

Wiltshire & Swindon Fire Authority - 11 December 2014

Agenda Item 15 Combination Order and Shadow Governance Arrangements

Addendum to the Report of the Clerk

1. Background

- 1.1 In the report at agenda item 15 for the meeting of the Fire Authority on Friday 11 December I have set out a series of recommendations about the content of a draft Combination Order and about the Shadow Governance arrangements that will need to be put in place if the Dorset Fire Authority and the Wiltshire & Swindon Fire Authority are to combine on 1 April 2016.
- 1.2 My report had to be written and dispatched to Members in advance of a similar report seeking the views/recommendations of Members on the Combination Oversight Board (COB), which met on Friday 28 November.
- 1.3 This addendum report makes additional recommendations in the light of discussions at COB. This paper also addresses the wording of a decision reached by the Fire Authority at its meeting on 11 November when Members considered the 'Strengthening Our Fire and Rescue Service' – Full Business Case.
- 1.4 The Wiltshire & Swindon Fire Authority will be meeting on 11 December and the recommendations in this report and item 15 on the agenda have been shared with Dorset so that a consistent set of recommendations can be put to each Authority.

2. Name of the Authority and Service

- 2.1 At the meeting of COB on 28 November Members accepted my recommendation and agreed to recommend to the two Authorities that they should adopt "Dorset and Wiltshire Fire and Rescue Authority" as the name of the new Combined Fire Authority. **Accordingly, recommendation 1 on page 4 of the report at agenda item 15 is unchanged.**

3. Fire and Rescue Authority Composition

- 3.1 Again, at the COB meeting on 28 November Members accepted the recommendation relating to the size and composition of a new combined Fire and Rescue Authority. **Accordingly, the recommendation at paragraph 10 of the report at agenda item 15 remains unchanged.**

4. Shadow Governance Arrangements

- 4.1 COB welcomed the clarity of the report in distinguishing between the on-going statutory service responsibilities of the two existing Fire Authorities until 1 April 2016 and the role of a shadow Dorset and Wiltshire Fire and Rescue Authority Board in focussing upon putting in place everything that it necessary

to ensure that from 1 April 2016 the new Combined Authority is legally compliant and ready to take on its statutory responsibilities.

- 4.2 Members of COB did though question proposed term of reference regarding budget responsibility for the Shadow Board (page 7 of agenda item 15) and whether it was right that the outgoing Fire Authorities and not the Shadow Board which would adopt the budget and set a precept for the new combined authority for 2016/17. On reflection and having reviewed the effect of the Combination Order my advice is now that the adoption of the budget and the setting of the precept are matters for the Shadow Board, taking account of advice from the two current Fire Authorities. Accordingly, my recommendation is that the Terms of Reference for the Shadow Board as set out in pages 6-7 of the report at agenda item 15 should be amended by deleting term of reference mentioned above and amending Term of Reference bulletin point 5 on page 7 of the report to read:-

“5. Consideration of all issues relating to the budget of the new Combined Fire Authority including the provisional grant settlement and fire precept levels and with the benefit of recommendations from the two existing Fire Authorities to adopt a budget and set a precept for the new Combined Fire and Rescue Authority for 2016/17.”

5. Reconstitution of COB as a Joint Committee

- 5.1 COB recognised that between the December 2014 Fire Authority meetings and the anticipated commencement date for the Combination Order on 1 April 2015 there will be a need to progress the combination and for decisions to be made on a joint basis. **Accordingly, COB supported the recommendation on page 8 of the report at agenda item 15 that the COB be reconstituted as a Joint Committee, with the amended Terms of Reference described in section 4, above.**
- 5.2 Assuming that both Fire Authorities agree the recommendation the reconstituted COB would operate as a Joint Committee between 11 December 2014 (the date of the Wiltshire and Swindon Fire Authority meeting as the later of the two Authority meetings in December) and 1 April 2015.
- 5.3 The existing COB has a membership of 10. The Joint Committee and the Shadow Board would have a membership of 12 and so in addition to agreeing that COB should be re-constituted as a Joint Committee **Members are also asked to appoint the Chairman and 5 other Members to serve on the Joint Committee and then on the Shadow Board. It is suggested that for continuity these should be the Authority’s existing COB Members, with 1 additional Member.**

6. Senior Team Transition

- 6.1 The recommendation outlined in page 9 of agenda item 15 sets out a detailed recommendation relating to the establishment of a Joint Selections Committee. At COB on 28 November Members received legal advice

confirming that the Transfer of Undertakings Protection of Employment Regulations applied to all staff employed by the 2 existing Authorities. Accordingly, the two Chief Fire Officers, the two leadership teams and all other staff would transfer their employment on their existing terms and conditions to the new Combined Authority on 1 April 2016.

- 6.2 Legal advice was and is still awaited on whether for the most senior appointments the law enables Members to look beyond the two existing Chief Fire Officers and the senior teams by conducting nationally advertised competitions. Irrespective of any flexibility that the law might provide COB accepted that there is a compelling need to select a Chief Fire Officer (Designate) at the earliest opportunity, by the end of January 2015. This was recognised by COB as necessary in order to ensure that there is a single directing mind focussed upon ensuring that all necessary action is taken to establish the new Combined Authority and to bring about the benefits of the business case for combination.
- 6.3 A national competition would see the appointment of a Chief Fire Officer (Designate) delayed until June 2015 onwards. Momentum would be lost and combination would be jeopardised. At the same time members of COB recognised that in the two existing Chief Fire Officers they had two highly respected and able Chief Officers, either of whom had the ability to lead the transition period up to April 2016 and beyond that the new service.
- 6.4 **Accordingly, the recommendation of COB is that a Joint Selections Committee be established comprising the Chairman and Vice-Chairman of COB and 2 other Members from each of the existing Fire Authorities (a total of six). The Terms of Reference of the Joint Selection Committee would be to appoint a Chief Fire Officer (Designate) from between the two existing Chief Fire Officers. The role would be a "Designate" one until 1 April 2016, at which point the Chief Fire Officer (Designate) would become Chief Fire Officer for the new Combined Dorset and Wiltshire Fire and Rescue Authority.**
- 6.5 The Chief Fire Officer (Designate) will make recommendations to Members about the size and composition of his leadership team. Whilst recognising that at this stage they could not identify numbers and precise roles COB supported a consistent approach for all leadership team roles so that, consistent with the Chief Fire Officer (Designate), appointments would be made on a Designate basis from amongst the existing leadership team members. COB supported that members should only look beyond the existing leadership teams if there were vacancies that could not be filled.

7. **Quorum for the new Combined Authority**

- 7.1 Paragraph 24 of the report at agenda item 15 deals with the question of quorum for the new Combined Authority. The very clear recommendation of COB was that the quorum should be 10 and that there should be no requirement in the Combination Order for each one of the 5 constituent Authorities always to be represented by at least 1 member. Members of COB

felt that building in a requirement for each constituent Authority always to be represented would be unworkable. In addition, there is the opportunity to revisit this point within the new Combined Authority's Standing Orders, if members were minded to do so at a later date.

7.2 **Accordingly, it is recommended that the quorum of the new Combined Authority, to be included in the Combination Order, should be any 10 members.**

8. **Amended budget resolution**

8.1 At the meeting of the Fire Authority on 11 November it was resolved:-

That, subject to assurance in writing by 31 December 2014 from DCLG that Council Tax equalisation to Dorset's level of Council Tax will take place in 2015/16 or 2016/17 and to there being no adverse impact on the business case, Wiltshire & Swindon Fire Authority should adopt scenario 3 as its preferred option."

8.2 Since the meeting on 11 November there have been discussions with officials at DCLG and the Minister to try to arrive at a position on Council Tax equalisation which has no adverse impact on the Business Case. For technical reasons the advice to the Minister may now favour alternative options which, whilst having no adverse impact on the Business Case, would not involve Council Tax equalisation. In particular, consideration is being given to an increase in grant allocation. As a mechanism which involved anything other than a solution based upon Council Tax equalisation would not be in accordance with the Authority's last resolution it is recommended that:

"subject to assurance in writing by 31 December 2014 from DCLG which will enable the Wiltshire & Swindon Fire Authority and the Dorset Fire Authority to combine on 1 April 2016 without any adverse effect upon the Business Case, the Wiltshire & Swindon Fire Authority should continue to pursue a combination with the Dorset Fire Authority by submitting the Business Case for combination and a draft Combination Order to the Secretary of State for approval."

8.3 It will be necessary for the Chief Fire Officer, after consultation with the Chairman, the Treasurer and the Clerk to make a judgment about whether the assurance provided by the Minister is sufficient.

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