

# Hampshire Fire and Rescue Authority

## Finance and General Purposes Committee

Item 9

23 October 2012

### Department for Communities and Local Government consultation on assurance statements and intervention protocol

#### Report by the Chief Officer

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## 1 Summary

- 1.1 The Department of Communities and Local Government (DCLG) has published two consultation documents:
  - Guidance on Statements of Assurance; and
  - Protocol on government intervention.
- 1.2 The consultation period ends on 15 November 2012. This report provides Members of the Hampshire Fire and Rescue Authority (HFRA) the opportunity to comment on the consultation documents.

## 2 Recommendation

The Committee is recommended to:

- 2.1 Note and comment on the proposed Guidance on Statements of Assurance; and
- 2.2 Note and comment on the proposed Protocol on government intervention.

## 3 Introduction and background

- 3.1 The Fire and Rescue National Framework for England ('the Framework') was published on 11 July 2012. The implications of this new framework were reported to the HFRA on 19 September 2012.
- 3.2 The Framework set out the requirement that:

*"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."*
- 3.3 In addition, Section 23 of the *Fire and Rescue Services Act 2004* requires an Intervention Protocol to be prepared. This will determine how the Secretary of State may exercise his powers to intervene in the activities of a fire and rescue authority.

## **4 Consultation documents**

- 4.1 On 20 September Minister for Fire and Rescue, Brandon Lewis MP, published consultations on draft guidance on the Statements of Assurance and the Intervention Protocol revision. The Minister wrote to all Chairs of Fire and Rescue Authorities and Chief Fire Officers to highlight publication of the consultations.
- 4.2 The deadline for responses to the consultation is 15 November 2012. This meeting of the Finance and General Purposes Committee is the only meeting of the Authority and its committees within that consultation period and so the report is presented here. However, copies of the report have been sent to the members of the Standards and Governance Committee so that its members also have a chance to give their comments.

## **5 Consultation – Guidance on statements of assurance.**

- 5.1 An extract of the proposed guidance is set out in Appendix A together with the consultation questions.
- 5.2 The proposed statement of assurance is intended to provide appropriate assurance to communities and Government on a range of matters – financial, governance, operational. There is an indication of what should be in the statements but fire and rescue authorities retain the flexibility over the format and presentation. The first statements need to be published in 2013 (within three months of the statement of accounts). The statement needs to be signed off by an elected Member.
- 5.3 The aspects of the assurance statement relating to ‘Financial’ (paragraphs 11 to 15) and ‘Governance’ (paragraphs 16 to 21) covers matters which are already published in the Authority’s annual governance statement. These are not new.
- 5.4 Paragraphs 22 to 24 highlight the requirements of the Code of Recommended Practice for Local Authorities on Data Transparency. In essence this relates to being open in the publication of information in a timely way. So, for example, this covers information such as the Authority’s pay policy and payments in excess of £250. The Service is already committed to openness and transparency and is currently working to ensure all of the requirements are met.
- 5.5 New requirements are set out in respect of ‘Operational’ assurance (paragraphs 26 to 31). Matters covered include information about operational procedures and response to incidents including matters relating to national resilience. The importance of the integrated risk management plan is stressed, as are business continuity plans and information about peer reviews, operational assessments and action plans arising from specific incidents.
- 5.6 The Service is intending to prepare its first operational assurance statement for 2012-13. One option will be to incorporate it into the Authority’s annual report alongside the information about performance and summary financial information. The other requirements will continue to be met in the annual governance statement accompanying the statement of accounts.

- 5.7 The consultation document assumes that the community or government will benefit from the statement of assurance. However previous experience of publishing the annual governance statement and statement of accounts would suggest that there will be little or no interest in these statement. However the Service is committed to engaging with the community it serves and will seek ways to make this information interesting and accessible.
- 5.8 There are no specific comments in respect of the questions raised by the proposal but Members' views are invited.

## **6 Consultation – intervention protocol**

- 6.1 An extract of the proposed protocol on government intervention is set out in Appendix B together with the consultation questions.
- 6.2 The intervention protocol sets out the arrangements between the Secretary of State, the Local Government Association and the fire and rescue authorities should formal intervention be considered necessary. The declared aim of intervention is the swift and satisfactory resumption of normal service. Paragraph 3 points out that there have never been any formal interventions under the Fire and Rescue Services Act 2004.
- 6.3 Paragraphs 8 to 11 cover the role of the LGA in working with fire and rescue authorities with a view to avoiding the need for intervention.
- 6.4 Paragraphs 12 to 15 describe the circumstances which lead to intervention and possible investigations that may be initiated. The precise form of intervention depends on the circumstances but it likely to involve the preparation of some form of recovery plan.
- 6.5 In some circumstances – e.g. persistent failure or urgency – the Secretary of State may shorten the processes outlined and intervene more quickly.
- 6.6 Finally the protocol deals with the approach to communications in the event of intervention powers being exercised.
- 6.7 The LGA has undertaken an initial evaluation of the intervention protocol and has identified that in putting forward this protocol the DCLG is treating fire and rescue authorities differently from all other local authorities. The LGA considers that an approach based on the Local Government Accountability System Statement, which already covers fire and rescue authorities, would have sufficed.
- 6.8 There are no specific points identified which need to be incorporated in a response to the consultation but Members' views are invited.

## **7 Supporting our corporate aims and objectives**

- 7.1 The Authority is committed to openness and transparency, and seeks to meet best practice requirements in publishing information and responding promptly to requests for information.

## **8 Risk analysis**

- 8.1 There are no particular risks identified arising from either consultation document.

## **9 People Impact Assessment**

- 9.1 The proposals in this report are considered compatible with the provisions of the equality and human rights legislation.

## **10 Environmental and Sustainability impact assessment**

- 10.1 None

## **11 Resource implications**

Financial Implications

- 11.1 There will be additional staff time to produce the extended assurance statement but it is envisaged that this will be absorbed by existing staffing. Similarly expectations about increased engagement and consultation with communities will be covered from existing resources. There will be no other costs.

## **12 Consultation**

- 12.1 There has not been an opportunity to present these papers to the Standards and Governance Committee. However its members have been given copies of this report with the opportunity to comment. Any comments will be reported orally to the meeting
- 12.2 The statement of assurance includes assumptions about communicating with communities in the preparation of plans and this is something that HFRS is actively doing to ensure that communities' views do inform the Service's plans including the integrated risk management plan.

## **13 Background papers**

- 13.1 The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report:

The consultation documents are available at:

<http://www.communities.gov.uk/publications/fire/guidanceonstatementsofassurance>  
and <http://www.communities.gov.uk/publications/fire/governmentprotocol>.

Note: The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.

## DCLG Statements of Assurance

### Introduction

1. The Fire and Rescue National Framework for England (the Framework) sets out the requirement for all fire and rescue authorities to provide annual assurance on financial, governance and operational matters and to show how they have due regard to the requirements included in the Framework and the expectations set out in authorities' own integrated risk management plans. To demonstrate this, the Framework requires that each authority must publish an annual statement of assurance.
2. This document provides guidance on the content of these annual statements of assurance, and indicates how fire and rescue authorities' existing assessment processes might feed into the statements. This guidance sets out the requirements for the contents of statements of assurance; fire and rescue authorities will be responsible for determining the format of their statements.
3. 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." However, the Minister is clear that these statements should not duplicate existing arrangements. Therefore, in producing statements of assurance, authorities 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.

### Context

4. The delivery of public services is a matter of public interest, and how they perform is increasingly the subject of scrutiny. Fire and rescue authorities should be accountable for their performance to, and therefore open to evaluation by, the communities they serve. To enable this they should provide information on their performance that is accessible, robust, and fit-for-purpose; and that accurately reports on effectiveness and value for money.
5. There is already a range of matters on which fire and rescue authorities must report, for example their statement of accounts. The statement of assurance sits alongside these requirements and is intended to be an easy-to-access document. Existing documents such as the statement of accounts, the governance statements, or the integrated risk management plan, are comprehensive and specialised documents which may not be easy to read, or simple to navigate, to those unfamiliar with them. One of the principal aims of the statement of assurance is that it should be an accessible document which enables individuals, communities, and partners to make a valid assessment of their local fire and rescue authority's performance.
6. The statement of assurance can also be a mechanism for fire and rescue authorities to provide information to Government on specific areas of performance, as may occasionally be required under section 26 of the Fire and Rescue Services Act 2004. Where such information is to be required, fire and rescue authorities will be informed at the earliest opportunity.

7. This guidance does not set out a suggested template for the statement of assurance. It is for authorities to decide how they wish to present the information to Government, and their communities.
8. For clarity and consistency, fire and rescue authorities should aim to publish their statements of assurance annually to coincide with their other statutory and reporting requirements. Authorities should aim to publish their annual statements of assurance within three months of the publication of their statement of accounts. The first statements of assurance are due to be published in 2013, and annually thereafter.

### **Assessment and ownership**

9. In order to develop an evidence-base to inform and underpin the statements of assurance, authorities should assess their performance in the following key areas. Whilst the methodology used to undertake these assessments is a matter for the fire and rescue authority to determine, it will need to satisfy itself that the method taken is appropriate and fit-for-purpose.
10. The statement of assurance should be signed-off, in the usual way, by an elected member who can approve it on behalf of the authority.

### **Content of the annual statement of assurance**

#### Financial

11. Fire and rescue authorities are responsible for ensuring that their business is conducted in accordance with the law and proper standards; and that public money is properly accounted for, and used economically, efficiently and effectively.
12. It is a statutory requirement, under the Accounts and Audit (England) Regulations 2011 for authorities to publish the financial results of their activities for the year. This document (called the statement of accounts) shows the annual cost of providing the fire and rescue service.
13. The production and presentation of fire and rescue authority accounts is determined by the Code of Practice on Local Authority Accounting in the United Kingdom. This specifies the principles and practices of accounting required to give a “true and fair” view of the financial position and transactions of the authority.
14. Since an authority’s financial statement is the principal means by which an authority accounts for the stewardship of public funds, this statement should be subject to a robust assessment as a means of quality assurance. Accordingly, the accounts must be certified by the authority’s chief financial officer (who must be a qualified accountant) and audited by an independent auditor. The authority has responsibility for the approval of the statement of accounts prior to publication.

15. The statement of assurance should briefly set out whatever assessment procedures are in place with regard to fire and rescue authorities' statements of account. For example, some authorities may have in place internal control mechanisms which ensure efficient and effective management of accounts. Other authorities may have specific audit arrangements, either internally or under agreement with other authorities. Therefore, for the statements of assurance, authorities should set out what arrangements they have put in place, indicating their level of satisfaction with them and any proposals for improvements. Consideration should be given to referencing savings targets, budget planning, and value-for-money on spending.

## Governance

16. Good governance structures enable an authority to demonstrate that, amongst other things, it has appropriate mechanisms for the control and management of risk. The Accounts and Audit (England) Regulations 2011 require local authorities, including fire and rescue authorities, to prepare an annual governance statement in support of the annual statement of accounts.
17. The purpose of the governance statement is to provide public assurance that authorities have a sound system of internal control, that they can demonstrate that the system is subject to a periodic review of its effectiveness and that appropriately robust corporate governance arrangements are in place which are designed to help manage and control their risks. The governance statement is an expression of what the authority has done to put in place appropriate business practice, setting high standards of conduct and sound governance.
18. The Delivering Good Governance in Local Government: Framework states that the process for compiling the annual governance statement should be clearly set out and provided as part of supporting evidence. It sets out six key principles of good corporate governance. These are:
  - (i) Focusing on the purpose of the authority and on outcomes for the community, and creating and implementing a vision for the local area
  - (ii) Members and officers working together to achieve a common purpose with clearly defined functions and roles
  - (iii) Promoting the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
  - (iv) Taking informed and transparent decisions which are subject to effective scrutiny and management of risk
  - (v) Developing the capacity and capability of members and officers to be effective
  - (vi) Engaging with local people and other business partners to ensure robust public accountability
19. Some of these principles are reflected in the Framework requirements.
20. Fire and rescue authorities should keep under review the effectiveness of their governance arrangements. The statement of assurance should set out what work they have undertaken in conducting a review of the effectiveness of their governance framework, including the system of internal control.

21. Any such review should, for example, consider – but is not necessarily limited to – the following:
- the adequacy and effectiveness of any review processes put in place by the authority management
  - any outcomes from a formal risk assessment and evaluation e.g. a risk register
  - any self-assessments of specific service areas
  - any other relevant internal audit reports
  - any outcomes from reviews by other bodies including external auditors
  - how the implementation of any recommendations made by such bodies are being taking forward
  - the performance of any service that has been contracted out; including any areas where performance has fallen below a satisfactory standard, and any actions taken by the fire and rescue authority to rectify this
22. In drafting the statement of assurance, fire and rescue authorities should consider the principals of transparency set out in the Code of Recommended Practice for Local Authorities on Data Transparency. The Code, which will be updated shortly, recommends that authorities adopt the following three key principles of transparency when publishing data:
- responding to public demand
  - releasing data in open formats available for re-use
  - releasing data in a timely way
23. Greater transparency is a key element of the Framework and is at the heart of the Government’s commitment to enabling the public to hold their authorities to account for the way they spend public money.
24. This principle is embodied in the requirement in section 38 of the Localism Act 2011 for all relevant authorities (including fire and rescue authorities) to prepare annual pay policy statements from the financial year 2012-13.
25. Fire and rescue authorities may wish to consider including a section within the statement of assurance on any areas where they have identified that improvements may be made, particularly where there are plans being implemented to that end. This would demonstrate that the authority is committed not only to properly managing its affairs but to striving to improve on its assurance arrangements.

## Operational

26. Fire and rescue authorities function within a clearly defined statutory and policy framework. The key documents setting this out are:
- the Fire and Rescue Services Act 2004
  - the Civil Contingencies Act 2004
  - the Regulatory Reform (Fire Safety) Order 2005
  - the Fire and Rescue Services (Emergencies) (England) Order 2007
  - the Fire and Rescue National Framework for England

27. Fire and rescue authorities already consult on, and publish, their integrated risk management plans which set out local strategies including (where appropriate) cross-border, multi-authority and national arrangements. The contents of their integrated risk management plan are a matter for each fire and rescue authority. The statement of assurance should include details of the extent of the consultation exercise undertaken, and confirmation that communities were provided with relevant and appropriate information to enable active and informed participation in the decision making process.
28. The statement of assurance should also indicate where fire and rescue authorities have entered into agreements and/or mutual aid arrangements with other relevant bodies. Where appropriate, it should include an acknowledgement that fire and rescue authorities have business continuity plans in place which are reviewed at set periods. The level of detail included will be a matter for each individual fire and rescue authority and may be linked to their integrated risk management plan.
29. Though not a specific requirement, it may be of interest to communities, and would help encourage best practice, for fire and rescue authorities to include relevant summaries/information on:
- lessons learnt
  - training and development
  - any action plans arising from self assessments/ peer reviews
  - operational assessments
30. It is not the aim of the statement of assurance to set out the operational procedures for fire and rescue authorities with regard to the response to fires, road/traffic accidents and other emergencies, or the duties required of authorities involved in wider national resilience.
31. However, the statement of assurance is the appropriate information point for communities and Government with regard to some considerations which have a bearing on operational competence/delivery. These include:
- (i) Statutory advice received under health and safety or other legislation.
- Following an incident or activity where advice (e.g. a Coroner's rule 43 letter, or Health and Safety Executive improvement measure) has been issued to the authority, it is appropriate for the fire and rescue authority to use the statement of assurance as a means to inform their communities how they are taking forward that advice.
- (ii) Single-issue or thematic areas of interest.
- Some communities may have an interest in how their fire and rescue authority would respond to single issue events, such as outbreaks of civil disturbance, or a chemical leakage. Where this is the case, the authority should consider using the statement of assurance to make clear to their community that operational procedures are in place to deal with such incidents, backed up by appropriate resources; and how any potential issues of concern are actively being addressed.

(iii) Assurance and access to data and information.

Fire and rescue authorities' integrated risk management plans may include defined local standards for the delivery of certain functions such as call-handling, operational response times, or levels of fire safety activity. Fire and rescue authorities may wish to utilise the statement of assurance to provide high level assurance of their performance in these areas, including any commentary on actions to improve performance.

#### Framework requirements

32. Where fire and rescue authorities are satisfied that the systems they have in place, and any specific measures they have undertaken, fulfil their Framework requirements, this should be clearly stated in the statement of assurance. Since many of the Framework requirements are linked to and overlaid with governance and operational procedures, as already set out in this guidance, authorities may prefer to make a simple declaration that the Framework requirements have been met.
33. If there are any outstanding issues with regard to fulfilling any of the Framework requirements, fire and rescue authorities should indicate in the statement of assurance the measures that have been taken to address these matters and when they are expected to be resolved.

#### **Consultation Questions**

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

Question 2 – If not how could it be improved?

Question 3 – Specifically, what would you want to change and what would you add?

## DCLG Intervention protocol

### Introduction

1. 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). Intervention is by order, and subject to the negative Parliamentary procedure.
2. 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 fire and rescue authorities have functions.
3. To date there has been no formal intervention into the operations of a fire and rescue authority by the Secretary of State under section 22 of the 2004 Act. Use of this power is seen as a last resort; the expectation is that the political and professional leadership will put in place processes to ensure that sector-led support is provided to any fire and rescue authority that needs it. For example, through peer-led improvement measures.
4. This *intervention protocol* sets out the arrangements between the Secretary of State, the Local Government Association, and fire and rescue authorities should formal intervention be considered necessary – for example, where the Secretary of State considers that a fire and rescue authority 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 fire and rescue authorities in England.
5. This *intervention protocol* recognises the vital role of the Local Government Association in maintaining an overview of performance in the sector so that preventative improvement support can be provided and the need for intervention alleviated. This echoes arrangements in place for the wider local government sector.
6. The principal aim of any intervention action is the swift and satisfactory resumption of normal service. In practice, this means that the fire and rescue is providing services which adequately meet the needs of the community it serves and is acting in accordance with the Framework.

### Terms in use

7. In this protocol the term 'intervention' is used to refer to action by the Secretary of State in exercise of his powers under section 22 of the 2004 Act. Although the Secretary of State also has other powers of intervention (for example, under section 15 of the *Local Government Act 1999*) this intervention protocol does not apply to them

## **Role of Local Government Association in supporting authorities at risk**

8. The Local Government Association will, as part of their challenge and intelligence role, work collaboratively with fire and rescue authorities, other sector-owned bodies, inspection bodies and government departments to identify at an early stage where serious risks to performance are developing and where there is a risk of the authority failing to act in accordance with the Framework. The Local Government Association will work with them to mitigate the escalation of those risks which could have a negative impact on the reputation of the sector, or could lead to serious service failure.
9. Information sharing arrangements are in place between the Local Government Association, government departments, and any other bodies to ensure that the Local Government Association has the best possible intelligence to focus support.
10. If there are specific concerns in respect of a fire and rescue authority's performance or evidence that indicates that a fire and rescue authority is at risk of failing its statutory duty, the Local Government Association will work with the authority to help them address the issues and improve.
11. This systematic approach to identifying authorities that could benefit from preventative support to achieve improvement, based on data and informal conversations with the sector, is set out in *Sector led Improvement in Local Government*, published in June 2012.

## **Circumstances leading to statutory intervention**

12. No intervention would be considered unless there was clear evidence that an authority was failing to act in accordance with the Framework; and that the failure was so serious as to require government intervention. Such evidence may emerge from an audit, or from other reports of financial accounts or performance data, or from Ombudsman or other investigations, or judicial findings.
13. If, following a sustained and determined attempt to resolve problems through sector led improvement, an issue cannot be resolved, or if a fire and rescue authority is unwilling or unable to engage with sector-led improvement measures, the Secretary of State can commission a corporate governance investigation, under section 10 of the *Local Government Act 1999*, to ensure a robust evidence base.
14. If there are concerns regarding operational performance, ministers may ask the Chief Fire and Rescue Adviser, as an appointed Her Majesty's Inspector, to lead an investigation. Ministers may also seek assurance from the Chief Fire and Rescue Adviser (or other advisers) in respect of specific issues that they may identify.
15. The Secretary of State has a wide range of powers with regard to, for example, requesting information regarding a fire and rescue authority's functions; or conferring on a fire and rescue authority functions relating to emergencies.

## **What happens upon statutory intervention?**

16. In the event that statutory intervention is considered necessary, the Secretary of State will consult both the authority concerned and the Local Government Association, and any other body or authority which he considers necessary in the specific circumstances of the case, before exercising his powers of intervention under section 22.

17. In addition, in the event of a statutory intervention, the Secretary of State will formally notify both the authority concerned (and the Local Government Association) of the proposed order and the reasons for it. The relevant fire and rescue authority will be given the opportunity to make representations about the proposed order and to make the necessary improvements.
18. The form or extent of any formal intervention will be a matter for determination on a case by case basis, taking into account the views of the Local Government Association, and the relevant fire and rescue authority, as much will depend on the nature and the seriousness of the failure under consideration.
19. Every effort will be made to reach agreement between the Department, the Local Government Association and the relevant fire and rescue authority as to what action should be taken.
20. Following such deliberations, the Secretary of State may ask the relevant fire and rescue authority to draw up a recovery plan and they may be encouraged to seek help in the development of their plan. The recovery plan will need to consider alternative ways by which services might be improved and delivered.
21. The Secretary of State has wider order-making powers to ensure that fire and rescue authorities act in accordance with the Framework. The Secretary of State will have regard to this protocol, or any agreed memorandum of understanding, in making any such orders. For example, the Secretary of State may require the fire and rescue authority to:
  - prepare or amend a recovery plan
  - ensure that particular functions are carried out to achieve specified objectives or priorities
  - take consultancy advice
  - appoint interim management
  - enforce appropriate levels of delegation
  - secure a function from a specified provider or put the function out to tender
  - appoint a nominee to exercise certain specified functions on behalf of the authority
  - any other action that will secure the necessary improvements
22. The fire and rescue authority will normally be supported to make the necessary improvements itself. However, in exceptional cases of serious corporate or service failure, when there is a serious risk of harm or financial loss, paragraphs 23-24 will apply.

### **Exceptional or urgent cases**

23. In urgent or exceptional cases, where there is a persistence of failure, or where the severity or the risk of harm or financial loss show that urgent action is necessary, and a fire and rescue authority has failed to take adequate action to address it, the Secretary of State retains the discretion to reduce or condense the procedures outlined.
24. When exercising the powers in this way, the Secretary of State will notify the authority and the Local Government Association as soon as practicable of the intervention, the reasons for it, and the reasons for curtailing the procedures.

## **Publicity and media strategy**

25. It will be decided, on a case by case basis, whether a publicity or media strategy is required. If so, it will be shared with the fire and rescue authority concerned and the Local Government Association, as necessary.

## **Consultation Questions**

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?

Question 2 – Is there anything you would change?

Question 3 - Is there anything not included in the protocol that should be added