

DEVON & SOMERSET FIRE & RESCUE AUTHORITY

26 July 2017

Present:-

Councillors Randall Johnson (Chair), Best, Biederman, Bown, Burridge-Clayton, Chugg, Coles, Colthorpe, Eastman, Ellery, Greenslade, Hendy, Napper, Peart, Redman, Riley, Saywell, Trail BEM and Wheeler.

Apologies:-

Councillors Healey MBE, Hosking, Leaves, Prowse and Thomas

DSFRA/21 Minutes

RESOLVED that the Minutes of the Annual and Ordinary Meetings of the Authority held on 12 June 2017 be signed as correct records.

DSFRA/22 Item Requiring Urgent Attention

The Chairman advised on an item received subsequent to publication of the agenda for this meeting but which it was felt should nonetheless be considered as a matter of urgency in accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 to enable the issue to be progressed appropriately and expeditiously.

In view of the nature of the issue, however, the Chair indicated that this item should be considered in the absence of the press and public.

(SEE ALSO MINUTE DSFRA/30 BELOW)

DSFRA/23 Minutes of Committees

a General Purposes Committee

The Chair of the Committee, Councillor Greenslade, **MOVED** the Minutes of the meeting held on 6 June 2017 which had considered a staffing issue.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

b Human Resources Management & Development Committee

The Chair of the Committee, Councillor Bown, **MOVED** the Minutes of the meeting held on 23 June 2017 which had considered, amongst other things:

- a request for retirement and re-employment made in accordance with the Authority's approved Pay Policy Statement for the current financial year;
- appointments to the Firefighters' Pensions' Scheme Internal Disputes Resolutions Procedure Panel; and
- a report on absence management and the health of the organisation.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

c Audit & Performance Review Committee

The Chair of the Committee, Councillor Wheeler, **MOVED** the Minutes of the meeting held on 28 June 2017 which had considered, amongst other things:

- an update from Grant Thornton (the Authority's external auditor);
- a report on the draft Statement of Accounts for the 2016-17 financial year;

- a report on the draft Statement of Assurance for the 2016-17 financial year; and
- a report on the process for publication of financial statements for the 2017-18 financial year.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

d **Community Safety & Corporate Planning Committee**

The Chair of the Committee, Councillor Redman, **MOVED** the Minutes of the meeting held on 11 July 2017 which had considered, amongst other things:

- a report on performance of the Devon & Somerset Fire & Rescue Service between April 2016 and March 2017 as measured against those indicators in the current Strategic Plan “Our Plan 2015 – 2020”;
- a report on progress to date in developing the new Integrated Risk Management Plan.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

DSFRA/24 Red One Ltd. - Appointment of Directors

(Councillor Saywell declared a personal, non-pecuniary interest in this matter [by virtue of his being recommended for appointment to the Board of Red One Ltd.] and took no part in any voting thereon.).

The Authority considered a report of the Director of Corporate Services (DSFRA/17/22) on:

- the appointment of a third, Authority-appointed non-executive director to sit on the Board of Red One Ltd. (“the Company”); and
- a proposed process to identify and appoint an independent, non-executive director who would also serve as Chair of Company’s Board of Directors.

An external company specialising in the identification and appointment of non-executive directors had been commissioned to undertake a selection process for the third Authority-appointed non-executive director on the Company Board. A copy of the subsequent recommendation following this process was appended to the report.

The Director of Corporate Services also advised the Board that, subsequent to publication of the agenda for this meeting, a request had been received from the Acting Managing Director of Red One Ltd. to remunerate Mr. John Woodman, at a rate commensurate with the relevant Authority Special Responsibility Allowance, for his services as a non-executive director on the Company Board between the date of his ceasing to be an Authority Member and the date of his resignation as a non-executive director. The Articles of Association for the Company required that such remuneration be approved in writing in advance by the shareholder.

Following a debate on this matter, Councillor Bown **MOVED**, with Councillor Greenslade seconding:

“that Councillor Saywell be confirmed as the third, Authority-appointed non-executive director on the Board of Red One Ltd.”

This Motion was put to the vote and declared **CARRIED**, by 16 votes for, none against and with 2 abstentions.

Councillor Bown then **MOVED**, with Councillor Greenslade seconding:

“that a decision on undertaking a process for the identification and appointment of an independent non-executive director to serve as Chair of the Board be deferred.”

The Motion was put to the vote and declared **CARRIED**, by 11 votes for to 8 against. Councillor Bown then **MOVED**, with Councillor Burridge-Clayton seconding:

“that the request for remuneration for Mr. John Woodman be declined.”

The Motion was put to the vote and declared **CARRIED**, by 6 votes for, 5 against and with 7 abstentions.

Thereafter, it was

RESOLVED

- (a). that the Authority:
 - i. as sole shareholder in Red One Ltd. (“the Company”) and in accordance Article 19 of the Company’s Articles of Association, appoints Councillor Andrew Saywell as the third, Authority-appointed non-executive director on the Company Board; and
 - ii. authorises the Clerk to the Authority to serve, in accordance with Article 19, notice in writing on the Company of this appointment;
- (b). that a decision on a process to identify and appoint an independent non-executive director to the Company Board, to serve as the Board Chair, be deferred; and
- (c). that the request from the Company Board to pay remuneration to Mr. John Woodman for his services as a non-executive director on the Board, between the date his ceasing to be an Authority Member and the of his resignation as a non-executive director, be declined.

DSFRA/25 Company Trading Models - Further Developments

(Councillor Saywell declared a personal, non-pecuniary interest in this matter [by virtue of his being an Authority-appointed non-executive director on the Board of Red One Ltd.] and took no part in any voting thereon.).

The Authority considered a report of the Director of Corporate Services (DSFRA/17/23) on further legal advice obtained in relation to commercial trading models available to local authorities such as the Devon & Somerset Fire & Rescue Authority.

At an Extraordinary General Meeting of Red One Ltd. (“the Company”) held on 4 April 2017, the Authority (as sole shareholder in the Company) had resolved that a community interest company (CIC) limited by guarantee be established and that, once established, all current contracts, liabilities, assets and resources (including staff) of the current Red One Ltd. be transferred to the new company. The Authority had been advised at its ordinary meeting on 12 June 2017 that, acting on this resolution, the Company Board had established and incorporated a community interest company with three “members” (equivalent to shareholders) albeit in a personal capacity and not as Authority Members (Minute DSFRA/17 refers).

The ongoing work to fully establish the new CIC, however, had highlighted that the Authority could only exercise commercial trading functions through a company which it either controlled or was subject to its influence. This meant that perceived greater freedom to trade through the new CIC was not valid. In addition, it had been confirmed that, contrary to the understanding of the Company Board, there were no corporation taxation advantages to be derived through the CIC model.

In light of this further advice, the Company Board had decided that, while it remained committed to transitioning to a CIC, it was unable to execute the instruction given to it following the Authority meeting on 4 April 2017 (including transfer of Red One Ltd. assets) until a new operating model was developed in accordance with all applicable legislation and supported by a detailed business case, to be presented to the Authority (as shareholder) for approval at a future meeting. This Board decision was set out in a revised recommendation (a) to report DSFRA/17/23, circulated by the Clerk to the meeting.

Report DSFRA/17/23 also invited the Authority to consider whether, in noting the decision of the Board, it might also wish – as sole shareholder and to ensure certainty and clarity – to pass a special resolution (in accordance with Article 4 of the Company’s Articles of Association) directing the Company not to transfer any Red One Ltd. contracts, liabilities, assets and resources (including staff) from the Company to any new company.

In debating this aspect, some Members expressed the view that it might be appropriate to defer consideration of this pending the opportunity to receive representations from the two Authority-appointed non-executive directors to the Company Board who were unable to attend this this meeting. Other Members considered, however, that such a special resolution did not prevent establishment of a CIC and the subsequent transfer of assets at a future date (subject to the CIC established complying with relevant legislation) but instead provided clarity and certainty given the current position.

Following the debate, Councillor Ellery **MOVED**, with Councillor Greenslade seconding:

“that the revised recommendation (a) as circulated at the meeting be accepted, but that a decision on recommendation (b) (dealing with a special resolution directing the Board of Red One Ltd. not to transfer company assets etc.) be deferred”

Councillor Wheeler then moved, with Councillor Burrige-Clayton seconding an **AMENDMENT** to the above motion:

“that the revised recommendation (a) as circulated at the meeting be accepted and that recommendations (b) and (c) as printed in report DSFRA/17/23 be approved.”

The amendment was then put to the vote and declared **CARRIED**, by 15 votes for to 4 against.

The amendment, as carried, was then put to the Authority as a substantive motion whereupon it was

RESOLVED

- (a). that, given further legal and tax advice recently obtained and set out in paragraphs 2.2 to 2.5 of report DSFRA/17/23, the Authority note the following decision of the Board of Directors of Red One Ltd.: The Board remains committed to transitioning to a Community Interest Company (CIC) but is unable to execute the instruction given to it by the Authority at the meeting on 4 April 2017, including transfer of Red One assets, until a new operating model has been developed in accordance with all applicable legislation and supported by a detailed business case, which will be presented to the shareholder for approval at a future meeting;
- (b). that, in noting the decision of the Board as set out at (a) above, the Authority, for the purposes of certainty and clarity, resolves:

- i. to pass (as sole shareholder in Red One Ltd.) a special resolution in accordance with Article 4 of the Company's Articles of Association directing the Company not to transfer any Red One Ltd. contracts, liabilities, assets or resources (including staff) from the Company to any new company; and
 - ii. to authorise the Clerk to the Authority to notify, formally and in writing, the Company of this special resolution;
- (c). that, subject to (a) and (b) above, the report be noted.

(At this point [11.30hours] the meeting was adjourned for fifteen minutes, reconvening at 11.45hours).

DSFRA/26 Structure of the Service Executive Board

The Authority considered a report of the Chief Fire Officer (DSFRA/17/24) on a proposed restructure of the Service Executive Board, following a review initially commissioned by the Authority at its meeting on 27 July 2016 (Minute DSFRA/22 refers).

The proposed restructure would retain the same number of Executive Board members (five), but would see the inclusion of a new operational Assistant Chief Fire Officer post in place of the currently-vacant post of Director of People and Commercial Services.

The restructure would, if approved, improve operational response capability at Principal Officer level significantly and should secure savings in the region of £40,000 by allowing for removal of one Area Manager post and not replacing the Director of People and Commercial Services (the responsibilities of this post being realigned within the new structure). Should any changes in responsibilities require a review of job descriptions and/or job evaluation, this would be undertaken in accordance with established procedures. It was further proposed that the Chief Fire Officer should be authorised, following consultation with the Authority Chair, to implement any changes arising from this process.

Once the Executive Board structure had been determined, the review of the second tier of the Service management structure would be concluded. Should there be any minor variations to the establishment resulting from this review, these would be implemented by the Chief Fire Officer (in accordance with the Authority's approved Scheme of Delegations) and reported to the Human Resources Management & Development Committee for information. Should the review require a major restructuring, these would be subject to proposals for determination either by the Human Resources Management & Development Committee or the full Authority (in the event of any associated costs not being contained within existing budget provision).

RESOLVED

- (a). that the Service Executive Board structure (including a second, substantive, Assistant Chief Fire Officer post) as set out at Appendix A to report DSFRA/17/24, together with the process (as set out at paragraph 1.9 of the report and indicated above) to be followed where changes in responsibilities might require a review of job descriptions and/or job evaluation, be approved;

- (b). that the second substantive Assistant Chief Fire Officer post be subject to an internal appointments process, with an Appointments Panel comprising the Authority Chair (Cllr. Randall Johnson) and Councillors Bown, Chugg, Coles and Peart established with delegated authority to undertake a selection process and appoint to the post;
- (c). that the Chief Fire Officer be delegated authority to determine, in consultation with the Appointments Panel so established, to determine the detail of the selection process to be followed.

DSFRA/27 Chair's Announcements

The Authority received, for information, a list of activities undertaken by the Chair on behalf of the Authority since its last meeting.

DSFRA/28 Chief Fire Officer's Announcements

The Chief Fire Officer reported, for information, on:

- Her Majesty's Inspectorate of Constabularies would be expanded and become the single inspectorate for both policing and fire services. It was anticipated that the first inspection would take place next Spring with all fire and rescue services having been inspected by the end of 2019;
- the Devon & Somerset Fire & Rescue Service securing a four-star recognition for excellence by the European Foundation for Quality Management (EFQM) following a recent assessment. The EFQM Excellence Model was a tool to help organisations (irrespective of sector, size, structure or maturity) establish appropriate management systems to be successful by helping them understand any gaps, and stimulating solutions;
- an update on collaboration with other emergency services across the region;
- the forthcoming launch at the Dawlish fire station, on 2 August 2017, of a new co-responding vehicle; and
- successful efforts by the Service in raising over £150,000 for the Firefighters Charity during the last financial year.

In relation to the latter point, the Authority asked to have placed on record its appreciation for all those involved in accomplishing such a significant achievement.

DSFRA/29 Exclusion of the Press and Public

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined:

- for Minute DSFRA/30, in the following Paragraphs of Schedule 12A (as amended) to the Act, namely:
 - Paragraph 1 (information relating to an individual);
 - Paragraph 2 (information likely to reveal the identity of an individual); and
 - Paragraph 3 (information relating to the financial and business affairs of any particular person – including the authority holding that information); and

- for Minute DSFRA/31, in Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of any particular person – including the authority holding that information.

(At this point [12.30hours], the meeting was adjourned for fifteen minutes to enable the Authority to consider an aide-memoire circulated by the Director of Corporate Services and detailing an issue which it was felt should be considered by the Authority as a matter of urgency. The meeting reconvened at 12.45hours).

DSFRA/30 Red One Ltd.

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during which the press and public were excluded from the meeting).

(An item taken in accordance with Section 100B(4)(b) of the Local Government Act 1972).

(Councillor Saywell declared a personal, non-pecuniary interest in this matter [by virtue of his being an Authority-appointed non-executive director on the Board of Red One Ltd.] and took no part in any voting thereon.)

The Chair decided that this should be considered as a matter of urgency to enable the Authority to consider at the earliest opportunity a matter that had arisen following publication of the agenda for this meeting).

The Authority considered an aide-memoire circulated at the meeting by the Director of Corporate Services on issues relating to Red One Ltd., including a staffing issue.

RESOLVED that, subject to the amendments as indicated at the meeting, the recommendations as set out in the aide-memoire circulated by the Director of Corporate Services be approved.

DSFRA/31 Red One Ltd. - Financial Update

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during which the press and public were excluded from the meeting).

(Councillor Saywell declared a personal, non-pecuniary interest in this matter [by virtue of his being an Authority-appointed non-executive director on the Board of Red One Ltd.] and took no part in any voting thereon).

The Authority considered a report of the Treasurer (DSFRA/17/25) on a financial matter between the Authority and Red One Ltd.

RESOLVED that, subject to incorporation of the amendments as indicated at the meeting, the agreement between the Authority and Red One Ltd. as set out at Appendix A to report DSFRA/17/25 be approved.

The Meeting started at 10.00 am and finished at 2.00 pm