

6. Response to Consultation on the Draft National Framework for England

Purpose of report

1. To introduce the Draft Fire and Rescue National Framework for England to the Policy and Resources Committee and provide a draft response to the consultation invitation.
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Recommendation

The Chief Fire Officer recommends that the Policy and Resources Committee approves on behalf of the Authority the response to consultation on the Draft National Framework for England.

Introduction and Background

2. On 13 December 2011, the Right Honourable Bob Neill MP, Minister for Fire Department for Communities and Local Government (DCLG) wrote to Fire and Rescue Authorities introducing the consultation on a new draft Fire and Rescue National Framework for England. Section 21 of the Fire and Rescue Services Act 2004 provides the statutory authority for the National Framework and requires:
 - a) The Secretary of State to prepare a National Framework for Fire and Rescue Authorities;
 - b) The Secretary of State to consult with representatives of fire and rescue authorities and their employees before making significant changes to the Framework;
 - c) The Secretary of State to bring the Framework and any significant revisions to it, into effect by a statutory instrument subject to annulment in either of the Houses of Parliament; and
 - d) Fire and rescue authorities to have regard to the Framework in carrying out their functions.
3. The previous National Framework 2008-11 was time-bound, the current draft is proposing to have an "open ended duration".
4. The lead priorities of the Framework are for Fire and Rescue Authorities(FRAs) to:
 - a) identify and assess the full range of fire and rescue related risks their areas face, make provision for prevention and protection activities and respond to incidents appropriately;

- b) work in partnership with their communities and a wide range of partners locally and nationally to deliver their service; and
 - c) be accountable to communities for the service they provide.
- 5. The introduction of the draft document is clear in that the Framework is about setting out high level expectations and not prescribing operational matters that are best determined locally by FRAs.
- 6. Within 13 sides of text, there are no less than 18 occasions when the FRA is instructed that it “must” undertake a specific requirement. It is difficult to find a similar tone in other framework documents and plans that are developed by Ministerial departments. Indeed the previous National Framework for 2008-11 makes use of the “must” requirement on fewer occasions.
- 7. Following the introduction there are four chapters plus footnotes and an annex. A reader’s summary of these chapters is provided in Appendix 2.

Consultation Response – Key Areas of Concern

- 8. It is a professionally held view that the draft framework appears overly prescriptive with too many absolute duties. There also appears to be a lack of balance between localism and centralism in this document. It was hoped that the term “where reasonably practicable” would have been used more prevalently. With the change of central government and the focus on localism it appears that an opportunity has not been taken to allow local FRAs to deliver services through locally determined and locally assessed processes.
- 9. Before the promulgation of this document it was a widely held belief that the coalition government wanted more local determination, it is perhaps surprising that there is now an absolute requirement for an Integrated Risk Management Plan (IRMP). It might have been more appropriate for central government to have stated its desired outcomes in terms of reducing community risk through areas such as prevention, protection and response, but not, as it would appear, to designate the method for achieving this, i.e. an IRMP.
- 10. It appears that there is little recognition of Service’s very real resource limitations, which for all FRAs is a significant factor in determining responses and controls to the risks that FRAs are being asked to identify and document.

Supplementary Points

- 11. There is a strong possibility, based upon this draft framework, that the subsequent IRMP will be easily drawn into areas of unnecessary detail and fail to remain the strategic framework it is designed to be. There is some potential for interpretation, or misinterpretation, in many areas and this could lead to the reintroduction of significant (mainly administrative) burdens. This may divert resources from the front line and reintroduce the bureaucracy associated with previous regimes. It is suggested that additional clarity and guidance is needed to alleviate these concerns.

12. There are a few areas where fundamental issues arise, such as it is felt that a partnership between organisations cannot be mandated as is the case in the draft document.

Hereford & Worcester Fire and Rescue Authority's (HWFRA) Draft Consultation Response

13. This consultation provides the Authority with the opportunity to comment on the Government's priorities and objectives for FRAs. (Appendix 2 HWFRA Draft Consultation Response to the National Framework).

Conclusion/Summary

14. Section 21 paragraph (7) of the Fire and Rescue Services Act states "Fire and Rescue Authorities must have regard to the Framework in carrying out their functions". Whilst there continues to be debate on whether "have regard" translates to consideration or compliance, the next section of the Act provides powers of intervention to the Secretary of State for those fire and rescue authorities that are failing, or is likely to fail, to act in accordance with the Framework. It would therefore appear to be the responsibility of FRAs to comply with the Framework unless they have a compelling reason not to do so.
15. Whilst the introductory letter sought to reset the relationship between the centre and local FRAs the dominance of "must" do directives detracts from this early and worthy intention.
16. Finally, the ambition and requirements within the Framework are currently not grounded to their actual costs and therefore cognisance of the current FRA fiscal climate is required considering that there will be more limited functions and capacity in the future.

Financial Considerations

Consideration	Yes/No	Reference in Report i.e. paragraph no.
There are financial issues that require consideration	Y	

Legal Considerations

Consideration	Yes/No	Reference in Report i.e. paragraph no.
There are legal issues e.g. contractual and procurement, reputational issues that require consideration	N	

Additional Considerations

17. The table below sets out any additional issues arising from the proposals contained in this report and identifies the relevant paragraphs in the report where such issues are addressed.

Consideration	Yes/No	Reference in Report i.e. paragraph no.
Resources (e.g. Assets, ICT, Human Resources, Training & Development, Sustainability).	N	
Strategic Policy Links (e.g. IRMP, Authority Plan, Equality & Diversity, Partnerships, Environmental Impact).	Y	
Risk Management / Health & Safety (e.g. risk management and control measures, risk register score).	N	
Consultation with Representative Bodies	Y	

Supporting Information

Appendix 1 –Detailed Draft Consultation Response to National Framework

Appendix 2 – Overview of Draft National Framework (Readers guide)

Background papers : Draft National Framework

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Draft National Framework 2012

Hereford and Worcester Fire and Rescue Service Consultation Responses

Key areas of Concern

- a) The draft framework is overly prescriptive with too many absolute duties. There is a lack of balance between localism and centralism in this document and it would be expected that the term “where reasonably practicable” would be more prevalent. With the change of central government and the focus on localism it is disappointing that an opportunity has not been taken to allow local FRAs to deliver services through locally determined and locally assessed processes.
- b) Following the belief that the coalition government wanted more local determination, it is surprising that there is an absolute requirement for an IRMP. It would be more apt for central government to state the desired outcomes in terms of a joined up approach to reducing prevalent community risk through prevention, protection and response, but not to designate the method for achieving this, i.e. an IRMP.
- c) There is little recognition of resource limitations, which is a significant factor in determining responses and controls to the risks that FRAs are being asked to identify and document. The term “cost effective” is only mentioned once.
- d) Many of the mandated requirements may easily become overly detailed, onerous, time consuming and bureaucratic. There appear to be few strategic boundaries and a vision for the future is not entirely clear.
- e) Ownership of certain areas appears unclear especially surrounding the national resilience “gap” analysis, as well as the audit, accountability and assurance measures.

Supplementary points:

- Engagement with CFOA and other recognised organisations is welcomed to develop this framework. We are not convinced that this engagement has been early enough in the process to inform the frameworks authors views.
- There is a strong possibility, based upon this draft framework, that the IRMP will be easily drawn into areas of unnecessary detail and fail to remain a strategic framework which fire and related risks within an area are to be addressed. There is considerable potential for interpretation, or misinterpretation, in many areas and this could lead to the reintroduction of significant (mainly administrative) burdens. This will divert resources from the front line and reintroduce bureaucracy associated with previous regimes. Clarity and guidance will be required to alleviate these concerns.

- There are a few areas where fundamental issues arise, such as a partnership between organisations cannot be mandated.
- The provision of comparable data and accountability for key areas, has the potential to create a significant administrative burden if it to be governed by, or aligned to national requirements.

Consolidated staff commentary.

The following constitutes a more detailed perspective of the wider consultation views of our staff in relation to the draft National Framework:

Priorities for FRAs	Comments
1 identify and assess the full range of fire and rescue related risks their areas face, make provision for prevention and protection activities and respond to incidents appropriately;	There is the potential that this requirement becomes too detailed. Clarity is required to define and ensure it is a strategic level assessment against local and national risk registers, alongside existing assessments such as Generic Risk Assessments. “Fire and Rescue related risks” should be defined as fire and road related rescues, as currently the FRA has no statutory duty to deal with rescues outside of those from fire and road traffic collisions. The framework should also state “all reasonable risks” rather than attempt to be too definitive.
2 work in partnership with their communities and a wide range of partners locally and nationally to deliver their service; and	Whilst this concept is accepted, it is not reasonable to mandate FRAs with the term “must”. A partnership cannot be voluntary on one side and mandated on another.
3 be accountable to communities for the service they provide.	This is accepted and many of the existing arrangements provide for this already.

Safer communities

Expectation	Comments
<p>1.3 Each fire and rescue authority must produce an integrated risk management plan that identifies and assesses all fire and rescue related risks that could affect their communities, including those of a cross-border, multi-authority and/or national nature. The Plan must have regard to the Community Risk Registers produced by Local Resilience Forums and any other local risk analyses as appropriate.</p>	<p>Emphasis on national and local risks as well as the LRF, provides the basis for a strategic assessment to be undertaken. There is a danger the term “must produce....all fire and rescue related risk”, could lead to an overly detailed, tactical level assessment that becomes a bureaucratic burden.</p>
<p>1.6 Fire and rescue authorities must work with communities to identify and protect them from risk and to prevent incidents from occurring.</p>	<p>Working with communities is accepted in this manner, although the dwindling resources in the public sector will affect this aspect of the draft framework. An understanding of the reduced resources must be considered when mandating this approach. The term “where reasonably practicable” should be used in relation to this matter.</p>
<p>1.7 Fire and rescue authorities’ integrated risk management plan must:</p> <ul style="list-style-type: none">▪ demonstrate how prevention, protection and response activities will best be used to mitigate the impact of risk on communities, through authorities working either individually or collectively, in a cost effective way; and▪ set out their management strategy and risk based programme for enforcing the provisions of the Regulatory Reform (Fire Safety) Order 2005 in accordance with the current Statutory Code of Compliance for Regulators and Enforcement Concordat.	<p>The Service feels that current arrangements align with this mandate. Note is made again of the implied “must” within this section.</p>

1.8	Fire and rescue authorities must make provision to respond to incidents such as fires, road traffic accidents and emergencies within their area and in other areas in line with their mutual aid agreements and reflect this in their integrated risk management plans.	In place.
1.11	Fire and rescue authorities must have effective business continuity arrangements in place to meet the full range of service delivery risks.	Acknowledgement of the limited available resources and the reality of certain circumstances which may prevent “business as usual”, such as severe weather and industrial action is required. Contingency levels of Service Delivery are usually reduced with diminished availability of resources.
1.12	Fire and rescue authorities must collaborate with other fire and rescue authorities to deliver interoperability.	Define interoperability? To what level and why? This should be reworded to reflect “should where it is possible, mutually beneficial and effective”, not “must”
1.14	Fire and rescue authorities must collaborate with other fire and rescue authorities, other emergency services, wider Category 1 and 2 responders and Local Resilience Forums to ensure interoperability.	As above, this is “should” and not “must”. However this is already covered in the Civil Contingencies Act?
1.18	Fire and rescue authorities need to have the necessary capability in place to manage the majority of risks that may face their area, either individually or collectively through collaborative arrangements with other fire and rescue authorities and responders	This is accepted, subject to available resources in the host and neighbouring FRAs.
1.22	Fire and rescue authorities must engage with agreed strategic governance arrangements in order to support discussions and decision making in relation to national	Does this relate to existing arrangements or to any that are yet to be formulated?

resilience.	
1.24 Fire and rescue authorities' risk assessments must include an analysis of any gaps between their existing capability and that needed to ensure national resilience (as defined above).	This appears sensible, but more detail on the process and mechanisms is required.
1.26 As part of their analysis, fire and rescue authorities must highlight to the Department for Communities and Local Government, through agreed strategic governance arrangements, any capability gaps that they believe cannot be met even when taking into account mutual aid arrangements, pooling and reconfiguration of resources and collective action.	Whilst FRAs are well placed to support the gap analysis, it appears overly burdensome to mandate FRAs with this responsibility. This could be defined by the strategic governance arrangements?
1.28 Fire and rescue authorities must work collectively, through agreed strategic governance arrangements, with the Department for Communities and Local Government to agree whether and/or how to address any capability gap, identified through the gap analysis.	
1.32 In order to meet the requirements of this Framework, fire and rescue authorities must work in partnership with their communities and a wide range of partners locally and nationally.	A partnership is a two way process that needs to be mutually viable and beneficial. One side of a partnership cannot be mandated. It can be agreed that FRAs should endeavour to work with a wide range of local partners and communities when appropriate, but this should not be mandated for FRAs whilst it is not mandated for the potential partners.

Accountable to communities

Expectation	Comments
<p>2.3 Fire and rescue authorities' integrated risk management plans must:</p> <ul style="list-style-type: none"> ▪ be easily accessible and publicly available ▪ reflect effective consultation throughout its development and at all review stages with the community, its workforce and representative bodies, and partners ▪ cover at least a three-year timespan and be reviewed and revised as often as it is necessary to ensure that fire and rescue authorities are able to deliver the requirements set out in this Framework; and ▪ reflect up to date risk analyses and the evaluation of service delivery outcomes. 	<p>There is a concern over current levels of engagement back from communities and partners who are sometimes overly "consulted" upon, leading to varying levels of apathy. This should not be seen as a barrier, but certainly acknowledged as a potentially limiting factor.</p> <p>A three year time span is accepted, with regular reviews. No further requirements should be included.</p>
<p>2.4 The fire and rescue authority must hold their Chief Fire Officer/Chief Executive to account for the delivery of the fire and rescue service.</p>	<p>We find this a bizarre and overly aggressive statement to put in the national framework as FRAs are well used to working in collaboration with the CFO to deliver the functions of the fire and rescue service.</p>
<p>2.5 Fire and rescue authorities must have arrangements in place to ensure that their decisions are open to scrutiny.</p>	<p>Accountability to our communities and transparency are reasonable and fair. The performance of an FRA should be open to scrutiny and easily accessible, however previous burdens of performance management must be avoided.</p>
<p>2.8 Fire and rescue authorities must make their communities aware of how they can access comparable data and information on their performance.</p>	<p>How does this align with the current localism agenda and de-centralisation of performance measurements by DCLG?</p> <p>Publishing meaningful data to our communities is already in place through existing mechanisms (Such as Freedom of Information Act - publications scheme requirements in accordance with the ICO), however FRAs should be permitted to publish their own data and not compelled to meet any national models etc. Trying to measure and publish data against national targets and mechanisms does not work and is often unfair and misleading</p>

	and the collection of data and subsequent analysis os prone to wide variations.
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Assurance

Expectation	Comments
<p>3.2 Fire and rescue authorities must provide assurance on financial, governance and operational matters and show how they have had due regard to the expectations set out in their integrated risk management plan and the requirements included in this Framework. To provide assurance, fire and rescue authorities must publish an annual statement of assurance.</p>	<p>What does this actually mean and what will it involve? This appears to be an additional burden on an Authority without a stated purpose or specified outcome.</p>
<p>3.4 In addition to the assurance arrangements detailed above, fire and rescue authorities must work collectively to provide assurance to government, through agreed strategic governance arrangements, that:</p> <ul style="list-style-type: none">▪ risks are assessed, plans are in place and any gaps between existing capability and that needed to ensure national resilience are identified▪ existing specialist national resilience capabilities are fit-for-purpose and resilient; and▪ any new capabilities that fire and rescue authorities are commissioned to deliver by government are procured, maintained and managed in the most cost-effective manner that delivers value for money whilst ensuring capabilities are fit-for-purpose and resilient.	<p>How will this be resourced and coordinated?</p> <p>The gap analysis process for NR assets needs clear guidance to quantify of level of risk presented.</p> <p>This whole section appears to be a requirement for an inspection regime that has previously been the responsibility of the HMI or the Audit Commission and is therefore a new burden. Will funding be available?</p>

Consultation questions

Question	Comments
1 Is the content of each chapter clear, specific and proportionate?	<p>The document refers throughout to giving FRS's freedoms to plan their own activities and priorities and not be told by central government what to do, yet there are repeated statements throughout stating that we must. This is inconsistent with current governmental messages?</p> <p>There is considerable potential for interpretation or, misinterpretation in many areas and could lead to the reintroduction of significant (mainly administrative) burdens. This will divert resources from the front line. Clarity and guidance will be required to alleviate these concerns.</p>
2 Does the draft National Framework set clear and appropriate expectations of fire and rescue authorities? If not, how could it be improved?	<p>The expectations appear clear; however they are in many cases not appropriate and are disproportionate. This could be improved by greater acknowledgement of limited resources and a clear direction on ensuring this process does not become overly burdensome and bureaucratic. A shift in accountability cannot be disguised as localism.</p>
3 Are the respective roles of fire and rescue authorities and the Government set out clearly? If not, how could they be improved or made clearer?	<p>Roles appear to be clear, however some areas seem to place responsibilities on FRAs when CLG must at least be jointly accountable.</p>
4 Do the requirements for fire and rescue authorities on scrutiny, access to comparable performance data and assurance go too far or not far enough?	<p>These requirements do not need to go any further. The requirements are broadly accepted; however the provision of meaningful data that can allow for comparison is appropriate and very different to "comparable data". The term comparable data suggests all FRAs would produce the same, this is not viable, reasonable or realistic.</p>

Draft Fire and Rescue National Framework – Summary of Content

Chapter 1 – Safer Communities

1. This chapter outlines a requirement for each Fire and Rescue Authority (FRA) to produce an Integrated Risk Management Plan (IRMP) that assesses all fire and rescue related risks that could affect the communities, including those of a cross-border, multi-authority and/or national nature. This extended definition of the IRMP outlines a common thread for local and national resilience that runs through the Framework.
2. Chapter 1 outlines the process of identifying and assessing risk, and thereafter how the FRA should plan to prevent risk and protect communities, and to respond to incidents. Whilst these are somewhat expected, what is noticeable by its absence is any mention or indeed vision of the future possibilities for fire and rescue services in respect of the Big Society, Localism, engagement with the voluntary sector and other policy strands being supported by the Government.
3. In terms of response, considerable emphasis is placed on the requirement for interoperability with other Category 1 and Category 2 responders of Local Resilience Forums. There is however no explanation as to whether similar requirements of interoperability have been issued to those responder by their “parent” Ministerial department and what the overarching arrangements/relationships are in relation to the on-going National interoperability work.
4. This first chapter is the most substantive and outlines the process of a national risk assessment, gap analysis and the need to ensure that FRAs have the necessary and resilient capability in place.
5. The chapter also outlines FRAs engaging in agreed strategic governance arrangements in respect of national resilience. On 15 December 2011, details of these arrangements were circulated, together with a number of consultation questions..
6. Chapter 1 also requires FRAs to ensure that their risk assessments include an analysis of any gaps between existing capability and that needed to ensure national resilience. Thereafter, any gaps must be highlighted to DCLG through the agreed strategic governance arrangements.
7. There are subsequent requirements for FRAs to thereafter agree how any capability gap can be addressed with final decisions on whether a new capability is required to be for Ministers to decide. This will obviously be an issue for concern, as the Governments ambition (indeed requirement) for fire and rescue services to have more responsibility for national resilience comes during a period when many are in fact downsizing, limiting and/or reprioritising their capacity to address key and core statutory functions.

Chapter 2 - Accountable to Communities

8. This chapter places significant emphasis on the integrated risk management planning process and states that FRAs IRMPs must:
 - a) be easily accessible and publicly available;
 - b) reflect effective consultation throughout its development and at all review stages with the community, its workforce and representative bodies and partners;

- c) cover at least a three-year timespan and be reviewed and revised as often as it is necessary to ensure that fire and rescue authorities are able to deliver the requirements set out in this Framework; and
 - d) reflect up to date risk analysis and the evaluation of service delivery outcomes.
- 9. This chapter also outlines the requirement to hold the Chief Fire Officer to account and to ensure that FRAs have arrangements in place to ensure their decisions are open to scrutiny.
 - 10. There is a brief comment in respect of inviting members of upper tier authorities to form part of a scrutiny panel.
 - 11. This chapter also progresses the Government's priority of transparency and provides a requirement on FRAs to make their communities aware of how they can access comparable data and information on their performance.

Chapter 3 - Assurance

- 12. This chapter introduces future work that the Government will be undertaking with FRAs in respect of FRAs publishing an Annual Statement of Assurance. Whilst it states that the contents of the Assurance Statement should already exist, it does make mention of the need for FRAs to ensure an element of independent scrutiny of the statement.
- 13. Chapter 3 also reinforces previous requirements in respect of providing assurance to Government through agreed strategic governance arrangements in respect of resilience. These proposed arrangements were developed further in a joint DCLG/CFOA Discussion Paper, which also invited comments on a number of consultation questions. A summary of the Discussion Paper follows at paragraph 17 onwards, below.

Chapter 4 – Legislative Context, Timescale, Scope

- 14. This chapter reminds the reader of the statutory basis for the National Framework and also the expectations of Government that FRAs and the political and professional leadership will put in place processes to ensure accordance with the Framework.
- 15. This chapter also outlines the intervention powers of Government which will only be used as a last resort.
- 16. Finally, the chapter outlines other appropriate statutory requirements, including the Civil Contingencies Act 2004.

Strategic Governance Arrangements for Fire and Rescue National Resilience

- 17. On 15 December 2011, the Department for Communities and Local Government (DCLG), together with the Chief Fire Officers' Association (CFOA), circulated a discussion paper together with five consultation questions on proposals for the strategic governance arrangements for fire and rescue national resilience. The proposals compliment commitments within the draft Fire and Rescue National Framework and outline proposed governance arrangements that enable the Government and fire and rescue authorities to work together to address national resilience risks.
- 18. The draft Framework states that, occasionally, fire and rescue authorities will be required to respond to incidents of such scale and/or complexity that local resources may be insufficient, even when taking into account mutual aid agreements, pooling and reconfiguration of resources and collective action. These risks need to be planned for on a strategic, national basis and are termed national resilience risks.

19. The proposed strategic governance arrangements will provide a forum for fire and rescue authorities and fire professionals to engage with central Government to:
- a) reach a joint understanding of national resilience risks and priorities, and current fire and rescue capability in relation to those risks, based on fire and rescue authorities' risk assessments, gap analyses and other relevant processes;
 - b) agree whether any new and/or emerging national resilience risks identified by central Government have a fire and rescue role; identify any capability gaps and/or any redundant capability;
 - c) agree whether any capability gaps can be filled through reconfiguration of existing capability or innovative solutions;
 - d) if not, determine whether and/or how to fill any capability gaps;
 - e) provide advice to Ministers on fire and rescue national resilience capability and, where necessary, produce costed options for how new capability can be built, taking into consideration the likelihood/impact of the risk and funding pressures;
 - f) provide a route for Government to commission and fund new capability from fire and rescue authorities, if required and where agreed by Ministers;
 - g) provide a mechanism through which fire and rescue authorities provide assurance to Government that agreed capabilities are in place and fit-for-purpose; and
 - h) consider strategic interoperability and interoperability issues, including issues identified through cross-Government work.
20. The full report builds on the above and outlines the structure of the new arrangements, together with the route for identifying, assessing and planning for national resilience risks. Key to these arrangements is the proposal to establish a Strategic Resilience Board to form the focal point between Government and stakeholders. The current National Resilience Board would thereafter become the delivery arm of the Strategic Resilience Board.