

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

EXECUTIVE COMMITTEE

5 NOVEMBER 2012

1. **CONSULTATION RESPONSES – GUIDANCE ON
STATEMENTS OF ASSURANCE AND PROTOCOL ON
GOVERNMENT INTERVENTION ACTION**

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

RECOMMENDED

- 1.1 THAT the Executive Committee approves the consultation response attached as Appendix 1 in respect of the Guidance on Statements of Assurance for Fire and Rescue Authorities in England.
- 1.2 THAT the Executive Committee approves the consultation response attached as Appendix 2 in respect of the Protocol on Government Intervention Action on Fire and Rescue Authorities in England.

2. **PURPOSE OF REPORT**

This report is submitted requesting Executive Committee approval for the consultation responses, attached as Appendices 1 and 2 to this report. Subject to this approval the consultation responses will be forwarded to the Department for Communities and Local Government (DCLG) prior to the 15 November 2012, which is when consultation closes.

3. **BACKGROUND**

- 3.1 At the end of September 2012, DCLG launched the following consultations:
 - Guidance on Statements of Assurance for Fire and Rescue Authorities in England; and
 - Protocol on Government Intervention Action on Fire and Rescue Authorities in England.

- 3.2 All Fire Authority Members and Corporate Board Members have been invited to respond to both consultations.

Statement of Assurance

- 3.3 The Fire and Rescue National Framework for England (the Framework) sets out the requirement for all fire authorities to provide annual assurance on financial, governance and operational matters to show how they have due regard to the requirements in the Framework and the expectations set out in their own integrated risk management plans.
- 3.4 The consultation document provides guidance on the content of annual statements of assurance, and indicates how Fire and Rescue Authorities' (FRAs) existing assessment processes might feed into the statements. The consultation guidance sets out the requirements for the contents of statements of assurance. FRAs will be responsible for determining the format of their statements.
- 3.5 The Fire and Rescue Minister has indicated that statements of assurance should be seen as 'a proportionate requirement for an important public service with no specific inspectorate.' These statements should not duplicate existing arrangements. Therefore, in producing statements of assurance, WMFRA may wish to consider how they can be aligned with other regular publications, perhaps providing a link to appropriate documents or other relevant material, in order to avoid duplication.
- 3.6 Consultees were invited to respond to the following questions:
- Does the draft guidance set out sufficiently clearly what is expected of Fire and Rescue Authorities to complete their statements of assurance?
 - If not how could it be improved?
 - Specifically, what would you change and what would you add?
- 3.7 The Local Government Association (LGA) and the Chief Fire Officers' Association (CFOA) has been lobbying on behalf of the fire sector against the requirement to produce statements of assurance. The value of this level of assurance in terms

of the significant additional and duplicative burden will entail has to be questioned. It is considered that the introduction of a Statement of Assurance will not provide for a higher level of assurance than is currently provided through the existing finance, governance and operational audit arrangements. There is also concern as to why Fire Services only (as opposed to wider local government bodies) have been singled out to provide this additional level of information. The response to consultation attached as Appendix 1 reflects the nationally held view.

Protocol on Intervention

- 3.8 It is a requirement under section 23 of the Fire and Rescue Services Act 2004 (the 2004 Act) that an intervention protocol be prepared, and for the Secretary of State to have a regard to it, in the exercise of his powers of intervention. Under section 22 of the 2004 Act, the Secretary of State has broad powers to secure that fire and rescue authorities are acting in accordance with the *Fire and Rescue National Framework for England* (the Framework).
- 3.9 Such an order can only be made if the Secretary of State considers it would promote public safety; the economy, efficiency and effectiveness of the relevant authority; or economy, efficiency and effectiveness in connection with the matters in relation to which FRAs have functions.
- 3.10 The Intervention Protocol sets out the arrangements between the Secretary of State, the Local Government Association and FRA should formal intervention be considered necessary – for example, where the Secretary of State considers that a FRA is failing, or is likely to fail, to act in accordance with the Framework which requires immediate government action to address. This protocol applies to all FRAs in England.
- 3.11 Consultees were invited to respond to the following questions:
- Does the draft protocol clearly set out what is expected of the Government and FRAs in their respective roles in the event of intervention by the Secretary of State?
 - Is there anything you would change?

- Is there anything not included in the protocol that should be added?
- 3.12 With regard to the Intervention Protocol, it is proposed that the WMFRA should agree that the draft protocol sets out clearly the respective roles of Fire and Rescue Authorities and Government in the event of an intervention. However the preferred option would have been a single framework. It is suggested that the protocol would benefit from the greater involvement of both the LGA and CFOA in supporting any intervention powers therefore recognising and reflecting the role of these bodies as sector representatives.
- 3.13 The LGA has argued that a single framework should apply across the whole local government sector and that fire should not be singled out as exceptional. Under this approach the Local Government Accountability System Statement, which already covers fire and rescue authorities, would have sufficed. This approach was rejected by DCLG on the grounds that it was legislatively difficult.
- 3.14 Through subsequent discussions between the DCLG and the LGA alignment has been sought between the substance of the proposed draft Intervention Protocol for Fire and that of the Local Government Accountability System Statement.
- 3.15 It is important to note that the LGA has no formal role in intervention procedures. The LGA has and will continue to provide improvement support to the local government sector. The consultation response is attached as Appendix 2.

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**

- 5.1 The Fire and Rescue National Framework for England sets out the requirement for FRAs to publish statements of assurance.
- 5.2 It is a requirement of the Fire and Rescue Services Act 2004 that an intervention protocol be prepared.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report. However the requirement to produce an additional statement of Assurance creates an additional burden on limited resources to comply with the proposal.

BACKGROUND PAPERS

DCLG Guidance on statements of assurance for fire and rescue Authorities in England consultation, September 2012.

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

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CLERK AND MONITORING
OFFICER

APPENDIX 1

Response of the West Midlands Fire and Rescue Authority

Guidance on statements of assurance for Fire and Rescue Authorities in England

The expectation from DCLG is that these statements of assurance will provide appropriate assurance to communities and Government on a range of matters – financial, governance and operational and demonstrating how authorities have met their Framework commitments ensuring that the Service is both operationally and financially stable.

The Local Government Association (LGA) and the Chief Fire Officers' Association (CFOA) have been lobbying on behalf of the fire sector against the requirement to produce statements of assurance. The value of this level assurance in terms of the significant additional and duplicative burden that enabling for compliance will entail has to be questioned. It is considered that the introduction of a Statement of Assurance will not provide for a higher level of assurance than is currently provided through the existing finance, governance and operational audit arrangements. There is also concern as to why Fire Services' only (as opposed to wider local government bodies) have been singled out to provide this additional level of information.

West Midlands Fire Authority shares these concerns and would question the need to introduce statements of assurance as it appears to go against localism policies, and serve to reinvent the Audit Commission statements, that cannot be independently verified.

Our concerns are that the assurance statements will require us to restate information that is already in the public domain with much of the information being requested already the subject of existing assurance arrangements currently provided through the existing financial, governance and operational audit arrangements. It is not clear, therefore, what benefit central government will derive from what is perceived to be the potential for duplication of effort with increased local burdens.

Consultation Questions

Question 1 Does the draft guidance set out sufficient clearly what is expected of fire and rescue authorities to complete their statements of assurance?

Yes the document does make it clear what is required but it does not explain how the additional burden can be resourced and managed.

Question 2 If not how could it be improved?

West Midlands Fire Authority supports the LGA position that as currently drafted, the guidance indicates that assurance statements will be required to cover matters relating to finance, governance, operations and compliance with the National Framework.

The information required for the assurance statement is all currently available elsewhere as requirements of statutory processes. As such the Assurance Statements could be seen as duplicative and of little additional value either to communities or to government. Assurance statements of this type are not required by other local authorities and it is not clear why the fire sector is being singled out in this manner.

The draft guidance could be improved by removing the requirement and references to providing assurance in areas where assurance is already available in the public domain under existing governance requirements.

Question 3 specifically, what would you change and what would you add?

As outlined above, it is the view of this authority that the requirement to produce assurance statements as outlined be removed completely as it is considered that the requirements fall with the role and duties of the locally elected members who are responsible for managing the governance arrangements for the Service and who are accountable to their local communities.

Some of the requirements infer that we are unable to act responsibly. For example at para 4 it states that "they should provide information on their performance that is accessible, robust, and fit-for purpose". Para 31 (iii) suggests that the statement of assurance be utilised to provide high level assurance of performance, including commentary on actions to improve. This information is already provided through the existing planning and performance reporting mechanisms adopted by the Authority and as part of the Annual Report.

APPENDIX 2

Response of the West Midlands Fire and Rescue Authority

Protocol on government intervention action on fire and rescue authorities in England

West Midlands Fire and Rescue Authority agree that the draft protocol sets out clearly the respective roles of Fire and Rescue Authorities and Government in the event of an intervention. It is suggested that the protocol would benefit from the greater involvement of the Local Government Association (LGA) and the Chief Fire Officers' Association (CFOA) in supporting any intervention powers therefore recognising and reflecting the role of these bodies as sector representatives.

West Midlands Fire and Rescue Authority support the LGA position in that a single framework should apply across the whole local government sector and that fire should not be singled out as exceptional. Under this approach the Local Government Accountability System Statement, which already covers fire and rescue authorities, would have sufficed.

Question 1 does the draft protocol clearly set out what is expected of the Government and fire and rescue authorities in their respective roles in the event of intervention by the Secretary of State?

It is the view of this Authority that the document clearly sets out what is expected although we support the view that the LGA and CFOA have a role and can provide valuable input in supporting any intervention powers that are implemented.

Question 2 is there anything you would change?

There is an opportunity to strengthen the Chief Fire and Rescue Adviser (CFRA) role by working with the LGA and CFOA utilising the skills and expertise of existing Members and Strategic Managers with sector knowledge and expertise. This should take into consideration the role of a peer review and utilising the LGA and CFOA in a similar way to the OPA process.

West Midlands Fire and Rescue Authority support the implementation of a single framework that should apply across the whole local government sector and that fire should not be singled out as exceptional.

Earlier this year the LGA negotiated a memorandum of understanding (MOU) with DCLG and a new intervention protocol that applies to local authorities. In addition the DCLG and the LGA have agreed a Local Government

Accountability System Statement which has a similar scope to the Intervention protocol discussed here and it is the view of this Authority that this mechanism should be used as an existing alternative to the proposed intervention action.

Question 3 is there anything not included in the protocol that should be added?

There is no reference to the assurance statements currently being proposed as something that may lead into a statutory intervention. There is an opportunity to make more explicit links and references to the assurance statements and how the information provided could be utilised further.