

11. Clarification of Officers' Delegation Scheme and Amendments to the Policy and Resources Committee's Terms of Reference

Purpose of report

1. To seek agreement to amend an element of the Officers' Delegation Scheme and refresh certain monetary levels.
 2. To amend the Terms of Reference of the Policy and Resources Committee to support the proposed amendments to the Officers' Delegation Scheme.
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Recommendations

The Chief Fire Officer, Clerk and Treasurer recommend that:

The wording in the Officers' Delegation Scheme be amended as follows:

- 1. Paragraph 5.1 of the Scheme of Delegation be amended as detailed in paragraph 5 below.***
- 2. Paragraphs 3.6 and 5.4 of the Scheme of Delegation be amended as detailed in paragraph 10 below; and***
- 3. That the Terms of Reference of the Policy and Resources Committee be amended as detailed in paragraphs 7 and 12 below.***

Background

3. During a review of the Officers' Delegation Scheme it was felt that paragraphs 3.6, 5.1 and 5.4 would benefit from slight amendment and revision.

Delegation to the Clerk in Respect of Court Proceedings

4. Paragraph 5.1 of the delegation scheme currently reads:

“To decide the action to be taken in respect of legal proceedings and other matters involving the Authority, to arrange appearance before courts or tribunals in any such proceedings and matters, and to arrange for counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Authority.”

5. Whilst it can be and has in the past been interpreted to include settlement and dismissal of any legal proceedings, the delegation lacks clarity. Whilst the Clerk has delegated authority to make minor interpretative changes to the Delegation Scheme, as the changes directly affect her delegated authority, she felt it wise to bring the matter to Members' attention. It is suggested that paragraph 5.1 of the delegation be amended to read as follows:

“To decide the action to be taken in respect of legal proceedings and other matters involving the Authority, to arrange appearance before courts or tribunals in any such proceedings and matters, and to arrange for counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Authority. ***For the avoidance of doubt this delegated Authority includes the action to settle or terminate legal proceedings or other matters where it is considered by the Clerk to be in the best interests of the Authority. Where settlement of legal proceedings involves either the payment of, or receipt of compensation such decision to be made wherever possible in consultation with the Chief Fire Officer and Treasurer.***”

6. The amendment is felt necessary to ensure that the Clerk has the authority to not only commence proceedings, but also terminate them, where to do so would be in the best interests of the Authority. Members will be aware that often issues occur in the courtroom, or in negotiation, that change the basis of proceedings and it would be impractical or impossible to delay matters until either a meeting of the Authority or Group Leaders can be called to make a decision. To delay making a decision until a meeting could take place may often prejudice the position of the Authority and incur potentially significant costs.
7. It is also proposed to make an amendment to the Terms of Reference of the Policy and Resources Committee. Currently if the Clerk were to choose not to exercise delegated authority but refer the matter to Members it can only be referred to a full meeting of the Authority, this may not be the most appropriate meeting either because the matter is relatively small in nature or because the timing makes the Policy and Resources Committee more appropriate. It is therefore suggested that the following wording be inserted into the Policy and Resources Committee’s Terms of Reference:

“Upon the advice of the Clerk to decide the action to be taken in respect of legal proceedings and other matters involving the Authority including the settlement and termination of legal proceedings and other matters.”

Level for Claims Settlement

8. The current Delegation Scheme gives both the Chief Fire Officer (para 3.6) and the Clerk (para 5.4) delegated authority to settle claims where proceedings have not been commenced up to the value of £5000. The actual wording of the Delegation is set out below:

3.6 “To settle, subject to discussion with the Clerk and Treasurer, any claim by or uninsured claim against the Authority up to £5,000.”

5.4 “To settle, subject to discussion with the Chief Fire Officer and Treasurer, any claim by or uninsured claim against the Authority up to £5,000.”

9. The figure has not been revised since the inception of the Fire Authority. By comparison officers already have authority to enter into contracts worth £100,000's where the governance requirements are far more onerous than for the settlement of claims. It is suggested that the value be amended to £20,000 to take account of the current financial values and reduce the time and cost taken to settle such claims. It is also suggested that further delegation be given, in consultation with the Chairman for claims up to £40,000. This would enable officers to respond quickly in any negotiations possibly preventing the commencement of costly legal proceedings whilst ensuring that there was Member involvement in the settlement.
10. It is therefore proposed that the Officer Delegation for both Chief Fire Officer and Clerk be amended to read:

“3.6 To settle, subject to consultation with the Chairman of the Fire and Rescue Authority, the Chief Fire Officer and Treasurer, any claim by or uninsured claim against the Authority up to £40,000.”

“5.4 To settle, subject to discussion with the Chief Fire Officer and Treasurer, any claim by or uninsured claim against the Authority up to £20,000.”
11. Again it is also suggested that where either an officer proposes not to exercise their delegated authority or where the sum required to settle the claim is above the limits of officer delegation, that there is an ability to refer the matter to the Policy and Resources Committee in preference to the Fire and Rescue Authority either because the matter is relatively simple or time requires an earlier response. It is suggested that the wording of the Terms of Reference of the Policy and Resources Committee be amended to read:
12. ***“With regard to claims or any uninsured claim where the matter is relatively simple or requires an early response and where officers propose not to exercise their delegations and or when the sum is above the limit of officer delegation, to refer the matter to the Policy and Resources Committee in preference to the Fire Authority in order to settle any claim by or claim against the Authority ”***

Conclusion

13. The proposed amendments to the Officers' Scheme of Delegations and the Policy and Resources Committee Terms of Reference will provide clarity and will reduce the time and cost to settle such claims. The Authority is asked to consider these proposed amendments.

Financial Considerations

Consideration	Yes/No	Reference in Report i.e paragraph no.
There are financial issues that require consideration	Yes	8-10

Legal Considerations

Consideration	Yes/No	Reference in Report i.e paragraph no.
There are legal issues e.g. contractual and procurement, reputational issues that require consideration	No	3-7

Additional Considerations

14. The table below sets out any additional issues arising from the proposals contained in this report and identifies the relevant paragraphs in the report where such issues are addressed.

Consideration	Yes/No	Reference in Report i.e paragraph no.
Resources (e.g. Assets, ICT, Human Resources, Training & Development, Sustainability).	No	
Strategic Policy Links (e.g. IRMP, Authority Plan, Equality & Diversity, Partnerships, Environmental Impact).	No	
Risk Management/Health & Safety (e.g. risk management and control measures, risk register score).	No	
Consultation with Representative Bodies	No	

Background Papers

Officers' Delegation Scheme
Terms of Reference for the Policy and Resources Committee

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