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STATUTORY INSTRUMENTS

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**2017 No. 864**

The Police, Fire and Crime Commissioner for  
Essex (Fire and Rescue Authority) Order 2017

PART 4

Transitional Provision

**Transitional provision in relation to financial administration**

**11.** Articles 12 to 15 apply until the coming into force of amendments made under section 180 of the Policing and Crime Act 2017<sup>(1)</sup> which have the effect of applying Part 8 of the Local Government Finance Act 1988<sup>(2)</sup> to the Authority.

**Functions of chief finance officer as regards reports**

**12.—**(1) The chief finance officer of the Authority must make a report under this article if—

- (a) it appears to them that a person specified in paragraph (2)—
  - (i) has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful;
  - (ii) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority; or
  - (iii) is about to enter an item of account the entry of which is unlawful;
- (b) it appears to them that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

(2) The persons specified for the purposes of paragraph (1) are—

- (a) the Authority;
- (b) a member of staff of the Authority;
- (c) a committee or sub-committee of the Authority;
- (d) the DPCC;
- (e) a member of staff of the PCC who is exercising functions of the Authority.

(3) The chief finance officer must, so far as is practicable, consult in preparing a report under paragraph (1)(a) with—

- (a) the person who is for the time being designated as the head of the Authority's paid service under section 4 of the Local Government and Housing Act 1989<sup>(3)</sup>; and

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(1) 2017 c. 3.

(2) 1988 c. 41.

(3) 1989 c. 42. Relevant amendments to section 4 were made by section 6 of, and paragraphs 60, 62(1) and (3) of Schedule 1 to, the Policing and Crime Act 2017.

- (b) the person who is for the time being responsible for performing the duties of the Authority's monitoring officer under section 5 of that Act(4).
- (4) The chief finance officer must send a report made under this article to—
  - (a) the person who at the time the report is made has the duty to audit the Authority's accounts;
  - (b) the Authority; and
  - (c) each member of the Police, Fire and Crime Panel for Essex.

#### **Personal responsibility of the chief finance officer**

**13.**—(1) Subject to paragraph (2) the chief finance officer must discharge the duty in article 12(1) personally.

(2) If the chief finance officer is unable to act due to illness or absence his duties under article 12(1) must be discharged—

- (a) by such other member of the Authority's staff as is a member of one or more of the bodies mentioned in section 113(3) of the Local Government Finance Act 1988 and is for the time being nominated by the chief finance officer for the purposes of this article; or
- (b) if no other member of the Authority's staff is a member of one or more of those bodies, by such member of the Authority's staff as is for the time being nominated by the chief finance officer for the purposes of this article.

#### **Authority's duties as regards reports**

**14.**—(1) Paragraphs (2) to (5) apply where the chief finance officer has sent a report to the Authority under article 12.

(2) The Authority must consider the report and decide whether the Authority agrees or disagrees with the views contained in the report and what action (if any) the Authority proposes to take in consequence of it.

(3) The consideration and decision-making must be concluded not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.

(4) As soon as practicable after the Authority has concluded that consideration the Authority must prepare a report which specifies—

- (a) what action (if any) the Authority has taken in response to the report;
- (b) what action (if any) the Authority proposes to take in response to the report; and
- (c) the reasons for taking the action specified in the report or, as the case may be, for taking no action.

(5) As soon as practicable after the Authority has prepared a report under paragraph (4), the Authority must arrange for a copy of the report to be sent to—

- (a) the chief finance officer;
- (b) the person who at the time the report is made has the duty to audit the Authority's accounts; and
- (c) each member of the Police, Fire and Crime panel for Essex.

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(4) Relevant amendments were made to section 5 by section 6 of, and paragraphs 60 and 63(1) and (4)(b) of, the Policing and Crime Act 2017.

**Information about consideration of reports**

15. The chief finance officer must notify the Authority's auditor of any decisions taken by the Authority in accordance with article 14.