

AMENDMENT TO DELEGATION SCHEME**REPORT OF THE LEGAL ADVISOR AND MONITORING OFFICER****For
Approval****1. PURPOSE OF REPORT**

- 1.1 To seek Members' approval to amend the Authority's Delegation Scheme in respect of Operations and Fire Safety.

2. RECOMMENDATIONS

- 2.1 To approve the amendments to the Authority's Delegation Scheme relating to Powers 1.3, 1.5 and 1.7 as highlighted in yellow in Section 4 of this Report.

3. BACKGROUND

- 3.1 In practical terms Cleveland Fire Authority is unable to make every decision itself and therefore has specific statutory powers under the Local Government Act 1972 to delegate decisions to Committees and Officers.
- 3.2 The existing Delegation Scheme was approved by the Fire Authority at its Annual General Meeting on 17th June 2021. It sets out the terms and limitations upon which the Authority has empowered its "Authorised Officers" namely the Chief Fire Officer, the Treasurer, the Legal Adviser and Monitoring Officer and the Assistant Chief Fire Officer, Strategic Planning and Resources (ACFOSPR) to act on behalf of the Authority and to exercise delegated powers on behalf of the Authority pursuant to the statutory scheme set out in the Local Government Act 1972 and to all other enabling legislation.
- 3.3 The Authority has also delegated powers to its Committees and these are specified in the roles and responsibilities of those committees.
- 3.4 The Authorised Officers shall exercise any delegated powers by making decisions that comply with the relevant approved policies and procedures of the Authority; expenditure decisions shall be in line with the standing orders and financial regulations of the Authority and within approved financial budgets.
- 3.5 The Authorised Officers may empower any other officer of the Authority for whom they are managerial responsible to make decisions and to take action on their behalf in connection with matters of day to day management and administration of the Authority subject to the other limitations of this scheme.

4. **AMENDMENTS TO THE AUTHORITY'S SCHEME OF DELEGATION**

- 4.1 This Report seeks to make minor amendments to the Operations and Fire Safety Section of the Delegation Scheme to better reflect recent structural change and the National Fire Engineering Competency Framework for Fire Safety Regulators. The Framework is intended to provide an assurance of competence of fire safety staff. This extends to the 'development, maintenance and demonstration of competence of staff who regulate fire safety standards in all premises to which the Regulatory Reform (Fire Safety) Order, 2005 applies'. The proposed amendments therefore better reflects the status of the Authorised Officer in applying fire safety competence within the organisation. The LAMO will of course be available for legal advice on the sufficiency of evidence and public interest considerations in connection with legal proceedings and enforcement measures. The proposed amendments are highlighted in yellow and apply to Powers 1.3, 1.5 and 1.7.

1. Operations and Fire Safety		
Delegated Power	Delegated Officer	Authorised Officer
1.1 Public Safety To authorise fire-fighters and other employees or individuals as appropriate to exercise personally and directly any powers vested in the Authority under any legislation (including the Fire and Rescue Services Act 2004 and the Civil Contingencies Act 2004) and to authorise any such person to take any action authorised under legislative powers intended to secure the protection or rescue of human or animal life and/or to protect public safety generally and/or to protect property and/or the environment against threat or risk of harm in respect of which the Authority has a power or to prevent harm or mitigate loss and damage including action in connection with the prevention and suppression of fire, flood relief, other accidents and emergencies.	CFO	
1.2 Fire Legislation To exercise the duties and powers of the Authority, including the powers of charging, entry, issue of licences, registrations, notices and certificates, maintenance of registers and the appointment of officers (including as inspectors), in respect of the following legislation and any Orders, Regulations or Statutory Instruments made under them as occasionally amended: <ul style="list-style-type: none"> • Fire And Rescue Services Act 2004 • Civil Contingencies Act 2004 and regulations thereunder • Policing and Crime Act 2017 • The Regulatory Reform (Fire Safety) Order 2005 (including appointment of inspectors under article 26 – Enforcement Order) • Modern Slavery and Human Trafficking Act 2015 • Gambling Act 2005 • Licensing Act 2003 • Health and Safety at Work, etc., Act 1974 • The Safety at Sports Grounds Act 1975 • Local Government (Misc Provisions) Act 1982 	CFO	ACFOCP

<ul style="list-style-type: none"> • The Fire Safety and Safety of Places of Sport Act 1987 • Protection of Freedoms Act 2012 • Environment and Safety Information Act 1988 • Dangerous Substances (Notification of Marking of Sites) Regs 1990 • Construction (Health, Safety and Welfare) Regulations 2007 • Health and Safety (Safety, Signs and Signals) Regulations 1996 • Management of Health and Safety Regulations 1999 • The Regulation of Investigatory Powers Act 2000 • Fireworks Act 2003 • Dangerous Substances & Explosive Atmospheres Regulations 2002 • Localism Act 2011 – general power of competence and fire provision • Corporate Manslaughter and Corporate Homicide Act 2007 • The Fire and Rescue Services (Emergencies) (England) Order 2007 		
<p>1.3 Fire Safety Legal Proceedings</p> <p>To institute any criminal or civil proceedings before a court of law or statutory tribunal as is considered appropriate for the purposes of implementing or enforcing any legislation which designates or empowers the Authority to take legal action as a relevant enforcement, licensing or regulatory control body.</p>	CFO	<p>LAMO in consultation with ACFOCP</p> <p>ACFOCP</p>
<p>1.4 Fire Safety Inspections</p> <p>To appoint inspectors for the purpose of discharging any functions relating to the investigation of offences and to the inspection of land premises and other sites and for the enforcement generally of any legislation which designates the Authority as the relevant enforcement, licensing or regulatory control body and to authorise and facilitate all such inspectors to exercise any powers granted by the legislation to the Authority and/or Inspectors appointed for such purposes.</p>	CFO	ACFOCP
<p>1.5 Fire Safety Enforcement</p> <p>To authorise the taking of any enforcement action (including the issue, amendment, cancellation or withdrawal of prohibition/improvement/stop/alteration notices etc.) under any legislation which designates the Authority as the relevant enforcement, licensing or regulatory control body.</p>	CFO	<p>LAMO in consultation with ACFOCP</p> <p>ACFOCP</p>
<p>1.6 Provision of Mutual Assistance and Reinforcement</p> <p>(i) To enter into agreements with Durham & Darlington and North Yorkshire Fire Authorities to provide mutual support and reinforcement under Section 13 and 16 of the Fire & Rescue Services Act 2004 (and any amendment thereof) or other national agreement subject to the requirements of the Cleveland Fire Brigade being given priority</p> <p>(ii) To enter into agreement with any Fire and Rescue Authority in the United Kingdom to provide mutual support</p>	CFO in consultation with the LAMO and TRS	

and reinforcement under Section 13 &16 of the Fire & Rescue Services Act 2004 (and any amendment thereof) or other national agreement subject to the requirements of the Cleveland Fire Brigade being given priority		
1.7 Emergency Planning Functions Responsibility for the Authority's Emergency Planning functions including all elements of Plan making and charging in relation to the manufacture and maintenance of Control of Major Accident Hazards (COMAH) Regulations 1999 and Pipelines Safety Regulations 1996 plans or other plans required by emergency planning legislation.	CFO	ACFOCP/SHO ACFOCP
1.8 Collaboration with Other Public Service Organisations To enter into agreement with other Public Service Bodies where it achieves economy, efficiency and effectiveness.	CFO in consultation with LAMO and TRS	

PETER DEVLIN
LEGAL ADVISOR AND MONITORING OFFICER