



AGENDA ITEM: 8

NORTH WALES FIRE AND RESCUE AUTHORITY ANNUAL MEETING

15 June 2015

NWFRA CONSTITUTION

Report by Colin Everett, Clerk to the Authority

Purpose of Report

- 1 Members are asked to adopt a constitution for the Authority.

Background

- 2 The role of North Wales Fire and Rescue Authority is to perform all the duties and responsibilities of a fire authority in accordance with appropriate legislation and regulations. The Authority has several internal governance documents including standing orders, financial regulations, code of conduct and members/officers protocol.
- 3 Having undertaken an audit of the Authority's governance processes, the Internal Audit section recommended that the Authority 'establish a constitution via a single document to regulate the behaviour of individuals and groups through codes of conduct, protocols and standing orders'.

Information

- 4 The purpose of the constitution therefore is to collate all current governance documents in one document and to set out in clear language how the Authority operates and how it makes its decisions. The document does not change any of the current rules and simply collates them all in one place.

- 5 The document will be amended as arrangements change, incorporating any new governance documents that are adopted. For example, the Authority has no officers' code of conduct at present but the Standards Committee will be considering a draft in the coming months. If agreed and adopted by the Authority then the code would be incorporated into the Constitution.

Recommendation

- 6 Members are asked to approve the constitution as attached at appendix 1.

North Wales Fire and Rescue Authority Constitution

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- **Members’ Remuneration Scheme**

Part 1 - Summary and Explanation

North Wales Fire and Rescue Authority was established as part of the reorganisation of local government on 1 April 1996. As one of the three fire and rescue authorities in Wales, North Wales Fire and Rescue Authority's role is:

- to perform all the duties and responsibilities of a Fire Authority in accordance with appropriate legislation and regulations, in particular the Fire and Rescue Service Act 2004, the Fire Precautions Act 1971, the Regulatory Reform (Fire Safety) Order 2005 – which came into force on 1st October 2006 and The North Wales Fire Services (Combination Scheme) Order 1995;
- to agree the annual service plans, the revenue and capital budgets and the contribution for constituent councils;
- to monitor the revenue and capital budgets and deal with any significant variations, including decisions on any supplementary contributions.

The Authority has a statutory obligation to maintain a Fire and Rescue Service capable of dealing effectively with calls for assistance in the case of fire and other emergencies.

THE CONSTITUTION

The Authority has agreed a new constitution which sets out how the Authority operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local communities. Some of these processes are required by the law, while others are a matter for the Authority to choose.

The Constitution is divided into 12 articles that set out the basic rules governing the Authority's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

WHAT'S IN THE CONSTITUTION?

Article 1 of the Constitution commits the Authority to providing clear leadership in relation to the provision of fire and rescue services across North Wales, encouraging public participation and to conducting its affairs in an open and transparent manner.

Articles 2-12 explain the rights of members of the public and how the key parts of the Authority operate. These are:

Article 2 – Members of the Fire Authority

Article 3 – Members of the public and the Authority

Article 4 – The Full Authority

Article 5 – Chairing the Authority

Article 6 – Committees

Article 7 – Officers

Article 8 – Decision Making

Article 9 – Finance, Contract and Legal Matters

Article 10 – Review and Revision of the Constitution

Article 11 – Suspension, Interpretation and Publication of the Constitution

HOW THE AUTHORITY OPERATES

Members of the Fire Authority

The Authority is composed of 28 councillors from the six unitary authorities of North Wales. The number of representatives from each constituent authority is determined on a population basis.

Members of the Authority are appointed for such periods as the constituent authorities may decide and can therefore be replaced at their discretion. Members can resign from the Authority or will cease to be members of the Authority if they cease to be members of the constituent authority for whatever reason. The term of office will also be regulated by the provisions of the Combination Order 1995.

As Members of the Fire Authority, councillors do not represent the individual wards/divisions for which they were elected or even the constituent authorities by whom they were appointed. Instead they have a duty to represent the interests of the community across the whole of North Wales.

The names and contact details of all members of the Fire Authority are available on our website at www.nwales-fireservice.org.uk

Code of Conduct

The Fire Authority, supported by the Monitoring Officer, has a duty to promote and maintain high standards of conduct by Members and has adopted a Code of Conduct to facilitate this.

Full Authority

All Members meet together as the Authority. These meetings are open to the public unless exempt or confidential information is being discussed. Here Members decide the Authority's overall policies and set the budget each year. The Authority delegates to the Executive Panel/Audit Committee to discuss reports in detail and to make recommendations to the full Authority.

A Member is appointed at the Annual Meeting in June each year to act as the Chair of the Authority. He or she presides over the Authority's meetings and is responsible for interpreting the rules of procedure with the power to control and regulate the course of the debate. In undertaking these duties, the Chair must act impartially but the Chair has a vote on decisions and may have a second (or casting) vote where this is necessary.

How Decisions Are Made

The Authority will issue, and keep up to date, a record of what part of the organisation, or which individual, is responsible for particular types of decisions or decisions relating to particular areas or functions.

Overview and Scrutiny

Unlike many Authorities, the Fire Authority does not have a separate Overview and Scrutiny Committee but the work of the Audit and Standards Committees, by their nature involve a high degree of scrutiny of the adequacy and efficiency of the Service and of its policies and procedures.

Where necessary, Member Working Groups can be utilised to support the work of the Authority. These are small working groups of Members that are established as necessary to look at particular issues in more detail and report back to the Authority. The membership and methodology of the Working Groups will be flexible to meet the needs of the particular circumstance.

The Authority's Staff

The Authority has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. The Chief Fire Officer is the principal professional advisor to the Authority. Some officers have a specific duty to ensure that the Authority acts within the law and uses its resources wisely. There is a scheme of delegation whereby the Chief Fire Officer can take decisions in line with that scheme of delegation. A code of practice governs the relationships between officers and Members of the Authority.

The Public

The public have a number of rights in their dealings with the Authority. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Authority's own processes. The Authority welcomes participation by members of the public in its work.

Part 2 – Articles of the Constitution

1. The Constitution

1.1. Powers of the Authority

The Authority will exercise all its powers and duties in accordance with the law and this Constitution.

1.2. The Constitution

This Constitution, with all its appendices, is the Constitution of the North Wales Fire and Rescue Authority ('the Authority').

1.3. Purpose of the Constitution

The purpose of the Constitution is to:

- (i) enable the Authority to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (ii) support and encourage the active involvement of members of the public in the process of the Authority's decision-making;
- (iii) provide a framework within which Members can represent the public interest effectively;
- (iv) enable decisions to be taken efficiently and effectively;
- (v) create a powerful and effective means of holding decision-makers to public account;
- (vi) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (vii) provide for the effective delivery of fire and rescue services within North Wales.

1.4. Interpretation and Review of the Constitution

Where the Constitution permits the Authority to choose between different courses of action, the Authority will always choose that option which it thinks is closest to the purposes stated above.

The Authority will monitor and evaluate the operation of the Constitution as set out in Article 11.

2. Members of the Authority

2.1. Composition and eligibility

The Authority is composed of 28 councillors from the six unitary authorities of North Wales: Anglesey County Council (3); Conwy County Borough Council (5); Denbighshire County Council (4); Flintshire County Council (6); Gwynedd Council (5); Wrexham County Borough Council (5). The number of representatives from each constituent authority is determined on a population basis.

2.2. Terms of Office of Members

The Constituent Councils appoint Members to the Authority for whatever term those Councils choose. Members come into office on the day they are appointed. They may resign from the Authority at any time by giving written notice to the Clerk. They cease to be Members of the Fire Authority if they cease to be members of the Council by whom they were appointed.

2.3. Roles and functions of all Members

(a) Key roles

All Members will:

- (i) be involved in decision-making and contribute to the good governance of the Authority;
- (ii) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (iii) represent their communities and bring their views into the Authority's decision-making process, i.e. become the advocates of and for their communities;
- (iv) balance different interests identified across North Wales and act in the interests of North Wales as a whole;
- (v) respond to enquiries and representations from members of the public, fairly and impartially;
- (vi) actively encourage community participation and public involvement in decision-making;
- (vii) be available to represent the Authority on other bodies; and
- (viii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

(i) Members will have such rights of access to such documents, information, land and buildings of the Authority as are necessary for the proper discharge of their functions and in accordance with the law.

(ii) Members will not make public any information which is confidential or exempt without the consent of the Authority or divulge information given in confidence to anyone other than a Member or officer entitled to know it.

(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4. Conduct

Members will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.5. Remuneration

Members will be entitled to receive remuneration and allowances in accordance with the Members' Remuneration Scheme set out in Part 6 of this Constitution.

3. Members of the Public and the Authority

3.1. Rights of the Public

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

(a) **Information.** Members of the public have the right to:

- (i) attend meetings of the Authority and its committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (ii) see reports and any records of decisions made by the Authority and its committees;
- (iii) inspect and obtain a copy of the Authority's Code of Conduct and inspect the Register of Members' Interests; and
- (iv) inspect the Authority's accounts and make their views known to the external auditor.

(b) **Complaints.** Members of the public have the right to complain to:

- (i) the Authority itself under its complaints scheme;
- (ii) the Local Government Ombudsman about maladministration, after first using the Authority's own complaints scheme; and
- (iii) the Monitoring Officer about a breach of the Members' Code of Conduct.

3.2. Responsibilities

Members of the public must not be violent, abusing or threatening to Members or Officers and must not wilfully harm things owned by the Authority, its Members or Officers.

4. The Full Authority

4.1. Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Combined Improvement and Risk Reduction Plan
- Revenue Budget and Capital Programme
- Treasury Management Strategy
- Asset Management Plan.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the control of its capital expenditure and the setting of virement limits. By the 31st December in every year the Authority is expected to notify its constituent councils of its estimated net expenses for the next financial year. To assist with this the Fire and Rescue Authority, at its December meeting, sets the Service's budget for the following financial year. By the 15th February in every year the Authority is required to notify its constituent authorities of the level of contributions it will be requesting them to contribute to the Combined Fire Service Fund for the following financial year.

4.2. Functions of the full Authority

Only the Authority will exercise the following functions (unless otherwise resolved):

- (i) adopting and changing the Constitution;
- (ii) approving or adopting the policy framework and the budget;
- (iii) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (iv) appointing representatives to outside bodies unless the appointment has been delegated by the Authority;
- (v) adopting an allowances scheme;
- (vi) confirming the appointment of the Chief Fire Officer, Deputy Chief Fire Officer, Assistant Chief Fire Officers, Treasurer and Monitoring Officer;
- (vii) all other matters which by law must be reserved to the Authority.

4.3. Authority meetings

There are three types of Authority meeting:

- (a) annual meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings

and they will be conducted in accordance with the Standing Orders for the Conduct of Business in Part 4 of this Constitution.

5. Chairing the Authority

5.1. Election of Chair and Deputy Chair

The Chair and Deputy Chair will be elected by the Authority annually and shall hold office until:

- (i) they resign from office;
- (ii) they are no longer Members of the Authority;
- (iii) they are removed from office by resolution of the Authority; or
- (iv) their successors take office.

5.2. Role and function of the Chair

The Chair of the Authority and in their absence, the deputy chair will have the following responsibilities:

- (i) provide overall political leadership to the Authority;
- (ii) chair meetings of the Authority and to ensure its overall effectiveness;
- (iii) provide effective leadership in the development of the Authority's approved policies and strategies;
- (iv) act as the Authority's principal member spokesperson at local, regional and national level;
- (v) seek to ensure that good working relationships are established with external public and private sector bodies and networks relevant to the efficient discharge of the Authority's functions;
- (vi) lead in the development of good working relationships between the leaders of political groups represented by the Authority;
- (vii) promote good working relationships between members and officers of the Authority so that Authority business is conducted in the most efficient and effective way;
- (viii) attend and represent the Authority on the National Issues Committee.

6. Committees

The Authority will appoint the committees described in Part 3 of this Constitution and which shall each have the respective terms of reference and functions described therein. The Authority may appoint such additional committees or change any of the details described in Part 3 of this constitution as the Authority may from time to time decide.

7. Officers

7.1. Management structure

(a) The Authority shall engage such people (referred to as officers) as it considers necessary to carry out its functions. Officers may be authorised either by the Authority or a Committee to take decisions. The scope of these delegated powers is set out in the general Scheme of Delegation in Part 3 of this Constitution.

(b) Although there is no legal requirement for the Authority to appoint a Head of the Paid Service, the Authority has chosen to do so as a matter of good practice. The Head of the Paid Service will determine the overall departmental structure and deployment of staff.

(c) Head of the Paid Service, Monitoring Officer and Chief Financial Officer.

The Authority will designate the following posts as shown:

POST	DESIGNATION
Chief Fire Officer/Chief Executive	Head of the Paid Service
Section 151 Officer/Treasurer	Treasurer
Clerk	Monitoring Officer

7.2. Functions of the Head of the Paid Service

(a) Discharge of functions by the Authority

The Head of the Paid Service will report to the Authority on the manner in which the discharge of the Authority's functions are co-ordinated.

(b) Restrictions on functions

The Head of the Paid Service may not be the Monitoring Officer but may hold the post of Treasurer if a qualified accountant.

7.3. Functions of the Monitoring Officer

(a) Maintaining and reviewing the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public. He/she will keep the constitution under review in accordance with Article 11 below.

(b) Ensuring lawfulness and fairness of decision making

After consulting with the Head of the Paid Service and Treasurer, the Monitoring Officer will report to the Authority if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Ethical Standards

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through:

- (i) provision of training to Members
- (ii) receiving, acting upon and where appropriate investigating complaints of alleged breaches of the Code of Conduct in accordance with the Arrangements for Code of Conduct Investigations and Decision; and
- (iii) provision of advice and support to the Audit and Standards Committee.

(d) Proper officer for access to information

The Monitoring Officer will ensure that decisions of the Authority and its committees and relevant officer reports and background papers are made publicly available as soon as possible.

(e) Providing advice

The Monitoring Officer will provide advice on the scope of the Authority's powers, maladministration, financial propriety, the Codes of Conduct, Standing Orders and the protocols to all Members and will advise and support Members and officers in their respective roles.

(f) Restrictions on posts

The Monitoring Officer cannot be the Treasurer or the Head of the Paid Service.

7.4. Functions of the Treasurer

(a) Ensuring lawfulness and financial prudence of decision making

After consulting with the Head of the Paid Service and the Monitoring Officer, the Treasurer will report to the Authority and the Authority's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Authority is about to enter an item of account unlawfully.

(b) Administration of financial affairs

The Treasurer will have responsibility for the administration of the financial affairs of the Authority.

(c) Providing advice

The Treasurer will provide advice on financial impropriety, probity and budget and policy framework to all and will support and advise councillors and officers in their respective roles.

7.5. Conduct

(a) Officers will comply with the Protocol on Officer/Member relations set out in Part 5 of this Constitution.

(b) The Monitoring Officer shall record in a book to be kept for the purpose particulars of any notice given by an Officer of the Authority under Section 117 of the Local Government Act 1972, of a pecuniary interest in a contract, or proposed contract, and the book shall be available during office hours for inspection by any Member of the Authority.

7.6. Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

8. Decision Making

8.1. Responsibility for decision making

The Authority will issue and keep up to date a record of what part of the Authority or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

8.2. Principles of decision making

All decisions of the Authority will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

8.3. Decision making by the full Authority

Subject to Article 8.5, the Authority meeting will follow the Standing Orders for the Conduct of Business set out in Part 4 of this Constitution when considering any matter.

8.4. Decision making by committees and sub-committees

Subject to Article 8.5, committees, sub-committees, working parties and panels will follow:

- (a) those parts of the Standing Orders for the Conduct of Business set out in Part 4 of this Constitution as apply to them; and
- (b) such other procedures set out in Part 3 of this constitution (Responsibility for Functions) as are specified in respect of that committee, sub-committee or panel

8.5. Urgent Decisions

(1) Where the Monitoring Officer, in consultation with the Chair, determines that any matter is urgent and that it would be impractical to call a meeting of the Authority, full authority to decide the matter is and shall be vested in the Chief Fire Officer/Chief Executive in consultation with the Chair, Clerk and/or Treasurer.

(2) No decision shall be made or instructions issued under this Article 9.6 which is contrary to an expressed resolution of the Authority or an established practice.

(3) A report of all decisions taken under this Article 9.6 shall be made to the next meeting of the Authority or the relevant committee (as the case may be).

9. Finance, Contracts and Legal Matters

9.1. Financial management

The management of the Authority's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

9.2. Contracts

Every contract made by the Authority will comply with the Contracts Standing Orders set out in Part 4 of this Constitution.

9.3. Legal proceedings

The Chief Fire Officer, after consultation with the Clerk/Monitoring Officer and Treasurer/Section 151 Officer is authorised to commence, defend, or participate in, any legal proceedings in any case, where necessary, and to give effect to decisions of the Authority, or in any case where the Chief Fire Officer after consultation with the Clerk/Monitoring Officer and Treasurer/Section 151 Officer considers it necessary to protect the Authority's interest.

9.4. Authentication of documents

In addition to any other person who may be authorised by resolution of the Authority for the purpose, the proper officer for the purpose of section 234 of the 1972 Act (authentication of documents) shall be the Clerk to the Authority or any officer authorised in writing by such officer.

9.5. Common Seal of the Authority

The Common Seal of the Authority will be kept in a safe place in the custody of the Chief Fire Officer. A decision of the Authority, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The affixing of the common seal shall be attested by the proper officer or by a deputy authorised in writing by the proper officer.

9.6. Inspection of lands, premises etc.

Unless specifically authorised to do so by the Authority, no Member of the Authority shall issue any order respecting any works which are being carried out by or on behalf of the Authority or claim by virtue of membership of the Authority any right to inspect or to enter upon any lands or premises which the Authority have the power or duty to inspect or enter, but provided that prior arrangement is made with the Chief Fire Officer a Member shall, so far as possible within the law, have the right to inspect lands and premises owned by the Authority.

9.7. Members' Rights to Inspect Documents

(1) All agenda papers and minutes relating to business at meetings of the Authority shall be open to inspection by any Member except where the business concerns a quasi-judicial matter or personal information subject to the Data Protection Act 1998, or relates to legal proceedings by or against the Authority.

(2) A Member of the Authority shall be entitled to inspect such other documents of the Authority as are reasonably necessary to the exercise of the Member's functions as a member of the Authority. A written request to inspect any such document shall be submitted to the Chief Fire Officer who, after consultation with the Chair and/or the Clerk where appropriate, shall produce the document for inspection, subject to the proviso that under certain circumstances (e.g. issues of confidentiality) inspection by a Member may only be permitted with a clear understanding that the contents should not be passed to any other party and noting that Members of the Authority are bound by the Data Protection Act 1998.

10. Review and Revision of the Constitution

10.1. Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

10.2. Protocol for monitoring and review of constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Authority, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- (i) observe meetings of the Fire Authority;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- (iv) compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

10.3. Changes to the Constitution

Changes to the constitution will only be approved by the full Authority after consideration of a written report by the Monitoring Officer or a committee of the Authority.

11. Suspension, Interpretation and Publication of the Constitution

11.1. Suspension of the Constitution

(a) Limit to suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Authority to the extent permitted within those Rules and the law.

(b) Procedure to suspend

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

(c) Rules capable of suspension

The following Rules may be suspended in accordance with Article 12.1:

- Standing Orders for the Conduct of Business
- Financial Regulations
- Contracts Standing Orders

11.2. Interpretation

The ruling of the Chair as to the construction or application of this Constitution or as to any proceedings of the Authority shall not be challenged at any meeting of the Authority. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

11.3. Publication

The Monitoring Officer will:

- (a) provide details of the Constitution to each Member of the Authority upon their first appointment.
- (b) ensure that copies are available for inspection at the Authority's Headquarters and on the Authority's website.