

SCHEME OF DELEGATION

November 2020



APPROVED SCHEME OF DELEGATION TO OFFICERS

OPERATION OF THE SCHEME

Preamble

- ASD1. This Scheme is made under Section 101 of the Local Government Act 1972, as imported into the Berkshire Fire Services (Combination Scheme) Order 1997 and has been approved by the Authority to facilitate efficient decision making.
- ASD2. The Authority, therefore, whilst retaining overall responsibility for the formulation of policy including the approval of the Revenue Budget and Capital Programme, has delegated to the officers the powers set out in this Scheme.
- ASD3. The Authority is required by the Local Government and Housing Act 1989, to appoint a Monitoring Officer. The Local Government Finance Act 1988 requires the Authority to appoint a Chief Finance Officer. The duty under the Local Government and Housing Act 1989 to designate one of its officers as a Head of Paid Service does not apply to the Authority.
- ASD4. There are certain duties for which the Authority is required to appoint “proper officers” and assign responsibilities to those individuals. For the purposes of this Scheme the Proper Officers are the Chief Fire Officer or Chief Executive, the Chief Finance Officer and the Monitoring Officer.

General Conditions of Delegation and Definitions

- ASD5. The existence of a delegation shall not require the Chief Fire Officer or Chief Executive to take a decision on that issue. The Chief Fire Officer or Chief Executive needs to be aware of particular controversial issues of concern to the Authority. In such circumstances he or she may refer the matter for guidance or decision by the Authority if he or she considers it is appropriate to do so. In so doing the Chief Fire Officer or Chief Executive shall advise the Members concerned of the extent of his or her delegated powers relating to the matter.
- ASD6. When action taken under the terms of this Scheme is of significance or importance to the work of the Authority, or could be construed to be a matter of political sensitivity or controversy, Officers shall inform Members, as soon as reasonably practical, either in writing or other suitable communication.

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- ASD7. The Monitoring Officer to the Authority shall keep the operation of the Scheme under review, and the Authority may amend its provisions from time to time.

CHIEF FIRE OFFICER OR CHIEF EXECUTIVE

- ASD8. The Chief Fire Officer or Chief Executive shall, within the approved budgets and policies, exercise all matters of day-to-day administration and operational management of the services 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.
- ASD9. All decision-making not reserved to the Authority or Committee as set out in their respective terms of reference or in the Authority's Financial Regulations and Financial Instructions, or otherwise delegated to another Proper Officer under this Scheme is delegated to the Chief Fire Officer or Chief Executive subject to the following requirements:
- (a) any decisions or action shall comply with all relevant resolutions, orders and directions of the Authority and of its appointed Committees;
 - (b) where any matter involves professional or technical considerations within the sphere or competence of another Officer, the Chief Fire Officer or Chief Executive shall consult with that Officer before authorising action. This shall not be limited to officers within the employ of the Authority, if circumstances require.
- ASD10. Delegation to Chief Fire Officer or Chief Executive does not include:
- (a) any matter which by law may not be delegated to an Officer;
 - (b) making a formal response on behalf of the Authority to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive without reference first to the Chair of the Authority. However, when the timescales so require, the Chief Fire Officer is authorised to respond without discussion with the Chair. The content of such response shall be referred to the appropriate committee for their attention.

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- ASD11. To complement the discharge of functions under these arrangements, the Chief Fire Officer or Chief Executive shall:
- (a) maintain close liaison with the Chair in respect of controversial and sensitive issues.
 - (b) maintain close liaison with Members representing the political groups in relation to any matter, which in the opinion of the Chief Fire Officer or Chief Executive, may be regarded as sensitive or contentious by any such group.
 - (c) keep a Member informed of significant developments relating to a specific matter, where a Member has made known to the Chief Fire Officer or Chief Executive a legitimate interest, or where a matter relates to or affects the Member's electoral division or ward.
- ASD12. The Chief Fire Officer or Chief Executive may authorise, in writing, an Officer to exercise an authority in this Scheme in his or her absence, or at other times.
- ASD13. The Chief Fire Officer or Chief Executive, in consultation with the Monitoring Officer shall:
- (a) determine any case in which there is uncertainty whether an Officer is authorised to act under these arrangements; and
 - (b) act as the designated officer in accordance with the Local Authorities (Exemption from Political Restrictions) (Designation) Regulations 2012
- ASD14. Reference in these arrangements to the discharge of 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 or Chief Executive is authorised to act accordingly.
- ASD15. References in the scheme to any statute, statutory instrument, regulation, rule, circular, agency or other agreement or any such matter in respect of which a power is delegated shall be deemed to include any modification or re-enactment of the same as may be made from time to time.

Property

- ASD16. To formulate the requirements for property use and occupation of the Service.

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- ASD17. To authorise the granting, taking or early surrendering of leases, tenancies or licences in relation to land or premises for a period not exceeding seven years and the purchase of land for projects included in the approved Capital Programme and to otherwise exercise all powers, rights and duties in respect of such land and premises, subject to being satisfied that any income payable to the Authority is the best that is reasonably obtainable.
- ASD18. To apply for planning permission for the benefit of all Fire Authority land and property and to pursue any appropriate appeals in respect thereof.
- ASD19. Subject to Contract Standing Orders, to enter into and manage corporate property contracts for the supply of professional and contract services on behalf of the Authority.

Finance

- ASD20. To write off debts in accordance with the procedure set out in the Fire Authority's Financial Regulations.
- ASD21. To accept on behalf of the Authority contributions by individuals or bodies towards approved capital or revenue projects subject to the concurrence of the Monitoring Officer and Chief Finance Officer, as appropriate, and report to the next succeeding meeting of the Authority.
- ASD22. To grant ex gratia payments, subject to the guidelines issued by the Treasurer from time to time;
- a) to employees of the Authority, or to workers whilst carrying out voluntary duties on behalf of the Authority who have in the normal course of their duties suffered accidental loss or damage; or
 - b) to clients of the Authority who have suffered accidental loss or damage to their persons or their possessions which may arise from the actions of the Authority or its employees in the normal course of their duties. Provided that the nature of the damage or loss is such that the Treasurer advises that it cannot be dealt with under the Council's insurance.
- ASD23. To exercise the powers of the Authority relating to; the Dangerous Substances (Notification and Marking of Sites) Regulations 1990; and the Regulatory Reform (Fire Safety) Order 2005 and any subsequent acts amending or extending the same including:
- a) to serve statutory notices as may be required for the purposes of

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the Authority's powers and duties;

- b) to enter into Primary Authority schemes on behalf of the Authority
- c) to authorise employees of the Fire & Rescue Service on behalf of the Authority to enter and inspect premises and to be appointed as inspectors under the above named Acts.

ASD24. To enter into agreements with fire and rescue authorities under the Fire and Rescue Services Act 2004.

MONITORING OFFICER

General Legal Matters

ASD25. In consultation with the Chief Fire Officer or Chief Executive, to institute, defend, appeal from, settle or abandon legal proceedings whether administrative, civil or criminal in any matter in which the Authority or its officers may institute or defend proceedings in any court or arbitration or administrative tribunal.

ASD26. To take all such steps as are in his/her opinion necessary, including the affixing of the Common Seal of the Authority and the bringing of legal proceedings and the making of orders to give effect to any decision or action taken properly by the Authority, or any duly authorised body or officer acting on its behalf, or to protect the interests of the Authority or any person or property to whom or for which the Authority has responsibility and to sign on behalf of the Authority contracts, agreements or other documents conferring benefits or imposing obligations upon the Authority whether financial or otherwise, and to terminate the same.

ASD27. To be responsible for:

- a) the execution of legal agreements pursuant to Standing Orders, Contract Standing Orders and Financial Regulations; and
- b) the issue of public notices.

ASD28. To determine pursuant to Standing Order SO104 that an inspection of a document in the possession of the Authority be not allowed on the grounds that it is not in the public interest, or in the event of legal proceedings, would be, protected by privilege of the relationship of solicitor and client.

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- ASD29. To certify or authenticate any matter requiring certification or authentication on behalf of the Authority.
- ASD30. On behalf of the Authority to determine applications for formal registration or certification made in pursuance of any legislation imposing such a function upon the Authority, in any cases where the power to register has not been formally delegated to the Chief Fire Officer or Chief Executive.
- ASD31. To maintain the register required to be kept by the Authority pursuant to the Environment and Safety Information Act 1988.
- ASD32. To authorise an officer of the Authority or other specified person to enter upon land or premises in accordance with any statutory provision providing for such authorization
- ASD33. To attest the Common Seal
- ASD34. To instruct counsel as and when necessary.
- ASD35. To be the proper officer for the purposes of section 2 of the Local Government and Housing Act 1989 (receiving lists of Politically Restricted Posts).
- ASD36. To maintain the register of Members' interests.
- ASD37. To be the proper officer for the purposes of Section 100F(2) of the Local Government Act 1972. (Members' rights to papers)
- ASD38. To be responsible for the receipt of documents deposited under Section 225(1) of the Local Government Act 1972.
- ASD39 To grant dispensations to Members under the Localism Act 2011
- ASD40. To act as the qualified person for the purposes of section 36 under the Freedom of Information Act 2000 and related legislation.
- ASD41. To be the proper officer for the purposes of section 30 of the Local Government Act 1974. (giving notice of Ombudsman reports)

Administration

- ASD42. To be the proper officer for the purposes of:
 - (a) Section 100B(7) of the Local Government Act 1972. (the supply of documents to the press)
 - (b) Section 100B(2) of the Local Government Act 1972. (exempting

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reports from circulation)

(c) Section 100C(2) of the Local Government Act 1972. (the supply of summaries of minutes)

ASD43. Section 100D(1) and Section 100D(5) of the Local Government Act 1972. (the preparation of lists of background papers relating to committee reports and arrangements for inspection by the public)

ASD44. To receive notices regarding addresses to which summons to the meeting is to be sent under Paragraph 4(3) of Schedule 12 of the Local Government Act 1972.

ASD45. To sign the summons to attend meetings of the Authority under paragraph 4(2)(b) of Schedule 12 of the Local Government Act 1972.

ASD46. To maintain a list of officers to whom powers are delegated under section 100G (2) of the Local Government Act 1972

ASD47. To maintain the Authority Handbook and obtain necessary formal approval to any amendments thereto.

ASD48. To be the proper officer for the purposes of: the Local Authorities (Members' Allowances) (England) Regulations 2003 (intention to forego allowances) sections 229 and 234 of the Local Government Act 1972 (notices and documents) the Local Government (Committees and Political Groups) Regulations 1990 (liaising with groups through their leaders and allocating seats)

CHIEF FINANCE OFFICER

ASD49. To act as the statutory officer of the Authority under and Section 112 of the Local Government Finance Act 1988.

ASD50. To act as Head of Profession for qualified accountants employed by the Authority.

ASD51. To ensure that the financial affairs of the Authority are properly administered and in accordance with the requirements of the Accounts and Audit Regulations 2015, including the maintenance of an effective internal audit function.

ASD52. To act as chief accountant and financial adviser to the Authority.

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- ASD53. To ensure all payments to which the Authority is committed are made as they become due, and to open for the purpose of such bank accounts as he/she deems necessary.
- ASD54. To make arrangements for the collection and payment into the Authority's bank accounts of all monies due to the Authority.
- ASD55. To make arrangements for the maintenance of income and expenditure accounts of the Authority.
- ASD56. To make transfers between the various bank accounts and withdrawals from those accounts and to authorise such transfers and withdrawals being made by such officers as he/she may from time to time designate.
- ASD57. To raise loans as required.
- ASD58. In consultation with the Chief Fire Officer or Chief Executive and Monitoring Officer, to implement decisions of national and provincial negotiating bodies.
- ASD59. To review and, where necessary, to respond to changed financial circumstances or opportunity, amend the methods and incidence of financing approved capital expenditure, subject to annual report to the Authority for information.
- ASD60. In accordance with the policies of the Authority, to implement in favour of any employee or his or her dependants, the legislation, rules and regulations relating to superannuation, retirement due to ill health or disability and any payments or gratuities arising and so to exercise any options open to the Authority thereunder.
- ASD61. To determine requests for reinstatement of a widow's pension from her former marriage upon divorce from any subsequent marriage, having regard to the principles applied in previous decisions on such applications by the Authority.
- ASD62. To manage the Authority's insurances.
- ASD63. Within approved Authority policy and estimates, to authorise diversions between estimate heads.
- ASD64. To prepare, maintain and revise as necessary, financial regulations, subject to the approval of the Authority.
- ASD65. To issue, when necessary, financial management instructions with which officers shall comply.

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ASD66. To act as the designated officer representing the client within the agreement for the Financial Services Contract.

PROPER OFFER

ASD67. To be the proper officer for the purposes of:

- (a) section 115 of the Local Government Act 1972
- (b) section 116 of the Local Government Finance Act 1988
- (c) sections 139A and 68 respectively of the Local Government Finance Acts 1988 and 1992

ASD68. To attest the Common Seal

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