

Social Justice and Regeneration Committee:

Date: 31 MARCH 2004

Venue:

Title: FIRE AND RESCUE SERVICES BILL

Purpose

1. To provide an opportunity for the committee to scrutinise the Fire and Rescue Bill currently before Parliament. The bill has recently passed through Report and Third reading stage in the commons and is anticipated to receive royal assent this autumn.

Summary

2. Under the terms of Standing Order 9.7, each subject committee has the responsibility to contribute to the development of the Assembly's policies within the fields for which the relevant Assembly Secretary is accountable and to keep under review the expenditure and administration connected with policy implementation. The bill includes for the devolution of fire policy to the National Assembly. Powers acquired under the bill will complement the Assembly's developing community fire safety agenda. The bill will provide a legal basis for the Draft National Framework for the Fire and Rescue Service in Wales which is the subject of a separate paper at this meeting of the committee.

Background

3. In June the Deputy Prime Minister presented the White Paper – 'Our Fire and Rescue Service'. It set out the Government's vision for the fire and rescue service of the future committing the Government to changing the structure, working practices and procedures of the service to make it more efficient and effective.
4. Significantly to Wales, the White Paper committed the Government to devolve the responsibility to Wales to the National Assembly to Wales.
5. The current legislative basis for the fire service is contained primarily within the Fire Services Act of 1947 and 1959, the Fire Precautions Act 1971, various workplace regulations and other pieces of minor legislation. These provide the fire services with a statutory function relating solely to fire, with the services having no legal responsibility in respect of rescue. The current Fire and Rescue Services Bill provides the legislative basis for the changes proposed in the White Paper
6. The latest version of the bill may be found on the parliamentary web site at

7. Against the back drop of the white paper In September the Minister for Social Justice and Regeneration in her Statement to the Social Justice and Regeneration Committee set out the broad proposals for the devolved fire and rescue service in Wales, relationship with other parts of the UK and the structures needed to ensure a smooth transition of responsibilities. (http://www.wales.gov.uk/servlet/SocialJusticeAndRegenerationCommittee?area_code=N00000000000000000000000000000006&document_code=N000000000000000000000000000000012095&p_arch=post&module=dynamicpages&month_year=9|2003)

Key Points of the Fire and Rescue Service Bill

8. The Fire and Rescue Service Bill devolves responsibility for the Fire and Rescue Service to the National Assembly for Wales.

9. The Fire and Rescue Service Bill is intended to improve the delivery of the Fire and Rescue Service, ensuring that it is able to respond to the changing demands placed on it in a modern world.

10. As the first substantive piece of legislation for 50 years, the Fire and Rescue Services Bill will help save lives by placing a greater emphasis on prevention, through a new duty on fire and rescue authorities to promote fire safety.

11. It will establish core duties to reflect the changed role of the Fire and Rescue Service in the 21st century including fire fighting, dealing with road traffic accidents, and responding to terrorist threats and other emergencies.

Key Points – Devolved Fire and Rescue Service to Wales

12. It will provide greater opportunity:

- To develop the service in Wales against our identified risks, needs and priorities
- to provide a long lasting framework to reduce the number of deaths and injuries as a result of fire and other emergency incidents;

- To allow us to ensure a cost effective delivery of that service consistent with the Wales Programme for Improvement.
- To develop the Assembly Governments community fire safety aspirations and the wider community safety agenda

Consideration

13. A summary of the main provisions of the bill follow:

14. The Bill repeals the Fire Services Act 1947. It's structure is as follows:

Part 1 - Fire and rescue authorities (clauses 1 to 5): determines which bodies are the fire and rescue authorities for an area, and provides for the combination of two or more fire and rescue authorities by order.

Part 2 - Functions of fire and rescue authorities (clauses 6 to 20): sets out the duties and powers of fire and rescue authorities.

Part 3 – Administration (clauses 21 to 30): provides for the preparation of a Fire and Rescue National Framework setting out the strategic priorities of the Fire and Rescue Service, and for the supervision of fire and rescue authorities. It makes provision for the provision of equipment and training centres for fire and rescue authorities.

Part 4 - Employment (clauses 31 to 36): deals with employment by fire and rescue authorities, in particular the creation of negotiating bodies to determine the terms and conditions of employees, and pension schemes.

Part 5 - Water supply (clauses 37 to 42): imposes duties on fire and rescue authorities and water undertakers to ensure an adequate supply of water for fire-fighting activities.

Part 6 – Supplementary (clauses 43 to 53 and Schedules 1 and 2): concerns the powers of fire and rescue authority employees to undertake rescue work and investigations, as well as a number of consequential provisions and repeals, including the abolition of the Central Fire Brigades Advisory Council.

Part 7 - General (clauses 54 to 62): makes general provision in relation to pre-commencement consultation, interpretation, statutory instruments, territorial extent etc.

15. The term 'brigade' does not appear in the Bill - this change reflects a community service structured on the roles of individuals rather than adherence to a rank structure.

16. The Bill devolves responsibility for the Fire Service in Wales.

A summary of the provisions

PART 1: FIRE AND RESCUE AUTHORITIES

Creation of combined fire and rescue authorities

17. The existing power in the Fire Services Act 1947 to create combined fire authorities is re-enacted and transferred to the Assembly.

18. The Assembly will have the discretion to base a combined fire and rescue authority on a smaller or a larger area if that is operationally more efficient. Combination could also occur where fire and rescue authorities themselves submit a proposal to that effect. Combination schemes that have already been made under the Fire Services Act 1947 will continue in force. Such schemes will be subject to an Assembly power to alter or revoke them by order.

19. In all cases the Assembly would be required to consult beforehand. This consultation must include the existing affected fire and rescue authorities, and may include setting up a public inquiry.

PART 2: FUNCTIONS OF FIRE AND RESCUE AUTHORITIES

Core functions

Fire safety

20. The Fire and Rescue Service already carries out a wide range of activities to promote community fire safety, with the aim of preventing deaths and injuries in the home and reducing the impact of fire on the community as a whole. This includes fire safety education (especially for vulnerable groups), smoke alarm installation, chip pan safety demonstrations and fire safety checks for householders and others. Many fire authorities also provide training programmes for young people and work with local businesses, agencies and partnerships (such as crime and disorder partnerships and local strategic partnerships). This work, currently carried out on a discretionary basis, is made a statutory duty under the bill.

Fires and road traffic accidents

21. The Bill re-enacts the existing statutory duty for a fire and rescue authority to plan and provide arrangements for fighting fires and protecting life and property from fires within its area. A fire and rescue authority is required to secure sufficient equipment etc. and training to discharge its duty in normal circumstances. A fire and rescue authority must also put in place effective arrangements for receiving and responding to calls for help and for obtaining information to exercise its functions; the latter might include, for example, information about the nature and characteristics of buildings within the authority's area or availability of and access to water supplies.

22. The Bill places a duty on fire and rescue authorities to make provision for rescuing persons from road traffic accidents and for dealing with the aftermath of such accidents. Historically, the risk of fire was the trigger for attendance at such an incident. Whilst advances in vehicle design have seen the incidence of fire following an accident decrease, calls to assist with the rescue of people from wreckage and protect them from harm from spillage of hazardous substances have increased dramatically. A fire and rescue authority is required, therefore, to secure sufficient resources and training to discharge its duties in all normal circumstances. A fire and rescue authority must also put in place effective arrangements for receiving and responding to calls for help and for obtaining information to exercise its functions (for example, knowledge of local road and trunk road network).

Emergencies

23. Under the Fire Services Act 1947, fire and rescue authorities are not required to make provision for emergencies other than fires. However, an increasing amount of the Fire and Rescue Service's time is spent responding to emergencies, other than road traffic accidents and fires, such as chemical spills and flooding. The bill will allow the Assembly, following consultation, to place a duty on fire and rescue authorities to respond to particular types of emergency, as defined by order, such as flooding and terrorist incidents.

The Assembly will also have the power to direct fire and rescue authorities as to how they should plan, equip for and respond to such emergencies. This may include, for example, directions as to the deployments of mass decontamination equipment for civil resilience purposes. The intention is to ensure consistency of approach towards emergencies, particularly in response to terrorist incidents. An order by the Assembly may also require an authority to respond to an emergency that has arisen outside its own area if, for example, it has more appropriate equipment and training than the authority in whose area the emergency has occurred.

Other functions

Directions relating to particular fires and emergencies

24. Where there is no time to make an order or where national or regional considerations need to be taken into account the Assembly will have the power to direct a fire and rescue authority to respond to a particular fire or emergency incident, either in its own area or in that of another authority. The Assembly will also be able to direct an authority not to take any action in the event of such an emergency if, for example, another fire and rescue authority is better equipped to do so.

Power to respond to other eventualities; and other services

25. The bill will provide fire and rescue authorities with discretion to equip and respond to events beyond its core functions provided for elsewhere in the Bill. A fire and rescue authority will be free to act where it believes there is a risk to life or the environment. This would allow, for example, specialist activities such as rope rescue. A fire and rescue authority will be able to exercise the power in support of another fire and rescue authority - for example, under a reinforcement scheme.

26. Fire and rescue authorities will also have the power to agree to the use of its equipment or personnel for any purpose it believes appropriate and wherever it so chooses. For example, a fire and rescue authority may agree to help pump out a pond as a service to its community.

Reinforcement schemes and directions as to reinforcement schemes

27. The bill re-enacts the existing provisions of the Fire Services Act 1947 on reinforcement schemes and extends them to apply to road traffic accidents and other serious emergencies as defined by order. It obliges fire and rescue authorities to group together (so far as practicable) to provide mutual assistance. If there are cases where fire and rescue authorities are unable to come to an agreement about forming such a group then, at the request of one of the authorities concerned, The assembly will have a power to direct the fire and rescue authorities involved to make, vary or revoke such a scheme subject to allowing all authorities concerned the opportunity to make representations.

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rrangements with other employers of fire-fighters

28. The existing powers in the Fire Services Act 1947 which allow fire and rescue authorities to enter into agreements with organisations that employ their own fire-fighters are extended. For example, if fire-fighters are employed by an airport to respond to plane crashes, an agreement could be struck that the airport fire-fighters will respond to and assist with incidents within a certain range of their airport. Fire and rescue authorities could pay the airport for each call that their fire-fighters respond to. These arrangements can also apply to the non-fire emergencies.

Arrangements for discharge of functions by others

29. The bill extends existing powers to provide fire and rescue authorities with the ability to enter into contractual arrangements with others (including other fire and rescue authorities) to provide services in the execution of their functions. An example would be an agreement where a fire and rescue authority contracts with a local education authority to promote fire safety within its schools. Another example would be where a fire and rescue authority specialises in rope rescue and a neighbouring authority contracts with it to provide some or all of its response to incidents requiring rope rescue.

30. However, a fire and rescue authority can only delegate its fire-fighting functions to another fire and rescue authority or others that employ fire-fighters. An example of such an agreement could be delegating to the licence-holder of a petrochemical site, which employs its own fire service, the responsibility for preparing for, and dealing with, fires within the area of the site.

31. The bill will provide the Assembly with the ability to require fire and rescue authorities to enter into such contractual arrangements either on its own initiative or where one of the authorities has asked it to, subject giving the fire and rescue authorities affected the opportunity to make representations.

Supplementary Provisions

Training centres

32. The Bill re-enacts provisions that allow a fire and rescue authority to establish training centres for its staff.

Charging

33. The Assembly may by order, following consultation, set out the services for which a fire and rescue authority may charge and the persons who may be subject to the charge. Fire and rescue authorities already have a discretionary power to charge for certain functions. As with the existing legislation, fire and rescue authorities will not be able to charge for extinguishing fires or protecting life and property in the event of fires.

34. Existing arrangements by which fire and rescue authorities can set their own level of charge, vary the charge depending on the type of service provided and the circumstances of a particular incident, or to choose not to charge at all are provided for in the bill.

Exercise of powers at or under sea

35. The Maritime Coastguard Agency (MCA) has a general duty to manage the response of UK authorities to maritime incidents both in territorial waters and beyond. To support such response the MCA will enter into agreements with other service providers. Fire and rescue services may indicate to the MCA a willingness to provide a response to fires and other emergencies at sea and to provide fire crews equipped and trained to undertake such work.

36. The bill will enable fire and rescue authorities to continue to provide a response to incidents at sea and under the sea.

PART 3: ADMINISTRATION

Fire and Rescue National Framework

37. The bill requires the Assembly to consult on and prepare a Fire and Rescue Service National Framework , to which fire and rescue authorities must have regard in carrying out their functions. The Assembly must keep the Framework under review and must consult on any significant revisions made to it.

38. A draft Framework was published for consultation on 8 March 2004 setting out the Assembly Government's objectives for the Fire and Rescue Service and what fire and rescue authorities should do to achieve these objectives. The Framework also sets out the support the Assembly Government will provide to fire and rescue authorities.

Intervention by the National Assembly

39. The bill gives the Assembly the power to intervene if fire and rescue authorities fail to act in accordance with the Framework. The Best Value powers in Part 1 of the Local Government Act 1999 already make provision for the Assembly to intervene where an authority is failing to comply with the requirements of Part 1 of that Act. However, some wider Fire and Rescue Service performance issues covered by the Framework, such as measures to make provision for resilience in the face of a terrorist attack, may not be covered by the provisions of Part 1 of the 1999 Act.

Report

40. The Assembly Government will periodically report on the extent to which fire and rescue authorities are acting in accordance with the Framework and any action it has taken to ensure they do so.

Information

41. The bill provides a power to fire and rescue authorities to collect information. The power could, for example, be used for collecting incident by incident information on primary fires (those involving property, rescues, casualties or fatalities), the number and location of fires and the number of fire-related casualties and fatalities.

Inquiries

42. The bill re-enacts existing powers which will allow the Assembly to hold a public inquiry into the performance of a fire and rescue authority or its handling of a particular incident.

Inspectors

43. The bill re-enacts the power dealing the arrangements for appointing inspectors of the Fire and Rescue Service. The Assembly will have the power to appoint assistant inspectors.

Equipment etc

Organisations, equipment, facilities and services

44. The bill will allow the Assembly to provide and maintain services and facilities to fire and rescue authorities, and will also grant the power to oblige the authorities to use them. For example, this clause will give the Assembly the specific authority to provide equipment to prepare authorities to deal with civil resilience incidents.

Directions for public safety purposes

45. The bill provides the Assembly with a power to give general directions, by order, to fire and rescue authorities as to the use and disposal of their property or facilities for the purposes of public safety. An example of when this power might be used is during a period of industrial action when official fire and rescue authority cover to deal with emergencies is insufficient to deal with local risks and in order to ensure public safety their equipment needs to be used by others providing emergency fire cover.

Training etc

Training institution and centres

46. The Bill provides for training for fire and rescue authority employees (and others) to be delivered centrally, regionally or locally. This clause will allow the Secretary of State in England (and the Assembly in Wales) to set up central or local (including regional) training centres. The Fire Service College at Moreton in

Marsh provides a central training facility for the Fire and Rescue Service. However, the College is not able to provide all the development and training for the service and some training (for example, training that needs to be carried out regularly) may be best delivered at local level.

PART 4: EMPLOYMENT

Negotiating bodies

47. The Assembly will have powers to establish one or more new negotiating bodies and their membership and chairs. The bill provides the Assembly powers to intervene, if necessary, to put in place new negotiating machinery, following consultation. The bill provides for the Assembly to issue guidance to negotiating bodies, to which they must have regard. This power will apply to bodies established voluntarily as well as any set up by the Assembly.

Pensions

48. The bill re-enacts existing powers to enable more than one pension scheme to operate at any one time. The bill re-enacts provisions in the Fire Services Act 1947 which will allow the Assembly to prescribe the circumstances in which a fire and rescue authority may provide information to a person who has opted or transferred out of any pension scheme for fire-fighters. It also provides that existing the fireman's pension scheme can continue in operation despite the repeal of the 1947 Act .

PART 5: WATER SUPPLY

Duty to secure water supply etc.

49. The bill re-enacts existing provisions requiring fire and rescue authorities to take all reasonable measures to ensure the adequate supply of water for use in the event of fire. It allows an authority to use any suitable supply of water, Whilst it provides for payment of reasonable compensation for the water, this is limited by reference to section 147 of the Water Industry Act 1991, which expressly forbids charging by a water undertaker in respect of water taken for the purpose of extinguishing fires, any other emergency purposes, water for testing apparatus used for extinguishing fires or for fire-fighting training.

Supply of water

50. The bill re-enacts existing powers to allow a fire and rescue authority to enter into an agreement with a water undertaker for the supply of water.

51. It makes any obligation on a water undertaker, under an agreement, enforceable by the Assembly under section 18 of the Water Industry Act 1991. This gives the Assembly power to make an enforcement order to secure compliance with any statutory or other requirement.

52. The bill re-enacts existing provisions that place an obligation on a water undertaker to take all necessary steps to increase supply and pressure of water for the purpose of extinguishing a fire, if requested to do so by a fire and rescue authority. It allows a water undertaker to shut off water from the mains and pipes in any area to enable it to comply with a request to increase supply and water pressure and safeguards the fire and rescue authority or any person from any liability for anything done by a water undertaker in complying with its obligations.

53. It will also allow a fire and rescue authority to enter into agreements with persons other than water undertakers in order to secure the use of water; to improve

access to water; or to lay and maintain pipes and to carry out other works in connection with the use of water.

Fire hydrants

54. Access to the water supply is by connection to a fire hydrant. Hydrants may be fitted by a water undertaker at the request of a fire and rescue authority. As with the existing legislation costs for marking the location of every fire hydrant with a notice or distinguishing mark can be charged to the fire and rescue authority in whose area the hydrant is situated.

55. Existing enforcement of obligations of a water undertaker are provided under the bill such that that they are enforceable by the Assembly under section 18 of the Water Industry Act 1991, which gives a power to make an enforcement order to secure compliance with any statutory or other requirement.

56. The bill also re-enacts requirements of persons proposing to carry out works for the purpose of supplying water to any part of the area of a fire and rescue authority or works to a fire hydrant to give notice to the fire authority.

PART 6: SUPPLEMENTARY

Powers in the event of emergency

57. This provision provides authorised employees of a fire and rescue authority with the powers to deal with fires, road traffic accidents and other emergencies. It replaces the Fire Services Act 1947 which was limited to dealing with fires and recognises the wider range of duties of fire-fighters, including the work which fire and rescue authorities do in responding to road traffic accidents.

Powers of entry

Obtaining information and investigating fires

58. This allows an authorised officer of a fire and rescue authority to enter premises to obtain information that is needed for the discharge of the core functions of fire-fighting, dealing with road traffic accidents and specified emergencies. In the case of premises where a fire has occurred it also allows a fire and rescue authority to gain entry in order to investigate the cause and progression of the fire that has occurred there.

Supplementary powers

59. This sets out the powers and the obligations of an employee of a fire and rescue authority who has entered a place to gain information or investigate the cause and progression of a fire. The powers and obligations are similar to those applicable to investigations under health and safety legislation.

False alarms of fire

60. Re enacting existing legislation this provides that a person who knowingly gives or causes someone else to give a false alarm of fire to a person acting on behalf of a fire and rescue authority is liable to a fine, prison sentence or less, or both.

Consequential provision

Abolition of Central Fire Brigades Advisory Council

61. The bill abolishes the Central Fire Brigades Advisory Council, which was established to provide general advice to government on matters relating to the operation of that Act. The Council also served as statutory consultee prior to the exercise of certain regulation-making powers under the 1947 Act (for example with regard to pensions). Where such regulation-making powers are re-enacted elsewhere in the Bill, the Assembly will be under a duty to consult with such persons as it considers are appropriate.

PART 7: GENERAL

Wales/Extent

62. The Bill extends to England and Wales only with the exception of the provisions regarding pensions in Part 4 (as pension policy is a reserved matter) and various consequential provisions which also extend to Scotland.

63. Wherever appropriate, it gives the National Assembly for Wales the powers of the Secretary of State in its application to Wales.

COMMENCEMENT

64. The provisions come into force on such dates as the National Assembly by order appoints.

Financial Implications

65. The UK government does not expect, taking England and Wales as a whole, the bill to have a significant impact on either public expenditure or manpower. Through the process of regional organisation (in England) and the introduction of Integrated Risk Management Plans (IRMPs), it is expected that fire and rescue authorities will be given the flexibility to place greater emphasis on prevention and accrue expenditure savings as a result. IRMPs in particular should allow authorities to meet more effectively the particular service demands in their area. Whilst there may be a possibility that some fire and rescue services (typically smaller, rural authorities) could incur some short-term cost increases as a result of adopting the provisions in the Bill (such as an enhanced role in promoting fire safety), such costs should be offset in the longer term by the efficiency savings that the Bill will bring about.

66. The Assembly will have to consider the implications for Wales in due course. This will have regard for the high proportion of retained firefighters in Wales and rationalisation that took place in 1996 with the amalgamation of eight into the current three fire authorities

67. With regard to any cost and manpower implications of new duties and powers to respond to emergencies such as the new dimension of terrorism, the capital and revenue consequences are the subject of discussion with the Office of the Deputy Prime Minister.

Compliance

68. Under Section 31 of the Government of Wales Act the Secretary of State for Wales is required to consult the Assembly about the government's legislative programme which currently includes this bill. Scrutiny by Assembly committees is intended to inform that process. In addition Section 33 enables the Assembly to consider and make appropriate representations on any matter affecting Wales. The bill is of course subject to the normal parliamentary scrutiny process. There is no

issue of regularity or propriety.

Action for Subject Committee

69. The Committee is asked to note and comment on the current provisions of the Fire and Rescue Bill.

Edwina Hart

Minister for Social Justice and Regeneration

Contact Point: Francois Samuel, Housing Directorate, Tel: 6903