



Bedfordshire

Fire & Rescue Authority

Members of Executive Committee.

Bedford Borough Councillors: M Headley

Central Bedfordshire Councillors: P Duckett and J Chatterley

Luton Borough Councillors: K Choudhry and Y Waheed

A meeting of **Executive Committee** will be held at **Conference Room, Fire and Rescue Service Headquarters, Kempston, Bedford MK42 7NR** on **Tuesday, 11 October 2022** starting at **9.30 am**.

Graham Britten
Monitoring Officer

A G E N D A

Item	Subject	Lead	Purpose of Discussion
1.	Apologies	Monitoring Officer	
2.	Declaration of Disclosable Pecuniary and Other Interests	Chair	Members are requested to disclose the existence and nature of any disclosable pecuniary interest and any other interests as required by the Fire Authority's Code of Conduct (see note below)

Item	Subject	Lead	Purpose of Discussion
3.	Communications	Chair	
4.	Minutes	Chair	To confirm the Minutes of the meeting held on 22 June 2022 (Pages 5 - 12)
5.	Public Participation	Chair	To receive any questions put to the Authority under the Public Participation Scheme
6.	LGA Independent Review of Governance Update	CFO	Verbal update
7.	CRMP Update	DCFO	Verbal update
8.	Response Standards - options for developing a framework for discussion	DCFO	To consider a report (Pages 13 - 16)
9.	Pensions Immediate Detriment Update	ACFO	To consider a report (Pages 17 - 24)
10.	Targeted Use of Abatement	ACFO	To consider a report (Pages 25 - 28)
11.	Work Programme	CFO	To consider a report (Pages 29 - 32)

Local Government Act 1972: Schedule 12A (as amended) - Exclusion of the Public

Chair

To consider whether to pass a resolution under Section 100 (A) of the Local Government Act 1972 to exclude the public from the remainder of the meeting on the grounds that consideration of the following items of business is likely to involve the disclosure of exempt information as defined in Paragraphs 4 and 5 of Part 1 of Schedule 12A to the Act as amended.

Item	Subject	Lead	Purpose of Discussion
12.	Legal challenge to EEAST collaboration	CFO	To consider a report (Pages 33 - 50)

Item	Subject	Lead	Purpose of Discussion
	Next Meeting	10.00 am on 15 November 2022 at Conference Room, Fire and Rescue Service Headquarters, Kempston, Bedford MK42 7NR	

DECLARATIONS OF INTEREST

From 1 July 2012 new regulations were introduced on Disclosable Pecuniary Interests (DPIs). The interests are set out in the Schedule to the Code of Conduct adopted by the Fire Authority on 28 June 2012. Members are statutorily required to notify the Monitoring Officer (MO) of any such interest which they, or a spouse or civil partner or a person they live with as such, have where they know of the interest.

A Member must make a verbal declaration of the existence and nature of any Disclosable Pecuniary Interest and any other interest as defined in paragraph 7 of the Fire Authority's Code of Conduct at any meeting of the Fire Authority, a Committee (or Sub-Committee) at which the Member is present and, in the case of a DPI, withdraw from participating in the meeting where an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

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MINUTES OF EXECUTIVE COMMITTEE MEETING HELD ON 22 JUNE 2022

Present: Councillors P Duckett (Chair), J Chatterley, K Choudhry, M Headley and Y Waheed
CFO A Hopkinson, DCFO C Bigland, ACFO A Kibblewhite, Mr J Atkinson and Mr S Frank
Ms D Evans of the Local Government Association was present via Teams

22-23/EC/1 Apologies

1.1 An apology for lateness was received from Councillor Choudhury.

22-23/EC/2 Declaration of Disclosable Pecuniary and Other Interests

2.1 There were no declarations of interests.

22-23/EC/3 Communications

- 3.1 The Chair commented that it was his first meeting of the Executive and thanked all those who supported his nomination for the role of Chair of the Authority.
- 3.2 The Chief Fire Officer advised that the Assistant Chief Officer, Mr G Chambers, was unable to attend the meeting as he had been in Vienna to attend the International Critical Communications Awards, at which the Service's replacement mobilising system project (Command Central Control System (CRS) Cloud control system and Emergency Services Network (ESN) Connect for Multi-Disciplinary Teams (MDTs) with Motorola Solutions Inc.) had been shortlisted for a Control Room Innovation award. The achievement of being shortlisted for such a prestigious award was recognised.
- 3.3 The Chief Fire Officer reported that Members of the Corporate Management Team attended a event at St Luke's Church in Luton for residents affected by the Green Court high rise fire organised by Sarah Owen, MP, during the week commencing 13 June 2022. This had been very worthwhile as it had provided reassurance and offered engagement opportunities to affected residents and strengthened relationships with local councillors, the Luton North MP and partner organisations who also attended.

22-23/EC/4 Minutes

RESOLVED:

That the Minutes of the meeting held on 26 May 2022 be confirmed as a true record.

22-23/EC/5 Public Participation

5.1 Members noted that no questions had been received in accordance with the public participation scheme approved at the meeting of the Fire and Rescue Authority held on 5 April 2000 (Minute 99/fa/94 refers).

22-23/EC/6 Appointment of Portfolio Holders

6.1 The Chair advised that the Portfolio areas had been allocated on a first come, first served basis as follows:

- Assets & Collaboration: Councillor J Chatterley
- Data & Digital Transformation: Councillor M Headley
- Emergency Response & Resilience: Councillor P Duckett
- Prevention & Protection: Councillor Y Waheed
- Workforce & Organisational Development: Councillor K Choudhury

RESOLVED:

That the Portfolio lead areas be allocated as set out above.

22-23/EC/7 Proposals for Strategic Planning Cycle for CRMP 2023-27

7.1 The Chief Fire Officer introduced a report on the Service's proposals for developing the Community Risk Management Plan (CRMP) 2023-24 to 2027-28. The 4 year strategy had been delivered via annual action plans, but there was now an opportunity to adopt a different, more inclusive approach to the development of this important document and this would be discussed in greater depth at the Member Development Day to be held on 7 July 2022.

- 7.2 Mr S Frank, the Head of Strategic Support and Assurance, gave a brief presentation outlining the process of development to date and future plans. The Executive was provided with examples of questions that Members would be asked as part of this, such as what was missing from the current CRMP and what the Service could do to support Bedfordshire's economic wellbeing. Extensive engagement with stakeholders and the local community would be undertaken, all whilst ensuring that the CRMP was drafted in accordance with national guidance. The community and risk elements would be more prominently featured, as would the areas highlighted through public consultation: environmental issues, governance and engagement.
- 7.3 The developing proposals would be subject to two public surveys; the first would be launched during the River Festival weekend (23/24 July 2022) and the second in November 2022. The Service was working closely with Bedford Borough Council, as it would be undertaking a Community Safety Survey of its residents at that event. A company had been employed to assist in engaging with vulnerable groups during the second round of public surveys, to ensure that the views of these groups were captured. There would also be a step change in staff involvement in the development of the CRMP.
- 7.4 The Chief Fire Officer added that, since the adoption of the last CRMP, the National Fire Chiefs Council had developed a methodology for the development of such documents and this would guide the development of the Service's CRMP.
- 7.5 In considering the mission statement, which was "to provide outstanding fire and rescue services to help make Bedfordshire safer", the view was expressed that this undersold the Service and that its civic leadership role, unique role of trust in the community, and the expanded role of fire fighters since the last CRMP should be encompassed in some way into the statement. The social value of Service investment in supporting the East of England Ambulance Service Trust during the pandemic, which had been identified as £7 for every £1 invested, was also acknowledged.
- 7.6 Opportunities for Member involvement included two Development Days on 7 July 2022 and 22 November 2022, the Budget Workshop on 6 October 2022 and a seat for a Member of the Authority on the CRMP Reference Group. Regular updates would be provided to all Members at Authority meetings.
- 7.7 In response to comments about Members' role in the development of the CRMP, the Chief Fire Officer agreed that the CRMP was the Authority's document and that Members had a vital role in its development as they would need to take ownership of it. The discussion to be held at the first Member Development Day would be framed accordingly.
- 7.8 The Chair requested that a more detailed timeline of the development be provided to Members at the Development Day.
- 7.9 Recognising that the emergency cover review was an important part of the CRMP, the Chief Fire Officer reassured Members that further information on the review, and on the associated pilots and trials that were proposed, would be presented to Members at the next meeting of full Authority on 20 July 2022. It was also intended to provide an update on the estates strategy at that meeting,

which, depending on the progress of discussions, would either be a joint strategy with the Ambulance Service or a tri-service strategy including Bedfordshire Police.

RESOLVED:

That the contents of the report be acknowledged.

22-23/EC/8 Proposals for Member Development Programme for 2022/23

- 8.1 The Chief Fire Officer reported that the Assistant Chief Officer and the Head of Strategic Support and Assurance were in the process of populating the Member Development Programme for 2022/23.
- 8.2 It had been agreed that the following topics be considered at the forthcoming Member Development Day on 7 July 2022: the Authority's response to the Reforming the Fire Service White Paper, the Emergency Cover Review pilots and trials, Treasury Management training and an update on the independent review of governance.

RESOLVED:

That the proposals for member development be noted.

22-23/EC/9 Response to the Reforming the Fire Service White Paper

- 9.1 The Chief Fire Officer referred to a paper that had been circulated following the publication of the agenda pack. This was the Local Government Association's response to the White Paper. This had been emailed to Members for information and to aid future discussions on the development of the Authority's response.
- 9.2 Mr S Frank, the Head of Strategic Support and Assurance, advised that there were 48 questions in the White Paper, and drew Members' attention to the ones relating to pay negotiation arrangements, the enforcement of a statutory code, the creation of an oath for Service personnel, the transference of responsibility for fire and rescue services in England to a single elected individual, and specifically to Police and Crime Commissioners.
- 9.3 It was noted that, before the Member Development Day at which it would be discussed in more detail, the responses of the National Fire Chiefs Council and the Fire Leaders Association would be available as they were responding imminently.

- 9.4 Members expressed concern over the democratic accountability of a Police, Fire and Crime Commissioner, particularly in combined fire authority areas. It had not been detailed in the White Paper how this would work in practice and it could leave large areas unrepresented.
- 9.5 There was a possibility for options for other governance models to be presented and the Monitoring Officer advised that one of the options set out in the Local Government Association response (Option 2) whereby a small management committee had responsibility for the executive functions and with a larger group of Members providing scrutiny, was not dissimilar from the arrangements in place at the Authority.
- 9.6 Ms Evans advised that she was attending the LGA conference at which fire and rescue services would be discussed. She volunteered to put questions to the guest speakers on behalf of Members, especially in relation to how the proposed arrangements impacted on combined fire authorities and if alternative arrangements could be viable, and to make and provide a note of the discussion for Members information. This offer was gratefully received.
- 9.7 In response to a question, the Chief Fire Officer advised that Service responses tended to be more pragmatic in relation to the governance arrangements. The most important issue for Services was operational independence. It was noted that many of the governance arrangements in parts of the country were quite complex.
- 9.8 The importance of engaging with the constituent authorities and local MPs was emphasised. In this respect, the Chair advised that he would draft a letter to the MPs setting out the Authority's views and requesting the MPs support for these. The deadline for responses was 26 July 2022, so there was not very much time following the Member Development Day on 7 July 2022 to garner support.

RESOLVED:

That the update be received.

22-23/EC/10 Final Resourcing Options for Monitoring Officer role

- 10.1 The Chief Fire Officer reported that it had been hoped to submit a final options paper to this meeting but that this had not been possible. It was still intended to produce a report for the Authority meeting on 20 July 2022, and this would be circulated in advance to Members of the Executive for information.
- 10.2 Ms Evans stated that, following the discussion at the last meeting of the Executive, she had explored some of the options discussed relating to an expanded role for the Monitoring Officer so that this post could provide more proactive advice and could assist

internally, in areas such as human resources or the development and implementation of a tri-service estates strategy. It was estimated that this would be a 2 day a week post, which was an increase from the current contract for the Monitoring Officer. Sharing a part-time Monitoring Officer with another Fire and Rescue Authority could provide economies of scale, and there was a neighbouring authority that currently had spare capacity. This option could be fully costed for consideration.

- 10.3 One of the neighbouring fire and rescue authorities used the Office of the Police and Crime Commissioner to provide its Monitoring Officer role. This option was not supported by the Executive.
- 10.4 Members asked for the following options to be costed in relation to the expanded role of 1.5-2 days per week: sharing a Monitoring Officer with a neighbouring fire and rescue authority or neighbouring local authority, and advertising directly for a part-time Monitoring Officer. It was noted that both Bedford Borough and Central Bedfordshire were currently recruiting to Monitoring Officer posts.
- 10.5 Ms Evans advised that she could fully cost options within the week, and following consultation with the Chief Fire Officer, these could be presented to Members the following week. It was suggested that other Authority Members receive an update on this at the Member Development Day.

RESOLVED:

That the update be received.

22-23/EC/11 Independent Review of Governance update

- 11.1 The Executive received an update on the independent review of governance following the decision made at its previous meeting to appoint the Local Government Association to lead this process.
- 11.2 Mr S Frank advised that the Peer Review team would comprise the Monitoring Officer from Cambridgeshire, a Fire and Rescue Authority Member from Kent County Council and two LGA Officers. The peer review would be improvement focused and fieldwork visits would take place in July 2022.
- 11.3 Members present agreed that the first set of dates suggested should be agreed as the majority of Members responding to date were available on those dates.

RESOLVED:

That the update be received.

22-23/EC/12 Work Programme

- 12.1 The Executive received its updated work programme, noting that this would be populated prior to the next full Authority meeting, where it would be submitted along with the work programme for the full Authority for Members' information.
- 12.2 There were no additions to the Work Programme.

RESOLVED:

That the Work Programme be received and the cyclical agenda items be noted.

The meeting ended at 11.38 am

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REPORT AUTHOR: DEPUTY CHIEF FIRE OFFICER

SUBJECT: EMERGENCY RESPONSE STANDARDS PERFORMANCE CALL-IN
- A FRAMEWORK FOR DISCUSSION

For further information on this report contact: Steve Frank
Head of Strategic Support and Assurance

Background Papers: Quarterly performance updates on Key Performance Indicators

PURPOSE:

To support Members in scrutinising progress in meeting key performance indicators relating to the Authority's emergency response standards.

RECOMMENDATION:

That Executive Members consider the contents of this paper and agree the approach to the 'performance call-in' of service performance against the Authority's emergency response standards.

1. Background

- 1.1 According to HMCFRS national benchmarking data we are seeing longer response times across Fire and Rescue Services in the UK. This is caused by a variety of other operational issues including vacancies in the on-call duty system, various road design and congestion issues, and others. Bedfordshire FRS is not immune to this.
- 1.2 At the last Fire and Rescue Authority (FRA) meeting on 8th September 2022, at which the latest Q1 Performance Report was presented, Members expressed concern about performance against the Authority's Emergency Response Standards and agreed to commission a 'performance call-in' to afford Members the opportunity to scrutinise in more detail this important area of service performance.

2. Performance Call-In options

- 2.1 Option 1 – 'Performance Call-In' undertaken at a full FRA meeting.
- 2.2 A key advantage is that all members get to discuss and scrutinise the issues together in one body.
- 2.3 A key disadvantage is there may be insufficient time for an in-depth discussion of performance issues and scrutiny of important functions.
- 2.4 Option 2 – Commission the Audit and Standards Committee (ASC) to undertake the 'call-in' and report back to the full FRA.
- 2.5 A key advantage is that this gives a clearer scrutiny role for the ASC.
- 2.6 A key disadvantage is the 'performance call-in' process and role is not yet clearly defined in our governance framework or Members Handbook but this could be an opportunity to further develop this role as part of the independent review of governance. In addition, the terms of reference of the Audit and Standards committee do not yet include this activity. In addition, as the ASC meets 'virtually' the committee cannot make decisions without being ratified by the full FRA.
- 2.7 Option 3 – Involvement of relevant Member portfolio lead
- 2.8 Involve the Member portfolio lead to scrutinise and make recommendations and/or we could include the topic in a Member Development day.

2.9 A key advantage is that the number of members involved is limited so easier to facilitate but this could also be seen as a disadvantage.

3. Potential scoping questions

3.1 Potential lines of questioning:

- What are the specific definitions for each of the key performance indicators relating to the standards?
- What is the current 5-year trend for meeting response standards?
- What is behind the underperformance?
- What elements of mobilising and responding to incidents have the greatest impact on response times?
- How does Bedfordshire compare with other comparable FRS?
- National research by ORH Ltd on response times in 2020 found no link between response times and fire deaths. Is there a link in Bedfordshire?
- Are our current response standards still appropriate?

4. Next Steps

4.1 Once agreed, to convey the preferred approach to the relevant stakeholders, arrange the necessary forum and to report the preferred option to the next FRA meeting on 31st October 2022.

5. Recommendation

5.1 Members discuss the contents of this report and advise on their preferred approach. Members are invited to comment on and make suggestions for scoping methodology and review questions.

**CHRIS BIGLAND
DEPUTY CHIEF FIRE OFFICER**

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For publication

Bedfordshire Fire and Rescue Authority
Executive Committee
11 October 2022

REPORT AUTHOR: ASSISTANT CHIEF FIRE OFFICER

SUBJECT: FIREFIGHTER PENSION SCHEMES: REMEDY: LGA/FBU MEMORANDUM OF UNDERSTANDING AND IMMEDIATE DETRIMENT FRAMEWORK UPDATE

For further information on this report contact: Sarah Fecondi
Head of Human Resources
Tel No: 01234 845048

Background Papers:

- Fire and Rescue Authority (FRA) minutes of 29 April 2021
- Home Office Immediate Detriment Guidance Note (June 2021)
- Local Government Association (LGA) Immediate Detriment Information note (June 2021)
- Bevan Brittan legal advice (October 2020)
- Public Services Pensions and Judicial Officers Bill (PSP & JO Bill) (July 2021)
- FRA Executive minutes 7 October 2021
- Memorandum of Understanding (MoU) between Local Government Association (LGA) and Fire Brigades Union (FBU) 8 October 2021 (Appendix A)
- Immediate Detriment Framework 8 October 2021 (Appendix B)
- LGA/FBU Framework for managing Immediate Detriment issues – update
- LGA's IDF Guidance for FRA's in their role as Scheme Managers (December 2021)
- HM Treasury note withdrawing Home Office informal guidance on IDF (November 2021)
- NPCC letter to Police Authorities (22 March 2022)

- FBU and LGA letter to Home Office (4 April 2022)
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PURPOSE:

To update Members and seek agreement on the way forward following developments since the last meeting of the FRA Executive in May 2022, concerning the treatment of Firefighters' Pension Scheme members who have (or will) suffer an "Immediate Detriment" by reason of their retirement (or impending retirement), following the decision made by the Court of Appeal on 20 December 2018 and the Employment Appeal Tribunal on 12 February 2021.

RECOMMENDATIONS:

It is recommended that Members:

- Note the report and consider the implications and risks associated with adopting the LGA/FBU Immediate Detriment framework;
 - Revisit the decision not to apply Immediate Detriment within BFRS;
 - provide any views on the above.
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1. Background

- 1.1 At the last FRA Executive meeting in April 2022 Members resolved that BFRS should continue to pause Immediate Detriment for both Category 1 and Category 2 members within BFRS until further clarification regarding financial risk was received.
- 1.2 During this time the Service has produced the workflows required to apply the Framework to Category 1 members. This was scrutinised at the Pensions Board on 28th February 2022 and is ready to be applied based on the current guidance available. Once the pending legislation is published, this will need to be reviewed to ensure it is still fit for purpose.

2 Other FRAs

2.1 Every FRA in the country is all considering whether and when to adopt the Framework. There was a change of intention following the legal advice sought and shared by the NPCC recommending Police Authorities not to apply Immediate Detriment to any category members until the legislation is published. However, since then the FBU have proactively sought to progress litigation against every FRS not applying the Memorandum of Understanding which has resulted in a number of FRAs applying Immediate Detriment for Category 1 members.

3 Implications and risks of applying/not applying the LGA/FBU Memorandum of Understanding and the Immediate Detriment Framework (IDF)

- 3.1 There remains a number of technical areas still to be resolved in relation to remedy as pension benefits will need converting from one scheme which is a Career Average Revalued Earnings (CARE) scheme to final salary scheme benefits. In these situations, the Memorandum of Understanding advises FRAs to agree a holding compromise with those individuals; it may be that their pension is calculated as best as possible with any outstanding queries being revisited once the necessary legislation is in place.
- 3.2 A major consideration for the Authority is that in not adopting the Memorandum of Understanding and consequently not applying the Immediate Detriment Framework, that we may be judged to be in breach of the age discrimination judgement.
- 3.3 Failure to apply Immediate Detriment will leave the Authority vulnerable to action from the FBU and any associated legal and administrative costs of defending our position. In the current climate, this is highly likely but may be mitigated by applying the Framework to Category 1 members as the FBU are aware that there are far more complexities relating to Category 2 members.
- 3.4 Through the LGA legal advisors Bevan Brittan, the Service has already responded to an Employment Tribunal claim that was submitted against a number of FRAs. The LGA are co-ordinating the approach on behalf of the FRAs affected including BFRS. The ET have stayed the proceedings until November 2022 pending national developments.
- 3.5 There are significant financial risks in adopting the Memorandum of Understanding before the legislation is published. As stated at 2.1 above, the Framework and the associated LGA Guidance introduces the remedying of scheme members who have had their benefits brought into payment. The guidance set out the LGA's understanding of the liability of any potential unauthorised payments charges and/or any tax liability charges. An unauthorised payment is any payment made to a member more than 12 months after their retirement; this payment is subject to a tax liability. The Framework and guidance

also state that the FRAs will compensate the member with an amount equal to that tax charge. The update advises that any compensation payments made will not be reclaimable and confirmation of this is still pending the legislation.

- 3.6 In adopting the Framework, it was the LGA's (and FRA's) understanding, that FRAs would receive all of the costs associated with implementing the remedy. This position is now questionable as it appears that ALL Category 2 costs will be borne by FRAs until the relevant legislation is laid before parliament and becomes Government Policy. The government intention is to introduce remedy-related legislation up to October 2023. There remain concerns around Category 1 member costs also.
- 3.7 If the Framework is adopted and applied to Category 1 members before the legislation is published, there will be costs to BFRS due to compensation paid to members for any tax charges for retrospective Annual Allowance breaches, and any other tax charges incurred. For Category 2 members, there would be additional charges, for example unauthorised payment charges and scheme sanction charges.
- 3.8 The withdrawal of the Home Office informal guidance poses significant risk surrounding which payments are reclaimable. For example, any 'compensation payment' is definitely not reclaimable, however, there is some ambiguity as to what is considered to be a 'compensation payment'. The guidance is clear that Unauthorised Payment Charges are compensation payments, but it is unclear if refunds of 2015 scheme contributions are considered to be compensation payments and this is a key financial risk.
- 3.9 There are also potential financial risks to the individuals; most of which are unknown at this stage but are likely to be due to tax issues.
- 3.10 It is not possible at this stage to identify the costs associated with the application of the Framework to those in-scope as the necessary clarification has not yet been provided. However, the initial estimate for applying IDF to Category 1 members is at least £214,986.75 (for the refund of 15 scheme contributions) plus any compensation payments for Annual Allowance Charges.
- 3.11 For applying the IDF to Category 2 members, the initial estimate is as at October 2021 was:
- £231k refund of 2015 scheme contributions
 - £38k Unauthorised Payment Charges
 - £15k Scheme Sanction Charges
 - Totalling £284k

NOTE: This does not include the additional lump sum payments of £228,375.09 which may or may not be reclaimable depending on whether it is considered a legitimate pension payment (questionable as not covered by legislation at this point). These calculations also do not include the 8 individuals who retired with an ill health pension. Neither do they include the increased annual pension for these individuals.

- 3.12 In addition, the LPPA will charge £1,200 to £1,500 per case and will require an upfront cost of £6k to £8k for them to draw down on.
- 3.13 In not applying the guidance, any additional legal action taken by the FBU would result in further litigation costs. Conversely, in applying the guidance, BFRS could be subject to litigation costs for acting outside of legislation.

4. The Pensions Ombudsman

- 4.1 In July 2022, The Pensions Ombudsman (TPO) published a factsheet outlining his approach to McCloud and Sargeant age discrimination complaints.
- 4.2 The factsheet stated that *“Schemes may review and decided (taking appropriate advice) whether it is practicable for a remedy to be made available earlier for those members that may suffer immediate detriment.”*
- 4.3 The factsheet went on to say that *“presently TPO’s general starting position, is that it would not investigate complaints or disputes relating to remedying age discrimination in public sector schemes, but it will carefully look at the facts of each case before making a decision.”* It added that *“they may investigate where a member is suffering severe financial hardship or other serious injustice and the scheme is not putting in place interim arrangements to address the injustice within a reasonable period.”*

5. Options Appraisal

- 5.1 In considering the potential resolutions to Category 1 and 2 ID cases, the following options are available:

Option	Risks/Benefits
1A. Maintain ‘pause’ on processing any Immediate Detriment cases	-ve Further legal action resulting in potential for increased costs and reputational damage to the CFA
2A. Process all Category 1 and Category 2 cases	+ve Limits potential for legal action, and associated costs

2B. Process all Category 1 and Category 2 cases <u>WITHOUT</u> Compensation Payments	-ve Significant cost to the Authority
3A. Process Category 1 cases only	+ve Prevents Category 1 cases turning into Category 2 cases and incurring additional costs to the Authority +ve Limits potential for legal action from Category 1 cases
3B. Process Category 1 cases <u>WITHOUT</u> Compensation Payments	+ve All Category 1 cases may not retire in this period; reducing forecasted cost may not be as high as estimated
4A. Process all Category 2 cases only	+ve Prevent interest costs increasing
4B. Process all Category 2 cases only <u>WITHOUT</u> Compensation Payments	+ve Prevent further legal action and associated costs from Category 2 cases +ve Prevent HMRC tax charges being incurred for those within 12 months
5A. Process Category 2 cases, if within 12 months of retirement date only	+ve Prevent interest costs increasing
5B. Process Category 2 cases, if within 12 months of retirement date only, <u>WITHOUT</u> Compensation Payments	+ve Prevent HMRC tax charges being incurred

6 Options

6.1 In light of these developments, there are potentially four options for Members to consider:

Option 1: To maintain the previously agreed position and wait to apply the remedy until the legislation or further guidance is published as per the legal advice received by the NPCC.

Option 2: To adopt the Immediate Detriment framework outlined in the LGA/FBU Memorandum of Understanding and apply Immediate Detriment Framework to all those due for retirement only (Category 1 members). This may also assist in building a more positive working relationship with the FBU.

Option 3: To adopt the Immediate Detriment framework for those individuals due for retirement and adopt a phased approach for those that have retired since 2015 by applying Immediate Detriment firstly to those that retired less than 9 months ago (to avoid the Unauthorised Payment Charges etc), and then to all those remaining in scope once the legislation is published. Again, this phased approach would demonstrate the Service's commitment to positive industrial relations with the FBU.

Option 4: To fully adopt the Immediate Detriment framework for both those individuals due for retirement and also to those in-scope individuals that have retired since 2015 (all Category 1 and Category 2 members). Whilst this is the FBU's preferred approach, it carries the most risk for the Service and affected individuals.

RECOMMENDATIONS:

It is recommended that Members:

- Note the report and consider the implications and risks associated with adopting the LGA/FBU Immediate Detriment framework;
- Revisit the decision not to apply Immediate Detriment within BFRS;
- provide any views on the above.

ALISON KIBBLEWHITE
ASSISTANT CHIEF FIRE OFFICER

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For Publication

Bedfordshire Fire and Rescue Authority
Executive Committee
11 October 2022

REPORT AUTHOR: ASSISTANT CHIEF FIRE OFFICER

SUBJECT: TARGETED USE OF ABATEMENT & RE-ENGAGEMENT POLICY

For further information on this report contact: Sarah Fecondi
Head of Human Resources
Tel No: 01234 845048

Background Papers:

- Minutes of the FRA Meeting May 2015
 - Minutes of the FRA Executive 26 May 2022
 - Abatement and Re-engagement Policy
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PURPOSE:

To discuss the potential targeted application of the Abatement and Re-engagement Policy to re-engage to roles that prove hard to fill due to the specialist skills and experience required, the length of time it takes to develop them, and the limited numbers available to recruit from in the market.

RECOMMENDATION:

That the targeted use of the Abatement and Re-engagement Policy for roles that prove hard to fill due to the specialist skills and experience required and the time it takes to develop them be approved.

1. Background

- 1.1 At the FRA Executive meeting in March 2022 there was a discussion with Members around options to address the potential loss of a significant number of operational staff to the London Fire Brigade and other FRS' that were recruiting. One of those options was to re-engage and therefore retain the skills and experience of those who were due to retire across all levels within the Service. Members requested a more in-depth discussion around the application of the Abatement and Re-engagement Policy.
- 1.2 This was discussed further at the May 2022 Executive Committee meeting and Members requested that a review of the current Abatement and Re-engagement policy takes place due to the long awaited LGA advice on the subject being received.
- 1.3 The current policy has been reviewed and amended in line with the LGA guidance and the policy was presented to the FRA Audit & Standards committee on the 29th September 2022.

2. The Abatement and Re-engagement Policy

- 2.1 Re-engagement is when a Firefighter retires and is re-employed as a Firefighter in the same role. This must be requested and approved before retirement.
- 2.2 When a retiree wishes to be re-employed to a different role, this must be in response to an advert and requires a selection process.
- 2.3 The benefits of re-engagement include the retention of expertise, skills and experience particularly for niche fire sector roles, retention of organisational knowledge, reduced costs associated with recruitment and training.
- 2.4 Potential disadvantages include inhibiting promotion and succession planning opportunities, a barrier to improving diversity of the workforce by maintaining the status quo and the loss of high performing staff looking to progress their career and move to other FRS'.
- 2.5 HM Treasury (HMT) policy requires public service pensions to be abated in certain circumstances including when an employee is re-employed following retirement. Fire and Rescue Authorities are statutorily obliged to apply abatement when it

occurs in accordance with the regulations of the Firefighters' pension schemes. As the years progress, index linking is applied to the figures.

2.6 Abatement applies in the final salary Firefighters' Pension Schemes (FPS 1992, FPS 2006) where a member begins to draw their pension and remains employed or is re-employed. The general principle is that the new salary plus pension cannot exceed the previous salary. Abatement does not apply to FPS 2015.

2.7 The FRA has a discretion not to apply abatement to a member. If this discretion is exercised, the FRA becomes liable to make a payment equal to the amount that could have been abated into the pension fund account.

3 Why BFRS stopped re-engagement

3.1 There are significant tax charges applicable due to the Protected Pension Age (PPA) of 40% to 55% of any lump sum payment and any salary paid before the age of 55). These tax charges could be mitigated by:

- a break in service of six months; or
- a break in service of one month and the ability within the relevant pension rules to allow for abatement; or
- a break in service of one month and the re-employment being "materially different".

3.2 However, there are significant risks associated with what constitutes a break in service. For example, the promise of post when still in service at an FRS may be sufficient to be deemed continuity of service by HMRC, who may consider the break to be a sham as opposed to a genuine retirement. The highest risk of this is when re-engaging to the same role in the same FRS with only a one-month break.

3.3 There are also risks around the definition of "materially different".

3.4 As a result of the complexities involved, in May 2015, the Fire Authority agreed parameters and factors under which the Chief Fire Officer was given the delegated authority for decision making regarding the application and the re-employment of retired fire fighters. These are detailed in the policy which are:

- there is no automatic entitlement to apply for or to be re-engaged
- decisions will be based on the context of each individual vacancy
- an assessment of the need to retain specific skills and experience that are difficult to obtain and based on return on investment

- the ability to attract, train and retain talented individuals to the role
- costs of recruitment and training of a new recruit
- the workforce profile of the Service, including diversity targets
- budgeted Service establishment and workforce planning considerations
- succession planning and opportunities to develop skills

4 Recruitment to date and next steps

- 4.1 Successful recruitment campaigns for wholetime operational staff and promotional gateways, in addition to the reduction in turnover during the pandemic have all contributed to maintaining sufficient resourcing levels until recently. However, the pension reforms and largescale recruitment campaigns by nearby FRAs such as London Fire Brigade have recently posed a very real threat to critical skills and challenged our resilience. As one of the smaller FRAs, BFRS does not generally run with extra capacity in the system which makes it susceptible even to small losses of critical skills.
- 4.2 In order to mitigate the risk, we are currently running a second wholetime initial training course with 12 trainees. It will take approximately two years for them to reach the competent standards required.
- 4.3 The service is experiencing difficulties filling some positions at all operational levels including fire control. This is a national issue effecting all Fire and Rescue Services. At levels above firefighter the service provides considerable investment in terms of both cost and time to develop competent and experienced officers in specialist skills such as protection inspecting officers, driving instructors, fire investigation, hazard materials and National Interagency Liaison Officers.
- 4.4 Therefore, the Service would like to consider the option of re-engaging BFRS operational staff eligible for retirement and is seeking to understand the FRA's position.

RECOMMENDATION:

That the targeted use of the Abatement and Re-engagement Policy for roles that prove hard to fill due to the specialist skills and experience required and the time it takes to develop them be approved.

ALISON KIBBLEWHITE
ASSISTANT CHIEF FIRE OFFICER

For Publication

Bedfordshire Fire and Rescue Authority
Executive Committee
11 October 2022

REPORT AUTHOR: CHIEF FIRE OFFICER

SUBJECT: WORK PROGRAMME 2022/23

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Democratic & Regulatory
Services Supervisor

Background Papers: None

PURPOSE:

To review and report on the work programme for 2022/23 and to provide Members with an opportunity to request additional reports for the Executive Committee meetings.

RECOMMENDATION:

That Members consider the work programme for 2022/23 and note the 'cyclical' Agenda Items for each meeting in 2022/23.

ANDREW HOPKINSON
CHIEF FIRE OFFICER

FIRE AND RESCUE AUTHORITY EXECUTIVE COMMITTEE - PROGRAMME OF WORK 2022/23

Meeting Date	'Cyclical' Agenda Items		Additional/Commissioned Agenda Items	
	Item	Notes	Item	Notes
15 November 2022	Work Programme		CRMP update	

Meeting Date	'Cyclical' Agenda Items		Additional/Commissioned Agenda Items	
	Item	Notes	Item	Notes
10 January 2023	Work Programme		CRMP update	

Meeting Date	'Cyclical' Agenda Items		Additional/Commissioned Agenda Items	
	Item	Notes	Item	Notes
14 March 2023	Work Programme		CRMP update	

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