

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

MEETING: 20 MARCH 2017

SUBJECT: DIRECTOR POSITIONS ON TWFRS LIMITED

JOINT REPORT OF THE CHIEF FIRE OFFICER/CHIEF EXECUTIVE (THE CLERK TO THE AUTHORITY) THE STRATEGIC FINANCE OFFICER AND THE PERSONNEL ADVISOR TO THE AUTHORITY

1 INTRODUCTION

- 1.1 The purpose of this report is to inform members of the termination of appointment of Mr Capeling and to seek approval for the appointment of Mr Lowther as a Director to TWFRS Limited with effect from 9 April 2017.

2 BACKGROUND

- 2.1 Mr Capeling recently announced his retirement from the post of Chief Fire Officer and Chief Executive to Tyne and Wear Fire and Rescue Authority. He has also given notice to TWFRS Ltd that he will resign from his role as a Director to TWFRS Ltd at the same time. CFO Capeling became a Director following the Annual General Meeting of TWFRS Ltd on 15 October 2015.
- 2.2 Sections 29 to 31 of the TWFRS Limited Articles of Association set out the process and conditions for the appointment of Directors. The relevant extract from the Articles of Association are included in appendix A for the information of members.
- 2.3 Any eligible person may be appointed as a Director by a decision of the Fire Authority, as Sole Shareholder. At any time, the number of Directors shall be not less than 2 (two).

3 PROPOSED APPOINTMENTS

- 3.1 It is proposed to terminate the appointment of Mr Capeling as a Director of TWFRS Ltd at 23:59 on 9 April 2017.
- 3.2 On 1 February 2017, Mr Lowther was selected to the post of Chief Fire Officer and Chief Executive (CFO) to Tyne and Wear Fire and Rescue Authority. The appointment will take effect at 00:01 on 10th April 2017, it is therefore proposed to appoint Mr Lowther as a Director of TWFRS Ltd from the 10th of April 2017.

4 RISK MANAGEMENT

- 4.1 A risk assessment has been undertaken to ensure that the risk to the Authority has been minimised as far as practicable. The assessment has considered an appropriate balance between risk and control, the realisation of efficiencies, the most appropriate use of limited resources and a comprehensive evaluation of the benefits. The risk to the authority has been assessed as low utilising the standard risk matrix based on control measures being in place.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications in respect of this report.

6 EQUALITY AND FAIRNESS IMPLICATIONS

- 6.1 There are no equality and fairness implications in respect of this report.

7 HEALTH AND SAFETY IMPLICATIONS

- 7.1 There are no health and safety implications in respect of this report.

8 RECOMMENDATIONS

- 8.1 The Authority is recommended to:
- a) Endorse the contents of this report
 - b) Approve the Director changes as proposed in section 3 of this report
 - c) Receive further reports as appropriate.

BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report:

TWFRS Ltd Articles of Association

APPENDIX A - EXTRACT FROM TWFRS LTD ARTICLES OF ASSOCIATION

29. 'Board of Directors

29.1 The number of Directors shall be not less than 2 (two).

29.2 The first Directors shall be those persons named in the statement delivered pursuant to Section 12(1) of Companies Act 2006 who shall be deemed to have been appointed under the Articles. Future Directors shall be appointed as provided under Article 31.

29.3 A Director may not appoint an alternate director or anyone to act on his or her behalf at meetings of Directors.

30. Eligibility to be a Director

30.1 Any person who is eligible and willing to act as a Director may be appointed to be a Director in accordance with Article 29 or 31.

30.2 No person may be appointed as a Director:

30.2.1 unless he or she has attained the age of 18 (eighteen) years;

30.2.2 if (had he or she already been a Director) he or she would have been disqualified from acting under the provisions of Article 31.2 below; and

30.2.3 his or her appointment would result in the number of Directors exceeding any maximum set by or in accordance with these Articles.

31. Appointment and Removal of Directors

31.1 Any eligible person may be appointed to be a Director by a decision of the Sole Shareholder at any time in accordance with Article 16 above.

31.2 A Director shall cease to hold office if:

31.2.1 he or she ceases to be a director by virtue of any provision in the Companies Acts or the Insolvency Act 1986;

31.2.2 the Directors reasonably believe that he or she has become physically or mentally incapable by reason of illness or injury of managing and administering his or her own affairs and they decide to remove him or her from office;

- 31.2.3 he or she resigns from his or her office by notice to the Company (but only if at least the minimum number specified in Article 29.1 above will remain in office when the notice of resignation is to take effect);
- 31.2.4 he or she is absent without the permission of the Directors from all their meetings held within a period of 6 (six) months without good reason and the Directors decide that his or her office be vacated;
- 31.2.5 he or she is the subject of a bankruptcy order or an order is made against him or her in individual insolvency proceedings in a jurisdiction other than England and Wales which has an effect similar to that of bankruptcy;
- 31.2.6 he or she makes a composition with his or her creditors generally in satisfaction of his or her debts;
- 31.2.7 he or she is removed from office by the Directors on the grounds that he is in material or persistent breach of the Company's code of conduct as amended from time to time. A decision to remove a Director from office under this Article 31.2.7 may only be passed if:
- 31.2.7.1 the Director has been given at least 21 (twenty one) Clear Days' notice in Writing of the meeting of the Directors at which the decision will be made and the reasons why it is to be proposed; and
- 31.2.7.2 the Director or, at the option of the Director, the Director's representative (who need not be a Director) has been allowed to make representations to the meeting;
- 31.2.8 he or she is removed from office by the Sole Shareholder in accordance with Article 16; or
- 31.2.9 that person ceases to be an elected member or an officer (as the case may be) of TWFRA.'