

AGENDA ITEM:

REPORT TO: Meeting of the	MERSEYSIDE FIRE & RESCUE AUTHORITY COMMUNITY SAFETY & PROTECTION COMMITTEE
DATE:	THURSDAY 12TH JULY 2012
REPORT NO.	CFO/096/11
REPORTING OFFICER:	DEPUTY CHIEF FIRE OFFICER
CONTACT OFFICER:	AM MYLES PLATT – DIRECTOR OF PREVENTION & PROTECTION, EXTN: 4644
OFFICERS CONSULTED:	GM GUY KEEN
SUBJECT:	RETAIL AND FIRE AUTHORITY KEY AUTHORITY PARTNERSHIPS (RAFKAP)

APPENDIX (A) TITLE Equality Impact Assessment

ATTACHED – HARD COPY

Purpose of Report

1. To request that Members note the content of this report and approve the recommendations relating to the adoption of Retail and Fire-Authority Key Authority Partnerships (RAFKAP) and the entry into consultation with the Local Better Regulation Office (LBRO) in respect of the Fire Safety Primary Authority Scheme (PAS).

Recommendation

2. That Members;
 - a) Note the risks and benefits of engaging in a Primary Authority Scheme (PAS) and a Retail And Fire Authority Key Authority Partnership (RAFKAP).
 - b) Approve entering into RAFKAP status with commercial organisations for the purpose of risk reduction, income generation and staff development.
 - c) Approve entering into consultation with LBRO to explore the potential of PAS status with regards to Fire Safety legislation.

Executive Summary (if report 3 pages or more long)

Many businesses are familiar with forming statutory partnerships with single Local Authorities to help them comply better with Trading Standards, Food Standards and Health & Safety legislation. Many of these partnerships have been formed under the Primary Authority Scheme (PAS). Businesses are now very supportive of the

Primary Authority Scheme and are keen to incorporate Fire Safety under the same scheme.

A PAS provides a consistent approach to fire safety and helps an organisation (mainly retail sector) to comply with fire safety legislation and practices in the workplace; namely petroleum and explosives licensing.

An alternative opportunity to PAS exists called Retail and Fire Key Authority Partnership (RAFKAP), which is supported by the Chief Fire Officers Association (CFOA). This, involves sharing information regarding compliance and the legislation between Fire and Rescue Authorities. The lead authority (1 F&RA) can communicate with other F&RA's that may have concerns about the company's regional outlets. The lead F&RA however is not responsible for enforcement if the company does not comply with the Fire Safety Order.

MFRA have undertaken consultation with other F&RA's that are successfully acting as the lead authority in fire safety for retail customers through RAFKAP, and under a Primary Authority Scheme for petroleum and explosives licensing.

The benefits for the F&RA are twofold; firstly in the recoupment of service delivery costs and secondly through the enhancement of commercial compliance.

This report outlines the business case and makes recommendations for the implementation of RAFKAP by MFRA and to enter into consultation with LBRO to further explore the potential of PAS regarding Fire Safety Legislation.

Introduction & Background

3. In July 2011 the CFOA Business Development Manager hosted a national conference on RAFKAP with a number of speakers from both Retail and the FRA extolling the benefits of RAFKAP.
4. The experience of other F&RA's and the guidance of Chief Fire Officers Association has given us cause to consider the opportunities and benefits available to FRA's through RAFKAP and PAS arrangements which are operating successfully in the UK.
5. The main benefits to retail include:
 - a) Greater efficiency through having a consistent approach to the interpretation of Fire Protection legislation and enforcement standards under the Fire Safety Order (FSO);
 - b) Reduction in the amount of time that Retail managers have to commit to Fire Protection inspections/audits;
 - c) Reduction in risk through a combination of suitable and sufficient levels of Fire Safety and less risk of enforcement action and the consequential financial and reputational risk from prosecution.
6. The main benefits to the FRA include:
 - a) Greater confidence in national companies' compliance with the FSO and information sharing to inform risk based strategies, thus allowing FRA's to prioritise audits in areas of greater risk;

- b) Opportunity for cost recovery from training and review/support outside of the FRA county boundaries, and from access to companies' corporate social responsibility budgets.
 - c) Support for Fire Safety campaigns and activities.
7. Similar arrangements have existed under PAS since April 2009 which is the statutory responsibility of the LBRO, who register the partnerships, issue guidance and resolve disputes. PAS give companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils when carrying out inspections or dealing with non-compliance on petroleum and explosives licensing. It is the gateway to simpler, more successful local regulation.
8. Nationally CFOA has some concern that in the absence of an alternative then PAS may be imposed upon FRA's by the Department for Business, Innovation and Skills (BIS) in the area of petroleum and explosive licensing. Therefore CFOA prefer RAFKAP over PAS as the role of LBRO can be restrictive in terms of the flexibility afforded to individual F&RA's to adopt their own risk based approach to audit and inspection and allocation of resources. In comparison RAFKAP is voluntary where the main focus is mutual benefit.
9. Tyne & Wear FRA (TWFRAs) have had a long standing partnership with Sainsbury's PLC since 2007 and have developed both a RAFKAP (Fire Safety Order) and a PAS (Fireworks Licensing). Benefits that TWFRAs have gained from the RAFKAP include:
- a) Removal of traditional chip pans from 1000 Sainsbury's stores across the UK; Access to retail forums to promote fire safety issues;
 - b) Insight into improved compliance and enforcement activities in respect of large retail companies;
 - c) Development of personnel through close working with the private sector retail environment;
 - d) Opportunity to benchmark the F&RA against a large successful retail outlet.
 - e) Financial support for a number of Fire Prevention initiatives;
 - f) Quality assurance of their own procedures.
10. It is essential that Members understand the risks, costs and commitment required.
11. This report outlines the business case for adopting RAFKAP and makes recommendations about how this can be best implemented.
12. The following outlines the business case in terms of risks and benefits (including control measures) of the adoption of RAFKAP by MFRA:

Risks

13. RAFKAP will absorb time from Community Fire Protection Department Managers and Officers thus giving potential to disproportionately allocate resources in respect of overall risk reduction. This risk is far greater with PAS due to its regulation by LBRO (see paragraph 8);

14. Potential exists for the Authority to be compromised in terms of its responsibilities for enforcing Fire Safety Legislation.
15. Potential exists for reputational damage which may arise from the Service offering technical fire safety advice which later becomes discredited or from partnership with another organisation which later becomes discredited;
16. RAFKAP is criticised by some members of CFOA for disproportionately allocating resource to premises that are relatively low risk;

Benefits

17. UK F&RA's benefit from RAFKAP by the sharing of information coordinated via the CFOA Communities of Practice. The more Fire Authorities' that adopt this approach then the greater the fire safety risk in the retail sector will be managed, thus requiring significantly less local resource to manage that risk. This will allow Fire Authorities to have greater intelligence that will allow improved targeting of Fire Protection resources to focus on areas of greater risk.
18. Significant scope exists to recover costs from a range of chargeable services including:
 - a) Training and staff development tailored to the client's needs. Opportunity for the sale of training is realistic for executive teams and middle managers to cascade to team members;
 - b) Guidance in production of fire safety manuals, risk assessment templates and checklists;
 - c) Advice in best practice.
19. Scope exists to realise benefit from the Corporate Social Responsibility budgets of our RAFKAP Partners to support Community Fire Protection and Prevention initiatives (see paragraph 9).
20. RAFKAP would create short term secondment opportunities which would enhance the development of officers/managers from Community Fire Protection. Additionally the costs recovered from such secondments will secure the continued provision of Community Fire Protection Officers.

RAFKAP Proposed Implementation (and Control Measures to reduce or mitigate risk)

21. The Community Fire Protection Manager will maintain the client relationship and arrange with the support of other business areas a suitable chargeable rate to fully recover costs under the service provision and manage the potential for support of service delivery via partners' Corporate Social Responsibility budgets.
22. Fire Protection Managers through existing relationships with Santander and Greggs the Bakers have established that both companies are very interested in entering RAFKAP agreements with Merseyside Fire and Rescue Authority. Both companies recognise the significant benefits and appear to be fully prepared to provide the funding necessary to make the partnership mutually beneficial. On this basis this report recommends that MFRA approve further consultation with

both Santander and Greggs the Bakers with a view to entering into RAFKAP agreements.

23. Greggs the Bakers is a national retailer which operates numerous shops that cook and prepare food in premises underneath sleeping accommodation, such premises are known to have a significant fire risk potential, therefore allocating resource in areas of risk.
24. This report recommends that the Authority enters no more than two RAFKAP agreements until sufficient evidence exists to suggest that it would be beneficial to the Authority and that the Service has sufficient capacity to commit the necessary resource.
25. Every RAFKAP agreement should include an exit clause which can be evoked by either side in the event that the RAFKAP ceases to offer value to that partner.
26. Procurement and Legal Departments will contribute to and sign off any RAFKAP agreement before it is presented to the RAFKAP partner.

LBRO Consultation

27. LBRO oversees PAS and governs the partnerships made between Local Authorities and businesses. Currently businesses can rely on a Primary Authority to advise on environmental health, licensing and trading standards in the knowledge that it is expert opinion, applicable across the UK, and a secure basis for investment and operational decisions.
28. At present F&RA can only enter into a PAS on the basis of providing Petroleum and Explosives licensing support. LBRO would like to consult with MFRA in an investigative pilot to establish the possibility of extending the offer of Fire Safety advice under the scheme, with potential to implement in 2013.
29. The pilot would require MFRA to commit a Fire Safety Officer to a three day consultation process. LBRO have confirmed the attendance of a number of UK F&RS to attend the pilot including: Greater Manchester F&RS, Essex F&RS, Tyne and Wear F&RS. This paper requests that MFRA support the consultation process.
30. This report recommends that MFRS should commit to the pilot as the minimal amount of Officer time (single officer for 3 days) is more than outweighed by the potential benefits of both how MFRS can influence how PAS can best be regulated in the interests of the Authority and additionally how PAS can directly benefit our Organisation.

Equality & Diversity Implications

31. An Equality Impact Assessment has been carried out and is attached as Appendix A.

Staff Implications

32. Potential exists for funding from RAFKAP/PAS to offset staff costs by utilising funding from these partnerships to support current staffing costs.

Legal Implications

33. Any income may be charged on a cost recovery basis only. Profit making and/or commercial activity must be carried out through a company and a separate company would not satisfy the requirement in the Regulatory Enforcement and Sanctions Act 2008 for a Primary Authority to be a Local Authority.

Financial Implications & Value for Money

34. It is anticipated that full cost recovery from RAFKAP will significantly outweigh any costs and therefore will be self funding. Any interim financing required to establish such Partnerships can be realised within existing budgets.

Risk Management, Health & Safety, and Environmental Implications

35. There are no significant H&S or Environmental implications that require any additional risk assessments in relation to the involvement of MFRA personnel in RAFKAP/PAS.
36. The potential does exist for financial and reputational risk arising from a RAFKAP/PAS in respect of conflict of interest regarding our responsibilities as an enforcing authority, or bad publicity as a result of actions by a partner agency. This risk will be managed through close liaison between Community Fire Protection, Legal and Procurement Departments and the Income Generation Manager to ensure that any partnership agreement under RAFKAP or PAS will effectively manage reputational risk.
37. The sharing and disseminating of risk information regarding each Authority that enters into a RAFKAP and/or PAS shall be coordinated via the CFOA communities of practice.

Contribution to ****Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters****

38. The Both PAS and RAFKAP have the potential to improve fire safety compliance in premises across Merseyside and enable MFRA to target resources at those premises that present greatest risk to communities and firefighters.

BACKGROUND PAPERS

List any supporting documents/evidence here

***Glossary of Terms**

Please list any acronyms used within this Report and appendices, including their meaning.

- BIS Department for Business, Innovation and Skills
- CFOA: Chief Fire Officers Association
- FSO: Regulatory Reform (Fire Safety) Order 2005
- LBRO: Local Better Regulation Office
- PAS: Primary Authority Scheme
- PLC: Public Limited Company
- RAFKAP: Retail And Fire-authority Key Authority Partnerships
- F&RS Fire and Rescue Services

Revised Report approved by SMG 4th October and by Authority at Executive Leadership Board 4th October 2011. (Mission considered by Community Protection Committee 25th October 2011)

**Currently part of the IRMP 2012-2015 Consultation