AGENDA ITEM:

REPORT TO: Meeting of the	**MERSEYSIDE FIRE & RESCUE AUTHORITY**
DATE:	**12TH FEBRUARY 2013**
REPORT NO.	**CFO/021/13**
REPORTING OFFICER:	**CHIEF FIRE OFFICER**
CONTACT OFFICER:	**CLERK TO THE AUTHORITY JANET HENSHAW Ext 4301**
OFFICERS CONSULTED:	**STRATEGIC MANAGEMENT GROUP**
SUBJECT:	**Consultation on Mutualisation in Fire and Rescue Authorities**

APPENDIX A TITLE LETTER FROM NEIL O'CONNOR OF CLG
ATTACHED HARD COPY

Purpose of Report

1. To ask Members to approve the response contained in this report to the consultation on Mutualisation in Fire and Rescue Authorities as proposed by the Director of Fire, Resilience and Emergencies, of the Department for Communities and Local Government.

Recommendation

2. That Members approve a response to the letter attached at Appendix A of this report as follows:

   That Merseyside Fire and Rescue Authority , whilst exploring all options to minimise the impact of cuts does not at this time, recognise how any of its services would improve within a mutual. In particular MFRA is concerned with the costs associated with the setting up and establishment any mutual without full guaranteed long term funding from the Government

Introduction & Background

3. A letter has been received from Neil O'Connor, the Director of Fire, Resilience and Emergencies at the Department for Communities and Local Government (CLG) which states that the Government is encouraging the creation of innovative alternatives for public service delivery and as such is seeking views on enabling legislation to encourage mutualisation in the fire sector.

4. The letter is attached as Appendix A and this refers to the date when the consultation concludes – which is 15 December 2012

5. “Mutuals” are essentially a form of social enterprise, i.e. a company which operates separately as a different legal entity, having its own operating arrangements. They are not controlled by shares or shareholders but are owned by their members – who can be employees, consumers or other stakeholders. They operate on the principle that any profits made will usually be re-invested in the mutual for the benefit of the members, although some profit may also be necessary in the case of mutuals for internal financing to sustain or grow the organisation, and to make sure it remains safe and secure.

6. Possibly the most famous mutual type organisation is the Co operative Society, although some schools and NHS Trusts services have also been set up on this model. There are successful models in operation, for example John Lewis Ltd set up a staff mutual. More recently Cleveland Fire and Rescue Authority has set up such a company which has won a contract to provide 24-hour emergency cover for one of Europe’s biggest plastics manufacturers INEOS Nitriles. This has been with the backing of the Cabinet Office who supported it with £95,000 from the Mutuals Support Programme

7. Although some groups of staff have set up mutual to run public services successfully, they have had to navigate around a number of financial issues and legislative issues. Government research in this area suggests that finance is set to become a more significant issue for many prospective and indeed established mutuals.

8. The Government has set up the Mutuals Support Programme (MSP) which can assist on issues such as business planning and staff transfer however it will not provide for all the costs of establishing a new organisation

9. Examples of other costs include:

   - Appraisal of initial deliberation to go into such a scheme would require a significant investment in staff time. In a larger organisation such as MFRA this may be very time consuming and it may be necessary to employ consultancy support

   - It will require work related to the creation of business plans, legal forms, staff transfer issues (such as pensions etc) and negotiation with commissioners. This would largely come from the “host “ organisation’s resources and may therefore require back filling of post holders work (e.g legal/procurement/finance/HR). External support would also be required for writing business plans, governance of the new entity, dedicated project management, branding and communication.

   - Set up (or transition) – once a decision to set up a mutual (or other company) is taken, set up can be protracted as a shadow company would need to be established whilst contracts are finalised. This would require the maintenance of a project manager and costs of supports to the Board as well as recruitment until the company is properly independent

- Start up and consolidation. There is a range of costs that will need to be met over the first few months to a year of independence, as a new organisation seeks to consolidate its position and avoid a situation whereby it is struggling to maintain cashflow. This phase involves forming the new organisation as an independent business: plugging any gaps in staff or expertise; starting to improve the way services are delivered; and ensuring that staff have a sense of ownership. This would include

  Working capital, to cover the costs of delivering the service prior to being paid;

  Finance for any immediate capital requirements such as new IT systems or asset refurbishment;

  Finance for services that are not covered by an initial contract but need to be sustained prior to winning contracts;

  New staff with skills that are particularly likely to be required, including business development and finance functions; and

  External support if the mutual lacks expertise in specialist areas such as marketing and legal advice.

10. As Members are aware, MFRA has already reduced its support services and more reductions are likely. Presuming MFRA was considering a large-scale mutual then most of the resource requirements referred to in paragraph 9 above would need support and resourcing from existing staff there are serious capacity issues.

11. There has been little support from staff for a mutual to date and whilst no formal approach has been made it is understood that representative bodies are nervous of the impacts on staff terms and conditions of 'outsourcing' in this way.

12. At this time no major service areas have been identified which would fit well with a mutual company model. MFRA does use innovative company structures to deliver services – Fire Support Network, Toxteth firefit hub but in general a model based on companies limited by guarantee has proved good for purpose.

13. In addition, once any new company is up and running, it needs to compete in the marketplace both with often bigger private enterprises and/or other public service providers. A mutual would find this challenging, given that the overriding motive is not of profit but the benefit of members. If the mutual got into financial difficulties this could have implications for the "host" organisation's reputation

<u>Equality & Diversity Implications</u>

14. Any new mutual or other company would need to ensure that they comply with all legal requirements in relation to equality and diversity.

<u>Staff Implications</u>

15. There are clear staff transfer issues to deal with and there would need to be substantial consultation with representative bodies to comply with legislative requirements.

16. There would also be capacity issues for many existing staff in setting up and supporting a mutual.

Legal Implications

17. If existing employees are to be expected to provide the initial appraisal, business planning contractual matters and setting up there will be potential conflicts of interest for many of these employees. In addition there are statutory consultation periods for any staff transfer proposals.

18. Legal services would also be required to set up a new company and ensure adequate governance arrangements are put into place.

19. Furthermore the Public Procurement Regulations 2006 mean that a full tendering exercise would be necessary before services could be transferred to any company (whether a mutual or not)

Financial Implications & Value for Money

20. The cost of a very small scale initial appraisal is estimated at about £20k based upon consultancy fees . . In other mutuals Business Planning, initial contract negotiations and/or tendering has often been funded by the MSP or for PCT's the Department of Health Social Enterprise Investment Fund (SEIF). These are all cash limited funds and therefore existing mutuals have often received additional support either cash or in kind from their "host" organisation. Forecasts from other mutual suggest that costs of between £60,000 and £120, 000 per each 100 employees to be transferred and a further £50,000 to £100,0000 for the "host" organisation per each 100 staff to be transferred for set up costs. With 1300 plus staff , if a mutual were set up to provide all MFRA services therefore costs would be very significant

Risk Management, Health & Safety, and Environmental Implications

21. There are both financial and reputational risks to the Authority in going forward with a mutual at this time, particularly when grant settlements for the future are unknown

Contribution to Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters"

22. The Communities of Merseyside would need to be reassured that they can expect the same quality of service from any service provider.

BACKGROUND PAPERS

A Technical Guide to Financing New Employee Mutuals (May 2012)