

Status of Report: Public

Meeting: Combined Fire Authority

Date: 12 December 2018

Subject: Home Office Industrial Action Business Continuity Plan Review

Report by: Rick Taylor (Chief Fire and Rescue Officer)

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For: Decision

1. Purpose

This report sets out the findings from a Home Office review into the Industrial Action Business Continuity Planning of Leicestershire Fire and Rescue Service.

2. Recommendations

The Combined Fire Authority (CFA) is asked to note the content of the report and agree that the proposed response to the recommendations made by the Home Office, and set out at paragraph 4.6, is appropriate.

3. Executive Summary

- 3.1 The CFA is required by law to provide business continuity in the event of strike action and make every effort to maintain the full range of response services.
- 3.2 The Home Office has sought extra assurances from Leicestershire Fire and Rescue Authority in light of concerns about its ability to meet the legal requirements.
- 3.3 Senior officers have provided assurance to the Home Office that their minimum requirements are met, albeit the Urban Search and Rescue provision is reliant upon a return to work agreement with the Fire Brigades Union.
- 3.4 The final Home Office report is yet to be received, however work on the basis of their draft version has been initiated.

4. Background

- 4.1 The Civil Contingencies Act (2004) requires Fire Authorities to provide effective business continuity arrangements for periods of industrial action. The

National Framework for Fire and Rescue Services 2018, which is given statutory effect by the Fire and Rescue Services Act (2004), extends this to require that Fire and Rescue Services "...make every endeavour to meet the full range of service delivery risks and national resilience duties and commitments that they face".

- 4.2 In 2017 the National Fire Chiefs Council asked that plans for business continuity are reviewed. This included the level of resource available in Leicestershire Fire and Rescue Service during industrial action.
- 4.3 On 11 January 2018 the Minister for Policing and the Fire Service wrote to a number of services, including Leicestershire. He highlighted concern about levels of preparedness and requested improvements, requiring:
- minimum 25% appliance availability
 - ability to internally tackle fire in high rise buildings
 - provision of critical national resilience assets

Further detail was provided during January and February 2018. This triggered a visit to the service by Home Office officials in May 2018. Seven other fire and rescue services also had visits.

- 4.4 LFRS Senior Officers confirmed that the following would be maintained:
- at least 25% of our normal firefighting provision, strategically located to meet risk. In addition, there is a potential for On-call stations to maintain a local response in their own area.
 - the ability to internally fight fire in high rise buildings.
 - our national resilience asset of a Detection, Identification and Monitoring provision.

It was not possible to guarantee the national resilience asset of Urban Search and Rescue (USAR). This is because the extensive skills, qualification and ongoing training requirement mean we can't have a reserve force available. However, this provision is subject to a national Return to Work agreement with the Fire Brigades Union, although there is likely to be a delay in mobilisation unless it's a planned deployment. The likelihood of this agreement being enacted in the event of a major incident was reinforced during a subsequent meeting with the Fire Brigades Union's regional secretary.

- 4.5 This paper is based on a draft Home Office report following the information we provided and the findings of our meeting in May 2018 (Appendix 1). A final report was promised by the end of September and again in time for the preparation of this paper, however it is yet to arrive. We are unable to enact the following recommendations in full until the final version has been received, however work has been undertaken in anticipation.
- 4.6 The draft report contains a number of recommendations. An initial response to each recommendation has been considered and the views of Combined Fire Authority members are welcomed.

Recommendation 1: *The Chief Fire Officer (CFO) is encouraged to share the contents of this report with the Chair of the FRA with the intention of providing support and justification for improvements to be made to the existing business continuity arrangements.*

Response: The draft paper can be found in Appendix 1.

Recommendation 2: *The CFO and Authority are encouraged to explore the use and implementation of Resilience Contracts for firefighters and middle managers who may be prepared to work during periods of IA. Leicestershire FRS should seek a legal view on the conditions and use of such contracts. Other FRSs in England have introduced similar arrangements which have proven to improve the resilience of their IA BCP arrangements.*

Initial Response: The Senior Management Team has previously considered a paper about this matter. It included options for payment schemes for staff at all levels up to Area Manager who worked during periods of industrial action. SMT decided to not offer a regular Resilience Contract payment as some other services do. This is due to these contracts not being enforceable but the additional salary would be paid in advance of any industrial action. Instead, an additional payment will be made to staff who provide cover on a set percentage of occasions it is needed. This payment will be over and above enhanced payments made to those staff who work outside their normal hours during periods of industrial action.

Recommendation 3: *The senior management team should explore the potential of using reserve/auxiliary firefighters and combining this type of capability alongside the use of non-striking firefighters and the use of Resilience Contracts rather than have a single approach that may be adversely affected by a firefighter's right to strike.*

Initial response: This method has been considered before and it was deemed as ineffective and costly to maintain based upon the small additional benefit LFRS gained during the industrial action in 2013/14.

Recommendation 4: *Leicestershire FRS are encouraged to contact Nottinghamshire FRS to gain an understanding of the initiative Nottinghamshire FRS are developing with Nottinghamshire Police for the use of PCSOs as Contingency Operatives (Reserve firefighters) for periods of IA. This may have the potential to be developed into an East Midlands joint Fire and Police initiative.*

Initial response: Early conversations have taken place with Nottinghamshire FRS to explore the potential for this approach. Agreement would also be needed with Leicestershire Police. We are already exploring the potential for dual-role firefighter/PCSO and this could play into this approach.

Recommendation 5: *The senior management team are encouraged to discuss with their middle managers alternative trade membership that maybe better suited to the views and interests of this management group. This intervention could result in the FRS securing further improvements to BCP levels of resilience.*

Initial response: Trade Union membership and the choice of Union is personal matter. Many of our middle managers are members of the Fire Brigades Union and are likely to respond negatively if they perceive they are being coerced into leaving. We are currently carrying out work to develop the culture between middle managers and senior managers and this may provide an opportunity to raise this matter diplomatically.

Recommendation 6: *Leicestershire FRSs critical national resilience assets are dependent upon the nationally agreed RtW (2013) agreement. To assist these arrangements a refresh of this agreement is required and this should be undertaken prior to the FBU lodging a formal trade dispute with the employers. This refresh will be referred to and should be led by the Chair of the NFCC and negotiated with the FBU Executive Council. The content of the RtW agreement needs to be strengthened and aligned to the TUCs Code of Conduct for the provision of emergency services during periods of IA.*

Initial response: This recommendation is for a national agreement that sits outside our remit as an individual service. However, we will take part in any work that is asked of us. It's worth noting that we recently met the regional Fire Brigades Union secretary who provided assurances that the Return to Work agreement would be initiated in the event of a Major Incident during periods of industrial action. We will work locally to clarify how these arrangements can be put in place.

Recommendation 7: *Leicestershire FRS are encouraged to take local action and in conjunction with Nottinghamshire, Derbyshire, Lincolnshire and Northamptonshire FRSs to strengthen the availability of the regionally hosted DIM capability during periods of IA.*

The DIM response vehicle is located in Leicestershire and would remain available for mobilisation. The equipment is operated by trained middle managers and we believe we would be able to maintain their availability within our area. Discussions will take place with our regional neighbours to determine their approach to provision of middle manager operatives.

Recommendation 8: *Mutual assistance arrangements during periods of IA have proven to work effectively during previous periods of IA. The senior management team are encouraged to maintain these arrangements and with their neighbouring FRSs identify how these arrangements can be further improved.*

These provisions worked effectively during the last period of Industrial Action. We will raise this recommendation through the regional Strategy Board of the National Fire Chiefs Council to consider if further assurances can be provided.

5 Report Implications/Impact

5.1 Legal (including crime and disorder)

Legal considerations are included within the report.

5.2 Financial (including value for money, benefits and efficiencies)

The financial implications of providing contingency crews in the event of strike action are available to CFA members if required.

5.3 Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)

Industrial action by the Fire Brigades Union challenges the Combined Fire Authority's ability to deliver its statutory duties. The Government has set out its minimum expectations of all fire and rescue services during periods of such action. Senior officers of the service have based their expectations of resource availability on previous experience.

The only way to remove the risk of not being able to provide minimum level of resource is use of a third party contingency force. This has previously been considered and rejected by the Combined Fire Authority on Value for Money grounds.

5.4 Staff, Service Users and Stakeholders (including the Equality Impact Assessment)

The impact on staff is covered within the report and appendices.

Service users may be negatively impacted by industrial action because of limitations on normal resources.

Affected stakeholders include the other emergency services, local authorities and health authorities who all rely on Fire and Rescue Services to some extent.

5.5 Environmental

There are no environmental impacts as a result of this paper.

5.6 Impact upon Our Plan Objectives

Our ability to maintain normal service delivery is severely hampered during periods of strike action. Prevention and Protection work is maintained by non-striking green book members of staff, however it is not performed by grey book specialists or station based staff.

6. Background Papers

None.

7. Appendices

Appendix 1: Draft Industrial Action Business Continuity Plan Review.

8. Officers to Contact

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