

report

Meeting	NOTTINGHAMSHIRE AND CITY OF NOTTINGHAM FIRE AUTHORITY	
Date	22 October 2004	Agenda Item Number

REPORT OF THE CHIEF FIRE OFFICER

BEST VALUE FOR FIRE AND RESCUE AUTHORITIES CONSULTATION AND BEST VALUE PERFORMANCE INDICATORS

1. PURPOSE OF REPORT

The purpose of this report is to update Members on the Office of the Deputy Prime Minister (ODPM) consultation on Best Value for Fire and Rescue Authorities (FRAs) and, Best Value Performance Indicators for FRAs. The proposed responses of Nottinghamshire and City of Nottingham Fire Authority to these consultation exercises are attached (Appendices A and B).

2. BACKGROUND

2.1 The Fire and Rescue Services Act 2004, having received Royal assent on 22nd July 2004, came into force on 1st October 2004. Part 3, Section 21 of the new Act places a requirement on the Secretary of State to prepare and consult on a Fire and Rescue Service National Framework ("the Framework").

2.2 Following consultation, the 2004/05 Framework was published on 16th July 2004 and, under Section 8.18, the ODPM declared its intention to consult FRAs and other stakeholders on :

(i) A Fire and Rescue Service Best Value Circular incorporating proposals on :-

- Improvement planning.
- Freedoms and flexibilities.
- The use of intervention powers.
- Good practice on Best Value reviews, BVPP's and other action plan requirements.

(ii) BVPI proposals for 2005/06.

2.3 The ODPM intends to make the final versions of these measures available and referenced within the 2005/06 Framework.

3. REPORT

3.1 The ODPM published its consultation with regard to Best Value for Fire and Rescue Authorities on 31st August 2004 within Fire and Rescue Service Circular 28-2004. The deadline for responses is 26th October 2004.

- 3.2 The consultation contained a lengthy guidance document on Best Value and Performance Improvement for FRAs in England (previously circulated to all Fire Authority Members) and nine specific questions for which the ODPM were seeking specific returns (see Appendix A).
- 3.3 The theme of the questions was as per the Framework statement, with the exception of the inclusion of questions relating to the application of Transfer of Undertakings (Protection of Employment) Regulations (TUPE) issues.
- 3.4 Fire Authority Members, the Strategic Management Team, Senior Managers and the Performance Management Group were all specifically engaged as part of the consultation process to ensure that the response from Nottinghamshire and City of Nottingham Fire Authority is as comprehensive as possible.
- 3.5 All comments received have been aligned to the specific questions and encompassed into the draft response for Members approval. Following any proposed amendments, the return will be sent electronically to the ODPM on Monday 25th October 2004.
- 3.6 Members may also recall from the Framework, that the ODPM had established a Performance Indicator Working Group (PIWG) in order to explore, test and pilot proposed changes to statutory indicators for 2005/06. Nottinghamshire, along with other members of the Best Value Family Group 4, took part in piloting proposed indicators earlier this year.
- 3.7 As with the consultation on Best Value in general, the ODPM has sought comment on the proposed new performance indicators, as well as any existing BVPIs which they are proposing to delete or amend. The majority of these indicators are drawn from the completion of reports arising from the attendance at operational incidents.
- 3.8 In addition, the PIWG have also identified a set of voluntary performance indicators which will compliment the proposed BVPIs. Although these will have no statutory status, it is expected that most Authorities will adopt them as they will support and promote good local performance management.
- 3.9 The consultation with regard to the BVPIs is also due to conclude on 26th October 2004.
- 3.10 Consultation with internal stakeholders has taken place to ensure Nottinghamshire provides a comprehensive response, and all comments have been formulated into the attached draft response (Appendix B). Following Members approval, this response will also be sent electronically to the ODPM on Monday 25th October 2004.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. PERSONNEL IMPLICATIONS

There are no personnel implications arising from this report.

6. EQUAL OPPORTUNITIES IMPLICATIONS

There are no Equal Opportunities Implications arising from this report.

7. RISK MANAGEMENT IMPLICATIONS

7.1 Nottinghamshire and City of Nottingham Fire Authority, by responding to these consultation exercises, ensures that it uses its opportunity to influence National direction.

7.2 The outcomes of both of these two consultation exercises will place statutory duties on the Fire Authority to comply with revised National Performance standards.

8. RECOMMENDATIONS

That Members approve and support the two proposed responses to the current consultation processes on Best Value and Performance Improvement and Best value Performance Indicators.

9. BACKGROUND PAPERS FOR INSPECTION

- The Fire and Rescue Services National Framework 2004/05.

Paul Woods
CHIEF FIRE OFFICER

Consultation Response: Best Value for Fire and Rescue Authorities

Improvement planning

Question 1. Do you support the round-table process proposed following the implementation of CPA?

Response.

The process proposed presents no major issues for the Nottinghamshire and City of Nottingham Fire Authority. We do draw your attention to the following areas however, that we feel could present problems for Authorities as they undergo the process of CPA.

Firstly the timing of the process early in 2005 comes very soon after the conclusion of the second round of pilot inspections. Potentially this gives both the Audit Commission and Fire Authorities very little time to address so of the outcomes from these pilots. It is appreciated that the modernisation process needs to maintain its momentum and any appreciable delay has the potential to undermine this. However, a late spring rather than an early spring process would have allowed a more flexible timescale to address issues arising from the round 2 pilots.

We support the round-table process proposed and acknowledge the use of the Business Change Managers (BCM's) within the process. We are concerned that our individual CPA results may be distorted within the wider involvement of contribution to the six joint regional initiatives from the National Framework. Each Authority should be judged individually on its commitment and contribution to the regional agenda and should not loose out on a good CPA result because of other Authorities lack of engagement.

We await the guidance document that will lay out the conduct of improvement planning round-tables.

We acknowledge the role of the Audit Commission as an independent body but would ask that their remit is extended to ensure that there is a parity of inspection standards between various audit groups inspecting FRAs. This is drawn from the frustrations associated with the pay verification process and the associated "moderation".

We would encourage a more proactive engagement from the business change managers in preparing for CPA and in identifying the supporting programmes available to FRAs prior to the process. Adoption of such programmes should not just be as a result of a poor CPA score but part of a wider desire to improve and develop.

We also recommend that an element of flexibility is incorporated and that the attendees are not a "fixed" body. This would allow for the co-opting of relevant parties at appropriate times which may affect the outcome of the CPA.

Best Value

Question 2. Do you agree with a more flexible approach to the use of best value by FRAs advocated in the draft guidance?

Response.

We welcome the approach of flexibility and would hope that the current consultation around the Best Value Performance Indicators (BVPI's) will take account of Fire and Rescues Service's comments. Over reliance on statistics can have the potential to organise to meet the target demands rather than to improve the organisation as a whole.

The previously adopted strategic approach to Best Value led to only a limited number of reviews being carried out. These reviews were very specific to FRAs and proved to be of little use to other Authorities. The proposed changes should focus FRAs on areas identified by CPA and, with the emphasis on outcome rather than the process, will lead to an increased number of reviews that can be used by others.

Question 3. Do you agree that FRAs should, as far as possible, integrate their Best Value Performance Plan (BVPP), Integrated Risk Management plan (IRMP) Action Plan and Corporate/Business planning process. If so are there any other measures that you believe would facilitate this?

Response.

We would wholeheartedly support this approach so that the organisation could be released from an excessive administrative demand, consult and engage with the public less frequently avoiding over-consultation, and thus channelling all of the agenda into a singular integrated statement.

To facilitate this there is a need to:-

- a) change the timings of the respective plans so that they are all in synergy with each other and can thus be combined, or,
- b) allow flexibility so that the IRMP could be planned over longer time-scales, like business plans, but updated annually to meet the requirements of Best Value. At present under the existing proposals this would only be allowed for good or excellent Authorities.

We do feel though that in implementing this the underlying concept should be about integrating the processes and not just producing a one-size-fits-all plan. Authorities should be able to display how all of the elements fit together and not just compile a larger single document.

Question 4. Do you agree that BVPP requirements should be reduced for "excellent" or "good" FRAs?

Response.

We support this proposal and would encourage the concept stated in question 3 above, that such Authorities should also include its IRMP and BVPP as part of its Corporate Strategy.

We welcome the relaxed inspection regime, although we feel that it is essential that any relaxed regime does not remove the requirement for the Authority to show continuous improvement.

TUPE and the Code of Practice and Workforce Matters

Question 5. Do you wish to comment on the guidance on the application of the Code of Practice and workforce matters to FRAs in regard to:-

Contracting issues
Staff Terms and Conditions.

Response.

We feel that the guidance is somewhat unclear. For example it does not explain enough what TUPE actually means. In particular it does not refer to the requirements to inform and consult (which comes with large financial penalties). It does not explain about the implications relating for selection for transfer and does not mention the ETO reasons for changing contracts nor about “measures intended”.

The statement in paragraph 55 that “should any situation arise where a FRA is making provision for a service contract where there is a TUPE transfer” is rather dependent on the reader recognising that this means the service provider will be carrying out tasks currently performed by FRA employees.

The rules regarding “new joiners” are of course not within TUPE and it would be better if this was made clear – this is merely a contractual requirement of the service contract under the code. We would also question whether this requirement constitutes a material reason for new joiners being paid more than the staff employed by the contractor prior to the TUPE transfer.

We also feel that the guidance needs to point out somewhere that if TUPE applies, it applies irrespective of distance.

We would also seek to clarify what the intended position will be with regards any employee who does not wish to transfer. Under TUPE a refusal to transfer constitutes a resignation. However under the Cabinet Office statement of practice TUPE is applied even when technically it might not.

What is the position of someone who challenges TUPE?

We would also seek clarification on the position if a contractor actually started new joiners badly – would this invalidate the contract or would it be a breach of contract?

We would seek clarification on the guidance and how it applies to the contracting out of internal services within the following context. It does not seem to apply (although TUPE might), to moving a service to someone else without a consequent contractual relationship with the FRA. How will this apply?

Freedoms and Flexibilities

Question 6. Do you believe the proposed package of freedoms and flexibilities reflecting CPA performance is appropriate?

Response.

In principle we support this proposal. It should be widely achieved by subjecting “excellent” authorities to the same annual assessment but with a “lighter-touch” approach. This would be beneficial for all concerned as the Authority would gain independent assessment of its continuous progress whilst the auditors would be able to report that the Authority concerned are still on track with its agenda.

Without this the potential for an “excellent” authority to lose ground between being rated excellent and its next full assessment is removed. This has to be beneficial to all.

Question 7. Do you support the proposed “bespoke” agreement with FRAs rated “excellent” by CPA?

Response.

We wholeheartedly support the principles and raise the following as a concern. A “bespoke” agreement to facilitate a particular project or initiative may involve a partner, regional or other, who may not have reached the “excellent” category. How is this to be progressed and does it mean that excellent authorities can only take on joint projects with other excellent authorities. If this is the case it has the potential to be restrictive and undermine the regional working agenda being promoted by the ODPM. To be truly flexible the lead authority should have the final say with regard to who they engage as potential partners.

Question 8. Are there any other freedoms you believe should be made available to some or all FRAs to support improvement?

Response.

The Audit Commission have already stated that Fire CPA will not extend to Regional Management Boards, but how well each Fire Authority is working with RMB’s in the context of their effect on local progress will be covered. We think this is an important element. However, we would raise the question that where an organisation may be frustrated by regional process (particularly on the 6 Framework Issues), and if they are judged in all other areas to be an “excellent” or “good” authority the flexibility option should still be available to the said authority. This will encourage authorities to lead on the regional progress.

We also believe that if the local progress is such in any area of development or improvement then, even if it is outside of the proposed “freedoms” proposed, the authority should be allowed to continue with its initiative.

Poor Performance

Question 9. Do you agree with the application of the provisions of the Local Government Intervention Protocol to the Secretary of State’s new powers to intervene contained in Section 22 of the Fire and Rescue Service’s Act 2004?

Response.

Whilst we recognise that in extreme circumstances the Secretary of State may feel that extreme measures are required, we would urge caution over intervention. The best value too improve the delivery of a locals service is to empower local managers who have the knowledge and demographic appreciation of the communities needs.

“External “ support, as it is termed, would have to be agreed by all parties concerned rather than being imposed. This would therefore require a recognition by the said Authority that they are indeed failing in their performance.

We also feel it is important that before any measures are to be taken the full process of the CPA, including any ongoing appeals process, must be concluded.

OUR DRAFT COMMENTS ON THE PROPOSED AND AMENDED PERFORMANCE INDICATORS

The following comments have been made by individuals within the service to date. Any additional views will be included in our final response to the ODPM prior to the closing date.

Proposal 1.

The number of fires in non-domestic properties per 1,000 non-domestic properties

Definition

The aim of this BVPI is to monitor the effectiveness of fire safety under the new Regulatory Reform (Fire Safety) Order (RRO)

Response

The definition for this BVPI includes 'Agricultural buildings' As the majority of fires on farms involve barns (and it would appear that these are not included in the RRO for inspection) it would be appropriate to sub-divide this category or exclude barns and put them into the 'other buildings' category.

Proposal 2.

The percentage of people in accidental dwelling fires who escape unharmed without FRS assistance at the fire.

Definition

The aim of this BVPI is to measure the success of Community Fire Safety campaigns in equipping people with the knowledge and pre-planning to enable them to act correctly once the alarm has been raised.

Response

The current definition is based on the sum of 6.4 and 6.5 taken from the fire report, i.e. The total number of people in the building.

So we get a percentage based on $\frac{\text{Uninjured Persons in Building}}{\text{Total Persons in Building}} \times 100$

The new definition includes the recording of "number of persons who left the affected property unharmed without FRS assistance". This is meant to measure the success off community fire safety campaigns but let's say there's a fire caused by a child playing with matches and the child burns themselves. We can say how many other persons left the building uninjured but we're not asking the question 'how many people should have left the building? How severe was the fire? Perhaps this should be linked to the fire/smoke damage section?

Proposal 3.

The percentage of all fires attended in dwellings where :

- 1) *A smoke alarm had activated;*
- 2) *A smoke alarm was fitted but did not activate;*
- 3) *No smoke alarm was fitted*

Definition

The aim of this BVPI is to provide some data to assist in the assessment of the fire authority in promoting the use and upkeep of smoke alarms which are the best predictor of fire deaths as part of their CFS work.

Response

- 1) Satisfactory
- 2) It is felt that a sub-category should be included to identify the reasons for the non activation i.e. battery removed, fitted in the wrong place. This would be useful in identifying future CFS publicity campaigns.
- 3) Satisfactory

Proposal 4.

- 1) *The number of people extricated alive from RTAs attended where an extrication was required;*
- 2) *The number of people extricated dead from RTAs attended where an extrication was required; and*
- 3) *The number of RTAs attended where an extrication was required.*

Definition

“Whilst this BVPI alone cannot provide a complete measure of FRA performance in this area it is aimed at providing a national picture of FRA activity levels and some indication over time of the impact of local call-out and response arrangements”.

Response

It is important to record the number of persons extricated, but it is not so clear of the benefits of recording whether they were alive or not?
If you consider the 3 RTA fatalities below;

- 1) Person Instantly Dies at the Scene- nothing service could have done
- 2) Person Dies During Extrication- maybe we could have got there quicker etc.
- 3) Person Dies Soon After In Hospital- these fall into the ‘extrication alive’ category

By categorising 2 in the extricated dead category and 1 in the extricated alive category. What information does this provide FRAs that further supports effective local performance management?

Proposed Deletion of Existing BVPIs

Deletion of BVPI 142(1)

Total number of calls to fire (excluding false alarms) per 10,000 population

Definition

The aim of this BVPI was to indicate the level of activity in relation to fires. In future it is proposed to record activity for fires and other incidents i.e. RTAs and special services.

Response

The deletion of this part of the PI is straight forward due to the changes in collecting additional data for other FRA activities.

Amendments to Existing BVPIs

Amendment to BV 146

1. *Number of calls to malicious false alarms not attended per 1,000 population*
2. *Number of calls to malicious false alarms attended per 1,000 population*

Definition

This BVPI will be split into two categories to record those false alarms not attended and attended and will also cover malicious false alarms to all incidents not just fires. This is intended to be a measure of performance in command and control centres in terms of call challenge activities and best practice.

Response

1. Is clear and will provide local performance management information
2. Is not so clear, 'Special Services Not Required' Calls are difficult to define.

E.g. A member of the public rings in to say an animal is stuck, we attend and the individual announces "Oh it managed to escape" Malicious or good intent?

We would normally assume good intent but if it continues?

If this information is to be used for performance management the definition for Services Not Required-Malicious needs to be very clear or there will be no consistency of data.

Amendment to BV 149

1. *False alarm caused by automatic detection per 1,000 non-domestic properties;*
2. *Number of those properties with more than 1 attendance in the financial year;*
3. *The % of calls which are to a property with more than 1 attendance in the financial year*

Definition

Attendance at repeat false alarms in some areas is a considerable use of resource. We are therefore proposing to extend this BVPI to record the number of properties with more than 1 attendance in the financial year and the percentage of calls which are repeat calls.

1. Is the existing BVPI
2. and 3. Will be addressed as part of the current review.

Response

The collection of data for this PI will have a number of technical difficulties, for example;

1. The Queens Medical Centre Maroon Zone has 1 false alarm and the QMC Orange Zone has 1 false alarm, we have one property with more than 1 call recorded. How does the computer determine this as they have different addresses and different grid references. (Large Premise).
2. Consider a flat above a shop. The flat has 1 false alarm call and so does the shop. They have the same grid reference but are they the same property?

1.1 Amendment to BV 206

1. *Number of deliberate primary fires (excluding deliberate primary fires in vehicles) per 10,000 population;*
2. *Number of deliberate primary fires in vehicles per 10,000 population;*
3. *Number of deliberate secondary fires (excluding deliberate secondary fires in vehicles) per 10,000 population*
4. *Number of deliberate secondary fires in vehicles per 10,000 population.*

Definition

During the consultation period for the draft National Framework 2004/05, a number of respondees requested that this BVPI be expanded to include the greater number of secondary fires and to identify separately vehicle fires.

Response

This Pi is clear and will provide clear performance management information.

Voluntary Performance Indicators

In general we do agree that there should be a suite of voluntary indicators that can be used to benchmark with other FRAs. It is important though that the definitions are very clear and unambiguous as during the piloting of the proposed new PIs by the group 4 brigades there was a great variation in the results despite the same definition.

Although we have not been asked to specifically comment on individual VPIs, we have had a number of comments that we felt should be passed on to the review team.

VPI 4

The number of fires in non-domestic properties by type of properties;

There is some confusion as to what mechanism/codings will be used for the classification of non domestic premises. For example we have based our new system of work on the Valuation Officer codes which can cover every type of premises and amount to 300 codes and this would be suggested by ourselves.

VPI 6

The % of non-domestic properties compliant with the RRO;

There needs to be a clear definition as to whether the premise is compliant after the initial inspection or following any suggested measures made by the FRA.

VPI 25

Time spent by fire safety staff on fire safety in the community.

The role of the fire safety officer in some brigades will predominantly be legislative work in commercial premises (business community) and little traditional CS (domestic).
Should all advice be classed as community safety work?