

PRIMARY AUTHORITY SCHEME AND REGULATORS CODE

SUMMARY

1. Members will be aware that Humberside Fire Authority is the enforcing Authority for the Regulatory Reform (Fire Safety) Order 2005 (RRO) across our Service area. This report updates Members on developments which may affect the way that the Authority will undertake its statutory duties in respect to Primary Authority Schemes and the new Regulators Code.

RECOMMENDATIONS

2. Members take assurance from the steps being taken and receive further reports as required.

REPORT DETAIL

3. Members will be aware that Humberside Fire Authority has a statutory responsibility to carry out regulatory inspection and enforcement activity in respect to the RRO, with that duty being discharged predominantly by HFRS Technical Fire Safety Officers.
4. The Government is committed to reducing regulatory burdens, and supporting business growth, and two recent developments which they help achieve that may have an effect on how HFRS carries out regulatory and enforcement activities in the future. These are the extension of existing Primary Authority Schemes to include the RRO and also the publication of a new Regulator's Code.

PRIMARY AUTHORITY SCHEME

5. Primary Authority Schemes (PAS) were introduced under the Regulatory Enforcement and Sanctions Act 2008 to allow for companies trading across Local Authority boundaries to enter into a partnership with one "Primary" Authority to provide assured advice for them to use anywhere in England that they traded. At that time the RRO was exempted from this scheme. The Better Regulation Delivery Officer (BRDO) oversees the implementation of the Act, on behalf of the Government's Department for Business, Innovation and Skills (BIS).
6. PAS currently cover areas such as environmental health, licensing and trading standards, with the following outcomes:-
 - A partnership can originate from an approach by a business, or by a local authority and a business jointly;
 - The Primary Authority has responsibility to provide assured regulatory advice to the business.

- The Primary Authority may issue advice to other enforcing Authorities and produce an inspection plan which that Authority must have regard to.
 - If an enforcing Authority has concerns about the compliance of a business which has a partnership with a Primary Authority it must discuss those concerns with the Primary Authority at an early stage.
 - The enforcing Authority can take urgent enforcement action, but for any less urgent enforcement there is a statutory duty for the enforcing Authority to notify the Primary Authority of any proposed action.
7. In 2011 a consultation process was carried out with a view to extending the Act to include enforcement of the RRO.
8. The Chief Fire Officers Association (CFOA), on behalf of all Fire and Rescue Services, raised some concerns to that proposal. These included:
- Inconsistency with Integrated Risk Management Planning.
 - Inconsistency with Fire Authorities Risk Based Inspection Programmes.
 - Resource implications, particularly in relation to a growing business whose agreed inspection programme could impact on local FRS resources in the medium to long term.
 - Questions of indemnity and insurance.
9. Following consultation, and a number of pilot schemes being run in other Fire Authority areas, the Fire Minister Brandon Lewis MP and the Minister for Business and Energy, Michael Fallon MP, have stated that the PAS will be extended to the RRO on a statutory basis with a planned implementation date of April 2014, subject to parliamentary process.
10. It is expected that CFOA will have a co-ordination role, although the exact scope of that is yet to be defined.
11. The implications of PAS will be considered in greater depth during Autumn 2013 with HFRS officers attending a number of national seminars and detailed work being carried out by Area Manager Oprey through the Regional Business Safety Group. Implications are likely to include:-
- Businesses will have the opportunity to partner with a FRS to ensure a consistent approach to fire safety requirements and inspection programmes across all of their premises irrespective of where they are in England.
 - There will be the opportunity for the FRS to recover the costs of setting up and running the partnership from the business in question.
 - An agreed inspection programme through a PAS may be different to what would be expected by HFRS Risk Based Inspection Programme.
 - There will need to be a distinction drawn between regulatory inspections under the RRO and visits to premises for operational crews to gather risk information. If risk information gathering visits were limited by a PAS then firefighter safety could be compromised.
 - There could be a question of liability resulting from a fire in a business premise which would normally have been visited under HFRS Risk Based Inspection

Programme but was not visited due to a PAS inspection programme being agreed with another FRS, or vice versa should HFA be the Primary Authority. This is being discussed with HFRS insurers.

- Despite the opportunity to recover costs the resources and skills required to set up a PAS may be significant and be difficult to provide.
- It is also expected that some trade associations may be able to enter into a PAS as the co-ordinator for their members. That may mean that much smaller businesses, such as hotels or public houses, could be covered by a PAS even though they themselves do not operate across different Authority boundaries. The detailed implications of this will be explored in the coming months.

REGULATORS CODE

12. As a Regulator under the RRO the Authority have previously complied with the Regulator's Compliance Code. That Code has been reviewed and a new Regulators Code is expected to become statute in Spring 2014, but was published in July 2013 in order to allow regulators, including Fire Authorities, time to prepare for its introduction. The new Code is shorter and simpler and sets out Government's expectations regarding enforcement and sets the framework for transparent and accountable relationships between businesses, regulators and communities.
13. A full review will be taken when the Code becomes statute, but an initial assessment has been undertaken and the relevant paragraphs, the implications for HFRS and the initial proposed actions are as follows:-
 - *Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.* - This relates specifically to the Authority's regulatory activity and is already well embedded regarding Strategic Planning and Integrated Risk Management; however consultation arrangements will be reviewed with a view to consulting with businesses on Service Policies and Guidance Notes which relate to regulatory activity and arrangements will be put into place so their impact on businesses is considered.
 - *Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.* - HFRS currently use customer satisfaction surveys and that use can be extended to cover the Authority's regulatory activity and be used by those who are regulated.
 - *Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.* - HFRS Risk Based Inspection Programme has been specifically consulted upon as part of the IRMP consultation, it is also part of a regulatory policy and therefore if consultation arrangements are extended as described above then that will take place at the time of the next review and those in the future.
 - *Information published to meet the requirements of this Code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted, and it should be kept up to date.* - This will be developed with a view to placing it on the HFRS website, and may also be included in the Statement of Assurance.

- *Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.* - Most of these areas are already published regularly through Annual or Quarterly Performance Reports, and those can be extended to include the results of any customer satisfaction surveys relating to regulatory activities.

14. It is anticipated that HFRS will be able to comply with the Code prior to introduction in Spring 2014 and that it is not likely to have any significant impact on the delivery of our statutory duties or business safety in general.

STRATEGIC PLAN COMPATIBILITY

15. Both developments are compatible with Strategic Plan which states that one way we deliver Safer Communities and Safer Firefighters is by “Protecting our Communities through advice to businesses and legal enforcement against those who do not comply with fire safety legislation”.

FINANCIAL/RESOURCES/VALUE FOR MONEY IMPLICATIONS

16. Current work can be met within existing budgets, but more detailed analysis is of the implications of PAS may highlight resourcing issues in Technical Fire Safety.

LEGAL IMPLICATIONS

17. Both developments relate to the Authority’s statutory duties as a Regulator and an Enforcing Authority.

EQUALITY IMPACT ASSESSMENT/HR IMPLICATIONS

18. None directly arising.

CORPORATE RISK MANAGEMENT IMPLICATIONS

19. None directly arising.

HEALTH AND SAFETY IMPLICATIONS

20. The implications of PAS inspection plans upon visits by operational crews to gather risk information will be continually monitored.

COMMUNICATION ACTIONS ARISING

21. There will be a need to develop methods of communicating how HFRS will meet the requirements of both developments and methods of engaging upon regulatory policies.

DETAILS OF CONSULTATION

22. The Government have undertaken consultation prior to recommending the introduction of the changes.

BACKGROUND PAPERS AVAILABLE FOR ACCESS

23. Regulatory Reform (Fire Safety) Order 2005
Regulatory Enforcement and Sanctions Act 2008
Regulators Code.

RECOMMENDATIONS RESTATED

24. Members take assurance from the steps being taken and receive further reports as required.

C BLACKSELL

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