



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority
Community Safety Committee

Fire Protection Department Update

Report of the Chief Fire Officer

Agenda Item No:

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Purpose of Report:

To provide Members with an update on Fire Protection activity.

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1. BACKGROUND

- 1.1 The Regulatory Reform (Fire Safety) Order 2005 (FSO) came into effect in October 2006 and replaced over 70 pieces of fire safety law. The requirements for enforcement in the FSO were not new to Fire and Rescue Authorities as there were similarities with the Fire Precautions (Workplace) Regulations 1997. However, the FSO covers a far larger range of premises including:
 - non-domestic premises including common parts of houses in multiple occupation;
 - premises used by self-employed (including family run businesses);
 - premises used by the voluntary sector.
- 1.2 Exceptions include Crown occupied/owner properties, premises in armed forces establishments, certain specified premises including construction sites, ships under repair and construction, nuclear installations; and sports grounds and stands designated as needing a safety certificate by a local authority.
- 1.3 Article 26 of the FSO requires that every enforcing authority must enforce the provisions of the Order and any regulations made under it. The Chief Fire Officer has responsibility to ensure that the Service fulfils any requirement made on the Fire Authority within the FSO.
- 1.4 Fire safety enforcement activities are designed to ensure the Fire Authority's statutory requirements, under the remit of the Fire Safety Order (2005) (FSO), are met and that risk to life and property is reduced.
- 1.5 The enforcement of fire safety is a critical element of the Nottinghamshire Fire and Rescue Service Plan and the Authority's strategy for the enforcement of fire safety forms a key part of its overall strategy for the protection of its community. Fire Protection will ascertain the risks in the community and then analyse them and assign resources in the most effective way to reduce or eliminate those risks.
- 1.6 This report builds on previous reports to the Committee and highlights how the Fire Protection department's activities contribute to risk reduction. The report will be supported by a presentation which will focus on how the department will:
 - maintain a risk-based approach to enforce our statutory responsibilities;
 - meet the fire safety enforcement statutory requirements;
 - continue to reduce unwanted fire signals;
 - achieve safer business and community sectors.

2. REPORT

Risk Based Approach to Inspections

- 2.1 The Fire Protection inspectorate consists of 21 officers, some of whom are Operational, have management responsibilities and are conditioned to different duty systems and Conditions of Service etc. Additionally, each Officer will be at a different stage of development and may also have additional responsibilities that reduce available time for Fire Protection inspection activity. Based on this information the inspection capacity of the Department can be calculated.
- 2.2 Fire Protection staff collect high quality risk data about premises and prioritise inspections based upon the level of risk. This enables the service to target prevention, protection and response options effectively, efficiently and in a verifiable manner. The inspection activity aims to reduce the risk and impact of fire on the community, safeguard fire fighters and protect heritage and the environment. It also reduces loss of life, injuries and economic and social costs.
- 2.3 The risk-based inspection programme is a key part of the overall risk reduction strategy. The Fire Safety Order makes a risk assessment approach central to determining the necessary level of fire precautions in premises.
- 2.4 Premises managed by public, commercial or voluntary organisations which present the highest risk are inspected on a more frequent basis. Those premises considered to be lower risk are inspected primarily in response to complaints, or on a sample basis to verify their lower risk classification.
- 2.5 Fire Protection relies heavily on quality data sets, and this is predominantly contained within the Community Fire Risk Management Information System (CFRMIS). There is an ongoing process of refining and identifying issues relating to the datasets contained within the system and how they impact upon the Fire Protection aspect of service delivery.
- 2.6 The Fire Protection department has changed significantly over the last few years to ensure the delivery model is as efficient as possible. This has been achieved by restructuring the department and converting some roles to non-uniformed Inspecting Officers, utilising technology to enable mobile working and modernising inspection processes.
- 2.7 A proposed web-based version of CFRMIS is being progressed and once the implementation project is complete it will increase the ability to work remotely and reduce the requirement to return to base and therefore release more time for inspection activity.
- 2.8 Due to the risk-based approach taken in the inspection regime, there are a range of different activity types available to the Officer to enable an

appropriate response relative to the different circumstances and risks they may find. These are defined below:

Audit

The 'Fire Safety Audit and Data Gathering Form' is the principle tool at the heart of the inspection programme. It enables the Officer to collect identification and risk data about premises in a systematic and consistent manner. In pre-planning these inspections it will be expected that a minimum notice period of four weeks is given to the responsible persons at the premises.

Thematic

Designed to allow the Officer to visit the premises, gather some critical data (as per the Audit process) and assess the general risk in a shorter time than a full audit would take. For example a number of small hotels which had previously not been visited by the Service, could form the basis of thematic inspections. The risks could then be assessed and decisions taken on any future actions. These inspections can also be used in assessing the risk(s) within multi-occupied premises.

Follow up

A follow-up inspection is one which is carried out in order to ascertain the progress made in carrying out the measures required or recommended following a previous visit; e.g. steps included in a notice of deficiencies issued under the Regulatory Reform (Fire Safety) Order 2005.

Peak risk inspection

There is an increased risk within certain premises when they are operating at their 'peak risk'. For example, it may well be necessary, on occasion, to visit licensed premises when they are operating at or near to full capacity or to visit premises with overnight life risk at times when staffing levels may be reduced, or to visit shops when they are trading at their busiest times e.g. during the lead up to Christmas.

Specific

A specific inspection is one that covers a range of instances and that requires something less than a thorough and comprehensive examination of the premises in question, but deals with one or more specific items at the request of the occupier of the premise. It may be instigated by the Service to check specifically on the availability of exits following a complaint or allegation from a member of the public etc.

Enforcement

- 2.9 The principle aim of the Nottinghamshire Fire and Rescue Service (NFRS) is to make Nottinghamshire a safer place by reducing as far as possible the risks and social and economic costs of fires and other dangers, without imposing unnecessary burden. Securing compliance with legal regulatory requirements is an important part of achieving this aim.

- 2.10 The purpose of the enforcement function is to ensure that preventative remedial action is taken to protect relevant persons and to secure compliance with the regulatory system. The need for enforcement may stem from a lack of knowledge or a deliberate or negligent act. The term enforcement has a wide meaning and applies to all dealings between the Service and those on whom the law places a duty.
- 2.11 The purpose of enforcement is to:
- Promote and achieve sustained compliance with the law;
 - Ensure that the person responsible for premises subject to fire safety regulation takes action to deal immediately with serious risks to the safety of relevant persons.
 - Ensure those individuals, businesses and other undertakings that breach fire safety requirements are held to account, which may include bringing alleged offenders before the courts.
- 2.12 The Service has a wide range of interventions at its disposal to secure compliance with the law and to ensure a proportionate response to criminal offences. Officers may offer individuals, businesses and other undertakings information and advice either in person, in writing by letter or email, or over the telephone. This may include a warning that, in the opinion of the officer, they are failing to comply with the law. Where appropriate, officers may agree an action plan; provide a notification of deficiencies report or serve enforcement or alterations notice; prohibit or restrict the use of premises; or they may prosecute.
- 2.13 Enforcement notices, prohibition notices, and prosecutions are important ways to bring individuals, businesses and other undertakings to account for alleged breaches of the law. Where it is appropriate to do so and in accordance with this policy the Service will use one or more of these measures to secure compliance with fire safety law.
- 2.14 Investigating the circumstances encountered during audits or following incidents or complaints is essential before taking any enforcement action. In deciding what resources to devote to these investigations, the Service will have regard to the principles of enforcement within the Regulators' Code.
- 2.15 A specialist role based team exists within the Fire Protection Department that deals with specific enforcement issues namely prohibition and restriction of premises and the responsibility for progressing fire safety breaches that may result in prosecution. There are two Officers within the team and two shadow officers who gather certain skill sets and provide business continuity assurance.
- 2.16 This team is managed by a Station Manager within the Fire Protection Support Team and will actively pursue litigation against those who breach the legislation in order to set a clear example that such breaches are unacceptable and a risk to public safety.

Enforcement Case Studies

2.17 Fire protection officers from Nottinghamshire Fire and Rescue Service visited a fast food outlet, in Nottingham in October 2012 and found that the fire precautions that should have been provided in the event of a fire were inadequate. This presented a serious risk to the lives of staff at the premises. Enforcement and Prohibition Notices were issued, which limited the use of the premises and required fire safety improvements.

2.18 The offences in full, on or before 8 October 2012, were as follows

1. Failure to create a suitable and sufficient Fire Risk Assessment – fine of £1,334
2. Failure to install a fire detection and warning system – fine of £2,667
3. Failure to keep emergency escape routes free from obstruction – fine of £1,667
4. Failure to ensure that emergency escape routes led to a place of safety fine of £1,334
5. Failure to ensure that emergency escape routes were sufficiently protected from smoke or fire – fine of £2,000
6. Failure to install appropriate emergency lighting on escape routes – fine of £1,667

The Magistrates emphasised that safety must always take priority over financial considerations.

2.19 Securing a conviction of this nature requires considerable effort, technical expertise and cost. Media Service are utilised to maximise coverage of such outcomes in order to encourage compliance with the FSO and secure safer business and community sectors.

2.20 In July 2012 a hotel was audited. The hotel had been audited previously in June 2010 and had been issued with a Notice of Deficiencies (NOD). During the audit serious breaches were discovered in service voids which resulted in a lack of fire separation throughout the hotel, both vertically and horizontally.

2.21 There were other contraventions of the FSO including lack of fire resistance to doors and opening on escape routes and insufficient and unsuitable fire risk assessments and reviews. A meeting subsequently took place at which time all the problems identified were made known to the Hotel Manager.

2.22 Upon completion of the audit it was confirmed that an Enforcement notice should be issued. The hotel took immediate action to reduce the risk in case of

fire including the introduction of improved management arrangements. An action plan was produced by the premises to address the fire safety deficiencies. As the corrective works commenced areas were closed in phases until the works in that area were completed.

- 2.23 The Hotel Manager contracted a specialist company to reinstate the required compartmentation and was able to provide initial timescales for the completion of the works. The specialists conducted a full survey of the premises and concluded that the problem more serious than initially suspected which increased both the timescales and costs for the work. Throughout the process regular meetings took place between City Fire Protection, the hotel managers and the surveyors. Solutions were proposed and agreed by all sides. Technical difficulties which prevented the reinstatement of the original compartmentation were overcome through the use of fire curtains and other fire stopping measures.
- 2.24 The Fire Protection department was kept informed of the progress of the works throughout and was consulted regularly on the acceptability of the various proposed solutions. The works were completed at the end of March 2013 and a completion certificate to the hotel by fire engineers. A follow up inspection by Fire Protection staff confirmed the measures taken by the hotel were reasonable and that no further action was required.
- 2.25 The total cost of the refurbishment required to comply with the FSO was over £160,000. Despite these costs the business expressed their gratitude to Fire Protection both for highlighting the issues and for the level of engagement and consultation demonstrated throughout the process. This project provides an example of good regulatory practice which assists organisations to achieve compliance in the most cost effective manner and builds on supporting economic growth.

Unwanted Fire Signals

- 2.26 An Unwanted Fire Signal (UFS) is defined as a signal transmitted through an Automatic Fire Detection System (AFD) reporting a fire where upon arrival of the fire service it is found that a fire has not occurred. UFS can be reduced through design, management practice, procedure, maintenance and the appropriate use of space within buildings.
- 2.27 The number of AFD systems installed in Nottinghamshire and the City of Nottingham is not known and, as Nottinghamshire Fire & Rescue Service has no direct control of these systems, the Service needs to be pro-active in influencing the management of such systems in order to reduce the adverse impact caused by UFS.

2.28 The impact on the Service generated by UFS includes:

- diverting essential services from attending other more serious emergencies;
- increased risk of accidents and collisions as a result of the service responding under emergency conditions;
- demoralising to personnel through frequent attendance;
- disruption to the programmed activity of the Service, e.g. community fire safety education, fire prevention activities and operational training;
- adverse effect on performance;
- significant financial burden particularly when retained staff are mobilised.

2.29 The impact of UFS on the community includes:

- disruption to business through downtime and loss of revenue;
- loss of credibility in the alarm system which may result in occupant complacency leading to inappropriate response in the event of a real fire;
- cost to business from retained duty system fire fighters being released from duty;
- impact on the environment caused by unnecessary appliance movements;
- drain on public finances.

2.30 The strategy for reducing responses to UFS calls is based on the following principles:

- the use of clear protocols for call challenging by Fire Control staff. In most circumstances, where there is no risk to life, the caller will be asked to establish the cause of an alarm before Fire Control mobilises any PDA to the premises;
- liaising with and educating the responsible person taking full responsibility for the alarm system and all fire safety measures in his or her premises as detailed in the Regulatory Reform (Fire Safety) Order 2005;
- the adoption of a robust off line policy whereby there is a delay in the signal being transmitted to the Service at certain times of the day;
- the recognition that the key purpose of an alarm system is to give the occupiers of a premises warning that there may be a fire so that the occupiers can evacuate the premises or otherwise as directed by the premises Emergency Action Plan;
- the adoption of a generic pre-determined attendance (PDA) based on risk assessments and call challenging protocols;
- the introduction of protocols to ensure the safety of vulnerable people and high risk buildings;

- the provision of appropriate protocols for control staff to support the mobilisation decision making process.

2.31 The implementation of the unwanted fire signal reduction policy has resulted in a continued reduction of unwanted fire alarms since its implementation in 2009 with 4028 calls in 2009 compared to 2658 calls during 2012 giving a reduction in unwanted fire alarms of 34%

2.32 The ability of authorities to charge for certain actions/services could lead to increased opportunities for revenue generation. However the focus is likely to be upon using charges to help influence better behavior e.g. reduction in automatic fire alarms.

Local Better Regulation

2.33 Businesses need to be confident that FRSs can provide them with the right information and advice to support them in being compliant; they also need to be assured that those enforcing the legislation are consistent in their decision making and, where possible to avoid confusion, the processes are similar. In the Autumn Statement 2012 the Government announced that it would introduce a package of measures to improve the way regulation is delivered. It is intended to do this through the introduction of a package of measures that the Fire Protection Department is working towards ensuring compliance with:

- the Fire Minister Brandon Lewis and the BIS Minister Michael Fallon have decided that primary authority will be extended to the fire safety order 2005 (applicable to England and Wales) on a statutory basis with a planned implementation date of April 2014 subject to parliamentary process;
- the Better Regulation Delivery Office (BRDO) has published the Regulators' Code and specified that regulators **must** have regard to the Code when setting standards or giving guidance. This statutory code of practice is expected to replace the Regulators' Compliance Code in spring 2014. It provides a framework for how regulators – whether local authorities or national organisations – should interact with those they regulate;
- CFOA has produced a framework for the development of fire safety enforcement officers. The framework is expected to be adopted by FRSs by April 2014.

3. FINANCIAL IMPLICATIONS

3.1 Although there are no direct financial implications arising from this report it is worthy of note that the cost of pursuing a conviction for a contravention of the Fire Safety Order is generally fully recovered in the courts and this is used to offset the legal services budget.

- 3.2 Compliance with the package of measures designed to meet the Local Better Regulation agenda may have financial implications. This will be outlined in future papers to the Community Safety Committee.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

There are no human resources or learning and development implications arising from this report.

5. EQUALITIES IMPLICATIONS

An equality impact assessment has not been undertaken because the purpose of this report is to update Members on the progress of the Fire Protection Department and does not seek to change policy or procedures.

6. CRIME AND DISORDER IMPLICATIONS

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

7. LEGAL IMPLICATIONS

The Fire Authority is legally bound to pursue convictions for contraventions of the Fire Safety Order (2005). Furthermore there is a legal responsibility to mitigate risk and prevent fires within the Fire Services Act (2004). The activities of the Fire Protection Department assist the Authority in meeting these legal obligations.

8. RISK MANAGEMENT IMPLICATIONS

The work of the Fire Protection Department is a key strand to ensuring the Authority is managing risk within the community through a robust regime of inspection, information gathering and enforcement. Failure to undertake such work has the potential to affect the safety of the public and fire fighters alike, and poses a real risk to the reputation of the Service.

9. RECOMMENDATIONS

It is recommended that Members note the contents of this report and continue to support the activities of the Fire Protection Department.

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

None.

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