

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

**25 NOVEMBER 2013**

1. **PROTOCOL ON GOVERNMENT INTERVENTION ACTION  
ON FIRE AND RESCUE AUTHORITIES IN ENGLAND**

Joint report of the Chief Fire Officer and Clerk and Monitoring Officer to the Authority.

RECOMMENDED

THAT the Authority note the protocol on government intervention action on Fire and Rescue authorities in England has been published by Department for Communities and Local Government (DCLG). The protocol is attached as Appendix 1.

2. **PURPOSE OF REPORT**

This report is submitted to provide information to Members regarding the recent publication of the intervention protocol which has been confirmed following consultation.

3. **BACKGROUND**

- 3.1 Members will recall that in September 2012, DCLG launched a consultation process on the protocol on government intervention action on Fire and Rescue authorities in England. All Fire Authority Members and Corporate Board Members were invited to respond to the consultation and a West Midlands Fire and Rescue Authority (WMFRA) consultation response was submitted to DCLG in November 2012. This response is attached as Appendix 2.
- 3.2 Following consideration of the consultation responses, DCLG has published a revised intervention protocol. The main outcomes of the consultation process are detailed in paragraphs 3.3 -3.5 below.

- 3.3 WMFRA, like many consultation respondents, questioned the need for a Fire and Rescue Authority specific protocol as intervention arrangements applicable to all public bodies are already set out in the Local Government Act 1999 and/or the Local Government Accountability Statements. Whilst recognising this, DCLG confirmed that it is a specific requirement under section 23 of the Fire and Rescue Services Act 2004 for the Secretary of State to put in place an intervention protocol.
- 3.4 The protocol (Appendix 1) confirms that intervention powers set out within only refer to action to be taken by the Secretary of State in exercise of his powers under section 22 of the 2004 Act. This means that the protocol can only be applied where the Secretary of State believes that a Fire and Rescue Authority is failing or is likely to fail to act in accordance with the Fire and Rescue Service National Framework. Although the Secretary of State also has other powers of intervention (for example under section 15 of the Local Government Act 1999) this protocol does not apply to an intervention under those powers.
- 3.5 DCLG has recognised the valuable professional leadership that the Chief Fire Officers Association (CFOA) can provide in supporting the intervention process and may consult with CFOA prior to exercising any powers of intervention. This is in keeping with the views expressed by the Authority in its consultation response.
- 3.6 The protocol recognises the role of the Local Government Association (LGA) in maintaining an overview of performance in the sector. The LGA, as part of their challenge and intelligence role, will work collaboratively with key bodies (for example Fire and Rescue Authorities, CFOA, inspection bodies and government departments) to identify at an early stage any serious risks to performance or the requirement to act in accordance with the Framework. The LGA will work with those bodies to prevent the escalation of those risks to avoid any negative impact on the sector.

If there are any specific concerns in respect of performance or there is evidence that indicates a Fire and Rescue Authority is failing or at risk of failing in accordance with the framework, then the LGA will work with that Authority to help them address the issues and improve.

- 3.7 If, following a sustained and determined attempt to resolve problems through sector led improvement, an issue cannot be resolved the Secretary of State may consider a statutory intervention.
- 3.8 In the event of a statutory intervention the Secretary of State will consult with the Authority concerned, the LGA and any other body or Authority which he considers necessary before exercising powers of intervention. The form or extent of any formal intervention will be determined on a case by case basis, taking into account the views of all consultees and will be dependant upon the nature and severity of the failure under consideration.
- 3.9 To date there has been no formal intervention in the operations of a Fire and Rescue Authority by the Secretary of State. Use of this power is seen as a last resort. The expectation is that political and professional leadership will put in place processes to ensure that sector led support is available for any Fire and Rescue Authority that needs it.

#### 4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out. The matters contained in this report do not relate to policy change.

#### 5. **LEGAL IMPLICATIONS**

It is a requirement of section 23 of the Fire and Rescue Services Act 2004 that an intervention protocol be prepared.

#### 6. **FINANCIAL IMPLICATIONS**

There are no financial implications.

## **BACKGROUND PAPERS**

Protocol on government intervention action on Fire and Rescue Authorities in England, May 2013.

Protocol on government intervention action on Fire and Rescue Authorities in England. Summary of responses, May 2013.

Executive Committee, 5 November 2012, Agenda Item 3, Consultation Responses- Guidance on Statements of Assurance and Protocol in Government Intervention Action.

Email to WMFRA Members inviting consultation 5 October 2012.

DCLG Protocol on government intervention action on Fire and Rescue Authorities in England consultation, September 2012.

Fire and Rescue Services Act 2004 (Sections 22 and 23).

The contact name for this report is ACFO Phil Hales 0121 380 6907

PHIL LOACH  
CHIEF FIRE OFFICER

NEERAJ SHARMA  
CLERK AND MONITORING  
OFFICER