

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

19 FEBRUARY 2018

1. ENABLING PAPER – DEVELOPING CFO ACCOUNTABILITIES

Report of the Clerk

RECOMMENDED

THAT the Authority:

- 1.1 note the changing landscape of governance for Fire and Rescue Services and the impact on the role of the Chief Fire Officer (CFO),
- 1.2 note the changes which are to be proposed around CFO and officer accountabilities,
- 1.3 agree the progression of the proposed changes to enable local engagement and full recommendations to April Authority.

2. PURPOSE OF REPORT

- 2.1 This report sets out the rationale for proposed changes to CFO accountabilities, which seek to establish a widening of the current delegations in the Authority constitution.
- 2.2 These accountabilities aim to support the Authority in the transformational development of its strategy, The Plan 2017-2020 and moving forward, as well as setting a sound basis for the anticipated transfer of governance from the Authority to the Mayoral West Midlands Combined Authority.

3. BACKGROUND

- 3.1 The Authority was legally created by the Local Government Act (LGA) 1985 as a joint Authority. The LGA establishes the Authority as a 'supervisory body' for the Fire Service, which is accountable to local communities for the services delivered.
- 3.2 The Fire and Rescue Services Act 2004, National Framework for Fire and Rescue Services 2012, Regulatory Reform Order, Civil Contingencies Act and other enabling legislation set out the statutory duties and functions the Authority is accountable for.
- 3.3 The Chief Fire Officer (CFO) is the Head of Paid Service (Local Government in Housing Act 1989) and as such along with officers, is accountable to the Authority for making decisions which enable the delivery of the aforementioned functions. The Authority's Constitution (the Constitution) sets out the parameters of this decision making before approval is sought from the Authority.
- 3.4 The Constitution sets out the current roles, responsibilities and accountabilities of both the Authority, as well as the CFO and officers.
- 3.5 The implementation of the Policing and Crime Act 2017 and government legislation around devolution have begun to change the status quo for Fire and Rescue Authorities. New models of governance for Fire and Rescue Services are emerging as can be seen from the most recent changes in the Essex Police and Fire Crime Commissioner (PCC), Greater Manchester Combined Authority Fire Function and pending changes for the London Fire Commissioner (LFC). Each model whilst different, provides single accountability for the Fire Service through either a Police and Crime Commissioner, Mayor and/or a Fire Commissioner.
- 3.6 Each of the above arrangements are new, indeed the LFC has yet to be implemented, however as these different arrangements are being embedded they have begun to create inconsistencies in the accountability of the CFO role.

- 3.7 Where a Fire Authority is transferred to a PCC a section 4a order sets out the arrangements for this change and where roles and responsibilities sit. The Essex Fire Order 2017, identifies the CFO as the only person that can be delegated the role of preparing and publishing the IRMP. It also stipulates that the CFO will be held to account for the exercise of CFO functions, or those provided by those under the 'direct control' of the CFO.
- 3.8 The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017 provides a broad framework for governance of the Greater Manchester Fire and Rescue Service covering the role of the Combined Authority, Mayor and the Fire Committee.
- 3.9 The LFC will be both the CFO and the Fire Authority. The LFC will employ staff, own London Fire Brigade Assets and take on all liabilities of the Authority. The LFC will be a Corporate Sole, however the Mayor of London is still accountable for the budget and IRMP and the LFC will be accountable to the Mayor.
- 3.10 These current and future changes need to be considered alongside the developing draft National Framework for Fire and Rescue Service (England). This has recently been consulted upon and now proposed to more overtly identify the role of the CFO as *'the individual who has responsibility for managing the fire and rescue service, accountable for the delivery of the fire and rescue service and the functions of persons under their direction and control'*.

4. **CURRENT GOVERNANCE CONSIDERATIONS**

- 4.1 The proposed model for the transfer of Authority functions to the Mayoral WMCA in 2019, establishes widened accountabilities for the CFO role.
- 4.2 As Head of Paid Service it is currently and will continue to be the CFO's responsibility to determine the staffing model and structure for the Service. This is designed to deliver prevention, protection and response services to communities in the most efficient and effective way, ensuring the highest levels of public safety. The broad roles and responsibility framework for the proposed Mayoral

WMCA governance model, seeks to provide a more agile approach to decision making in support of this, enabling the CFO to lead and manage the Service and staff with clear and established lines of accountability to the Mayor. The Mayoral WMCA governance framework is detailed in Appendix 1.

4.3 Currently Authority and CFO/Officer roles, responsibilities and delegations are set out in the Constitution articles 4, 15 and part 3: Scheme of Delegations.

4.4 **Article 4**

- Sets out clear responsibilities for the FRA, intrinsically linked to the approval of the budget, strategy and IRMP. Finance and land matters are part of this.
- Also sets out CFO delegations, further supported by officer delegations in the scheme of delegations:

To control all matters relating to the 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 varying the deployment of resources in order to ensure the effective delivery of The Plan;*
- (b) *Matters incidental to the discharge of the Authority's functions which fall within a policy decision taken by the Authority.*

4.5 **Article 15** sets out decision making by officers

Part 3, Scheme of delegations breaks these down into more detail covering head of paid staff responsibilities, regulatory fire safety roles, etc.

In support of these delegations and recognising the role of both the Authority and the CFO, the Employee Relations Framework (ERF) aims to provide timely and effective co-operation and consultation between the employer, employees and Trade Unions/Representative Bodies. This supports the successful delivery of the Authority's strategy, The Plan 2017-2020 and the management of change.

The delegations are broad in description and in some areas lack clarity. Therefore they have been considered against the context of the changing governance landscape as outlined in paragraphs 3.5-3.10, as well as the priorities and aspirations of the Authority's strategy The Plan 2017-2020. In addition, the proposed changes in governance for the Service have highlighted a need to now review current CFO and officer delegations to support:

- The transformation of services to enable the efficient and effective delivery of the Integrated Risk Management Plan (IRMP) and The Plan within a balanced budget.
- Effective workforce reform and development through the delivery of a staffing structure & model supporting current and future strategy (recruitment and management of staff)
- The effective deployment of all resources to meet risk – personnel, equipment and fleet

4.6 With wider CFO accountabilities it will be important to ensure the Authority remain updated either through reports to inform and/or for decision making, aligned to roles and responsibilities but also to ensure awareness. The latter will also be enabled through regular engagement between the Clerk, CFO and Chair and SET as appropriate.

4.7 In support of these accountabilities and as identified further in the next section the ERF will be also be an important enabler to ensuring discussions, consultation and negotiation around employment issues are followed through using an established and jointly agreed approach.

5. **PROPOSED CFO ACCOUNTABILITIES**

- 5.1 The proposed changes to the Constitution and CFO delegations as set out below, provide an overview of the widened accountabilities for the CFO role when compared with the current delegations provided in the constitution as detailed in paragraphs 4.4-4.5
- 5.2 These proposals create clear lines of responsibility for the CFO role and aim to identify the role of the Strategic Enabling Team (SET) in the decision making process.
- 5.3 These proposals acknowledge the role of the Authority as a 'supervisory body' that ensures that West Midlands Fire Service performs efficiently and in the best interests of the public and community it serves. It means therefore that the Service is answerable for its actions and performance to the general public through the Authority.
- 5.4 The Authority remains a Corporate Body with the legal responsibility for making decisions (as set out in the constitution) about matters concerning the functions, powers, duties and responsibilities of the Authority, which are invested in it by statute and/or common law.
- 5.5 The proposed CFO accountabilities which will enable the most effective and efficient delivery of services to local communities are as set out below:
- 5.5.1 **Full CFO accountability 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.*
- 5.5.2 **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.*

- 5.5.3 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.**
- 5.5.4 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.**
- 5.5.5 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:**
- a) **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.*
 - b) **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.

- c) **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.*
- d) **The delivery of added value through the development and management of agile digital solutions.** *Driving change through moving from managing assets to services.*

5.5.7 CFO engagement in collaborative partnerships with other emergency services, as defined in the Policing and Crime Act 2017, and public service providers, 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.

The above areas of proposed accountabilities will be reviewed against the Authority's standing orders to ensure each provides sufficient flexibility to enable effective decision making.

Any changes to Authority procedures will be reported into April Fire Authority for approval.

These widened accountabilities will remain open to the same transparency and scrutiny arrangements which currently exist within the Authority governance committee framework, as well as that provided for by both internal and external audit services.

6. TIMELINE FOR CHANGE

The timeline below will enable the proposed changes to be sufficiently considered and implemented following April Fire Authority, in preparation for the constitution of the Reformed Fire Authority at the June AGM 2018.:

11 January – consideration of areas of increased accountability for CFO

5 February – **members receive** broad overview of proposals

19 February – enabling paper to Authority

23 February – informal WMCA CEx awareness of proposals around CFO accountabilities

9 March – informal WMCA leaders (as above)

16 April – Authority approval of changes to CFO accountabilities in constitution in line with new planning year and refresh of 2018-2021 Plan.

4. EQUALITY IMPACT ASSESSMENT

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out. The matters contained in this enabling paper will not lead to a policy change.

8. LEGAL IMPLICATIONS

This report does not have any legal implications and retains the legislative role and responsibilities of the Authority.

9. **FINANCIAL IMPLICATIONS**

This enabling paper does not have any financial implications.

10. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications

BACKGROUND PAPERS

Fire Authority Constitution 2017

WMCA paper 8 December – Route to Future Governance

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Appendix 1

Appendix 8 – Proposed Future Governance Framework for Mayoral model

	ROLES & RESPONSIBILITIES	WHAT WILL THIS MEAN?
<p>Mayor</p> <p>Single elected accountable figure</p>	<ul style="list-style-type: none"> • Governance (supervisory body) for the Service, guided by LGA and LGiH Acts • Exercises all 'fire and rescue' functions – FRS Act 2004 and enabling: • Accountable for the: <ul style="list-style-type: none"> • Integrated Risk Management Plan (National Framework)* • the Corporate Strategy – The Plan* • Budgets (Capital and revenue)* • Raises precept • Responsible for Senior & Statutory Officer appointments 	<ul style="list-style-type: none"> • The WMCA owns all properties rights and liabilities of the former Authority and all functions • The WMCA employ all staff including the CFO • The Mayor only can exercise all fire and rescue functions and can delegate these to a committee and/or officers other than* • The Mayor is accountable figure to the communities for services provided, as set out in the FRS Act and other enabling legislation • The Mayor provides strategic policy direction • The Mayor oversees the efficiency and effectiveness of the Service
<p>WMCA</p> <p>(governing body)</p>	<ul style="list-style-type: none"> • Owns all functions, properties, rights and liabilities, including employment contracts of the Service staff 	
<p>Mayoral Fire Advisory Committee (Specialist review and advice to Mayor)</p>	<ul style="list-style-type: none"> • Leadership for WMFS priorities across seven constituent councils • Enabling development of local authority and health care partnerships • Review functions - i.e. reviewing decisions made against the local risk plan and the corporate strategy (statutory functions) • Enabling regional fire and local government relationships • Lobbying functions with other FRSs through AMFRA • A voice and representation within LGA and NJC working with alongside NFCC • Ceremonial support for Mayor for the Service 	<p>The Committee has clear delegations around scrutiny of Mayoral decisions, providing reports to the WMCA</p> <p>Supports the Mayor both locally and nationally as the political 'voice' for the Service</p>
<p>Chief Fire Officer/Officers</p> <p>Accountable to the Mayor</p>	<p>Head of Paid Service for the Service</p> <p>Accountable to the Mayor for the delivery of services with a balanced budget:</p> <ul style="list-style-type: none"> • The delivery of the Service Strategy (incl. matters relating to exercising functions of the fire and rescue services act, etc) • The delivery of a staffing structure & models supporting current and future Strategy • The deployment of resources to meet risk • The transformation of services to meet the Service's and the Mayor's/WMCA priorities 	<p>Accountability for the delivery of Strategy and Integrated Risk Management Plan, enabled through robust decision making at the right level. Delivering operational effectiveness through the right:</p> <ul style="list-style-type: none"> • Allocation of resources • Recruitment and management of staff • Workforce reform & development