

Hampshire Fire and Rescue Authority

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New Dimension project

Report of the Clerk and Chief Fire Officer

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1 Summary

- 1.1 This report explains the terms on which CLG propose to transfer the ownership of the New Dimensions assets to the Authority. There are a number of benefits to the Authority in this. Although the assets are primarily for use in connection with national and regional emergencies, they include sophisticated equipment and vehicles that significantly enhance operational responsiveness locally. However, the terms of the proposed transfer do give rise to certain risks. These are considered in the report, with comments as to how they may be managed. The judgment to be made is whether the benefits to the Authority of acquiring the assets outweigh the assessed risks.

2 Recommendation

- 2.1 That the Clerk and Chief Fire Officer be authorised to finalise and complete the transfer of ownership of the New Dimension assets to the Authority.

3 Background

- 3.1 The 'New Dimension' project, under the control of CLG, has, over recent years, resulted in the issue of a range of civil resilience vehicles and equipment to fire and rescue services. The actual scale of issue varies between fire and rescue services and, in the case of Hampshire, we have at least one of every vehicle type and the full range of equipment. This issue of vehicles and equipment is designed to meet the demands that would result from collapse of buildings, contamination of the public following any terrorist attack, flooding, hazardous material identification and command support at large scale incidents.
- 3.2 The CLG have, for some time now, been planning to hand over to fire and rescue services a higher level of responsibility by transferring the assets and full responsibility for their readiness. Servicing and maintenance would remain with a national contractor appointed by CLG (currently VT Group), except where VT have sub contracted work to local fire and rescue services.
- 3.3 Fire and rescue services will be able to continue their use of these assets for local operations and there is no doubt that some of the equipment, particularly that associated with urban search and rescue operations, is an extremely welcome addition to our capability.
- 3.4 A Transfer of Assets Agreement has been produced by CLG and issued for signature. Consideration of this agreement by HFRS, the HFRA Clerk and a meeting of the Fire Lawyers Network has resulted in a number of issues being identified, resulting in us seeking further

clarification from CLG before signing the agreement. Additionally, the Chief Fire Officers Association (“CFOA”) has expressed its concerns to the CLG.

- 3.5 The main concerns related to the level and length of funding and costs that may fall to us resulting from our using the assets for training and for local operational incidents.

4 Contract Summary and Risk Analysis

- 4.1 The transfer would involve the completion of two legal agreements. The first is an agreement between the Authority and the Secretary of State for the transfer of the assets and associated functions (“the Transfer Agreement”). The second is between the Authority, Firebuy Limited (“Firebuy”) and VT Critical Services Limited (“VTCS”) setting out the arrangements for maintenance of the assets (“the Maintenance Agreement”).

- 4.2 Under the Transfer Agreement, ownership of the assets passes to the Authority. Any liabilities incurred in relation to the assets up until the date of transfer continue to be borne by the Secretary of State. Liabilities arising from the date of transfer would be borne by the Authority.

- 4.3 There is no charge to the Authority in acquiring the assets. However, in return for the transfer the Authority takes on certain obligations. These are to maintain the assets in a state where they are fit for purpose for use at any time in connection with regional or national emergencies. That maintenance must be undertaken by VTCS under the Maintenance Agreement, which sets out the level of maintenance services to be provided, and the charges payable by the Authority in return.

- 4.4 There are considered to be benefits to the Authority in acquiring ownership of the New Dimension assets. Although the assets are primarily for use in connection with national and regional emergencies, they include sophisticated equipment and vehicles that significantly enhance operational responsiveness locally. However, the terms of the transfer do give rise to certain risks. The main areas of risk are highlighted below, with comments in each case as to how that risk may be managed. The judgment to be made is whether the benefits to the Authority of acquiring the assets outweigh the assessed risks.

4.5 Dealing with Poor Performance

The Maintenance Agreement states that any issues the Authority may have, as to the level of performance of VTCS in the services provided, must be raised through Firebuy. The Authority has no right to raise such issues directly with VT. It should be noted therefore that, in the event of dissatisfaction with VTCS’s performance, the Authority would be reliant on a third party to take the matter up with the contractor. Further, the Authority is then bound to accept and abide by all decisions and agreements reached by Firebuy and VT over any such issues raised.

- 4.6 Firebuy have the right to suspend maintenance services, but there is no obligation to put in place any substitute maintenance provision during the period of suspension.

- 4.7 It is felt that the way to mitigate these risks is to seek greater clarity with Firebuy as to the level of support the Authority can expect in pursuing such issues. Another option which would offer the Authority greater control is to request that VTCS sub-contract to the Authority the maintenance of our assets. Further, the National Resilience Board, with links to CFOA, provides a powerful lobby to CLG and Firebuy for any authorities who are dissatisfied with the service provided by VTSC. Having regard to these factors, it is felt that the risk is acceptable.

4.8 Liabilities

The Authority is obliged to indemnify Firebuy and VTCS against any losses they may suffer as a result of the Authority's negligence. This liability is not limited to losses reasonably incurred, or to any financial cap. In contrast, VTCS's liability to the Authority is subject to limitations, and is not expressed as a contractual indemnity. To summarise, in the event that the Authority were to suffer loss as a result of negligent servicing by VTCS, these factors (together with the requirement to raise the matter indirectly via Firebuy) may combine to make it more difficult for the Authority to recover a sum in compensation of its losses. It is suggested that the way to manage this risk is by seeking confirmation that the Authority's insurance arrangements would give adequate protection in this eventuality.

4.9 **Costs**

The Authority is committed to paying a monthly fixed charge and a monthly variable charge. The fixed charge covers the costs of routine maintenance and rectification of defects caused by fair wear and tear. The variable charge covers maintenance due to unfair wear and tear, and other items such as the costs of consumables. CLG have indicated that they will reimburse the Authority the fixed charge. It should be noted, however, that as CLG is not a party to the Maintenance Agreement, this is not a contractual obligation that can be enforced against CLG. However, this is ultimately no different from other commitments the Authority enters into on the basis that it will receive central government funds.

4.10 The variable charge is to be met from the Authority's own resources. The issue of what constitutes unfair wear and tear is, therefore, an important one, as the costs of this will fall to the Authority. There is concern that to keep the assets in a state of operational readiness, staff will need to be trained on the equipment. Use of the assets for local response provides a route for familiarity and for training. However the penalties for wear and tear and possible breakage, even though being used for community protection, could leave the Authority open to liability for repair and replacement costs. An example is wear and tear on tyres. If the vehicles are moved for operational purposes they will obviously wear. If they are not used other than for national response, the operators will not be properly trained. Further, the costs associated with the DIM and Enhanced Community Support vehicles are potentially significant. These are complex to use and require the highest level of training to maintain a state of readiness. Loss or damage in the course of training in local settings may lead to significant expense.

4.11 CLG's response is that costs of training and consumables are grant-funded by CLG, and that the costs of unfair wear and tear are manageable - in respect of all the New Dimension assets nationally, the total cost of unfair wear and tear in the first year of the maintenance arrangement was £118k. It may also be considered that the extent of use locally, and risks associated with training, are at least under the Authority's control. On balance it is felt therefore that this risk is capable of being managed.

4.12 It would cost up to £4m to wholly replace all the New Dimensions equipment located in Hampshire. CLG have stated that it is their intention to replace assets as necessary - at their cost - as part of a risk assessed replacement programme. Clearly it would not be feasible for the Authority to take on the burden of replacing this equipment in due course, and thus if CLG do not provide specific replacement funding, that will be taken as indicating that no replacement is considered necessary.

5 **Contribution to Corporate Aims and Objectives**

5.1 It is considered that having the New Dimensions assets permanently secured amongst the Authority's fleet of resources will significantly enhance operational responsiveness and therefore contribute to core aims to keep people safe and protect property.

6 **Human Resources Implications**

6.1 None

7 Physical and ICT Resources Implications

7.1 None.

8 Financial and Resource Implications

8.1 These are considered in the risk analysis in section 4

9 People Impact Assessment

9.1 The proposals are compatible with equalities requirements.

10 Conclusion

10.1 On balance, it is felt that the benefits of permanently acquiring the assets outweigh the assessed risks, for the reasons more particularly described in section 4 of the report

Section 100D – Local Government Act 1972 – background papers

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 this report.

N.B. The list excludes:

Published Works

Documents that disclose exempt or confidential information as defined in the Act.

TITLE	FILE
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None