

REFORM OF FIRE AND RESCUE AUTHORITIES IN WALES

LEADER (COUNCILLOR HUW THOMAS)

AGENDA ITEM: 2

Reason for this Report

1. To consider the Welsh Government's White Paper and consultation on the reform of Fire and Rescue Authorities in Wales.

Background

2. The Welsh Government published a White Paper on 13 November 2018, entitled 'Reform of Fire and Rescue Authorities in Wales'. The White Paper sets out a number of proposed changes to the governance, finance and performance management arrangements of the three Fire and Rescue Authorities (FRAs) in Wales – South Wales FRA, Mid & West Wales FRA and North Wales FRA – in order to improve the capability, accountability and scrutiny of fire and rescue services in Wales.
3. The South Wales Fire and Rescue Authority (FRA) covers the 10 local authority areas within the Cardiff Capital Region – i.e. Blaenau Gwent, Bridgend, Caerphilly, Cardiff, Merthyr Tydfil, Monmouthshire, Newport, Rhondda Cynon Taf, Torfaen and Vale of Glamorgan.
4. Each local authority nominates councillors as members of the FRA, the number of which is determined broadly according to a local authority's population as a proportion of the population of the entire FRA area. The South Wales FRA currently consists of 24 councillors who represent the 10 constituent member local authorities. Cardiff Council currently appoints five councillors to the South Wales FRA.
5. FRA members are each entitled to be paid a FRA Basic Salary of £1,745 per annum in 2018/19 if they do not already receive a Band 1 or Band 2 Senior Salary (i.e. for Leaders and Cabinet Members) from their respective local authorities.
6. In Wales, local authorities provide FRAs with almost all of their funding. This takes the form of contributions, which each FRA calculates at an overall level, and then levies on constituent councils on the basis of population. FRAs tend to limit increases in levies, although there is nothing requiring them to do so.

7. From a Cardiff perspective, in 2018/19, local authority contributions to the South Wales FRA total £71.2 million, of which Cardiff's share is £17.2 million. The Revenue Support Grant (RSG) contains an Indicator Based Assessment (IBA) to reflect local authority contributions to FRAs. For 2018/19, Cardiff's Fire IBA is £15.4 million. This means that the sum provided within the funding formula for Cardiff's contribution to the South Wales FRA is £1.8 million less than is actually payable by the Council.

Issues

8. The White Paper sets out the Welsh Government's views on a number of matters relating to fire & rescue services in Wales, which confirm that the Welsh Government:
 - does not support the transfer of fire & rescue services to the control of Police & Crime Commissioners as is taking place in some areas of England;
 - does not support the creation of a single Fire Service for Wales;
 - does not support the return of fire & rescue services to local authority control; and
 - believes that there is no case for changing the current number or boundaries of existing FRAs in Wales.
9. The consultation document also contains a number of proposals in relation to the following areas (i.e. Governance and Membership; Funding), which raise a number of potential concerns for the Council that should be considered as part of any response by the Council to the Welsh Government:

Governance and Membership

10. The White Paper makes a series of proposals designed to increase the expertise and capability of FRAs to provide strategic leadership, to sustain effective collaboration and to ensure that senior officers are better held to account.
11. The Welsh Government does not believe that the current level of representation on FRAs can be justified when compared to other public bodies and is advocating a fewer number of FRA members with a more clearly defined remit and the capability to carry it out. To that end, the Welsh Government believes that local authorities should continue to nominate councillors as FRA members, but is proposing that each local authority should nominate only one councillor as a member of a FRA, regardless of population.
12. In the South Wales FRA area, this would mean that the number of appointed councillors as FRA members would fall from 24 to 10. As noted above, Cardiff currently appoints five councillors to the South Wales FRA. This reform would therefore represent a reduction in the Council's proportional membership of the FRA from 21% to 10%, when the Council currently contributes 24% of funding contributions for the FRA.

13. Cardiff Council would not support this proposal and is very concerned that this proposal would represent a shift away from the current proportional representation (on both population and funding) and would therefore represent an erosion of the Council's – and the people of Cardiff's – democratic representation on the South Wales FRA. The Council would instead argue strongly for the maintenance of proportional representation in the governance of the FRA.
14. Furthermore, the Council would argue that, as regional working continues to develop in Wales across a range of services, it is essential that the link between population, funding and decision making should be established as a core principle in the design of any new regional governance arrangements. It is important that this point is emphasised strongly by the Council in any response to the Welsh Government consultation.
15. The Welsh Government consultation welcomes views on the proposed option – at least in the short-term – that all nominated FRA members must be members of their Council's Cabinet in order to help strengthen the strategic leadership of the FRA. This may require the removal of the current restriction on Cabinet Members receiving an extra Senior Salary as FRA members and have other implications for the regulations set by the Independent Remuneration Panel for Wales.
16. The Welsh Government is also proposing that FRAs should have non-executive members equivalent to 25% of the reduced councillor membership (i.e. 3 in the South Wales FRA). It is proposed that these non-executive members should be appointed by Welsh Ministers on the basis of fair and open competition. However, the Welsh Government would be open to FRAs appointing their own non-executive members provided that there is an agreed process and criteria for this.
17. If and when fundamental changes to the legislation governing FRAs are possible, which is unlikely to be in the near future, the Welsh Government's preferred approach in terms of improving accountability is to separate the role of the FRA from that of the Fire & Rescue Service (FRS) itself, with the FRS being headed by a more powerful, statutory Chief Fire Officer who would be responsible for service delivery functions and powers to employ staff and own assets.
18. The FRA would then hold the Chief Fire Officer and FRS to account in a similar way to that of Police & Crime Panels in scrutinising Police & Crime Commissioners; albeit the Chief Fire Officer is an unelected position. The FRA would not make decisions itself, but would endorse most major decisions such as budget setting, publishing a strategic plan or significantly reshaping front-line capacity. This model may require local authorities to nominate senior scrutiny members with appropriate skills to the role of FRA member, instead of executive members.
19. In relation to both the appointment of non-executive members by the Welsh Government to the FRA and the preferred long-term model proposed by Welsh Government, the Council would emphasise the primacy of local democratic leadership and accountability in any regional arrangements.

Funding

20. The Welsh Government consultation document sets out the following possible future sources of funding of FRAs in Wales:
 - a) Continue with the current system of FRAs levying contributions from local authorities, but with some form of external control or agreement around their level.
 - b) Direct grant funding from the Welsh Government, which would mean a top-slice from the RSG.
 - c) A council tax precept determined by the FRA to pay for fire & rescue services. The money raised would no longer be paid to FRAs by local authorities and it would be a matter for local authorities to consider whether to reduce their element of council tax in proportion.
 - d) A combination of the above, although it is recognised that this could become complex.
21. The Welsh Government is happy to consider alternative proposals on funding as part of the consultation. However, its preferred option in the short term is to modify the current system of FRAs levying contributions from local authorities. FRAs would be required to agree the level of funding each year with their constituent local authorities. If agreement could not be reached, then it is proposed that Welsh Ministers would have a default power to arbitrate. In practice, this would mean Welsh Ministers setting a budget by default if the FRA could not agree a budget which fairly reflected the specific demands of operating an effective emergency service. The potential fall-back option would be to consider removing the significant sums which are paid on to FRAs from the RSG.
22. The biggest potential change under the proposed options would be the introduction of a specific council tax precept for FRAs to help increase the transparency of spending decisions, but this would not be a short-term option. There are advantages to this from a local authority perspective in that it would remove the burden of having a material base budget that is beyond the Council's direct control, and which is likely to increase annually. However, local authorities will need to be mindful of the manner in which any proposed move to a new Fire Precept is executed, in particular, in relation to the Welsh Government's decisions regarding the future of the fire levy funding that is currently reflected within the needs-based RSG formula.
23. The consultation document suggests that it will be up to local authorities to consider whether they reduce the local authority element of the council tax in proportion to any new Fire Precept. If they do not, this would result in a financial benefit to local authorities, as long as the Welsh Government does not adjust the RSG formula. However, council taxpayers would receive a significantly increased overall council tax bill, in effect, encompassing their current bill plus a significant new element to fund their FRA. This would result in a number of other issues for the

Council but, limiting them to a financial perspective; a significantly increased overall bill is likely to pose a risk to future collection rates in Cardiff. It is also likely to require an increase in Council Tax Support Budgets to reflect the higher overall tax.

24. The alternative, as mentioned in the consultation document, is that local authorities consider a compensating reduction to the local authority council tax precept. However, this would only be feasible if the funds currently reflected in the RSG for fire levy are not recouped by the Welsh Government. In this case, local authorities could, in theory, facilitate a level of decrease in the local authority element of the council tax by writing out existing fire levy budgets, which would no longer be required. However, if formula funding were to be recouped by the Welsh Government, a write out of existing fire levy budgets would be required in order to cope with the associated reduction in RSG (in other words, they would not be available to facilitate any compensating reduction in tax).
25. It should also be noted that it is assumed that Band D council tax rates would need to be the same across all constituent authorities for a particular FRA, as is the case with the Police Precept. This may need careful handling in terms of moving from a population-based contribution (as at present) to a tax-based precept, particularly for example, in areas where large elements of the population (e.g. students) may be exempt from tax.

Consultation Response

26. The consultation closes on 5 February 2019. It is proposed that authority should be delegated to the Chief Executive, in consultation with the Leader of the Council, to approve a response to the Welsh Government setting out the Council's views on the proposals contained in the White Paper.

Reason for Recommendations

27. To enable the Council to respond to the Welsh Government's consultation on the reform of Fire and Rescue Authorities in Wales.

Financial Implications

28. The financial implications of this consultation are set out in the body of the report.

Legal Implications

29. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
30. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving

the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2018-21:

<http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf>

31. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
32. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
 - Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
33. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below:
<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

RECOMMENDATIONS

Cabinet is recommended to:

1. note the Welsh Government's White Paper and consultation on the reform of Fire and Rescue Authorities in Wales; and
2. delegate authority to the Chief Executive, in consultation with the Leader of the Council, to approve a response to the Welsh Government setting out the Council's views on the proposals contained in the White Paper.

SENIOR RESPONSIBLE OFFICER	PAUL ORDERS CHIEF EXECUTIVE
	18 January 2019

The following background paper has been taken into account:

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

<https://beta.gov.wales/reform-fire-and-rescue-authorities-wales>