

Minutes of the Executive Committee

6 June 2018 at 1000 hours

Fire Service Headquarters, Vauxhall Road, Birmingham

Present: Councillor John Edwards (Chair)
Councillors Allcock, Aston, Barlow, Atwal Singh,
Hogarth, Walsh

Apologies: Councillor Mottram

Observers: Councillors Brackenridge, Idrees and Spence

4/18 Declarations of Interest

The Chair declared a non-pecuniary interest and stated he was in receipt of a firefighters' pension.

5/18 Minutes of the Executive Committee held on 26 March 2018

Cllr Allcock stated that he had attended the meeting and asked for his attendance to be noted and apologies removed.

Resolved that the minutes of the meeting held on 26 March 2018, be approved as a correct record.

6/18 Delivery of the Plan 2018-2021

The Committee noted the progress made towards delivery of The Plan 2018-21 and the Financial Efficiency Plan (FEP) and recognised the impact and risks outlined in the report of the trade dispute and agreed to indicate a preferred option at the end of the meeting.

The Chief Fire Officer presented the report and asked his Statutory Officers to also provide further information on governance and the Financial Efficiency Plan (FEP) to inform the Committee's decision. The Committee noted the information on the trade dispute lodged by the Fire Brigades Union (FBU) on the 11th April 2018 and the steps being taken by both the Service and the FBU to resolve the trade dispute.

The key considerations are to maintain the effective delivery of assertive, effective and safe response, protection and prevention services to local communities, aligned to the expectations as set out in the Fire and Rescue National Framework for England 2018 and the Authority's Integrated Risk Management Plan (IRMP).

The Revised National Framework issued on 8 May 2018 was provided as an Appendix to the report.

The CFO stated that the recent Public Consultation had provided emphatic support for The Plan.

The details of the Trade Dispute lodged with the Authority on 11 April 2018 were set out in the report as Appendix 2.

The Service and the Authority did not recognise the picture that the trade dispute provided and had subsequently taken part in the discussions facilitated by the National Joint Council ((NJC) Joint Secretaries. The purpose of this meeting was to achieve a shared information picture of the evidence presented by both the Service and FBU on the five points of the trade dispute. The meeting took place on the 15 May 2018.

On the 29th May a NJC conciliation meeting was held with the purpose of seeking a resolution to the dispute. Unfortunately, progress was not made to address the FBU concerns in a way which would maintain the delivery of the WMFRA strategy and deliver a balanced budget.

Following a ballot for industrial action (including discontinuous strike) the Authority was notified on 29th May that the outcome of the ballot supported a mandate for the FBU to commence industrial action, as set out in Appendix 3.

The turnout of FBU members to ballot was 82%. 90% of those members that voted, voted to take industrial action.

It was understood that industrial action would commence at some point prior to 26 June, however at the time of writing the report notification of strike action had not been received.

The Service remains committed to reaching a local agreement with the FBU around shared solutions to deliver the Strategy and continues to engage in local meetings following the announcement of the results of the ballot.

6.1 Future Direction – Options

In confirming the future direction of the Authority two separate options were provided and are set out below. These options do not contain an option for a local agreement to be reached for two reasons: the national FBU position and the current status of the trade dispute.

The Executive Committee considered the risks and impacts of each option in relation to; legal duty of the Authority, the alignment to the Framework, assessment of risk as set out in the IRMP, commitment to the agreed FEP and the role of the Authority in consulting and approving The Plan 2018-2021.

An extensive discussion on the Options had been held with Members of the Fire Authority at the Policy Planning Forum held on the 4 June 2018 and were presented to the Committee as follows:

Option 1 - Maintain current delivery of The Plan 2018-21

Maintaining the Authority's commitment to The Plan 2018-2021 and all components of the FEP, ensures the achievement of statutory requirements for the continued delivery of services within a balanced budget. This secures

the future sustainability of the current SDM providing effective and integrated response, protection and prevention activities to reduce risk and vulnerability within our communities.

Delivery of strategically aligned alternatively funded activities within the existing SDM, is critical to supporting the achievement of the £2m income generation component of the financial efficiency plan. The sustained delivery of such activities would be achieved through new entrants and existing volunteers. This approach supports the cultural change needed to deliver wider services, which are critically aligned to our core prevention, protection and response services to effectively reduce risk and vulnerability.

In the absence of a local agreement maintaining this approach will likely lead to industrial action, potentially resulting in the need to deliver our statutory services through resilience arrangements.

Resilience arrangements will have impact on our ability to meet the requirements of the IRMP in delivering service to communities and the 5-minute attendance standard, as well as budgetary impacts.

However, when considered against the requirements of the 3-year rolling Plan and 4-year FEP, these impacts will not continue past the period of industrial action and can be managed without the need to revise the Authority's strategic direction.

This approach will ensure the Authority can continue to plan longer term opportunities for transformation and sustainability, which is critical at a time where WMFS are challenged financially and scrutinised more closely. The continued delivery of alternative funding activities through new entrant and volunteers, supports the Government expectations for Fire and Rescue Service reform; delivering efficient and effective services through collaboration and focussing on reducing risk and vulnerability within our communities.

Option 2 - Revise The Plan 2018-21

Revising The Plan in a manner that will resolve the current trade dispute, thereby avoiding industrial action, will require the resolution of all five points of the dispute including the removal of new entrant contracts.

The importance of avoiding industrial action is an important consideration and resolving the trade dispute would also reinforce the Authority's commitment to the role of the NJC and collective bargaining through the locally recognised trade unions.

Taking this course of action would also create a number of less positive impacts and risks were highlighted in the legal and financial implications sections of the report.

Option 2 would require a variation to The Strategy and would have an organisational impact.

The Treasurer stated that the issues laid out in the financial implications and consequences depending on option chosen, would cause significant impact on The Plan and budgets. Industrial Action would also impact on budgets.

Industrial Action and changing the Strategy would have a significant impact on The Plan and Budget.

The Treasurer focussed on how the budget shortfall would be met if Option 2 was chosen and, in particular, the impact on the Authority's strategy and associated Service Delivery Model. The Treasurer strongly urged that the Authority should determine the alternative ongoing Service changes that would be required to meet the funding gap before the next budget setting exercise.

Industrial Action would bring financial issues, however, a change to the Strategy would cause more ongoing consequences that need to be identified and understood to ensure the ongoing budget was set on an appropriate basis.

The Treasurer indicated he anticipated that the External Auditors would expect an explanation of the financial changes to be part of the decision-making process if there was a change to the Authority's strategy and that this was likely to feature as part of the Auditor's considerations of the Authority within the Audit Findings Report.

The Clerk of the Authority drew the Committee's decision to the Legal Implications set out in the report and stated that if the Committee voted for Option 2, they would be reversing the decisions made in November 2017 and February 2018 in approving the strategic direction of the Authority and there would be further implications around meeting the requirements of the National Framework and financially, both of which would be subject to scrutiny.

There would also be a requirement to withdraw the new entrants contracts, which would in turn have implications on the ability to deliver against our IRMP and this would, most likely, lead to further public consultation as changes to the 3 year rolling strategy, The Plan, would be required for future years.

The Clerk asked Members to ensure that the decision they made today was supported by a clear evidence base.

The Chair in moving option 2 made the following comments:

"The Executive Committee was to give consideration to a report which addresses how its strategic plan could be delivered over the next three years given the likelihood of imminent industrial action by firefighters of West Midlands Fire Service.

A difficult decision has to be made to avert industrial action and to ensure that our emergency services to our communities continue with the speed and efficiency that people quite rightly expect.

We do not want to see industrial action cause disruption to our fire and rescue service because that would have immediate and ongoing impacts on community safety. We

have no clear picture on how long the action might continue and how entrenched it may become.

We need to be very careful not to embark on a journey when there is no clear destination. We also have to be aware of future staff relationships and the need for good industrial relations as we move forward. In making this decision, we have to take into account the depth of feeling evidenced by the size of the ballot. We also have to consider the future credibility and relevance of WMFRA and WMFS as members of the National Joint Council and the Local Government Association.

We will continue to seek jointly agreed solutions with all our trade unions to deal with the serious impacts that budget reductions of £38 million are having on our fire and rescue service and will do our utmost to deliver the most efficient and effective service we can with the resources available to us.

In supporting Option 2, Members are deciding that the new entrants contracts will now be withdrawn and while the process to deliver that is implemented those sections of the contracts that have proved problematic will remain suspended. Conversations with the FBU will continue with a clear expectation of an early resolution of the other points in the dispute.

As a result of the action we are taking today we now expect the threat of industrial action by the FBU to be lifted.”

One Member stated that he had listened to the arguments for Options 1 and 2 and he knew the numbers and implications and risks of the decision. However, there had been an overwhelming ballot result and he felt that the people of Dudley did not elect him to see firefighters on a picket line, supporting industrial action and as a Member of the Labour Party he could not support Option 1.

Another Member had a different view and didn't want to see firefighters undertaking strike action, but felt in some respects it was focused on quite a minor issue in regard to the Fire Service and a didn't want the Authority to be in the same position in the future with a more major issue. He

referred to new employees having accepted new contracts and existing employees had not been forced into undertaking the work outlined in new contracts and wondered why the FBU had created this situation.

He enquired if the new entrant's contracts were to be withdrawn, if new entrants would then be issued with the previous contracts. He stated that he supported the recommendation that the whole Authority had agreed to in November 2017. He understood the Labour Party's position and the difficult situation, but it was felt seven months previously that the move to new entrant's contracts was the best way to balance the books and he could not just change his mind. The Councillor also expressed his concerns on the financial cost of a strike.

He could not support Option 2.

The Chair replied that the reality was now to revise the November 2017 decision as overwhelming new material evidence had become available to consider against this decision and the Authority were not in a position to deliver this strategy.

There was a major national issue facing Fire and Rescue Services on how it could transform the role map. The NJC had been looking at this issue for the previous 12 months.

He stated that the Ballot sent a message to the Fire Minister on the need to deliver transformation nationally and support any new role map through additional resources for the fire and rescue sector. Government needs to intervene to make it work and this is not a minor issue.

There was now a process to go through and officers would be required to find a way to make this work.

Further comments were not made by any other members.

The Treasurer wished to provide a balanced view to the members and asked for context regarding how the Authority's strategic plan could be delivered over the next three years as referenced in the Chair's comments.

There would be an impact on the Plan arising from Option 2 and the Treasurer asked the Chair if he could give an indication of the Service changes and budgetary consequences arising from that option.

The Chair recognised that in choosing Option 2 as outlined, would require the Authority to revisit its Service Delivery Model and FEP. The loss of income would have an impact on both the FEP and SDM and these would be required to be revised before the summer break. Further financial planning would be required and there would be consequences to losing £1/2m of generated income, but officers would be required to set out recommendations for the Authority to consider on how it could achieve a balanced budget.

The Treasurer stated there would be a significant budget gap that would need be required to be funded, potentially from general balances in the current year or part of current year.

The Chair confirmed that balances would be used, but that the Authority had not made any income over the previous six months since the end of the trial. Any assumed income had not been earned because of the payments made for business continuity purposes.

If the Treasurer advised the use of balance and then a strategy for a balanced budget, the Authority would expect officers to provide them with a solution for consideration.

The Treasurer advised there was a £1m Alternative Income budget in the current year, which had been set on the basis there would be no business continuity arrangements in place and so Option 2 would put the budget out of balance. The use of balances was not sustainable to meet the budget gap that would be left by reduced Alternative Funding, although there might be a requirement to use additional general balances in the short term i.e. during the current financial year. Also, in future years, clarity would be required to set an alternative strategy and Service Delivery Model together with an associated balanced budget.

An enquiry was made as to likelihood of tenants in the empty sections of Headquarters and if the Authority could lease the building out to obtain an income.

The Treasurer confirmed that where appropriate the Service would collaborate and Birmingham City Council had rented part of the building until recently. The upper part of the building had been emptied in readiness for the relocation of Fire Control.

The Service were also looking to rent out or put to alternative use the area on the ground floor vacated by Birmingham City Council.

Headquarters formed part of the Authority's Asset Plan and the Treasurer confirmed that four locations were currently being prepared for use by Police teams and provided some level of income. Space would be leased where appropriate.

The Chair stated there were clearly financial implications to be considered, but also stated that Option 1 had financial complications and there was no local agreement and this would create on-going financial problems. The Authority would continue to hold dialogue with the FBU, but there are potential difficulties with both options. There could be protracted Industrial Action and no service to the community. Option 2 would be considerably less disruptive to the community.

The Chief wanted to ensure the Executive Committee's understanding and to make Members fully aware that the Authority's ability to develop new contracts had nothing to do with the NJC and the Authority had been fully consulted on this.

The Chair agreed that the new entrant's contracts were not unlawful, but were undeliverable without Industrial Action.

CFO stated that the strategy was not undeliverable, and 100 people had volunteered to undertake the work, it was difficult to make changes when there was uncertainty. However, a mechanism existed through a lawful process for Option 1 to be delivered with volunteers.

Agreement had been reached with both the Fire Officers Association and Unison representatives to do this.

In respect of the generation of income, the Chief felt there had been an over focus on income from falls response and the Service were looking at a range of themes to generate income to meet the reducing core funding, and reliance on council tax and grants.

The Authority had been appraised and further opportunities to generate income would have arisen, if the strategy had been allowed to continue.

The Chair hoped the Authority would return to its alternative funding/commissioning strategy but felt this was not achievable now.

Members of the Executive Committee took a vote to accept Option 2.

Outcome

For: Cllrs Aston, Allcock, Atwal Singh, Edwards, Walsh 5

Against: Cllrs Barlow and Hogarth 2

The CFO stated "I am content that I have communicated a clear picture that ensures this decision has been consciously taken knowing it will affect all aspects of our strategic objectives.

My role is to now to work with SET to revise the IRMP for consideration by the Fire Authority."

The CFO whilst respectful of the decision and content with the way officers had communicated the strategy stated "It is my professional advice this will result in a less effective emergency response, prevention and protection service and that communities will be less safe (as a result of this decision)".

The Chair replied stating he felt that the community would be less safe if the Authority entered into a period of industrial action.

Resolved that the preferred Option was Option 2.

The meeting finished at 1035 hours.

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