

Report to Cabinet

July 2022

Response to Fire Reform White Paper 2022 Consultation

Report by Director of Law and Assurance

Summary

This report summarises the recent government Fire Reform White Paper 2022 which is out for consultation until the 26th of July 2022. Cabinet is invited to agree the Council's response to the consultation as set out in this report and following discussion. The questions for answering as a response to the white paper's proposals are attached as an appendix.

There are three themes to the white paper through which government intends to deliver greater flexibility, effectiveness and political accountability for fire services across England. The themes are:

- **People** - proposals to modernise workforce practices to deliver greater flexibility in service deployment and response, support partnership working and resilience and to promote talent and leadership skills. There are also proposals to replace the current national bargaining arrangements for staff terms and conditions to enable local flexibility
- **Professionalism** – proposals to increase the professionalism of the fire and rescue service to ensure recruitment and training are better able to deliver a modern fire and rescue service. This includes a role for a potential College of Fire and Rescue.
- **Governance** – proposals to clarify accountability through the transfer of fire governance to a single elected individual, overseeing delivery by an operationally independent Chief Fire Officer.

Recommendations

Cabinet is asked:

1. To consider the Council's response and, in particular, to those proposals for which comment or reasons for the response are requested and to take account of any comments made during the discussion.
 2. To confirm the proposed approach to responding to the questions in the consultation document as set out in the appendix and to approve the inclusion of any reasons for or comments on answers where requested in accordance with this report or as otherwise advised.
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Proposal

1 Background and context

- 2.1 The reforms proposed in the white paper build on earlier reform which has seen the introduction of an independent inspection regime, stronger national coordination amongst operational leaders and increased consistency of expectations through Fire Service Standards and National Operational Guidance. The proposals seek to modernise workforce practices and to enable greater service flexibility according to local needs and risks. The proposals also seek to promote greater professionalism, supported by the introduction of a national College of Fire and Rescue Services. Finally, the white paper sets out proposals to clarify governance and public accountability.
- 2.2 The proposals highlight challenges from large scale incidents, such as Grenfell and the Manchester Arena bombing, as well as those from the pandemic response. The white paper suggests the need to increase the flexibility of response and resource deployment to enable fire and rescue services to be more adaptable. This is proposed to better respond to changing risks within communities, and for fire and rescue services to add social value to their role within communities. This may be seen as particularly useful for county council fire and rescue services as a more flexible approach to using fire and rescue staff and resources to help achieve broader council outcomes by supporting other services.

2 Proposal details

People

- 2.3 The proposals in this section focus on measures intended to increase the flexibility of the deployment of fire and rescue resources.
- 2.4 The ability for the fire and rescue service to continue to play its role in supporting the council plan through a greater flexibility of deployment according to local risks and priorities would be a great benefit, as would the proposal for fire and rescue services to play an active role in supporting the wider health and public safety agenda.
- 2.5 The proposals could provide greater flexibility to take local decisions about the deployment of resources based on risk at a county level. It could remove some of the dependencies on national level negotiations which do not reflect the local context or take account of the needs of local communities. This was evident during the pandemic where additional activity undertaken was largely limited to those negotiated through a national agreement. In West Sussex the service benefits from positive trade union relationships which have enabled a pragmatic outcome locally for most issues, although these are inevitably influenced by national discussions and positions.
- 2.6 The proposals also seek to explore whether current arrangements under the Civil Contingencies Act 2004 provide sufficient service response in the event of strike action. Fire and Rescue Services are Category 1 responders under the Act, which requires them to carry out specific civil protection duties. This must be reflected in services business continuity plans, which include ensuring deployment in the case of strike action. The proposals do not aim to remove the

freedom of staff to participate in industrial action but the white paper questions whether there is sufficient resilience in place to ensure public safety.

- 2.7 West Sussex Fire and Rescue Service and West Sussex County Council play a central role within the Sussex Resilience Forum. We have robust contingency plans for all foreseeable risks which support the community risk register action plan including plans in case of industrial action by firefighters. The current plans depend upon our non-striking firefighters or unions to provide resilience. There are also options to employ third party commercial providers on a costly reserve contract. Our plans are well tested and reviewed, though can be costly. These plans would be assisted by further measures to strengthen business continuity through the review of the Civil Contingencies Act 2004.
- 2.8 The white paper questions the effectiveness of the National Joint Council for Local Authority Fire and Rescue services (NJC). The NJC is a UK-wide collective bargaining body where employer and employee representatives negotiate terms and conditions, including pay for all uniformed (grey book) fire and rescue staff. The current system is closed and does not allow for local negotiation or discussion on options for pay improvement or skills recognition. The white paper questions whether the negotiation process is dynamic enough to respond to changing priorities.
- 2.9 The service need for greater flexibility could be assisted by the proposed fundamental reform of the NJC albeit we would want to guard against a system of local pay bargaining. That could create a local burden on the service and lead to disparity in the sector where talent or specialist skills move across to services with greater levels of funding offering the greatest rates of pay. Should pay awards be determined by an independent body, consideration should be given to the provision of additional government funding in order to ensure fair pay is delivered sustainably, and not to the detriment of delivering public service.
- 2.10 There are several other areas referenced within this section which are intended to nurture new and existing talent, such as introducing consistent entry requirements and talent management schemes. These are to be broadly welcomed provided they come with additional funding to enable their successful implementation.

Professionalism

- 2.11 The white paper describes the need for strong effective leadership and proposes to strengthen leadership development within the fire and rescue sector. These proposals are aligned with local priorities within West Sussex Fire and Rescue Service. We have plans that are focused on investment in our current and future leaders, as well as developing a strong talent pipeline within our service. We have recently launched a comprehensive people service plan that covers all elements of workforce planning including talent management and leadership. This service programme would be complemented by the reforms proposed, which include the development of new leadership programmes and a standardised approach across the sector. However, the white paper is silent on sources of funding for these programmes. If there is an expectation that the proposed programmes will be mandatory but are unfunded then this will pose additional pressures on existing budgets.
- 2.12 One of the areas proposed for further reform is the increased use of data to assist the effective and professional deployment of resources and to drive

innovation. Improved access to better quality information and utilisation of data will make our service more effective and efficient. For example, early incident trends based on national data could influence earlier prevention or protection activity. Data relating to the use and benefits of operational equipment could assist in procurement and resilience plans for the service. However, the quality of the national data set will be dependent on the quality of data submitted by services. The data collection process can be burdensome, particularly when resources are lean. The paper does not outline how the proposals for data collection and analysis will be resourced.

- 2.13 The white paper recognises the importance of local flexibility and seeks to support it through proposals for consistent national standards, building on the work of the Fire Standards Board. The paper proposes to place a code of ethics on a statutory footing, potentially through the Fire and Rescue National Framework for England, as well as the introduction of an oath for fire and rescue services in England. A breach of the code or the oath would be dealt with by the Chief Fire Officer as an employment matter. The NFCC recently developed a core code of ethics which we have already embedded through our people service plan. It is not immediately obvious how moving the code of ethics to a statutory basis would further improve the efficacy of the core code, and breaches are already dealt with through employment processes. An appropriate period for the code to bed in prior to a review would be a preferred approach.
- 2.14 The paper includes a proposal to create an independent body to further drive professionalism throughout the sector through a College of Fire and Rescue. This would be independent of fire and rescue services and at arm's length from government to maintain an independent status. There is the potential for this to include legislative powers that mirror those held by the College of Policing to drive the consistency of professionalism throughout the sector. There are already elements of national practice, such as National Operational Guidance. Whilst they are recognised as best practice and take up is high, there is no mandatory requirement to implement them. A College of Fire and Rescue that holds the responsibility for setting clear expectations and the power to mandate them would be a positive step. In the context of West Sussex this would be timely with the development of our new training commitments and the roll out of our new training facility in Horsham.

Governance

- 2.15 There are two main themes of the section on governance – first the drive to achieve a single point of political accountability and second the aim to define and reinforce operational independence for the Chief Fire Office and to prescribe the boundaries of operational and strategic or political accountability.
- 2.16 The White Paper focuses on the aim to have Fire and Rescue Service responsibility transferred to Police and Crime Commissioners (PCC). There are however two alternative options. The first, largely for urban areas, is for transfer to mayors of larger municipal or combined authorities. The second is designed for services embedded in County Council areas – the designation of the Council Leader as accountable individual with the function then delegated to a named cabinet member. Each option would be expected to be balanced by a dedicated scrutiny panel. What is less clear is what, if any role the full Council will play in these lines of accountability although the Council would retain budget setting responsibility.

- 2.17 It is suggested that West Sussex County Council strongly opposes any change to current governance arrangements, which are evidently effective. In West Sussex, this includes both a single named point of accountability and a dedicated scrutiny committee that has been in operation since 2019. This arrangement has overseen the significant service and governance improvements in response to recent inspection outcomes. The proposals and ambitions set out within the White Paper can already be evidenced to be working in West Sussex. The West Sussex County Council response to the consultation should promote the current County Council model of governance, where service accountability is vested in a Cabinet Member appointed by the Leader. It is not immediately obvious why a change would improve things. The current model delivers all the improvements that the white paper is seeking plus a wider range of benefits that include a greater focus on preventative work, sign-posting across services to help people and businesses remain safe and independent and using the wider pools of County Council resources and assets to provide training, facilities, equipment and support.
- 2.18 In the case of county council fire and rescue services the close working relationships that exist with other county council areas of responsibility such as adult care, children's services and public health are significant. The contribution of these relationships to public safety through prevention work should not be underestimated, nor should the extensive support of the corporate infrastructure of the Council.
- 2.19 The consultation asks whether the overall approach to a single political point of accountability is supported but also asks the same in relation to transferring responsibility to the PCC as an aim or to metro/ combined authority mayors.
- 2.20 County council fire and rescue services, such as West Sussex, receive support services as part of a larger shared service arrangement and so benefit from economies of scale. Therefore, the opportunity to deliver efficiencies and gain depth of advice from support services is greatly reduced in comparison to other governance models. Furthermore, as services are embedded within county council structures extracting them to meet the needs of reorganisation requires careful consideration to avoid adversely impacting on the close partnership working that such a structure facilitates and the loss of established support arrangements.
- 2.21 Any governance change requiring the transfer of functions and assets to a single individual is a significant and complex undertaking. In a county council, this is particularly so and would require negotiation to agree which staff, assets liabilities and contracts will transfer and to agree the funding (including council tax precept). Implementation can be costly, requiring specialist legal, HR, commercial and financial advice. The leadership focus that this would require should not be underestimated. Consideration should be given to the impact this would have on a services ability to deliver, reform or improve during such a period and beyond.
- 2.22 The challenge to identify the subsequent impact on culture within workforces should not be underestimated. Opposition from the workforce, linked to the loss of identity of fire and rescue and the reduction in its impartial and trusted status in the community that can impact on our ability to access vulnerable groups are critical considerations. This is reflected through the national stance of trade unions and has the potential to detrimentally impact industrial relationships - and more importantly - workforce relationships for some time.

This should be weighed up alongside the work ongoing to improve culture within services.

2.23 Whilst various models of fire governance exist, all are underpinned by a requirement for accountability transparency and community engagement. Whilst a single model of governance could be perceived to drive consistency, this may not be the case in practice and may not be the most valuable objective. There is a question over whether the aims of accountability can be helped in areas which have more dispersed communities. The question should be which model brings about the greatest community benefits for the area. The transfer to a single model of governance would be very difficult to achieve and the potential unintended consequences on service delivery should be fully considered. However, there are steps that could be taken to improve, accountability and transparency under current arrangements.

- *Good governance reviews* - In West Sussex, we undertook a review of governance and sought to strengthen our approach across the County Council. This led to changes to our constitution, clarification of schemes of delegation and revised scrutiny committees. A similar approach could benefit other FRAs.
- *Enhanced member development* - In West Sussex, we found benefit from introducing a bespoke development programme for elected members to improve understanding of the legislative and operating context of fire and rescue services and their role within that. A national development programme, building on the training offered through the LGA, could further strengthen such an approach.
- *Model schemes of delegation* - A model delegation framework that could be applied across governance models and tailored to local requirements could provide consistency and clarity in political and operational roles in decision making. Due consideration should be given to increasing the operational independence of chief fire officers within this to reduce opportunities for conflicting professional responsibilities.
- *Scrutiny* - West Sussex has a dedicated fire and rescue service scrutiny committee. We understand this to be the first of its kind, and it ensures that appropriate time and focus is given to scrutinising fire and the executive decisions made by cabinet. A dedicated committee also ensures elected members have the opportunity to become specialists in fire and rescue, with the time and space to focus on the service. Other fire and rescue authorities may also benefit from such an approach.
- *Elevation of Chief Fire Officer role in county council services* - In West Sussex, the CFO position reports directly to the Chief Executive and has a dedicated portfolio holder in Cabinet. As a fire and rescue service embedded in a county council, this approach ensures there is close political oversight of the service.

2.24 A final point is one of ensuring clarity for the aims of change for specific localities and communities that consider the way areas function and communities identity. Urban and city areas may benefit from a centralised model of mayoral accountability, however this may be less meaningful in rural or dispersed communities. In West Sussex, we have collections of communities where greater community cohesion benefits from collective accountability and representation. One model may not fit all and any transfer model should be responsive to or adaptable to the needs of the communities covered.

2.25 It is at Question 35 that the role of the authority in terms of oversight and scrutiny is referred to. This provides an opportunity to promote the scrutiny

model within West Sussex. Question 37 refers to the notion of aligning police and fire service boundaries and is preceded by a reference to the non-alignment in Sussex and the possibility of the PCC taking both fire services in Sussex without the need to join the services structurally. Cabinet is invited to challenge this reference although it is not covered in a separate question.

- 2.26 It should be noted that the Council's current arrangements for fire scrutiny (through a separate Fire and Rescue Service Scrutiny Committee, established in 2020) are due to be reviewed by the Governance Committee in September 2022. Cabinet may therefore wish any feedback it gives as part of its response to the White Paper to be included within the review paper to Governance Committee.
- 2.27 The section on fire funding reflects on the likely financial impact of any governance change, something that was highlighted during the 2017 consultation and business case for the PCC and fire merger in Sussex. This section also refers to a proposal that Fire and Rescue Service budgets be ringfenced and the white paper refers to a need to protect them from other pressures across Councils where the service is embedded. The Cabinet is invited to strongly oppose ring fencing fire service budgets. Whilst it may protect the fire service from pressures elsewhere, it may also prohibit the council from investing into the service when required and more broadly will mean reduced local decision making and a limiting effect on the ability for Members to respond to local priorities. There are benefits for fire and rescue in being part of a county council's wider budget where resources can be diverted into the service to flexibly support changing priorities. For example, the council has made significant investment into the service in order to resource the improvements required, as well as the proposals set out in the Community Risk Management Plan.
- 2.28 There is no reason to assume that a service led by an accountable council leader and cabinet member will not take a prudent and sound approach to the allocation of resources in the future whilst retaining the flexibility to discharge the political accountability to deliver public value for money and the setting of the level of the precept for West Sussex. Financial certainty is important in order to drive stable business and budget planning. Longer term government funding settlements and a review of the fire funding mechanism to ensure a fair distribution of central funding would greatly assist in this process and support the delivery of meaningful and long-term reform initiatives.
- 2.29 Operational independence for the Chief Fire Officer is already strongly supported by West Sussex County Council. The white paper sets out a route towards embedding this, with clarity offered between strategic and operational decision making. This demarcation of responsibility between the executive and the chief fire officer is already set out within the West Sussex County Council Constitution¹. This aligns with the proposed responsibilities set out in the white paper so would not result in a change locally. However, a statutory change to embed this will enshrine this arrangement and should be welcomed.

¹ Part 3 of the constitution outlines where responsibility to carry out the County Council's duties under the Fire and Rescue Services Act 2004 is already delegated to the Chief Fire Officer.

- 2.30 The reference to a move to make the chief fire officer a corporation sole, becoming the effective employer of staff, would not work within a Council setting and the White Paper acknowledges that as an issue to tackle. It would be difficult to implement in practice and the benefits are not immediately obvious.

3 Other options considered (and reasons for not proposing)

- 3.1 West Sussex County Council has a responsibility to respond appropriately to Government consultations which may affect or inform the future delivery of its services. A response to the Fire Reform White Paper consultation will therefore be submitted.

4 Consultation, engagement and advice

- 4.1 Internal officers, the Executive Leadership Team and Cabinet Members have considered the Fire Reform White Paper. The Fire and Rescue Service Scrutiny Committee have been invited to review this report and its appendix and the Chairman of the Committee will report back the views to Cabinet at the meeting on 20 July.

5 Finance

- 5.1 There are no financial implications to the council as this is a response to a consultation.

6 Risk implications and mitigations

- 6.1 There are no risks associated with responding to the consultation.

7 Policy alignment and compliance

- 7.1 At consultation stage there are currently no policy alignment and compliance implications. Should any proposals emerge as a result of the Fire Reform White Paper, any areas of council policy or legal responsibility will be appropriately considered, along with any planned or required action.

Tony Kershaw

Director of Law and Assurance

Appendices

Appendix A – Consultation questions and responses

Background papers

[reforming our fire and rescue service \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)