

EXPLANATORY MEMORANDUM TO THE FIRE AND RESCUE SERVICES (NATIONAL FRAMEWORK) (WALES) ORDER 2008

This Explanatory Memorandum has been prepared by the Social Justice and Local Government Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

(i) Description

Article 2 of this Order, which has effect in relation to Wales, gives effect to the Fire and Rescue National Framework (Wales) 2008 ('the 2008 Framework').

(ii) Matters of special interest to the Subordinate Legislation Committee

None.

(iii) Legislative Background

Sections 21 and 62 of the Fire and Rescue Services Act 2004 require the Welsh Ministers to prepare a Fire and Rescue National Framework which sets out priorities and objectives for Fire and Rescue Authorities and which may provide guidance and to keep it under review. Fire and Rescue Authorities must have regard to the Framework in carrying out their functions. Any revisions to the Framework which appear to Welsh Ministers to be significant must be brought into effect by Order. The 2008 Framework is considered to be a significant revision of the Fire and Rescue National Framework (Wales) 2005 ('the 2005 Framework') and is therefore given effect by this Order. This Instrument will be subject to the Negative Procedure.

(iv) Purpose and intended effect of the legislation

The effect of the Order is to replace the 2005 Framework with the 2008 Framework. The 2008 Framework sets out priorities and objectives for Fire and Rescue Authorities and provides guidance for Fire and Rescue Authorities in carrying out their functions. It provides strategic direction from the Welsh Assembly Government while ensuring that Fire and Rescue Authorities continue to make local decisions. The 2008 Framework sets out the Assembly Government's vision for the Fire and Rescue Authorities and their role in delivering the Government's priorities for the public sector and wider Wales. It details the key themes for the Fire and Rescue Authorities during the 2008 Framework's three year lifespan: community focussed delivery; collaboration; the environment and sustainability; and equality and diversity.

(v) Implementation

It is intended that this Order will come into force on 22 September 2008. There are no significant implications if this date is not met as the 2005 Framework will remain in force until the 2008 Framework is brought into effect.

(vi) Consultation

A 14 week consultation on the content of the 2008 Framework was undertaken between 17 March 2008 and 20 June 2008 with a wide range of stakeholders and others with an interest. Thirty six responses were received, (although two responses were not considered due to the lateness of response). Please refer to the RIA consultation paragraph for further information.

(vii) Regulatory Impact Assessment

(i) Options

Option 1: Do Nothing

The existing 2005 National Framework will remain as a statutory document until it has been replaced. If the Order were not made, the 2008 Framework would not have statutory effect and the priorities and objectives contained within the document which reflects the third Assembly and 'One Wales' would have no status.

Option 2: Make the Legislation

Welsh Ministers are required by Sections 21 and 62 of the Fire and Rescue Services Act 2004 to publish a Fire and Rescue National Framework for Wales setting out guidance for FRAs, as well as priorities and objectives for them in connection with the discharge of their duties. The first National Framework for Wales was published in March 2005 and a number of revisions were made to it, by Order, in March 2007. The Fire and Rescue Services Act 2004 requires Welsh Ministers to keep the 2008 Framework under review and to make appropriate revisions. The 2008 Framework includes a new vision for the FRAs; the need for greater collaboration; the appointment of an independent adviser and FRA resilience. The 2008 Framework will provide strategic direction to the FRAs and reflect the third Assembly and the priorities in 'One Wales'.

(ii) Benefits

This Order sets out priorities and objectives for Fire and Rescue Authorities and provides guidance for Fire and Rescue Authorities in carrying out their functions. It also provides strategic direction from the Welsh Assembly Government while ensuring that Fire and Rescue Authorities continue to make local decisions.

(iii) Costs

The estimated cost for the production of the 2008 Framework will be c£5,000 and can be met within the Social Justice and Local Government Main Expenditure Group provisions.

(iv) Competition Assessment

N/A

(v) Consultation

With Stakeholders

A 14 week consultation on the content of the 2008 Framework was undertaken between 17 March 2008 and 20 June 2008 with a wide range of stakeholders and others with an interest. Thirty six responses were received, (although two responses from community councils were not considered due to the lateness of response) from:

- Assembly Members
- FRAs
- Chief Fire Officers Association
- WLGA
- 18 community councils
- Welsh Language Board
- WACPO on behalf of the Welsh Police Service
- Two Local Authorities
- Brecon Beacons National Park
- Two NHS Trusts
- Firebrake Wales
- Denbighshire Community Safety Partnership
- Youth Offending Team Managers
- Fire and Rescue Suppliers Association.

The main thrust of the responses, in particular from the three FRAs, was based around:

- the over reliance on the Fire and Rescue Community Safety Committee (called the Fire and Rescue Consultative Forum ('FRCF') in the 2008 Framework). There is concern that because meetings between the Minister and the FRAs were not referred to in the document, the meetings may not happen. The Minister has previously written to FRAs and the FBU indicating that he will continue to meet FRAs and other stakeholders on a regular basis outside of a formalised meeting structure and this commitment has been reiterated in the final version of the 2008 Framework;
- too prescriptive (in particular the delivery action plan) with concern over the interplay of the descriptive demands placed on FRAs and the

intervention protocol which was published in March 2007. Taking on board these comments we have removed the delivery action plan from the 2008 Framework.

- FRAs expressed concern over the requirement to discuss Risk Reduction Plan ('RRP') proposals with Welsh Ministers both prior to and following formal public consultation. They commented that they are the only public sector body to be subject to such a level of scrutiny and that this requirement places unnecessary time constraints on them. Recognising this we now expect FRAs to meet only once with Welsh Ministers, following the end of the formal public consultation.

Clarification was also sought on:

Flooding and Water Rescue – The recently published Pitt Review into the floods in England recommends that water rescue and the provision for flooding should become a statutory function for FRAs. The Assembly Government will consider the implications of the Pitt Review for Wales and Welsh FRAs and will seek to discuss a way forward with colleagues in UK Government to ensure an approach which reflects the needs of Wales and provides adequate resilience across borders. The document has been amended accordingly to reflect this.

Contingency Planning – clarification was sought on the Assembly Government's commitment in supporting the FRAs in dealing with major staff absence, whether it be through industrial action, influenza pandemic or other causes without the use of military support. The Assembly Government has worked effectively and Chief Fire Officers Association ('CFOA') to support self sufficiency in emergency cover across the country and each FRA should have in place a plan to provide such level of emergency cover as it regards as appropriate during any period of emergency without reliance on the Armed Forces. The document has been amended accordingly to reflect this.

Mutual Assistance across borders – clarification was required on the benefits that could be obtained in the border areas with collaboration with English counterparts. Effective emergency response arrangements are paramount for both public and firefighter safety. FRAs have for many years provided mutual support across borders through the shared availability of fire crews and appliances. The Assembly Government continues to support this approach and the document has been amended accordingly to reflect this.

(vi) **Post Implementation Review**

There is no intention to review the requirements and expectations in the Order in the short term. Any proposals to amend the 2008 Framework will be subject to full consultation as and when they arise, and would be given effect by Order. Section 25 of the Fire and Rescue Services Act 2004 requires the Welsh Ministers to report to the

Assembly every two years on the extent to which FRAs are acting in accordance with the current Framework.

(vii) Summary

This Order sets out priorities and objectives for Fire and Rescue Authorities and provides guidance for Fire and Rescue Authorities in order to carry out their functions. It also provides strategic direction from the Welsh Assembly Government while ensuring that Fire and Rescue Authorities continue to make local decisions. The 2008 Framework will set out the Assembly Government's vision for the Service and its role in delivering our priorities for the public sector and wider Wales. It details the key themes for the Service during the 2008 Framework's three year lifespan: community focussed delivery; collaboration; the environment and sustainability; and equality and diversity.