

West Midlands Fire and Rescue Authority

Executive Committee

You are summoned to attend the meeting of Executive Committee to be held
on Wednesday, 06 June 2018 at 10:00

at Fire Service HQ, 99 Vauxhall Road, Nechells, Birmingham B7 4HW

for the purpose of transacting the following business:

Agenda – Public Session

- 1 To receive apologies for absence (if any)
- 2 Declarations of interests
- 3 Minutes of the Executive Committee held on 26 March 2018 **3 - 6**
- 4 10406185 Executive Committee Report 06.06.18 **7 - 32**

Distribution:

Keith Allcock - Member, Adam Aston - Member, Stuart Davis - Member, John Edwards - Chairman, Mohammed Idrees - Member, Melvyn Mottram - Member, Paul Singh - Member, Gurdial Singh Atwal - Member

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This agenda and supporting documents are also available electronically on the West Midlands Fire Service website at www.wmfs.net

Minutes of the Executive Committee

26 March 2018 at 1000 hours

Fire Service Headquarters, Vauxhall Road, Birmingham

Present: Councillor John Edwards (Chair)
Councillors Aston, Davis, Mottram, Sealey, P Singh

Apologies: Councillors Allcock, Cartwright, Idrees, Atwal Singh

1/18 **Declarations of Interest**

There were no Declarations of Interest.

2/18 **Minutes of the Executive Committee held on 19 December 2017**

Resolved that the minutes of the meeting held on 19 December 2018, be approved as a correct record.

3/18 **Corporate Performance Indicators 2018-19**

Councillor Tranter, Chair of the Scrutiny Committee, and Gary Taylor, Assistance Chief Fire Officer, provided an overview of the Corporate Performance Indicators 2018-19.

In accordance with its planning framework, the Service had reviewed its rolling three-year corporate strategy, 'The Plan', for 2018-2021. The revised outcomes had been approved by the Authority at the full Fire Authority meeting held on 19 February 2018 and the outcomes were set out in The Plan and were enablers to achieving the Service's

vision of ‘Making the West Midlands Safer, Stronger and Healthier’.

Following approval of the outcomes set out in The Plan, the Assistant Chief Fire Officer, as the lead officer for scrutiny matters, had worked with stakeholders to:

- Consider past performance
- Review the internal strategies and approaches and external influencers that would shape the 2018/19 performance and drive the target setting
- Identify the appropriate performance indicators (PIs) for 2018/19

In accordance with the Service’s commitment to enabling governance through effective engagement and transparency and in line with The Constitution, officers met with the Chair of the Scrutiny Committee on 26 February 2018. At this meeting the Chair of the Scrutiny Committee recommended that the proposed corporate PIs and targets for 2018/19 be submitted to the Executive Committee for approval.

Graduated tolerances had been reviewed after being introduced in 2017/18. These assisted the interpretation of PIs particularly where figures were small at the beginning of the year, avoiding potentially misleading performance ratings, for example a PI marked as red where the figures are only marginally above target.

The use of three year averages continued to prove to be effective, allowing easy identification of trends. Challenging yet realistic targets had been set using data analysis and professional judgement. All targets for 2018/19 were at or below the three year average with the exception of PI 10 The number of deliberate vehicle fires, which had been steadily rising since 2012/13 despite all of the interventions and activities that the Service had delivered over that period.

There had been a change of terminology to the PIs related to arson, with the term ‘arson’ changed to ‘deliberate’. Deliberate fires include those where the motive for the fire

was 'thought to be' or 'suspected to be' deliberate. This included fires to an individual's own property, others property or property of an unknown owner. Despite deliberate fire records including arson, deliberate fires were not the same as arson. Arson was defined under the Criminal Damage Act of 1971 as 'an act of attempting to destroy or damage property, and/or in doing so, to endanger life'. This change in terminology would align the Service to other metropolitan Fire and Rescue Services, to the Police and other agencies.

In answer to Members' questions, the following points were raised:

- With regard to PI 16 The number of female uniformed staff, and PI 17a The percentage of uniformed staff from Black, Minority Ethnic communities; realistic but ambitious targets had been set to increase representation of the workforce over the next few years, supported by the positive action strategy and supporting strategies. The positive action approach was proving to be effective and the Service was confident that it could support change in the diversity of the workforce.
- The Home Office had looked at the taster days held by the Service which were designed to encourage and support applications from people from under-represented groups, with the possibility of including the approach as notable practice.
- The Members acknowledged the work of People Support Services in developing the recruitment strategy to make the workforce of the Service more representative of the West Midlands.
- PI 22 The total number of RIDDOR injuries; the figures were broken down further by the Service for internal use but were presented to the Authority in this manner to enable higher level reporting.
- PI 24 To reduce gas use of Fire Authority premises, and PI 25 To reduce electricity use of Fire Authority premises; the two PIs reported units of usage per quarter. There was the potential to break the figures down to fire station level which could then contribute to the estates strategy and examine local usage levels

and to see where improvements could be made. The continued reduction in the use gas and electricity was positive.

- Road safety and the work that went on behind this remained an area that Fire and Rescue Services funded uniquely. Road casualty reduction was one of the areas that had suffered as part of the comprehensive spending review. It was noted that support from Section 41 Members for Local Authorities to continue to champion road safety would be well received.

Resolved that the Corporate Performance Indicators and targets for 2018/19 be approved.

The meeting finished at 1025 hours.

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WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 4

EXECUTIVE COMMITTEE

6TH JUNE 2018

1. Delivery of 'The Plan' 2018-2021

Report of the Chief Fire Officer

RECOMMENDED

That the Executive Committee:

Note the progress made towards delivery of The Plan 2018-21 and the Financial Efficiency Plan (FEP) and with recognition to the impact and risks outlined throughout the report, indicate the preferred option set out in Section 3.5 – 3.7.

2. PURPOSE OF REPORT

This report informs the Executive Committee of the progress against The Plan 2018-21 and the FEP, provides an update of the trade dispute lodged by the Fire Brigades Unions (FBU) on the 11th April 2018 and outlines the steps being taken both by the Service and the FBU to resolve the trade dispute.

The report also outlines key considerations 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).

3. BACKGROUND

3.1 Fire and Rescue National Framework (Framework) for England 2018

The Framework as a requirement of the Fire and Rescue Service Act 2004, sets out key expectations for fire and rescue authorities across England. The Framework is set as a background paper to

this report. The most pertinent requirements aligned to the purpose of this report are contained in Appendix 1, sections 1, 2, 4 and 5 and cover the priorities of the Framework, the assessment of risk, the requirements of the IRMP, Statement of Assurance and financial planning.

The requirements of the Framework provide a clear direction and expectation for strategic, people and financial planning and assurance based on evidence, which are commensurate with the risks that the fire and rescue service faces.

IRMP for West Midlands

Aligned to the requirements outlined above, West Midlands Fire Service (WMFS) risk analysis process is fully integrated within its strategic and resource planning, to ensure the organisations key priorities are informed and driven by evidence. This ensures we align not only our resources to risk, but also the activities undertaken within our communities to reduce risk and vulnerability.

At the heart of our IRMP is the Category 1, 5-minute (high) risk based attendance standard, which has been evidenced through survivability research and is critical to the likelihood of survival in a fire, or any incident where significant trauma has been incurred.

Critical to delivering our IRMP is an integrated Service Delivery Model (SDM) made up of a professional, whole-time workforce who are able to deliver a range of prevention, protection and response activities. The speed and effectiveness of our response ensures we can reduce the impact of incidents on individuals, communities and businesses. This is achieved through reducing the likelihood of incidents occurring in the first place, whilst having in place a suitably trained and blended workforce that can deliver a risk based assertive, effective and safe response where required. Over the last three years and despite the budget reductions, our Category 1, high risk attendances have reduced by 20 seconds from an average 5 minutes 6 seconds to 4 minutes 46 seconds. This has been achieved through development of our blended fleet, integrated SDM and progressive prevention strategy, which has engaged in the wider health agenda including non-emergency falls responses.

The IRMP is reviewed on at least an annual basis to ensure that the Authority are able to deliver the requirements set out in the

Framework. During December 2016 to January 2017 the Authority consulted with the public on the IRMP, which indicated strong support for the continuation of the current strategic approach. Of the 5,763 members of the public that responded:

- **97%** agreed that we should protect our 5-minute response time.
- **91%** agreed that our prevention, protection and response work makes the communities and businesses of the West Midlands Safer, Stronger & Healthier.
- **81%** stated that we should continue to look at alternative ways of bringing in money to support our SDM.

This has set the basis for ongoing strategic and financial planning since 2017. To date the Authority has only made changes to its resource configuration or distribution, where it is clear the overall effect will be to improve community safety.

3.2 WMFRA Strategy

The Authority on 20 November 2017 and 19 February 2018 confirmed its commitment to delivery of the IRMP through its rolling three-year strategy; The Plan 2018-21. As part of the Authority's statutory responsibility, the IRMP and The Plan is also aligned to the four-year FEP, which was approved on 19 September 2016 and is set out in 3.2.1 below.

The FEP is reliant on continual transformation of services and the need to diversify the skills of the workforce as a mechanism to reducing vulnerability. This approach ensures WMFS remains relevant for the future, providing services that effectively and efficiently meet the evolving needs of the community, the maintenance of the SDM and importantly the risk based 5-minute attendance standard for high risk incidents.

3.2.1 Efficiency Plan Saving Forecast 2016/17 – 2019/20

	2016/17 £m	2017/18 £m	2018/19 £m	2019/20 £m	Total £m
Staffing	2.1	1.3	0.4	0.2	4.0
Alternative Funding	0.2	0.8	1.0	-	2.0
Internal Restructures	0.4	0.6	-	-	1.0
Service Reductions	1.0	-	-	-	1.0
Council Tax Base	0.9	0.4	0.4	0.3	2.0
TOTAL	4.6	3.1	1.8	0.5	10.0

3.3 Progress in Delivering Strategy

The Authority report on 20 November 2017 outlined a commitment to develop a local agreement with representative bodies. The Authority sought to enable this as a platform for the ongoing delivery of The Plan and in support of transformational service improvements, including the on-going delivery of alternative funded activities and a sustainable staffing model.

As previously outlined to the Authority the staffing model continues to work well, appliance availability has increased and remains consistently above 99%. This is supporting the achievement of our

5-minute risk-based attendance standard, as well as facilitating enhanced capacity to deliver prevention and protection services to the most vulnerable.

However, it should be noted that the full £4M savings from staffing set out in the FEP are not currently being achieved, due to the ongoing 'Lates Payments' and 'Disturbance Allowance'; these payments are unbudgeted from 2019/2020. Fleet availability could be used as a financial control measure to achieve a balanced budget and this has been a key consideration in supporting service transformation.

We have continued to engage with all representative bodies to reach a local collective agreement through the Employee Relations Framework (ERF). An agreement would ensure the sustainability of our SDM through enabling capacity, flexibility and agility within the workforce, whilst supporting employees to manage their work-life balance and wellbeing.

Discussions have taken place with all representative bodies, with the Fire Officers Association agreeing to a local offer to support the delivery of falls response and further discussions taking place with Unison.

The introduction of new contracts to new firefighters is a key element of the workforce reform programme, designed to enable the sustainable delivery of our services including the delivery of wider health activities, as part of their contract of employment. These new contracts were consulted upon with all representative bodies through the ERF.

To date, 102 firefighters have been recruited on the new contracts and it is intended that approximately 350 new entrants will have been recruited by April 2021. Whilst the revised focus and contracts have been implemented to maintain the SDM, to make provision to deliver alternative funded activities and transformational change, it has also provided a more diverse representation across these new entrants.

The approach to attraction, recruitment and selection of new entrants has been refined alongside the development of The Plan and introduction of revised contracts. From January 2018, our new entrant profile has significantly increased to 32% female and 32% from BME backgrounds. This is a positive achievement for the

Authority which has attracted significant interest across the wider fire and rescue community and aligns to the Governments' reform expectations. This diversity in new entrants has been influenced by the variety that the role of a firefighter in the WMFS now provides.

To enable the delivery of The Plan, the 20 November 2017 Authority report indicated that, following their initial training, new entrants would be based at key falls response stations. The purpose of this was to get the, 'right staff with the right skills in the right places' and enable the Service to deliver falls response from within the SDM.

3.4 FBU Trade Dispute

However, the requirement for new entrants to deliver falls response as part of their role was suspended as part of the Services commitment to reach a local agreement.

Despite this a trade dispute was lodged with the Authority on 11 April 2018. The details of this dispute are set out in Appendix 2, FBU Trade Dispute Letter, 11 April 2018.

The Service and the Authority do not recognise the picture that the trade dispute provides and have subsequently taken part in discussions facilitated by the National Joint Council (NJC) Joint Secretaries. The purpose of the initial 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.

This meeting took place on the 15th May 2018 and both parties engaged in dialogue. Whilst the meeting did not achieve a shared information picture, it generated a greater understanding of the relevant points to the trade dispute.

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 detailed in Appendix 3.

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

It is understood that industrial action would commence at some point prior to 26 June, however at the time of writing this 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.

3.5 Future Direction

In confirming the future direction of the Authority two separate options 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 are asked to consider 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.

3.6 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 arrangement's 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 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.

3.7 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 which are highlighted below and in sections 5 and 6 of this report.

3.7.1 Service Delivery and Community Impact

The legal requirement to deliver a balanced budget as set out in

Section 6 below, means that alternative ways of achieving efficiencies will need to be identified from within the Service. This results in a high probability of a requirement to deviate from the current SDM with a range of impacts and consequences across Response, Protection and Prevention.

This will necessitate a review of the IRMP and present a challenge of how the risks and vulnerabilities identified through this process, can be effectively managed with a reduced level of resources. The ability to continue to meet our 5-minute risk based attendance standard would become more challenging and may not be achievable. Similarly, the consistent delivery of assertive, effective and safe emergency response is less likely, as resources become more limited and the service becomes less able to meet future financial pressures. For example, any reduction in our SDM would lead to increased attendance times for the second resource in attendance, therefore restricting our ability to deliver an assertive, effective and safe response.

In restricting future options to generate alternative funding, enabled through workforce transformation, it is foreseeable that the risk of future trade disputes is heightened as the SDM is redesigned in less desirable ways.

It is important to also identify the impact that a revision in our strategy will have upon a pillar of our prevention activity - the 'Safe and Well Visit'. The non-delivery of health related questions as part of the safe and well visit will reduce our ability to be able to identify and target those most vulnerable and also to support health partners even through referrals and/or data sharing. All of which are strategies to enable the reduction of risk in the community to support the delivery of the IRMP.

3.7.2 Organisational Impact

In deviating from the current position, the Authority's ability to be transformational in its approach to managing community risk and enhancing the relevance of the Fire and Rescue Service is reduced. It is not possible to utilise an evidence base as the rationale for a move away from the existing strategy and as such, there is a risk of misalignment to the expectations outlined within the Framework. This will be an area of focus for Her Majesty's Inspectorate of Constabulary & Fire and Rescue Service.

In addition, consideration should be given to the continuous commitment and support for the current strategy that has been demonstrated by the Authority. It is possible that in changing direction the evidence based and robust decision making process of the Authority is questioned. In addition, there is likely to be an increased perception that Authority decisions can be reversed through the lever of industrial action, which could result in constrained decision making and ambitions into the future, as well as a lack of credibility in relation to public sector reform.

3.7.3 Alternative funded activities

The medium/long term financial impacts of deciding not to continue to develop alternative funding activities are highlighted in the FEP and Section 6 of this report.

In the short term, to meet the terms and conditions of existing contracts, there is a need to provide a minimum three months' notice period. Therefore, the current Falls Business Continuity Arrangements will need to be maintained for this notice period.

A further critical consideration of this commissioned health activity is that the commissioners are Local Authorities which the Service works in close partnership with. These relationships will need to be developed even further as the transition towards the Mayoral governance model within West Midlands Combined Authority occurs. Careful consideration will be needed if these contracts are terminated to maintain relationships and credibility with our partners and communities.

As the affected Local Authorities are likely to expect any new provider of these services to enter contractual arrangements for between 2 and 4 years, future opportunities for the Service to re-engage in the delivery of health activity will be unlikely. The withdrawal of services will also impact our reputation to deliver on behalf of other Local Authorities or commissioners in the future.

4. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been undertaken on the Services current strategic direction of travel 'The Plan'. Should the Authority consider an amendment or change to 'The Plan' which affects services received by the community, then a new or revised

EIA will need to be undertaken.

5. **LEGAL IMPLICATIONS**

In line with the Authority's constitution any proposed changes to The Plan, which affects the service received by the community may lead to the need for further public consultation and also notification of the Home Office of changes to the agreed FEP.

Following Authority reconfirmation of its approval of The Plan in November 2017 and approval in February 2018, the Chief Fire Officer under his Scheme of Delegations ensured the appropriate and flexible allocation of resources to meet the needs of local communities and enable the delivery of The Plan, based on analysis of risk and best fit with the resources available to him.

Option 2 identifies that the removal of the new entrant contracts will impact upon the delivery of the FEP through the inability to generate £2M from alternative funded activities. The consequences of this will represent a significant change to and departure from The Plan and IRMP, which may require public consultation as referenced within paragraph 4.2.4 (v) of the Constitution and as required by the Framework.

To enable this change, the Authority would need to set aside its former decision in November 2017 to approve The Plan and associated IRMP and provide notification of changes to the FEP to the Home Office, as previously agreed by the Authority on 19 September 2016.

The Authority may approve changes to the Plan and IRMP by invoking its inherent power under Article 4, clause 4.1 of the Constitution which states:

“No delegation which may be given by the Authority shall preclude the reference of matters by a committee to the Authority, nor preclude the Authority from exercising any powers so delegated, except where action has already been taken pursuant to a resolution of a committee under its approved terms of reference and delegated Authority”.

However, the above power only entitles the Authority to consider any matter which has not previously been considered by a committee or sub-committee, or Officer with appropriate delegated authority. Where a matter has previously been determined by a committee, sub-committee or Officer, the Authority is prevented from altering that decision without cause and to do so would be unconstitutional. However, the Authority may only consider any previous decision(s) afresh, in light of new and material information.

The trigger for this change is the clear potential for industrial action following the outcomes of the trade dispute ballot as set out in section 3.4 and Appendix 3.

This along with the consequences of this action as an impact of option 1 (refer to section 3.6), provides the Authority with information to consider as part of option 2.

5.1 Withdrawal of New Entrant Contracts

The Service would not be able to withdraw a contract of employment to an existing employee without replacing it with another contract. The employee/employer relationship is based on this contract and it provides a summary of the terms and conditions of employment.

To amend or change a contract, the Service would be required to enter into negotiations with the recognised trade unions and the impacted employees using the ERF. These changes would be agreed through collective bargaining and appropriate notice for the change given. This would enable us to gauge the level of support or otherwise for the new contract and areas of issue or concern that could be addressed. This approach would meet statutory requirements but depending on the content and detail required, this could take an extended period of time to agree the outline.

It is important that the impact of these changes need to be considered for the individual is considered too, as due to the approach taken to attraction, recruitment and selection they will likely have been attracted to the role of a firefighter which included wider health activities.

The consequences of the withdrawal of new contracts will as identified in this report, have an impact on our ability to meet the requirements of our IRMP and reducing risk and vulnerability within our communities. This may therefore impact on the Authority's ability to meet the requirements of the Framework as set out in this report.

6. FINANCIAL IMPLICATIONS

The Local Government Finance Act 1992 requires all Authorities to set a balanced budget. In September 2016 the Fire Authority approved the current four-year Efficiency Plan as a means of enabling the delivery of the WMFRA strategy against the backdrop of further reduction in core grant funding of circa. £10m. The Plan 2018-2021 sets out those priorities and outcomes which seek to enable the most efficient and effective delivery of services within these financial constraints. In 2020 the Authority's core funding will have been cut by circa. 50% since 2010/11.

6.1 Actual Saving Achieved 2016/17 & Estimate for 2017/18 – 2019/20

The Budget and Precept 2018/19 report approved by the Fire Authority on 19th February 2018 provided an updated position regarding the Fire Authority's Efficiency Plan. The reported position of the Efficiency Plan is shown below;

	2016/17 £m	2017/18 £m	2018/19 £m	2019/20 £m	Total £m
Staffing	1.3	1.3	0.5	0.9	4.0
Alternative Funding	0.2	0.3	0.5	1.0	2.0
Internal Restructures	0.5	0.3	0.1	0.1	1.0
Service Reductions	0.9	0.3	-	-	1.2
Council Tax Base	0.9	0.7	0.7	0.6	2.9
TOTAL	3.8	2.9	1.8	2.6	11.1

The figures in the above table were reflected in the Budget and Precept 2018/19 report and included in considerations for establishing the Budget Forecast for 2018/19 to 2020/21. However, in order to set a balanced budget in each of these financial years, the use of General Balances totalling circa. £3.4m was required.

It should also be noted that the forecasted savings of £11.1m are dependent on fully achieving £4m staffing savings and £2m alternative funding. However, maintaining current staffing arrangements along with a withdrawal from all alternative funding activities would result in an annual £3m deficit in the Efficiency Plan.

6.2 General Balances

An update on General Balances was provided within the Budget and Precept 2018/19 report, approved by the Fire Authority on 19th February 2018. The Strategy reflected that General Balances would reduce from their current level, £8.4m (as at 31st March

2018) to approximately £5m by the end of 2020/21. This would be required to support the Authority's net budget requirement and assist with identified budget pressures. The strategy also recognised that the use of General Balances is not a sustainable means of funding the Authority's revenue budget and therefore consideration needs to be given to further Services changes in addition to those reflected within the Efficiency Plan, to reduce the reliance on General Balances over the coming years.

The use of General Balances is forecasted as follows:

	31.3.18 Actual £m	2018/19 £m	2019/20 £m	2020/21 £m	31.3.21 Forecast £m
TOTAL	8.4	-1.5	-1.1	-0.8	5.0

6.3 Falls Response

The Falls Response Service at Coventry City Council, City of Wolverhampton Council and Dudley MBC is currently being delivered under Business Continuity Arrangements. If the contracts for these Services need to be ended, a three month notice period would be required. The costs incurred during the notice period, based on current Business Continuity Arrangements would be circa £250k.

7. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications arising from this report.

BACKGROUND PAPERS

Authority Report 19 September 2016, Financial Efficiency Plan 2016/2020

Authority Report 20 February 2017, Public Consultation (IRMP) Outcomes

Authority Report 20 November, Delivering the Strategy 2018-2021

Authority Report 19 February 2018, The Plan 2018-2021

Authority Report 19 February 2018, Budget and Precept 2018/2019 and Budget Forecast 2019/2020 to 2020/2021

Fire and Rescue National Framework for England 2018

PHIL LOACH
CHIEF FIRE OFFICER

Appendix 1

Fire and Rescue National Framework for England 2018,

www.gov.uk/government/publications/fire-and-rescue-national-framework-for-england--2

FIREFIGHTERS



FIRE BRIGADES UNION CENTENARY 1918-2018

Matt Wrack General Secretary

Item 4
Fire Brigades Union

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Our Ref: MW/sll

11 April 2018

Ms Karen Gowreesunker
Clerk to West Midlands Fire Authority
West Midlands Fire and Rescue Authority
West Midlands Fire Service Headquarters
99 Vauxhall Road
Birmingham
B7 4HW

Dear Ms Gowreesunker

TRADE DISPUTE: IMPOSITION OF NEW CONTRACTS WITHOUT AGREEMENT, ATTEMPTING TO IMPOSE NEW DUTIES ON CONTROL STAFF, INTERFERING WITH MEMBERS LEGITIMATE TRADE UNION ACTIVITIES, OFFERING INDUCEMENTS TO BYPASS NATIONAL AGREEMENTS AND DICTATORIAL MANAGEMENT IN WEST MIDLANDS

I refer to the contracts issued by management to those joining and returning to the service. Not only were these contracts not agreed in local negotiations but service managers sought to introduce them without even notifying FBU officials or keeping them informed.

The contracts are totally unacceptable and seek to bypass the Grey Book nationally agreed terms and conditions of employment. They include as the job description:

The main duties at your position are set out in the relevant role map which is a guide to the activities you will fulfil.... Your role map is not exhaustive and may be added to or varied from time to time by The Service based on the exigencies or needs of the Service and providing reasonable notice. Some examples of these activities may be: Falls response, non-medical emergency and hospital discharge activities. By signing this document you are specifically agreeing to accept changes and additions to your role, with reasonable notice, as may be required by current and future needs of the Service, including but not limited to undertaking additional/duties, carrying out alternative funding work, working to department and individual targets and working in close conjunction with other external organisations, on a full time, part time, temporary or permanent basis.

This is simply disgraceful. It is not a job description at all. It is a blank sheet of paper allowing management to dictate to members what they must do at any given time. It is completely in breach of the nationally agreed Grey Book which confirms that:

Fire and rescue authorities can require any reasonable activity to be carried out by an individual employee within his or her role map.

The Grey Book wording could not be clearer. An FRA can require activities within the role map. It follows that the contract is wrong to say the role map is not exhaustive, wrong to say the role map is merely a guide to the activities to be fulfilled, wrong to say the Service can add to or vary members' duties and wrong to include falls responses, non-medical emergencies etc which are the subject of nationally agreed trials and national negotiations.

Contd/2...

I do not begin to understand how the Fire Authority as a member of the National Joint Council considers it can behave in this way. There would be no point in having national negotiations if a local Fire and Rescue Authority such as the West Midlands can simply bypass that process when it wishes.

This is not the only problem with these contracts. On hours of work they provide that:

The Service reserves the right to require the employee to work different hours of work if the needs of the Service so dictate, whether temporarily or permanently.

This is a clear breach of the Grey Book which provides specified duty systems and a carefully balanced procedure of local collective discussions and national dispute resolution where any changes to those systems are proposed.

The contracts also allow management in discipline cases to suspend members with no provision for pay during the suspension whereas the Grey Book specifies that members will receive full pay when suspended.

There are numerous other unilateral changes such as a requirement to work at non-Service sites and an onerous new term on deductions from pay.

Management employed by the Authority have also refused to agree to a referral to the Joint Secretaries of the National Joint Council under the nationally agreed dispute resolution procedure and the matter had to be referred directly by the FBU.

These contracts must be withdrawn immediately – they expose what management will do when they feel they do not need to negotiate with representatives elected by our members in the West Midlands. These contracts also create a two tier workforce in that newer members and those returning to the service are on these unacceptable new contracts, leaving all other members on the established Grey Book contracts. This is an attempt to divide our members and create pressure that in the future could be used to drive all members down onto the new locally imposed terms and conditions.

It is also concerning that management employed by the Fire Authority appear to think that they can expand the role of control members simply by consulting on this issue such that they can impose new duties without agreement. On 6th March 2018 a consultation paper was issued which referenced the nationally agreed trials and included:

When the national trials ended... all WMFS staff, including Fire Control, had a choice around whether they would continue to support 'falls response' until pay negotiations and discussions were completed. Since the cessation of the national trials 'falls response' calls have continued to be managed within the Fire Control room by a cohort of control staff volunteers, supplemented by business continuity arrangements.

...this was not done so on the basis that the work did not fall within the Fire Control operator's role map.

During this time a legal position was sought around whether these activities are incorporated within the Fire Control operator's role map and ... WMFS is confident on the legal position it has received which states that this work is within the role map and is no different to dealing with the existing wide range of calls that the Service receives.

...WMFS will now commence consultation on plans to move to a 'business as usual' position for managing 'falls response' calls and associated mobilising.

Fire Control receive a myriad of different types of calls... all form part of the established roles of control room staff.

Contd/3...

This is simply wrong. More than ten years ago the Court of Appeal confirmed that attempts to impose changes to the role of the firefighter beyond the role maps was unlawful and the same applies to firefighter (control) members. We will have to agree to disagree on the legal position as our legal advice is that, in the absence of negotiation and agreement, firefighter (control) members can only be required to mobilise firefighters to calls within the role maps of firefighters and that does not include falls response, emergency medical response etc.

It is disappointing that management employed by the Fire Authority are singling out control members for this attack. Again it is an attempt to divide our members and again we will not allow this.

I refer also to the conduct of management interfering with and deterring our members from legitimate trade union activities, for example by the unjustified use of management instructions. I am appalled to see this sort of anti-union behaviour from the management of a publicly funded Fire Authority. By way of example our brigade and health and safety representatives were concerned about equipment failures and consequential health and safety implications so they correctly surveyed members to find out more. Questions included: *Do you find the TomTom slow to get to work clicking various boxes before navigation begins? Do you find the TomTom slow to clear old addresses? and Have you had to use a personal Mobile phone with mapping to navigate to incidents after TomTom failure?*

I am astonished that in response to this clearly legitimate trade union activity designed to protect our members' health and safety, Service Management responded with a letter to FBU officials which said:

To create, process and store this type of information outside of WMFS systems and processes contravenes S/O 01/05... To process this type of information via personal e-mail accounts contravenes S/O 01/19...

Therefore, advising members to provide this type of information outside of recognised ways of working is deemed to be 'reckless' as defined in the Data Protection Act 1998...Please provide me with written confirmation that the data has not been shared or used and that all instances of the data have be destroyed appropriately by ...17:00 hours on 12th March 2018.

The legal position is clear that the suggestion of a breach of the Data Protection Act is simply wrong and indeed the only unlawful activity is that of management – as you will know subjecting a member or representative to a detriment in respect of his/her trade union activities is unlawful as is subjecting a union health and safety representative to a detriment for carrying out his/her duties in that role.

Despite this your Deputy Chief Fire Officer wrote to FBU officials saying:

The matter is a breach of our standing orders and as such my management instruction remains in place as set out on several occasions...

As you know, breach of a management instruction is a disciplinary matter so management were interfering in the legitimate trade union activities of our members and officials and issuing instructions to prevent them from carrying out those activities. This has to stop.

I am also surprised to hear that management employed by the Authority have engaged in the practice of offering inducements to members to bypass national agreements. Late last year management employed by the Fire Authority approached a number of members asking them to agree to undertake tasks outside of their role map such as falls response with the incentive of extra pay. This was outside of the nationally agreed trials and in the absence of any local or national agreement.

It is concerning both that this was done and that management appear to think that they have done nothing wrong, that it is acceptable to bypass national and local collective bargaining and instead engage in individual bargaining with members, isolating them from the union in the process. They should understand that this is not acceptable and this cannot continue. Despite referring this matter to ACAS, the matter remains unresolved.

Contd/4...

Finally I am concerned that despite previously raising the issue of dictatorial management, and our members taking industrial action in response at the time, senior managers have allowed these bad habits to return. By way of examples, without consultation, negotiation or agreement managers issued job descriptions for Technical Rescue Unit members which expanded their duties.

Also West Midlands' officials had to raise a collective dispute that management had failed to consult with FBU officials or our members in relation to 'Making Connections Walsall' commissioning work. The work commissioned is outside of the role map for our Control members and yet training on this initiative commenced without agreement and plans were put in place to divert the dedicated number and other referrals into Fire Control on evenings, weekends and overflow occasions.

In addition, when a serious health and safety incident occurred at Cleveland Tower, management failed to provide the required information to our health and safety representatives, gross misconduct discipline proceedings were commenced before the accident investigation had been concluded and its findings shared with the FBU, the FBU appointed Accident Investigator was refused access to interviews concerning FBU members during the gross misconduct investigation and the delay in providing information prevented him from accessing the scene to make a thorough investigation.

This is not acceptable to our West Midlands members who therefore require the following:

1. Immediate withdrawal of all contracts of employment which are outside of the Grey Book or which contain changes which have not been agreed with the FBU. Members issued with such contracts to be provided with new terms and conditions which are consistent with and subject to the Grey Book and national and local agreements with the FBU and no further such contracts to be issued to FBU members.

To be clear the contracts to be withdrawn and no longer issued include those which suggest the Grey Book role maps are not exhaustive, permit changes to working hours outside the Grey Book procedure, allow management in discipline cases to suspend members with no provision for pay during the suspension, require members to work at non-Service sites or which expand on the right of management to make deductions from members' pay.

2. Agreement that firefighter (control) members will only be required to handle calls within the role maps of firefighters. Specifically this means they will not be required to handle falls response calls, emergency medical response or other calls outside of those role maps.
3. Agreement that there will be no more attempts by management to interfere with members' legitimate trade union activities and an undertaking to enter discussions with FBU West Midlands officials with a view to agreeing a new joint protocol preventing further interference in trade union activities and providing specific safeguards where discipline is proposed against FBU officials or representatives.
4. Confirmation that, in the absence of local or national agreement with the FBU, there will be no more attempts to offer members inducements, financial or otherwise, to accept changes which are inconsistent with the Grey Book such as additional duties outside role maps.
5. An undertaking that the Fire Authority will address the problem of repeated and systematic dictatorial management by those they employ as senior managers. This will include entering into discussions with FBU West Midlands officials with a view to reaching a collective agreement on consultation, negotiation, openness, and on prioritising health and safety rather than focussing on finding fault by staff and rushing to discipline against our members in West Midlands.

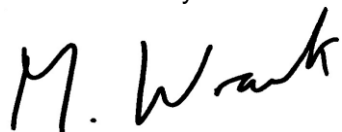
Until all five assurances outlined above are confirmed, a trade dispute exists between the FBU members in West Midlands and the Authority. This dispute plainly relates to the terms and conditions of employment and/or working conditions of FBU members employed by the Fire Authority. Further, questions arise as to health and safety and the machinery for negotiation or consultation and other procedures relating to these matters.

Contd/5...

This dispute will be resolved if the Authority unconditionally confirms all five points specified in the terms set out.

I await this by 23rd April 2018 failing which I will commence a ballot of West Midlands' members for industrial action under the Trade Union and Labour Relations (Consolidation) Act 1992.

Yours sincerely

A handwritten signature in black ink that reads "M. Wrack". The signature is written in a cursive, slightly slanted style.

Matt Wrack
General Secretary

FIREFIIGHTERS



FIRE BRIGADES UNION CENTENARY 1918-2018

Matt Wrack General Secretary

Item 4
Fire Brigades Union

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Our Ref: MW/DG/jr29 May 2018

APPENDIX 3

Ms Karen Gowreesunker
Clerk to West Midlands Fire Authority
West Midlands Fire and Rescue Authority
West Midlands Fire Service Headquarters
99 Vauxhall Road
Birmingham
B7 4HW

Dear Ms Gowreesunker

By e-mail to karen.gowreesunker@wmfs.net

INDUSTRIAL ACTION BALLOT WEST MIDLANDS

I am writing to inform you that the result of the ballot as to whether members of the FBU are prepared to take part in industrial action consisting of a strike in relation to the trade dispute is as follows:

Number of individuals who were entitled to vote in the ballot:	1170
Number of votes cast in the ballot:	954
Number of individuals answering "yes" to the question:	860
Number of individuals answering "no" to the question:	93
Number of spoiled or otherwise invalid voting papers returned:	1

The number of votes cast in the ballot is at least 50% of the number of individuals who were entitled to vote in the ballot.

The number of individuals answering "Yes" to the question is at least 40% of the number of individuals who were entitled to vote in the ballot.

A majority of FBU members voted in favour of strike action. I will contact you shortly to give notice of the intended days of strike action once determined.

Yours sincerely

Matt Wrack
General Secretary

MW/DG/jr

