

**TYNE AND WEAR FIRE AND RESCUE AUTHORITY**

**MEETING: 10 JUNE 2019**

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**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**

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**1 INTRODUCTION**

- 1.1 The purpose of this report is to seek approval to appoint a Director to the board of TWFRS Limited as a result of a vacancy.

**2 BACKGROUND**

- 2.1 Councillor Barry Curran became one of the two Directors of TWFRS Limited on 17<sup>th</sup> September 2018.
- 2.2 Articles 29 to 31 of the TWFRS Limited Articles of Association set out the process and conditions for the appointment and removal of Directors. The relevant extract from the Articles of Association are included in Appendix A for the information of members. The number of Directors at any time is required to be not less than two.
- 2.3 Article 31.2.9 of the Articles of Association provides that a director shall cease to hold office if he or she ceases to be an elected member of Tyne and Wear Fire and Rescue Authority. As Councillor Curran is no longer a member of Tyne and Wear Fire and Rescue Authority, then by virtue of Article 31.2.9 his position as director has become vacant.
- 2.4 Any eligible person may be appointed as a Director by a decision of Tyne and Wear Fire and Rescue Authority, as Sole Shareholder.

**3 PROPOSED APPOINTMENT**

- 3.1 As the sole shareholder of TWFRS Limited, the Authority is asked to appoint the Chair of the Fire and Rescue Authority to the post of Director of TWFRS Limited with immediate effect.

## **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 recommendations set out in this report are considered to minimise the risk to the Authority in so far as is reasonably practicable.

## **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) Note the termination of Councillor Barry Curran's appointment as a Director of TWFRS Limited
  - c) Appoint the Chair of Tyne and Wear Fire and Rescue Authority as a Director of TWFRS Ltd.
  - d) Authorise the Deputy Clerk to the Authority to give written notice of the decision at 8.1(c) above to TWFRS Limited within 14 days in accordance with the provisions of Article 16 of the Articles of Association of the company.
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## **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.'