



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority

UPDATE ON THE TRANSFER TO REGIONAL CONTROL CENTRE

Report of the Chief Fire Officer

Agenda Item No:

Date: 04 January 2008

Purpose of Report:

To advise Members of the position regarding the transfer of Control employees to the Regional Control Centre.

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1. BACKGROUND

- 1.1 The provision of Regional Control Centres (RCC) was first declared in the inaugural Fire & Rescue Services National Framework 2005 – 2006. It stated that, through the functions of the Regional Management Board (RMB), Regional Control Centres should be established.
- 1.2 Since the establishment of the RMB work has been ongoing in respect of the East Midlands Regional Control Centre which will be sited at Castle Donington. Through the RCC project issues such as Technology, Governance and staffing issues are all being progressed.
- 1.3 The Regional Control Centre will become operational in September 2009 when the control function for Derbyshire is formally transferred; this transfer of functionality is referred to as the “cut-over date”. This will be followed by the transfer of each East Midland Control Room function to the new body, with Nottinghamshire scheduled to transfer its operations in April 2010.
- 1.4 Consultation has been ongoing with the East Midlands Fire and Rescue Control Centre Ltd. regarding the way that this transfer will be affected. A number of regional working groups have been established to manage workstreams associated with the transfer, one of which is the Human Resource Managers Working Group (HRMWG) which has been tasked to establish the process for the transfer of staff.
- 1.5 The transfer of staff in this circumstance is governed by Transfer of Undertaking (Protection of Employment) Regulations 1981 & 2006 (TUPE).

2. REPORT

- 2.1 At the point of transfer to the new Regional Control Centre, existing employees, where possible, will transfer under their existing terms and conditions of employment to roles in the new company. However there may be cases whereby employees cannot be simply appointed to a comparative role or where it is unreasonable to expect the employee to take up a role due, for instance, to the travel distance from their home to the new centre. In such cases, a redundancy situation would apply.
- 2.2 Conflicting legal advice has led to a debate regarding who, in this circumstance, would be responsible for making redundancies. The latest advice from CLG has lacked clarity, which has led to the Local Authority Control Company (LACC) Board supporting a view that the transferee i.e. the East Midlands Fire and Rescue Control Centre Ltd. is responsible under TUPE legislation.
- 2.3 This view is based upon the fact that under TUPE legislation all impacted staff must transfer and the receiving company then makes any unavoidable redundancies post-transfer.

- 2.4 It is further supported by the recent *Hynde v Armstrong* case which held that as a redundancy was a direct cause of a TUPE transfer, only the receiving company could lawfully make employees redundant. It is important to note that whilst this case relates to Scottish law, and therefore is not directly linked to English law, the principle behind the ruling is equally pertinent.
- 2.5 The Regional Management Board have approved this opinion for the agreement of each individual Fire and Rescue Service.
- 2.6 This will mean that, at the point of cutover to the new Regional Control Centre, all employees impacted by the transfer will transfer to the new employer.
- 2.7 This view does not affect the ability of individual Fire and Rescue Services to seek to redeploy employees, who would prefer to remain in its employ, prior to the cut-over date where such suitable redeployment opportunities exist and where the employee meets the requirements for a particular vacancy. However there is no legal compunction on the existing employer to offer redeployment or to protect existing contractual benefits in this circumstance.
- 2.8 In addition to the issue of potential redundancies, the HRMWG has been working with representatives of the new company to establish the process for establishing an Initial Staffing Pool. This Pool would consist of a number of employees who would test and train others on the new systems some months prior to cut-over. The numbers of employees required to staff this Initial Pool is still under discussion, and is reliant upon CLG agreeing to fund the posts and any replacement Control staff who would need to be recruited to ensure that the Control Room function within each FRS can be maintained prior to cut-over.
- 2.9 The issues currently under consideration are complex in terms of the application of employment law, specifically TUPE legislation, and in terms of maintaining effective service provision immediately before and at the point of cut-over to the new Control Centre. The Representative Bodies have already been involved in discussions regarding certain aspects of the transfer and formal consultation will commence at an appropriate point with both the transferee (the new employer) and the transferee (individual Fire and Rescue Services) regarding the detail of the transfer (measures), as is required under TUPE legislation.
- 2.10 The Human Resources Committee will be kept advised of any developments regarding the transfer of Control employees to ensure that Members are fully aware of proposals and the likely impacts on service employees and service delivery.

3. FINANCIAL IMPLICATIONS

CLG have committed to covering the financial costs of redundancy up to a maximum statutory amount, and to meet costs associated with existing redundancy policies agreed at a local level. Consultation is currently ongoing to establish funding for “new burden” activities, such as the employment of new employees on fixed term contracts to facilitate the release of employees to the new Regional Control Centre as part of an initial staffing pool.

4. PERSONNEL IMPLICATIONS

There are significant staffing impacts associated with the transfer to the new Regional Control Centre. It is important that employees affected by the transfer are kept informed and are consulted upon proposals that will affect their future employment. This will be achieved through local and regional meetings and ongoing consultation with representative bodies. Consideration is currently being given to transitional support which can be offered to employees to assist them through this period of uncertainty and to ensure that service provision is maintained in the period to cut-over to the new regional control arrangements.

5. EQUALITY IMPACT ASSESSMENT

Adherence to equal opportunity legislation and good practice will be monitored throughout the stages of the transfer process. Policies and practices will be equality impact assessed on an on-going basis. An initial impact assessment is attached to this report at Appendix A.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. RISK MANAGEMENT IMPLICATIONS

As with all transfers under TUPE legislation which result in the transfer of employment and possible redundancy, there is always a risk that claims may be made against the authority on a range of matters. The risk of claims is reduced if robust procedures are in place to ensure fairness of process and compliance with employment law.

8. RECOMMENDATIONS

- 8.1 That Human Resources Committee accept the recommendation that any unavoidable redundancies, post-transfer, are the responsibility of the East Midlands Regional Control centre Ltd. and that this decision is put forward for the approval of the Combined Fire Authority.

8.2 That Human Resources Committee note the contents of this report.

9. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None.

Frank Swann
CHIEF FIRE OFFICER

INITIAL EQUALITY IMPACT ASSESSMENT

Appendix A

<i>Section</i> HR	<i>Manager</i> DCFO BEALE	Date of Assessment DECEMBER 2007	New or Existing N/A
Name of Report to be assessed		UPDATE ON TRANSFER TO REGIONAL CONTROL CENTRE (RCC)	
1. Briefly describe the aims, objectives and purpose of the report.		UPDATE HR COMMITTEE ON THE POSITION REGARDING THE TRANSFER OF EMPLOYEES TO THE RCC.	
2. Who is intended to benefit from this report and what are the outcomes?		THE PURPOSE OF THIS REPORT IS SO THE AUTHORITY ARE FULLY BREIFED AND INFORMED AS TO THE IMPACT OF THE ESTABLISHMENT OF THE EAST MIDLANDS RCC.	
3. Who are the main stakeholders in relation to the report?		FIRE & RESCUE AUTHORITY, SENIOR MANAGEMENT, HR, EMPLOYEES – CONTROL STAFF, REGIONAL MANAGEMENT BOARD	
4. Who implements and who is responsible for the report?		FIRE & RESCUE AUTHORITY, SENIOR MANAGEMENT, HR, REGIONAL MANAGEMENT BOARD	

5. Please identify the differential impact in the terms of the six strands below. Please tick yes if you have identified any differential impacts. Please state evidence of negative or positive impacts below.

<i>STRAND</i>	Y	N	<i>NEGATIVE IMPACT</i>	<i>POSITIVE IMPACT</i>
Race		x		
Gender		x		
Disability		x		
Religion or Belief		x		
Sexuality		x		
Age		x		

6. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group?	Y	N	7. Should the policy/service proceed to a full impact assessment?	Y	N

I am satisfied that this policy has been successfully impact assessed. I understand the impact assessment of this policy is a statutory obligation and that, as owners of this policy, we take responsibility for the completion and quality of this process.

Signed (completing person).....DCFO BEALE.....

Date ...DECEMBER 2007.....