



AVON FIRE AUTHORITY

5 OCTOBER 2022

Present: Councillors S Bromley, E Brown, D Davies, B Hopkinson, B Massey, P May, Y Mohamud, A Monk, B Nutland, R Payne, S Smith, R Tucker and D Wilcox.

The meeting began at 14.20hrs.

25. APOLOGIES FOR ABSENCE

Apologies were received from Cllrs A Ali, J Ashe, N Butters, R Eddy, P Goggin, R Jacobs and A Varney and J Mason, Independent Person.

26. EMERGENCY EVACUATION PROCEDURE

Members were advised by the Chief Fire Officer (CFO) that in the event of an emergency, to exit the engine bay at the rear of the building and congregate in the car park.

Members were reminded that the meeting was being held in Hicks Gate Fire Station, a working fire station and the crews could be called out at any time. The meeting would be paused in the event of a call out.

27. DECLARATION OF INTERESTS

None advised.

28. PUBLIC ACCESS

None received.

29. CHAIR'S BUSINESS

The Chair welcomed everyone to the meeting and drew attention to the following:

1. The Chair confirmed that the meeting would take place as a face-to-face meeting. The meeting had been recorded for the public to view.
2. The Chair thanked the Station Manager and crews at Hicks Gate Fire Station for their help in accommodating the meeting.
3. The Chair thanked Vaughan Jenkins and Dave Pike for stepping up to support the Authority and Service whilst the ACFO recruitment process was undertaken.

4. The Chair advised that the Treasurer, Danielle Neale, had announced that she would be leaving Avon Fire Authority (AFA) on 31 December 2022 and she was wished the best for the future. In addition, the Clerk would raise an item of urgent business after Item 15 in the agenda, before going into exempt session.
5. Members and Officers introduced themselves.
6. The voting arrangements for the meeting were as follows:
 - The Chair to ask for any votes against.
 - The Chair to ask for any abstentions.
 - The Chair to ask for a show of hands for Members voting “for”.

30. MINUTES OF THE ORDINARY MEETING OF AVON FIRE AUTHORITY HELD ON 22 JUNE 2022

The minutes were moved by Cllr Massey and seconded by Cllr Davies.

It was RESOLVED that the minutes of the ordinary meeting of the Avon Fire Authority held on 22 June 2022 be signed by the Chair as an accurate record of the meeting.

31. MINUTES OF COMMITTEE MEETINGS

7.1 Minutes of the Ordinary Meeting of the Audit, Governance & Ethics Committee held on 11 February 2022.

The minutes were moved by Cllr Payne and seconded by Cllr Tucker.

It was RESOLVED that the minutes of the ordinary meeting of the Audit, Governance & Ethics Committee held on 11 February 2022 be signed by the Chair as an accurate record of the meeting.

7.2 Minutes of the Ordinary Meeting of the Local Pension Board held on 25 February 2022

The minutes were moved by Cllr Smith as the only member of the Local Pension Board available at the Fire Authority meeting today (noting that both elected members who participated in the Local Pension Board meeting on 25 February 2022 had since left the Fire Authority).

It was RESOLVED that the minutes of the ordinary meeting of the Local Pension Board held on 25 February 2022 be signed by the Chair as an accurate record of the meeting.

7.3 Minutes of the Ordinary Meeting of the People & Culture Committee held on 4 March 2022.

The minutes were moved by Cllr Wilcox and seconded by Cllr Massey.

It was RESOLVED that the minutes of the People & Culture Committee held on 4 March 2022 be signed by the Chair as an accurate record of the meeting.

7.4 Minutes of the Ordinary Meeting of the Performance, Review & Scrutiny Committee held on 21 April 2022.

The minutes were moved by Cllr Payne and seconded by Cllr Nutland.

It was RESOLVED that the minutes of the ordinary meeting of the Performance, Review & Scrutiny Committee held on 21 April 2022 be signed by the Chair as an accurate record of the meeting.

32. URGENT ACTION BY THE CLERK UNDER STANDING ORDER 4.1

The Clerk advised that she had taken urgent action on behalf of AFA under Standing order 4.1.

The Microsoft licencing contract was approved by the Fire Authority at their AGM in June 2022, but during the contract award process it became apparent that the bidder had submitted incorrect figures, which they would not commit to. The Procurement department, therefore requested a revised quote from the bidder, re-evaluated all bids and applied the new scoring.

In consultation with the Chair of the Fire Authority, Vice Chair of the Fire Authority, the CFO and the Chair of the Performance, Review & Scrutiny Panel, the Clerk approved the award of the Microsoft Licencing Contract to the new highest scoring bidder. A paper would be brought to the Fire Authority later in the exempt part of today's meeting.

The Occupational Health contract was due to be discussed at the Extraordinary AFA meeting scheduled for 16 September 2022, which was postponed due to the period of official mourning. As the Occupational health contract was due to expire, and Members had already seen the exempt paper, the Clerk consulted Members by email and asked for any objections to her granting the contract under her urgent action on 16 September 2022 – no objections were received.

It was noted that the Clerk, at the request of the CFO and in consultation with the Chair of the Fire Authority agreed to award the Occupational Health Contract in accordance with the recommendation made in the report from the postponed meeting of 16 September 2022. A paper would be brought to the Fire Authority later in the exempt part of today's meeting.

A Member queried the value of the AFA 'rubber stamping' a procurement process and awarding a contract, which had followed the appropriate procurement rules. The Clerk confirmed that this would be reviewed including the level at which the AFA needed to be involved, as part of a proposed Local Government Association (LGA)/peer review of AFA governance.

33. APPOINTMENT OF NEW ASSISTANT CHIEF FIRE OFFICER

The Clerk presented the report which summarised the recruitment process for a new Assistant Chief Fire Officer (ACFO), which process concluded on 9 August 2022. The paper sought AFA ratification of the appointment made by the People and Culture Committee in line with the Constitution.

The recommendation was moved by Cllr Massey and seconded by Cllr Wilcox.

**It was RESOLVED that the Fire Authority:
Formally appoint Mr Richard Welch as the new Assistant Chief Fire Officer for Avon Fire & Rescue Service, such appointment to take effect on 17 October 2022.**

34. REVENUE 2022/23 BUDGET MONITORING REPORT

The Head of Finance presented the report which provided the AFA with an update on the 2022/23 Revenue Budget and other key financial information for the period 1 April 2022 to 31 July 2022.

The July 2022 revenue budget results projected that there would be no annual forecast variance. This was a positive financial position for the Authority and the details were shown within Appendices 1 and 2.

It was confirmed that although the current position is break-even there are a number of cost pressures which are yet to be quantified within the report, that should be considered. It was clarified that the break-even position does include the Service utilising the contingency reserves set within the budget this year, in their entirety.

Members were advised that there were large contracts being awarded and budget adjustments would be made. An updated position would be reported to AFA in December.

A Member advised that they were concerned that reported figures were static. The Head of Finance advised that the results were quite early within the financial year. However, adjustments would be made going forward, but it is early within the year and difficult to predict expenditure.

A Member advised that they understood that the Service was using contingencies to achieve a balanced budget and had indicated that new contracts would be received but to achieve a balanced budget, would we be using all of the reserve funds in the contingency budget and what was the view of the Head of Finance on the final position at the end of the year. The Head of Finance advised that the Service had allocated all contingencies within the report but had actually spent only £127k. The Service would review whether to allocate more in relation to expected costs due to inflation and pay awards but would still leave the Service with contingency to cover other costs. The Service also had specific reserves to cover other funding i.e., pensions and other big projects such as Transformation. The Head of Finance added that the Service would look to use that contingency,

which would potentially mean that the Service could retain its reserves that would be required for next year.

**It was RESOLVED that Avon Fire Authority:
Noted the latest Income and Expenditure forecast on the Revenue Budget**

35. 2022/23 CAPITAL PROGRAMME UPDATE

The Fire Authority received a report from the Head of Finance who provided an update on the 2022/23 Capital Programme, operational updates and additional context on the 2022/23 projects.

The Capital Programme approved for 2022/23, included adjustments for the final 2021/22 carry over of £7.741m. Costs for Premises and Fleet were both expected to be in line with the budgets already set.

The Control function projects currently within the Capital Programme are for a Dispatch Communication Server (DCS) and the replacement of the mobilising system hardware and software. This would now be expected to be higher than the figures indicated in the initial requests (£450k of which £350k is for mobilising hardware and software refresh, and £100k for DCS) which were based on initial costings provided by the supplier. However, these projects had now been delayed and expenditure is expected to start in 2023.

It was pointed out that in Appendix 3, within the Operational Summary for Avonmouth, the 'k' was missing and the expenditure to date should be £1,988k.

A Member asked for clarification of paragraph 5.7 responses (point 4), it has been stated that there would be an overall increase in revenue spend but this would still be within budget. The Head of Finance advised that this referred to her earlier comment and that there would be a contingency within the overall budget to cover this increase.

It was asked how variants in the value of the pound would change the budget and if the Service purchased items from abroad. The Head of Procurement advised that it would likely impact the Service but it would be difficult to provide details. The Service purchased a number of items in pounds, especially related to IT and construction, which are manufactured abroad but sold in dollars. This situation was expected but had not arisen yet as the Service was currently protected by fixed price contracts.

A Member asked about the re-design of Bath Fire Station, including working with the police and likely timescales for redevelopment of the site. The Director of Corporate Services (DoCS) confirmed that a decision was awaited from the police and once received, it was anticipated that an update would be brought to the AFA meeting in December 2022.

**It was resolved that the Fire Authority:
Noted the latest expenditure position on the 2022/23 Capital Programme and reviewed any key issues to provide the required assurance on the approved Capital Programme.**

36. FORWARD PLAN 2022/23 - KEY DECISIONS

The Clerk presented a revised Forward Plan of Key Decisions, which set out the anticipated major decisions and key papers to be delivered in 2022/23.

**It was RESOLVED that the Avon Fire Authority:
Noted the revised Forward Plan 2022/23.**

37. LOCAL PENSION BOARD ANNUAL REPORT 2021-22

Cllr May declared an interest in this item as a Member of the Board of the Avon Pension Fund.

DoCS presented the report which outlined that at its meeting on the 20 July 2022, the Local Pension Board (LPB) approved a draft Annual Report summarising the work of the Board over the previous year.

The production of an annual report is to ensure that the AFA (as Scheme Manager) was kept informed about the activities of the LPB over the previous year. It serves to communicate to the Fire Authority, the activities of delegated officers and the Local Pension Board and provided transparency and information to scheme members and the public.

This report, which is the second Annual Report of this Board, reflected the agreements made in the January 2021 meeting with reference to content. There are no material changes to the structure since the 2020-2021 report.

It was confirmed that the LPB were involved with the Immediate Detriment issue, scrutinising on behalf of and taking recommendations to the AFA. There had been an increase in training focus within the LPB and a new independent Chair had been appointed.

**It was RESOLVED that the Avon Fire Authority:
Noted the Local Pension Board Annual Report 2021-22, prior to its publication.**

38. SERVICE ROUND-UP

The Fire Authority received an information report from the Assistant Chief Fire Officer, Service Delivery (ACFO, SD) who highlighted areas of good work across AF&RS, which had taken place between June and September 2022 including:

1. The Business Fire Safety Unit had produced an online video learning tool aimed at small and medium businesses, which had been adopted by the National Fire Chiefs Council (NFCC) on their website.

2. The Service had been recognised for its outstanding contribution to Bristol's Stepping Up Programme. In addition, Richard Stokes, AF&RS Diversity and Inclusion Manager was awarded a 'Rising Star Award' for his work in changing the face of diversity both within the Fire Service and in the wider community. The Chair asked that the AFA's congratulations be passed onto Richard.

Cllr Nutland mentioned the recent series of 'Summer of Safety Sessions' which had taken place at Yate Fire Station. He advised that the sessions were very well received and wished to pass on his thanks to the Children and Young Persons Team.

**It was RESOLVED that the Avon Fire Authority:
Noted the report.**

39. IMMEDIATE DETRIMENT UPDATE

DoCS started her presentation by correcting a couple of typing errors in the report. In paragraph 3.6 the number in the fifth line should be '22' and not '23'. In addition, at paragraph 5.20 Autumn/October 2023 should read '2022'.

DoCS then outlined the current position of the AFA on Immediate Detriment (ID) and that they had previously deferred a decision on whether to adopt the Local Government Association (LGA) and Fire Brigades Union (FBU) Memorandum of Understanding (MOU) and Framework pending further information and clarification of the financial implications.

In June 2022, the AFA made the decision to pause ID processing for forthcoming retirees apart from a small number of pipeline cases, while the estimated cost liability for the Authority was calculated using a 'ready reckoner' provided by the LGA. Since June 2022, work had taken place with HR, Finance and Payroll as detailed in paragraph 4.9 and the potential cost to the AFA to resume ID for those aged 50 or above with 30 years' service was estimated to be approx. £500,000 including costs incurred since the removal of Home Office guidance and funding. If those aged 50 with 25 years also sought to retire under Immediate Detriment further costs would be incurred as outlined in the paper (paragraph 4.97).

DoCs added that the basis for these costs was set out in paragraph 4.5 - the LGA had provided a ready reckoner to assist Scheme Managers to review potential ID costs. There are three areas of potential financial risk to FA budgets which were included in the calculation, namely: compensation for a contribution holiday, removal of tax relief for FPS 2015 contributions and additional charges paid to administrators to process ID cases. The figures in paragraph 4.9 were described as worst-case scenario because the costs may not all be incurred and not all of the predicted 44 staff may choose to retire over the next year.

It was advised that the costs had already been incurred between November 2021 and June 2022 when the Home Office removed funding but ID processing continued.

In terms of potential funding for these costs, the pensions reserve has been identified as an option. The reserve currently contains £577k, however there are implications of using this reserve, as it is in part set aside to cover the cost of Ill Health Retirements above the number profiled each year. Therefore, if used in full for ID the AFA would have potentially no resilience for other costs, which would have to be funded by the local revenue budget.

There were potentially other costs implications of not resuming ID due to the increased risk of legal action due to arrangements not being in place to address the age discrimination finding. This would also increase the risk of multiple Internal Dispute Resolution Procedure (IDRP) complaints.

Those affected would receive a lower pension until the Government resolution. This would be backdated and could have an impact on their decision about whether to retire. The resolution in 2023 would include backdating.

The Pensions Ombudsman (TPO) had issued a fact sheet in July, which set out their position for dealing with complaints and disputes about the age discrimination remedy. It was confirmed that their general position, is that they would not investigate complaints or disputes in relation to remedy. However, they would look at the facts of each case and investigate carefully.

Following this factsheet, on the 30 September 2022, the LGA reminded scheme members of the Ombudsman's powers to investigate and order compensation payments of up to £2,000 per individual.

DoCS reminded Members that they had agreed to revisit the potential adoption of the LGA/FBU framework and suggested that in their meeting in December, the framework may have changed or further information may have been received.

The Clerk recapped the legal position within this process. She reminded Members that she had instructed a QC, who advised that the Government had left FRSs in an awkward position and they should only process the least controversial and simple cases. The legal advice had been given when the Home Office Guidance was still extant. That guidance had now been withdrawn, which resulted in financial risk to the AFA. The Clerk decided not to seek further legal advice at this stage, as we had seen a summary of the legal advice provided to the Police Chiefs Council and legal advice was likely to be that we should wait for the new legislation.

DoCS stressed that the decision was for the Scheme Manager (AFA) to make. The CFO drew Members attention to paragraph 4.9 which outlined that there could be potentially 58 retirements up to October 2023. The CFO explained that if those aged 50, with 25 years' service decided to retire on ID we would need to find additional funding from our revenue budget. If those aged 50 years and with 30 years' service retired this could be afforded by utilising all of the pension reserve but there were potential implications on the revenue budget.

The CFO warned that the potential would be over two financial years and it would be reasonable to assume that there would be a hit to potential revenue in next

year's budget. The DoCS agreed but confirmed that the Service could use the 'ready reckoner' to establish the worst-case scenario.

A Member added that the situation seemed to be no clearer than in June, when the AFA had agreed to continue the pause and look at cases in hand rather than second guess for the future. This conclusion appeared less detrimental to the AFA and members of the scheme. The Clerk agreed that the AFA were still no further forward and that it would be prudent to continue the pause as the risks were still very uncertain.

Following Member discussion, DoCS summarised that the TPO position is that if we decided to continue the pause we should, where requested, look at each case on its merits. It was recommended that if Members chose the option to continue the pause in ID processing, then this should be done in line with case-by-case consideration.

The Clerk reminded Members that all ID calculations would likely need to be recalculated once new legislation is in place, which puts uncertainty on the AFA and for firefighters regarding tax and other liabilities. All legislation should be completed by October 2023.

The CFO advised that in respect of other FRSs, some are processing Category 1 cases, some Category 1 and Category 2 and some Services have paused ID altogether. He added that managing potential financial risk and the cost around the number of potential retirements would be very difficult.

A Member asked if the AFA decided not to remove the 'pause', would those who had their pensions paused have a legal case against the AFA? The DoCS advised that potentially that was the case, however she was not aware of any potential claims, but this would be part of the risk.

As the recommendations included alternative options, Members decided to vote by show of hands on both Options B and C.

The vote on Option B (resuming ID processing with immediate effect) was voted in favour by Cllrs Smith and Hopkinson.

The vote on Option C (to continue pausing ID processing) was voted in favour by 11 councillors and therefore it was agreed that Option C was carried by majority vote in favour, as the decision of the Fire Authority.

Members then agreed unanimously to approve recommendation A (review the potential implications and costs of pausing or resuming ID processing) and recommendation D (to note the developments since the Fire Authority meeting on 22 June 2022).

It was resolved that the Fire Authority:

- a) Reviewed the potential implications and costs of pausing or resuming ID processing for forthcoming retirees, together with funding options and noted the caveats contained in the paper.**

- b) **Decided to continue pausing ID processing pending any changes (legislative or otherwise) which would reduce the financial impact on local budgets and, in the interim, noting the position of The Pensions Ombudsman (TPO), signpost forthcoming retirees to how they raise exceptional issues, such as severe financial hardship, for the initial consideration of the Chief Fire Officer/Chief Executive Officer (CFO/CEO) and Director of Corporate Services (DoCS), on a case-by-case basis.**
- c) **Noted the developments since the Fire Authority meeting on 22 June 2022, most notably the factsheet from The Pensions Ombudsman (TPO) dated July 2022, which outlines their approach to ID cases.**

ADDITIONAL AGENDA ITEM

The Clerk announced that in light of the Treasurer's decision to leave the Service on 31 December 2022, the People & Culture Committee which had met that morning, had asked the Clerk to raise urgent business with the Fire Authority and they asked the Fire Authority to vote on 'determining to undertake a recruitment process (in accordance with para 2.1 of the Officer Employment Procedure Rules on page 88 of the Constitution) for a new s151 Officer (under the Local Government Act 1972)'.

That new resolution was proposed by Cllr Monk and seconded by Cllr Massey.

It was resolved unanimously that the Fire Authority: Should undertake a recruitment process for a new s151 Officer. It was noted that the People & Culture Committee would undertake the actual recruitment process.

40. DATE OF NEXT MEETING

It was RESOLVED that Avon Fire Authority noted the date of the next meeting as being 14 December 2022 at 14.00hrs.

41. EXCLUSION OF THE PRESS AND PUBLIC

The recommendation was moved by Cllr Massey and seconded by Cllr Wilcox.

It was RESOLVED that the public be excluded from the meeting during the following items of business on the grounds that they contained exempt information pursuant to Schedule 12A, Part 1 of the Local Government Act 1972 and that in accordance with Schedule 12A, Part 2, paragraph 10 of the Local Government Act 1972 the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Cllrs Nutland, Smith, Brown and May left the meeting prior to going into the exempt session.

42.1 CONFIDENTIAL MINUTES OF THE ORDINARY FIRE AUTHORITY MEETING HELD ON 22 JUNE 2022

Confidential minutes of the ordinary meeting of Avon Fire Authority held on 22 June 2022.

The minutes were moved by Cllr Massey and seconded by Cllr Davies.

It was RESOLVED that the confidential minutes of the ordinary meeting of Avon Fire Authority held on 22 June 2022 be signed by the Chair as an accurate record of the meeting.

43.1 CONFIDENTIAL MINUTES OF THE AUDIT, GOVERNANCE & ETHICS MEETING HELD ON 11 FEBRUARY 2022

Confidential minutes of the ordinary meeting of the Audit, Governance & Ethics committee held on 11 February 2022.

The minutes were moved by Cllr Wilcox and seconded by Cllr Tucker.

It was RESOLVED that the confidential minutes of the ordinary meeting of the Audit, Governance & Ethics committee held on 11 February 2022 be signed by the Chair as an accurate record of the meeting.

44 MICROSOFT LICENCING CONTRACT UPDATE

The AFA received a report from the Head of Procurement which outlined that the AFA's contract for the provision of Microsoft Licencing had been due for renewal in April 2022.

45. OCCUPATIONAL HEALTH CONTRACT

The Head of Procurement presented the report to the AFA which outlined that the AFA's contract for the provision of Occupational Health services expired on 31 October 2022.

46. STAGE TWO INTERNAL DISPUTE RESOLUTION PROCEDURE

The Clerk presented the report to the AFA which outlined information of a Stage Two Internal Dispute Resolution case.

The meeting closed at 16.20hrs

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Chair