

**TYNE AND WEAR FIRE AND RESCUE AUTHORITY**

**Item No. 9**

**MEETING: 27 JULY 2022**

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**SUBJECT: OPERATIONAL INDEPENDENCY OF THE CHIEF FIRE OFFICER**

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

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**1 INTRODUCTION**

- 1.1 This paper sets out the background to a proposal to further support operational independence of the Chief Fire Officer (CFO) in relation to staff employed under the National Joint Council for Local Authority fire and rescue services, scheme of conditions of service, often referred to as the Grey book and the selection and appointment of Brigade Managers at Assistant and Deputy Chief Fire Officer roles.
- 1.2 The paper is not intended to suggest what the future governance of Fire and Rescue Service should be as discussed within the current Home office White paper on fire reform in England. It is solely focussed on the operational independence and discretion of the CFO in relation to staff headcount, selection, recruitment and deployment in relation to Grey book staff and also the roles of Deputy Chief Fire Officer (DCFO) and Assistant Chief Fire Officer (ACFO) which are currently within the remit of the Fire Authority.

**2 BACKGROUND**

- 2.1 Within TWFRS operational staff work under Grey book conditions of service which is firefighting roles up to and including the role of Area Manager. Brigade Managers working under Gold Book conditions include the CFO, DCFO and ACFO.
- 2.2 To set this paper in context the relevant sections from the within Tyne and Wear Fire and Rescue Authority Standing Orders have been identified below for ease of reference.  
Tyne and Wear Fire and Rescue Authority Standing Orders Delegation Scheme, page 5, section 3 (1), the responsibilities of the Chief Fire Officer it states the Chief Fire Officer,  
*"To be directly responsible to the Authority for the management of all executive, administration and operational aspects of the Tyne and Wear Fire and Rescue Service".*

- 2.3 Further within the Standing Orders, Delegation Scheme at page 7, section 3 (8) it states that the Chief Fire Officer, *"In consultation with the Personnel Advisor, to approve temporary additions to the Grey book establishment for a period of up to 24 months in respect of posts up to and including the role of Area Manager B"*.
- 2.4 At section 5 (1), Personnel Advisor to the Authority of Standing Orders, Delegation Scheme it states in relation to the Personnel Advisor that one of their roles is *"To present reports and make recommendations to the Human Resources committee, in respect of all employees, relating to changes in establishment (SCP 57 and above), appeals and disputes, discretionary provisions of the National Conditions of Service, changes in local conditions of service and other staffing matters"*.
- 2.5 Within the Standing Orders at the Terms of Reference for Committees section, page 5, section 3, (paras 1-10) it lists the terms of reference for the Human Resource Committee. Within this section it states at paragraph 1 that, *"Subject to those matters delegated to the Chief Fire Officer and Personnel Advisor to the Authority:-*  
*"1. To determine and approve the establishment and terms and conditions of all non-uniformed (Green Book) employees of the Authority graded above POL"*.
- 2.6 At section 4, Appointments Committee, page 6 of the Standing Orders, Terms of Reference paragraph 1 and 2 it states,  
*"1. Where appropriate, to shortlist candidates for the posts of Chief Executive/Chief Fire Officer (Clerk to the Authority) and Assistant Chief Fire officers"*. At paragraph 2 it adds, *"2. To interview candidates for and make appointments to the posts of Chief Executive/Chief Fire Officer (Clerk to the Authority) and Assistant Chief Fire officers"*.
- 2.7 The extracts from the Standing Orders highlight at paragraph 2.2 that the CFO is already recognised by the Fire Authority as having operational discretion however, as highlighted in the other extracts, this is not fully reflected in some of the other sections and specifically in relation to the workforce establishment numbers, recruitment and selection of all roles below the role of CFO.
- 2.8 The CFO does have full independence in relation to almost all Green book (non-operational / Corporate staff) staff numbers and independence to vary this should it be necessary without recourse to the Fire Authority. However, in relation to the operational workforce (Grey book), the Standing Orders hint at the CFO only having delegated authority to make temporary changes to operational staffing headcount with decisions relating to permanent changes being referred to the HR Committee and Fire Authority.
- 2.9 Of note is the current practice as set out in paragraph 2.8 above in that the CFO must seek approval of the Fire Authority to make permanent changes to any Grey book / operational roles, however, this is not explicitly set out within the Standing Orders other than for temporary changes.

- 2.10 In essence, the CFO has extremely limited decision making authority in relation to permanently increasing, decreasing or amending the overall number of staff working under Grey book / operational conditions as this currently is reverted to the Fire Authority with the CFO only able to make temporary decisions on this via a time limited delegation process.

As staff working under Grey book conditions are directly engaged in operational activity it is proposed that continuing support for the role of the CFO and enabling operational independence would be enhanced by placing responsibility for all staffing decisions directly with the CFO on behalf of the Fire Authority.

- 2.11 The current position in practical terms means that the CFO cannot increase or decrease the number of Firefighters and other roles working under Grey Book conditions based on local risk and operational needs as this is reserved for the Fire Authority but the CFO does not have the same restriction in terms of staff in supporting / corporate roles under Green book conditions.

- 2.12 Also within the current arrangements, it is the Fire Authority that selects the Deputy and Assistant Chief Fire Officers in consultation with the CFO. So whilst the CFO is appointed by the Fire Authority to run the service, deliver for local communities and be held to account by the Fire Authority for performance, the CFO does not have the authority to appoint those whom are employed to support the CFO directly on this.

Given that it is the CFO whom is held to account by the Fire Authority for performance, it is proposed that it may be more effective and logical for the CFO to be the person, in consultation with the Fire Authority who selects their Deputy and Assistant Chief Fire officers.

- 2.13 What is evident is that between the Fire Authority and the CFO the existing arrangements have been able to function and operate with the recent emergency powers given the CFO during covid in 2020 /21 whilst the Fire Authority was unable to meet due to restrictions as an example of how things may operate if the CFO had full operational independence.

### **3 DISCUSSION**

- 3.1 Given the increasing focus on operational independence of CFOs it is believed that placing direct responsibility and authority for all staffing with the CFO is a sound business decision that is pragmatic and a logical step in support of operational independence.

Such a move would provide the CFO with the operational flexibility to deploy and make decisions on operational matters related to staffing whilst retaining the need to ensure that any staff changes were considered by the section 151 officer in terms of affordability and scrutinised via the Fire Authority governance structures. This would align with the role and level of operational independence of Chief Constables of Police who currently have the operational independence in relation to staffing for operational matters and activity.

- 3.2 The current Home Office white paper consultation on Fire and Rescue reform specifically references their case for introducing operational independence for all CFOs. This includes a table within the consultation paper under the section on Governance at page 31 with an indicative division of decision making responsibilities of CFOs and an elected individuals.

The table indicates the Home Office intentions in terms of operational independence for CFOs and may present the Fire Authority with an opportunity to consider this now as a clear indication of their effective approach to CFO operational independence. The table below is provided for reference to inform the discussion.

<b>Task</b>	<b>Responsible</b>
Setting priorities	Executive leader
Budget setting	Executive leader
Setting precept	Executive leader
Setting response standards	Executive leader
Opening and closing fire stations	Executive leader*
Appointment and dismissal of chief fire officer	Executive leader
Appointment and dismissal of other fire service staff	Chief fire officer
Allocation of staff to meet strategic priorities	Chief fire officer
Configuration and organisation of resources	Chief fire officer
Deployment of resources to meet operational requirements	Chief fire officer
Balancing of competing operational needs	Chief fire officer
Expenditure up to certain (delegated) levels	Chief fire officer

\*Opening and closing of fire stations could be a joint decision; operationally fire chiefs could be responsible for decisions on moving teams, whilst ultimate political and executive responsibility lies with the executive leader.

[extract from the Fire Reform white paper, page 31]

- 3.3 During 2020/21 and most of 2021/22 the Fire Authority conferred emergency powers to the CFO for all decision making to ensure that the Service could continue to function during the restrictions imposed as a result of the covid pandemic.

The decisions taken by the CFO were brought to the Fire Authority meetings in subsequent months for scrutiny and no issues or adverse outcomes arose as a result of the application of the emergency powers. It enabled decision making at the appropriate times to meet the needs of the service and communities and it is proposed that this offers a level of confidence to the Fire Authority that any change to the responsibility for Grey book and Principal Officers staffing up to DCFO could confidently be placed with the CFO.

- 3.4 The Fire Authority for Tyne and Wear Fire and Rescue Service have a strong track record of working to support the CFO and ensuring that resources are aligned to local risks within communities. There are a number of discretions within the Standing Orders available to the CFO however, operational staffing and appointment of the most senior managers (DCFO and ACFO) that work directly to support the CFO appear not within the CFOs responsibility. This proposal is founded on a number of key documents and reviews which amongst other matters, comment on the operational independence of CFOs and what reform of the fire and rescue sector may look like in the years ahead in terms of governance, role and remit of firefighters within communities.
- 3.5 The report by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) inspections and Sir Thomas Winsor's State of Fire and Rescue Report 2019 identified operational independence for CFOs as one of four key recommendations.
- 3.6 During July 2020, Kit Malthouse MP and Minister for Crime and Policing laid a Ministerial statement in Parliament launching a review of the Police and Crime Commissioner model to be undertaken in two parts. The first part of this review has been concluded with the Secretary of State for the Home Department setting out the key outcomes during a statement on 16 March 2021.
- 3.7 In relation to Fire, it was made clear in the statement that further reform of the fire and rescue services is required to respond to the recommendations from the Grenfell Tower Inquiry, the Kerslake Review and to build on the findings from Sir Thomas Winsor's State of Fire and Rescue Report. The reform agenda focusses on three key areas: people; professionalism; and governance as set out in the White Paper.
- 3.8 The Home Office launched a consultative White Paper on fire reform which Closes on 27 July 2022. The White Paper sets out the reform agenda for fire and rescue in more detail and proposals on fire governance which were listed as including:
- Legislating to create operational independence for Chief Fire Officers and to clearly separate and delineate strategic and operational planning for fire and rescue.
  - Consulting on whether to mandate the transfer of fire and rescue functions to a directly elected Mayor or other delegated executive officer.
  - Consulting on how to address coterminosity challenges.
- 3.9 With regard to mayoral devolution, the Review has cemented Governments view that the join up of public safety functions under a combined authority mayor has, in their opinion, the potential to offer wider levers to prevent crime. It is noted in part one review that the Government will take steps to remove barriers to more mayors taking on these functions and will work with MHCLG to develop the forthcoming Devolution and Local Recovery White Paper with that longer-term trajectory in mind.

- 3.10 On the back of the statement laid in Parliament on 16 March 2020 and the outcome of the stage review outlined above, Lord Greenhalgh, former Minister of State for Building Safety, Fire and Communities wrote to all Fire Authority Chairs and CFOs outlining the recommendations of the review and next steps.
- 3.11 Whilst this paper does not seek to engage in the political discussion regarding fire reform and potential changes in this respect, it is mentioned for context and background relating to the proposal for greater operational independence for the CFO.

#### **4 THE PROPOSAL FOR OPERATIONAL INDEPENDENCE**

- 4.1 Building on the strong track record of Fire Authority support for the CFO and officers of Tyne and Wear Fire and Rescue Service, a move to place all staffing decisions up to and including appointment of DCFO strengthens the operational independence of the CFO but retains the vital role of the Fire Authority of holding the CFO to account for performance and delivery of services to the communities of Tyne and Wear.
- 4.2 Practically what a change as described above would mean is that the CFO would carry the responsibility for all staffing decisions in pursuit of delivery of fire and rescue services. This would require continued engagement and input from the Director of Finance / section 151 officer in terms of affordability and sustainability as well as ongoing advice and support from the Executive Leadership Team. Any significant changes would continue to be subject to the Integrated Risk Management Planning (IRMP) and Community risk Management Planning arrangements process to ensure that the public are consulted.
- 4.3 The CFO already has authority for staff working under Green book conditions which is limited to staff in non-operational roles associated with key supporting / corporate functions. Changing to add staff and decisions of those working under the Grey book conditions of service which is those engaged in operational firefighting and control room roles represents a sound business decision in support of operational discretion and independence.
- 4.4 Separating out the responsibility for all staffing (excluding appointment of the CFO) from the Fire Authority provides an opportunity to ensure that the Fire Authority can fully focus its attention on holding the CFO to account for performance and delivery of services to the community and scrutinising and advising on strategic issues related to the IRMP process.

In practical terms what this would lead to is a situation where the CFO would have decision authority to determine the staffing profile they required to address the risks presented across communities and delivery of services, which the Fire Authority would continue to advise, scrutinise and hold the CFO to account on in terms of performance.

## **5 RISK MANAGEMENT**

- 5.1 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. The Fire Authority would continue to have responsibility for the appointment of a CFO and have the ability to scrutinise, advise and hold the CFO to account for performance once any change is enacted.

## **6 FINANCIAL IMPLICATIONS**

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

## **7 EQUALITY AND FAIRNESS IMPLICATIONS**

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

## **8 HEALTH AND SAFETY IMPLICATIONS**

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

## **9 RECOMMENDATIONS**

- 9.1 The Authority is recommended to:
- a) Agree that responsibility for recruitment, retention and exit of FRS staff and, all staffing decisions up to and including appointment of the DCFO is placed with the CFO.
  - b) Agree the changes to Standing Orders and governance arrangements should recommendation be approved.
  - c) Receive further reports as appropriate.
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## **BACKGROUND PAPERS**

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

[State of Fire and Rescue – The Annual Assessment of Fire and Rescue Services in England 2020 - HMICFRS \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/state-of-fire-and-rescue-the-annual-assessment-of-fire-and-rescue-services-in-england-2020/)

[State of Fire and Rescue – The Annual Assessment of Fire and Rescue Services in England 2021 - HMICFRS \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/state-of-fire-and-rescue-the-annual-assessment-of-fire-and-rescue-services-in-england-2021/)

[Written statements - Written questions, answers and statements - UK Parliament](#)

[Reforming our fire and rescue service - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/reforming-our-fire-and-rescue-service)

