

MINUTES OF THE MEETING OF THE BUCKINGHAMSHIRE AND MILTON KEYNES
FIRE AUTHORITY HELD ON WEDNESDAY 18 SEPTEMBER 2019 AT 11.00 AM IN
MILTON KEYNES COUNCIL CHAMBER

Present: Councillors Brown, Carroll, Christensen, Clare, Exon, Glover, Hopkins (Vice Chairman), Lambert, McCall, McLean, Minns and Watson

Officers: J Thelwell (Chief Fire Officer), M Osborne (Deputy Chief Fire Officer), G Britten (Director of Legal and Governance), M Hemming (Director of Finance and Assets), C Bell (Head of Service Development), D Norris (Head of Service Delivery), S Gowanlock (Corporate Planning Manager), F Pearson (Consultation and Communication Manager), M Crothers (Programme Manager) and K Nellist (Democratic Services Officer)

Apologies: Councillors Clarke OBE (Chairman), Cranmer, Marland, Roberts and Teesdale

2 members of the public

(Councillor Hopkins presiding)

FA16**MINUTES**

RESOLVED –

That the Minutes of the meeting of the Fire Authority held on 19 June 2019, be approved and signed by the Chairman as a correct record.

FA17**CHAIRMAN'S ANNOUNCEMENTS**

The Vice Chairman welcomed Councillor Noel Brown to his first meeting of the Authority and thanked Councillor Paul Irwin whom he replaced.

Chairman's Announcements had been circulated in advance, but the Vice Chairman wished to highlight that on the 9 February 2019, Crew Commander Chris Millward and his wife were in a café when another customer, a nine year old boy, started to choke. When Chris was unable to dislodge the obstruction and the boy's condition deteriorated, he along with an off duty nurse started CPR. They continued for about five minutes until the paramedics arrived. Due in part to the quick thinking and interventions of Chris and the nurse the boy went on to make a full recovery. Their joint efforts had been recognised, and both were due to receive Royal Humane Society Resuscitation Certificates and had won the personal praise of Andrew Chapman, Secretary of the Society. DCFO Mick Osborne was due to present Chris with his certificate at Amersham Fire Station on Monday 23 September 2019.

Members asked that their thanks be passed on to Crew Commander Chris Millward.

FA18

RECOMMENDATIONS FROM COMMITTEES:

**OVERVIEW AND AUDIT COMMITTEE – 17 JULY 2019
PROTOCOL ON MEMBER AND OFFICER RELATIONS**

The Chairman of the Overview and Audit Committee advised Members that this report had been presented at the July meeting of the Overview and Audit Committee and had the support of all three party leaders. It had also been through the Joint Consultation Forum. This was a third refresh of the protocol, the first being in 2011 and the second in 2015.

RESOLVED –

That the Protocol on Member and Officer Relations be approved and adopted.

FA19

LEAD MEMBER RESPONSIBILITIES

The Director of Legal and Governance advised Members that as per the minutes of the Annual Meeting, the allocation and appointment of Lead Members roles was deferred pending a review of the structure of the Senior Management Team. The high level phase of that restructure had been completed and Members would hear about that from the Deputy Chief Fire Officer in the next agenda item. The purpose of this report was for the Authority, firstly, to agree the allocation of Lead Member roles, and secondly to appoint duly nominated Members into those roles.

As detailed in the report, as far as the Director of Legal and Governance could ascertain, the Authority had appointed Members into Lead Member roles since 2004. Annex B showed how the numbers and types of Lead Member responsibilities had changed over the years, with there being only two occasions when they had remained the same from one year to the next.

The proposals for 19/20 were set out in Annex A, which also showed the changes from 18/19. The proposals included the deletion of the Lead Member role for Collaboration and Transformation on the basis that since the implementation of the Policing and Crime Act 2017, the collaboration mind-set had become embedded and the governance structures had matured.

The Director of Legal and Governance advised that it was proposed that the Property and Resource Management Lead Member role was deleted and instead encompassed within an expanded Finance and Assets portfolio. However, to ensure the necessary focus and oversight it was proposed that there remained a separate portfolio for the Blue Light Hub during its build phase.

RESOLVED –

That the following Lead Member responsibilities be approved:
a) Service Delivery, Protection and Collaboration;

- b) People, Equality and Diversity, and Assurance,
- c) Health and Safety and Corporate Risk,
- d) Finance and Assets, Information Security and IT, and
- e) Blue Light Hub (build phase).

That the following Members having been proposed and seconded be appointed as Lead Members for 2019/20 as follows:

Responsibility	Lead Member
Service Delivery, Protection and Collaboration	Councillor Clarke OBE
People, Equality and Diversity and Assurance	Councillor Lambert
Health and Safety and Corporate Risk	Councillor Teesdale
Finance and Assets, Information Security and IT	Councillor Hopkins
Blue Light Hub (build phase)	Councillor Carroll

FA20

SENIOR MANAGEMENT TEAM RESTRUCTURE

The Deputy Chief Fire Officer advised that following on from the February Executive Committee meeting, Members had tasked officers with a review of the senior management team structure, in light of the opportunities presented by the retirement of the Director of People and Organisational Development and matters around collaboration and the recent HMICFRS Inspection of fire and rescue services, and also taking into account the current financial restraints that were in place.

The Chief Fire Officer advised Members it was worth noting that following the reduction of numbers on the senior management team the reallocation of funding was going into the front line in terms of firefighters on fire stations.

RESOLVED –

That the changes to the structure of the Senior Management Team be noted.

FA21

DRAFT 2020-2025 PUBLIC SAFETY PLAN – FOR PUBLIC CONSULTATION

The Vice Chairman advised Members that in front of them were replacement pages 30 and 31 of the Draft Public Safety Plan, this was to reflect a funding update based on an announcement made by the government in the 2019 spending round.

The Chief Fire Officer advised Members that the Public Safety Plan was a statutory duty for all fire authorities which set out its plan going forward to manage the risk within the community.

This draft public safety plan focused on continuing the direction of travel the Authority had adopted over the last number of years. It was worth noting that the finances of the Authority were stretched and although the Authority provided an excellent service, it was not sustainable without additional funding moving forward.

The Head of Service Development advised Members that the Public Safety Plan (PSP), which was what the Integrated Risk Management Plan (IRMP) was called, set out the Authority's strategic approach to the management of risk in the communities it served. There was a statutory requirement for all fire and rescue authorities in England to produce an IRMP that conformed to National Framework requirements. The requirement was for IRMPs to include identification, analysis and mitigation of risks, cover at least a three year period and be subject to public consultation with the community, the fire and rescue services' workforce, representative bodies and partner organisations.

The Head of Service Development advised Members that the design philosophy behind the draft 2020-25 PSP was very similar to that underlying the current 2015-20 PSP. As Members would have seen, it identified and defined the main strategic challenges that the Authority faced over the life of the plan, and how it intended to approach them. The aim was to provide the Authority with strategic room for manoeuvre against a very uncertain financial and political context over the medium term. In particular, it gave the flexibility to respond to differing funding contexts under which the Authority could have more or less money than currently envisaged by the medium term financial plan.

The Head of Service Development advised Members that from the draft PSP, they would have seen that it also considered factors that could potentially affect its ability to maintain and deliver services. In particular, workforce and funding pressures as well as factors that would affect the scale and nature of the demand and range of risks and potential contingencies that it would likely to experience or need to plan for.

The Director of Finance and Assets advised Members that with regard to the updated pages 30 and 31, on 4 September 2019 the government spending round for 2019 was announced, this was around the time this report was written. The Director of Finance and Assets had now produced this addendum, with the latest financial position, to give Members, the public and the Authority's staff the best information available. Prior to spending round 2019 the Authority was forecasting a 5% reduction in settlement funding assessment (business rates and revenue support grant) on a cash basis each year, on trends seen before. The report was showing the pre 2019 forecast and update forecast having now seen the announcements in spending round 2019. There was also an unofficial announcement afterwards that

the pension grant funding received this year worth approximately £1.2M would continue into next year.

The Director of Finance and Assets advised Members, that whilst this picture looked more positive, he would urge caution as this was only a one year spending round. There was no certainty beyond one year and it may all change if there was a general election.

The Head of Service Development advised Members that the Authority had scheduled an eight week consultation which it was aiming to initiate from Monday 23 September 2019. At the heart of the consultation was the qualitative engagement with a representative sample of the public, via the focus groups, which enabled participants to offer an informed perspective on the Authority's plans by giving them the opportunity to ask questions, debate and deliberate over the proposals.

In addition, Members would have seen that the Authority proposed to distribute the draft plan to a wide range of other stakeholders including its own staff, the representative bodies, neighbouring fire and rescue services, other blue light services, all layers of local government, MPs, voluntary sector organisations and business organisations. An online consultation channel would also be open throughout the eight week period to facilitate stakeholder feedback via completion of a structured questionnaire.

The Head of Service Development would also circulate links for the online consultation to Members for them to distribute to any other parties that might have an interest in participating in the consultation. Obviously, the plan was in draft form at this stage and, irrespective of any comments Members may have today, officers would welcome further input from Members during the consultation process alongside that received from other stakeholders. Feedback from the consultation would be reported to the February Authority meeting along with any recommended changes to the PSP for Members to approve as a result of the consultation outcomes and/or the findings of the Authority's HMICFRS report which would be published in December.

A Member asked if the response times which had increased by 15 seconds in the current plan were being addressed and asked if comments on what the Authority was doing to redress that negative move could be included and was advised that there was a national trend around attendance times increasing and there was a number of factors which affected this. The Authority was looking at it more scientifically through data analysis, including where appliances needed to be based at different time of the day. The good news story was that because incidents were reducing and these were average attendance times, there were less incidents in urban areas where attendance times were generally quicker and disproportionately increasing in rural areas where travel times were longer and slower.

A Member asked a question regarding the challenges ahead summary and workforce pressures and felt it would be helpful to add some of the ways this was being addressed and was advised that this was agreed and more narrative would be added.

A Member asked a question regarding the financial pressures summary and was advised that although the picture looked more positive, the Authority was still going to be stretched, but if the Authority could increase local council tax, it would be a much more secure source of funding. As part of the consultation going out to the public, a question would be asked regarding if the Authority could increase council tax would people be prepared to spend £10, £5 or a few per cent to get a better service. It was really important that the Authority got that feedback from the public and it would continue to push government for that flexibility.

A Member asked if the word 'adequately' resource our front-line services (page 29) under 'What does Success look like?' could be changed to 'appropriately' and this was agreed.

A Member asked why there was no reference in the plan to the Safer MK Partnership Board and was advised that one of the Authority's Group Commanders sat on the board of this partnership, and they would be included in the consultation.

A Member asked a question regarding the challenges ahead, the number of automatic fire alarms (AFA) and were alarms getting more sophisticated, and was advised that the Authority still saw the benefit in attending these for the crews to give assurance of a presence and also getting information on the site and to help educate.

A Member asked a question regarding the map in the consultation and asked why it did not show Bletchley and Great Holm Fire Stations and was advised that although these were historical incidents, it was a future look at where the Authority's resources were going to be based.

A Member asked a question regarding road traffic collisions and electric vehicles as a new risk and was advised that the Authority kept abreast of all new technologies and the trainers and crews were well trained on electric vehicles. The mobile data terminals on appliances carried this information by putting in vehicle registrations/vehicle types and giving this information back to the crews.

The Chief Fire Officer advised that finances had improved compared to what the Authority was looking at before the spending review two months ago, but that was the issue, everything had changed in two months and it could change again. The Service itself had modernised and changed to adapt to the financial challenge and staff had met the challenge and certainly that should be reflected in the inspection report when it's published. There was still uncertainly looking forward, the

Authority had the lowest council tax of any combined fire authority in the country and the Authority had been lobbying government for a number of years. Until the increase in council tax was capped in percentage terms, the gap between the highest council tax and the lowest council tax continued to widen. The only certainty the Authority could get within the budget was through the council tax precept moving forward and that would give the Authority an opportunity to invest in the Service with the modernised approach it had taken over the last few years.

The Director of Finance and Assets advised Members that as well as the updated financials on pages 30 and 31, the consultation questions had also been rewritten to reflect the updated position.

A Member asked that the consultation report should show that the spending review was not definite and that there could be more uncertainty and was advised the reason there were pre and post figures, was to try and demonstrate that uncertainty and how quickly things could move in a couple of months and could potentially move again.

RESOLVED –

(Recommendation 1 having been proposed and seconded to be amended to include the text 'subject to the requested amendments'):

1. That the draft 2020-2025 Public Safety Plan at Annex A be approved, subject to the requested amendments, for public consultation;
2. That the consultation plan at Annex B be approved;
3. That the Chief Fire Officer be granted discretion to finalise the presentation of the 2020-2025 Public Safety Plan in readiness for the consultation and to determine the consultation questions.

FA22

P HOLLAND V BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY

The Director of Legal and Governance advised Members that this report was being presented to the Authority so that the findings of the Employment Tribunal in a case resulting from claims brought against the Authority by its former Area Commander could be brought to the attention of Members. Mr Holland alleged that the actions and decisions of the Authority's former Head of HR, and the Chief Fire Officer and the Deputy Chief Fire Officer amounted to unfair dismissal; unlawful disability discrimination; failure to make reasonable adjustments; and victimisation by and on behalf of the Authority.

The Director of Legal and Governance advised Members that as mentioned in the report, the Employment Judge's decision and

reasons set out at great length how the actions of the Authority's senior officers were, in fact, proper and correct in every single respect. Mr Holland brought proceedings against the Authority when, after having crashed his car while intoxicated, and having been convicted of drunk driving, he was dismissed by the Deputy Chief Fire Officer and lost his internal appeal to the Chief Fire Officer. As well as claiming compensation from the Authority, Mr Holland also included a claim to be reinstated as an Area Commander in charge of the Blue Light Hub project in Milton Keynes. Part of Mr Holland's unfair dismissal claim comprised 13 separate legal arguments, alleging that the internal procedures, followed by the Deputy Chief Fire Officer and the Chief Fire Officer were unlawful. Mr Holland withdrew five of those allegations on the second day of the tribunal and a further one on the last day of the tribunal. Of the seven remaining allegations the tribunal found that in fact the procedures followed by the Chief Fire Officer and Deputy Chief Fire Officer were fair and lawful.

Due to the complexity of defending a claim in which discrimination arising out of disability is alleged, legal support and advice was sought from a national law firm and from a barrister. The legal costs in defending the case since receipt of the claim brought against the Authority amounted to £98,155.14. Although the judgment had been issued and published on the internet, and is resoundingly in favour of the decisions taken by officers, it would not be possible to recover the legal costs from Mr Holland. Moreover, the litigation was still 'live' in that it was not yet known if Mr Holland had lodged an appeal to the Employment Tribunal. On that latter point, the possibility of an appeal by Mr Holland could not be ruled out, so the timing of this report enabled Members, should they wish, to consider whether they would support officers in defending an appeal.

Members discussed the report and gave officers their full support to defend any future claims by Mr Holland.

A Member asked what the cost of legal fees for an appeal would be and was advised that it would be in the region of £10k.

A Members asked what the cost would be if the Authority lost the appeal and was advised that if the Authority lost the appeal and it got remitted back to the Employment Tribunal, they may be directed to consider the matter again which would cost further resources in terms of legal expenses. If it then went to a Remedies Hearing, as mention in the report, the Authority had put provision aside for £250k, based on the prudent estimate of a law firm who looked at typical awards in this type of case. That said, as Mr Holland was found to be disabled, the statutory cap was lifted and it would be a considerable sum.

An amendment having been proposed and seconded:

RESOLVED –

That the report be noted and Members give authority and support to officers in defending any appeal.

FA23

STATEMENT OF ACCOUNTS 2018/19

The Director of Finance and Assets advised Members that those Members who were present at the Executive Committee and Overview and Audit Committee meetings in July would be familiar with the issues experienced with the Auditors. Namely, the lack of resource from the external auditors to complete the audit, which meant the Authority was unable to sign off its accounts within the deadline. The plan at the time was to bring the accounts back to today's meeting for approval. However, at the time of publication of the papers, not all the audit work had been completed and the Director of Finance and Assets was therefore reluctant to publish a set of accounts that may, unlikely as it may be, need amending. As it was today, the audit was still not complete.

The Director of Finance and Assets advised Members that this was a national issue, not just with Ernest & Young but with other Auditors. Audit companies were struggling with recruitment and retention of staff and Members sitting on other Authorities would probably be experiencing this issue as well. It was nothing the Authority had done, its accounts had been prepared well in advance. Councillor Marland in his role on the LGA had also represented the Authority's views in that respect. A letter of complaint had been sent to Ernest & Young as requested by Members, but no response had been received to date, despite chasing and a response being promised.

The Director of Finance and Assets advised Members that the plan was to now take the adoption of the accounts to the November meeting of the Overview and Audit Committee, where it would be finalised there.

A Member asked that this matter be escalated and a letter sent to the government and was advised that when the Authority originally thought of writing a letter of complaint, it was to be sent to the Public Sector Audit Appointments (PSAA) who were the body commissioned by the government to carry out this procurement process. However, when looking at their complaints procedure, they won't consider any complaint until it's been through the relevant audit body's complaint procedure first. So once the Authority had exhausted the E&Y procedure, if the Authority was not satisfactorily reassured they are going to rectify the situation, then it would escalate the complaint to the PSAA.

Members asked that the Director of Finance and Assets also wrote to the local Members of Parliament, expressing the dissatisfaction of the audit service the Authority had been receiving.

FA24 BLUE LIGHT HUB FOR MILTON KEYNES – 2ND FLOOR INVESTMENT

The Vice Chairman asked Members if they had any questions before the exclusion of press and public.

A Member asked if a tenant had been found for the 2nd Floor of the Blue Light Hub, and was advised that no, nothing had been agreed formally yet with a tenant, but there was a lot of interest.

A Member asked if there was an intention to build the 2nd Floor in the budget and was advised that yes, the original budget contained an amount for building a 'shell' so mainly the external structure of the top floor. It was always the intention to bring back a proposal to Members as to how it was fitted out for the future whether that was for one of the blue light services to expand into or for another public sector body, or a commercial let. The purpose of the report was for Members' approval to bring it up to the standard required to let it out.

An amendment having been proposed and seconded:

RESOLVED –

That the works required to bring the 2nd Floor of the Blue Light Hub into a full leasable condition, for commercial value rental opportunities, be commenced as soon as possible, within the budget set out in Annex 1 (Table 1).

FA25 EXCLUSION OF PRESS AND PUBLIC

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 on these grounds it is considered the need to keep information exempt outweighs the public interest in disclosing the information.

FA26 BLUE LIGHT HUB FOR MILTON KEYNES – BUDGET UPDATE

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

FA27 DATE OF NEXT MEETING

The Authority noted that the next meeting of the Fire Authority was to be held on Wednesday 11 December 2019 at 11am.

THE CHAIRMAN CLOSED THE MEETING AT 12:55 PM