

MERSEYSIDE FIRE AND RESCUE AUTHORITY			
MEETING OF THE:	AUTHORITY BUDGET MEETING		
DATE:	23 FEBRUARY 2017	REPORT NO:	CFO/018/17
PRESENTING OFFICER	DCFO PHIL GARRIGAN		
RESPONSIBLE OFFICER:	AM GUY KEEN	REPORT AUTHOR:	GUY KEEN
OFFICERS CONSULTED:	GARY OAKFORD, BEN RYDER, IAN MULLEN, KEVIN JOHNSON		
TITLE OF REPORT:	REGULATION 28 CORONERS LETTER: HOARDING FIRE FATALITY		

APPENDICES:	APPENDIX A: REGULATION 28 CORONERS LETTER
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Purpose of Report

1. To inform Members on the Regulation 28 Report created to 'Prevent Future Deaths' as directed to the Rt. Hon Amber Rudd, Secretary of State for the Home Office by the Senior Coroner from the City of Liverpool and Wirral following a double fatality at a fire in a single private dwelling where hoarding has been identified as a contributory factor in relation to the loss of life.

Recommendation

2. That Members;
 - a. Note the details of the incident attended by Merseyside Fire and Rescue Service (MFRS) resulting in a double fatality where hoarding was identified as a contributory factor in relation to the loss of life.;
 - b. Note the details and matters of concern raised by the Coroner in his Regulation 28 Report in respect of the above incident and the resultant actions required by the Home Office;
 - c. Note the Service's response to the Report and the interim measures taken by the Service in consideration of the Coroners recommendations.

Introduction and Background

3. At 15:39 hours on 23rd October 2016 MFRS attended an incident of fire at 268 Mather Avenue, which is a semi-detached single private dwelling house in Allerton. The fire destroyed the floor and ceiling joists of the house causing partial collapse of the building.

4. Following excavation after the fire, the bodies of Robert Frederick Cain and his wife Clare Cain (deceased) were found on 25th October 2016 in the ground floor front lounge under debris.
5. The following fire investigation conducted by the MFRS Incident Investigation Team (IIT) identified that the fire was likely started by a fan heater radiating heat onto combustible material in the vicinity.
6. The investigation additionally identified that the property suffered from excessive hoarding which hampered fire-fighting and rescue operations, and likely obstructed the occupants from being able to escape the property from the fire.
7. Mr André Rebello, Senior Coroner for Liverpool and Wirral commenced an investigation into the deaths of Mr and Mrs Cain on 18th November 2016.
8. The Coroner's inquest ended on 9th February 2017 and concluded a verdict of accidental death for Mr and Mrs Cain as a result of the fire.

Regulation 28 Report to Prevent Future Deaths

9. On 9th February 2017 the Coroner wrote a Regulation 28 Report to the Rt. Hon Amber Rudd, MP Secretary of State for the Home Office as the individual identified by the Coroner as the person with the powers to take action to prevent future deaths.
10. The Regulation 28 Report is provided to prevent future deaths and is made under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.
11. In the Regulation 28 report the Coroner raised the following matters of concern:

*In the circumstances it is my statutory duty to report to you.
The MATTERS OF CONCERN are as follows. –*

Current Fire Service legislation under the Regulatory Reform (Fire Safety) Order 2005 applies to non-domestic premises and therefore does not cover people's homes. The legislation values business and industrial premises above citizen's homes. It is brought to your attention that where there are vulnerable people living in their own home, who do not accept advice offered by a Fire And Rescue Service that following risk assessment from neighbours, relatives or other statutory authorities there is currently no legislative or enforcement powers which exist for Fire and Rescue authorities to address the situation in a single private dwelling. The risk to life in this situation arose from hoarding behaviour, of which authorities were aware, but for which they had no enforcement powers to address, even to enter the premises. This was a semi-detached property and other fatalities could have occurred.

The Coroner concludes "I would be grateful if you could review the law and the powers afforded to Fire and Rescue authorities in this regard".

12. This Regulation 28 Report places a duty on the Rt Hon Amber Rudd MP to respond to the report by 10th April 2017 (the Coroner may extend this period).
13. The response must contain details of:
 - a. Action taken or proposed to be taken, setting out the timetable for action.
 - b. Otherwise an explanation of why no action is proposed.
14. In the Regulation 28 Report, the Coroner specifically requests that the Rt Hon Amber Rudd MP reviews the laws and the powers afforded to Fire and Rescue Authorities (FRAs) in regard of the matters of concern (see paragraph 11).
15. Progress of any actions with a national FRS impact together with the dissemination of any learning from the Coroner's Report should be coordinated under the new structure being implemented under the Chair of the National Fire Chiefs Council:
16. If the Rt Hon Amber Rudd accepts the recommendations then consideration needs to be given to amending the Fire and Rescue Services Act, 2004 in relation to the following sections:
 - a. Section 9 (1): The Secretary of State may by order confer on a fire and rescue authority functions relating to emergencies, other than fires and road traffic accidents in relation to which the authority has functions under section 7 or 8.
 - b. Section 11: Power to respond to other eventualities;
 - c. Section 44: Powers of fire-fighters etcetera in an emergency.
17. The amendments would need to give powers for FRS officers to enter single private dwellings acting on intelligence of hoarding hazards, where such hazards are deemed to be a significant risk to members of the public or other relevant persons, or to firefighters in the event of a fire.
18. On confirmation that a significant hoarding risk is confirmed by FRS officers, then the FRS would have to have instilled on it the powers to take action to secure the safety of relevant persons (such as the fitting of smoke alarms, the provision of fire safety advice and an assessment of risk) and to refer the premises to statutory partners with powers to remove the hoarding hazard sufficient to prevent further risk of death.
19. The co-ordination of this activity should be agreed and recorded within a Multi-Agency Hoarding Protocol, which should be refreshed annually.
20. It is recommended that this coordination is discharged through statutory partners (see paragraph 18) with responsibility for Safeguarding (different arrangements exist for different local authorities).
21. A further consideration should be given to the inclusion of FRAs as a statutory partner on Safeguarding Boards.

22. The Safeguarding Boards or a sub group convened under the Multi Agency Hoarding Protocol should be responsible for ensuring an action plan is put in place to mitigate the medium and long term risks in respect of individual cases where hoarding causing a risk of future fire deaths.
23. It is the intention of the Deputy Chief Fire Officer to write to all Safeguarding Boards to ensure they are aware of the Section 28 recommendations and that the actions detailed in paragraph 18-21 are progressed and that any subsequent actions are discharged following receipt of a response from the Rt Hon Amber Rudd MP.

Interim Measures by MFRS

24. MFRS will put in place the following measures as an interim measure to mitigate significant fire risks in single private dwellings resulting from excessive hoarding:
25. Utilise our on-going contribution in Multi-Agency Strategic partnerships to share intelligence on significant fire risks in single private dwellings resulting from excessive hoarding.
26. Target hoarding risk as a priority, optimising our brand influence and capabilities to get across the threshold of single private dwellings optimising existing procedures to mitigate the risk in conjunction with our partners.

Equality and Diversity Implications

27. It is likely that a significant proportion of vulnerable hoarders will be older persons (though not exclusive to this group). Other than that there is no intelligence to suggest persons from other groups with protected characteristics will be disproportionately affected by hoarding.
28. The proposals in this report are expected to improve the safety of vulnerable hoarders, their co-habitants and neighbours, therefore there are no envisaged detrimental impact

Staff Implications

29. Effective tackling of hoarding risk will result in reduced risks for operational firefighters by reducing the frequency and severity of accidental dwelling fires where hoarding would otherwise have been a contributory factor.

Legal Implications

30. MFRA responds to incidents and undertakes actions within the remit of its legislative powers and duties and will continue to do so incorporating any legislative changes impacting upon the same further to the response to the Regulation 28 Report referred to in this paper.

31. Any change in powers for FRS personnel to enter a single private dwelling in response to significant hoarding risk would require a change in legislation, namely a change in the Fire and Rescue Services Act 2004 (see paragraph 16).

Financial Implications & Value for Money

32. There are no additional identified costs arising out of this report.

Risk Management, Health & Safety, and Environmental Implications

33. Actions taken as a result of this report will result in reduced risks for the Community and Firefighters.
34. Any specific actions arising out of this report will be covered by existing Health and Safety policies and procedures. Where appropriate this will involve both dynamic and analytical risk assessments.

Contribution to Our Mission: *Safer Stronger Communities – Safe Effective Firefighters*

35. As cited above any actions arising from this report will reduce risks to vulnerable persons, their co-habitants and neighbours and operational firefighters (see paragraphs 23, 24 and 25).

BACKGROUND PAPERS

NA

GLOSSARY OF TERMS

CRM	C ommunity R isk M anagement is the MFRS directorate responsible for the following departments: Community Fire Prevention, Community Fire Protection, Community Safety, Youth Engagement and the Incident Investigation team.
FRA	F ire and R escue A uthority
FRS	F ire and R escue S ervice
IIT	I ncident I nteraction T eam – the MFRS team of Fire Investigators.
MFRA	M erseyside F ire and R escue A uthority is the physical and legal entity.
MFRS	M erseyside F ire and R escue S ervice is the service provided by MFRA.