

## **SECTION C2**

### **THE SCHEME OF DELEGATIONS TO OFFICERS**

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Responsible Officer	Section Issue Date	Amended/Updated	Review Date
Assistant Director, Planning & Improvement	December 2014	July 2016 February 2017 July 2019 September 2021 December 2021	

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#### **1. Introduction**

- 1.1 This Scheme is made under Section 101 of the Local Government Act 1972, which applies to the Authority by virtue of the East Sussex Fire Services (Combination Scheme) Order 1996.
- 1.2 For the purposes of this Scheme of Delegation the proper officers are the Chief Fire Officer, Treasurer and the Monitoring Officer.
- 1.3 The Authority has delegated to the officers the powers set out in this Scheme. Those matters which may not be delegated to officers include:
  - (i) variations to Standing Orders, including Contract Standing Orders and Financial Regulations;
  - (ii) approval of the revenue budget and capital programme, levying or issuing a precept, and borrowing of money;
  - (iii) adopting a Member Allowances Scheme;
  - (iv) appointing a chairman of the Fire Authority;
  - (v) major policy issues, including approving the Integrated Risk Management Plan;
  - (vi) the Authority's strategic objectives and priorities;
  - (vii) approval of a Scheme of Delegation to officers;
  - (viii) approval of terms of reference and composition of Panels;
  - (ix) approval of a Pay Policy Statement;
  - (x) approval of a Code of Conduct for Members;
  - (xi) approval of substantial changes to the Constitution;
  - (xii) any matter reserved to a Panel; and
  - (xiii) any matters by law that must be approved by the Fire Authority.
- 1.4 The Scheme sets out the limits of authority of the Chief Fire Officer, Treasurer and Monitoring Officer. Additional delegations to the Chief Fire Officer, the Monitoring Officer and the Treasurer are described in the Standing Orders, Contract Procedure Rules and Financial Regulations.
- 1.5 Any interpretation of the Scheme shall be in accordance with the Authority's wish that the Scheme shall not be construed restrictively.

#### **2. General Conditions of Delegation and Definitions**

- 2.1 The existence of a delegation shall not require the Chief Fire Officer, (or any other officer to whom the authority has been delegated), to take a decision on that issue. Any delegation of functions to an Officer under the Scheme shall not prevent the Authority or a relevant Panel from exercising those functions. The Chief Fire Officer needs to be aware of particular controversial issues which may be of concern to the Authority. In such circumstances they may refer the matter for guidance or decision by the Authority if they consider it appropriate to do so.

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- 2.2 The Monitoring Officer to the Authority shall keep the operation of the Scheme of Delegations under review and the Authority may amend its provisions from time to time. Financial limits should be reviewed annually by the Treasurer.
- 2.3 The functions delegated under the Scheme shall be subject to the Authority's Standing Orders, Financial Regulations, policies and procedures and to any instruction or guidance of the Authority or an appropriate Panel acting under its delegated powers. Any expenditure shall be within the revenue estimates and capital programme, either as approved or with any variations permitted under Standing Orders and Financial Regulations or by the Authority or a relevant Panel.
- 2.4 In exercising delegated powers the Chief Fire Officer shall consult the Chairperson and Vice Chairperson as appropriate.
- 2.5 The Chief Fire Officer may authorise officers within the Service to exercise powers delegated to them. The Chief Fire Officer must maintain proper records of such authorisation. The Chief Fire Officer shall remain accountable for any actions or decisions taken under that authority.
- 2.6 The Principal Officers (Chief Fire Officer, Deputy Chief Fire Officer, Assistant Chief Fire Officer) are authorised to act in all matters related to the operational delivery of the Service and for those functions that fall within their remit of responsibility and, without prejudice to the generality of the foregoing, to exercise the functions set out in paragraph 4.3 below with the exceptions of paragraphs 4.3 (viii), (ix) and (xi).
- 2.7 In the event of the Chief Fire Officer's post being vacant or in the absence of the Chief Fire Officer, those delegated powers may be exercised by the Deputy Chief Fire Officer so far as permitted by law. Where the Deputy Chief Fire Officer is unable to act, those delegated powers may be exercised by any other Principal Officer of the authority, so far as permitted by law.
- 2.8 All such matters as may be regarded as included by inference shall be comprised within the delegated functions of Officers and any delegation to an Officer shall include all consequential or ancillary matters as necessary. For example, where the exercise of a function has been delegated, it shall include, subject to any express reservations in the Scheme, the power to serve notices or orders, authorise agreements, authorise proceedings or fix or vary fees and charges etc.

### **3. General Delegation of Functions to the Chief Fire Officer, Monitoring Officer and Treasurer of the Authority**

The overriding principle shall be that the Chief Fire Officer is responsible for the planning, organisation, management and delivery of the operational service notwithstanding those matters reserved for the Authority as detailed in section 1.3 above.

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The following general functions are delegated to the Chief Fire Officer, the Monitoring Officer and the Treasurer in relation to the respective services for which they are responsible:

The power to perform and administer the services for which they are responsible, including taking and implementing decisions which aid in maintaining the operation or effectiveness of those services. The power shall be exercised in conformity with the restrictions set out in the Introduction to the Scheme.

#### **4. Specific Delegation of Functions to the Chief Fire Officer and other Officers**

- 4.1 The Chief Fire Officer shall, within the approved budgets, Authority Strategies and policies, exercise all matters of day-to-day administration and operational management and delivery of the service and functions. This delegation shall include taking and implementing decisions including, in particular, any decision which is concerned with maintaining the operation or effectiveness of those services or with a matter incidental to the discharge of the authority's functions or which falls within the scope of the authority's policy framework.
- 4.2 The Chief Fire Officer is authorised to discharge the functions of the Authority in relation to the Service subject to the following requirements:
- (i) any decisions or actions shall comply with relevant resolutions, orders and directions of the Authority and of its appointed Panels;
  - (ii) where any matter involves professional or technical considerations within the sphere or competence of another officer, the Chief Fire Officer shall consult with that officer before authorising action. This shall not be limited to officers within the employ of the authority, if circumstances require.
- 4.3 The Chief Fire Officer is authorised to exercise all the powers of the Authority under relevant legislation. Without prejudice to the generality of this provision he/she may in particular carry out the following:
- (i) fulfil the functions of the Authority as a Fire & Rescue Authority under, or in relation to, the Fire & Rescue Services Act 2004;
  - (ii) in consultation with the Monitoring Officer, institute, defend, withdraw or compromise legal proceedings, whether civil and/or criminal, pertaining to the Fire Authority's statutory functions in respect of the Regulatory Reform (Fire Safety) Order 2005;
  - (iii) take appropriate action on behalf of the Authority under The Regulatory Reform (Fire Safety Order) 2005;
  - (iv) on the advice of the Assistant Director of Safer Communities, designate persons as Inspectors under Article 26 of the Fire Safety Order to the extent

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that the functions may only be carried out by a duly qualified and appointed inspector;

- (v) exercise, where appropriate, the responsibilities of the Authority where it acts as a statutory consultee or as an agent for either or both constituent Authorities;
- (vi) authorise named members of staff in writing to exercise the powers of inspectors under the Article 27 of the Fire Safety Order, including entering any premises which an inspector has reason to believe it is necessary for them to enter for the purpose of carrying out the said Order and any regulations made under it into effect, and to inspect the whole or part of the premises and anything in them, where such entry and inspection may be effected without the use of force;
- (vii) authorise named members of staff in writing to exercise statutory powers conferred on the Authority, including amongst others, section 19 of the Health & Safety at Work Act 1974, and the Construction (Design and Management Regulations) 2015;
- (viii) in consultation with the Chairperson of the Fire Authority, to determine the appointment procedures of all Principal Officers below Chief Fire Officer and the Treasurer;
- (ix) to shortlist candidates for the positions of all Principal Officer posts below Chief Fire Officer and the Treasurer;
- (x) to Chair the selection panel in relation to the appointment of the Assistant Chief Fire Officer
- (xi) to act as professional advisor to the Principal Officer Appointment Panel for the appointment of the Deputy Chief Fire Officer and Treasurer
- (xii) for all employees below Deputy Chief Fire Officer, to approve appointments, grading, remuneration and benefits, all categories of leave, training, secondments, engagement in other work, disciplinary matters and dismissals;
- (xiii) in consultation with the Treasurer and to the extent that the functions may lawfully be delegated to an officer, to discharge the functions of the Authority, including the exercise of any discretions, under the Firefighters' Pension Scheme, the Local Government Pension Scheme and any predecessors to these schemes.
- (xiv) to take such action as appears to be necessary or desirable in connection with any anticipated or actual industrial action having consulted the Chairperson and Group Leaders (if practicable);
- (xv) to determine whether any future industrial action of short duration should be considered as a full shift or part thereof for both operational and pay purposes;

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- (xvi) in cases of urgency, following consultation with the Chairperson of the Authority and Group Leaders (if practicable)
    - (a) to approve the acquisition of any interest in land required for the purposes of the Authority; and
    - (b) to approve on behalf of the Authority the purchase or sale price or other consideration for any interest in land;
  - (xvii) in consultation with the Treasurer and the Monitoring Officer, to authorise the disposal of land and buildings in accordance with the policy set by the Authority;
  - (xviii) to approve the terms of any land transaction where the payment to the other party does not exceed £100,000 (in the case of a lump sum payment) or £10,000 per annum (in respect of an annual rental) and to maintain a register of all such transactions which shall be available for inspection by Members of the Authority on request; and
  - (xix) where it is impracticable to obtain authorisation from the Authority, and subject to the action being reported (for information) to the next convenient meeting of the Fire Authority, to take urgent action within legal powers, where this is necessary in the interests of the Authority, in respect of matters otherwise reserved to the Authority.
- 4.4 The Chief Fire Officer may authorise in writing, an officer to exercise an authority in this scheme in their absence, or at other times.
- 4.5 Where a function is delegated to more than one Officer, any one of those Officers may exercise it, but such function shall be exercised in accordance with any direction given by the Chief Fire Officer.
- 4.6 The Chief Fire Officer, in consultation with the Monitoring Officer, shall determine any case in which there is uncertainty whether an officer is authorised to act under these arrangements, including the extent to which any function is delegated.
- 4.7 Reference to these arrangements to the discharge of the functions of the Authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of those functions and the Chief Fire Officer is authorised to act accordingly.
- 4.8 In consultation with the Monitoring Officer, the Chief Fire Officer shall make consequential amendments to any of the approved documents of the Authority contained in the Constitution (except the Code of Conduct for Members, for which any proposed changes must be submitted for approval to the Scrutiny & Audit Panel), to take account of any of the following:
- (i) any change in the job title of any officer



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- (ii) the transfer of any of the responsibilities of any officer, who has delegated functions, to any other officer
- (iii) any change in any other title or name, for example of the offices filled by Members, any Panel, sub-Panel or group name, the name of any scheme or plan etc.
- (iv) any changes to legislation (Acts, statutory instruments, regulations, orders, byelaws or the like) where that legislation is applied, extended, amended, consolidated or replaced
- (v) in any other case where a minor amendment is necessary to correct a clerical error or (as long as the document remains substantially to the same effect) keep the document up to date.

4.9 In consultation with the Monitoring Officer and the Treasurer, the Chief Fire Officer shall make further amendments to the Financial Regulations, Scheme of Delegated Functions and Standing Orders as may be required for effective business needs before the next scheduled review by the Fire Authority.

#### **5. Treasurer**

The powers delegated to the Treasurer are described in the Financial Regulations.

#### **6. Monitoring Officer to the Authority**

Powers delegated to the Monitoring Officer to the Authority are described below and in the Standing Orders:

- 6.1 To affix the common seal to all properly authenticated deeds and documents.
- 6.2 To nominate an appropriate officer of another Fire & Rescue Service to investigate allegations against a Principal Officer.
- 6.3 Where the provisions of the Local Government and Housing Act 1989 apply, to make appointments to panels and other bodies which are allocated to a particular political group, in accordance with the wishes of that group as notified to the Monitoring Officer.
- 6.4 In relation to complaints that one or more Member(s) of the Fire Authority have breached the Code of Conduct for Members, to take such steps as they consider necessary to review, progress and (where relevant) determine such complaints in accordance with the Fire Authority's arrangements as specified in the Procedure for Dealing with Allegations of Breaches of the Code of Conduct.
- 6.5 Where a Member seeks a dispensation pursuant to the Localism Act 2011 to permit them to participate in discussion and/or voting at a meeting of the Fire Authority or one of its Panels despite having a prejudicial interest, to determine any such application on the grounds listed in the Code of Conduct for Members

**7. Declaration of Emergency under the Authority's Emergency Planning or Business Continuity Procedures - Delegation to the Chief Fire Officer, (or in their absence either the Deputy Chief Fire Officer or the Assistant Chief Fire Officer).**

In cases where an emergency has been declared under the Authority's emergency planning or business continuity procedures:

- (a) After consultation with the Chairperson or Vice Chairperson, to exercise any of the functions of the Authority which are not by law reserved to the Authority or a Panel. See also notes (i) to (iv) below.
- (b) After consultation with the Treasurer, to approve expenditure of up to £1,000,000, the action taken to be reported for information to the Urgency Panel as soon as practicable. See also notes (i) to (iv) below.

**Notes:**

- (i) The Chairperson (or in their absence the Vice-Chairperson), the Treasurer and the Monitoring Officer shall be informed as soon as is practicable if it appears likely that any such emergency will be declared.
- (ii) If it is not possible or practicable for the Chief Fire Officer to exercise the above delegated powers, the powers may be exercised by the Officer who is designated to be in charge under the Authority's emergency planning or business continuity procedures or any Officer appointed by him / her to act on his / her behalf.
- (iii) In relation to paragraph (a) above, if it is not possible or practicable for the Officer to consult the Chairperson or Vice-Chairperson before exercising the above delegated powers the Officer may exercise the powers without doing so but shall take such steps as appear appropriate at the time to keep Members of the Authority informed of the action taken.
- (iv) In relation to paragraph (b) above, if it is not possible or practicable for the Officer to consult the Treasurer before approving any expenditure under the above delegated powers, the Officer shall consult the most senior Officer available in the Assistant Director of Resources/ Treasurer's directorate and shall take such steps as appear appropriate at the time to keep the Treasurer informed of the action taken.