



Hampshire Fire and Rescue Authority Scheme of Delegation to Officers

The document has been updated following amendments presented to a meeting of the Hampshire Fire and Rescue Authority on ~~xx13 February 2008~~, and approved by that meeting.

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SECTION A – General introduction

1. This Scheme of Delegation was approved by the Hampshire Fire and Rescue Authority (“the Authority”) on the ~~xx-~~ day of ~~xx~~ ~~2004~~ and was drawn up in consultation with the Chief Officer of Hampshire Fire and Rescue Service (“the Service”).
2. In accordance with the provisions of Section 101 of the Local Government Act 1972 the Authority may subject to any express provision in any Act of Parliament arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the Authority¹.
3. The Authority may employ staff conditioned to the National Joint Council for Local Authorities’ Fire Brigades Scheme of Conditions of Service (2004) (referred to in this Scheme of Delegation as “Grey Book staff”) and the National Joint Council for Local Government Services² (referred to in this Scheme of Delegation as “~~Silver or~~ Green Book staff”) both to assist the Service and also to enable the Authority to discharge its functions.
4. Where the Chief Officer is authorised to discharge any functions on behalf of the Authority and is for any reason unable to discharge those functions the Deputy Chief Officers or Director of ~~Corporate~~ Professional Services may discharge those functions.
5. Where the Clerk to the Authority (“the Clerk”) or the Treasurer are authorised to discharge any functions on behalf of the Authority and are for any reason unable to discharge those functions those authorised to deputise for them in respect of their office with their local authority may discharge those functions.
6. Where the discharge of a function is delegated to an officer³ under this Scheme of Delegation and that officer is for any reason unable to discharge those functions that officer may arrange for the discharge of that function to be undertaken by another officer nominated by him/her.
7. Any officer can decline to exercise the powers delegated under this Scheme in particular circumstances including, for the avoidance of doubt, matters relating to the Public Interest Disclosure Act 1998⁴ and

¹ A Committee which is authorised to discharge any function on behalf of the Authority may delegate that power to a sub-committee or an officer; where arrangements have been made for a sub-committee to discharge any function it may delegate that function to an officer; arrangements may also be made between two or more fire authorities for the discharge of their functions.

² ~~Silver and~~ Green Book staff are employed pursuant to S112(1) of the Local Government Act 1972

³ The term ‘officer’ refers to people appointed to posts within the Authority. They may be directly employed or working for the Authority under Service Contracts.

⁴ The Public Disclosure Act 1998 by amending the Employment Rights Act 1996 gives a statutory right (“the whistle-blower’s charter”) to any employee to raise concerns over malpractices covering

Comment [firegho1]: Terminology. We have now adopted the Terms Chief Finance Officer(CFO)/Deputy CFO in moving to the IBC/H3 arrangements. This has been referred to in other papers (F&GP and the minutes of that meeting going to HFRA). Therefore for consistency we should move to these terms in future documents.

refer any such matter to the Authority or its standing committees for decision or approval.

8. The Clerk is authorised to negotiate, conclude and execute on behalf of the Authority any document or agreement required to give effect to any decision taken by the Authority, Sub-Committee or officer whether or not that decision specifically records such an authorisation, provided that where expenditure is authorised under the Authority's Financial Regulations, any documentation giving effect to that expenditure may be entered into by the officer authorizing the expenditure.
9. For the avoidance of doubt the authority conferred in Clause 8 shall include the power to execute and sign or seal as appropriate all documentation relating to disposal of land.
10. This Scheme of Delegation shall not derogate from the day to day management of the Chief Officer, Clerk or Treasurer.
11. References herein to any enactment shall be deemed to include any statutory provision which may from time to time replace, amend or extend the provisions of any enactment and any orders, directions, regulations, code or bylaws made thereunder and any ministerial circulars or advice or note relating thereto.
12. The exercise of any delegated power under this Scheme of Delegation is subject to compliance with any statutory enactment, code of practice, standing orders, financial regulations and any relevant Authority plans and policies.
13. The Authority is responsible for the appointment, performance review and dismissal of officers at Brigade Manager level.
14. The Authority will have a role as defined in the Grievance and Discipline Procedures should a senior manager submit a grievance or be the subject of disciplinary action.
15. Additional powers are delegated under the Authority's Standing Orders and Financial Regulations.

financial; criminal; environmental; statutory; procedural; health and safety and concealment matters. These are termed "protected disclosures". Employees must do this either internally to their employer, externally (through a Minister of the Crown) or to a person designated by the Secretary of State as a "prescribed person".

SECTION B – Administration of the Authority

1. The Authority has appointed a Clerk and a Treasurer to the Authority who are responsible for the general administration of the Authority. The Treasurer is also the officer appointed by the Authority to be responsible for its financial affairs. The financial responsibilities of the Treasurer are set out in the Authority's Financial Regulations.
2. The general administrative duties of the Clerk and Treasurer are as set out below:-
 - (i) The management of Authority's proceedings and the provision of Member services including servicing all meetings of the Authority; administration of the Members' allowance scheme and providing support and advice to individual members on matters relating to the Authority's proceedings and procedures;
 - (ii) The provision of advice generally on the Authority's powers and duties.
3. In connection with the discharge of the responsibilities described above, the Clerk and the Treasurer are authorised to exercise the specific powers identified in the following paragraphs of this Section and as further specified in this Scheme of Delegation.

Proper Officer

- 4, Various duties are conferred by legislation on the "Proper Officer" of the Authority. The term proper officer in relation to any person is interpreted as meaning the officer appointed for that purpose by the Authority or if not specifically appointed, the Clerk, Treasurer or Chief Officer as appropriate. For the avoidance of doubt, the Clerk, the Treasurer and the Chief Officer (where stated) are appointed as proper officers for the purposes set out below.

Local Government Act 1972

Sections 94-96 Proper Officer for the receipt of pecuniary interests and keeping records of disclosures of pecuniary interests made in accordance with Section 94

The Clerk

Section 100B (2) and (6) Proper Officer for the purposes of determining whether any reports or parts thereof for a meeting of the Authority, should be excluded from those made available for public inspection in advance of the meeting and made available for the use of members of the public present at the meeting, on the grounds that they relate to items during which the meeting is likely not to be open to the public.

The Clerk

Section 100B (2) and (7) (c) Proper Officer for determining (i) whether any reports or parts thereof should be excluded from those supplied in accordance with a request from any newspaper on the grounds that they relate to items during which the meeting is likely not to be open to the public, and (ii) whether copies of any other documents should be supplied.

The Clerk

Section 100C (2) Proper Officer is responsible for the preparation of a written summary of proceedings as required by Section 100C (2)

The Clerk

Section 100D (1) (a) Compilation of lists of background papers to reports

The Clerk or Treasurer or Chief Officer depending on which officer is reporting to the Authority. In the case of joint reports, whose title first appears at the head of the report

Section 100D (5) (a) Identification of background papers to reports

The Clerk or Treasurer or Chief Officer (as in the previous delegation)

Section 100F (2) Proper Officer responsible for determining which

The Clerk

documents are not available for inspection by members of the Authority by reason that they disclose exempt information

Section 115 Proper Officer responsible for receipt of money due from officers

The Treasurer and Chief Officer in respect of officers under their respective direction and control

Section 229 Proper Officer responsible for the certification of documents under sub-section (5)

The Clerk and Chief Officer acting within delegated powers

Section 234 Proper Officer for the purposes of signing any notice, order or other documents which the Authority are authorised or required by or under any enactment to give make or issue

The Clerk and Chief Officer

The Local Government Act 1974 - Section 30

Proper Officer responsible for arrangements for giving public notice of reports issued by the Local Government Ombudsman

The Clerk

For the purposes of the Proper Officer provisions referred to above the deputy to the Clerk, the Deputy Treasurer and the Director of Corporate Services or Deputy Chief Officers are authorised to act in the event of the Clerk, Treasurer and the Chief Officer being unable to act as Proper Officer

Finance and Audit

5 As stated above the Treasurer's responsibilities are covered in the Authority's Financial Regulations.

These responsibilities are derived from the Authority:-

- (i) designating the Treasurer as the officer responsible for the proper administration of the Authority's financial affairs for the purposes of Section 73 of the Local Government Act 1985
- (ii) authorising the Treasurer to discharge the Authority's duty to maintain an adequate and effective system of internal audit as

required under Regulation 6 of the Accounts and Audit Regulations 2003.

- (iii) authorising the Treasurer to enter into agreements for the transfer of credit approvals where appropriate for revenue estimates, capital programme and precepts.
- 6 The Treasurer has nominated the Deputy Treasurer to perform his functions under Section 114 of the Local Government Finance Act 1988 (reports relating to unlawful expenditure) where he is unable to act for any reason.

SECTION C –Chief Officer

The Chief Officer is authorised to:

Licences, Notices and Registrations

- 1 Exercise the Authority’s powers and duties arising by virtue of any provision under the statutes or any amendments, regulations or EC directives appertaining thereto listed in Appendix 1 paragraph 1 and shall include authorising officers pursuant to these provisions.

Appointment and Authorisation for Powers of Entry

- 2 Exercise the Authority’s statutory powers with regard to authorising officers for the purposes of exercising powers of entry under statutes listed in Appendix 1 paragraph 2.

Appointment of Fire Service Inspectors

- 3 Exercise the Authority’s statutory powers and duties to appoint such officers of the Service as are in the opinion of the Chief Officer suitably qualified to act as inspectors pursuant to statute listed in Appendix 1 paragraph 3 and empowered to inspect under statutes listed in Appendix 1 paragraph 4.
4. Exercise the Authority’s statutory functions under the legislation listed in Appendix 1, and authorise officers to carry out such functions.

Human Resource Management

- 5 Take decisions and exercise discretion on matters of personnel, development, disputes (individual, collective and industrial), grievances and discipline, health and safety, compensation and general conditions of service as set out in the Authority’s Service Orders relating to employment policies and procedures.
- 6 The power to dismiss staff shall not be delegated below the role of Area Manager or equivalent and the power to hear appeals against dismissal shall not be delegated below the role of Brigade Manager or equivalent.
- 7 Administer and negotiate general conditions of service issues for staff covered by the National Joint Council for Local Authority Fire Brigades and the Local Government Services Schemes of Conditions of Service.

8 Within the annual cycle, maintain the Senior Pay Policy Statement on behalf of the Authority to ensure that it remains accurate and legally compliant until reviewed by the Authority and re-published.

Comment [firegho2]: If accepted, the subsequent numbering will need to be adjusted.

Pension Schemes and Retirement Allowances

- 8 In respect of retirement allowances payable to Grey Book staff as set out in the National Joint Council for Local Authorities' Fire Brigades Scheme of Conditions of Service (2004), the Firemens' Pension Scheme Order 1992 (1) and subsequent revisions in the new Firefighters' Pension Scheme⁵ the Chief Officer is authorised to:
- (i) Exercise discretion on behalf of the Authority regarding (a) retirement on the grounds of permanent disability; and (b) determination of awards to be received under the scheme.
 - (ii) Approve members of the Firefighters' Pension Scheme to count as pensionable service any absence as a result of industrial action providing they pay the Authority the appropriate pension contributions.
- 9 In respect of retirement allowances payable to ~~Silver and~~ Green Book staff as contained in the Local Government Pension Scheme Regulations 1997 and the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 as amended, the Chief Officer is authorised to:
- (i) Exercise the powers and duties of the Authority to release early payment of pension benefits in relation to redundancy, efficiency of the service or in accordance with Regulation 31 of the Local Government Pension Scheme subject to approval by the Authority.
- 10 Appoint uniformed officers at middle management level to appear in the Magistrates Court on behalf of the Hampshire Fire and Rescue Authority in respect of those proceedings brought by the Authority and where the defendant pleads guilty. These appointments will be subject to:
- (i) any such officer having attended the specialist fire safety training course at the Fire Service College or similarly accredited course,
 - (ii) any such officer having attended the Hampshire Fire and Rescue Service three-day legal training course or similarly accredited course,
- and
- (iii) any such officer having obtained the advanced professional certificate in investigative practice and having obtained an NVQ Level 5 accreditation in respect of this.

⁵ ~~New Firefighters' Pension Scheme subject to consultation to 14.01.05~~

SECTION D – The Authority’s Estate

1. Where the Authority has decided to acquire or dispose of land and buildings the following shall apply:

Acquisition of Land and Buildings

2. The Director of Corporate Professional Services has authority to agree the terms and arrangements for the acquisition (whether by purchase, lease or licence) of land and/or buildings required for Authority purposes subject to the limits referred to in paragraph 1 below. All other acquisitions must be approved by the Authority.

Disposal of Land and Buildings

3. Where the Director of Corporate Professional Services is of the opinion that any land and/or buildings are no longer required for Authority purposes then the Director of Corporate Professional Services may, where the value of the property is below the limited referred to in paragraph 2 below, arrange for the property concerned to be disposed of. Disposals where the value exceeds the limits referred to in paragraph 1 below must be approved by the Authority.

Estate Legal and Contractual Matters

4. The following authorisation is granted to the Director of Corporate Professional Services:-
 - (i) to approve the service of Notices to Quit and notices pursuant to the Landlord and Tenant Act 1954 and such other notices and formal demands which are deemed necessary to protect the interests of the Authority
 - (ii) to swear and sign statutory and simple declarations on behalf of the Authority pursuant to the Landlord and Tenant Act 1954
 - (iii) to authorise the acquisition or disposal of any land, premises or interest in land the consideration for which does not exceed £250,000
 - (iv) to authorise the acquisition or disposal by way of lease or licence of any land for terms not exceeding 10 years with rents or licence fees not exceeding £25,000 per annum
 - (v) to grant and to accept the grant of minor easements, wayleaves and rights of way
 - (vi) to agree the terms of any indemnity required in connection with the use of land or premises for Authority purposes

- (vii) to take any necessary action to protect the Authority's interest in any part of the Authority's estate
 - (viii) to agree rent reviews of leases and licence to which the Authority is a party where the rent is reviewed under the terms of the relevant lease or licence
 - (ix) to sign and submit Stamp Duty Land Tax returns on behalf of the Authority
- 5 Provided in case of transactions authorised pursuant to the delegated authority in paragraphs 2(iii) and 2(iv) of this section that a schedule detailing any such property being disposed of, leased, licenced or acquired shall be presented by the Director of Corporate Professional Services to the members of the Finance and General Purposes Committee at each meeting of that committee.

Records

- 6 The Clerk shall be responsible for the custody of all deeds and legal documents relating to the Authority's estate

Estate Management

- 7 Except where the Director of Corporate Professional Services is authorised to act, the Chief Officer shall be responsible for the management of the Authority's estate.

¹ The Authority may not, except with the consent of the Secretary of State, dispose of land, other than by way of a short tenancy, for a consideration less than the best that can be reasonably obtained – Section 123(2) Local Government Act 1972.

SECTION E – Legal Proceedings

1. Either the Clerk or Chief Officer is authorised to institute, defend or participate in any legal proceedings in any case where the institution or defence of such proceedings is necessary to give effect to decisions of the Authority (or any committee, sub-committee or officer) or in any other case where the Clerk or Chief Officer considers that the institution or defence of or participation in proceedings is necessary to protect the Authority's interests.
2. Either the Clerk or Chief Officer is authorised to take action in connection with the Authority's statutory functions as exercised by the Chief Officer in proceedings in magistrates and crown courts and in any other judicial or quasi judicial proceedings including laying informations, making complaints and otherwise representing the Authority.
3. Where any document will be a necessary step in any legal procedure or legal proceedings on behalf of the Authority it shall be signed by the Clerk or Chief Officer unless any enactment otherwise requires or authorises, or the Authority gives authority to some other person for the purpose of such procedure or proceedings. Where any document is to be signed by a Solicitor it shall be signed by the Clerk.

Authorisation Procedures

4. In exercising the powers conferred by paragraphs 1 and 3 above, the Clerk is authorised to negotiate and approve the settlement of claims by or against the Authority as provided below:-
 - (i) Not exceeding £100,000 - approved in consultation with the Chief Officer
 - (ii) Above £100,000 - approved by the Authority

Representation in Legal Proceedings

5. In exercising the authority outlined in paragraphs 1, 2 and 3 above the Clerk may instruct such other solicitors as he sees fit to institute, defend, participate in or instruct Counsel in legal or employment proceedings in any court or tribunal as applicable.
6. In exercising the authority outlined in paragraphs 1, 2 and 3 above the Clerk may in accordance with the terms of the license issued to the Authority under the Bar Direct Scheme instruct, or authorise the instruction of a barrister to institute, defend, or participate in legal or employment proceedings in any court or tribunal as applicable.

SECTION F - Miscellaneous

Urgent Matters

- 1 In either urgent or emergency matters which cannot await a meeting of the Authority the Clerk, the Treasurer and the Chief Officer are empowered to act on behalf of and within the powers and duties of the Authority. This procedure only being activated by the Chief Officer in consultation with the Clerk.

Investigations

- 2 The Chief Officer is authorised to exercise the Authority's powers to undertake either directed surveillance or utilise covert human intelligence sources, whether employed by the Authority or otherwise subject to compliance with Regulation of Investigatory Powers Act.

SECTION G – Monitoring Officer

1. The Authority is required to appoint an officer to perform the functions of “the Monitoring Officer” under Section 5 of the Local Government and Housing Act 1989 and does so hereby appoint the Clerk to the Authority to fulfil that role.
2. In accordance with the provisions of Section 5 the Monitoring Officer is required to prepare a report to the Authority with respect to any proposal, decision or omission by the Authority, any of its committees, officers or employees which has given rise to, or is likely to, or would give rise to, a contravention of any enactment or rule of law of any code of practice made or approved by or under any enactment.
3. In performing the duty conferred by Section 5 the Monitoring Officer will take account of reports made on a particular matter by any other officer and whether a matter is being resolved by other means including other reporting procedures.
4. The Monitoring officer in performing the duties arising under Section 5 is authorised to incur expenditure where this is necessary in seeking advice outside the Authority.

APPENDIX 1

Statutes or Amendments, Regulations or EC Directives

1. The Regulatory Reform (Fire Safety) Order 2005
The Health and Safety at Work etc. Act 1974
2. The Fire and Rescue Services Act 2004
The Regulatory Reform (Fire Safety) Order 2005
3. The Regulatory Reform (Fire Safety) Order 2005
The Health and Safety at Work etc. Act 1974
4. The Fire Safety and Places of Sport Act 1987
The Fire and Rescue Services Act 2004
The Regulatory Reform (Fire Safety) Order 2005
The Health and Safety at Work etc. Act 1974
The Construction (Design and Management) Regulations 2007
The Theatres Act 1968
The Gaming Act 1968
The Cinemas Act 1985
The Local Government (Miscellaneous Provisions) Act 1982
The Licensing Act 2003