

Minutes of the Scrutiny Committee

4 November 2019 at 15:00 p.m.
at Fire Service Headquarters, Vauxhall Road, Birmingham
B7 4HW

Present: Councillor Spence (Chair)
Councillors Barrie, Edwards (substitute for Cllr Gill),
Hogarth (substitute for Cllr Barlow), and Jenkins

Apologies: Councillors Barlow, Dehar and Gill
S Middleton

Observer: Nil

43/19 Declarations of Interest in contracts or other matters

There were no declarations of interest.

44/19 Minutes of the Scrutiny Committee held on 26
September 2019

With reference to paragraph four on page two of the minutes (page four of the agenda pack), a Member noted that they had believed that the subject matter of the report could be considered in a public report, with elements available in the public domain. The Member had acknowledged that certain elements of such a report would be redacted.

ACFO Sarah Warnes advised that two reports would be submitted to the Fire Authority at its meeting scheduled to take place on 18 November 2019. One report providing a general overview would be public whilst the second report

detailing the full financial implications and resilience related information would be private.

Resolved that the minutes of the meeting held on 21 October 2019 be approved as a correct record, subject to the matter raised by the Member (as above).

45/19 **Scrutiny Committee Working Group – Business Continuity Arrangements – 04.11.19**

Karen Gowreesunker, Clerk to the Authority, provided an overview of the report.

The brief report had been submitted to set the scene for the meeting. The report reaffirmed the scope of the review which was to consider the two options proposed to provide additional business continuity arrangements for the Service.

Upon the request of the Committee, Officers had gathered further information and clarification from the Home Office in terms of expectations and the level of assurance required. This information would form the focus of the Scrutiny Committee Working Group Session, allowing Members to review the information provided.

46/19 **Scrutiny Committee Working Group Session**

The Committee had formulated questions for the Home Office as an outcome of the Scrutiny Committee meeting held on 21 October 2019. The questions had been submitted to the Home Office who had provided answers to each of the questions. The questions and the responses from Home Office are available in full within appendix 1 of these minutes.

The Home Office response was circulated to Members along with an extract of the Fire and Rescue Services Act 2004 (section 22 – Intervention by Secretary of State).

Upon the request of the Committee and in agreement with the Chair, Officers left the room for a short period of time to allow Members to digest the information that had been provided.

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ACFO Sarah Warnes provided an overview of the Home Office response and its position.

In relation to question one:

The response provided the background as to how the Home Office had determined the minimum levels of resilience which included a requirement for Fire and Rescue Authorities in high population areas (which included the West Midlands) to achieve 30% resilience levels, and that all authorities ensured a high rise capability. Additionally, the Home Office outlined in the request to the Authority the need to assure the availability of critical National Resilience assets hosted by the Service.

ACFO Sarah Warnes confirmed that in the event of industrial action, pump rescue ladder appliances would be crewed with five staff and Brigade Response Vehicles would be crewed with three. The crewing arrangement ensured that a high-rise capability would be provided.

ACFO Sarah Warnes advised that the Service could not provide the assurance levels expected by the Home Office as evidenced in the Business Continuity paper.

A Member asked DCFO Wayne Brown (due to the Officer's service with London Fire Brigade) if London Fire Brigade had used the facility provided by an external provider.

DCFO Wayne Brown confirmed that London Fire Brigade had used the facility provided by an external provider. From a Fire Authority perspective, the arrangement ensured that the Fire Authority and members of the public were protected. Industrial relations within London were such that it was not possible to rely on volunteers during a period of industrial action. Members of staff had not welcomed the arrangements and it did not sit well with them, however the legal responsibility of the Fire Authority and why the arrangements were implemented was explained to staff. The overriding decision was one of public safety.

A Member asked what level of support was provided by the external provider.

DCFO Wayne Brown advised that arrangements were based on no members of staff volunteering to be available during a period of industrial action. However, a number of staff did declare their intentions to volunteer during such periods and they were added to the resources provided by the external provider, therefore increasing the number of appliances available. It was noted that members of London Fire Brigade did not crew appliances with members of staff from the external provider.

A Member asked if the arrangements had proved to be reliable.

DCFO Wayne Brown confirmed that the arrangements had proved to be reliable. The contracts featured penalty clauses which ensured resources would be provided as required. Additionally, the external provider undertook training with London Fire Brigade in periods of no industrial action.

In relation to question two:

The Home Office understood that Fire and Rescue Authorities utilised a range of different solutions to delivering Business Continuity Plans. Consideration would be given to any blended solutions applied within West Midlands Fire Service. ACFO Sarah Warnes confirmed that this would be based on the blended fleet of 60 resources.

In relation to question three:

The Home Office noted that the number, disposition and crewing arrangements of firefighting appliances were laid out within Fire and Rescue Authorities Integrated Risk Management Plans. These arrangements provided the baseline business as usual metrics which Business Continuity Plans and the required levels of resilience were assessed against.

ACFO Sarah Warnes confirmed that the Service would be working in line with its Integrated Risk Management Plan and the current Service Delivery Model.

In relation to question four:

The Home Office provided an outline of the compliance process for Business Continuity Plans and the process to be undertaken if, following assessment by officials and the National Fire Chief's Council, such plans were found to be below the required levels of resilience.

Following the overview of the response from the Home Office, the following points were raised:

A Member noted they were not sure if the Committee had made themselves clear during the course of the review regarding the impact of the proposals upon existing volunteers. Historically, the Service had been able to deliver a service using volunteers and other members of staff in slightly different roles. This arrangement had been last tested on the ground during the pension dispute. The impact either of the two options would have on existing volunteers was not known and not clear. In the event of either option resulting in a negative impact upon volunteers, it was possible that there would be a reduction in the number of volunteers and potentially, more reliance on an external provider.

The Member also noted that whenever the Service had experienced industrial action it had been a result of a national dispute. The last period of industrial action had occurred during 2015 in relation to the pension dispute, one which remained live in many ways. The Service tested its resilience levels during that time, and the resulting evidence was communicated to the Home Office. The figures provided indicated the levels of resilience were lower at the start and higher toward the end of the industrial action; there was nothing exceptional regarding this.

The Service did not have the fleet availability it once had because it simply could not afford to staff all appliances. Figures presented to Members at the Policy Planning Forum

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held that morning had indicated that fleet availability had already reduced. It was noted that fleet availability was a moving feast during periods of industrial action and periods when there was no industrial action.

Volunteers were utilised during the period of industrial action in 2015 and very few flash points had occurred. The public and members of staff understood how the Service provided business continuity. It was believed that this evidence should satisfy the Home Office, which it had done when the Authority previously wrote to the Home Office and Fire Minister, who accepted the figures and assurances provided by the Service.

The Member also noted that when there was a potential for industrial action through the trade dispute in 2018, the Service had carried out a survey to determine the number of staff who would be willing to volunteer. The percentage of staff who indicated that they would be willing to volunteer did not surprise the Member since the dispute was a local dispute, and not a national dispute. It was a very personal issue which saw firefighters concerned that their jobs were changing.

The Member noted that options one and two could have a detrimental impact upon industrial relations and the Member expressed their concern regarding the potential impact upon volunteers. The Member stated that they did not believe either option should be recommended to the Authority and believed there was no reason why the 30% resilience level could not be provided during an industrial dispute.

The Member advised that the Authority should be recommended to write to the Government to express its concerns, that the Authority was doing its best to plan for the provision of business continuity during a period of industrial action, and call for the Government to take all available steps to avoid industrial action and settle the industrial dispute with the Representative Bodies.

ACFO Sarah Warnes reaffirmed the reasons for the proposal of the two options, including the revising of the National

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Security Risk Assessment, and that the Service was here to ensure the safety of the public. The evidence base clearly identifies that the current assessment shows that the 30% assurance level cannot be achieved. Additionally, the Authority had a statutory responsibility under the Civil Contingencies Act 2004 to provide business continuity arrangements.

ACFO Sarah Warnes advised that Officers had provided a strong evidence base regarding the levels of resilience, which was included within the Business Continuity report, and Members to support the proposed options to provide additional business continuity arrangements for the Service as per the recommendation of the Chief Fire Officer. The focus should be on protecting the public and the communities we serve. If the Service knows it can provide the assurances required via option one or two, it is strongly advised that the Authority undertakes one of the options.

Members were also advised that when considering option one or two, normal volunteers could still volunteer, for example, an external provider would provide resources to make up any deficiencies. It would not be satisfactory if we knew we could provide additional resources to increase public safety but chose not to do so.

It was also noted that the Home Office had stated this was a local matter for Fire and Rescue Authorities to consider, not a national matter.

A Member advised that they felt that moving the issue back to the Government was not satisfactory. Members were on the Authority to represent the people of the West Midlands and to protect them. The Member believed that the Service's management team were in place to manage. It was noted that it was a situation that hopefully would never happen, but the proposals were an insurance policy in case such a situation did occur.

The Member noted that it was vitally important that the Authority carried out its responsibilities, especially if it could not ensure the levels of assurance required.

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Another member seconded the views of the Member as outlined above.

DCFO Wayne Brown asked Members to consider that the Chief Fire Officer had previously been able to provide the level of assurances to the Authority. However, the national picture had changed, and circumstances locally had changed accordingly. As a result, the Chief Fire Officer had provided the advice based on the evidence available.

Upon the request of the Committee and in agreement with the Chair, Officers left the room for a short period of time to allow Members to consider the information provided throughout the meeting and to date, as part of their deliberations in making a recommendation to the Fire Authority. All Officers left the meeting for this period until requested by Members to return.

The Committee took a vote on the options:

- Option one – a contingent workforce.

Outcome:

For: None (nil)

Option one would not be recommended to the Authority.

- Option two – an external provider.

Outcome:

For: Two Members (2)

Against: Three Members (3)

Option two as recommended by the Chief Fire Officer would not be recommended to the Authority.

Following the outcome of the vote, the Chair advised the Committee that some members of the committee had formed a recommendation to be put forward for consideration.

A Member advised the Committee of the proposed recommendation:

'We recommend the Fire Authority does not accept option one, or option two in the report 'Business Continuity Arrangements. We recommend that the Fire Authority continues to utilise existing arrangements for business continuity during industrial action through the use of volunteers drawn from existing staff numbers'.

The proposed recommendation was put to a vote:

Outcome:

For: Three Members (3)

Against: Cllr Barrie and Cllr Hogarth (2)

Note: the Councillors indicated above, requested that their names be recorded against their votes.

The recommendation would be recommended to the Authority.

The recommendation made by the Chief Fire Officer was not supported by the Committee.

The report on Business Continuity Arrangements would be submitted to the Authority on 18 November 2019.

Resolved -

That the Committee reviewed the two options proposed to provide additional business continuity arrangements.

That the Committee would not recommend option one 'a contingent workforce'.

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That the Committee would not recommend option two 'an external provider'.

That the Committee put forward a third recommendation (recorded in full above).

That the Committee would recommend the third recommendation to the Authority.

The meeting finished at 16:20pm.

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Appendix 1

The Home Office response to questions put forward by the Scrutiny Committee Working Group:

Q1 What is the rationale for arriving at 30% resilience required?

The minimum levels of resilience required for Industrial Action Business Continuity Planning (BCP) were introduced by the Fire Minister in January 2018.

These requirements were put in place following a review of all Fire Authority (FRA) BCPs in England, undertaken by Home Office officials and the FRS National Resilience Assurance Team in 2017, which revealed wide disparate levels of resilience and several causes of concern within FRAs whose arrangements were at the lower end resilience levels.

Subsequently, the Fire Minister required Chairs of FRAs in high population areas (which includes the West Midlands) to achieve 30% resilience levels – and given the tragic events of the Grenfell Tower fire, that all authorities ensure the capability to fight high rise fires.

Furthermore, with regard to the critical National Resilience assets hosted by West Midlands – for which the Home Office provides significant funding – the FRA was asked to assure the availability of a Marauding Terrorist Firearms Attack, a Mass Decontamination Unit, a Detection Identification and Monitoring unit capability and the availability of a full Urban Search & Rescue capability.

The Minister wrote to the Chair of West Midland FRA in February 2018 explaining as set out in his letter dated 26 January 2018 to Roy Wilsher, Chair of the National Fire Chief's Council, that his ask of FRAs to reach these levels, along with high rise firefighting capabilities and critical national resilience assets, is proportionate to risk, operational activity and aligned to areas with higher populations. The methodology and modelling applied compares the number of fire appliances available during industrial action with the number available during business as usual, and the number of

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appliances that can respond to localities for a range of response times.

Q2. Is the rationale applied to all of our blended fleet?

FRAs utilise a range of different solutions to delivery their IA BCPs to comply with the required levels of resilience. These arrangements include the utilisation of Wholetime firefighters, senior and FDS officers, On-call firefighters, support staff, auxiliary firefighters, resilience contracts and private sector contracts and in many cases using a blended approach.

Consideration would be given to any blended solutions applied within West Midlands FRS.

The required levels of resilience and rationale would apply to your blended fleet of firefighting appliances.

Q3. How do you take into account differences in service delivery models where some services ride with a crew of four?

The number, disposition and crewing arrangements of firefighting appliances are laid out within FRSs' Integrated Risk Management Plans.

These arrangements provide the baseline business as usual metrics which IA BCPs and the required levels of resilience are assessed against.

The disposition, configuration and size of crews for firefighting appliances for IA BCP purposes are determined by the FRA.

Q4. What is the process for non-compliance?

Home Office are the responsible lead government department for Fire Authority Business Continuity planning.

In September 2017 Home Office and the National Fire Chiefs Council signed off an agreed Memorandum of Understanding and Concept of Operations for IA BCP arrangements. These arrangements require an annual review of all FRA IA BCPs,

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undertaken by officials and the NFCC which are assessed against the required levels of resilience.

The 2019 assessment of FRA BCPs will test whether they reach the required levels of resilience. Any IA BCPs below the required levels of resilience will be brought to the attention of the Fire Minister and the first stage of intervention would consist of a ministerial letter to the Chair of the FRA followed with a visit by officials and the NFCC to carry out an in depth review of arrangements. A full report would be prepared and forwarded to the FRA containing findings and recommendations that would enable the authority to achieve the resilience requirements. These arrangements have been put into place to assist FRAs compliance with their Statutory duties set out in the Civil Contingencies Act 2004.

The Fire Service Act 2004, section 22 lays out the Secretary of State's Powers of Intervention.

Home Office encourages the FRA to have regard to the Chief Fire Officers IA BCP proposals whereby the required levels of resilience are satisfied, and which serve the FRA in discharging their statutory duties to protect local communities.