

MINUTES OF THE MEETING OF THE BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY HELD REMOTELY ON WEDNESDAY 17 FEBRUARY 2021 AT 11.00 AM

Present: Councillors Carroll, Christensen, Clarke OBE (Chairman), Cole, Exon (part), Hall, Hopkins, Hussain, Lambert, Marland, McCall, McLean, Mills, Minns, Stuchbury and Walsh

Officers: J Thelwell (Chief Fire Officer), M Osborne (Deputy Chief Fire Officer), D Norris (Head of Prevention, Response and Resilience), G Britten (Director of Legal and Governance), M Hemming (Director of Finance and Assets), A Hussain (Deputy Director of Finance and Assets), C Bell (Head of Protection & Assurance), S Wells (Area Commander), F Mansfield (HR Advisor and Development Manager) P Mould (Group Commander) and K Nellist (Democratic Services Officer)

Apologies: Councillor Mallen

Live webcast broadcast:

<https://www.youtube.com/channel/UCWmIXPWAscxpL3vIiv7bh1Q>

The Director of Legal and Governance confirmed the webcast was live.

The Director of Legal and Governance welcomed Members to the February Meeting of the Buckinghamshire & Milton Keynes Fire Authority and confirmed that the meeting was being live streamed on the Buckinghamshire Fire & Rescue Service YouTube channel. Following the meeting, a recording would continue to be available on this channel and it was also being recorded, should there be any technical difficulties.

FA30

MINUTES

RESOLVED –

That the Minutes of the meeting of the Fire Authority held on 9 December 2020, be approved and signed by the Chairman as a correct record.

FA31

CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised Members that Councillor Bendyshe-Brown who had been a Member of the Fire Authority from 2013-2016 had recently passed away.

A minute's silence was observed in remembrance of Councillor Bendyshe-Brown.

The Chairman announced that Buckinghamshire Fire & Rescue Service has played a key role in supporting COVID-19 vaccination centres in the heart of its community. Following a request back in December last year, the Service has been working closely with Buckinghamshire Clinical Commissioning Group (CCG), in supporting the preparations and providing logistical co-ordination at three of the primary care network (PCN) sites for GP-led vaccination centres across Buckinghamshire. The three sites, located at Stoke Mandeville Stadium in Aylesbury, Adams Park (Wycombe Wanderers FC) and High Wycombe Town Hall are an integral part of the delivery model to help the most vulnerable people in our communities, receive the essential vaccine. As a result of the support provided by our highly experienced operational commanders and the numerous volunteers, these three sites alone, have been responsible for delivering 27,100 vaccinations.

Furthermore, I am also extremely pleased to announce that the Service would be providing the exact same logistical support at the Milton Keynes, Saxon Gate vaccination centre, following a recent request from

Bedfordshire, Luton and Milton Keynes Clinical Commissioning Group (CCG).

One of our six Firefighters, currently deployed to South Central Ambulance Service, was mentioned in a recent event on 29 January 2021. A mum to be was in the early signs of labour, but things progressed quickly and the mum and dad tried to make it to hospital in their own car, but alas the baby was having none of it, and they had to pull over in the bus stop on the Risborough Road in Aylesbury opposite the petrol station. This is when they called for an ambulance. Mum's waters broke in the passenger seat of their car about 30 seconds before the ambulance arrived. With the assistance of Entinox they managed to get her into the ambulance. A couple of minutes later, on the way to hospital, the paramedic in the back called for the firefighter to stop the ambulance and come and help in the back. The baby girl was delivered at approximately 03:00 hrs. mum and baby were fine.

I wonder if the place of birth will be detailed as back of ambulance, near the Goat Centre, Aylesbury!

(Councillor Exon joined the meeting)

FA32

RECOMMENDATIONS FROM COMMITTEES:

EXECUTIVE COMMITTEE – 7 FEBRUARY 2021

(a) THE PRUDENTIAL CODE, PRUDENTIAL INDICATORS AND MINIMUM REVENUE POSITION

The Vice Chairman as Lead Member introduced the report by advising Members that the objective of the Prudential Code was to ensure that within the framework, the capital investment plans of local authorities were affordable, prudent and sustainable. The Vice Chairman was pleased to note that the current capital programme met all these criteria. Furthermore, the Authority had already made sufficient revenue provision to cover all future repayments of borrowing. However, there was no scope for early repayment of any of this borrowing due to the prohibitive early repayment penalties that would be applied.

The Deputy Director of Finance and Assets advised Members this was a technical report, presented annually. The Authority had set aside £47k in order to pay off its debt and had already made sufficient revenue provision to cover the repayment of its gross borrowing. However, due to prohibitive penalties the early repayment of this borrowing was not currently an option. The Authority had no plans for additional borrowing in the foreseeable future, according to the current Medium Term Financial Plan. It was recommended that the Authorised Limit for 2021-22 continued to be set at £2m higher than the Operational Limit to allow for the effective management of cashflow in relation to capital receipts from land sales.

A Member asked about the outstanding borrowing and was advised that the gross borrowing at the start of 2019/20 financial year was £6.797m and the capital financing requirement was £1,590m. Sufficient provision had been set for the initial long-term borrowing.

A Member asked if this was in keeping with other fire authorities borrowing and was advised that this was borrowing taken out many years ago (2010/11), and was in line with recommended borrowing, it was used predominantly to fund the capital programme, and there would be no further borrowing in the foreseeable future.

RESOLVED –

1. That the Prudential Indicators for 2021-22 be approved;

2. That the Minimum Revenue Provision policy Statement be approved.

(b) MEDIUM TERM FINANCIAL PLAN (MTFP) 2021/22 TO 2025/26

The Vice Chairman as Lead Member introduced the report by advising Members that this paper presented the revenue budget and capital programme, which followed on from the Financial Strategy approved by Members last December. As Members would appreciate, producing a budget this year had been especially challenging due to the unprecedented impact of Covid-19 on the economy, and in turn, public finances. Even at this stage, there was still uncertainty regarding the amount of Government support the Authority would receive during the coming year. This would depend on, amongst other things, the outturn position on the Council Tax and business rates collection funds, which won't be apparent for a number of months.

As colleagues would appreciate, these figures would contain significant provisions for doubtful debts and potential appeals, and the Finance team would keep a close track of this income during the coming year. With no flexibility to increase Council Tax above 2% without triggering a referendum, the Authority was budgeting to use £1.1m of reserves to balance the budget for 2021-22. In light of updated figures received since the papers were published, revised appendices would be presented today.

The Deputy Director of Finance and Assets advised Members that the Authority had seen a reduction in its Council Tax base by 0.65%. For comparison, in previous years, the Council Tax base had increased in the region of 1.5% to 2%. To counter some of this reduction, the Government had announced an additional £670m unringfenced grant that would be distributed to authorities in recognition of the increased costs of providing local Council Tax support following the Covid-19 pandemic. Indicative figures published on 18 December 2020 show the Authority would receive in the region of £336k which had been reflected in the projections under the heading Council Tax Support Grant.

The Deputy Director of Finance and Assets advised Members that without sufficient time to undertake a full comprehensive spending review (CSR) due to the Covid-19 Pandemic, the Government had effectively rolled forward amounts within the settlement funding assessment for 2020/21 and increased these by the rate of inflation as at September 2020. The exception was the pension grant funding of £1.2m which was a flat cash settlement and expected to be included in future years' settlement funding assessment and subject to review as part of the anticipated three-year comprehensive spending review. It was anticipated that next year the Government would revert to a three-year comprehensive spending review whereby all funding would be subject to review.

The Deputy Director of Finance and Assets advised Members that in terms of the Authority's budget setting process, this year officers reverted back to the incremental budgeting setting approach when developing the budget proposal for 2021/22. With the projected reductions in Council Tax base and business rates funding, the budget setting process was scrutinised by Officers and Members to ensure only proposals which added value for money were approved. As part of the one-year CSR, the Government announced that public sector pay increases would be paused, excluding NHS, and those earning less than £24k. Therefore, no pay award had been built into the 2021/22 budget for anyone earning more than £24k.

The Deputy Director of Finance and Assets took Members through the revised Appendix 1 and 2.

A Member asked when setting the 2022/23 budget was it sustainable to use reserves long-term and was it viable for the Authority to keep using reserves without further government support in the long term.

The Chairman advised that as Members were aware, there was a lot of work being done by officers and Lead Members to try and increase the amount the Authority could receive from Council Tax. Also, officers had anticipated there would be a three-year comprehensive spending review (CSR), unfortunately, due to the Covid-19 pandemic, this was only one year. The Chairman hoped for a three-year CSR next year, and also that the Authority would be given permission to increase its Council Tax by more than 2%. Without knowing what would happen next year, it was difficult to say if reserves would need to be used.

The Chief Fire Officer advised Members that those who had been on the Authority for a number of years would know the Authority had been campaigning to increase Council Tax by £5 per year. If in the longer term it looked as though the Authority was not sustainable, then Members may have to make a decision to hold a referendum. The Authority was not recommending a referendum this year, but Members would need to think about having a referendum to increase the Council Tax to increase the precept by more than 1.99%. The cost of a referendum would cost the Authority in the region of £600k.

Members discussed the possibility of holding a referendum, or not holding a referendum, and also ringfencing £600k, out of reserves, to pay for a referendum on the precept in future years.

RESOLVED –

1(a) That the report and Statement of the Chief Finance Officer (see section 8 of Annex A) be noted.

1(b) A Council Tax precept of £67.16 for a band D equivalent property (a 1.99% increase from 2020/21 – equal to 2.5p per week) and the revenue budget as set out in Appendix 1, revised 17 February 2021, be approved.

1(c) That the capital programme as set out in Appendix 2, revised 17 February 2021, be approved.

2. To not hold a referendum to increase Council Tax above the 2% threshold for 2021/22.
3. To note that a referendum may need to be considered for 2022/23 depending on the outcome of the Comprehensive Spending Review.

It being proposed and seconded:

RESOLVED -

4. That £600k be transferred from the existing earmarked Future Funding Reserve to a new earmarked reserve, the purpose of which is to hold funding for a potential referendum in a future year.

Details of the recorded vote for resolutions 1(a) to 1(c) are set out below:

	For	Against	Abstained
Carroll	✓		
Christensen	✓		
Clarke OBE	✓		

Cole	✓		
Exon	✓		
Hall	✓		
Hopkins	✓		
Hussain	✓		
Lambert	✓		
Marland	✓		
McCall	✓		
McLean	✓		
Mills	✓		
Minns	✓		
Stuchbury	✓		
Walsh	✓		

(c) MEMBERS' ALLOWANCES

The Director of Legal and Governance advised Members that as a standalone fire and rescue authority, the Authority had a wide discretion in adopting an Annual Scheme of Allowances. The only proviso was that the Authority must have regard to the recommendations of the Independent Remuneration Panels of its two constituent councils. The proposed Scheme of Allowances for the year 2021/22 was based on a 0% increase from the current financial year.

The Director of Legal and Governance advised Members that he had noticed that Appendix C in the pack was not the same one presented to the Executive Committee last week. It was the same in all respects except that on the last page, the last paragraph regarding indexation for 2021/22 re-emerged from an earlier abandoned draft. As set out in the Executive Summary of the cover report the Scheme of Allowances had been linked to the NJC annual pay award for firefighters since 2012/13. The recommendation was that this indexation be suspended for 2021/22 rather than apply the 2% increase. With that erroneous last paragraph removed, there were no other changes proposed in the Annual Scheme.

A Member asked if suspended meant deferred and then backdated or suspended and not taken at all, and was advised that it was the latter, suspended and not to be taken at all for 2021/22.

RESOLVED –

That the Scheme of Members' Allowances for 2021/22 (Appendix C) be adopted.

FA33

TREASURY MANAGEMENT STRATEGY 2021/22

The Vice Chairman as Lead Member introduced the report by advising Members that this report was being presented as the Authority was

required to approve the Treasury Strategy each year. There were no significant changes proposed to the Strategy, other than to reduce the forecast income budget from £150k to £30k. This was as a direct result of the Bank of England reducing the base rate to 0.10% in response to the Covid-19 pandemic.

The Deputy Director of Finance and Assets advised Members that the current strategy had been operating effectively and outperforming the benchmark targets. However, since the outbreak of the Covid-19 Pandemic, the Bank of England reduced the Base Rate to 0.10% in March 2020. Consequently, this had resulted in a reduction in the level of returns from investments. The financial year 2020/21 would be the first year the Authority would be unable to achieve its investment returns target since bringing the treasury function in-house. As the Vice Chairman stated above, the investment returns budget for 2021/22 would be reduced from £150k to £30k. There was no significant change from the previous strategy, although given the current pandemic, the focus would continue to shift towards maintaining a higher level of liquidity than would normally be the case.

The Chairman asked that with the impact of Brexit, would the Authority be looking at investing in European Banks, particularly the German Banks and was advised that there hadn't been any investments outside the UK for a number of years, and there were no plans to do so at present.

RESOLVED –

That the Treasury Management Policy Statement, Treasury Management Strategy Statement and the Annual Investment Strategy for 2021/22 be approved.

FA34

PAY POLICY PRINCIPLES AND STATEMENT 2021/22

The HR Advisory and Development Manager advised Members that the pay policy was required to be updated each financial year and was being presented today as the 2021/22 pay policy for the Authority. This pay policy was based on the current 2020/21 pay policy, however for 2021/22 the Statement has been significantly updated, with additional sections added and further clarification provided to ensure it remained relevant and fit for purpose.

The HR Advisory and Development Manager advised Members that looking at specific sections of the pay policy and the pay multiples and ratio of highest to lowest pay, it continued to fall for the ninth year which was positive, seeing the ninth year ratio improving by 2% from last year and by 28% since 2012.

Within the last three Pay Policy cover reports, a note had been made of the introduction of a public sector exit payment cap. The Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020, which restricted exit payments to £95k and had been incorporated into the Statement which was presented today. However, there had been legal challenge, and following this legal action, an announcement was made on Friday 12 February 2021, confirming the government's decision to revoke the cap on public sector exit payments, which was implemented on 4 November 2020. Following the announcement, it was proposed that the last two paragraphs of Section 12 of the Pay Policy Statement, were removed. It was recommended the pay policy statement, with the minor amended on the exit payment cap, was approved for publication, effective 1 April 2021.

A Member asked that it be noted that it was the Government who had halted a public sector pay rise this year and not the Authority.

With the presenting officer amending the recommendation to reflect the withdrawal of the Restriction of Public Sector Exit Payments Regulations 2020 by the government it was:

RESOLVED –

1. That the Pay Policy Principles and Statement as set out in Annex A, with the minor amendment of the removal of references to the public sector exit payments regulations, as the statutory Pay Policy Statement for 2021/22 be approved.
2. That the Pay Multiple ratio continues to fall for the ninth year running, with the ninth-year period seeing the ratio improve by 28 per cent since 2012 be noted.

FA35

BUILDING RISK REVIEW PROGRAMME

The Group Commander advised Members that the purpose of this report was to provide an overview of two Home Office funded Protection programmes. The Ministry of Housing, Communities and Local Government (MHCLG) had established the Building Safety Programme to make sure that buildings were safe, and people feel safe, now, and in the future.

Following the Grenfell Tower fire, the Government had banned combustible materials in the external walls of high-rise residential buildings of 18 metres and over. Following a review into its effectiveness, was now consulting on extending the ban significantly further, including lowering the 18m height threshold to 11m. In March 2020, the Home Office Fire Protection Board's first Building Risk Review (BRR) exercise focusing on Aluminium Composite Material buildings was successfully completed by fire and rescue services (FRS's).

The Group Commander advised Members that the next phase of MHCLG work to be undertaken, involved two Protection programmes. The Building Risk Review programme, which would deliver a review of all high-rise residential buildings over 18m by the end of December 2021, and the Protection Uplift Programme, to drive improvements in local protection capability. Both programmes had been supported through Home Office grant funding.

Buckinghamshire Fire and Rescue Service (BFRS) had received grant funding of £60,000 based on there being 32 in scope Buildings, as identified by the Home Office. However, BFRS records had identified a total of 71 premises above 18m, 57 of which were in scope. A third of these buildings had been triaged so far and, subject to COVID-19, the Service was on target to complete this programme by the middle of 2021.

The Protection Uplift Programme was set to bolster fire and rescue services protection capability and delivery. This Service had received a grant of £123,549.85 to support this based on 2,393 in scope premises, according to MHCLG.

A Member asked if a further report noting any changes or recommendations could be brought to Members and was advised that officers would continue to update Members on matters around the building risk review, protection uplift and infrastructure activities.

The Chairman advised Members that she had asked for a letter to be written to the Planning Departments of Buckinghamshire Council and Milton Keynes Council asking that the Authority become a statutory consultee on high rise buildings. The Chairman appreciated that with the

planning changes made in December 2020, some residential properties could just be built.

The Area Commander confirmed there was a draft letter waiting to be presented as part of a briefing for consideration.

A Member asked regarding the number of buildings in scope for £10m funding including one religious building in Buckinghamshire, where it was and was advised that the Authority was aware of a number of religious premises with a sleeping risk. The one highlighted in the report related to a nunnery in the south of the county. Although only one had been highlighted by MHCLG, the Authority's own internal data team had very robust information and that was what officers were working from.

The Chairman asked for updated figures so that Members would be aware of exactly how many buildings were being looked at in Buckinghamshire and Milton Keynes.

RESOLVED –

That the Service's approach to the BRR be noted.

It being proposed and seconded:

RESOLVED –

That a letter go from the Authority to the Planning Departments of the constituents councils, requesting that it become a statutory consultee in the planning process for certain types of premises.

FA36

(At the Chairman's request)

The Director of Legal and Governance updated Members on an important matter relating to the McCloud/Sargeant ruling which was mentioned by the Deputy Director of Finance and Assets in the executive summary of his report on the MTFP. The upshot of the litigation brought by the FBU against the Government in 2016 was that the Court of Appeal on 20 December 2018 ruled that the transitional protections introduced with the new Firefighters Pension Scheme in 2015 were unlawfully discriminatory on the grounds of age.

There then followed an Employment Tribunal remedies hearing on 18 December 2019. The result of the Employment Tribunal hearing was the issuing of a Declaration that, pending the final determination of all of the remedy issues, those that brought claims in England and Wales were entitled to be treated as if they remained in 'the 1992 firefighters' Scheme'.

The Government announced on 25 March 2020, that it was developing proposals to address the unlawful age discrimination identified by the Court of Appeal in the 2015 reforms to the Firefighters' pension scheme, and that it would take steps to remove this discrimination retrospectively. It confirmed that this would apply to pension scheme members regardless of whether individuals had made a claim.

The Government consulted on proposals to remove this discrimination in 2020 and the Authority responded to the consultation through its Director of Finance and Assets. On 4 February 2021, the Government issued its response to the consultation indicating its intention to proceed with a deferred choice underpin to remove the discrimination for scheme members employed by fire and rescue authorities during the so-called 'remedy period' by creating new legislation. The remedy period was defined as between 1 April 2015 and 31 March 2022. The remedy only applies to members who were in service on or before 31 March 2012 and continued to be in service on or after 1 April 2015.

The Director of Legal and Governance advised Members that whilst amended legislation is awaited, there were 15 firefighters employed by the Authority (ranging from firefighter, through to Principal Officers) who would become eligible to retire on ordinary pensions before 1 April 2022 and before the necessary legislation was enacted. These individuals had therefore been caught in limbo.

In the meantime, the Authority, together with all other fire and rescue authorities, were respondents to the same claim issued against the Government by the FBU in 2016. The defence to that claim was coordinated by the LGA and was finally heard by the Employment Appeal Tribunal on 16 December 2020.

The defence being run by the LGA was that fire and rescue authorities were essentially 'piggies in the middle' and had no choice but to implement the pension changes which had been approved by Parliament, thereby relying on the statutory defence to age discrimination in Schedule 22 of the Equality Act 2010. The FBU argued that sections 61 and 62 of the Equality Act 2010 obliges employers to apply the pension regulations in a way that removes any discriminatory effect and therefore there was no defence available to fire and rescue authorities.

The Employment Appeal Tribunal handed down its judgment on 12 February 2021. The Employment Appeal Tribunal has ruled that Section 61 prohibits fire and rescue authorities from acting in a manner which discriminates on the grounds of age and the defence provided of Schedule 22 of the Equality Act 2010 is not available to the fire and rescue authorities. It ruled that under the proper interpretation of Section 62 of the Equality Act 2010 fire and rescue authorities had the power to pass a resolution to remove any discriminatory effects in the pension scheme.

It was therefore proposed that a meeting of the Executive Committee should be convened in order that it could give effect to the ruling of the Employment Appeal Tribunal by passing the necessary resolutions to remediate the position of those of its employees caught in limbo and uncertainty as to their pension entitlements before 1 April 2022. Once that Executive Committee meeting had been convened more detailed information would be able to be provided, including whether the LGA was likely to appeal the ruling and details of some of the technical and administrative challenges that would need to be overcome by colleagues here and at the pensions administrators to ensure that firefighters receive their proper entitlements. A resolution passed at Executive Committee meeting should also help crystallise some of the provisos and assumptions in the Authority's retirement and succession planning.

The Chairman wanted to put on record her thanks on behalf of all Members to all officers and staff who had taken part in putting in place the Covid Vaccination Centres across Buckinghamshire and Milton Keynes, and also all the assistance offered to our partners by staff. The Chairman was extremely honoured to be Chairman of such a superb service that does so much for the residents in its community.

The Chief Fire Officer also wanted to put on record his thanks to the Chief Executives and all staff at Buckinghamshire Council and Milton Keynes Council for their fantastic work in holding briefings three or four times a week and keeping all partners up to date.

FA37

DATE OF NEXT MEETING

The Authority noted that the next meeting of the Fire Authority will be held on Wednesday 16 June 2021 at 11am.

THE CHAIRMAN CLOSED THE MEETING AT 12.41 PM