statutory requirements affecting the work of the Authority.

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To chair the Appointments Committees and any other meetings as required by the Authority;

To serve as a representative on other bodies as nominated by the Authority.

To represent the Authority at any meetings as may be required from time to time in connection with the work of the Authority at local, regional, national or international level.

To take overall political responsibility within the Authority for:-

- The Plan;
- Policy and budgetary strategy formulation;
- Local, regional, national and international issues;
- Health and Safety;
- The Authority's compliance with the Freedom of Information Act 2000;
- Corporate Risk Management;
- Community Safety Strategy (Integrated Risk Management Plan);
- Procurement;
- Press and media relations and the promotion of the image of the Authority;
- Civic and ceremonial issues;
- Diversity, Inclusion, Cohesion and Equality;
- Any other initiatives as from time to time may be adopted by or imposed on the Authority.

To oversee the efficient and effective conduct of business within the Authority and to work with other elected members on issues that cut across or fall within the terms of reference or portfolios of other members, Committees or Panels.

To ensure the proper implementation of decisions of the Authority and its Committees and to ensure that due consideration is given to any recommendations arising from those Committees.

To ensure the involvement of local people and communities in the decision making processes of the Authority, as necessary.

To champion the promotion and maintenance of high standards of conduct throughout the Authority.

To undertake his/her duties in accordance with the Authority's Code of Conduct and any other policies, procedures or protocols which may be adopted by the Authority from time to time.

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2.4.2 Vice Chair of the Authority

The role of the Vice-Chair is to support the Chair of the Authority in discharging his/her roles and responsibilities and to deputise for the Chair in his/her absence.

2.4.3 Minority Party Group Leaders

The role of minority party leaders is:-

- to ensure that their party contributes effectively, positively and constructively to the Authority's activities;
- to act as the principal political spokesperson for their political group;
- to provide leadership to their party group.

2.4.4 Chairs of Committees

The role of a committee chair is:-

- to chair the committee and ensure its overall effectiveness;
- to have a working knowledge of the Authority's relevant policies and strategies and to ensure that he/she is sufficiently and effectively briefed by officers on matters coming before the committee;
- to coordinate and manage the work of the committee;
- to support the role of the Chair of the Authority in the development of policy, strategy and budget proposals;
- to provide an annual report covering the performance of the committee for the AGM.

2.4.5 All Members

All members have a responsibility:-

- to ensure that the Fire Authority provides an efficient and effective fire and rescue service, taking into account the needs of all sections of the community.
- to contribute actively to the formation and scrutiny of the Fire Authority's policies, priorities, plans, targets, performance and budget.
- to ensure that the Fire Authority is an equal opportunities employer, and considers the needs of all sections of the community.
- to ensure that the Fire Authority delivers value for money.
- to develop and maintain a sound working knowledge of the Fire Authority's duties, policies and practices.
- to participate in Member development to ensure the appropriate acquisition of skills and knowledge in accordance with the Member Development Strategy.
- to develop and maintain a working knowledge of the organisation's services, activities and other matters, which affect and impact on the local community.
- to comply with relevant protocols and codes of conduct.
- to participate effectively as a member of any committee or

- other body to which you are appointed by the Authority.
- to participate in performance review of the services provided by the Fire Authority, including scrutiny of policies and budgets and their effectiveness in achieving strategic objectives.
- to participate effectively in any consultative processes with the local community and with other organisations, as required.
- to encourage the community to participate constructively in consultative arrangements and service provision.
- to develop and maintain good and effective working relationships with the Fire Authority's Chair and Vice-Chair and relevant officers of the Fire Authority.
- to consider recommendations/options put forward by the Treasurer in relation to the Fire Authority's budget and precept and participate in the budget and precept setting process.

2.4.6 Section 41 Members

In addition to the responsibilities and competences set out in 2.4.6 members appointed as 'lead' members for their constituent council, under Section 41 of the Local Government Act 1985, will be required to answer questions put to them at meetings of their constituent council relating to the discharge of functions of the Fire and Rescue Authority.

2.5 Rights and Duties of Members

Members will have such rights of access to such documents, information, land and buildings of the Authority as described in the Authority's Standing Orders in Part 4 of this Constitution.

2.6 Failure to Attend Meetings

- 2.6.1 Subject to the provisions of Section 85 Local Government Act 1972, any member failing to attend any meeting of the Authority or its committees for a period of six months ceases to be a member of the Authority, unless, within that period, the member's absence is approved by the Authority.

2.6.2 The Clerk will monitor absences from meetings and, unless approval for any absence is given by the Authority, will report the failure to attend to the Authority in order that it may declare a vacancy and notify the relevant constituent council.

2.7 **Conduct**

Councillors will at all times be guided by the Members' Code of Conduct and the Protocol on Member/Employee Relations set out in Part 5 of this Constitution.

2.8 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

Article 4 – Decision Making

4.1 Responsibility for Decision Making

Responsibility for decision making by the Authority, its committees, and officers is in accordance with Articles 6 to 11 of this constitution and the Officers' Scheme of Delegations set out in Part 3 of this constitution which together comprise the record of responsibility for decision making.

The Authority and officers have agreed the following responsibilities for decision making:

Governance decisions are those which the Authority will be asked to approve via Officers. These decisions will align to the role of the Authority in setting the Strategic agenda and budget for the Service.

Operational decisions are those taken by the CFO and Officers in delivering against the strategic agenda set by the Authority. These decisions are taken independently and in line with the Scheme of Accountability

4.2 Principles of Decision Making

All decisions of the Authority will be made in accordance with the following principles:

- be within the lawful powers of the Authority;
- proportionality (i.e. the action taken is proportionate to the desired outcome);
- be aligned to the decision-making definitions set out in this article.
- Decisions are taken on the basis of due consultation and professional advice from officers and statutory officers (Decisions taken by members of the Authority will be based on information provided in a written report prepared by the responsible officer/s) Refer to section

4.4;

- respect for human rights;
- a presumption in favour of openness (Reports will only be considered in private where they contain exempt information as defined in Schedule 12A to the Local Government Act 1972 (as amended)(see Part 4 Access to Information Rules – Rule 11);
- clarity of aims and desired outcomes (The written reports submitted to elected members will contain a clear recommendation of the professional officer for every decision they are asked to take).

4.3 **Types of Decisions**

The Authority will make Governance and Political decisions aligned to the following definitions.

4.3.1 **Governance Decisions** are those which:

- take into account the whole environment the Service operates within both internally and externally (save for political matters)
- provide a framework of wider community focused outcomes, which meet the priorities and commitments of the integrated risk management plan.
- are high level in design and provide direction for what 'needs' to be achieved as outcomes, but do not include the detail of 'how' to achieve them.

4.3.2 **Political Decisions** are those which:

- are based on the policies, objectives, stated aims and ambitions or activities of a political party to which an individual belongs
- represent the interests of their electorate

4.3.3 The Authority recognises the operational independence of the Chief Fire Officer. The CFO and Officers are accountable for operational decisions aligned to the following definition:

Operational Decisions are those which:

- operate within the strategic and governance framework provided by the Authority.(use explanatory note, e.g.

staffing structure, recruitment, workforce planning, allocation of resources)

- direct and detail 'how' the strategic priorities and outcomes are achieved to meet the priorities of the IRMP
- manage resources (people, finance, fleet, assets) in the most appropriate way to achieve the priorities of the IRMP and strategic priorities (use explanatory notes, e.g. workforce development, within financial delegations)
- are aligned to the role of the Head of Paid Service and the CFO as set out in the constitution and appropriate legislation

Decisions relating to the functions listed in Article 4 will be made by the Authority and not delegated.

4.4 **Decision Making by the Authority and its Committees**

The Authority and its committee meetings will comply with the Authority's procedural rules and Standing Orders set out in Part 4 of this constitution when considering any matter.

The Fire Authority will be asked by officers to 'note' or 'approve' recommendations.

Recommendations to 'note' will be where:

Decisions fall within the delegations and financial thresholds of officers as set out in Articles ???? and Part 3 section of this constitution and are centred on the delivery of an agreed Authority strategy.

Recommendations to 'approve' will be where:

Decisions are outside of the delegations and financial thresholds of officers and/or are decisions which will require a review if the Authority's strategy.

4.5 **Decision Making by Officers**

The CFO and officers have full accountability to make decisions on all matters relating to the administration of the Authority's functions under the Fire and Rescue Services Act 2004 and any

other enabling legislation. This shall include taking and implementing decisions that are:

- Defined as the role of the CFO as set out in section Article 3, section 3.2,
- Defined as 'operational decisions as set out in Article 4, section 4.4.3 (and explanatory guide) and
- aligned to the Scheme of Delegations set out in this constitution

Article 5 – Roles and Functions of Officers

3.1 Management Structure

The Authority may appoint such staff (officers) as it considers necessary to carry out its functions.

3.2 Chief Fire Officer

The Chief Fire Officer will engage appropriately with the Authority on the manner in which the discharge of the Authority's functions are co-ordinated. The role of the CFO will:

- provide professional, technical advice, so that FRA members can take strategic policy decisions from a well informed and evidence-based position
- implement the strategic decisions that members have taken in an efficient, effective and timely manner
- report progress on implementation of the strategy and the extent to which they are achieving their intended objectives.

The CFO will:

- have the professional knowledge and understanding to ensure that services can be delivered to the most vulnerable within the community they serve.
- be accountable to the Authority and communities for ensuring the delivery of the roles set out in this legislation in a safe, assertive and effective way as set out in the National Framework 2018.
- be '**operationally independent**', which enables the CFO to make financial, staffing, workforce development and resource based decisions regarding the ongoing operation of the Service. These decisions will be made aligned to the operational decision-making definition set out in Article 13 and Scheme of Delegations and will support the delivery of the Authority approved Strategy.

- Be politically independent and therefore it is not the role of the CFO or officers to provide advice on political decisions or align any professional and technical advice to political matters.

Elements of this role may be delegated to other officers (usually SET) where appropriate. (explanatory note: include examples such as changes in staffing structure, continuity arrangements, changes to approach to training and development of workforce)

This area of responsibility and accountability will be conducted in line with the CFO accountabilities as set out in the Scheme of Delegations (part 3).

3.3 **Deputy Chief Fire Officer**

The Deputy Chief Fire Officer will deputise for the Chief Fire Officer by prior arrangement or in event of illness.

3.4 **Assistant Chief Fire Officer (uniformed)**

The Authority has designated an Assistant Chief Fire Officer as set out in Part 7 of this Constitution.

3.5 **Strategic Enablers (uniformed and non-uniformed)**

The Authority has established posts of Strategic Enablers which make up the Strategic Enabling Team as set out in Part 7 of this Constitution.

3.6 **Head of Paid Service**

In accordance with the Local Government in Housing Act 1989 (part 1, section 4) local authorities are required to designate one of their officers as the head of paid service. The functions of the head of paid service is to engage appropriately with the Authority as to the discharge of the Authority's functions.

Legislation defines this as setting the staffing structure, appointment and proper management of staff. This area of

responsibility and accountability will be conducted in line with the CFO accountabilities as set out in the Scheme of Delegations (part 3).

The Chief Fire Officer is the Head of Paid Service for the Authority.

The dual role of CFO and Head of Paid Service gives the CFO the ability to develop an organisational culture which he or she feels can deliver the strategic agenda of the authority. It also provides the need and authority to build a management team which the CFO feels he or she can work with to develop the appropriate organisational culture and specifically deliver the strategic priorities.

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3.7 Clerk to the Authority

In accordance with the Local Government Act 1985 the Authority has appointed a Chief Officer to act as Clerk to the Authority. The Strategic Enabler – Strategic Hub undertakes this role.

The functions of the Clerk are to:

- 3.7.1 Oversee the effective management of the Authority's democratic services
- 3.7.2 Advise officers and members of the proper operation of the Authority aligned to this constitution, Committees and other forums.
- 3.7.3 Sign and/ or seal documents on behalf of the Authority.

- 3.7.4 To support the monitoring officer in the maintenance of the constitution, maintaining the Statutory Register of Members interests and Register of Gifts and Hospitality
- 3.7.5 Undertaking the development, review and administration of the Members Allowances Scheme, in accordance with the Local Authorities (Members' Allowances) Regulations 2003.

3.8 **Monitoring Officer**

- 3.8.1 In accordance with the Local Government and Housing Act 1989 the Authority has appointed Satinder Sahota as its Monitoring Officer.

Functions of the Monitoring Officer:-

- Maintaining an up to date version of the constitution and ensuring that it is available for inspection by members, staff and the public.
- Appointment and replacement of members on the Authority under the procedures set out in the Local Government Act 1985.
- Maintaining the Statutory Register of Members' Interests and the Register of Gifts and Hospitality under the Authority's Code of Conduct, and advising on members' interests as appropriate.
- Assisting the Authority in meeting its obligations under Freedom of Information and Data Protection legislation as required.
- Ensuring lawfulness and fairness of decision-making - After consulting with the Treasurer and the Chief Fire Officer, the *West Midlands Fire and Rescue Authority – Constitution*
- Monitoring Officer will report to the Authority in relation to any proposal, decision or omission which, in his/her view would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- Supporting the Standards Committee and contributing

to the promotion and maintenance of high standards and support the Standards Committee in dealing with any allegations of misconduct.

- Conducting investigations into matters referred to him/her into complaints made against members of the Authority and/or (providing no conflict arises) provide or arrange for the provision of legal advice to the Standards Committee.
- Ensuring that the requirements of the Local Government Act 1972, as amended, will be met in relation to the publication of relevant committee reports, background papers and decisions and that they will be made publicly available (subject to any restrictions on disclosure) as soon as possible
- Providing advice on the scope of the powers of the Authority and its committees and officers to take decisions and in connection with matters involving maladministration and probity.

3.8.2 The Monitoring Officer cannot be the Chief Finance Officer.

3.9 **Treasurer**

In accordance with Section 73 of the Local Government Act 1985, the Authority has appointed the Strategic Enabler - Finance and Resources as Treasurer.

3.9.1 **Functions of the Treasurer**

- Ensuring lawfulness and financial prudence of financial decision making - After consulting with the Clerk and the Monitoring Officer, the Treasurer will report to the Authority and to the Authority's external auditor, if he/she considers that any proposal decision or course of action will involve incurring unlawful expenditure or is unlawful and likely to cause a loss or deficiency, or if the Authority is about to enter an item of account unlawfully. He/she will also make a report to the Authority if it appears that the expenditure of the Authority (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed)

available to meet that expenditure.

West Midlands Fire and Rescue Authority – Constitution

- Administration of financial affairs of the Authority.
- Contributing to corporate management, in particular, through the provision of professional financial advice.
- Providing advice on the scope and powers of the Authority to take decisions about financial impropriety, probity and budget and policy framework issues to the Authority, its committees, members and officers and will support and advise members and officers in their respective roles.

3.9.2 **Duty to provide sufficient resources to the Monitoring Officer and the Treasurer**

The Authority has a duty to provide the Monitoring Officer and the Treasurer with sufficient resources to allow their duties to be performed.

3.10 **Conduct**

Officers will comply with the Officer Code of Conduct set out in Part 5 of this constitution.

3.11 **Employment**

The recruitment, selection and dismissal of officers will comply with the Authority's Standing Order 27 set out in Part 4 of this constitution.

Article 6 - The Authority

6.1 Legal Structure/Delegations

The Authority is a corporate body with the legal responsibility for making decisions about all matters concerning the functions, powers, duties and responsibilities of the Authority, which are invested in it by statute and/or common law. The Authority has delegated a range of decisions about various matters to committees and officers as set out in this constitution but has otherwise reserved powers to itself. The exercise of any delegated powers and decision making by committees appointed by the Authority and described in this constitution shall be subject to:-

- (i) statutory or legal requirements;
- (ii) standing orders and financial regulations of the Authority;
- (iii) strategic and corporate policies adopted by the Authority and/or any directions given by the Authority in relation to the exercise of delegated functions.

No delegation which may be given by the Authority shall preclude the reference of matters by a committee to the Authority, nor preclude the Authority from exercising any powers so delegated except where action has already been taken pursuant to a resolution of a committee under its approved terms of reference and delegated Authority.

To manage these responsibilities the role of the Authority as a governing body, aligned to legislation (as set out in the 'preface' section), is to:

- set a strategic agenda/plan for what the Fire Service priorities and outcomes are – what it should achieve
- set a budget to fund delivery of that strategic agenda/plan
- secure assurance that the budget is being spent wisely on delivering the strategic agenda set by the authority, with 'public safety', 'efficiency' and 'effectiveness' as priorities.

6.2 Matters Reserved to the Authority

Only the Authority will exercise the following functions:-

6.2.1 Governance

- (i) Appointment of committees and panels, their terms of reference, appointment of chairs and vice chairs, Section 41 members and appointments to other bodies.
- (ii) Approval and variation of Authority procedural Standing Orders, procurement standing orders and Financial Regulations and any other standing orders/procedures/protocols deemed, by the Chair, to be reserved to the Authority.
- (iii) Approval of the Members' Allowances Scheme.
- (iv) Establishment of a Standards Committee and appointment of the independent person(s) appointed in pursuance of Section 28 of the Localism Act 2011.
- (v) Overview of corporate governance and the regulatory framework [delegated to Audit and Risk Committee].
- (vi) Overview of the progress of governance arrangements in relation to the formation of significant collaborative working and/or, shared service delivery arrangements being implemented by Officers.

Explanatory guide to define significant collaborations as below, i.e. shared services)

Significant could be in this context would be described as:
'Collaborations which may exceed officer financial approvals or may have an impact on the approved strategic direction and/or policy of the Authority.'

The initiation and ongoing operation of any such collaboration arrangements would fall within the operational independence of the CFO as set out in the Scheme of Delegations. Where these partnerships are strategic alliances such as 'shared services' there can be periodic performance reporting into the Authority's

scrutiny committee.

- (vii) To ensure compliance in the management and administration of the Pensions Board.

6.2.2 Setting the Strategic (agenda) Plan:

Aligned to the Authority's 'governance' decision making definitions, ensure that the Service delivers an effective and efficient fire and rescue response service underpinned by prevention and protection activities through the:

- i. Approval of the Integrated Risk Management Plan (Community Safety Strategy) and the Authority's 3 year Strategy, as prepared and proposed by the CFO on at least an annual basis, to enable implementation over years 2 and 3

A 3 rolling year strategy provides a strategic vision over this period where agreement can be reached in year 1 for what can be delivered over years 2 and 3. An understanding of risk through the IRMP is considered against the expectations of the Medium-Term Financial Plan to enable realistic planning.

This approach supports continuous engagement between officers and Authority Members in delivering against the current year objectives through PPF. This then enables the Strategy to be a responsive to change when refreshed on at least a 12-month basis, when consulted on, and/or where there are changes in risk.

- ii. Approval of any fundamental changes to the Authority's IRMP and/or 3 year Strategy arising from any significant matters as prepared and proposed by the CFO**
- iii. Assurance of the delivery of the 3 year Strategy and budget in meeting the IRMP via the role of the Scrutiny Committee as defined in Article 9 and Audit and Risk Committee as defined in Article ??

The above responsibilities of the Authority provide the Chief Fire Officer, as Head of Paid Service, with the necessary framework in which to independently lead the Service, set its direction and culture and make 'operational'

decisions regarding the operation of the Service to deliver the approved Authority Strategy. This is further defined in 'Scheme of Delegations'

****Significant** could be in this context would be described as: *'matters which may exceed officer financial approvals or may have the potential to change the approved strategic direction and/or policy of the Authority.'*

Explanatory notes:

Strategic Planning

As set out in this section the Authority's strategic planning process enables a multi-year approach to the delivery of the 3 year Strategy.

The Authority will approve the priorities, outcomes and strategic objectives to be included in the Plan for the following financial year at the February meeting of the Authority. Following Authority approval, the Chief Fire Officer will, via his/her Scheme of Delegations, ensure the appropriate and flexible allocation of resources to meet the needs of local communities and enable the delivery of The Plan, based on analysis of risk and best use of the resources available to him/her. Through Officer and Member engagement there will be regular awareness built through PPFs of ongoing performance against the Strategy.

6.2.3 Budget setting and land matters

- i. Capital and revenue budget setting including setting the precept and budget monitoring.
- ii. Approval of expenditure that exceeds that included in approved revenue or capital budget.
- iii. Approval of expenditure exceeding £250, 000.
- iv. Approval of the accounts and the Annual Governance Statement (delegated to the Audit Committee).
- v. Approval of the Property Asset Management Plan.
- vi. Acquisition and disposal of land and property where not otherwise delegated to the Chief Fire Officer.
- vii. Overview of internal and external audit functions [delegated to Audit and Risk Committee].
- viii. Matters reserved to the Authority under financial

regulations and procurement standing orders including approving:-

- ix. The procurement process in respect of tenders with value in excess of £250,000;
- x. The award of contracts valued in excess of £100k where it is proposed to accept a tender other than the 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;
- xi. Approval of commissioning arrangements in excess of £250,000;
- xii. Virement in excess of £250, 000;
- xiii. Approval of sponsorship arrangements in excess of £250,000, which support the delivery of the Authority Strategy

Explanatory notes: Sponsorship arrangements are those that exist between the FRA/Service with an organisation that provides financial support for the right to be associated with a project.

The initiation and ongoing operation of any sponsorship arrangements will be aligned to the delivery of strategic priorities and as such would fall within the operational independence of the CFO as set out in the Scheme of Delegations. Sponsorship arrangements will support public interest.

Aligned to the above budget matters for authority, the CFO can exceed the £250k expenditure limit in exceptional circumstances, specifically in relation to operational incidents, where a risk based assessment identifies the need to acquire specific resources in excess of £250k. The CFO to provide a retrospective report to the Authority setting out the decision making considerations and the associated expenditure incurred in such instances.

- xiv. Overview of the Authority's risk management strategy as defined in the Financial Regulations [delegated to Audit and Risk Committee].

6.2.4 Human Resources

- i. Approval of the staffing structure and pay and conditions

- of service for principal and statutory officers.
- ii. Appointment of Chief Fire Officer,
 - iii. The appointment of the Deputy and Assistant Chief Fire Officers on the recommendation of the CFO–[delegated to Appointments, Standards and Appeals Committee];
 - iv. The appointment of the Clerk, Monitoring Officer and Treasurer.
 - v. Discipline and dismissal of the Chief Fire Officer, Clerk, Monitoring Officer and Treasurer;
 - vi. to hear and decide upon appeals by the Deputy Chief Fire Officer, and Assistant Chief Fire Officer against dismissal or other disciplinary action. [Appointments, Standards and Appeals Committee]
 - vii. Deciding appeals under the firefighter pension schemes and the local government superannuation regulations [Appointments, Standards and Appeals Committee].

Explanatory notes:

Sponsorship arrangements would sit within a framework designed and agreed by the Fire Authority.

The recruitment process for the roles of DCFO and ACFO's will be led by the CFO to enable suitable appointment based on the professional and technical competence and behavioural attributes of any candidate. The appropriateness of any candidate will also consider the best 'team fit' as an important aspect of recommending candidates to the Appointments Committee.

Member involvement will support the recruitment process and provide effective assurance to enable understanding of progress upon appointment.

The CFO will lead the presentation of appointable candidate(s) who meet the professional and technical competencies as well as team fit for the role to the Member Appointments Committee, based on CFO recommendation the Appointments Committee will make the decision of final appointment.

6.2.5 Generally

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

West Midlands Fire and Rescue

Authority Scheme of

Delegations

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 'Matters Reserved to the Authority', as set out in Article 4 of the Authority's Constitution, 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 its 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 £250,000.

2.5 In respect of action constituting the appointment or dismissal of the Chief Fire Officer, the Clerk, Monitoring Officer or the Treasurer; appointment of the Deputy Chief Fire Officer or Assistant Chief Fire Officer (on recommendation of the Chief Fire Officer); or the determination of appeals against dismissal or other disciplinary action in respect of the Deputy Chief Fire Officer or the Assistant Chief Fire Officer.

2.6 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.

2.7 Where to do so would result in expenditure entailing the virement of sums totalling in excess of £250,000 from one budget line approved by the Authority to another budget line.

2.8 No officer other than the Treasurer shall have the power to write off debts due to the Authority.

2.9 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**

Aligned to the Authority’s definition of ‘operational decision making’, the recognised ‘role of the CFO’ and the role of ‘Head of Paid Service’, the Chief Fire Officers role operates independently (see explanatory guidance note) to ensure the delivery of services within the Authority’s approved strategy.

The CFO may delegate decision making within the Strategic Enabling Team but will be accountable for the decisions made.

The CFO will be the professional and technical advisor to the Authority.

The CFO must have regard to the National Framework in the carrying out accountable functions.

The Authority will hold the CFO to account in ensuring the efficient and effective delivery of services through the established role of the Authority and its committee structures.

Amend listed accountabilities as follows:

The CFO will have full accountability for decisions in relation to:

- 3.1 All matters regarding the administration of the Authority’s functions under the Fire and Rescue Services Act 2004 and any other enabling legislation.
- 3.2 The determination of the staffing structure, the direction and leadership of staff and services and the culture of the Service. (see explanatory notes)
- 3.3 The preparation of the Integrated Risk Management Plan and the Strategy (The Plan) (following any consultations) for Authority approval.
- 3.4 The preparation and proposal of an annual budget with the Section 151 Officer, to enable effective and efficient delivery of the approved Strategy for Authority approval
- 3.5 The delivery of the requirements of the Fire and Rescue

Services Act 2004, National Framework 2018, Regulatory Reform Order 2005, Civil Contingencies Act 2004 and other appropriate enabling legislation, through the core services of prevention, protection and response as defined by the Authority's approved Strategy.

- 3.6 The appointment and dismissal of all Service staff (reference Matter for Authority and Stat Officer roles)
- 3.7 Workforce planning and development to support the transformation of services aligned to current and future (3-year rolling) Authority approved Strategy.
- 3.8 The management and allocation of finances, assets and fleet to support the most the most effective staffing structure and delivery of services within the Authority approved Strategy.
- 3.9 The direction of digital investment to support the delivery of the Authority's approved Strategy and in line with the Service's 'digital strategy'.
- 3.10 The engagement with recognised representative bodies through the agreed Employee Relations Framework.
- 3.11 The set up, development and progression of collaborative partnerships and sponsorship arrangements to enable the delivery of the Authority's approved Strategy

The CFO will engage with the Authority through Policy Planning Forum and Fire Authority to propose the varying of the Strategy where appropriate and to ensure the Authority are informed of progress in the delivery of the Strategy. (cross reference with Article 3 and 13)

The CFO will use these forums as appropriate to ensure the Authority's awareness of any operational decisions made which may have a political, media public interest impact.

Explanatory note:

(3.10) The Employee Relations Framework is the Service's agreed policy with recognised Representative Bodies which forms the basis of engagement with representative bodies for all employee relations matters delegated to the CFO under the Constitution

The CFO is accountable for the delivery of the Authority approved Strategy and therefore is responsible for the engagement and negotiation process concerning employee relations matters with Representative Bodies that form part of or are linked to the delivery of the Strategy

Members may have ongoing discussions with Representative Bodies if appropriate. Both Members and Representative Bodies should be aware

of the potential for a perceived or actual conflict of interest for Representative Bodies when raising employee relations issues with Members given Representative Bodies 'Observer' status on the WMFRA. Any such perceived or actual conflict of interest may be raised by or brought to the attention of the Authority's Monitoring Officer and/or Clerk to the Authority.

- 3.1** The CFO and officers have full accountability to make decisions on all matters relating to the administration of the Authority's functions under the Fire and Rescue Services Act 2004 and any other enabling legislation. This shall include:

Full accountability of the CFO as Head of Paid Service for leading the Fire Service, setting the direction and culture of the service. This will be achieved with direct involvement of the Strategic Enabling Team providing for a more cohesive working environment.

- 3.2** The CFO is accountable to the Authority for delivering against the requirements of the Fire and Rescue Services Act, National Framework, Regulatory Reform Order, Civil Contingencies Act and other appropriate enabling legislation. These responsibilities will be achieved with direct involvement of the Strategic Enabling Team providing for a more cohesive working environment.

- 3.3** The CFO is accountable for the preparation of the Integrated Risk Management Plan and the Strategy (The Plan) for the Authority to consider and approve.

- 3.4** Aligned to 5.5.3 above, the CFO and Section 151 Officer will propose an annual budget to enable effective and efficient delivery of the strategic priorities, for the Authority to consider and approve.

- 3.5** Operational independence of the CFO to deliver the strategic priorities as agreed by the Authority, aligned to the IRMP and The Plan. This will be achieved through the efficient and effective delivery of prevention, protection and response services to communities, enabled through accountability for decisions which, aligned to both organisational strategy and budget, will determine:

3.5.1 The staffing structure of all fire service workforce. Changes to this will be determined within the existing processes and policies of the Service and managed with the SET. The Employee Relations Framework provides a robust and transparent framework for engagement, consultation and/or negotiations regarding the future shape and structure of the workforce. Any changes which will (or has the potential to)

impact on the delivery of the strategy will be communicated to inform the Authority using existing and/or reformed governance structures.

3.5.2 Workforce planning and development to support Service transformation in the delivery of both current and future strategy. Workforce development is a national priority as the type, number and scale of incidents are changing. The workforce of the future for many fire services needs to be capable of providing prevention, protection and response services that stretch wider than the traditional and will see fire fighters working with and alongside other professions to deliver core services (i.e. police, ambulance, healthcare).

SET will work with the CFO to determine an evidence based approach to the transformation of services enabled through the development of the workforce, which enables the delivery of the Authority's strategy aligned to the agreed efficiency plan and budget.

As with a) the ERF will provide the established procedure by which staff and representative bodies will be engaged, consulted and negotiated with. The Authority will be engaged as appropriate through the Joint Consultative Committee as set out in the ERF.

3.5.3 The CFO is accountable for the management and allocation of assets and fleet to support the most effective staffing structure, delivery of services and SDM. The CFO will be accountable for the approval, movement and usage of these. The SET will support the delivery of these accountabilities as delegated by the CFO.

3.5.4 The delivery of added value through the development and management of agile digital solutions. Driving change through moving from managing assets to services.

3.5.5 CFO engagement in collaborative partnerships with other emergency services, as defined in the Policing and Crime Act 2017, and other public service providers. This will be aligned to enabling the delivery of strategic priorities, where it is in the interests of efficiency and effectiveness and public safety to do so.

The CFO will engage with the Authority through Policy Planning Forum and Fire Authority to vary the strategic objectives if needed and to inform of progress.

- 3.6** 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.
- 3.7** 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.
- 3.8** 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:-
- 3.9** Authorise the commencement of criminal proceedings (after consultation with the Monitoring Officer to the Authority) for any breach of any law or regulation, the enforcement of which the Authority is empowered to undertake.
- 3.9.1 Take appropriate action on behalf of the Authority under the Regulatory Reform (Fire Safety) Order 2005.
- 3.9.2 Designate persons as Inspectors under Article 26 of the Fire Safety Order 2005 and the Health and Safety at Work Act 1974.
- 3.9.3 Authorise named members of staff in writing to exercise statutory powers conferred on the Authority under Article 27 of the Fire Safety Order 2005.
- 3.10** To ensure that nationally and locally agreed conditions of service are properly implemented in line with agreed Authority policies.
- 3.11** 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.

- 3.12 To manage all staff and staffing structures and decide on personnel issues in line with agreed Authority policies.
- 3.13 To vary the grading of individual posts up to (but not including) Assistant Chief Fire Officer (including progression within and between grades), having regard to the national Job Evaluation Scheme.
- 3.14 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 Appointments Committee, save for any matters reserved for decision by the Authority which shall include the determination of appeals against dismissal or other disciplinary action in respect of the Deputy Chief Fire Officer or Assistant Chief Fire Officer, which is delegated to the Appointments Committee.
- 3.15 To determine and implement acting-up arrangements in respect of vacancies occurring at Deputy Chief Fire Officer/Assistant Chief Fire Officer/Strategic Enabler level, subject to regular review in accordance with the Authority's employment policies.
- 3.16 To ensure that the Fire Authority's employment policies and procedures are based on best practice guidance and are properly applied and enforced.
- 3.17 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.
- 3.18 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.
- 3.19 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.

- 3.20 To deal with urgent matters, not otherwise delegated, in consultation with the Clerk to the Authority and the Monitoring Officer, Treasurer and Chair and Vice Chair in accordance with the process set out in paragraph 17 of the Authority's Procedural Standing Orders.
- 3.21 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.
- 3.22 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/Strategic Enablers affected by the virement and notification to the Treasurer and in accordance with the scheme of virement set out in the Financial Regulations.
- 3.23 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.
- 3.24 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.
- 3.25 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].
- 3.26 To approve sponsorship arrangements up to £100,000, subject to consultation with the Chair of the Authority.
- 3.27 To implement and maintain a register of interests in accordance with the Authority's Code of Conduct for officers.
- 3.28 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.

- 3.29 To seek repudiation from trades 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 Authority; and to pursue the recovery of actual and necessary expenditure on contingency arrangements with CLG and the LGA.
- 3.30 The Chief Fire Officer (and in his/her absence the Deputy Chief Fire Officer) may further delegate to any member of the Strategic Enabling Team 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.
- 3.31 Officers appointed to posts at Assistant Chief Fire Officer 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 the Assistant Chief Fire Officer/Strategic Enabler.

4 Delegations to 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:-
 - 4.5.1 Secure the payment of any debt;
 - 4.5.2 Recover possession of any land;
 - 4.5.3 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.
- 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/her 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 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.
- 4.9 The above powers may be delegated to a solicitor other than the Authority Solicitor.
- 4.10 To deal with urgent matters, not otherwise delegated, in consultation with the Chief Fire Officer, Treasurer, Clerk, Chair and Vice Chair and in accordance with the process set out in paragraph 17 of the Authority's Procedural Standing Orders.

(a) Authority Meetings

There are three types of Authority meeting:-

- (i) The annual meeting
- (ii) Ordinary meetings
- (iii) Extraordinary meetings - These meetings will be conducted in accordance with the Authority's Standing Orders set out in Part 4 of this constitution