

Chief Fire Officer (CFO) - Emergency Powers and Revised Scheme of Delegation and Amended Internal Delegation Scheme (Admin Procedure 1.43)

1. Emergency Powers of the CFO

Section 3, Paragraph 1 of the existing Delegation Scheme - states that the CFO is “directly responsible to the Authority for the management of all executive, administrative and operational aspects of the Tyne and Wear Fire and Rescue Service”.

Section 6, Paragraph 2 (The General Delegations to Chief Officers) - permits the CFO to take decisions and discharge functions on behalf of the Authority and its Committees and Sub-committees in carrying out the functions of the Authority delegated to them. There are however various limitations to this, (Paragraph 3 includes the requirement to follow the Authority’s Delegation Scheme, Standing Orders and Financial Regulations, and follow the policy (including the approved budget) and instructions of the Authority, its Committees and Sub-Committees.

Section 6, Paragraphs 2 a) and b) – sets out that the Delegated Power to manage all operational aspects of the FRS which covers all matters where they have managerial or professional responsibility in carrying out the functions delegated to them by the Authority. Where any steps are required to be taken which are not in full accordance with current policy (including the IRMP), reliance is then placed on Section 6 Paragraph 2 (c) of the Delegation Scheme, which permits a Chief Officer to take decisions and discharge functions in cases of urgency provided that where action is taken for this reason, this must be reported to the next appropriate meeting of the Authority. A more immediate report or consultation with the Chair and/or Vice Chair is considered a sensible additional measure (time permitting) as this would provide an additional safeguard on the use of the emergency powers.

2. Existing Powers to increase and appoint additional staff

Green Book (Non-operational)

Section 3 Paragraph 7 of the CFO Delegations states that ‘In consultation with the Personnel Advisor, to approve changes to non-uniformed (Green Book) establishments in respect of posts graded POL and below’. This excludes all senior executive positions above Head of Department roles.

Grey Book (Operational)

a) Increase in establishment

Section 3 Paragraph 8 of the CFO Delegations states that ‘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’. This specifically excludes the appointment and number of ACO’s which only the Authority can approve.

Specific authority to increase the grey book establishment was granted by the Authority in September 2019 whereby it was agreed that the Delegation Scheme be amended to include an additional delegation to the CFO, namely the power “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.” The reason behind the introduction of this power was to cover situations where posts were required to be created on a temporary basis to support new projects or pilot new structures, prior to permanent structural changes being proposed to the Authority. The agreed wording of the new power does not limit its exercise to situations of only that type however and can cover all temporary situations as considered appropriate by the CFO. Members were asked to approve the new delegation “in the interests of efficiency and flexibility in respect of the running of the FRS.” And now allows the CFO to temporarily appoint additional grey book staff as required up to a maximum period of 24 months.

b) Increase in scope / role map of firefighters

Increasing the scope of work that firefighters can undertake would have to be within the Fire and Rescue Authority’s statutory powers and duties but should be covered by Section 11 of the Fire and Rescue Services Act 2004 which provides that a Fire and Rescue Authority may take “any action it considers appropriate” in response to an event or situation of a kind mentioned in section 11(2). This includes an event or situation “that causes, or is likely to cause, one or more individuals to die, be injured or become ill.”

3. Scheme of Delegation (Authority approved)

Section 6, Paragraph 5 stipulates that the Chief Fire Officer may authorise any other officers to exercise powers delegated to him. The CFO must prepare in writing a *scheme authorising any other officers to exercise such powers. The CFO however remains accountable for all actions or decisions taken under that authority.

****The Authority has an Internal Scheme of Delegation which is detailed in Admin Procedure 1.43.***

4. Delegated Powers when the CFO is absent from work

The Scheme of Delegation does not cover any period of absence of the CFO/Clerk to the Authority and it is therefore considered essential that these roles and powers are appropriately included should he become absent from work for any period of time.

The CFO/ Clerk to the Authority therefore authorises his functions to be exercised by others on his behalf, and hereby:

Authorises the Assistant Chief Fire Officer – Community Safety to exercise all operational Chief Fire Officer roles and responsibilities in his absence and:

that the Assistant Chief Fire Officer – Organisational Development exercise all Chief Fire Officer roles pertaining to the Clerk to the Authority roles and responsibilities in his absence.

A requirement is that the ACO's must consult on all proposed actions / decisions agreed in their respective roles which must be appropriately logged and consulted with the CFO should this be possible.

5. Amended Operation of the Internal Scheme of Delegation (Admin Procedure 1.43) during periods of Emergency

The Internal Scheme of Delegation is set out in detail at Admin. Procedure 1.43, however, during times when the CFO has to invoke and use his Emergency Powers then an amended operation of the Internal Scheme of Delegation will be enforced.

Essentially this means that in principle where the current delegated person is absent due to illness (or otherwise) then the Delegated decision will pass up the managerial hierarchy to the next layer of management. Where there is sufficient personnel at the same level then they will still hold the delegated power however any specialism required to make an informed decision under delegation would still mean that this would have to be passed up to the next layer of management.

The exception to this position is where the Delegated power rests with a legally required post with specific qualifications such as the Section 151 officer then a similarly qualified accountant must deputise in this role. The current post holder of the S151 role is the Strategic Finance Manager and the required substitute will specifically be the Head of Financial Services (who must also hold a recognised professional accountancy qualification). This is a legal requirement.

During such times all delegated decisions must be well documented and where possible discussed at a senior level to ensure all actions are considered reasonable at the time of the period that the amended emergency arrangements were in force.