

North Yorkshire Fire and Rescue Authority

Appointments Committee

Minutes (*available for public inspection*) of the meeting held on 30 April 2018 at 11.00 am at Coxwold House, Easingwold

Present:-

County Councillor Andrew Backhouse in the Chair, City Councillor Keith Aspden, County Councillor Tony Randerson, County Councillor Helen Swiers (as Substitute for County Councillor David Blades) and City Councillor Tony Richardson

In Attendance:-

Will Naylor (Deputy Police and Crime Commissioner for North Yorkshire (Deputy PCC)) in the absence of Julia Mulligan (Police and Crime Commissioner for North Yorkshire (PCC))

Copies of all documents considered are in the Minute Book

6. Minutes

Resolved -

That the Minutes of the meeting held on 17 January 2018, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

7. Declarations of Interest

There were no declarations of interest.

8. Exclusion of the Public

Resolved -

That, in pursuance of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of item 5 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

9. Questions or Statements from Members of the Public

There were no questions or statements from members of the public.

**The following item of business was considered in private
and the public have no rights of access to the documents
identified in the preamble to Minute 10**

10. Vacancy for Chief Fire Officer/Chief Executive

Considered -

- (a) The written report of Barry Khan (Legal Adviser, Monitoring Officer and Secretary to North Yorkshire Fire and Rescue Authority (NYFRA)) dated 19 April 2018 which presented a proposal for:- (1) the recruitment, selection and appointment of a Chief Fire Officer/Chief Executive of NYFRS on a permanent basis; and (2) a revised senior management structure, including revised remuneration for principal officers, in respect of NYFR which was simply for comments as any decision on restructure would need to go an Authority meeting.
- (b) A copy of an email from Julia Mulligan (PCC) to County Councillor Andrew Backhouse dated 26 April 2018 in which she advised that she did not support the proposed recruitment process or timetable as set out in the written report to which part (a) of this preamble refers. The PCC, in her email, suggested a process which she felt would allow both the Appointments Committee and herself to have confidence that they had identified the key challenges (operational and managerial) for NYFRS, designed the appropriate structure for senior leadership and maximised collaboration opportunities, regardless of the outcome of the decision on the PCC's local business case to take over governance of NYFRS, before decisions are made on appointments.
- (c) Three verbal reports which advised that:- (1) the Home Secretary had not, as at 30 April 2018, made a decision on the PCC's local business case for the governance of NYFRS to be transferred to the PCC; (2) Amber Rudd MP had resigned as Home Secretary on Sunday 29 April 2018; and (3) the Prime Minister had appointed Sajid Javid MP as Home Secretary on Monday 30 April 2018 ie the same day as this meeting took place.
- (d) Verbal clarification was received from the Deputy PCC that the PCC would have liked to have attended this meeting but she was unavailable due to other commitments and that the meeting was arranged without checking her diary.

During discussion, the following key comments were made:-

- Involvement of the PCC/Deputy PCC in this Meeting:- The Chairman highlighted that there was no legal requirement for NYFRA's Appointments Committee to advise the PCC that this meeting was taking place or to invite her to attend. However, he had invited the PCC to attend because NYFRA and the PCC were working together. Committee Members indicated that they would be happy for the Deputy PCC, in the absence of the PCC, to comment during discussion at this meeting.
- Anticipated Timescale for the Announcement of the Home Secretary's Decision regarding the PCC's Local Business Case for the Transfer of Governance of NYFRS to the PCC:- The Deputy PCC advised that he had been advised that the Home Secretary's decision on the PCC's local business case, for the transfer of governance of NYFRS to the PCC, would be announced within the two weeks following this meeting. He highlighted, however, that he had previously been advised of likely dates for an announcement but such an announcement had not been made. *(Further reference was made to this timescale at a later stage of this meeting and is recorded on the next page of these Minutes.)*

- Anticipated Date for the New Chief Fire Officer/Chief Executive to Commence:- Barry Khan advised that, if the PCC's local business case was approved, the earliest likely date for the transfer of governance of NYFRS was believed to be 1 October 2018. The date of 1 October 2018 coincided with the proposed commencement date for the employment of the proposed new permanent Chief Fire Officer/Chief Executive which would allow for a handover to take place prior to the retirement of the current Chief Fire Officer/Chief Executive who would retire on 11 October 2018.

Barry Khan advised that, in case the Home Secretary decided that governance of NYFRS was to transfer to the PCC on 1 October 2018, it was desirable to obtain the PCC's views on how she would like the recruitment process for a Chief Fire Officer/Chief Executive to be run. Under the current constitution of NYFRA's Appointments Committee, the PCC did not have a formal voting mechanism, although she was able to influence the Committee's decision-making. It was also stated that the PCC may wish for an Interim to be in place prior to a full recruitment.

- Proposed Salary Range for the Chief Fire Officer/Chief Executive:- Members expressed support for the proposal set out in the written report, namely, that the salary of a new Chief Fire Officer/Chief Executive should be set at the average for all Chief Fire Officers/Chief Executives as set out in the 2017 pay survey for NJC Brigade Managers. Members also highlighted that NYFRA's Section 151 Officer within the proposed Senior Management Structure, as set out in Appendix B to the written report, was an interim arrangement only and that the interim nature of the role was not clear from reading Appendix B.
- The Deputy PCC's Questions about the Proposed Salary Range for the Chief Fire Officer/Chief Executive:- The Deputy PCC queried whether any specific market testing had been carried out for recruiting a Chief Fire Officer/Chief Executive to clarify the level at which the salary for the post should be pitched and the level of the salaries of the Chief Fire Officers/Chief Executives of similar Fire and Rescue Services throughout the country. Barry Khan responded that that was work which any Consultants, who were engaged to assist with recruitment to this post, would undertake.
- Implications of the Delay in the Announcement of the Home Secretary's Decision regarding the PCC's Local Business Case for the Transfer of Governance of NYFRS:- Members expressed frustration at the delay in announcing the Home Secretary's decision regarding the PCC's local business case for the transfer of governance of NYFRS to the PCC and about the consequences that that delay resulted in further uncertainties regarding an appointment of a Head of Paid Service. Some Members commented that the priority of deciding the PCC's local business case might now have reduced within the Home Office because Amber Rudd MP had, the day previously, suddenly resigned as Home Secretary; there were currently national and international problems which the new Home Secretary had to address as priority; and, at present, the performance of NYFRS was good.

It was noted that, if the Home Secretary's decision on the PCC's local business case was announced within two weeks of this meeting, a transfer of governance of NYFRS on 1 October 2018 was still feasible. Members commented that, as a result of current uncertainties surrounding NYFRS, potential candidates might be put off from applying and that it might be unfair to make a permanent appointment and, soon afterwards, for the structure of NYFRS to be reviewed and potentially make changes to the post that was applied for. Members

commented that that would be a decision for the PCC to make and explain to the public if her local business case was successful. The Deputy PCC advised that, in the PCC's view, that situation would not be of her making and instead would be a consequence of a decision made by this Committee. The Deputy PCC also highlighted that a review would put any person who, in the meantime, had been permanently appointed as Chief Fire Officer/Chief Executive in a very difficult position.

The Deputy PCC suggested that the Committee might wish to agree to delegate its powers to its Chairman, to be exercised in the event that the Home Secretary approved the PCC's local business case and the Home Secretary's decision was not challenged. He commented that such a delegation would allow the Committee's Chairman and the PCC to work together to decide on the future structure of NYFRS and commence recruitment of a new Chief Fire Officer. A Member highlighted that the Authority had not yet decided whether it would wish to seek a judicial review if the Home Secretary decided to approve the PCC's local business case. The Chairman responded that a meeting of the Authority would be convened quickly for the purpose of making a decision on whether the Authority wished to challenge any decision of the Home Secretary to approve the PCC's local business case. It was noted that the PCC may challenge a decision of the Home Secretary to reject the PCC's local business case. It was noted that, in either event, the timescale for the transfer of governance of NYFRS may be delayed beyond 1 October 2018.

- PCC's Views regarding a Review of NYFRS:- The Deputy PCC highlighted that the PCC would like this Committee, together with herself, to commission jointly an independent review of the structure of NYFRS in order to provide clarity in deciding how the Police and Fire Services would work together in future. The PCC had made this suggestion because NYFRS was not due to be inspected until 2019. The Deputy PCC cited, as an example, that such a review might suggest that the Chief Fire Officer should be solely operational.

The Deputy PCC advised that a review, as suggested by the PCC, would take 8 to 12 weeks and would provide clarity to potential applicants about what they would be coming into and that a new appointment could start from say 1 December 2018. Members commented that they were unhappy with that suggestion because it assumed that the Authority accepted the PCC's local business case for a transfer of governance of NYFRS to the PCC and that the Authority clearly did not accept the PCC's local business case. The Chairman also highlighted the issues of the likely cost of undertaking a review and which body would be expected to fund such costs. Members advised that they did not see the reasons why NYFRA should pay for such a review and that it would be difficult to undertake a review when the Home Secretary's decision was unknown concerning the PCC's local business case for the transfer of the governance of NYFRS. The Deputy PCC advised that NY Police was already undertaking a similar review and suggested that the two reviews needed to mesh together. It was noted that through the Collaboration Committee there was already collaboration taking place.

- Possible Interim Appointment of Chief Fire Officer/Chief Executive:- Members highlighted that the written report did not refer to the suggestion of appointing an Interim Chief Fire Officer/Chief Executive and that the Committee needed to consider whether it wished an interim appointment to be made due to current circumstances. It was explained that the PCC had not had chance to comment on the report as drafted and the PCC's views were invited for this meeting. Members expressed concern that, under the local business case, the roles of

both the Chief Fire Officer and NYFRS would be surmounted. Members recognised that, if there was a transfer of governance on 1 October 2018 and a vacancy for the Chief Fire Officer on 11 October 2018, that would not give the PCC enough time to recruit an Interim Chief Fire Officer. Therefore discussions would have to take place with the PCC prior to the transfer if a decision is made for the transfer of governance.

- Members commented that they were opposed to paying a substantial daily rate to someone to cover the post temporarily during the interim period; that the Government's position was putting the Committee in a "ridiculous" position; and that the PCC needed to consider the effect that this would have on the Fire Service and the public. Members suggested that the PCC should not attempt to force the Committee into making a particular decision on the grounds of unknown information and that NYFRA Members were responsible for acting in the best interests of NYFRS. They highlighted that NYFRA had not pressurised the PCC regarding the current vacancy in the post of Chief Constable for NY Police. The Deputy PCC advised that the PCC was not placing pressure on the Committee and was only advising of her views in the event that she became responsible for the governance of the NYFRS. He also advised that there would be no additional salary costs in appointing an Interim Chief Fire Officer as compared to a permanent Chief Fire Officer, and that the PCC's suggestion was not included in the written report for this meeting because the meeting papers were circulated before the PCC could put her suggestion forward.
- The Way Forward:- Barry Khan advised that this meeting had been useful for the purpose of opening discussions about the forthcoming vacancy in the post of Chief Fire Officer/Chief Executive. He advised that it was helpful that the PCC had sent the Chairman an email and that the Deputy PCC had attended this meeting to enable a discussion to take place on the Authority's views and the PCCs view of any future recruitment. Barry Khan highlighted that NYFRS must have a replacement Head of Paid Service for the period immediately following the retirement of the current Chief Fire Officer/Chief Executive. He asked the Committee to consider the PCC's request not to appoint a permanent Chief Fire Officer/Chief Executive and to make an interim appointment. Barry Khan suggested that an Interim Chief Fire Officer/Chief Executive could be an existing member of staff or the Committee could engage Employment Consultants to undertake the necessary work, either of which could be achieved in a shorter time period than recruiting a permanent member of staff. Members commented that they could not approve the PCC's request to commission a joint review of NYFRS's structure because a review was not required due to on-going work and previous internal reviews which provided a blue-print for requirements going forward and the work of the Collaboration Committee eg in considering collaboration between back-office functions. Members highlighted that it would be the PCC's decision to undertake such a review of NYFRS if her local business case was successful.

There was further discussion, including about the meaning of one of the PCC's comments within her email which read "in view of the serious operational issues that have come to light". The Deputy PCC responded that that comment included reference to NYFRA's decision about having four firefighters on some TRVs from spring/summer 2018, amongst other things. He advised that the PCC would not have increased the crew on TRVs in the same way as the Authority had agreed. The Chairman expressed the view that he was disappointed at that choice of language and that there were comments which NYFRA Members could make about NY Police, however this would not be a helpful way forward.

The Deputy PCC highlighted that the announcement of the Home Secretary's decision on the PCC's local business case for the transfer of governance of NYFRS was expected within the following fortnight and that a two week period would provide opportunity to flesh-out the PCC's views which were set out in her email submitted to this meeting. Members highlighted that, whilst they were minded to defer making a recruitment/appointment decision for two or three weeks, they were not minded to go down the route suggested in the PCC's email. They also expressed the view that, if the timing of the Home Secretary's announcement drifted beyond two to three weeks, then the Committee would have to make a decision based on information known at that time and proceed with implementing it and that the PCC would need to respect that. They also commented that, if the Home Secretary rejected the PCC's local business case for the transfer of governance of NYFRS to the PCC, they would be happy to approve the recruitment, selection and appointment of a Chief Fire Officer/Chief Executive for NYFRS on a permanent basis. However they would still wish to work in collaboration through the Collaboration Committee.

The Committee discussed the various options before the meeting and agreed the Resolution set out below. During discussion, the Deputy PCC expressed his thanks to the current Chief Fire Officer/Chief Executive for giving longer notice than was required of his resignation, recognising that the longer notice had permitted discussions at this meeting to take place.

Resolved -

- (a) That a decision to recruit either an Interim Chief Fire Officer/Chief Executive, or a permanent Chief Fire Officer/Chief Executive, be deferred to a meeting of this Committee to be held on Friday 18 May 2018 at 10.00am, venue to be advised, to allow:- (1) further time for an announcement to be made concerning a decision of the Home Secretary regarding the PCC's local business case for the transfer of governance of NYFRS to the PCC; and (2) time for the PCC to provide further detail about the suggestion which she has included in her email of 26 April 2018, copies of which have been submitted to this meeting.
- (b) That the meeting of this Committee to be held on Friday 18 May 2018 at 10.00am, venue to be advised, be cancelled if, in the meantime, it is announced that the Home Secretary has rejected the PCC's local business case for the transfer of governance of NYFRS to the PCC and to proceed with a recruitment exercise.
- (c) That the PCC be invited to attend and speak at the meeting of this Committee to be held on Friday 18 May 2018 at 10.00am, venue to be advised, and that, if the PCC is unable to attend, the Deputy PCC be invited to attend and speak in the PCC's absence.
- (d) That a report to the meeting of the Committee to be held on Friday 18 May 2018 include the implications of making an interim appointment.

The meeting concluded at 1:05pm

RAG/JR