

July 2017

STATUTORY INSPECTION OF AVON FIRE AND RESCUE AUTHORITY

An Inspection undertaken in the exercise of the Secretary of State's powers under section 10 of the Local Government Act 1999

**Return to an Address of the Honourable the House of Commons
dated 19 July 2017
for the**

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AND RESCUE AUTHORITY**

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SECTION ONE

INTRODUCTION

1. By a letter dated 3 February 2017 (“the Appointment Letter”), I was appointed by the Home Secretary to carry out a best value inspection (“the Inspection”) of Avon Fire Authority (“the Authority”) pursuant to section 10 of the Local Government Act 1999 (as amended by the Local Audit and Accountability Act 2014) (“the Act”).
2. This Report sets out a summary of the work that was undertaken and the conclusions and proposals that I have made.

Statutory Basis

3. This Inspection is conducted pursuant to section 10 of the Act. The Section 3 duty provides that:

“3 (1) A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

4. Section 13 of the Act provides that an Inspector shall issue a Report when an inspection has been carried out. It also provides a duty on an Inspector to mention a matter in respect of which the Inspector believes that the Authority is failing to comply with the section 3 duty. Where the report mentions such a matter, there is discretion as to whether the Inspector recommends that the Secretary of State gives a direction to exercise his power under section 15. This states that:

15 (6) Where this section applies in relation to an authority the Secretary of State may direct—

- (a) that a specified function of the authority shall be exercised by the Secretary of State or a person nominated by him for a period specified in the direction or for so long as the Secretary of State considers appropriate, and*
- (b) that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of that function and shall provide such assistance as the Secretary of State or his nominee may require for the purpose of exercising the function.*

Terms of Reference

5. The full Terms of Reference for the Inspection are set out in my Appointment Letter (Appendix 1). The Letter states that the Inspection should consider:
- Decisions and scrutiny by the Authority in relation to salaries and expenses of employees and in relation to spending on hospitality.
 - The Authority's processes and practices for entering into contracts, including procurement contracts.
 - The Authority's compliance with the accountability and assurance requirements under the Fire and Rescue National Framework for England (see paragraphs 2.7-2.9 and 3.2-3.3).
 - The Authority's systems and processes to ensure such transparency of information relating to governance as would reasonably be expected of any public authority, including appropriate treatment of whistleblowers.
 - Compliance with the seven principles of public life by elected members of the Authority and by senior officers.
 - The Authority's processes and practices for taking action against any member or officer of the Authority who is found not to have met the standards required of that member or officer.
 - The Authority's processes and practices for effectively assessing the validity of any complaints made about members of the Authority and senior officers and the provision made for the appropriate consideration of such complaints.
 - Any decisions taken by the Authority to ensure that a culture of fear and bullying does not exist and the action taken by the Authority where it is found to exist.
6. The appointment letter defines the period subject to the Inspection to be 1 January 2011 to 1 February 2017. However, it goes on to state:

'In considering the Authority's current and likely future compliance with the requirements of Part 1 of the 1999 Act in relation to its governance functions, you should have regard to all relevant matters, whenever arising.'

Background to the Inspection

7. The County of Avon Fire Brigade existed from 1974 to 1996. With the abolition of the County of Avon, Avon Fire Authority was created as a combined fire authority consisting of the four unitary local authorities of Bath and North East Somerset; Bristol; North Somerset and South Gloucestershire. The residential population of Avon was 1.2 million in 2015.
8. There are 25 members of the Authority drawn from its constituent unitary authorities. Bristol City Council is represented by ten members; South Gloucestershire Council by six members; North East Somerset Council by five members; and Bath and North East Somerset Council by four. The current balance of the political groupings is Conservative 12, Labour seven, Liberal Democrats four and Green Party/Independent two.
9. The Authority employs 533 whole-time firefighters, 229 retained firefighters, 37 control staff and 129 support staff within Avon Fire and Rescue Service ("the Service").

The Service is led by the Service Management Board (SMB). The SMB currently comprises the Chief Fire Officer (CFO), the Deputy Chief Fire Officer (DCFO), two Assistant Chief Fire Officers (ACFOs), the Clerk/Monitoring Officer and the interim Treasurer.

10. During the period covered by the Inspection there was no overall control of the Authority. The previous Chair was in post continuously from when Avon Fire Authority was created in 1974 until he stood down at the 2015 elections. The Chair was the Labour Party Group leader; he was supported by Group leaders from the Conservative and Liberal Democrat Groups.
11. The Authority was subject to adverse media criticism in a BBC Points West programme broadcast in June 2016. The report highlighted the following claims:
 - There was evidence of infighting among senior management and allegations of bullying in one case;
 - A former ACFO took early retirement on the grounds of ill-health in 2014, following a suspension. He was met with resistance from colleagues after pushing for reforms to the Service;
 - An independent doctor, who saw him when he was pursuing part of his under-dispute pension, said he “appeared to have been subject to behaviours which could be argued as being bullying and harassment prior to his suspension”;
 - A previous DCFO was given a year’s secondment and a £25,000 pensionable allowance before retiring in 2012 - but the secondment never happened and he spent time instead on garden leave;
 - The Human Resources Director took early retirement in 2011 and said disagreements at Board level made her ill.
12. These allegations, amongst others, were repeated in correspondence to the Home Office. The Authority was asked on a number of occasions to undertake an independent inquiry into these matters by some Members who joined it following local elections in May 2015. Consequently, the Authority has been on notice for over a year that these matters were a concern.
13. On the 18 March 2016, after consideration of a report into these allegations by its Monitoring Officer, the Authority resolved that the concerns reviewed in the report should be regarded as closed and no further action should be taken. Although 17 Members supported the resolution, four did not. That meeting also resolved ‘by an overwhelming majority, that the CFO and the Principal Officers have the full support, and confidence of the Fire Authority’.
14. In his statement to Parliament on 2 February 2017, the Minister of State for Policing and the Fire Service, Brandon Lewis said:

‘In June 2016, the Chairman of Avon Fire and Rescue Authority approached the department requesting assistance with launching an inquiry into concerns raised by members of the Authority. That request was subsequently withdrawn by the Chairman. In August 2016, and again in October 2016, I asked the Fire and Rescue Authority to commission a full investigation, independent of the Authority, into the allegations but the Chair and Vice Chairs of the Authority have made clear to me that they do not intend to commission such an investigation.

In light of this response, I have today commissioned a statutory inspection under section 10 of the Local Government Act 1999 into Avon Fire and Rescue Authority's compliance with its duty to make arrangements to secure continuous improvement in the way in which its functions in respect of governance are exercised, having regard to a combination of economy, efficiency and effectiveness. The inspection will focus on the Authority's functions in respect of governance, including, but not limited to, the Authority's duties of accountability and assurance under the Fire and Rescue National Framework.

I consider that the extent, seriousness and persistence of the allegations made against the Authority, together with the alleged failures to properly deal with complaints, if well-founded, would indicate that the Authority is failing to comply with its duty to make arrangements to secure continuous improvement. Such allegations would suggest that the Authority is unable to deliver economically, efficiently and effectively now or in the future. As a result, I consider that a statutory inspection is appropriate in this instance and is in the public interest. I should make it clear that I express no view about whether or not the allegations are well-founded, as that is a matter which will now be considered by the inspection.'

The Inspection Process

15. I was appointed as the Inspector on 3 February 2017. I have been greatly assisted by Anthony Maude, the Assistant Inspector. I would like to record my sincere thanks to him for his invaluable support and hard work in this process.
16. The Inspection was based on fact-finding interviews and a review of documentation made available by the Authority and individuals. During the Inspection, more than 50 people have been interviewed, including several in a small group. Interviewees included past and present members of staff, past and present Members of the Authority, and members of the public with an interest in the Authority.
17. A large number of documents have been reviewed including a wide range of Authority papers, background material and advice that was given in particular circumstances. Written material obtained included the following:
 - Correspondence between the Authority and the Minister, including correspondence from individual members. This correspondence was in the form of both letters and emails;
 - Papers presented to the Authority and minutes arising. Some of these are in the public domain, others were exempt by virtue of Section 12A of the Local Government Act 1972, along with associated legal advice;
 - The Monitoring Officer's report of March 2016 into allegations made by some Members;
 - Personnel records and performance appraisals for individual members of staff where these were considered to be relevant to the Inspection;
 - Background papers to the Code of Conduct Inquiry of Members;
 - Background papers and reports into a disciplinary investigation;
 - Emails and letters made available by individual interviewees during the course of the Inspection.

18. This work could not have been concluded in a timely fashion without the active assistance of the Authority by making papers available quickly and comprehensively, and by people making themselves available for interview. I am most grateful for this co-operation.
19. Before finalising the Report, I undertook a Representations Process. This provided individuals and organisations a further opportunity to provide comments to the Inspection. Responses were received from a number of current and former Officers, current Members and one firm. Those representations have all been carefully considered prior to finalisation of this report.
20. Some of the detailed evidence concerns sensitive personal information that has not been included for reasons of privacy and so some references are left deliberately oblique. No names are mentioned at all other than where I am quoting directly from documents already in the public domain.
21. The Inspection has concentrated on the key issues that determine whether the Authority has failed in its best value duty, and whether it is likely to continue to fail into the future unless further action is taken. I have provided proposals to the Authority as to how the current situation could be improved so that it can better meet its statutory duties in future.
22. The approach and co-operation have enabled us to conclude the work as expeditiously as possible (within five months), so that the Report can be finalised and the Authority can move forward.

Summary of Conclusions and Proposals

23. Based on my Inspection, my overall conclusion is that the Authority is failing to comply with its section 3 duty in a number of respects.
24. It is my belief that its governance arrangements have not secured its section 3 duty. Poor decisions that significantly benefited individuals were made following insufficient scrutiny by Members, with inadequate papers and business cases being put to them; and Minutes that did not leave a proper audit trail. Where Members did challenge, those challenges were treated inappropriately. Members were unclear about their roles. There was too much emphasis upon maintaining consensus, and incremental change. The 2012 Integrated Risk Management Plan (IRMP) process did not identify how resources could be better deployed in the way that it should have. A new Chair was recently chosen on 26 June 2017, and has indicated that he recognises the urgent need for change. Since then, the SMB have also indicated a strong willingness to embrace improvement. These are encouraging developments that bode well for the future, however, this does not negate my duty under the 1999 Act and the terms of reference to provide this report and to set out my findings in relation to the issues of the past. The issue of governance is addressed in Section 2 of this Report.

25. It is also my belief that failings in leadership and culture have meant that the Authority has not secured continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. There have been rifts previously in the SMB that led to expensive exits and disharmony. Support staff are pressed, and do not always have the level of professional expertise now required by modern organisations. Staff relations have at times been poor and a recent Employment Tribunal (ET) identified specific concerns. The Authority has to address equality issues with greater vigour. There are too many management layers. The handling of a missing laptop exemplified a culture of defensiveness, as did the heavy-handed dealings with a member of the public who was criticising the Authority. Leadership and culture are addressed at Section 3 of the Report.
26. Having conducted the Inspection and identified the areas where I believe the Authority is failing in its duty, I set out at Section 4 of this Report a number of proposals for how the Authority may address its shortcomings.

SECTION TWO GOVERNANCE

Overview of this Section

27. Upon concluding the Inspection, I have identified failings in governance and I believe that the Authority has failed to secure continuous improvements. The Authority has not exercised appropriate levels of scrutiny for some time. Prior to their reform, the governance arrangements did not support effective control by Members. There was too much emphasis upon consensus and not enough on scrutiny. A number of poor decisions were made. The Treasurer and Clerk were unable to fulfil their roles properly, and normal governance procedures in relation to these appeared to break down. Members were unclear about their roles, and recently Members have been inappropriately asked to resign, and subjected to Code of Conduct investigations. The 2012 Integrated Risk Management Plan (IRMP) process did not adequately identify how resources could be better deployed in the way that it should have. The way Members exercise their powers does not enable the Authority to meet its statutory duties under Section 3 of the Act.

Background

28. Prior to June 2016, apart from the main Authority meeting that consisted of all Members, there was a Special Purposes Committee (SPC) consisting of the political Group Leaders, an Appointments and Disciplinary Committee, an Ethics Committee, and a Local Pension Board. In addition, there were a number of other informal fora on which Members sat but which were not part of the formal governance structure and included representatives from the Authority's recognised trades unions. These were:

- Performance and Risk Management,
- Equality and Fairness,
- Health, Safety and Welfare,
- Learning and Development.

29. Following a paper from the new Monitoring Officer in June 2016, the Authority agreed to make changes to this Committee structure, as follows:

- The General Purposes Committee (GPC) replaced the SPC with an expanded membership and the central purpose of driving the strategic direction of the organisation;
- The Performance Review and Scrutiny Committee replaced the informal fora with the primary function of scrutinising the organisation's performance. The Authority's recognised trades unions were given a standing invitation to attend and take part in these meetings;

- The Audit, Governance and Ethics Committee took over the audit function from the SPC and undertake the annual governance review and monitor the Members' Code of Conduct and Member/Officer Protocol. It also appoints three-member panels to determine any complaints against Members;
 - The Employment Committee took on the roles previously performed by the Appointments and Disciplinary Committee and the human resources elements from the SPC. It also appoints three-member panels to hear any disciplinary or appeal hearings and to undertake the annual performance review of the CFO.
 - The Local Pension Board remained unchanged.
30. These changes arose because a Peer Review undertaken in March 2015 and reported to the Authority in July of that year, and a Monitoring Officer's report of March 2016, both recommended that the governance structure could be improved. The new Chair appointed in 2015 was personally very keen to improve governance arrangements. The Peer Review explicitly stated:
- The peer team saw little evidence of an audit and scrutiny function. As effective audit and scrutiny provides an opportunity for members to examine in detail proposed actions and contribute to policy making, consideration should be given as to whether an audit and scrutiny function could be better embedded and 'sharpened' within the FRA.'*
31. The SPC exercised considerable power including the ability to determine 'any matter within the existing policy of the Authority'. A number of the more controversial decisions that became the subject of the allegations were taken by the SPC and reported to the Authority.
32. The Inspection has probed six major decisions in depth, in order to understand how governance operated in practice in the Authority at that time:
- a) CFO's pension arrangements, pay decrease and subsequent increase;
 - b) Former DCFO's 'secondment' arrangements;
 - c) Last DCFO's salary uplift prior to retirement;
 - d) Exit agreement for Director of Human Resources and People Development;
 - e) Access to the New Firefighters Pension Scheme 2006 for five previously retired staff;
 - f) Achieving Best Value through the Integrated Risk Management Plan.
33. These are summarised below, and then the governance arrangements are examined more generally.

The Decisions

a. CFO's pension arrangements, pay decrease and subsequent increase

34. In September 2009 the CFO retired, he was then re-employed the following day, and his pension was abated. This was presented to the SPC to consider on 26 February 2009. There were just two members of the SPC present, and the paper was headed 'Pension Abatement Request'. It was presented in the CFO's name. In fact this was actually about the retirement and re-employment of the CFO. No business case was put forward to support the proposal, other than a claim that there would be savings of £33,700 per

annum due to employer pension contributions no longer having to be paid. There was no options appraisal. This was presented as a financial saving to the Authority. Therefore, other than the savings, which were later reduced when the CFO subsequently joined the Local Government Pension Scheme (LGPS), no rationale was given for making this important decision and no alternatives were considered. In addition, a 'fixed term contract was discounted'. I was told that the Authority had a policy that did not allow fixed term contracts for those on abatement. However, even if this was the case, this policy should have been reconsidered at this time in relation to such a senior post.

35. It is noteworthy that in relation to the re-employment of the CFO in Strathclyde, Audit Scotland stated in 2012:

*'We are concerned that the information made available to the board was inadequate to allow it properly to consider decisions. While we recognise that in June 2009 there may have been a genuine desire of the board to retain the services of the chief fire officer, there was no full consideration of the other choices open to them. The report submitted jointly by the chief fire officer and clerk in June 2009, which proposed the chief fire officer retire and be re-employed to post for a three-year period beyond the eligible retirement date, should also have presented the board with a full range of choices available and a business case. The information should have set out a full consideration of the other choices, including the appointment of another individual or the refusal of the chief fire officer's request to retire. The information should also have included the implication of these choices for finance (short and long term), workforce planning, leadership capacity and continuity.'*¹

36. These findings apply equally to the Authority. Under the Localism Act 2011, decisions to employ or re-employ people who earn over £100,000 now have to be taken by the full Authority as required by the statutory guidance issued by the Department for Communities and Local Government (DCLG). The Employment Committee of the Authority also suspended the Authority's re-employment policy in June 2016. It has as yet not been re-introduced.
37. Whilst there is an argument that retaining the CFO was beneficial to the Authority in relation to maintaining his experience and expertise, there is no evidence that the Authority assessed and discounted any other options. While these arrangements were not unique at that time, the Authority did not show sufficient regard to its s3 duty to promote economy, efficiency and effectiveness.
38. Two years later, at a SPC meeting of 1 March 2011, it was agreed that there should be a reduction in pay of 22 per cent for the CFO as a result of the austerity measures. However, under the abatement rules, the CFO was now able to draw his pension to bring this up to the former amount of his pay, so it was essentially an illusory sacrifice. For a period he did lose pension contributions from the Authority as well as reducing his own contributions on the lower salary. However, on 21 March 2014 the Authority agreed to purchase two added years of LGPS pension at a cost of £75,509, thereby removing at least some of the loss the CFO had suffered. It appears the Authority paid both the employer's and employee's contributions. No business case was presented to

1 Strathclyde Fire and Rescue Joint Board Statutory Report of the retirement and re-employment of the Chief Officer. Audit Scotland September 2012

support this decision, other than that the CFO had made savings through a reduction in his salary. The paper was presented in the name of the CFO, and no other option was presented to the Authority. In the subsequent Minutes there is no evidence of any discussion, or indication as to whether the CFO withdrew during this discussion. The CFO states that where any Fire Authority report made reference to him he always declared an interest, and offered to leave the meeting if Members wished to make their considerations without him being present. On some occasions he was asked to leave, on others to remain. We have been told that three Labour Members voted against this. The CFO said that Members were aware of the financial consequences of their decision, and the then Treasurer said that there was considerable debate regarding the appropriateness of this payment and the basis of the calculation on which he briefed them. The recommendations in the paper presented to Members stated:

- i) That Members determine whether they would wish to exercise their discretion in terms of added years to the staff member making the request*
- ii) To determine the award (ie number of years that they deem appropriate).*

39. In fact the minutes stated that the Authority resolved that the *'recommendations contained in the report be agreed'*, even though there was no recommendation, just a specific example.
40. Based on information provided to me by the Authority, calculations produced in conjunction with Home Office officials, indicate that the CFO was already entitled to a pension of around £83,000 per annum in the firefighters pension scheme. It is difficult to see any rationale for increasing his public sector pensions from public funds. In the similar case in Strathclyde already referred to, Audit Scotland stated:
- 'The decision by the board should be based on what is the right and best value decision for the governance of Strathclyde Fire and Rescue Service. The personal impact on the Chief Officer should not be such a significant consideration in this decision.'*
41. In Avon Fire Authority, the only consideration appears to have been the impact on the CFO's personal position. While he took a voluntary reduction in pay that resulted in smaller pension contributions, it is my belief that the Authority subsequently paying for additional pension on income forgone is not consistent with it meeting its s3 duty. I believe the governance arrangements and their application did not support the economic, efficient or effective use of resources, in making the decision to retire and re-employ the CFO and then fund additional pension after a pay decrease.
42. On 2 March 2015, the CFO's pay was partially reinstated from £132,310 to £142,020 by the SPC. An illustration was given in the paper to the SPC that an increase to £142,020 would result in a net cost to the Authority of £10,600 in that year, but the other consequent salary rate increases were actually from £106,050 to £114,736 for the DCFO, and from £99,232 to £107,565 for the ACFO roles. At that time the DCFO was on a higher protected rate, but the two ACFOs were not. This resulted in increases above inflation for them. and considerably above the 1 per cent pay increases being awarded elsewhere in the fire and rescue service at that time.

43. Consequently the 'illustration' was misleading; not only was the immediate effect understated by simply referring to the costs in the current year, but also it did not properly consider the larger medium term and long term implications. Once again, no business case was presented, and the only explanation for the increase was that the CFO was losing out in terms of pension. The paper was short and confused. The full implications of the proposals were not fully explained to the SPC in the paper, nor was it explained that this would result in above-inflation increases for the lower tiers of the SMB at a time of austerity and cuts. The paper itself was presented in the name of the CFO. The CFO told us that despite what the minutes indicated Members were aware of the financial implications, and he declared an interest on his own behalf and that of the other officers.. It was pointed out that the SPC often met beforehand to discuss the agenda. The then Clerk reports that there had been considerable difficulties in drafting the report, and the Clerk advised on what Members were required to consider fully and have minuted. On balance I believe that the SPC was broadly aware of the implications of their actions, but without detailed minutes the appropriate audit trail is lacking.
44. On 27 March 2015 these pay increases were presented to the full Authority when they met to consider the Authority's Pay Policy Statement as they were obliged to do under the Localism Act 2011. There was some dispute regarding the increases, and their relationship to the Pay Policy Statement. It was argued that the pay increases had already been agreed, and the Statement reflected the policies and remuneration arrangements that were in place for the year ahead. There was a vote that resulted in 13 members voting for the Pay Policy Statement, and six against. Since then the SPC has been replaced, and pay increases are considered by the Employment Committee who then make recommendations to the full Authority, rather than present them as already agreed.
45. It is my belief that making a pay increase on the sole basis of increasing a person's pension is not consistent with the Authority meeting its s3 duty. I further believe that the Authority's governance arrangements and their application did not support the economic, efficient or effective use of resources, and in making this decision it did not exhibit a culture of continuous improvement in the way in which it chose to remunerate senior management.

b. Former DCFO's 'secondment' arrangements

46. After a private meeting between the then Chair and the then DCFO sometime in February 2011, it was decided that arrangements needed to be put in place to remove the DCFO from the organisation after a breakdown in working relations between him and another member of the SMB. It is unclear as to how the final deal was worked out – the Chair and the CFO respectively stated in interviews that it was the other that sorted out the final arrangements.
47. In any event, the SPC received a report on 1 April 2011 in which Members were asked to agree to a secondment to DCLG to be organised by the Association of Principal Fire Officers (APFO) and to sign an agreement which gave £25,000 for a pensionable 'secondment allowance' to cover associated expenses. The report was contradictory in the respect that the Summary stated that the secondment was a 'proposal',

but the recommendation was that Members of the SPC should sign an agreement relating to the terms of the secondment – a secondment that did not exist, and in fact never would. The then Clerk reports that she consulted with the then Treasurer, and gave specific advice to Members on the risk of the secondment not finalising, the employment issues which might arise regarding the proposed resignation, the pension strain arising and the potential for criticism regarding pension arrangements. The then Treasurer corroborates this position. The CFO also states that the Members were aware of the financial implications when they entered into the agreement. Again the lack of formal documentary evidence to this effect is a serious omission – even if they did provide clear oral advice then this should have been recorded in the Minutes, particularly given that the advice was not heeded. I believe that Members were broadly aware of the financial and legal implications, of their decision.

48. The agreement was signed, resulting in a £25,000 pensionable secondment allowance to the DCFO, subject to him agreeing to retire in March of the following year upon reaching the age of 50. The fact that this was in payment for 12 months is important as the “average pensionable pay” (in effect final salary) in the 1992 Firefighters’ Pension Scheme is calculated by taking the highest pensionable pay received in the three years prior to retirement in periods of 12 months. So in order for this to act as the sole basis for the calculation of his pension benefits it had to be in payment for at least a 12 month period.
49. There is little doubt that there was an aspiration for the secondment to take place. It was initially proposed that the secondment was to DCLG, however, I understand (from the people involved in the matter both at DCLG and APFO) that there was not even a tentative agreement from DCLG. Other avenues were also explored, but the secondment did not occur. The DCFO spent twelve months on garden leave, and with the £25,000 allowance was effectively on the same salary as the CFO at that time. He also gained very considerably in terms of his final pension and increase to his lump sum. It is also unclear why, even if the secondment had occurred, expenses would be paid for by the Authority rather than the receiving organisation, or why they would be made pensionable. I was told that the secondment allowance was in fact a ‘settlement agreement’, and on that basis reflected best value. However it is explicitly referred to as a ‘secondment allowance’ in the agreement, and it is my understanding it was to include all expenses and costs incurred with the secondment. This is a highly unusual arrangement and it is my belief that they were not pensionable under the rules of the pension scheme. Pensionable pay in the 1992 Firefighters’ Pension Scheme is defined as “...the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee)”. It does not include such secondment allowances.
50. These arrangements came at considerable expense to the pension fund, and the taxpayer. Based on information provided to me by the Authority, calculations produced in conjunction with Home Office officials, indicate that with the uplift in salary of £25,000 in his last year of service, the DCFO is estimated to have received an annual pension of around £83,000 per annum plus a retirement lump sum of around £620,000. Effectively, this increase of £25,000 has translated to an increased life-time cost to the pension scheme of around £365,000.²

2 To calculate the lifetime costs, the Home Office used the commutation factors that applied from approximately 2011 to 2014 (being 22.4 at age 50). The life expectancy at retirement underlying these factors, for a member aged 50 at retirement, is 39 years (ie average age at death is expected to be 89 years).

51. I have been told that all Members were aware of the settlement agreed, and they authorised the Group Leaders to sign such agreement on their behalf. The Group Leaders were subsequently advised that the proposed secondment was not going to happen, but they agreed to him being put on garden leave as the situation was 'unsustainable', and asked that alternative secondment opportunities be sought.
52. However, there is no documentary evidence in support of this position; given its importance, I find this hard to understand. Secondly, when they did become aware that the secondment was not going to happen then they should have requested that the agreement be revisited. And finally, there is no evidence that the Authority made any effort to recoup the money outlaid when it became clear that the secondment would not take place.
53. It is my belief that the Authority should have scrutinised these payments more rigorously, and at a minimum insisted on better recorded documentation and greater clarity in their papers about the rationale for the actions and the financial consequences of them. This did not happen and the Authority placed a new and significant burden on the public purse and did not support the economic, efficient or effective use of resources either within the Authority or by the pension fund. As such, it failed in its s3 duty.

c. Last DCFO's salary uplift prior to retirement

54. The next DCFO had been fulfilling both the role of ACFO Operational Response and that of DCFO since June 2011. In a paper presented to the full Authority on 27 September 2013, Members were asked to authorise an 'efficiency package for the re-employment of the Deputy Chief Fire Officer' which involved an additional responsibility allowance of £25,000 per annum (although it was actually presented as 2.5 per cent of the total saving of £1,035,896 - what was expressed as the 'efficiency savings' through covering the two posts and abating his salary until September 2016).
55. It seems likely that it would have been unclear to Members as to what they were deciding as the paper was entitled 'Succession Planning'. The rationale for this was that the DCFO could retire and abate his pension in September 2014, and reduce his salary with a saving to the Authority; the fact that he had been covering an ACFO's role since 2011; and that it was necessary to keep him engaged to see through a number of major projects. It was argued that the DCFO should share in the savings that had materialised from him covering the ACFO's post. The paper provided did not set out a full business case for the options, or why continuance with the post holder was essential when there was over a year to plan prior to his retirement in September 2014. Nor is there any consideration of the appropriateness of a senior officer benefiting directly from a share of savings – an approach that would be highly unusual for a public sector employee.
56. I was told that Members reached their decision after lengthy debate, and it was in line with their democratic authority, and the additional responsibility allowance was agreed as part of the 'Investing in the Future Programme'. However, there is no documentary evidence to support this assertion that there was a lengthy debate or of its substance.
57. I have seen written evidence that the Clerk and the Treasurer sought to expand the paper to look at the wider issue of impact on the pension and the actual cost of the

additional responsibility allowance, but the Authority was presented with the original paper as this was the Chair's preference. The Clerk went on to note that the CFO introduced the paper and did make the point regarding the impact of the increased salary on the pension fund. Members apparently unanimously supported the report and did not ask for any figures to be broken down.

58. In the absence of documentary evidence to the contrary, I am left to conclude that the papers provided to Members should have set out the factors for consideration more fully and the Minutes should have reflected the discussion more fully. It is the case that Officers should have been more insistent that the paperwork was adequate, but I acknowledge the difficulties they faced in doing this, and conclude that they did attempt to do this, but were rebuffed. Members should have been much more vigilant in their scrutiny.
59. The options available to the Authority, but apparently not considered, were to replace the DCFO with someone at the lower rate agreed under the revised pay policy statement of 2011, and continue not to backfill the ACFO post. In addition it is not explained in the paper why an Officer, already receiving over £120,000 per annum, would need another £25,000 additional responsibility allowance. It was also unclear how a senior post could be left unfilled for three years and yet still be regarded as a necessary part of the complement.
60. In April 2014 this former DCFO received legal advice on the impact of the new additional responsibility allowance on his pension lifetime allowance. The advice received was that the 'additional responsibility allowance' was not correct given that there was no additional responsibility, but the work being conducted was part of the existing role. Members then agreed that this should be treated as a change in salary in May 2014. The result of this mistake was a considerable increase in his pension and lump sum. Based on information provided to me by the Authority and calculations produced in conjunction with the Home Office, it is estimated that with the uplift in salary of £25,000 in his last year of service, he would have received an annual pension of around £75,000, plus a retirement lump sum of around £560,000. Effectively, this increase of £25,000 has translated into a projected increase in the life-time cost to the pension scheme of around £365,000.³ If this officer had not received the uplift of £25,000 in his last year of service he would have received an annual pension of around £62,000 per annum, plus a retirement lump sum of around £465,000.
61. Members were not advised in their papers as to the financial impact that this action would have on the pension scheme and the public purse in general, nor were they advised as to why such an elementary error was made. The original papers presented to Members did not highlight this risk. It also appears that there was no attempt to seek an alternative legal interpretation - the DCFO's own legal advice was accepted by the Authority, apparently at face value.
62. Considering the cases of the two DCFOs, it is clear that both benefitted from £25,000 uplifts in salary just a little over 12 months prior to their retirement. This was the minimum period required in order for them to increase their pension entitlements. This raises a concern, therefore, that they were agreed intentionally for the express purpose of increasing the final salary benefits of these high-ranking officers.

3 To calculate the lifetime costs, the Home Office used the commutation factors that applied from approximately 2011 to 2014 (being 22.4 at age 50). The life expectancy at retirement underlying these factors, for a member aged 50 at retirement, is 39 years (ie average age at death is expected to be 89 years).

63. It is my belief in relation to each of these three cases above that the Authority did not exercise its function to promote economy – as these were payments which did not need to be made, and so represented an additional burden on the taxpayer; they did not promote efficiency as the additional payments were made without corresponding improvements in the running of the Authority; and they did not promote effectiveness as there was no audit trail, or exploration of alternatives. Given these actions were recurrent it is clear that arrangements had not been put in place to secure continuous improvement or learn from the errors of the past, and as such the Authority was failing in its s3 duty.

d. Exit Agreement for Director of Human Resources and People Development

64. In 2011 the Director of Human Resources and People Development had been on sick leave for four months suffering from stress. On 19 August 2011 she contacted the CFO to request permission to speak to the Chair about her future, which was granted. In less than a week a package was agreed which included an arrangement for her to go on secondment, until 25 June 2012, when she would retire. The Authority would continue to pay her salary until that time, and supplement her pension by three years. She would also retain her lease car for that period.
65. It is unclear to me how these arrangements would have met the test for economy, efficiency and effectiveness for the Authority or how the arrangements benefited the people of Avon because the secondment would not return value to the Authority. I appreciate that secondments can provide indirect value by developing relationships with other organisations, but this benefit chiefly accrues through the secondee returning to their original place of work and maintaining these contacts for the good of the organisation as a whole. It is therefore my belief that the Authority failed in its s3 duty.

e. Access to the New Firefighters' Pension Scheme 2006 for five previously retired staff

66. Five former firefighters retired and were then re-employed. They claimed, along with the Fire Brigades Union (FBU), that they were eligible to join the New Firefighters' Pension Scheme and not the LGPS into which, following government guidance, they had been placed. Following legal advice paid for by the Authority, on 5 February 2016 the Authority agreed to allow four of the firefighters to join the 2006 Firefighters' Pension Scheme. This was on the basis that their jobs as station or watch managers involved resolving operational incidents, leading and supporting others in the resolution of operational incidents, and attending incidents in a firefighting role – a pre-requisite for entry into the firefighters' pension scheme.
67. The paper that presented this to the Authority was misrepresentative of DCLG's position, stating as it did that DCLG's position on firefighters retiring and re-accessing the Firefighters' Pension Scheme had changed on this matter, when it had not. The Authority has since stated that they considered that DCLG's position on access to the Scheme was less certain. The CFO states that DCLG had advised that it was 'a matter for the Fire Authority to decide'. But DCLG Ministers frequently stated that they were against senior firefighters retiring, and then returning to the same post after claiming their benefits. As recently as February this year a consultation was announced with a view to stopping this practice.⁴ The 1992 Firefighters' Pension Scheme is one of the very

4 <https://www.gov.uk/government/news/new-government-guidelines-will-end-the-practice-of-boomerang-bosses>

best public service pension schemes. It is limited to a maximum of 30 years because of its value. However, the Authority agreed to these firefighters re-entering a firefighters' pension scheme and agreed to pay the associated additional supplements to employer contributions. It was estimated that the net cost of the Employer Contributions up to 31 March 2016 was a maximum of £70,000.

68. It was noted by the SMB that the advice offered to the Authority on this issue was consistent with their view of the law. They also noted that the right to join the pension scheme is a legal one and not an employer choice. That might be the case, however, it has also enabled these particular firefighters to maximise their benefits in that scheme and then go on to build further benefits in another generous firefighter pension scheme. Given that a precedent was being created the Authority should have taken a stronger line and sought wider advice given the possible ramifications, including by addressing this issue formally with national representative bodies such as the Local Government Association (LGA).

f. Achieving Best Value through the Integrated Risk Management Plan

69. Integrated Risk Management Plans (IRMPs) set out a fire authority's plan to assess and deal with risk. The Fire and Rescue National Framework for 2004/05 sets out the purposes of these plans. It states that IRMPs set out each Fire and Rescue Authority's strategy for:

- 'reducing the number and severity of fires, and in collaboration with other agencies, road traffic accidents and other emergency incidents occurring in the area for which it is responsible;
- reducing the severity of injuries in fires, road traffic accidents and other emergency incidents;
- reducing the commercial, economic and social impact of fires and other emergency incidents;
- safeguarding the environment and heritage (both built and natural); and
- providing value for money.'

'An IRMP must set out an authority's assessment of local risk to life and, in line with this analysis, how it is going to deploy its resources to tackle these risks and improve the safety of all sections of society. The IRMP should identify the ways in which the authority can work in partnership with neighbouring authorities and other agencies to deliver improved public safety. It should develop these relationships and build upon the lessons learned. It must also set out the targets an authority will set itself and the standards it will apply to meet the specific pattern of local risk. This will be done in the context of its statutory duty to secure continuous improvement and achieve best value for its local council taxpayers.

*The IRMP itself should be a strategic, forward-looking document with the approach and detail of business and change management plans. Annual action plans, which may be produced separately or integrated with the main plan, will set out what the authority plans to do in the year ahead. Fire and Rescue Authorities (FRAs) should ensure that their IRMPs are both accessible – to the public, business and other stakeholders – and easy to understand.'*⁵

70. The SMB has said:

'Our area is complex and the risks are significant when compared to other Fire and Rescue Services, e.g., we have the biggest business growth and gross value added areas outside of the capital, major chemical plants, motorway networks, water risks, density and diversity of population and Heritage sites.'

71. They also noted that change has happened:

'Stations have been amalgamated and closed. Nailsea Fire Station is now a Police / Fire Station and we also have collaboration arrangements at Temple and Southmead. The opening or refurbishment of Stations such as Temple and Hicks Gate Fire Stations and the ongoing collaboration programme and move of our current Headquarters to Avon and Somerset Police Headquarters, are clear indications of progress and commitment to achieving best value. We are also in active discussions with the Police and the South West Ambulance Trust about collaboration opportunities as we rebuild/refurbish our dilapidated estate at Avonmouth, Bath and Weston-Super-Mare as part of our Reinvesting for the Future Programme.'

72. However, some interviewees stated that there were tensions during the preparation of the 2012 IRMP for the Authority between those wishing to align manpower resources more accurately to risk, and those who wished to deal with cost pressures through a realignment of stations. As noted, the IRMP did recommend some significant realignment of stations to meet the funding difficulties they faced, but did not fully address the issue of ensuring people resources on the frontline were aligned to need and changing risk patterns during the day and night, and thereby optimally deployed.

73. In fact it was only in the most recent IRMP that there were changes made to introduce switch crewing for some specialist appliances, integrating the specialist Urban Search and Rescue Team into day-to-day operations (as opposed to having dedicated teams dealing with relatively rare occurrences), and increasing the retained presence at one station where they had been removed in 2009. These were regarded as radical measures within the Authority, but they had been achieved elsewhere many years previously.

74. The types of questions that I would expect to be addressed within the IRMP process were stated by the Audit Commission in 2008. They include:

- Can we save money by changing crewing or shift arrangements?
- Can shift arrangements be changed?
- Can any wholetime stations be converted to day crewed?
- Can some cover currently provided by wholetime crews be covered by crews on the RDS?
- Can smaller vehicles and crews be deployed to deal with smaller incidents?⁶

75. These questions were not fully addressed within the IRMP. As a consequence there was a potential failure to place staff and resources in areas where they were needed most or in relation to the risk that was faced. It was pointed out by the Labour Group in their representation that some arrangements had been tried, and that there were difficulties in recruiting retained duty staff, and smaller vehicles had not proved successful. It was

also reported that Members, Officers and the FBU at the time reviewed the options set out and determined they did not produce sustainable change, which is why they were discounted. However, they have proved to be very successful in other fire and rescue authorities and there is no particular reason why these measures should not work in the Authority with the right planning and change management efforts.

76. Consequently, it is my belief that the Authority did not make the appropriate arrangements in the IRMP to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness; and so did not meet its s3 duty. I was told recently that the SMB will focus in future on improvements in training and community safety capacity and ensuring making good use of resources. This is a welcome development.

What Good Governance Looks Like

77. *'Good governance is about running things properly. It is the means by which a public authority shows it is taking decisions for the good of the people of the area, in a fair, equitable and open way. It also requires standards of behaviour that support good decision making – collective and individual integrity, openness and honesty. It is the foundation for the delivery of good quality services that meet all local people's needs. It is fundamental to showing public money is well spent. Without good governance councils will struggle to improve services when they perform poorly.'* (Audit Commission in their review of Doncaster Metropolitan Borough Council.)⁷
78. It is clear that the problems with the decisions above arose as a result of a number of issues with governance. This includes the approach of individual Officers, but also the failure of Members to challenge adequately either the Officers or the papers that were presented. It also raises serious questions about the roles of key officers – the CFO, the Treasurer and the Clerk/ Monitoring Officer – and of the SPC and Chair. These are considered next.

The Role of the Chief Executive

79. The Chief Executive is responsible for all aspects of the management of an authority. The Chief Executive ensures that good governance is in place and that Members receive good quality papers and information to support their scrutiny role.

'The relationship between the chief executive, the council leader and leaders of other political groups, is central to the success of the council. While the relationship between the chief executive and council leaders is important, the chief executive must be impartial and accessible to all councillors, to retain their trust and confidence. In light of this, it is essential that councils make the right choice in appointing the chief executive. Open and transparent recruitment and performance appraisal processes, which clearly set out expectations and effectively monitor performance, help to build councillors' (and officers') trust and confidence in the chief executive.' Audit Scotland 2010⁸

7 Corporate Governance Inspection Doncaster Metropolitan Borough Council Audit Commission April 2010
8 Roles and working relationships: are you getting it right Audit Scotland August 2010

80. The role is equally vital to the effective running of a fire authority. Clearly some of the decisions described above directly implicated the CFO, in others he was, at least, aware. Ultimately the responsibility for effective governance and scrutiny arrangements rest with this post and as such the post holder is accountable for any failings.

The Roles of Treasurer and Clerk/Monitoring Officer

81. The roles of Treasurer (or 'Section 151 Officer') and Clerk/Monitoring Officer are critical within the Officer group. They should provide senior management with scrutiny on the financial and legal consequences of their decisions. They should provide informed, professional advice on these matters direct to Members. In many other fire authorities the Clerk attends the SMB equivalent, as does the current Clerk in Avon Fire Authority. The former Clerk told us that she argued that she would have been more effective in picking up issues early rather than after the event, and that longer term matters would benefit from legal input early to avoid costly backtracking, had she been on the SMB. She told us, however, that the answer she was given was always that it was preferred for her role to be separate. This resulted in her being unaware of issues until they were brought to her attention. As a consequence she states that she was kept at 'arms' length', persistent challenges were neither welcomed nor tolerated, and unwelcome challenge was seen as undermining. It is my belief that the Clerk should have been more closely involved in decisions such as those examined above in order to provide impartial, objective advice on the matters under consideration; had this been the case then it is possible that some of the subsequent problems could have been avoided.
82. The Monitoring Officer did not need to be legally qualified to fulfil the role, although in this case she was. The role was always part-time – originally 20 hours per week, reduced to 14 hours in 2012. While this was acceptable at the time, work started to increase considerably.
83. I have noted that papers that had significant legal implications, such as the pension awards, were presented to Members as having no legal implications. I was informed that although there was an annual timetable set for the Authority meetings (other than the SPC which met as and when required), reports were often late, some tabled at agenda meetings, and others even after that. There is evidence that the Clerk found the relationship between the CFO and the Chair unhelpful. She said that from early on in her tenure the Chair expressed his view that direct input to him was not welcomed. The normal checks and balances that should have been in place were not.
84. When Members were being asked to make decisions with material financial implications they should have been presented with option appraisals, clear business cases and full costings. In the examples examined above they were not. It was the task of the Treasurer to have ensured that this was in place, although as we have already indicated above both he and the Clerk faced difficulties when asking for changes to be made to papers. The former Treasurer maintains that, for those issues arising when he became Treasurer in July 2009, even if the papers were not held as part of the meeting minutes, Members were indeed fully briefed on the financial consequences of decisions. But without the documentary evidence there is no audit trail, and we cannot know what they were actually told; what we can say for certain is that the quality of documented papers both into and out of meetings was deficient.

85. On the basis of the recorded written documentation that is available, it appears that Members were given limited information upon which to take decisions. In particular, on important personnel issues, there was a lack of comprehensive financial analysis and legal advice. There were often no robust business cases presented to support many important financial decisions – these are a key tool to set out clearly the rationale, option appraisal and underlying business logic for Members to then scrutinise and challenge. The ability of the Treasurer and the Clerk to influence events was limited; the CFO, the then Chair and Members should have been more open to their advice.
86. These problems could have been mitigated by the preparation of more detailed minutes indicating the degree to which further information was made available at meetings, or some description of the debate that took place. I was told that there was a preference on the part of the then Chair for brevity in the minutes; but that can clearly lead to future difficulties, particularly if the decision-making process was audited in some way – as has been demonstrated by this Inspection. We understand that the Clerk kept contemporaneous notes when particularly sensitive matters were discussed and filed them in her own papers in case issues were raised post-meeting. Indeed we have seen some examples of these. Critically for this Inspection, the lack of adequate minutes and documentation undermined the Authority's ability to meet its s3 duty.
87. In other fire authorities there is a relationship between the Chair, Chief Executive and the Monitoring Officer that is based upon a clear recognition of their respective roles and responsibilities. Such an approach must be at the heart of the public service ethos and effective governance. In the Authority, that broke down, with neither Members nor senior Officers maintaining effective oversight and control.
88. It is my belief that lack of good governance has led to a failure to secure continuous improvement and hence the Authority failing to meet its s3 duty.
89. The SMB has informed me that they are committed to improving the quality of reports submitted to ensure that they include sufficient detail and options for Members' approval. This is to be welcomed. There have also been improvements in the arrangements for the Clerk/Monitoring Officer and Treasurer over the last year, and potentially beneficial changes in governance arrangements. However, the engagement of Members has not yet improved, and governance currently remains inadequate.

The Role of the SPC and Chair

90. As stated above, under the previous long-standing Chair, the SPC had considerable power; in fact it had taken upon itself the power of the Authority in being able to determine any matter within the existing policy and budget of the Authority. Its legitimacy derived from the fact that it comprised the Group Leaders, and it appears that this was the preferred way for the Authority to operate. It did, however, limit the ability of individual Members of the Authority to scrutinise certain decisions. In particular, it gave the Chair of the SPC, who was also the Chair of the Authority, considerable influence.

91. As has been explained in the analysis of decisions above, when issues within the SMB came to a head in 2011, first with the DCFO and then the Director of Human Resources and People Development, the Chair negotiated directly with the Officers concerned, at his own home. There is confusion as to how the actual financial deals were arrived at: the Chair claims that he was presented with the financial details by the CFO and the Treasurer; the CFO claims that the Chair did it alone. In any event, there is no evidence of prior financial analysis, no proper records of how the arrangements were arrived at, and apparently no prior consultation with others. This led to some expensive mistakes and ultimately to this Inspection being set up.
92. Some interviewees commented on the degree of consensus within the Authority as positive, and felt that the Authority was always supportive of the Service as a whole and were seeking the best for it. Others, however, said they considered the Authority as lacking drive, and seemed largely to be 'an old boys club', with little discussion of matters of importance, and excessive concerns over minor items. We have been told that in most meetings there was little or no debate and rarely was there extensive debate. In particular, some considered that the average length of tenure had been too long.
93. This approach to governance contributed significantly to the issues that have continued to affect the Authority in recent years. I would expect that the new governance framework that has been put in place more recently should help the Authority better to perform its s3 duty of securing economy, efficiency and effectiveness. However, it also critically requires a change in culture amongst Members to become more challenging, and the SMB must be receptive to a greater level of scrutiny than it has been in the past.
94. I am encouraged to note that in their response to the Representations Process, the SMB has committed to do this. I also understand that the constituent authorities are minded to introduce eight-year term limits for Members of the Authority, and I believe this would also be a welcome change.

Relationship between Officers and Members

95. As would be expected, a close relationship developed between the previous Chair and the CFO after they worked together over many years. In these circumstances, it is even more important that strenuous efforts are made to ensure that the relationship between the two parties remains impartial, objective and professional.
96. It was pointed out to me that the relationship between the previous Chair and the CFO was close, and it was sometimes difficult to disentangle what were the CFO's views and what were the Chair's. The decision of them both to attend picket lines during the national FBU strike, and to be photographed, exemplified that the normal Member/ Officer relationship did not exist in the Authority. Whilst the Chair's role is explicitly political, the CFO's duty is to maintain a high quality of service for the Authority acting impartially, including during strike action. The CFO said that he attended to remind crews of the need to maintain proper behaviour. However, if that was the case then he should not have attended with the Chair and should subsequently have corrected social media comments regarding him supporting the strikers.

97. Concerns have been raised by Officers about the level of Members' involvement in what they considered to be operational decisions. For example, one Member raised the issue of response times and, while an answer was given, it was made clear that this was felt to be an operational matter, and solely the preserve of Officers, as opposed to an issue in which Members had a locus. However, response times impact fundamentally upon the overall economy, efficiency and effectiveness of the Service, and hence the Authority's s3 duty, and so Members need to be satisfied that they are appropriate. Similarly questions about procurement of Breathing Apparatus sets, which were also quite reasonable given their importance in the work of firefighters, were answered but again considered to be inappropriate to be raised at an Authority meeting where Members were being requested to approve a procurement recommendation. We have been told that Officers always sought to answer technical questions and were open, however this was not how those who raised the questions felt.
98. There was, and still is, a general lack of clarity within the Authority about what is a Member's role. Officers argue that it is assuring that proper processes are in place, while some Members consider it to be providing challenge and ensuring appropriate decisions are made. In particular, if matters are brought to Members for agreement, then they should be made aware of the full facts, even if this might move into technical areas. Officers should make sure they anticipate questions, provide sufficient information in papers to ensure that Members fully understand options to make an informed decision, and critically should ensure that the case is framed in a way that demonstrates the issue has been properly analysed and evaluated by Officers.
99. As the recent DCLG Select Committee concluded:
- 'We believe that councillors, and officers, of local authorities have a responsibility to draw attention to, and pursue, issues which cause them concern, or which do not appear to be as they should. This goes hand in hand with the need for councils to take seriously the concerns which are raised with them, to treat whistleblowers properly, and to take action to investigate and address poor practice.'*⁹
100. Careful scrutiny by Members, including matters of a technical nature, underpins effective governance, and should be welcomed. Effective governance itself underpins continuous improvement in relation to economy, efficiency and effectiveness. The Authority will need to consider how it engages with Members on such issues in the future. The promised 're-set' of the relationship by the SMB will assist in this process (see below).

Managing Change and Maintaining Consensus

101. Although there have been national spending cuts and a drive towards austerity measures, the Authority has been relatively protected from this by the so-called 'floor damping' funding mechanism. Floor damping is where stability in funding is protected by limiting the impact of wide variations in grant allocation. A floor guarantees a minimum fixed level of increase in grant. The floor damping received each year can also be used as a proxy for whether overall funding cuts for any one

9 Government interventions: the use of Commissioners in Rotherham Metropolitan Borough Council and the London Borough of Tower Hamlets Fourth Report of Session 2016-17 House of Commons Communities and Local Government Committee HC42 19 August 2016

authority are in excess of the average percentage funding reductions for single purpose fire and rescue authorities.

102. From 2009/10 to 2015/16 the number of incidents attended by the Authority fell by 18 per cent. Whereas, from 2011 to 2017, their net revenue budget reduced by only 4.8 per cent from £46 million to £43.7 million. For 2015/16 to 2019/20 its spending power in cash terms will increase by 0.1% compared with an average 0.8% reduction for single purpose fire authorities. Throughout the period 2013/14 onwards, the Authority annually received locked-in benefit from floor damping.
103. In 2013/14, it received £1.139 million (effectively from other fire and rescue floor damping group members), which represented 2.5% of its spending power. This damping payment was not related to ongoing need. Rather, the current funding system locked-in this relative benefit and the Authority will continue to receive an additional £0.8m in 2019-20 as a result of the 2013-14 floor damping payment, providing approximately 1.8% of its Core Spending Power in 2019-20. (Core Spending Power measures the core revenue funding available for local authority services). The SMB argues that robust medium term financial strategies and plans have been in place, and the average band D council tax level is below other fire and rescue authorities. Nevertheless, I believe that the Authority has been relatively insulated from the impact of austerity nationally, and this relative lack of financial pressure may have contributed to the Authority's more incremental, less strategic approach to managing change and innovation.
104. Interviewees were consistent in their description of the approach of the Authority as one of incremental change and of maintaining good relationships with the employees, and in particular with the representative bodies. However, they differed in their assessment of that approach. Some considered that the political leadership of the Authority gave a way forward which was clear and simple to follow; if it was followed there would be full support and change would happen in a way which did not lead to industrial action or discord. Others considered that over time, the benefits of political stability, continuity and loyalty began to be outweighed by a determination to preserve what was on occasion referred to as the 'Avon Way'. The CFO says that this is purely anecdotal. However, I heard this from a wide range of interviewees, including individuals who wished to see more ambition in the Authority but also from those who actually supported the more incremental approach. I found them persuasive. I was told that talk of 'stranger danger' was common. People ran into criticism when suggesting reforms.
105. There is clearly a balance to be struck when managing change, and it is vitally important to maintain good industrial relations and to take staff along with the change process. However, I believe the Authority's emphasis on consensus and incremental change, as opposed to a more strategic approach to continuous improvement, limited its rate of progress and impeded its ability to fulfil its s3 duty.

Recent Governance Concerns

106. A new Chair was appointed in 2015; he had already been a Member of the Authority for many years and, although not leader of the Conservative Group, had sometimes stood in for her at times during her prolonged illness. So although from a different political party to the previous Chair, he represented a sense of continuity with his predecessor. He did, though, make some welcome and overdue structural changes to governance previously mentioned and brought in an experienced Monitoring Officer and Clerk from another fire authority.

107. In May 2015 new Members joined the Authority following local elections. Some started asking challenging questions of the Authority and its senior Officers. In response to the concerns raised, the Authority asked the Monitoring Officer to look into them and he reported to the Authority at its meeting held on 18 March 2016. During that meeting the Authority took the decision by a majority that:

'The concerns reviewed in the report to be regarded as closed and no further action is to be taken.'

108. The meeting also:

'FURTHER RESOLVED, by an overwhelming majority, that the CFO and the Principal Officers have the full support, and confidence of the Fire Authority.'

109. Three members were unhappy with this and continued to press for an independent inquiry into the matters raised. On 16 June 2016 the Chair, and the leaders of the Labour and Liberal Democrat Groups wrote to all Authority Members to say that after a short period of illness the CFO had returned to work. They went on to say:

'The Fire Authority is a democratic organisation and we make room for all views. However, the view of the overwhelming majority of members as expressed in the resolutions passed on 18 March 2016 was to regard as closed the historical allegations which we believe are part of a malicious campaign to destabilize the Fire Authority and to take no further action; and that the Chief Fire Officer and his senior team enjoyed the full support and confidence of members. Those were the democratic decisions of the Fire Authority which should be respected by all Members.'

110. Further, they went on to say:

'We have agreed on a cross-party basis that there will be no further motions, questions or inquiries (independent or otherwise) into these matters – enough is enough. The Fire Authority has made its decisions and it is now time to support the Chief Fire Officer and his top team in focusing on the current and future challenges facing us as a fire and rescue authority.'

If any member feels unable to accept the will of the majority then they should seriously consider their position as a Member of this Authority.'

111. In the meantime on 14 June 2016, a member of staff had written to the Chair, criticising both a former member of staff who was the subject of some of the allegations made against the Authority, and a serving elected Member. The staff member asked that this letter be distributed to all Authority Members. On 16 June 2016 the CFO initiated a Subject Access Request to Bath and North East Somerset Council requesting details of emails from three Members that contained references to him. On 21 July 2016 the CFO wrote to these Members indicating that their actions were having an impact on his health.

112. On 24 August 2016 the CFO set out a formal complaint about these three Members to the Chair based on the results of the Subject Access Request. He stated that he had very clear evidence to demonstrate that three Members had been conspiring and colluding since October 2015 to have him removed. The Chair wrote on the following day to the three Members saying that:

'I and the Vice Chairs have had the opportunity of reading the 'subject access request' received from your Council. It does not make pleasant reading and goes back well before we received the report from the Monitoring Officer.

I am clear that you, together with others, have conducted a campaign targeting the CFO and others. This was based on allegations which an overwhelming majority of members have judged to be unfounded. We find your actions incompatible with membership of Avon Fire Authority.

I am supported in my request that in order to avoid further actions, and that Avon Fire Authority and your Council do not attract further negative attention, you must consider your position and resign your membership of the Fire Authority.'

113. It is the case that the style of some of the three Members' interventions have not been as elegant as they might have been, and they may have been over-zealous in pursuing particular issues. It is also the case that the private emails between them regarding the CFO were ill-judged. However, the Members concerned did not deserve the excessively hostile and severe response to which they have been subjected. A key factor in this episode was the refusal to accept the Monitoring Officer's report from March. If any Member has a concern over an aspect of a report, or would like further clarification, then they should not be prevented from pursuing it. This is particularly the case if it is considered that further investigation would reveal more issues, which in this case it has.

114. The Members did not resign, and one of them sent the CFO an apology for his action that was not accepted.

115. It is my belief that the call for Members to resign by the Chair was inappropriate and undermined the scrutiny necessary as part of the Authority's s3 duty. This continued reluctance to embrace scrutiny in the recent past shows that there remain deep-seated cultural issues within the Authority. Whilst these are not impossible to overcome, left unaddressed, they will continue to impede the Authority's ability to fulfill its s3 duty in the future.

116. It is noted that during the Representations Process, the Authority called an Emergency Meeting on 26 June 2017 to consider its consequences. At this meeting, Members decided to change the Chair.

Code of Conduct Inquiry

117. On 26 September 2016 the CFO submitted a formal complaint to the Authority's Monitoring Officer alleging that the Members had breached the Code of Conduct of the Authority. It was alleged that they had failed to consider matters with an open mind, brought the Authority into disrepute, bullied the CFO and expressed views that might prejudice his role as decision maker.
118. Section 27 of the Localism Act 2011 requires the fire authority to promote and maintain high standards of conduct by its members. In discharging this duty it has to adopt a code dealing with the conduct that is expected of members. The Authority adopted a Code of Conduct in May 2013. A Protocol for Member/Office Relations was issued in August 2015.
119. The Monitoring Officer consulted the Independent Person appointed under Section 28 of the Localism Act 2011, whose view has to be sought prior to any investigation of a matter of conduct. The Independent Person considered that there was a case to answer and the Monitoring Officer launched a Code of Conduct Inquiry into two Members. The Code of Conduct Inquiry was subsequently undertaken by independent solicitors and for at least one (at the time of writing this report) dismissed the charges. In spite of the very detailed investigation into these matters the Members' Complaints Panel decided that they wanted their own hearing into the matters, and set aside two days for this in late June. When it met, that panel did not find against the Member.
120. Mention is made of the stress that the Members put upon the CFO. But the overriding impression is of the CFO's refusal to recognise the proper role of Members to scrutinise his actions, and a defensive, legalistic and heavy-handed approach by him and the Authority.

Peer Review and External Audit

121. In March 2015, the Avon Fire and Rescue Operational Peer Challenge report¹⁰ found some elements that needed significant improvement, but it is my belief that it was not sufficiently explicit for its importance to have been fully appreciated by most Members. Not enough detail was provided for an effective follow-up. The Authority reacted as if it was only governance that needed addressing, but there were many other elements that should have raised concerns. Important questions and issues identified apart from governance were:

- Is Avon ambitious in their target setting?
- Is there an emphasis on operational response that impacts other services?
- The need to maximise strategic opportunities for joint working with other blue light services
- The need to ensure clear accountability and 'audit trail' for action plans
- Link between emerging workforce development and IRMP is unclear
- Early consideration of medium term financial strategy for beyond 2017/18
- Further consideration of organisational structure to liberate capacity
- The Community Risk Reduction Strategy is high level and appears to be aspirational, without strongly evidenced underpinning plans to achieve this aspiration

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- Some action plans to deliver the Community Risk Reduction strategy are still being developed or are relatively new
- The action plans could be more visible in the organisation
- Some evidence that the evaluation of preventative initiatives has reduced
- Reduction of accidental dwelling fires has been achieved but the reduction is not as high as many other FRS's
- Level of community safety activity has reduced
- Empowerment approach is positive but untested - need to identify the specific outcomes you are looking to achieve with prevention activities, and have a clear understanding of the volume and quality you intend to deliver
- Review methodology for targeting home safety visits to ensure it is well documented, clear, effective and commensurate with the risk

122. These are significant issues that have not been effectively addressed by Members. The voluntary nature of the Peer Review process means that an important opportunity to learn and improve has been missed.

123. It has been suggested by some that external audit is an area where the issues raised in this Inspection could have been picked up and investigated. However the auditors state that their work follows the risk-based approach required by the National Audit Office. Their position is that they are required to undertake sufficient work to assure themselves that the Authority has put in place proper arrangements to ensure value for money. Such information may include:

- The Annual Head of Internal Audit Opinion
- The annual paper from Those Charged with Governance and Management under ISA240 which outlines their processes in place to prevent and detect fraud and to ensure compliance with law and regulation
- Relevant external reviews such as the 2015 Peer Review, which included a specific focus on governance and leadership.

124. The auditor has said that none of the above indicated any significant concerns in terms of governance, and indeed the Peer Review had some notably positive findings. They go on to note that they were not permitted to investigate previous years for which an audit certificate had been given. They say that 'even within individual audit years, none of these things which would be a trigger for an audit investigation meriting a report in the public interest – issues raised by whistle-blowers, complaints from members of the public, evidence of significant financial deterioration – were evident.'

125. It is my belief, therefore, that the Authority's governance has not been helped by the current arrangements for external scrutiny.

Governance – Way Forward

126. For the reasons set out above, it is my belief that in spite of some recent improvements, the governance arrangements at the Authority still do not comply with the statutory s3 duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

127. The suggested changes to the composition of the Authority that are being considered by the Leaders of the constituent councils are to be welcomed. Under these plans, individuals will not be able to serve more than two terms (ie eight years); this should ensure a steady flow of new ideas. There is also a proposal to share the roles of chairing the sub-committees between the political groupings to achieve a broad balance. Finally, the previous Chair was looking at reducing the number of members from 25, and again I believe this is directionally correct – a group approximately half this size will be more focused, better-informed, more nimble and more decisive, as long as its Members take their responsibilities seriously.

128. In a recent letter to me the new Chair stated:

'Very many Members were extremely alarmed by what they read in the [Representation Letter] and there is an urgent need for change, from conduct of meetings, transparency and scrutiny to ensuring that we maintain the confidence of our residents and staff that we are keeping them safe. There are numerous issues in it which must be addressed and action taken across the whole organisation.'

129. The letter goes on to say:

'As AFA chair I am already working with the Service Management Board on a wide-ranging plan of work.'

130. I regard this as a positive development, but I do not underestimate the challenge the new Chair faces in managing the changes required.

131. The SMB has written to me to say:

'SMB recognizes the responsibility of Members to challenge them and SMB to respond positively to that challenge in order to ensure best practice and governance for the organisation. SMB also recognize the role of Members to challenge as a critical friend, including assuring themselves that the correct procedures are in place, and challenging the action taken by Officers and scrutinising that decisions made are appropriate. We recognise that this has not been done well enough in the past and there needs to be a step change in performance. SMB will reset its relationship with members to ensure that they can exercise their functions effectively.'

132. The Authority will move its HQ to Avon and Somerset Constabulary HQ in the autumn of this year. There are discussions underway about possibly sharing back office services. This should not only reduce the costs of these services but also help to strengthen the Treasurer and Clerk roles by giving them ready access to a deeper pool of expertise.

133. Looking further into the future, there is the possibility of passing control from the Authority to the Police and Crime Commissioner. This is complicated by the fact that the police and fire services in the region cover different geographic areas. Whilst this possibility should certainly be pursued as a potential medium-term solution, it should not be allowed to stall the other changes detailed in this report that need to be made by the Authority without delay.

SECTION THREE LEADERSHIP AND CULTURE

Overview of this Section

134. Upon concluding the Inspection, I have identified failings in leadership and culture which lead me to believe that the Authority is failing to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. There have been rifts previously in the SMB that led to expensive exits and disharmony. Secondments were used, or attempted to be used, to move senior people perceived to be underperforming or not 'fitting in' out of the organisation. Performance assessment of the CFO and the Authority as a whole through its monitoring procedures was not adequate. Support staff are pressed, and do not have the level of professional expertise now required by modern organisations. Staff relations can be poor and a recent Employment Tribunal identified specific concerns. The Authority has to address equality issues with greater vigour. There are too many management layers, and the current position has not been assisted by the introduction of another layer by creating 'Watch Manager A' positions. The handling of a missing laptop exemplified a culture of defensiveness, as did the heavy-handed dealings with a member of the public who was criticising the Authority.

The Service Management Board (SMB)

135. The CFO is the longest standing Chief Fire Officer in the country, he has been in post since 2001. The current DCFO has been on the SMB since 2002.

136. In 2001 an ACFO was recruited from London and later the same year promoted to DCFO. In 2006 a Head of Human Resources and People Development was brought in, also from London, and a Senior Divisional Officer hired from elsewhere. Interviewees said that this group came to the Authority with 'reformist zeal' and believed they had a mandate for change. They set about trying to introduce ideas that they had been involved with in their previous fire and rescue services or had seen working elsewhere. This is a common phenomenon in all walks of life and a key driver of innovation in most organisations.

137. But before long it became clear to them that these reforms were not aligned with the direction that the Authority had set itself. A schism developed within the SMB at the time of the CFO's announcement of his retirement and re-employment and it has been suggested that this thwarted the ambitions of other members of the SMB. The Inspection was told that there were two camps operating to different agendas for a significant period of time. This position quickly became untenable, and one by one the external hires left amongst acrimony and at considerable expense to the Authority. It appears that organisational convenience was placed above ensuring that public money was properly used and the Authority failed to meet its s3 duty.

138. The CFO has stated that:

'The Officers referred to often neglected to recognise the role of Elected Members nor the degree of responsibility or accountability for decisions. They had a perception that Elected Members were an unnecessary barrier to change. They were entitled to their views but often reflected a poor level of political awareness.'

139. Others also mentioned that there was a lack of sensitivity on the part of some Officers to the overall direction that the Authority had set for itself. Clearly it is important that Officers take their political lead from elected Members – but this is a two way process and Members should never shut themselves off from alternative views on policies. The SMB should have operated much more as an aligned team, playing to the various strengths of the individuals, being a place of ideas from which Members could draw as they took the Authority forward.

140. The Authority is a relatively small public sector organisation. The SMB should have been a tight knit group. It was surprising to see the heavy-handed and legalistic way in which disciplinary matters in particular were on occasion handled. A lengthy external investigation against senior managers regarding sifting and placing of a member of staff created an atmosphere of distrust and fear. When the findings of this investigation was challenged, one of the two senior members of staff concerned was given a warning for insubordination. This was after the departure of two of the SMB, and in part led to the even more acrimonious departure of a third, after being suspended. This resulted in further legal battles both with the individual and that person's adviser, which are still not resolved four years later. In a letter to the Home Office on 12 October 2016, inviting them to take part in a review of the case the CFO stated:

'This case has cost Avon Fire Authority a contribution to the Pension Fund of £500,000 (upper tier pension award). The amount of Officer time, Doctors time, Solicitors and other specialists costs will push this figure closer to the £1m mark.'

141. In fact the Authority incurred exceptionally heavy external legal bills during this period (£243,817 in 2015/16, rising from £89,298 in 2014/15, of which £221,000 was spent on employment issues alone). It has been explained that much specialist work was outsourced, however it is unclear as to whether this level of expense was incurred because of the overly litigious way in which the Authority behaved, or because the Authority was over-inclined to outsource legal advice. The Inspection was told that these costs were queried, but Members were informed that it was the result of an 'ongoing case'. However, a paper to the Employment Committee on 8 August 2016 noted that *'legacy cases are more actively monitored than previously bringing a sharper focus and clearer instructions to external lawyers.'*

142. It is hard to see how any of this has helped to promote continuous improvement in the delivery of the Authority's services. Indeed, on the contrary, it serves as a major distraction from focus upon it. Little attempt appears to have been made to learn lessons from this situation. It is my belief, therefore, that this is a failing of the Authority to meet its s3 duty.

143. Another practice indicative of poor people management at senior levels was that of sending, or seeking to send, people on secondments because they were in difficulties and deemed to need to be removed. It was somehow seen as acceptable to place elsewhere a senior individual, who was deemed to be not performing or no longer fitted in, by arranging for them to be seconded to the Fire Service College or a central government department – rather than deal directly with the performance issues. That these arrangements involved more push from the Authority than pull from the receiving organisation is demonstrated by the fact that the Authority continued to pay their salaries. One of the benefits of secondments is to add value to the employee's work when they return to their employer by developing new skills. However this does not apply to the same extent when it is the final posting prior to retirement.

Performance Assessment

144. Members did not assess the CFO's performance from 2009 until 2017. When he was appraised in 2017 strategic objectives were not set for him to achieve and his assessment was based solely upon input- and task-based goals that were easily achievable. This appears indicative of a lack of awareness within the Authority of how to drive performance and improvement within the organisation. Other fire authorities have well-established practices to use the performance assessment of chief officers as the focus for driving strategic change and improvement right down through the organisation.

145. Performance outcome indicators (e.g. deaths, injuries, all fires, etc) presented to Members could be significantly improved. Other authorities provide performance data that is both comprehensive and accessible in its presentation, to enable not only an assessment of the performance of senior officers, but influence the direction of the service itself. The Authority's Performance Report is not well designed to foster intelligent scrutiny and examination. It simply provides lists of information in an inaccessible manner. Given the availability and low cost of suitable software, this is not acceptable. I understand from the SMB that there is now a review of performance monitoring underway which is a welcome, if overdue, development. This is an area of weakness that is relatively easy to remedy, doing so will also signal a commitment to greater transparency, improved performance monitoring and more openness to scrutiny.

146. The Peer Review Action Plan is another example where Members have not been demanding enough in requiring a comprehensive and easily understood approach to monitoring progress. The Peer Review team produced a number of important recommendations and the Authority produced an action plan to take these forward. This plan was presented to the GPC on 7 July 2016, a year after the initial report had been published. The Action Plan is not a self-contained document. It requires cross-reference to other documents on the basis that the plan does not need to duplicate material held elsewhere in the Authority. With regard to important recommendations such as more ambitious target setting, the plan refers to response standards decided in 2012. Elsewhere the plan refers to other plans that might or might not be accessible to Members. The Action Plan appears to have been intended for use by Officers, and not for scrutiny by Members – indeed it would be difficult for Members to derive much value from it as it currently stands. There is no evidence that it has been reviewed by Members since July 2016.

147. In relation to transparency I have commented on the quality of papers to the Authority, and the minutes that were recorded. In other ways the Authority has met its obligations with reference to the National Framework such as with regard to assurance statements, Freedom of Information requests and publication of data. There is no evidence that they do not comply. However, behind this outward appearance of observance of regulations and guidance, some important decisions were not transparent. There is also evidence of failing to uphold the seven principles of public life woven throughout this Report.
148. Without effective monitoring arrangements in place, the Authority is unable to demonstrate that it has the mechanisms to improve economy, efficiency and effectiveness, and the metrics to assess progress are not there. I believe this has an adverse effect on scrutiny, the attainment of continuous improvement and thereby the Authority's s3 duty.

Maintaining Effective Support Functions

149. There is some evidence that concentrating on protecting frontline staff has had an adverse impact on the effectiveness of the support function. As the SMB has pointed out the support staff are very committed to the organisation and work hard within the framework presented to them. The equalities work has suffered with reductions in this important area – although I understand that the Authority is now seeking to recruit a full-time inclusion officer.
150. Public procurements today are often complex, always sensitive and can be strategically and financially critical to the organisation. They always require professionalism, probity, transparency and integrity. This demands good quality advice and analysis from experienced procurement professionals. Large organisations in both public and private sectors today employ 'Category Managers' who have deep expertise in their respective markets – which could be anything from catering to cleaning to fire appliances to the provision of complex services. For example, a standard IT services contract that would normally be purchased primarily on price has been retained by the same local firm since 2003 with a procurement formula that weighted price as only 35 per cent vs 65 per cent on more subjective criteria. The Authority is too small to employ such expertise full-time; it relies upon a small team of often home-grown generalists. But it chooses not to supplement this in any meaningful way through collaboration with other organisations or the engagement of expert contractors; this leaves it relatively weak in negotiations with private sector suppliers. There is also evidence that there is a lack of effective contract management with procurement staff being stretched; this requires review and potentially reinforcement to ensure that contracts are effectively monitored.
151. It was also disappointing to observe that the resources that are available appear not to be deployed with optimum efficiency. I found a surprising degree of fragmentation in support roles. For example, data collection and analysis is done in a separate part of the organisation to risk assessment, and both are in a different part of the Authority to the creation of the IRMP. While this is a small organisation, and it might be easy for teams to communicate with each other, the small scale makes it even more surprising that such fragmentation exists. While it has been argued that there is no specific

problem with this arrangement, fragmentation inevitably leads to points of friction and inefficiency, often duplication and rework and a missed opportunity to pool and optimise expertise.

152. I believe the lack of support staff, and in particular properly trained support staff, has undermined the ability of the frontline to undertake their task economically, efficiently and effectively and thereby the ability of the Authority to secure continuous improvement under its s 3 duty.

Layers of Management

153. Most organisations in both the public and private sectors have gone through systematic 'delayering' exercises over recent years. This process increases spans of command, shortens lines of communication, increases delegation, enriches people's jobs and reduces the number of managers required. It simultaneously reduces cost and improves effectiveness of the organisation. The CFO in the Representations Process notes that 25 per cent of management posts have been cut. This is an achievement, but it does not constitute a systematic approach to delayering management which not only saves money but does it in a way which improves efficiency and effectiveness.
154. In stark contrast to a systematic delayering approach, in 2012 the Authority took the unusual decision to introduce an intermediate Watch Manager role ("Watch Manager A") on multi-pump stations. This resulted in two people of similar ranks or roles being on the same station. It was argued that one could replace the other, and not have to rely upon a person in a lower role 'acting up' on a temporary basis to perform the role above them if the more senior person was unavailable. It was estimated that this would cost £59,000, but save money by reducing 'acting up' and providing greater resilience. This increased the number of 'roles' on a station when most organisations were moving towards flatter structures.
155. This was a backward step not consistent with the Authority's s3 duty. While in England as a whole there are similar numbers of Watch Managers and Crew Managers, in the Authority there are over double the number of Watch Managers to Crew Managers. It also creates hidden costs and complexity because of the need to provide different uniforms and by increasing the number of promotion boards that have to be held.
156. Increasing layers of management rather than decreasing them does not lead to economy, efficiency or effectiveness. An Authority seeking continuous improvement in its functions should be seeking ways to reduce management layers wherever possible. I believe this is a failure of the Authority to meet its s3 duty.
157. The SMB says that the issues regarding Watch and Crew Managers will now be addressed. This is a welcome recent development.

Staff Relations

158. The Authority was described to me as a 'socially benevolent organisation' by one interviewee. I was told that many staff, especially at firefighter level, were very supportive

of the organisation and were loyal to it. That may well be the case. But sickness levels are currently above the national average, and the Authority's 2015/16 target of 6.1 shifts lost per person due to sickness was not met, with the actual figure for Wholetime and Control Staff recorded as 8.09. Many of those who were interviewed had experienced stress. Indeed stress of varying levels of intensity seemed to be a common problem throughout the organisation, particularly amongst headquarters staff. Papers presented to the Authority reflected on the stress caused by Members challenging officers and an ET case. Reducing sickness absence is a key tool in improving economy, efficiency and effectiveness and achieving continuous improvement.

159. The Authority also has serious issues with the equality and diversity of its workforce. As with many authorities, increasing diversity has been hampered by very low levels of recruitment. In earlier years the Authority was a recognised leader in the fire and rescue service nationally in promoting diversity, and had an excellent reputation. That seems to be no longer the case. It now has relatively few BAME (Black, Asian and Minority Ethnic) staff, and lower than national average percentages:
- In England, 4 per cent of all fire and rescue authority staff were from a BAME background in 2016, in the Authority it was 2 per cent;
 - In terms of support staff, the average for England was 7.1 per cent, and for the Authority 1.7 per cent;
 - For firefighters, the English average was 3.8 per cent, in the Authority it was 2.1 per cent;
 - For fire control, the England average was 3 per cent, and in the Authority it was 0.
160. And yet, in spite of this small number of BAME staff, there have been a disproportionately high number of complaints and grievances involving such staff over the last decade.
161. An ET gave its decision in a recent case on 29 February 2016. This involved a BAME staff member, who had worked for the Authority for 28 years. Whilst accepting that the Authority dismissal of her on grounds of misconduct was not unfair, the Tribunal made a number of serious criticisms of the Authority's handling of the matter, and senior Officers in particular. Although not forming part of the judgement, the Tribunal stated of a letter from the DCFO to the Claimant, while *'intended to be supportive of the Claimant we found the tone to be overly officious and heavy handed'*. A report following a 'Wellworker' interview (the Authority's system to record accidents or issues likely to cause stress), *'...was more aligned to a disciplinary process than a process designed to support an individual who has reported work related stress.'*
162. With regard to the fact that at one stage the Authority claimed that the Claimant was showing a pattern of behaviour in making unfounded allegations, the ET said:
- 'The fact that some grievances are not upheld does not necessarily indicate that they are malicious or not based on a genuine sense of ill-treatment. They will often relate to issues on which definitive views may be hard to reach because of conflicting evidence. Employees should not be discouraged from using their employer's grievance procedures for fear that if their grievance is not upheld they will then face censure for raising issues in the first place.'*

163. They went on to say that they felt that the Authority's response to the Claimant's grievance regarding race discrimination, 'to have been inappropriate and punitive'. The ET found that the Authority's actions in suspending the Claimant and initiating proceedings against her amounted to victimisation under s27 Equality Act 2010, and that the Claimant's breach of contract in respect of notice pay was upheld. The Claimant's claims of dismissal as an act of victimisation and unfair dismissal did not succeed.

164. The Authority asked its external lawyers on the case to review it themselves. They concentrated on how the Authority could have achieved a better outcome from a procedural perspective. This was built into a 'lessons learned' paper presented to Members of the Employment Committee on 24 June 2016. The ET had provided a detailed account of events leading up to the dismissal of this long-established member of staff. In particular they stated:

'We had considerable sympathy for the Claimant in this case. We found that the Respondent had contributed significantly to the deterioration in the relationship between the Claimant and her managers. There was no evidence that there had been any difficulties with the Claimant in her working relationships prior to 2013. She had 26 years' service at that point. The Respondent was heavy handed in its management of the Claimant through the Wellworker process and careless in the manner in which it decided to proceed with a paper review of her grievance about the Ms Houghton letter. It failed to properly address the claimant's complaint of race discrimination and by involving individual staff members, despite refusing to formally address the discrimination complaint, significantly worsened relationships between the Claimant and her colleagues. The Respondent criticised the Claimant for her refusal to acknowledge the impact of her actions. We found that this was a criticism that applied equally to the Respondent. Examining the context went some way to explaining the Claimant's conduct.'

165. However, in the lessons learned and the recommendations, these issues were not fully addressed. The paper said:

'The ET found it was within the range of reasonable responses for the Fire Authority to dismiss Mrs Arshad. However, questions were raised about the conversion from a SOSR (some other substantial reason) case, due to alleged breakdown in working relationships and trust and confidence, into a disciplinary case which focussed upon Mrs Arshad's conduct and behaviour.'

166. In reading this it is implied that the ET itself sought a better vehicle for dismissal, whereas in fact it was the Authority and its advisers who raised that question. The ET had stated that:

'We concluded that although we might have reached a different decision to that reached by the Respondent, it was not possible to say that the Respondent's decision to dismiss for the reasons found was outside the range of response of a reasonable employer...'

167. The lessons learned paper did not look at the cultural issues that lay behind the action the ET described. Rather it concentrated on a series of actions to mitigate the likelihood of ET challenges in the future. It defended its position stating:

'[T]here was a genuine attempt at resolving matters through mediation and this was accepted by the ET'.

168. In fact the ET said that:

'The Claimant contended that mediation should have been considered as an alternative to dismissal. By the time of the Claimant's dismissal it was clear that the situation could not be resolved through mediation and we accepted Mr Dixon's decision on that point as reasonable'.

169. The ET said with regard to the Wellworker process:

'The Wellworker process was designed to support employees who had been off sick with work related stress. It was to be anticipated that in such circumstances an employee who is feeling vulnerable in the organisation might use the opportunity to air concerns which at other times they might decide to keep confidential. ...We found that the Claimant was simply using the protection of a confidential Wellworker interview to ventilate some non-specific views which she had no wish to make formal.'

170. The response of the lessons learned paper was to recommend that the Wellworker process be reviewed and made more explicit:

'Employees should be aware that if they raise serious concerns they need to support their claim by evidence to enable the matters to be investigated and rectified. Employees must be aware that 'off the record' discussions may not be possible if they raise potentially serious concerns and risks. Employees should continue to be offered support and advice from HR, Health Safety & Welfare, line managers and trade unions.'

171. The two final recommendations related to working more closely with external organisations, and taking advice from existing BAME employees *'to ensure we have a culture where staff are able to raise any race related concerns and have confidence that these matters will be addressed by the Authority'*. A recommendation that was undermined by the recommendation above regarding the need for evidence, and that *'off the record' discussions might not be possible.*

172. At the meeting where this paper was considered two members of the public spoke about their concerns. The CFO also invited a BAME firefighter to speak about how the Authority had improved. The health and safety manager said that the case had created a lot of stress in the organisation, and she would investigate further into how this had affected them. The minutes record:

'The CFO asked the Committee to consider that Mrs Arshad has not been the only victim and that while lengthy investigations into complaints were taking place there were nine managers involved, and some of these managers were victims themselves. In light of this the Health and Safety Manager addressed the Committee highlighting the levels of stress experienced by staff in the organisation and the effect negative media attention has had. In June alone there have been 32 days lost with individuals absent from work due to stress over the case. The Health and Safety Officer emphasised that she was concerned that risks to these individuals have not been assessed, and that the

safety and health of staff must be a priority and there must be safeguards in place. The Health and Safety Manager suggested to the Committee that in order to safeguard vulnerable members of staff she would like to conduct a risk assessment in detail, looking at all employees that have been involved in the case.'

173. Given the nature of the concerns raised, and the associated HR problems that the Authority had faced in the recent past, it would be expected that a properly functioning authority would not spend more money to look at the legal advice it had received (with the same firm that provided the advice in the first place), but rather employ a professional expert to undertake a review of HR practices in the organisation, and produce a strategic change programme to modernise its practices. By its own admission the case was damaging to the Authority, and clearly levels of stress and anxiety are high. To what extent these problems are a result of the way in which the Authority manages itself and its staff, it has neither tested nor sought to resolve.
174. The Authority agreed to set up an Equalities Sub-Committee to, amongst other things, *'keep under review the Fire Authority's compliance with its duties under the Equalities Act 2010 and make recommendations to the Employment Committee and/or the CFO as necessary.'* It is too early to say whether this new committee will have any particular impact, but without a review of HR practices, and a programme for cultural change, it is unlikely to deliver the changes that the employees of the Authority have the right to expect.
175. It is also worth noting that the ET commented that this was a matter of misconduct as opposed to gross misconduct. This was the only person to be dismissed by the Authority on the grounds of misconduct (as opposed to gross misconduct) in the last three years. Moreover, while twelve employees had a finding of gross misconduct against them, only seven of those were dismissed.
176. One BAME firefighter approached me to reflect on the positive experiences he had had in the Authority, and compared it favourably with other local fire and rescue services. However, I was also approached by a group of former staff of BAME background. They reported poor treatment ranging from explicit harassment and bullying to cold-shouldering by managers after complaints had been made. It was clear even after some years, their experience of working for the Authority had been unhappy - although it was heartening to see that several had managed to go on to build successful careers in other organisations in a variety of sectors. Given that the Authority employs so few people from an ethnic minority background, I believe that there is at least a perceived view that bullying and harassment is endemic in the organisation.
177. One former member of staff (who was not from an ethnic minority) stated that she was bullied and harassed after commenting on the way that senior pay had risen so quickly. Though not specifically referenced, we believe she was referring in part to the CFOs pay increase from £75,291 in 2001 to £167,000 in 2009. When senior officers complain of bullying by senior colleagues in plain sight, then it is not surprising that more junior members, particularly if they displayed any differences, might also feel vulnerable. This is a serious cultural issue for the Authority that leaders must address as a matter of priority, not least by leading by example.

178. Effective management of the workforce underpins the economic, efficient and effective use of resources. Recent events such as the ET show that the Authority is still not a learning organisation in this regard, with a defensive and legalistic approach to difficult staff issues when they arise. Until there is a change in approach it cannot be said that there is a process of continuous improvement with regard to staff management contributing to its ability to secure economy, efficiency and effectiveness. It is my belief that the workforce at the Authority is not as a whole effectively managed, and there are structural issues within the organisation that need addressing for the Authority to meet its s3 duty.

Missing Laptop

179. A laptop went missing from the community liaison team when a member of staff went home early one day due to sickness and then did not return to work for six weeks in March 2012. Upon her return to work, the organisation became aware that her laptop had gone missing. It was quickly identified that the laptop might have contained sensitive data about a large number of vulnerable children. At that point, action should have been taken without hesitation – the situation being that much worse because it could have already been missing for six weeks.

180. Having reviewed the documentation, it is my belief that the first organisational instinct was to look for reasons not to report the loss to the Information Commissioner as it should have been. The report produced indicated that it was not appropriate to report it to the Information Commissioner's Office (ICO). In fact the ICO only became involved once a third party reported the theft to them three years later in 2015. The Clerk states that this was when she first heard about the loss. In the event the ICO agreed that with the passage of time there was no case to answer, though the ICO did highlight that the matter should have been brought to their attention earlier.

181. In mitigation it was reported that the Authority sought to protect individuals, declaring the loss would have meant contacting all of the people who may have been affected. This would have included alleged abusers as well as those abused. However, the ICO in their response to the incident said that they welcomed the remedial measures put in place following this incident to improve IT security, but:

'Whilst we agree with AFRS relying on a risk assessment regarding any potential detriment caused to the affected data subjects in its decision whether to report the incident to the ICO, we are concerned that emphasis was also given to the potential publicity reporting the incident might have caused.'

'We therefore request that if AFRS becomes aware of any further potential breaches of the DPA, it does not take into account the consequences of any public disclosures regarding the incidents when considering whether to report to the ICO.'

182. While this incident was one in which in the event no harm was apparently done, it did exemplify a defensive culture. It is my belief that this culture has contributed to the Authority failing to learn and to meet its s3 duties.

Legal Heavy-handedness in Relation to Individuals Outside the Organisation

183. In one case, the adviser to a former Officer was threatened with legal action for the return of documents and audio recordings – a threatened action which was subsequently dropped several months later by the new incoming Clerk. We understand that the previous Clerk was not the client officer for this advice in order to retain some distance from the issues. The letters from the Authority's legal advisers were intemperate in tone and concluded with a draft claim against the individual. In my belief this was not an economic, efficient or effective use of the Authority's resources, and in the event it simply wasted money because it was not pursued.

Leadership Team – Way Forward

184. It is clear that the leadership arrangements at the Authority have not been working effectively for many years. The SMB in general, and the CFO in particular, have been left unchallenged and not held properly to account for too long. Neither have they sought to put in place processes that would support greater democratic accountability and transparency. The overall corporate leadership appears to lack the capacity at the top to drive the necessary changes. The current management structure is top-heavy and cumbersome with a CFO, DCFO, and two ACFOs. Other authorities have sought to delayer their senior management teams.

185. Both the SMB and the Authority itself did not appear to recognise that matters must improve significantly, (although recent correspondence shows some signs of understanding the need for change). Both groups have sought to block any meaningful inquiry into issues that have occurred in the past, robust challenge is faced down with action such as Code of Conduct inquiries, and exhortations to resign. Characteristics that were divisive in the past and costly to the Authority are still evident. While some changes have taken place in governance, and there is clearly a move driven by a need for greater accountability and transparency, without Members being willing to challenge, and Officers willing to accept that challenge, little progress is likely to be made.

186. I believe lack of change amongst senior management has gone beyond the point of stability and continuity. Because key people in senior management positions have been in post for so long, legacy issues cannot be dealt with effectively. In my belief, there is little doubt that this is undermining the Authority's ability to secure continuous improvement and is creating a drain on the time and energy of both the SMB and Members. While the Authority clearly prides itself on its achievements, it is falling behind many other authorities in adopting and implementing new ideas. I believe that this is in no small measure due to the lack of change in the most senior positions in the Authority at both Officer and Member level. I conclude that it is now time for the leadership of the Authority to be revitalised in order to drive improvements in economy, efficiency and effectiveness.

187. An excellent example of what can be achieved by adopting a structured, disciplined approach to reviewing management structures, costs and capabilities is provided by the recent review undertaken by Leicestershire Fire and Rescue Authority. In just

over seven months the review restructured the management arrangements to flatten the hierarchy, enrich roles and responsibilities and save money; it improved support structures and systems; it made some symbolic changes to reduce the trappings of power (like expensive lease cars); and it laid the foundations for an organisation shaped more appropriately for the demands of the 21st century – details are summarised at Appendix 5. I commend this type of approach to the Authority.

Culture – Way forward

188. The Authority should now drive a new culture in the organisation with the Principles of Public Life at its heart.
189. It should undertake a delayering exercise to reduce the number of managers at all levels, shorten communication lines, empower all members of staff and reduce overhead costs. The Authority should use the move to the Avon and Somerset Constabulary HQ as an opportunity to refresh itself generally, and specifically to increase the professionalism of all its support functions including procurement and Human Resources.
190. Adopting the other changes proposed in this Report such as greater transparency and openness, greater accountability, more rigorous performance management, and more inclusivity will not only make a big difference in themselves, they will also signal a new culture. Ultimately it is the culture change which will embed new ways of working throughout the organisation; and thereby make the change sustainable.

SECTION FOUR CONCLUSIONS AND PROPOSALS

191. Under s 3 of the Local Government Act 1999 the Authority's duty is to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. It is clear from the evidence obtained during this Inspection, and for the reasons identified above, that the Authority is failing to comply with its obligations.

192. As part of my Terms of Reference I was asked to consider a number of issues where I have found no particular indication that the Authority was failing in its s3 duty. I reviewed hospitality registers since 2011 and did not find anything that might indicate a failure to comply with the Local Government Act 1999. Similarly while the procurement regime in the Authority can be improved, particularly through the introduction of greater expertise, I did not find evidence of serious failings. In relation to the treatment of whistleblowers I have highlighted the heavy-handed legal process applied to a member of the public. The approaches to staff both senior managers and support workers who have fallen out with the Authority in some way will not encourage whistleblowing. This is a cultural issue within the Authority, and once it is addressed criticism from both internal and external sources will be more readily accepted and learned from. This equally applies to dealing with complaints and ensuring a culture of fear and bullying within the Authority is treated as totally unacceptable.

193. I welcome several recent developments:

- The Authority decided to change the Chair for a Member who only joined the Authority in 2015 who was not involved with the problems of the past;
- The SMB has written to me to say that they have taken on board the thrust of the criticisms in this Report and are working together to plan for the future;
- The Leaders of the four constituent Unitary Authorities are considering bringing in an eight-year term limit for Authority Members which will have the automatic effect of refreshing the membership of the Authority;
- A number of individual Members wrote to me to express their support for my provisional findings in the Representation Letters and to pledge their commitment to helping to bring about the necessary changes.

194. In my view, however, serious concerns remain. I am very conscious of the challenges ahead. I am not convinced that the SMB has all of the necessary capabilities and experience to plan and deliver the transformational change required, and the Authority needs to mature quickly into providing robust, strategic challenge and support to the SMB to help steer them through those challenges. Key to success is that a line is now drawn under the past, and the focus is on moving forward together.

195. This Report also makes a number of proposals in the areas of governance, leadership,

culture and external scrutiny. First and foremost, the Authority needs leaders at Member and Officer level who are totally committed to this agenda and who will drive it forward with pace and determination. It will not be an easy programme of change, but with the right leadership, the right drive and the right focus, the Authority should look very different two years from now.

196. The proposals from within the report are reproduced below for ease of reference, followed by further proposals for driving the change programme itself.

Governance

197. For the reasons set out above, it is my belief that in spite of some recent improvements, the governance arrangements at the Authority still do not comply with the statutory s3 duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

198. The suggested changes to the composition of the Authority that are being considered by the Leaders of the constituent councils are to be welcomed. Under these plans, individuals will not be able to serve more than two terms (ie eight years); this should ensure a steady flow of new ideas. There is also a proposal to share the roles of chairing the sub-committees between the political groupings to achieve a broad balance. Finally, the previous Chair was looking at reducing the number of members from 25, and again I believe this is directionally correct – a group approximately half this size will be more focused, better-informed, more nimble and more decisive, as long as its Members take their responsibilities seriously.

199. In his recent letter to me the new Chair stated:

'Very many Members were extremely alarmed by what they read in the [Representation Letter] and there is an urgent need for change, from conduct of meetings, transparency and scrutiny to ensuring that we maintain the confidence of our residents and staff that we are keeping them safe. There are numerous issues in it which must be addressed and action taken across the whole organisation.'

200. The letter goes on to say:

'As AFA chair I am already working with the Service Management Board on a wide-ranging plan of work.'

201. I regard this as a positive development, but I do not underestimate the challenge the new Chair faces in managing the changes required in the Authority.

202. The SMB has written to me to say:

'SMB recognizes the responsibility of Members to challenge them and SMB to respond positively to that challenge in order to ensure best practice and governance for the organisation. SMB also recognize the role of Members to challenge as a critical friend, including assuring themselves that the correct procedures are in place, and challenging

the action taken by Officers and scrutinising that decisions made are appropriate. We recognise that this has not been done well enough in the past and there needs to be a step change in performance. SMB will reset its relationship with members to ensure that they can exercise their functions effectively.'

203. The Authority will move its HQ to Avon and Somerset Constabulary HQ in the autumn of this year. There are discussions underway about possibly sharing back office services. This should not only reduce the costs of these services but also help to strengthen the Treasurer and Clerk roles by giving them ready access to a deeper pool of expertise.
204. Looking further into the future, there is the possibility of passing control from the Authority to the Police and Crime Commissioner. This is complicated by the fact that the police and fire services in the region cover different geographic areas. Whilst this possibility should certainly be pursued as a potential medium-term solution, it should not be allowed to stall the other changes detailed in this report that need to be made by the Authority without delay.

Leadership Team

205. It is clear that the leadership arrangements at the Authority have not been working effectively for many years. The SMB in general, and the CFO in particular, have been left unchallenged and not held properly to account for too long. Neither have they sought to put in place processes that would support greater democratic accountability and transparency. The overall corporate leadership appears to lack the capacity at the top to drive the necessary changes. The current management structure is top-heavy and cumbersome with a CFO, DCFO, and two ACFOs. Other authorities have sought to delayer their senior management teams.
206. Both the SMB and the Authority itself appear not to recognise that matters must improve significantly (although recent correspondence shows some signs of understanding the need for change). Both groups have sought to block any meaningful inquiry into issues that have occurred in the past, robust challenge is faced down with action such as Code of Conduct inquiries, and exhortations to resign. Characteristics that were divisive in the past and costly to the Authority are still evident. While some changes have taken place in governance, and there is clearly a move driven by a need for greater accountability and transparency, without Members being willing to challenge, and Officers willing to accept that challenge, little progress is likely to be made.
207. I believe lack of change amongst senior management has gone beyond the point of stability and continuity. Because key people in senior management positions have been in post for so long, legacy issues cannot be dealt with effectively. In my belief, there is little doubt that this is undermining the Authority's ability to secure continuous improvement and is creating a drain on the time and energy of both the SMB and Members. While the Authority clearly prides itself on its achievements, it is falling behind many other authorities in adopting and implementing new ideas. I believe that this is in no small measure due to the lack of change in the most senior positions in the Authority at both Officer and Member level. I conclude that it is now time for the leadership of the Authority to be revitalised in order to drive improvements in economy, efficiency and effectiveness.

208. An excellent example of what can be achieved by adopting a structured, disciplined approach to reviewing management structures, costs and capabilities is provided by the recent review undertaken by Leicestershire Fire and Rescue Authority. In just over seven months the review restructured the management arrangements to flatten the hierarchy, enrich roles and responsibilities and save money; it improved support structures and systems; it made some symbolic changes to reduce the trappings of power (like expensive lease cars); and it laid the foundations for an organisation shaped more appropriately for the demands of the 21st century – details are summarised at Appendix 5. I commend this type of approach to the Authority.

Culture

209. The Authority should now drive a new culture in the organisation with the Principles of Public Life at its heart.

210. It should undertake a delayering exercise to reduce the number of managers at all levels, shorten communication lines, empower all members of staff and reduce overhead costs. The Authority should use the move to the Avon and Somerset Constabulary HQ as an opportunity to refresh itself generally, and specifically to increase the professionalism of all its support functions including procurement and Human Resources.

211. Adopting the other changes proposed in this Report such as greater transparency and openness, greater accountability, more rigorous performance management, and more inclusivity will not only make a big difference in themselves, they will also signal a new culture. Ultimately it is the culture change which will embed new ways of working throughout the organisation; and thereby make the change sustainable.

Driving Change

212. Making the Authority a high performing organisation is an achievable, realistic aspiration, but it will be a demanding task. It will require a united leadership team with experience of driving change to develop a compelling vision and to execute a delivery plan with energy and determination.

213. The following actions are proposed to initiate this change programme:

1. The Authority should review the composition of the management team to ensure it has the skills, experience and energy to take the organisation forward. It should be sized and equipped for the medium-term challenge – I believe a CFO and two ACFOs should be adequate but this is ultimately for the Authority to determine. The quality of the individuals and their cohesiveness as a team are absolutely critical. This review may require external expertise to ensure it is done effectively.
2. That leadership team will almost certainly need additional short-term expertise to drive the programme in its initial stages. This could be provided in a variety of ways such as a senior change leader on an interim contract, part-time support

from a neighbouring CFO, consulting support or some combination of these. It will be critical that however it is provided, it fits cohesively with the future leadership team and commits to time-bounded delivery of the change programme.

3. The Authority with the support of the leadership team should develop a vision for its future and a target operating model that takes full, analytical account of current and future demands, risks, community priorities and funding. It should collaborate with partner organisations and neighbouring fire and rescue services to ensure all opportunities to leverage their assets are incorporated into the model. Shared services with Avon and Somerset Constabulary for legal, financial, procurement, IT and HR should be explored and evaluated. It should benchmark standards, targets and performance against comparable high performing organisations – both fire and rescue services and others. The development of the target operating model should incorporate a delayering exercise to streamline the size and shape of the organisation wherever possible.
 4. A programme plan should be developed that delivers the vision and operating model over a demanding but realistic timetable. Two years should be appropriate, with regular, visible, measurable milestones every three to six months along the way so that progress is monitored, reported and celebrated; and any lessons learned and required changes are adopted.
 5. The plan should address all of the issues identified in this report and in the Monitoring Officer's report from 2016. A key element should be for all Members of the Authority to undertake a member development programme, provided from external sources. Mentors should be available from other high performing fire authorities. Members should be as demanding of the leadership team as the leadership team is of the organisation. A culture of constructive challenge must be fostered and encouraged from top to bottom.
 6. The leadership team should set up a small but proactive Programme Management Office (PMO) that oversees the delivery of the plan. It should report monthly to the leadership team, solve problems, remove obstacles, mitigate risks and orchestrate communications. The focus must be on solutions, delivery and risk management. When problems arise, as they will, then the PMO must resolve them, not look for excuses and people to blame.
214. The changes that have already been made are encouraging. They indicate that a growing number of Members and senior Officers recognise the need for substantial change. Consequently, I have decided not to make a s15 recommendation to the Secretary of State, and she will, of course, decide what actions she considers the Home Office needs to take in the light of my Report.

APPENDIX 1

TERMS OF REFERENCE

A number of allegations have been made against Avon Fire and Rescue Authority (the “Authority”). The extent, seriousness and persistence of the allegations made, together with the alleged failures to properly deal with complaints, if well-founded, would indicate that the Authority is failing to comply with its duty to make arrangements to secure continuous improvement. Such allegations would suggest that the Authority is unable to deliver economically, efficiently and effectively now or in the future.

In exercise of the Secretary of State’s powers under section 10 of the Local Government Act 1999 (the “1999 Act”), you are appointed to conduct an inspection of the compliance of the Authority with the requirements of Part 1 of the 1999 Act in relation to the Authority’s governance functions, including, but not limited to, the Authority’s duties of accountability and assurance under the Fire and Rescue National Framework.

The Authority’s duty under section 3 of the 1999 Act is to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In undertaking the inspection in relation to the Authority’s functions, and without prejudice to the scope of this inspection, you are directed to consider:

- Decisions and scrutiny by the Authority in relation to salaries and expenses of employees and in relation to spending on hospitality.
- The Authority’s processes and practices for entering into contracts, including procurement contracts.
- The Authority’s compliance with the accountability and assurance requirements under the Fire and Rescue National Framework for England (see paragraphs 2.7-2.9 and 3.2-3.3).
- The Authority’s systems and processes to ensure such transparency of information relating to governance as would reasonably be expected of any public authority, including appropriate treatment of whistleblowers.
- Compliance with the seven principles of public life by elected members of the Authority and by senior officers.
- The Authority’s processes and practices for taking action against any member or officer of the Authority who is found not to have met the standards required of that member or officer.
- The Authority’s processes and practices for effectively assessing the validity of any complaints made about members of the Authority and senior officers and the provision made for the appropriate consideration of such complaints.
- Any decisions taken by the Authority to ensure that a culture of fear and bullying does not exist and the action taken by the Authority where it is found to exist.

The inspection shall cover matters in relation to the period 1 January 2011 to 1 February 2017.

In considering the Authority's current and likely future compliance with the requirements of Part 1 of the 1999 Act in relation to its governance functions, you should have regard to all relevant matters, whenever arising.

APPENDIX 2

LOCAL GOVERNMENT ACT 1999

(as in force at the time of this Report)

3. The general duty

- (1) A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (2) For the purpose of deciding how to fulfil the duty arising under subsection (1) an authority must consult—
 - (a) representatives of persons liable to pay any tax, precept or levy to or in respect of the authority,
 - (b) representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions,
 - (c) representatives of persons who use or are likely to use services provided by the authority, and
 - (d) representatives of persons appearing to the authority to have an interest in any area within which the authority carries out functions.
- (3) For the purposes of subsection (2) “representatives” in relation to a group of persons means persons who appear to the authority to be representative of that group.
- (4) In deciding—
 - (a) how to fulfil the duty arising under subsection (1),
 - (b) who to consult under subsection (2), or
 - (c) the form, content and timing of consultations under that subsection,an authority must have regard to any guidance issued by the Secretary of State.

10. Inspections

- (1) The Secretary of State may appoint a person to carry out an inspection of a specified best value authority’s compliance with the requirements of this Part in relation to specified functions.
- (2) The Secretary of State may appoint assistant inspectors for the purposes of the inspection.
- (3) The appointment of an assistant inspector must be made on the recommendation of the inspector, unless the Secretary of State thinks that the urgency of the inspection makes it necessary to dispense with this requirement.

- (4) In carrying out an inspection, the inspector and any assistant inspector must—
 - (a) have regard to any guidance issued by the Secretary of State generally in relation to inspections, and
 - (b) comply with any directions issued by the Secretary of State in relation to that inspection.

13. Reports

- (1) Where an inspector has carried out an inspection of an authority under section 10 the inspector shall issue a report.
- (2) A report—
 - (a) shall mention any matter in respect of which the inspector believes as a result of the inspection that the authority is failing to comply with the requirements of this Part, and
 - (b) may, if it mentions a matter under paragraph (a), recommend that the Secretary of State give a direction under section 15.
- (3) The inspector—
 - (a) shall send a copy of a report to the authority concerned and to the Secretary of State, and
 - (b) may publish a report and any information in respect of a report.
- (3A) The Secretary of State may publish a report and any information in respect of a report.
- (4) If a report recommends that the Secretary of State give a direction under section 15, the inspector shall as soon as reasonably practicable—
 - (a) arrange for the recommendation to be published.
 - (b) [...]
- (4A) If a report relates to any extent to the administration of housing benefit or council tax benefit and the inspector thinks fit to do so, the inspector shall as soon as reasonably practicable send a copy of the report to the Secretary of State.
- (5) [...]

15. Secretary of State's powers

- (1) This section applies in relation to a best value authority if the Secretary of State is satisfied that it is failing to comply with the requirements of this Part.
- (2) Where this section applies in relation to an authority the Secretary of State may [...]—
 - (aa) [...]
 - (c) in the case of any best value authority, direct it to carry out a review of its exercise of specified functions.
- (3) Where this section applies in relation to an authority the Secretary of State may direct

a local inquiry to be held into the exercise by the authority of specified functions.

- (4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (inquiries) shall apply in relation to an inquiry which the Secretary of State directs to be held under this section as they apply in relation to an inquiry which a Minister causes to be held under that section.
- (5) Where this section applies in relation to an authority the Secretary of State may direct the authority to take any action which he considers necessary or expedient to secure its compliance with the requirements of this Part.
- (6) Where this section applies in relation to an authority the Secretary of State may direct—
 - (a) that a specified function of the authority shall be exercised by the Secretary of State or a person nominated by him for a period specified in the direction or for so long as the Secretary of State considers appropriate, and
 - (b) that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of that function and shall provide such assistance as the Secretary of State or his nominee may require for the purpose of exercising the function.
- (6A) So far as is appropriate in consequence of a direction given under subsection (6)(a), a reference (however expressed) in an enactment, instrument or other document to a best value authority is to be read as a reference to the person by whom the function is exercisable.
- (6B) Subsection (6C) applies if a direction given under subsection (6)(a) expires or is revoked without being replaced.
- (6C) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the best value authority to which the direction was given.
- (7) The Secretary of State may by regulations make provision which—
 - (a) relates to an enactment which confers a function on him in respect of a function of a best value authority, and
 - (b) he considers necessary or expedient for the purposes of cases in which he makes a direction under subsection (6)(a).
- (8) Regulations under subsection (7) may, in relation to the cases mentioned in subsection (7)(b)—
 - (a) disapply or modify an enactment of the kind mentioned in subsection (7)(a);
 - (b) have an effect similar to the effect of an enactment of that kind.
- (9) Subject to subsection (11), before giving a direction under this section the Secretary of State shall give the authority concerned an opportunity to make representations about—
 - (a) the report (if any) as a result of which the direction is proposed, and
 - (b) the direction proposed.

- (10) [...]
- (11) The Secretary of State may give a direction without complying with subsection (9) [...] if he considers the direction sufficiently urgent.
- (12) Where the Secretary of State gives a direction without complying with subsection (9) [...] he shall inform—
- (a) the authority concerned, and
 - (b) such persons appearing to him to represent best value authorities as he considers appropriate, of the direction and of the reason why it was given without complying with subsection (9) [...].
- (13) A direction given under this section shall be enforceable by order of mandamus on the application of the Secretary of State.

APPENDIX 3

THE FIRE AND RESCUE NATIONAL FRAMEWORK FOR ENGLAND (EXTRACTS)¹¹

Transparent data enables communities to hold service providers to account

2.7 To hold fire and rescue authorities to account, communities need to be able to access information in a way that enables them to compare the performance of their fire and rescue authority with others. Both the Government and fire and rescue authorities need to have an open approach towards data and information to provide transparency for communities.

2.8 Fire and rescue authorities must make their communities aware of how they can access data and information on their performance.

2.9 Meeting this requirement includes, but is not limited to:

- meeting the current code of recommended practice for local authorities on data transparency
- publishing pay policy statements (a duty under sections 38 and 39 of the Localism Act 2011)
- raising awareness of sources of comparable data and how to access these e.g. linking to other government department websites and data returns to the Chartered Institute of Public Finance and Accountancy
- linking to tools and best practice guidance provided by organisations such as the Local Government Association and the Chief Fire Officers' Association
- acting in accordance with the Freedom Of Information Act and publication schemes set by the Information Commissioner
- publishing any action plans arising from peer reviews and self assessments
- publishing any other locally held data that fire and rescue authorities feel will aid transparency to their communities

Assurance

3.2 Fire and rescue authorities must provide assurance on financial, governance and operational matters and show how they have had due regard to the expectations set out in their integrated risk management plan and the requirements included in this Framework. To provide assurance, fire and rescue authorities must publish an annual statement of assurance.

11 Fire and Rescue Framework for England Department for Communities and Local Government July 2012

3.3 The Government will be providing light touch guidance on the nature of the assurance statements. Each fire and rescue authority is expected to sign off their statement, ensuring that it has been subject to the authority's scrutiny arrangements. The guidance will make suggestions on the contents of the statement with communities and the Government in mind. It is likely that the contents of these assurance statements already exist in the information held or published by fire and rescue authorities, for example as part of their annual report or service plan.

APPENDIX 4

THE SEVEN PRINCIPLES OF PUBLIC LIFE

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

APPENDIX 5

LEICESTERSHIRE FRA

CASE STUDY

Review of Management Arrangements

In June 2016, Leicestershire Fire and Rescue Authority commissioned a review of management arrangements in their Fire and Rescue Service. It reported on 8th February 2017.¹² The review had four phases.

- Phase 1 was a review of the management structure;
- Phase 2 was a review of contracts, duty systems and remuneration arrangements applicable to senior and middle managers;
- Phase 3 was a review of support arrangements incorporating the effectiveness of ICT business solutions and administrative support;
- Phase 4 was a review of functions that had known weaknesses (Finance and Procurement) in order to identify what improvements could be achieved.

Significant reductions in senior and middle managers had already been made, reducing the numbers from 53 in 2010 and then to 33 in 2015.

Phase 1 of the review then assessed:

- Whether the structural alignment of directorates, functions and teams was appropriate and fit for purpose;
- Whether there was any scope to change the functional role of the most senior managers i.e. the Chief Officer team;
- Whether as a consequence of addressing aspect 2, there was any scope to achieve further reductions in the number of senior managers; and,
- Whether sufficient capacity exists within any revised structure (number of managers) to deliver all of the Service priorities in addition to maintaining 'steady state'.

The review found that the FRA was already 'lean' at middle manager level compared with neighbouring FRAs. It also noted that FRAs were moving towards a two directorate structure – service delivery and service support. The review noted that some service functions were located with service delivery, and some support functions with service support, resulting in inefficient reporting mechanisms. The review went on to conclude that:

'In respect of the role of the Deputy Chief Fire and Rescue Officer, it was determined that there are only two organisations who routinely employ a position of this nature and they are Fire and Police.'

In the main, other Local Authorities have removed the Deputy position and moved towards a 'flatter' structure that relies on a Chief Executive and Director model. It was

12 <http://www.leicestershire-fire.gov.uk/wp-content/uploads/2016/06/item-10-summary-report-management-arrangements-review-cfa-feb-2017.pdf>

concluded that the removal of the Deputy Chief Fire and Rescue Officer role in favour of two Assistant Chief Fire and Rescue Officers would provide a model that (a) would reflect a more 'modern' approach to structuring the Service; and, (b) would not have any material impact on LFRS' ability to function and deliver its planning priorities. Further to this, the change has also created an opportunity to reduce the top tier revenue (salary) costs.'

As a result of the review on the 1 September 2016 the following changes were made:

1. The existing management structure was 'tweaked' in order to achieve a better alignment of the management of functions within the extant service delivery and service support model;
2. The role of the Chief Fire and Rescue Officer has been broadened in so much that the incumbent now maintains a much wider management portfolio;
3. The role of the Deputy Chief Fire and Rescue Officer has been removed in favour of a two Assistant Chief Fire and Rescue Officer model.
4. One of the three Area Manager (Operational) roles has been removed from the structure and this has been possible as a consequence of group managers reporting directly to the ACFO & the changes to the revised role of the Chief Fire and Rescue Officer; and,
5. A limited amount of Transformational Change funding has been made available for additional temporary posts to deliver the Service priorities following the approval of business cases to support the growth requirements.'

Phase 2 of the review noted that chief officers' pay had increased at a faster pace than others in the organisation. The review noted that:

'During the last fourteen years, chief officer pay has accelerated in value at a much quicker rate than that applicable to any other staff group. By way of an example, in 2002, the annual salary for the Chief Fire and Rescue Officer was £87,159 per annum. By April 2015, this had increased to £149,220 per annum. This was reviewed downwards in June 2015 to £144,872 when a new Chief Fire and Rescue Officer was appointed.

In the same vein, the pay of Deputy and Assistant Chief Fire and Rescue Officers has also accelerated in a similar manner because of the salary linkage arrangements. For example, the annual salary awarded to the Assistant Chief Fire and Rescue Officer in 2015 was £112,996 per annum and the salary of the Deputy was £117,048 per annum.'

In June 2016 prior to the appointment of a new CFO, it was agreed to reduce the CFOs salary from £144,872, to £126,250 per annum. As the review notes, 'it has been agreed that each will receive an annual salary equating to approximately 80% of the salary paid to the Chief. As of September 2016, each Assistant Chief Fire and Rescue Officer receives an annual salary of £100,969 each (down from £112,996 in 2015).'

Phase 2 of the review also looked at the provision of cars for senior and middle managers. The review concluded:

'Station and Group Managers were provided with a 'base model' car, Area Managers were provided with a 'mid-range model' car and Chief Officers were provided with an 'executive model' car....'

'Following changes to the 'provided' car arrangements that were introduced following the appointment of the interim Chief Fire and Rescue Officer in June 2016, there are now only two levels of provision. Chief Officers are provided with a 'mid-range model' car and Area/Group/Station Managers are provided with a 'base model' car (at this time, all provided cars are Ford Kuga's). The changes that have been made to provided car provision has achieved an annual saving in relation to vehicle leases equalling approximately £9,000 per annum.'

Phase 3 of the review identified a number of IT systems that needed to be replaced. These were:

- A replacement incident recording system;
- A new electronic fleet tracking system;
- A replacement integrated learning and development management system;
- A replacement premises risk information system; and,
- A replacement performance management system.

It also identified that some administrative staff were underutilised and that these posts need not be replaced when people left.

Phase 4 recommended some changes to the Finance department. It also included a review by Leicestershire Police of the procurement function. That review concluded that Leicestershire achieved good value from its contracts, but that:

1. The procurement strategy and associated policies and procedures need to be updated;
2. Contracts and contract management arrangements need to be strengthened;
3. Managers responsible for procurement need to receive further training in accordance with a revised procurement strategy; and,
4. The Service would benefit from having access to a procurement specialist who can address the points above.

APPENDIX 6

GLOSSARY OF ABBREVIATIONS

ACFO	Assistant Chief Fire Officer
AFA	Avon Fire Authority
APFO	Association of Principal Fire Officers
AFRS	Avon Fire and Rescue Service
BAME	Black, Asian and Minority Ethnic
CFO	Chief Fire Officer
CFOA	Chief Fire Officers Association
DCFO	Deputy Chief Fire Officer
DCLG	Department for Communities and Local Government
ET	Employment Tribunal
FBU	Fire Brigades Union
GPC	General Purposes Committee
ICO	Information Commissioner's Office
IRMP	Integrated Risk Management Plan
LGA	Local Government Association
LGPS	Local Government Pension Scheme
SMB	Service Management Board
SPC	Special Purposes Committee

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Councillor Donald Davies

19th July 2017

Dear Councillor Davies,

Firstly, I would like to congratulate you on your recent appointment as Chair of Avon Fire and Rescue Authority. I recognise that you have accepted this position at a particularly challenging time for the Authority and I am grateful that you have shown leadership by stepping up to this role.

As you will be aware, yesterday I published the report following the independent statutory inspection into Avon Fire and Rescue Authority. I understand that you received a copy of the report from the inspection team shortly before publication.

The main conclusion in the report is clear Avon Fire and Rescue Authority is failing in its best value duty to secure continuous improvements under section 3 of the Local Government Act 1999. As I am sure you agree, this and the detailed findings uncovered by the inspection team are unacceptable, especially in terms of the current arrangements regarding governance; leadership; culture; and the appetite for change by members of the Authority and fire and rescue service. I expect the Authority to take prompt action to deliver the proposals set out in the report and for substantial improvements to be made at pace.

As well as a detailed implementation plan outlining action against the proposals, there are some key areas I want to see addressed promptly. These are:

- a review of the senior management board to ensure they have the necessary experience and capabilities to plan and deliver the transformational change;
- consideration as to what further expertise is required with particular focus on human resources; legal and finance provisions and whether there are any collaboration opportunities for these through the upcoming move to Avon and Somerset Constabulary HQ;
- a de-layering exercise with regards to the senior management board with a focus on culture change and professionalism;
- a review of the Integrated Risk Management Plan; and

- the introduction of a programme board to drive change and support the senior management team within the service develop a comprehensive operating model, vision and strategic goals for the service. The programme board should also oversee the delivery of this plan.

I welcome the recent developments already being suggested by the Authority to help bring the necessary changes forward as a result of receiving the representation letters. I understand that the leaders of the four constituent unitary councils are considering bringing in an eight-year term limit for Authority members. Given the automatic effect that this will have in refreshing membership, I give this proposal my full support and ask that it is actioned immediately.

I recognise that the Chief Fire Officer is currently on sick leave. I strongly suggest you make immediate contact with Roy Wilsher, the Chair of the National Fire Chiefs Council (NFCC) to discuss options for an interim Chief to ensure that the operational delivery of the fire and rescue service is not impacted.

I would appreciate monthly updates on the progress you are making and would welcome a meeting in September to thoroughly discuss your implementation plans and strategic goals for Avon Fire and Rescue Authority. The Home Office, together with the Local Government Association, will support you to take forward this work and you will be aware that today I announced a new fire inspectorate.

I am copying in the Chair of the National Fire Chiefs Council, the Local Government Association and the Chairs of the four constituent unitary councils.

I look forward to hearing your proposals.

A handwritten signature in blue ink that reads "Nick Hurd". The signature is written in a cursive, slightly slanted style.

NICK HURD MP
Minister of State for Policing and the Fire Service