

# **WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

## **EXECUTIVE COMMITTEE**

**6<sup>TH</sup> 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 11<sup>th</sup> 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
<b>TOTAL</b>	<b>4.6</b>	<b>3.1</b>	<b>1.8</b>	<b>0.5</b>	<b>10.0</b>

### 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 15<sup>th</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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 19<sup>th</sup> 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	<b>4.0</b>
Alternative Funding	0.2	0.3	0.5	1.0	<b>2.0</b>
Internal Restructures	0.5	0.3	0.1	0.1	<b>1.0</b>
Service Reductions	0.9	0.3	-	-	<b>1.2</b>
Council Tax Base	0.9	0.7	0.7	0.6	<b>2.9</b>
<b>TOTAL</b>	<b>3.8</b>	<b>2.9</b>	<b>1.8</b>	<b>2.6</b>	<b>11.1</b>

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 19<sup>th</sup> February 2018. The Strategy reflected that General Balances would reduce from their current level, £8.4m (as at 31<sup>st</sup> 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:

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

### **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](http://www.gov.uk/government/publications/fire-and-rescue-national-framework-for-england--2)