

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

24 June 2019 at 1100 hours at
Fire Service Headquarters, Vauxhall Road, Birmingham

Present: Councillor Brackenridge (Chair)
Councillor Zafar Iqbal (Vice Chair)
Councillors Barrie, Barlow, Cooper, Dehar, Hogarth,
John Edwards, Jenkins, Miller, Miks, Spence, Walsh
and Young
Mr Gurinder Josan, CBE (PCC Representative)
Mr M Ager, Independent
Prof. Simon Brake, Co-opted Member

41/19 **Apologies for Absence**

Sarah Middleton, Co-Opted Member

42/19 **To Elect the Chair of the Authority for the ensuing year**

Resolved that Councillor Brackenridge be elected Chair of the Authority for the period ending with the annual meeting in 2020.

43/19 **To Elect the Vice Chair of the Authority for the ensuing year**

Resolved that Councillor Iqbal be elected Vice Chair of the Authority for the period ending with the annual meeting in 2019.

44/19 **Declarations of Interest in contracts or other matters**

Councillors Edwards and Brackenridge declared an Interest on this occasion in Minute Nos.61/19 and 64/19. Audit and Risk Committee minutes and 47/19 Monitoring of Finances in respect of the Firefighters' Pension Scheme

45/19 **Chair and Chief Fire Officer's Announcements**

The Chair thanked the Authority for appointing him as Chair of the Authority.

The Chair wanted to pay tribute to Councillor John Edwards, the outgoing Chair, for his association with the Fire Service over a number of years, from being a firefighter, a member of the Fire Brigades Union, a Member and Chair of the Fire Authority. The Chair stated that Councillor Edwards had an unsurpassed knowledge of the Fire Service and thanked him for his efforts for many years. The Chair was pleased that Councillor Edwards had remained on the Authority as his experience would be very useful to the Chair.

Councillor Hogarth, Leader of the Opposition Group, wished the Chair and Vice Chair well in their new roles and also thanked Councillor Edwards for his work over the years. Councillor Edward's work for the Authority and community was appreciated by previous and current members of the Conservative group.

Members' attention was drawn to the list of forthcoming Open Days and the Chair also confirmed that the dates were available on www.wmfs.net

The Authority noted that the Audit and Risk Committee would be taking place on Monday 29 July 2019 at 1000 hours, a change from the published date of Monday 15 July 2019.

It was noted that a Members' Awareness Session had been arranged to take place on Monday 29 July 2019 at 1100 hours.

The Members of the Authority were asked to complete a new form for their details to be held on the Committee Management Information System (CMIS) and also a new Declaration of Information Form.

The Authority thanked Deputy Chief Fire Officer Phil Hales for his work for the Authority and wished him all the best for the future on his retirement.

It was agreed to bring forward Items 13, 14 and 15 of the agenda pack to enable the Treasurer to leave the meeting early to attend an urgent meeting in London regarding National Pay negotiations. It was hoped that the

negotiations would be positive and a resolution would be found by mid July.

46/19 **Governance Statement**

The Authority considered a report seeking comments and consideration of the Annual Governance Statement for 2018/19 attached as Appendix 1 to the report. The Audit and Risk Committee had received the draft Governance Statement for 2018/19 at their meeting held on 3 June 2019.

Under the Local Government Act 1999, the Authority has responsibility for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded.

The Authority also has responsibility for proper arrangements for the governance of its affairs including arrangements for the management of risk and internal control.

The Authority's Governance Statement requires the signatures of the Chair of the Authority and Chief Fire Officer.

The report set out the Governance Framework, Review of Effectiveness and significant governance arrangements within the Authority.

The main issues as a result of the audits were identified as Payroll and West Midlands Combined Authority.

Resolved that the Authority's Governance Statement 2018/19 be received.

47/19 **Monitoring of Finances**

The Authority noted its first budgetary report of the year to the end of May 2018.

It was noted that there were no significant variances. As part of the Authority's 2019/20 budget setting process the current year's budget reflects an estimated transfer from general balances of £1.100 million.

The actual spend to May 2019, including commitments, showed an overall favourable variance of £0.018 million. There was an overspend against the Response budget held corporately due to the level of savings required in staff adjustments and vehicles to meet the £3.8m savings not quite being achieved at this stage. More focus would need to be made during the year to meet the budgetary difficulties facing the Authority.

Appendix B provided statistical data relating to the Firefighters' Pension Scheme and the actual figures were in line with the estimated position.

Capital Expenditure – the scheme analysis was shown on Appendix C. Expenditure to the end of May 2019 was shown as £0.434m.

It was anticipated that the funding for capital projects would come from ear-marked reserves.

In answer to an enquiry regarding the cost to the Fire Authority of the aborted attempt of the change of governance, the Treasurer stated that this related predominantly to the time of the staff involved in the change of governance.

48/19 **External Audit Work Programme and Scale of Fees for 2019/20**

The Authority noted the external audit work programme and scale of fees for the 2019/20 audit work to be undertaken by Grant Thornton UK LLP. The scale of fees proposed for the delivery of the 2019/20 work programme was £29,750 and the charge was consistent with previous financial years and the work pattern was broadly similar.

49/19 **Minutes of the Fire Authority held on 8 April 2019**

Resolved that the Minutes of the Authority held on 8 April 2019, be confirmed as a correct record.

50/19 **Membership of the Authority 2019/20**

The Authority noted the appointments made by the constituent district councils for 2019/20.

51/19 **Question on the Discharge of Functions**

Resolved that the following Councillors be nominated under Section 41 of the Local Government Act 1985, to answer questions raised in the course of proceedings of constituent councils on the discharge of the Authority’s functions:

	<u>Lead</u> <u>Councillor</u>	<u>Substitute</u> <u>Councillor</u>
Birmingham	Iqbal	Jenkins
Coventry	Walsh	Miks
Dudley	Barlow	Miller
Sandwell	Edwards	Gill
Solihull	Hogarth	
Walsall	Cooper	Young
Wolverhampton	Brackenridge	Dehar

52/19 **Governance of the Authority**

The Authority considered a report on the governance of the Authority and proposed amendments to the Constitution and Committee Structure as set out in the report.

A recent decision of the West Midlands Combined Authority to progress laying of the draft Order for governance transfer to the West Midlands Combined Authority and Chair, individual local constitution councils had not unanimously agreed to provide final consent to lay the Order in the Houses of Parliament. Some local councils cited the reason for the non-consent to be the amendments to the draft Oder during parliamentary checks removed absolute assurance that the accountabilities and operational independence of the role of the Chief Fire Officer would be provided for in the statutory Order. The Order was not laid as anticipated on the 5 June 2019 and consequently the transfer of governance had not taken place.

The Governance and Transformation Committee had been established in 2019/20 to advise on the transition to the Mayoral West Midlands Combined Authority. As this was not now taking place it was proposed that the Governance and Transformation Committee be reformed as a Collaboration and Transformation Committee in order to oversee the strategic assurance of developing collaborations of the Authority up to implementation. It was suggested that a co-optee position is established for this committee.

The Scrutiny Committee Terms of Reference had been amended to incorporate the assurance role of the disestablished Shared Fire Control Governance Board in periodically reviewing the strategic performance of this joint function between the Police, Fire and Rescue and Crime Commissioner for Staffordshire and the Authority.

The terms of reference for the Audit and Risk Committee were agreed at Audit and Risk Committee held on 25 March 2019 and noted by the Authority on 8 April 2019.

Following a request by the Authority the Appointments, Standards and Appeals Committee terms of reference had been amended to incorporate the opportunity for the appellant to attend an Authority Appeals Panel, usually to observe only, where the appellant's appeal was being heard.

The amendments to the Employee Relations Framework and subsequently the Joint Consultative Panel terms of reference were set out in a separate report to the Authority.

A new Committee Structure and Calendar of meetings for the year 2019/20 was provided.

There was no percentage increase in the Members Allowances, however, the scheme had been amended to recognise the changes to the Committee Structure and appropriate allowances.

The Clerk to make any consequential amendments to the Constitution in consultation with the Chair, Vice Chair and Leader of the Opposition.

Resolved :

1. That the amendments proposed to the Constitution and Committee Structure as set out in the report in relation to'
 - a. the Governance and Transformation Committee be reformed as the Collaboration and Transformation Committee;
 - b. the appointment of a co-opted member to the Collaboration and Transformation Committee;
 - c. the Scrutiny Committee Terms of Reference include responsibility for assurance of the performance of the shared Fire Control;
 - d. the Appointments, Standards and Appeals Committee Terms of Reference to include the possible attendance of the appellant at Pension Appeal hearings be approved.
2. That the amendments proposed for the Joint Consultative Panel as part of the Employee Relations Framework be noted.
3. That the amendments made to the Audit and Risk Committee terms of reference as approved by the Audit and Risk Committee be noted.
4. That the calendar of meetings for 2019/20 as set out in Appendix 6 be approved.
5. That no percentage increase be made in Members' Allowances in 2019/20 by way of indexing or otherwise;
6. That the Members Allowances Scheme for 2019/20as set out in Appendix 7 be approved.
7. That the discontinuation of the laying of the draft Order for governance transfer to the West Midlands Combined Authority and Mayor be noted.
8. That the Clerk be make and publish any necessary consequential amendments to constitutional

documents in the light of decisions made with regard to governance arrangements for 2019/20 be authorised following consultation with the Chair, Vice Chair and Leader of the Opposition Group.

53/19 **Political Balance and Members of Committees and Panels 2019/20**

The Authority considered the Constitution and political balance of committees and assignment of members to committees and panels for 2019/20.

It was noted that the current Independent Member, Mr Ager, and Mr Tomkinson, the Independent member of the Standards Committee, had both agreed to continue in role for a further year.

It was confirmed that Councillor Cooper, Walsall, would substitute for Councillor Young on the Appointments, Standards and Appeals Committee.

Resolved:

- (a) That the political balance and membership of committees and panels for 2019/20, as set out at Appendix 1, be approved.
- (b) That the appointment of Mr Ager as an Independent non-voting member of the Audit and Risk Committee be affirmed;
- (c) That the appointment of the co-opted member to the Scrutiny and Collaboration and Transformation Committees be approved;
- (d) That the appointment to the roles of Chair and Vice Chairs of Committees and Panels, as set out in Appendix 1 be approved;
- (e) The appointment of Mr R Tomkinson to the role of independent person, appointed in pursuance of Section 28 of the Localism Act 2011, for the term of office expiring at the AGM in June 2020.

54/19 **Appointment of Representatives to Serve on Other Bodies**

The Authority considered the appointment of representatives to service on other bodies during 2019/20. The Authority noted the principles of proportionality apply where the Authority makes more than three appointments to bodies specified in the Act. An indication was given to the appendix where proportionality applied.

The appointment of representatives to serve on other bodies were agreed as:

Local Government Association General Assembly
Councillors Brackenridge, Iqbal, Hogarth

Local Government Association – Fire Service Commission
Councillors Brackenridge, Iqbal, Hogarth

West Midlands Road Safety Partnership
Name to be provided

Association of Metropolitan Fire and Rescue Authorities
Councillor Brackenridge and Iqbal

55/19 **Member Attendances at Conferences**

The Authority considered a report setting out the arrangements for Authorising attendance at conferences, seminars and visits.

It was noted that Councillors Brackenridge and Edwards would attend the LGA Conference in Bournemouth.

It was noted that in respect of the Asian Fire Services Association Conference, Councillor Gill, would also attend.

The Leader of the Opposition Group confirmed that if he was unable to attend, Councillor Barlow would represent the Group.

Resolved that the events for 2019/20, as set out in the Appendix to the report, be approved for the purposes of the payment of travel and subsistence allowances an conference fees (where appropriate) subject to the necessary budgetary provision being available.

56/19 **Fire Safety Prosecuton**

The Authority noted the details of a Fire Safety prosecution under the Regulatory Reform Order (Fire Safety) Order 2005 and related to adjoining premises of Rotana Shisha Lounge and Valentino's Cash and Carry, Highgate, Birmingham where serious fire safety failures concerning the means of escape from the premises putting revelant persons at risk of death or serious injury in case of Fire.

Both parties pleaded guilty prior to the hearing. Mr Miskari received a 12 month community order of 100 hours unpaid work, a £12,000 fine to be paid in 12 months and £9,351.37 costs. Mr Rezvani received a 8 month custodial sentence suspended for 12 months, 200 hours unpaid work and £9,351.37 costs. Valentino's Cash & Carry Ltd. were fined £250,000 to be paid within 3 years.

The costs awarded against the defendants covered the legal costs of £10,876.25 incurred by the Authority in preparing the relevant prosecution file and compensates for Sandwell Legal and Counsel's time spent on the case.

57/19 **Revision of the Employee Relations Relations**

The Authority noted the agreed amendments that had been made to the Employee Relations Framework (ERF) and terms of reference for Joint Consultative Panel (JCP). The document had been amended and updated as part of a scheduled 3 year review, incorporating the outcome of the Trade Dispute in 2018 and organisational Core Values.

The ERF is the agreed framework that governs how the Service and its Trade Unions engage on issues of change.

The ERF draws from:

- ACAS Code of Practice on Trade Union Activities
- Collective Agreement Industrial Relations 2018 (Appendix 1 of ERF Appendix A of the report.
- NJC Joint Protocols for Good Industrial Relations in the Fire Service and Rescue Service (Appendix 2 of ERF Appendix A of the report)
- Dialogue and agreement between local Trade Union officials and management representatives
- Consideration of Fire Authority Constitution and Service policy

As part of the resolution to the trade dispute, an additional seat has been provided to the Fire Brigades Union on the Joint Consultative Panel increase their number from 2 to 3. Following a resolution in respect of the Terms of Reference for the JCP, The Monitoring Officer position has also been added to the list of officers eligible to attend the meetings of the JCP (Appendix 3 of ERF Appendix A of the report)

Members attention was drawn to the review of 'Responsibilities of Elected Members for Employee Relations' document (Appendix 4 of ERF Appendix A)

The main changes agreed for inclusion into the ERF were outlined in the 'overview of amendments' document (Appendix 4 of ERF Appendix A)

- Section 4.1 Inclusion of the Services Core Values (new)
- Section 5.3.6 Dispute Resolution (New)
- Section 5.3.7 External Assistance section (amended)
- Section 5.5.2 Misconduct of Officials/Representatives (new)
- Section 5.5.3 Officials and Representatives – Time Off Provision (amended)
- Section 5.5.11 Notification of Officials – amended
- Appendix 1 – Collective Agreement 2018 (New)
- Appendix 3 – Terms of reference for JCP (amended)
- Appendix 5 – Terms of reference for JCC(amended)
- Appendix 6 – 8 Appendices outlining the process for raising either a Cause for Concern, Failure to Consult or Failure to Agree (new)
- Appendix 9 – Consultation (Flowchart) amended

The amended framework and associated appendices are available to review on the Authority's Intranet (MESH) and would be embedded throughout the organisation through training.

58/19 Annual Report of the Scrutiny Committee 2018/19

Councillor Spence thanked Councillor Tranter for his years of service as the Chair of the Scrutiny Committee and confirmed the wonderful work undertaken by officers and committee members.

The report set out the business conducted and the Chair thanked the Members and Officers for the work on the approach to the Scrutiny of Positive Action and Firefighter Recruitment and removing barriers that were hindering progress.

A Working Group had been set up to work on the review of safeguarding and an Independent Chair, Mr Alan Lotinga, had been appointed as Chair of the Review.

Cllr Barlow echoed Cllr Spence's view and the excellent work of Mr Lotinga as Chair of the Working Group and looked forward to being a member of the Scrutiny Committee in the year ahead.

Cllr Brackenridge stated that the work of the Scrutiny Committee had been the most efficiently conducted of any committee he had seen.

The Review of Safeguarding had highlight areas not previously thought of and there was more work to do. The positive action work had helped the Service more accurately reflect the community that it served.

59/18 Audit and Risk Committee Annual Report 2018/19

The Authority received the Audit and Risk Committee's Annual Report for 2018/19. The Chair of the Committee stated that the report set out the main achievements of the Committee and thanked both the Internal and External Auditors for their exceedingly hard work and the excellent job of managing the Authority's budget and ensuring good reports from the Auditors.

60/19 **Notes of the Policy Planning Forum held on 25 March 2019**

The notes of the Policy Planning Forum held on 25 March 2019 were received.

61/19 **Minutes of the Audit and Risk Committee held on 25 March 2019**

The Minutes of the Audit and Risk Committee held on 25 March 2019 were received.

62/19 **Minutes of the Scrutiny Committee held on 27 March 2019**

The Minutes of the Scrutiny Committee held on 27 February 2019 were received.

63/19 **Notes of the Joint Consultative Panel held on 8 April 2019**

The Notes of the Joint Consultative Panel held on 8 April 2019 were received.

64/19 **Minutes of the Audit and Risk Committee held on 3 June 2019**

The Minutes of the Audit and Risk Committee held on 3 June 2019 were received.

65/19 **Notes of the Policy Planning Forum held on 3 June 2019**

The notes of the Policy Planning Forum held on 3 June 2019 were received.

The meeting closed at 1230 hours.

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