NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

Report of the Assistant Chief Executive and Chief Digital Officer - K.Jones

13 February 2019

Section B: Matter for Information

Ward Affected: All

Officer Urgency Action 0036 re:
Welsh Government White Paper – Reform of Fire and Rescue Authorities (FRAs) in Wales - Consultation.

Details of the above Urgency Action taken by the Assistant Chief Executive and Chief Digital Officer in consultation with the requisite Members, was for immediate implementation.

There is no call-in of this matter.

The Urgency Action was authorised 5 February, 2019 and for Members' Information a copy of the detailed report is attached.

Any additional comments/feedback from Members will be forwarded to Welsh Government following the meetings of Cabinet Scrutiny Committee and Cabinet on 13 February, 2019.

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

Urgency Action Report (0036) of the Assistant Chief Executive and Chief Digital Officer

Matter for Decision

Wards Affected*:* All

Welsh Government White Paper – Reform of Fire and Rescue Authorities in Wales.

Purpose of Report

1 To obtain Members approval for the Welsh Local Government Association (WLGA) Consultation Response (Appendix A) to be presented as the Council's interim response, pending any further comments/feedback at the meetings of Cabinet Scrutiny Committee and Cabinet on 13 February, 2019.

Background

2 The Welsh Government recently consulted on its proposals to reform how Fire and Rescue Authorities (FRAs) in Wales are governed and funded. The consultation period was 3 November, 2018 to 5 February, 2019. The Leader of Council outlined the WLGA response to Members at a recent Council meeting. Members indicated that they would like an opportunity to discuss the matter and submit views. Consequently, an interim response was sent to the Welsh Government by the consultation deadline, supporting the WLGA response but making clear that the Cabinet Scrutiny Committee and Cabinet would be considering the matter on 13th February and further comment may be made by the Council after those meetings. Welsh Government has indicated that they would receive such comments after the consultation deadline. The WLGA response is contained in Appendix 1 (attached).

Financial Impact

3 None.

Integrated Impact Assessment

4 There is no requirement for an Integrated Impact Assessment in this instance.

Workforce Impact

5 None.

Risk Management

6 There are no risk management issues associated with this report.

Consultation

7 There is no requirement for consultation in this instance.

Recommendation

8 It is recommended that the Chief Executive be authorised to inform the Welsh Government that Council endorses the WLGA response to the consultation (Appendix A) as its interim response, pending any comments / amendments that Cabinet may wish to make, following the meetings of Cabinet Scrutiny Committee and Cabinet on 13 February 2019, which will be notified to Welsh Government following that meeting.

Reason for Proposed Decision

9 To ensure a response from Neath Port Talbot County Borough Council is submitted to the Welsh Government on proposed reform to Fire and Rescue Authorities in Wales

Appendices

10 Appendix A – WLGA Response to Welsh Government White Paper – Reform of Fire and Rescue Authorities (FRAs) in Wales.

List of Background Papers

11 None.

Officer Contact

12 Karen Jones – Assistant Chief Executive and Chief Digital Officer
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Appendix A

Consultation
Response Form

Your name: Naomi Alleyne

Organisation (if applicable): Welsh Local Government Association

Email / telephone number: 02920 468660; naomi.alleyne@wlga.gov.uk

Your address: Local Government House, Drake Walk, Cardiff CF10 4LG

Question 1: Do you agree the objectives for reform are appropriate and important?

The WLGA welcomes the opportunity to engage with Welsh Government on the future governance of Fire and Rescue Authorities (FRAs) and agree that it is useful to review and ensure that governance arrangements are fit for purpose for the current and future potential roles of Fire and Rescue Services (FRSs). While we do not believe significant changes are needed, nor that the case for change has been made, we fully accept there is always scope for continual improvement and it is on that basis that this response is based.

The Association fully recognises the many improvements and successes achieved by FRSs over recent years and this has been achieved in partnership between the Service and the FRA, and working closely with other partners where appropriate. These achievements have occurred under the current government arrangements and there is a maxim of, 'if it isn't broke, don't fix it'.

Question 2: Are there other objectives that the reform programme should pursue?

WLGA supports the pro-active preventative and early intervention approach that underpins the approach of FRSs in Wales and we welcome the broader role outside of 'fire and rescue' that the services undertake. For example, their contribution to community safety (including violence against women); education and fire safety; and health and social services, including emergency responses and falls prevention.

CFOs are key members of Public Service Boards and have been effective in making links with and across public services as appropriate to promote fire prevention and fire safety and contribute to other public service responses where they can add value. This approach should continue and should not be affected by any changed governance arrangements.

Question 3: Do you agree that FRAs should remain as separate and distinct entities, with the same boundaries as now?

Yes, we agree that FRAs should remain as separate and distinct entities with the same boundaries as now.

Question 4: Do you agree that transferring control of fire and rescue services to Police and Crime Commissioners or local authorities would not be appropriate?

We agree with Welsh Government and do not support the transference of control of FRSs to Police and Crime Commissioners (PCCs). Neither is there any appetite at this time to transfer control to local authorities. We are supportive of the current governance arrangements and the links to local authorities and while improvements could and should be made, we do not support the need for wholesale change at this time.

Question 5: Do you agree that there are legitimate but limited national interests in the Service that need to be reflected in its governance arrangements?
We recognise that there are broader societal issues that affect FRSs and appreciate that some of these are best dealt with at a national level. We cannot give a view however on how limited but legitimate national aspects could be reflected in the development and delivery of the service as no specific proposals are set out, although we agree the National Framework may be an option worth exploring. We would be happy to engage in further discussions on how this matter could be addressed.

Question 6: Do you agree that local authorities should continue to nominate FRA members?

WLGA fully supports the principle that local authorities should continue to nominate FRA members.

Question 7: Do you agree that local authorities should nominate one FRA member each, drawn from their cabinets?

There are concerns about the proposed reduction to the number of members on a FRA, both in terms of proportional representation of the population and in the range of duties and responsibilities which are required of FRA members, for example, involvement in Sub Committees. It is felt that such a significant reduction in the number of members on FRAs may impact on its ability to conduct all its business and could reduce the organisations resilience.

Many authorities have highlighted their support for continued proportional representation on a FRA, rather than one member from each authority. Proportional representation is supported based on being reflective of population numbers and the levels of funding provided to the FRA as this is believed to be fairer and more equitable.

While appreciating the potential benefits of including council executive members on a FRA, this needs further exploration and resolution of the issues that are highlighted in the White Paper. For example, the time commitment required in addition to their current cabinet role; the need to remove or amend the statutory cap on the size of cabinets; and remuneration for these additional duties.

Appointing FRA members from Cabinet would also have implications for the political make-up of the FRA as the Cabinet members would come from the ruling group in each Local Authority. This could detract from the diverse political representation that currently exists, where FRA members are broadly representative of the political balance of the area.

Question 8: Do you believe any changes are needed to the law on the size and remuneration of council cabinets, to allow their members also to serve on FRAs?

Please see response to question 7. Should such a change be made, changes to remuneration levels would be required, and the cap on the number of Cabinet Members would need further consideration.

Question 9: Do you agree that FRAs should also have non-executive members?

The proposal for non-executive members is an interesting concept and worthy of further exploration, including clarity on what their role would be and how they could add value. We do not believe that Councillors cannot gain the required information and knowledge necessary to undertake their role on a FRA and a range of training and development opportunities are provided to support them in their roles. Support and advice are also provided by officers, in the same way that occurs within local authorities. Furthermore, there is no limitation on current FRAs to co-opt a member for specific issues or to obtain external specialist advice. However, there may be areas where non-executive members could add value, particularly in relation to scrutiny and challenge, but further discussion is needed on this.

Question 10: Who should appoint non-executive members of FRAs?

Should there be non-executive members on FRAs, the WLGA believes that local authorities or FRAs should be responsible for the appointment process, following a fair and open competition as is the case for local authority lay members on Audit and Standards Committees currently. The proposal that Welsh Government should be responsible for the recruitment will further complicate accountability and undermine

local accountability to communities; they may also be seen as Welsh Government 'appointees' to a FRA rather than being part of the local membership.

Question 11: Do you agree that, in the longer term, responsibility for the service should vest in a statutory Chief Fire Officer, with FRAs fulfilling a scrutiny and oversight role? If so, would that require any change to membership arrangements?

We do not support the longer-term proposal that responsibility should be vested in a statutory CFO. This proposal is under-developed and whilst there is too little detail in the White Paper on how this would work in practice to provide informed views, we believe the model raises more questions than it answers and would remove democratic control and accountability of a key local service, with a move to democratic scrutiny of a professional officer. Furthermore, as noted above, the proposal runs counter to the rest of the White Paper and effectively concludes that all executive functions are vested in an unelected CFO with an FRA of non-executive members which would not make decisions itself but would endorse major decisions made by the statutory. This is not supported. While reference is made to the previous Chief Constable and Police Authority relationship, this is not an accurate comparison as the Chair of the Police Authority was often involved in decisions about the direction of the organisation and not only played a scrutiny role (and operational decisions were made by the Chief Constable, as is currently the case with CFOs).

Question 12: Do you have any other proposals for how to reform FRA governance which meet the criteria in Chapters 1 and 2?

Overall, we do not believe the 'case for change' around governance and accountability has been sufficiently made. Some of the White Paper's conclusions and proposals particularly around 'Membership' of authorities appear to be informed by misperceptions about the current arrangements. There are two key areas to clarify:

- Page 5 refers to the expertise required from a FRA member and that 'leading that service is often a technical and complex business…effective leadership of the service is more a matter of maintaining professional standards and responding to changes in risk and technology'. The expertise as described above is vital, but it describes the requirements and role of the CFO and the other professionals managing the fire and rescue service; the fire and rescue authority and its members play a different democratic and strategic role including local accountability, good governance, ensuring public money is safeguarded and accounted for and setting objectives to secure continuous improvement in the way in which its functions are exercised.

- The White Paper frequently refers to 'back-bench' councillors participating on fire and rescue authorities and concludes that they do not 'all have the capability to provide strategic leadership…or to challenge senior officers'. This is unfair and inaccurate. It should be noted that all members, at all levels of

> government, are 'back-bench' members until they are appointed or elected to a role which carries additional responsibility. Whilst FRA members tend to be 'back-bench' members in their local authority, when on the FRA they perform an additional role with additional responsibilities, they receive extensive training and expert support and guidance from senior FRA officers. As noted by the Independent Remuneration Panel the FRA Chair 'has a leadership and influencing role in the authority, and a high level of accountability especially when controversial issues relating to the emergency service arise.'

Furthermore, some of the specific proposals (both for the short and longer-term) will not achieve the stated aim of increased accountability, transparency or improved governance. Some of the proposals are inconsistent, for example, arguing throughout that fewer, executive members are required to strengthen the expertise of the FRA, but eventually concluding (on page 14) that a model involving senior scrutiny members would be preferable in order to scrutinise and challenge a more powerful CFO.

The White Paper has not identified any financial implications that may arise as a consequence of the changes proposed and how these would be funded. Any proposed change should include a cost benefit analysis, as well as for any other impacts. For example, an equality impact assessment on the make-up of any new FRA membership.

We believe there are other alternatives to the changes proposed in Chapters 1 and 2 and in general these would aim to build upon and improve current arrangements. For example, there may be merit in considering other options such as introducing a different governance structure in FRAs, similar to local authorities, with a split between a small 'executive' and those with a scrutiny function; a smaller FRA membership operating as an FRA executive and scrutinised by local authority scrutiny committee (individually or through joint committees); development of leadership training (a number of FRA members have benefited from the WLGA Leadership Academy); a requirement for an FRA to provide an annual report to each constituent authority to be reported and scrutinised by each Council; extending membership of a FRA to include representatives of other funders of fire and rescue services, such as the NHS. These are initial ideas that would help work towards the aims of why change is needed in the view of Welsh Government, while minimising disruption.

Question 13: Do you agree that FRAs and local authorities should agree the level of FRA funding each year, with a reserve arbitration power for the Welsh Ministers?

WLGA supports the need for consideration of the most appropriate future funding model for FRSs to ensure sustainability, is reflective of the roles and functions undertaken by firefighters and ensures accountability and value for money.

It should already be best practice that local authorities and FRAs should agree the level of funding required and what is levied, and, in most cases, this is what happens

in practice and over recent years, the level of engagement around the budget between local authorities and FRAs has increased significantly.

We do not therefore support Welsh Ministers having a default power to arbitrate between a FRA and constituent authorities should a levying level not be agreed and feel this could be outside the appropriate powers for Welsh Ministers in relation to what should be local decision-making. If Welsh Ministers set a budget by default, where does the accountability lie?

Question 14: Do you agree that, in the longer term, FRAs should have powers to set a council tax precept, with the balance of their funding from Welsh Government grants?

We would support further discussion on moving to a precept model and support the objective of achieving increased transparency of funding for FRSs. There are specific statutory and practical implications of moving to a precept arrangement that need further consideration and decision, including the impact on the RSG and not least engagement with and explaining any changes to council tax levels to the public.

It is thought that if fundamental changes to the funding arrangements are to be made, this should be done once and for the longer-term. We do not therefore support making short-term changes as these may be disruptive and not really improve the system but believe we should look to develop an arrangement for the longer-term.

Question 15: Do you have any other proposals for how to reform FRA funding which meet the criteria in Chapters 1 and 2?

Funding of FRSs should be reflective of the roles they undertake, for example, firefighters taking on an increased role in relation to working with the NHS. This is an important principle and would ensure that responsibility for funding other aspects of work undertaken by FRSs does not fall on the council tax payer. This is an area where we would welcome further discussion with Welsh Government.

Question 16: Do you agree that the performance management system for FRAs should be grounded in the National Framework for Fire and Rescue Services?

The WLGA supports the move towards a performance management system which is simpler, more flexible and more aligned to the needs of the FRSs in Wales. We agree the performance management system for the FRAs should be grounded in the National Framework for Fire and Rescue Services.

Question 17: Do you agree with the need for such a system to give FRAs flexibility on planning and reporting cycles, and on the sources of information about performance that they use?

Performance should be measured against outcomes which are meaningful, and which will enhance the safety of the community and not be focussed solely on process or limited, quantitative measures.

A more flexible reporting system with flexible deadlines, which better reflects the role and duties of the FRSs will likely be beneficial to the FRAs. Such a system, however, whilst allowing flexibility will also need to ensure that there is an element of consistency of reporting across the FRS in Wales where this is appropriate and necessary. For there to be effective scrutiny of the performance for FRS, there needs to be clarity around the performance management system and the reporting mechanisms and timescales involved.

The use of qualitative techniques such case studies can be incredibly useful to highlight and share learning and good practice and to illustrate good performance. Such qualitative evidence, however, would need be regarded alongside the broader performance landscape.

Question 18: Do you agree that the Welsh Ministers should retain their duty to report to the Assembly about delivery of the Framework, and their powers of intervention?

In terms of the duty on the Minister to report to the Assembly on delivery of the Framework, we would support calls by the FRAs to enable them to provide relevant data and information where appropriate to Welsh Government to help in this reporting process.

We agree Welsh Government should retain their powers of intervention.

Question 19: We would like to know your views on the effects that the policy proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

FRAs are already required to meet Welsh Language Standards and it is anticipated that these requirements would remain.

Question 20: Please also explain how you believe the policy proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh

language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No detail is provided in the White Paper for us to comment.

Question 21: We have asked a number of specific questions about FRA governance, finance and performance management. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: ☐