

## **Report of the Head of Community Risk and Training**

### **13. Primary Authority Scheme (PAS)**

#### **Purpose of report**

1. To provide Members with details of the Primary Authority Scheme, how it relates to Fire and Rescue Services and the current situation regarding its implementation.

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#### **Recommendations**

##### **That the Policy and Resources Committee:**

- (i) notes the contents of the report; and*
- (ii) receives a further update in early 2014.*

#### **Introduction**

2. The PAS was introduced under the Regulatory Enforcement and Sanctions Act 2008 to provide a statutory platform for partnerships between enforcement authorities and businesses trading across local authority boundaries. The scheme offered local authorities and businesses a framework for a partnership arrangement, thereby delivering reliable, coordinated and consistent advice, from a single point of contact, reducing the regulatory burden. Importantly the scheme provided for new funding arrangements, allowing local authorities to consider recovering costs from partner businesses.
3. The Local Better Regulation Office (LBRO) was charged with administering the scheme and issued guidance to local authorities to enable them to participate. The scheme covered environmental health, licensing and trading standards legislation. In 2011 the LBRO was replaced by The Better Regulation Delivery Office (BRDO) and at the same time, a consultation process was carried out with a view to extending the scheme to include the enforcement of fire safety legislation.

#### **Implication of Introducing Fire Safety Legislation into the PAS**

4. The inclusion of fire safety legislation into the scheme has come from a perception within the business sector that Fire and Rescue Services (FRSs) have differing approaches to the administration of the Regulatory Reform (Fire Safety) Order. Therefore, under the scheme a business partnered with a FRS can expect consistency of approach in relation to fire safety requirements, inspection programmes etc. across all its premises irrespective of where they are in the country. This approach raises a number of concerns, including:
  - The implications of an inspection plan determined by an FRS in a partnership with a business which dictates the frequency and areas of

inspection of a premises, and the affect this could have on local inspection programmes determined by local Community Risk Management Plans (CRMP);

- The impact on fire fighter safety as involvement with premises could be limited by the inspection plan determined by another FRS;
  - Liability resulting from a premises fire in an FRS area where the local FRS have not carried out any inspections due to the business being part of a PAS with another FRS; and
  - Resource implications for FRS to support business partners.
5. The Chief Fire Officers Association (CFOA) responded to the initial proposals on behalf of all FRSs and expressed some concerns. These included:
- Inconsistency with local CRMP;
  - Inconsistency with local risk-based fire safety audit programmes;
  - Resource implications (particularly if a business's expansion resulted in an increase in number of premises);
  - Overall effect on local decision making;
  - The question of indemnity and the cover provided by each Fire Services insurer; and
  - The impact of inspection plans on local Automatic Fire Alarm (AFA) policies.
6. Following this initial CFOA consultation the Government ran two pilot trials to evaluate the merits of both a statutory and non-statutory PAS.

### **Background to Pilot Trials**

7. Two parallel pilot trials relating to fire safety legislation were conducted between January and June 2013; a statutory scheme pilot driven by BRDO, and a non-statutory pilot driven by CFOA. At the end of the pilot trials an independent evaluation company were charged with looking at the outcomes and recommending a way forward. Government made it clear that should a non-statutory pilot prove unsuccessful, Fire and Rescue Services would be required to participate in the statutory Primary Authority Scheme.
8. Furthermore, even if the non-statutory scheme pilot was successful, Government were unlikely to allow this to be implemented unless all FRS signed a Memorandum of Understanding (MOU) committing them to the non-statutory scheme.

### **Conclusion/Summary**

9. Whilst there are no official announcements regarding the findings of the pilot schemes, Government have announced that a statutory scheme will be put in place regarding fire safety legislation. This has already been added to existing legislation but as yet no implementation date has been announced.
10. Whilst rejecting the CFOA option of a non-statutory scheme, Government has stated that they wish to retain the expertise in the fire sector, demonstrated by

CFOA during the trials. CFOA have been tasked with facilitating the widening of the PAS.

11. The initial tasks to be undertaken by CFOA are to identify the roles of CFOA, the Department for Business Innovation and Skills (BIS), and the Department for Communities and Local Government (DCLG) in this process, and form an implementation plan.
12. A seminar is scheduled for December 2013 at the Fire Service College to discuss the way forward. The Service will be sending representatives to the session to gain further detail on the statutory scheme. It is envisaged that CFOA will then provide a series of workshops and training to allow FRS to meet their obligations under the revised primary authority scheme. This information will then be reviewed, with updates presented to both SMB and the FRA regarding statutory requirements.

### Corporate Considerations

<b>Resource Implications</b> (identify any financial, legal, property or human resources issues)	None identified to date, however further detail regarding statutory requirements under any legislative changes (regarding PAS) may impact on both technical advice and administrative processes.
<b>Strategic Policy Links</b> (identify how proposals link in with current priorities and policy framework and if they do not, identify any potential implications).	None identified to date, however the Service business fire safety risk-based audit programme may be affected, due to resource implications identified above.
<b>Risk Management / Health &amp; Safety</b> (identify any risks, the proposed control measures and risk evaluation scores).	None identified.
<b>Consultation</b> (identify any public or other consultation that has been carried out on this matter)	No external consultation required with the public, but Service representatives are discussing the pilot findings with neighbouring Services.
<b>Equalities</b> (has an Equalities Impact Assessment been completed? If not, why not?)	Not applicable.

**Supporting Information**

None

**Background Papers**

Regulatory Enforcement and Sanctions Act 2008

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