



## **Nottinghamshire and City of Nottingham Fire and Rescue Authority Policy and Strategy Committee**

**Minutes of the meeting held at Joint Fire/Police HQ - Sherwood Lodge, Arnold,  
Nottingham, NG5 8PP on 01 April 2022 from 9.24 am - 9.42 am**

### **Membership**

#### Present

Councillor Michael Payne (Chair)  
Councillor Sybil Fielding  
Councillor Roger Jackson  
Councillor John Lee  
Councillor Jason Zadrozny  
Councillor Nick Raine (Substitute for Councillor Toby Neal)

#### Absent

Councillor Toby Neal

### **Colleagues, partners and others in attendance:**

Craig Parkin	- Deputy Chief Fire Officer
Becky Smeathers	- Head of Finance and Treasurer to the Authority
Malcolm Townroe	- Clerk and Monitoring Officer to the Authority
Sean Connor	- Derbyshire Fire and Rescue Service HR
Catherine Ziane-Pryor	- Governance Officer

### **21 Apologies for Absence**

Councillor Toby Neal (other City Council Business), Councillor Nick Raine substituting.

### **22 Declarations of Interest**

None.

### **23 Minutes**

Minutes of the meeting held on 04 February 2022 were confirmed as a true record and signed by the Chair.

## 24 Firefighters' Pension Scheme Immediate Detriment Review

Prior to consideration of this item representatives of the Fire Brigades Union were invited to formally ask a question:

Nottinghamshire FBU welcomes the first 5 recommendations of the Chief Fire Officer report. We hope the Fire Authority accepts these recommendations on the grounds of ending the discrimination of its workforce, and not solely on the threat of legal action by the Fire Brigades Union. We understand the position and the risk to the Authority in accepting these recommendations, However, Nottinghamshire Fire Authority can hold its head high, firm in the knowledge that they have done the right thing for its employees. Will the Fire Authority stand in solidarity with the FBU to end discrimination in the workplace wherever this may come from, both now and in the future?

The Chair responded as follows:

As the FBU know from the signed joint commitments on equality and inclusion, discrimination has no place within Nottinghamshire Fire & Rescue Service. Furthermore, the Authority is reassured that the values, behavioural framework, along with the education of employees and visible leadership at all levels, including Authority Members, will ensure a consistent and positive culture remains our aim.

The culture and expected professional standards of a community focused and inclusive organisation is shared with the representative bodies, working together and we have high confidence that wherever evidence of any form of discrimination exists, this will be dealt with robustly.

Becky Smeathers, Head of Finance and Treasurer to the Authority, presented the report and highlighted the following points:

- a) initially, the Home Office had issued guidance to enable Fire and Rescue Services to progress with immediate detriment (ID) pension issues;
- b) following the Fire Brigades Union (FBU) winning a test court case, and prior to the enactment of formal legislation, a memorandum of understanding (MU) was agreed with the FBU;
- c) Shortly after Policy and Strategy Committee adopted the MU in November, the Home Office withdrew its guidance, which has left Services across the country in a difficult position, uncertain as to how to proceed until clarified by the new legislation which is due in October 2023, but also recognising the impact on firefighter pension holders and the potential for further legal challenges on the basis of breaching the Equalities Act;
- d) all Fire Services have paused progress regarding related ID pension issues, however, with 2 retirements imminent, and several more due, approval is sought for NFRS to move forward and take action;

- e) the main areas of uncertainty are what the final tax arrangements and compensation calculations will be. There is significant risk to the Service in progressing whilst these elements are unknown as it is possible that Central Government will consider the Fire Service to be wholly liable for the cost of any reimbursed tax or compensation if not complying with the yet unknown legislation, and yet not addressing the issues, risks infringing the Equalities Act and successful prosecution;
- f) the risks have been outlined in a letter sent to the Home Office regarding the withdrawal of guidance and in which clarity was sought of how to progress. However, although further guidance has been received this week, it presents no further clarity;
- g) until comprehensive guidance and/or the new legislation is in place, there is a potential financial risk of tens of thousands of pounds to the Service if proceeding with work to resolve the issues, although there are likely to be many further, unknown risks;
- h) if the lack of progress is challenged in court, as has already happened, the Service could not defend inactivity, so members are requested to decide if work to address the inequalities identified within the pension scheme should continue, or whether the Service should risk another court case which will require funds to defend;
- i) NFRS has identified 17 retired individuals for whom ID could be claimed and result in legal action, and for which the Service may be unable to claim the cost from Central Government. This would also be the case for all firefighters retiring before the remedying legislation comes into force in October 2023.

Members and Lead Officers commented as follows:

- j) the recommendation of officers is the preferred option. It is a lesser risk, and is the right thing to do for employees;
- k) the impact of pension uncertainty on employees nearing retirement is significant, and whilst claims are naturally retrospective, some of the workforce are making decisions on the near future of their careers based on the level of their pension award, so action should not be delayed;
- l) the situation is not the making of the Authority but needs resolving and although an unenviable decision for members to make, it is not as difficult as the position of those affected;
- m) on the basis of the information provided, to progress with resolving the issues is the most fair and reasonable course of action;
- n) the response and explicit support of the FBU for the recommendations, is welcomed;
- o) Becky Smeathers and the Finance Team are commended for the detailed report and sensitive approach, along with the support of Sean Connor from Derbyshire Fire Service;
- p) an update to members is requested if there is a variance in costs of 20% or more in order that they are kept fully informed.

**Resolved to**

- 1) note the update concerning the age discrimination / immediate detriment remedy position related to the Firefighters' Pension Scheme;**
- 2) approve that firefighters approaching retirement (Cat 1) continue to be offered the option of an immediate detriment remedy;**
- 3) approve that retired firefighters eligible for an immediate detriment remedy (Cat 2) continue to be offered the option of an immediate detriment remedy;**
- 4) delegate to the Head of Finance and Treasurer, as delegated Pension Scheme Manager, authority to adopt a new Memorandum of Understanding, when available, which removes liability from Nottinghamshire Fire and Rescue Service;**
- 1) delegate to the Head of Finance and Treasurer, as delegated Pension Scheme Manager, authority to pause all ID cases if conformation from the government is received significantly increasing the financial liability to Nottinghamshire Fire and Rescue Service.**