

Buckinghamshire & Milton Keynes Fire Authority



MEETING	Executive Committee
DATE OF MEETING	8 February 2017
OFFICER	Graham Britten, Director of Legal and Governance
LEAD MEMBER	Councillor Adrian Busby, Chairman of the Authority Councillor David Watson, Chairman of the Overview and Audit Committee
SUBJECT OF THE REPORT	Size of the Authority and its Code of Conduct Complaints Procedure
EXECUTIVE SUMMARY	<p>At its AGM on 8 June 2016, a discussion was held on membership of the Authority. It was requested that a review of the number of Members on the Fire Authority be reported to its February 2017 meeting with recommendations, taking into account a potential seat for the Police and Crime Commissioner ('PCC').</p> <p>The purpose of the report is to put forward options for the Executive Committee to make recommendations from its preferred option(s) to the Authority.</p> <p>If a change in size is preferred the Executive Committee should recommend the size to the Authority. If the change is a reduction in size, the co-option of members and the number of co-opted members should be considered for recommendation to the Authority.</p> <p>Primarily to enable a reduction in the size of the Authority, but also irrespective of that decision, the report recommends revising the Authority's arrangements for determining complaints against Members to facilitate both speedier resolution and the more effective use of resources.</p>
ACTION	Decision.
RECOMMENDATIONS	<p>That the Authority be recommended to resolve that:</p> <ol style="list-style-type: none"> 1. The Authority remains a size of 17 members. <p>OR</p> <ol style="list-style-type: none"> 1. With effect commencing 2017/18 the Authority be increased to a size of between 18 and 25 Members. <p>OR</p> <ol style="list-style-type: none"> 1. With effect commencing 2017/18 the Authority be reduced to a size of between 9 and 16

	<p>Members, and if fewer than 13 Members:</p> <ol style="list-style-type: none">a. the Executive Committee not be constituted; andb. the Overview and Audit Committee be constituted to comprise those Members who are not Lead Members together with 1 to 3 non-voting Co-opted Member(s). <p>2. In the event of recommendations 1(a) to (b) being approved, the Director of Legal and Governance be authorised to:</p> <ol style="list-style-type: none">a. advertise for suitable appointable candidates to be co-opted onto the Overview and Audit Committee and to agree a process for selection in consultation with the Chairman of the Overview and Audit Committee in advance of the Authority's 2017 AGM; andb. prepare any necessary amendments arising from the resolutions set out under 1(a) to (b) to the Authority's constitutional documents for approval at the Authority's 2017 AGM. <p>3. The Procedure for the handling of allegations under the Code of Conduct for Councillors and Co-opted Members (Annex C) be adopted.</p> <p>4. It be noted that the Policing and Crime Bill will require the Authority at a future meeting:</p> <ol style="list-style-type: none">a. if a request is received from the Thames Valley Police and Crime Commissioner to attend, speak and vote at Authority meetings as if a Member of the Authority, to:<ol style="list-style-type: none">i. consider the request, andii. give reasons for their decision to agree to or refuse the request.b. to revise its Code of Conduct Complaints Procedure if the Thames Valley Police Crime Commissioner were to become a Member of the Authority. <p>5. In the event of a change in size to the Authority being approved, the Director of Legal and Governance be authorised to write to the Chief Executives of Buckinghamshire County and Milton Keynes councils of the change in membership in order that that their councils can appoint councillors on the basis of the respective electorates as at 1 December 2016 according to the Office for National Statistics as published in February 2017.</p>
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<p>RISK MANAGEMENT</p>	<p>None of the options present a risk to the operational delivery of the Authority’s services to the public nor a risk of non-compliance with regulatory requirements.</p> <p>One of the key findings of the Adrian Thomas Review was that “Fire authorities should keep the number and level of commitment of fire authority elected members under review. The right number may differ by authority but should be large enough to allow scrutiny without becoming burdensome on operational delivery”.</p> <p>Comparisons to the sizes of membership of other combined fire and rescue authorities are set out elsewhere in the report. The sizes of the metropolitan fire and rescue authorities, and LFEPA, are as follows:</p> <p>South Yorkshire – 12</p> <p>Tyne and Wear – 16</p> <p>London Fire and Emergency Planning Authority – 17*</p> <p>Merseyside – 18</p> <p>West Yorkshire – 22</p> <p>West Midlands – 27</p> <p>Greater Manchester – 30</p> <p>In addition there are 15 county fire and rescue authorities which are integrated within individual councils under the control of an executive member typically with responsibility for other public protection services.</p> <p>*The Policing and Crime Bill legislates for the abolition of LFEPA with responsibility transferring under the Deputy Mayor for Fire for London.</p>																						
<p>FINANCIAL IMPLICATIONS</p>	<p>The costs of allowances and expenses paid to Members over the last 10 years are set out below:</p> <table border="1" data-bbox="628 1543 1094 2018"> <thead> <tr> <th>Year</th> <th>Amount (000s)</th> </tr> </thead> <tbody> <tr> <td>2015/16</td> <td>£63</td> </tr> <tr> <td>2014/15</td> <td>£72</td> </tr> <tr> <td>2013/14</td> <td>£61</td> </tr> <tr> <td>2012/13</td> <td>£61</td> </tr> <tr> <td>2011/12</td> <td>£65</td> </tr> <tr> <td>2010/11</td> <td>£72</td> </tr> <tr> <td>2009/10</td> <td>£71</td> </tr> <tr> <td>2008/09</td> <td>£51</td> </tr> <tr> <td>2007/08</td> <td>£39</td> </tr> <tr> <td>2006/07</td> <td>£40</td> </tr> </tbody> </table> <p>If the membership were reduced, there would be a reduction in basic allowances in total paid to non-Lead Members.</p>	Year	Amount (000s)	2015/16	£63	2014/15	£72	2013/14	£61	2012/13	£61	2011/12	£65	2010/11	£72	2009/10	£71	2008/09	£51	2007/08	£39	2006/07	£40
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	<p>Further comparative analysis of allowances and sizes of the other combined fire and rescue authorities that was undertaken on behalf of Hampshire Fire and Rescue Authority is attached at Annex A (used with permission). The median is 20 members; the mean is 20 members. Further analysis conducted by Hampshire Fire and Rescue Authority based on 14/15 data is attached at Annex B (used with permission).</p> <p>Whilst there have been no co-opted members since the dissolution of the Standards Committee in 2011/12, Authority's Members' Scheme of Allowances retains provisions for the payment of a basic allowance to co-opted members. The Co-optee Allowance for 17/18 is £303 per annum. There would be additional costs in recruitment and in providing training for the role.</p>
<p>LEGAL IMPLICATIONS</p>	<p>Size of the Authority</p> <p>Under the Buckinghamshire Fire Services (Combination Scheme) Order 1996 ('the Combination Scheme') Part III paragraphs 11 and 12 subject to a maximum membership of 25, each constituent authority is required, so far as is practicable, to appoint such number of representatives to be members of the Authority as is proportionate to the number of local government electors in its area in relation to the number of such electors on the other constituent authority's area. The Combination Scheme mandates that the minimum quorum of a meeting of the full Authority is one third with at least one Member from each constituent council.</p> <p>Part IV paragraph 20 of the Combination Scheme applies section 102 of the Local Government Act 1972 to the effect that the Authority may co-opt persons who are not members of the Authority onto its committees, other than a committee for regulating and controlling its finances, as non-voting members of the committee.</p> <p>Code of Conduct Complaints Procedure</p> <p>Section 28 of the Localism Act 2011 requires that, in the event that written allegations are made that one of its Members or Co-opted Members has failed to comply with its Code of Conduct, the Authority must have in place arrangements under which these can be investigated, and under which a decision about the written allegations can be made; whether to take action if there is found to be a failure to comply with the Code of Conduct; and what action to take.</p> <p>The Localism Act 2011 from 1 April 2012 abolished the model code of conduct for local authorities in England, in favour of a new regime that requires local authorities to formulate and adopt a Code of Conduct locally. The requirement for local authorities in</p>

	<p>England to have standards committees was also abolished, in favour of “independent persons” who have a consultative role as part of their local standards arrangement: section 28(7).</p> <p>The power of local authorities to suspend members was revoked from 7 June 2012. Thus, in England, a councillor cannot be disqualified unless he or she is (i) in the paid employment of the authority; (ii) convicted of any offence and sentenced to imprisonment for at least three months; or (iii) convicted of an offence of deliberately withholding or misrepresenting a disclosable pecuniary interest and thereafter made the subject of a disqualification order of up to 5 years by the magistrates’ court.</p> <p>Sanctions for breaches of the Code of Conduct are now limited to (for example) a formal finding that the member has breached the code, formal censure, press or other appropriate publicity, a requirement to undergo relevant training, and removal from committee roles or from outside appointments.</p> <p>Thames Valley Police and Crime Commissioner (‘PCC’)</p> <p>The Policing and Crime Bill will require the Authority, if a request is made by the Thames Valley PCC to attend, vote, and speak at an Authority meeting, to (a) consider the request, (b) give reasons for their decision to agree to or refuse the request, and(c) publish those reasons. If the request is agreed, the legislation deems the Thames Valley PCC to be Member of the Authority and to be bound by the Authority’s Code of Conduct.</p> <p>If the PCC were to become a member of the Authority, the Policing and Crime Bill amends the Localism Act 2011 so that the Authority must include in its Code of Conduct Procedure arrangements for allegations against the PCC to be referred to the Thames Valley Police and Crime Panel and for dealing with any resulting report made to the Authority by that Panel.</p>
<p>CONSISTENCY WITH THE PRINCIPLES OF COLLABORATION</p>	<p>The proposals have taken into account practices in place in other fire and rescue authorities.</p>
<p>HEALTH AND SAFETY</p>	<p>None arising from the recommendations. There would be an induction procedure for co-opted members.</p>
<p>EQUALITY AND DIVERSITY</p>	<p>Members appointed as councillors onto the Authority are not determined by the Authority. The only criterion is that they have been duly elected as eligible candidates to their respective councils.</p> <p>Any method adopted to recruit candidates to be co-opted onto the Authority will be designed to be consistent with the Authority’s Equality & Diversity</p>

	Objectives 2016 – 2020									
USE OF RESOURCES	On the basis of the respective electorates as at 1 December 2015 (<i>Office for National Statistics, 24 February 2016</i>) for Buckinghamshire County Council and Milton Keynes Council 375,790:179,328 the ratio of 67.7:32.3 provides the following allocations:									
	Reduction in the size of membership from 17									
	Members	9	10	11	12	13	14	15	16	17
	BCC	6	7	7	8	9	9	10	11	12
	MKC	3	3	4	4	4	5	5	5	5
	Increase in the size of membership									
	Members	17	18	19	20	21	22	23	24	25
	BCC	12	12	13	14	14	15	16	16	17
	MKC	5	6	6	6	7	7	7	8	8
	The Authority meets four times a year. One of its committees, the Executive Committee, meets six times a year. Its other committee, the Overview and Audit Committee, has tended to meet for three of its scheduled four meetings a year.									
Options:										
Reduction in size with the abolition of Executive Committee. Overview and Audit Committee enhanced with co-opted membership.										
One option contemplates decisions that would previously have been dealt under the Executive Committee's terms of reference becoming instead decisions for the Authority. The timetable of meetings would likely result in no more than nine Authority meetings (the two February budget meetings being elided) in its first year of operation.										
Whilst the Home Office has stated that it will use provisions of the Fire and Rescue Services Act 2004 and the Policing and Crime Bill to introduce a national independent inspectorate for fire and rescue services, combined fire and rescue authorities will still not be required to have scrutiny committees of the type found in principal councils. The use of co-opted members on the Authority's Overview and Audit Committee should be conducive to strengthened local governance and accountability of the Authority.										
Code of Conduct										
The proposed revised Code of Conduct Complaints procedure (Annex C) dispenses with the need to constitute and populate two subcommittees each of three members as required under current process in order to determine complaints and appeals. The current procedure therefore requires a pool of six										

	<p>members and subcommittee meetings to be timetabled when they can be available to attend, together with officers in attendance. The proposed procedure is based on the procedure adopted by London Fire and Emergency Planning Authority which has been in place since the Localism Act 2011 permitted locally determined arrangements. The Flowchart (Annex D) illustrates the procedure.</p>
<p>PROVENANCE SECTION & BACKGROUND PAPERS</p>	<p>Background</p> <p>There have been 17 Members on the Authority since its inception in 1997. At the request of the, then, Chairman the membership was increased to 21 in June 2008. This reverted to 17 in June 2010. Archived minutes show that the Vice Chairman being a Member from Milton Keynes Council dates back to June 2000.</p> <p>Section 21 of the Fire and Rescue Services Act 2004 requires the Secretary of State to prepare a 'National Framework' for fire and rescue authorities and for the Authority to have regard to an extant National Framework in carrying out their functions.</p> <p>The current national framework, first published 11 July 2012 mandates at paragraphs 2.4 and 2.5 respectively that <i>"The fire and rescue authority must hold their Chief Fire Officer/Chief Executive to account for the delivery of the fire and rescue service."</i> and <i>"Fire and rescue authorities must have arrangements in place to ensure that their decisions are open to scrutiny."</i></p> <p>The National Audit Office in 2015 commented in relation to its report 'Financial sustainability of fire and rescue services' that: <i>"Unlike in other emergency services there is no external inspection of fire and rescue authorities. DCLG now relies on local scrutiny – from local councillors, the public, and fire chiefs themselves – to safeguard service standards and value for money. Councillors can however lack technical independent support, while a lack of standardised data on response standards makes it hard for people to compare the performance of their local fire authority with others"</i>.</p> <p>On 10 February 2016 the parliamentary Public Accounts Committee published its report, 'Financial sustainability of fire and rescue services'. One of its conclusions was that, <i>"The strength of local governance and accountability is variable, posing risks for the local maintenance of value for money and service standards."</i> Its summary stated that <i>"There are weaknesses in the local scrutiny by fire authorities which raise concerns about their operational performance and safeguarding value for money; this is more serious because of the lack of an external inspectorate, unlike in other emergency services. Weaknesses in the local system of oversight also led</i></p>

	<p><i>to gaps in the Department’s statutory assurance to Parliament that all authorities are maintaining both required performance standards and value for money.”</i></p> <p>The independent review of conditions of service, ‘the Adrian Thomas Review’, was commissioned in August 2014 by the Department for Communities and Local Government (DCLG).</p> <p>Adrian Thomas visited Buckinghamshire and Milton Keynes Fire Authority (BMKFA) as part of his research. The report was completed in 2015 however it was not published until 3 November 2016.</p> <p>The Executive Committee of the Authority considered its findings at its meeting on 23 November 2016. The report made a total of 45 ‘key findings’ broken down into 5 main themes:</p> <ul style="list-style-type: none"> • The working environment • Documented conditions of service • Industrial relations • Retained Duty System • Management of fire and rescue services <p>Under ‘Management of the Fire and Rescue Service’ Thomas posed rhetorically <i>“The question is, is there value added benefit from an average of between 15 and 20 elected councillors in any one fire and rescue service providing political oversight and local accountability or can political decisions and this level of oversight actually work against reform and efficiency?”</i> His report’s key finding 30 was as follows: <i>“Fire authorities should keep the number and level of commitment of fire authority elected members under review. The right number may differ by authority but should be large enough to allow scrutiny without becoming burdensome on operational delivery”</i></p> <p><u>Fire and rescue national framework for England, July 2012, Department for Communities and Local Government</u></p> <p><u>National Audit Office Financial sustainability of fire and rescue services 23 November 2015</u></p> <p><u>House of Commons Committee of Public Accounts Financial sustainability of fire and rescue services 10 February 2016</u></p> <p><u>Independent review of conditions of service for fire and rescue staff in England</u></p>
<p>APPENDICES</p>	<p>Annex A – Comparative analysis of allowances and sizes of other Combined Fire Authorities (HFRS)</p> <p>Annex B – Further analysis of 2014/15 data (HFRS)</p> <p>Annex C - The Procedure for the handling of allegations under the Code of Conduct for Councillors</p>

Size of the Authority and its Code of Conduct Complaints Procedure

	and Co-opted Members Annex D – Complaints Procedure Flow Chart
TIME REQUIRED	20 minutes.
REPORT ORIGINATOR AND CONTACT	Graham Britten, Director of Legal and Governance gbritten@bucksfire.gov.uk 01296 744441