

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

11TH FEBRUARY 2008

1. THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005 (RRO)

Joint report of the Chief Fire Officer and the Clerk.

RECOMMENDED

- 1.1 THAT the Authority delegate the power to prosecute under the RRO to the Chief Fire Officer.
- 1.2 THAT the Clerk amend the list of delegated powers to include the power to prosecute under the RRO.

2. PURPOSE OF REPORT

This report is submitted to seek approval to amend the list of delegated powers thereby improving the effectiveness of the Authority's application of the RRO.

3. BACKGROUND

- 3.1 At present the Chief Fire Officer has delegated powers in consultation with the Chairman and Vice-Chairman to instigate legal proceedings in accordance with Minute Number 53/86 of the Authority. Any such action is reported to the next meeting of the full Authority. This process does cause some time delay between the identification of the offence and the prosecution being instigated. It also adds another item for noting to the agenda and involves letters being sent to all Members in that particular Council where the offence has been committed.
- 3.2 Prosecution under the RRO is one of a range of actions used by WMFS to enforce the RRO. Prosecution is only recommended after careful consideration about the seriousness of an offence and the potential impact of the offence on fire safety standards. In order to ensure that WMFS acts in an open, proportional and consistent manner and that prosecution is only used in appropriate circumstances WMFS has adopted the Cabinet Office's Enforcement concordat.

The concordat states:

‘The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act.’

- 3.3 When a decision is made to recommend prosecution it is best practice to move the process forward effectively and efficiently. It would improve the Brigade’s effectiveness to take decisions at an operational rather than strategic Authority level. It is therefore recommended that the Fire Authority delegate the power to prosecute under the RRO to the Chief Fire Officer.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment has been carried out which did not raise issues that required a full Equality Impact Assessment to be completed.

5. **LEGAL IMPLICATIONS**

- 5.1 The RRO was designed to rationalise and simplify fire legislation in the UK. It provides a minimum fire safety standard in all non domestic premises. It designates a person (eg. employer, manager or owner) as a responsible person who is then required to carry out certain fire safety duties which include ensuring the general fire precautions are satisfactory and conducting a fire risk assessment. The risk assessment based regime requires responsible persons for premises used by the public (including employees) to take action to prevent fires, and protect against death and injury should a fire occur.
- 5.2 Fire authorities are the primary enforcing agencies for all fire legislation in non-domestic use. Resources and inspections are targeted at those premises that present the highest risk. Where breaches of the RRO occur the fire authority can provide practical advice or, where the risk is serious, formal notices (including notices preventing use).

- 5.3 There are various offences created by the RRO (eg for failing on fire safety duties, placing persons at risk of death or serious injury in case of fire, failure to comply with alteration or enforcement notices, failure in relation to luminous tube signs, placing employees at risk, making false entries in the register, giving false information, intentionally obstructing an inspector, failing to comply with prohibition notices etc). Corporate bodies and their officers or members can be prosecuted also. Offences are prosecutable in the Magistrates Court or the Crown Court. Fines and/or terms of imprisonment can be imposed.
- 5.4 The Authority can delegate the power to prosecute to the Chief Fire Officer as being suggested in the report.

6. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

BACKGROUND PAPERS

Cabinet Office Enforcement Concordat
Authority Minute Number 53/86

F. J. E. SHEEHAN
CHIEF FIRE OFFICER

SUSAN PHELPS
CLERK