

Minutes of the meeting of the BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY held on WEDNESDAY 18 OCTOBER 2017 at 11.00 am

**Present** Councillors Carroll, Exon, Glover, N Hussain (part), Irwin, Lambert, Marland (part), McCall, McDonald, Reed, Roberts (part), Sullivan, Teesdale, Watson and Wilson

**Officers:** J Thelwell (Chief Fire Officer), G Britten (Director of Legal and Governance), L Swift (Director of People and Organisational Development) D Sutherland (Director of Finance and Assets), N Boustred (Head of Service Delivery), J Parsons (Head of Service Development), M Hemming (Deputy Director of Finance and Assets), F Mansfield (HR Services and Development Manager), C Turner (HR Projects Manager), M Ridder (Employee Relations and Engagement Manager), K Nellist (Democratic Services Officer), F Pearson (Communication and Consultation Manager), A McCallum (Executive Assistant to the Chief Fire Officer) R Priest (Group Commander Community and Business Safety) and V Peck (HR Apprentice)

2 FBU Representatives, 1 Member of the Public

**Apologies:** Councillors Brunning and A Hussain

**FA17 NEW MEMBER OF AUTHORITY AND APPOINTMENT TO COMMITTEES**

The Chairman welcomed the new Member to the Fire Authority Councillor Brian Roberts from Buckinghamshire County Council and advised that it was the Group Leader's wish that he be appointed to the Executive Committee.

RESOLVED –

That Councillor Roberts be appointed to the Executive Committee.

**FA18 MINUTES**

RESOLVED –

That the Minutes of the meeting of the Fire Authority held on 7 June 2017, be approved and signed by the Chairman as a correct record.

**FA19 DISCLOSURE OF INTERESTS**

Councillor Marland declared he was a Board Member of the Milton Keynes Development Partnership.

Councillor Lambert declared he was a Member of the Local Government Pension Scheme Fund for Buckinghamshire.

Councillor Reed declared he was a Member of the National Joint Council for Local Authority Fire and Rescue Services.

**FA19 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman's Announcements had been circulated in advance.

**RECOMMENDATIONS FROM COMMITTEES****Executive Committee – 12 July 2017**

The Authority considered the recommendations of the Executive Committee held on 12 July 2017 relating to:

**(a) 2015-20 Corporate Plan: Mid-Term Review and Refresh**

RESOLVED –

That the updated 2015-20 Corporate Plan be approved.

**Overview and Audit Committee – 26 July 2017**

The Authority considered the recommendations of the Overview and Audit Committee held on 26 July 2017 relating to:

**(b) Review of Financial Regulations**

RESOLVED –

That the Financial Regulations as amended be approved.

The Authority considered the recommendations of the Overview and Audit Committee held on 26 July 2017 relating to:

**(c) Review of Standing Orders Relating to Contracts**

RESOLVED –

That the Standing Orders relating to Contracts as amended be approved.

**THE POLICING AND CRIME ACT 2017 AND THE AUTHORITY**

The Chairman advised Members that he had attended the inaugural meeting of the Thames Valley Collaboration Joint Steering Committee that had been set up with Oxfordshire and Royal Berkshire Fire and Rescue Services and the Thames Valley Police and Crime Commissioner.

The Director of Legal and Governance advised Members that the origin of this report was the June meeting of the Authority when Members considered the proposals put forward by the Thames Valley Deputy Police and Crime Commissioner. This report provided more detail about the parts of the Policing and Crime Act 2017 which cover (a) Police and Crime Commissioner's powers to become a Fire and Rescue Authority or to become a voting member on an Authority; and (b) the duties on an Authority to collaborate with the police and ambulance services. Alongside this, the report was intended to update Members on events since its June meeting.

The Director of Legal and Governance advised that at the June meeting, Members made various observations about the Deputy Police and Crime Commissioner's proposals and these were reflected in the letter from the Chief Fire Officer which was sent on the 12 June 2017. In the discussion that led to the Chief Fire Officer being directed to write to the Thames Valley Police and Crime Commissioner (TVPCC), a Member asked if the TVPCC

could impose a change of governance onto the Authority. It was explained that this was not the case. The Home Office had now published details about the Independent Assessment Process (IAP) which would inform the Secretary of State's decision.

The Director of Legal and Governance did not take Members in detail through the IAP as the issue had been rendered somewhat academic in light of the statement issued by the TVPCC on 16 August 2017 in which the Police and Crime Commissioner stated that "following a meeting last week between myself, the Deputy Police and Crime Commissioner and representatives from the fire and rescue authorities we have agreed that we will not be actively pursuing any governance changes in the foreseeable future". Reference was made to the regulations yet to be made which would enable the TVPCC to become a voting member on the Authority. The TVPCC's expressed view was that "This was not considered to be of significant benefit in itself."

The Director of Legal and Governance brought to Members attention the exchange of correspondence between the Chief Fire Officer and the Home Office. In light of the Home Office's stated intention to bring forward the regulations to change the Authority's constitution this autumn, the Chief Fire Officer was highlighting in his correspondence that their consultation timeline was wholly unrealistic. If the Home Office were proposing to bring forward legislation, the only meaningful consultation it could have was with the Authority itself. The Home Office had responded saying it had taken the points into account. It was already autumn and there was no consultation as yet.

The Director of Legal and Governance advised Members that the duty under the Policing and Crime Act for the Authority to collaborate with the police and ambulance services comprised of four stages. The first stage for the Authority was the duty to keep collaboration opportunities under review with at least one of the two other blue light services. The second stage was that where an emergency service identified an opportunity, it had a duty to notify the other emergency services of the proposed collaboration. It then triggers the third stage, a duty to consider whether the proposed collaboration would be in the interests of the proposed parties and finally stage four was if two or more of the emergency services considered it would be in their interest, there was a duty to enter into a collaboration agreement.

A Member asked if as well as collaborating with other blue light services, the Authority collaborates wider i.e. with other local authorities and was advised that yes the Authority does and these would be covered in the Partnership Register report that was being presented to a future meeting of the Executive Committee.

RESOLVED –

That the report be noted.

The Director of People and Organisational Development advised Members that this report was a companion report to the previous item and provided an update on the Authority's primary collaborative activities which were built into the refreshed Corporate Plan.

The Director of People and Organisational Development advised Members that collaboration with blue light services and other partners was well embedded within this Authority long before the duty to collaborate as highlighted in the Policing and Crime Act. Before the Authority decides to collaborate, it would have a Memorandum of Understanding in place, and as referred to in the report, there were strict criteria to ensure that the Authority and the communities benefit in everything it collaborates on. The report sets out the main strategic collaboration, primarily across Thames Valley, but also included were some of the national collaboration projects. The report highlighted where the Authority played a lead role or where the Authority had a significant influential role. The Thames Valley Fire Control Service the joint mobilising service was the main driving force that continued to drive operational policy alignment within the Thames Valley.

RESOLVED –

1. That the collaborative work in progress across the Thames Valley Fire and Emergency Services as set out in Annex A be noted.
2. That the range of BMKFA supported national and regional collaborative working programmes set out in Annex B be noted.

**THE 2018-19 LOCAL GOVERNMENT FINANCE SETTLEMENT: TECHNICAL CONSULTATION PAPER (THE CONSULTATION)**

The Lead Member for Finance, IT and Procurement advised Members that this was a response to the 2018-19 Local Government Finance Settlement Consultation. Within the Consultation there were a series of questions that the Authority had put draft answers to. Subsequently, the Authority had received some advice from the Home Office about how to phrase this and what sort of information to include.

The Lead Member for Finance, IT and Procurement would like to modify the recommendation to take into account this advice and any views of Members and leave it to the Chief Fire Officer and Lead Member for Finance, IT and Procurement to write the final submission to the consultation.

The Deputy Director of Finance and Assets also advised Members that Question 10 "do you have any views on whether additional flexibilities were required for particular categories of authority? What evidence was available to support this specific flexibility" was a new question brought in this year after pressure from the Home Office as fire and rescue authorities do have some additional pressures and need some flexibility. This was the

Authority's opportunity to say what it would do with the extra funding.

Members asked what the Authority would be recommending to do if it got the flexibility to increase council tax.

The Chief Fire Officer advised Members that it would depend on the degree of flexibility. If Members looked at the Grenfell fire, the outcome from it would be increased regulation or some form of burden placed on fire and rescue services. There was also a recruitment and retention crisis for on call firefighters. The organisation was currently staffed under establishment but made it up with the bank shift system. It could not do that without the flexibility of its staff, but there was a definite need to add more resilience. If the Authority had the flexibility it would be looking to put more people back in the system. Also, with increased population, the calls could start to rise and there was undeniably a need for more community safety activity within the community.

The Chief Fire Officer advised Members that if the Authority were to pick up a pay agreement agreed nationally above 1% it would place an additional burden on the Authority. The service was stretched and any additional burdens, without increased funding, would mean some very difficult decisions relating to fire engines and fire stations, moving forward.

The Chief Fire Officer advised Members that in terms of the current national picture regarding this submission, every fire authority and the Association of Metropolitan Fire and Rescue Authorities, would be putting in a submission asking for precept flexibility. The Combined Fire Authorities had agreed to do individual responses as well as a group response in terms of supporting precept flexibility. The Fire Brigades Union and the National Fire Chiefs Council would also support the flexibility. The only two who were not in agreement were Greater Manchester Fire and Rescue Service and London Fire Brigade.

A Member asked where the £10 came from and was the Authority asking this for one year or ever year and would it be better not to just ask to end capping.

The Director of Finance and Assets advised that the Authority had asked for precept flexibility for one year. This was partially in response to the NJC pay offer during the summer. It was clear that if the public sector pay cap was to be breached or removed, whilst £5 would be sustainable in the short term, a £10 increase would allow sustainability for the medium-long term and allow further investment into the service in other areas.

It being proposed by Councillor McDonald and seconded by Councillor Carroll:

**RESOLVED –**

That the proposed response to the consultation be approved subject to amendments being finalised by the Chief Fire Officer in consultation with the Lead Member.

**UPDATE ON BUCKINGHAMSHIRE AND MILTON KEYNES  
FIRE AUTHORITY APPRENTICESHIP PROGRAMME**

The Lead Member for People and Equality and Diversity advised Members that he was extremely proud of this organisation as it was the leading Fire Authority across the country regarding apprenticeships.

The HR Projects Manager advised Members that the aim of this paper was to update Members on the position of apprentices both nationally and locally. Apprenticeships were a key Government reform initiative with the aim of delivering 3 million apprenticeships by 2020. This had brought a new focus across fire and rescue services, but this Authority was ahead in terms of planning and Member approval of investing in apprentices.

The HR Projects Manager advised Members that the annual levy, which had been set at 0.5% of an employer's pay bill in excess of £3 million, was approximately £60k and the apprenticeship plans for support staff and management apprenticeships would satisfy the government's target of 2.3% new apprentice starts each year. The Authority currently had 19 firefighter apprentices who were popular with crews and fully embedded in the resourcing of the service. 12 new start firefighters who commenced in September 2017 and were now in training and these would be an operational resource from December 2017. 8 support staff apprentices (4 started in 2016 and 4 in September 2017), again adding value to the service, many being local residents.

The Chairman asked that all Members lobby and influence local development plans for firefighters to be considered as key workers and for the provision of key worker housing in any local plans.

A Member asked if the number of apprentices being taken on would cover the number of firefighters leaving and was advised that the service had projected its workforce plan forward to 2022/23 and knew the potential numbers for retirement. It was looking to top up firefighter numbers by advertising for transferees in from other services and was also planning for the next intake of firefighter apprentices in April/May 2018 (this was being undertaken in collaboration with Royal Berkshire and Oxfordshire fire and rescue services). The service also tracked unplanned leavers which would include transfers to London.

RESOLVED –

That the content of the update be noted.

**EQUALITY, DIVERSITY AND INCLUSION OBJECTIVES  
2016-20, REVIEW OF YEAR 1 PROGRESS**

The Lead Member for People and Equality and Diversity introduced the report and advised Members that a lot of work had been undertaken on this over the past year. The Authority

was subject to the specific duties as laid out in the Equality Act (Specific Duties) Regulations 2011, which was in addition to the general equality duty as laid out in the Equality Act 2010. These duties together were commonly known as the Public Sector Duty, and the Authority's aim was to embed equality and diversity into everything it did both internally and externally.

The Employee Relations and Engagement Manager advised Members that the purpose of this report was to update on the progress made in the first year of its four year plan and setting out what needs to be done for the next four years in terms of equality, diversity and inclusion (EDI). The report contained updates on key internal performance in areas including workforce strategy, workforce monitoring, equality impact assessment, employee engagement, promoting an inclusive working environment, equal pay, anti-harassment and bullying, appraisal and training and learning and development. The report also contained an update on the key external performance areas; working with our communities; knowing communities; involving communities and responsive services and customer care.

The Authority had set up an EDI Advisory Group chaired by the Director of People and Organisational Development and attended by Councillor Steven Lambert, Lead Member for People and Equality and Diversity. The group's terms of reference included supporting the Authority to strive for future improvements in EDI and developing networks to enable the sharing of best practice.

(Councillor Roberts left the meeting)

The Group Commander Community and Business Safety advised Members that this year a new infrastructure had been established so that the service could work more effectively with its communities. This was being undertaken in three different ways, a) increasing our knowledge, b) increasing our involvement and c) being a responsive and accessible service. Increasing our knowledge included looking at a risk based inspection process and to enable the service to do this, there was a new prevention and protection data base.

Increased involvement with our communities involved the service holding user groups for safe guarding at its fire stations and while the user groups were in the properties, they were being asked to become a focus group.

Being a responsive and accessible service involves working with schools and young people who would not usually visit a fire station. The sustainable tenancy programme in Milton Keynes saw a gap in young people moving from care to living on their own, teaching them life skills but also addressing fire safety risk. These initiatives allows the service to be more open and transparent and in the long term would help recruitment.

RESOLVED –

That the content of the report Annex A and Annex B be noted.

(Councillor N Hussain left the meeting)

**FA26**

**SCHEME MANAGER DISCRETION FOR THE FIREFIGHTERS' PENSION SCHEME 2015**

The Lead Member for People and Equality and Diversity introduced the report and advised Members that this report was being brought back to the Fire Authority following the agreement to defer it to October at the June 2017 meeting.

The HR Services and Development Manager advised Members that the purpose of this report was to recommend a position on the scheme manager pension discretions as contained in the Firefighters Pension (England) Regulations 2014. The Firefighters' Pension Scheme Regulations 2014 set out fifty-two pension discretions available to the Authority following the introduction of the 2015 Firefighters' Pension Scheme in April 2015. An immediate position was required on three pension discretions within Regulations; Regulations 5 on delegation, Regulation 17 on pensionable pay and Regulation 111 on pension contributions during absences from work due to illness, trade disputes and authorised absences.

The HR Services and Development Manager advised Members that a report was presented at the Fire Authority meeting on 10 June 2015 and a policy statement was adopted on these discretions. The Member approved position on these discretions had not been amended, and the remaining forty-nine pension discretions had been added to form the Scheme Manager Pension Discretions policy presented today, bringing together all the discretionary elements as contained within the Firefighters' Pension Scheme (England) Regulations 2014.

Appendix 1 provided a position on each pension discretion with a recommendation made for each one. Further clarity had been provided to documents to enable greater understanding of the pension discretions and the implication of the pension discretions on the scheme manager. Recommendations made within this report had been made in collaboration with Royal Berkshire and were in the main, the same as those pension discretions agreed by Royal Berkshire's Fire Authority on 18 April 2017.

Appendix 2 was a draft scheme manager pension discretions policy based on the approval of Appendix 1. This was being recommended as the adopted policy for the Authority. This document incorporated the three approved discretions made in June 2015, and brings together all the discretions for the 2015 Firefighters' Pension Scheme into one document. As detailed within this appendix, it was recommended this policy was approved for a three year period unless there was a need to review earlier due to legislation or pension Regulation changes as was normal. In line with best practice, the pension discretions set out in the 1992 and 2006 Firefighters' Pension Schemes and the Local Government Pension Scheme would be reviewed, with reports planned on these for 2018. This was with exception to one of the pension discretions applicable to firefighters in the 1992 and 2006 Schemes following an amendment to the



Regulations in July 2013, which could impact on the Authority's ability to promote temporarily.

A Member asked if consultations had been held locally with the Fire Brigades Union (FBU) and was advised that yes the report had been circulated at the joint consultation forum which a representative from the FBU sat on.

A Member asked if the service excluded people with beards as operational firefighters and was advised that firefighters were required to be clean shaven for health and safety reasons, so breathing apparatus could be worn correctly, but there were other roles within the fire service.

RESOLVED –

That the forty-nine Scheme Manager Pension Discretions applicable to the 2015 Firefighters' Pension Scheme be approved and adopted with immediate effect.

## **FA27**

### **UPDATE ON PAY NEGOTIATIONS**

The Chief Fire Officer advised Members that the reason for the verbal update was that the situation was changing so quickly. Firefighter pay was determined by the National Joint Council (NJC) who were representatives of the Employers, who were Councillors from fire authorities and representatives from the representative bodies, the Fire Brigades Union (FBU) being one of them.

The Chief Fire Officer advised Members that earlier in the year the NJC made a pay offer to the Fire Brigades Union for firefighters which was 2% backdated to July 2017. The 2% would be paid locally out of local budgets and then a further 3% would be funded by government and the NJC would lobby government for that further 3%. Also included in the offer were talks on a further pay formula going forward over the next number of years. Some of the detail attached to the offer were that emergency medical response (co-responder) should continue and firefighters would take on other emergency response roles within the community. The FBU Executive Council recommended that Members of the FBU should accept the offer but the Executive Council had their recommendation overturned as the Membership decided to reject the offer.

The Chief Fire Officer advised Members that the NJC then wrote to the FBU and offered to pay the 1% already identified within the budget, with a no strings attached agreement, while they continued discussions. The FBU did not agree this position and since then one fire authority had subsequently paid their staff 1%.

The Chief Fire Officer advised Members that he had subsequently received a letter from the FBU (Members had a copy in front of them), which said they would be taking any authority who decided to pay the 1% to court. The reason being was that the

FBU want to maintain a national collective agreement. The FBU do not want fire authorities to go off and pay different rates of pay etc.

The Chief Fire Officer advised Members that he had asked the Director of Legal and Governance to look at the risks of paying the 1%, if Members were minded to do so, there was no recommendation to do so, but he wanted to get a steer from the Authority.

The Director of Legal and Governance advised Members that the letter to the Authority was quite unequivocal of the FBU's intentions should the Fire Authority be minded to make a 1% offer. The legislation to which the FBU were referring to, was Section 145B of TULR(C)A and had typically been used where local authorities had moved away from nationalised pay to local pay.

If an employer had made an offer to move to local terms and conditions the member can take the 'sweetener' but they can also take a claim to the Employment Tribunal. If the Employment Tribunal finds that the sole or main purpose of the inducement was to seek to move from a collective agreement, there would be a mandatory award made of £3,907 per claimant.

The Director of Legal and Governance advised that without commenting on the merits of the case, and the strength of their argument, the Authority would run a risk if it were to lose, of quite a considerable sum. Even if the Authority was to defend the claim against it and win, it would incur irrecoverable time, effort and costs. This was something Members would need to take into account.

The Chairman advised Members that the issue before the Authority was that it had the opportunity to pay a 1%, no strings attached, pay increase to its firefighters back dated to 1 July 2017. The Authority could take that decision. However, if the Authority were to do that, it would be exposing itself to an extremely large financial risk because of the threat from the FBU to take fire and rescue authorities who paid it to court.

The Chief Fire Officer advised Members that the letter from the FBU stemmed from the fact that one authority, Kent Fire and Rescue Authority, had gone ahead and decided to pay the 1%.

A Member asked if firefighters were aware of the situation and it was requested that the Chief Fire Officer write to all operational members of staff to acquaint them with the current position.

It was proposed by Councillor Wilson and seconded by Councillor Marland:

This Authority calls on the Employers side of the National Joint Council to make a fair and reasonable offer to enable an early

and just settlement that will amongst other objectives a) reward our firefighters and other staff for their hard work, b) enhance our ability to recruit and retain staff and c) enable us to match our vision of Buckinghamshire and Milton Keynes, being the safest place to live, work and travel.

On being put to the vote there being 11 votes in favour, 2 votes against and 2 abstentions, the motion was lost.

The Chairman advised that the Authority noted the position of Kent Fire and Rescue Authority but the Authority would not be considering paying the 1% backdated to July 2017 budgeted for, because of the exposure to risk.

(Councillor Marland left the meeting)

**FA28**

**EXCLUSION OF PUBLIC AND PRESS**

M Hemming (Deputy Director of Finance and Assets), F Mansfield (HR Services and Development Manager), C Turner (HR Projects Manager), M Ridder (Employee Relations and Engagement Manager), F Pearson (Communication and Consultation Manager), A McCallum (Executive Assistant to the Chief Fire Officer), R Priest (Group Commander Community and Business Safety), V Peck (HR Apprentice), 2 FBU Representatives and 1 Member of the Public left the meeting.

RESOLVED -

By virtue of paragraph 3 of part 1 of Schedule 12a of the Local Government Act 1972, as the report contains information relating to the financial or business affairs of any particular person (including BMKFA) and paragraph 5 of part 1 of Schedule 12a of the Local Government Act 1972 as the report contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; and on these grounds it was considered the need to keep information exempt outweighs the public interest in disclosing the information.

**FA29**

**FIREFIGHTERS' PENSIONS TOP-UP GRANT**

The Authority considered the report and appendices, details of which were noted in the confidential/exempt minutes.

**FA30**

**DATE OF NEXT MEETING**

The Authority noted that the next meeting of the Fire Authority was to be held on Wednesday 13 December 2017 at 11.00am.

THE CHAIRMAN CLOSED THE MEETING AT 1.30PM