

MERSEYSIDE FIRE AND RESCUE AUTHORITY			
MEETING OF THE:	COMMUNITY SAFETY AND PROTECTION COMMITTEE		
DATE:	27 MARCH 2014	REPORT NO:	CFO/026/14
PRESENTING OFFICER	DEPUTY CHIEF FIRE OFFICER		
RESPONSIBLE OFFICER:	AM MYLES PLATT – DIRECTOR OF PREVENTION AND PROTECTION	REPORT AUTHOR:	GM GUY KEEN
OFFICERS CONSULTED:	MARK CLARKE, (BRIAN NEAT, CFOA PAS LEAD OFFICER)		
TITLE OF REPORT:	EXTENSION OF THE PRIMARY AUTHORITY SCHEME TO FIRE SAFETY		

APPENDICES:	N/A
--------------------	------------

Purpose of Report

1. To inform Members of the statutory duty that will be placed on Merseyside Fire and Rescue Authority (MFRA) in relation to the enforcement of fire safety legislation, as a result of the extension of the Primary Authority Scheme (PAS) to the Regulatory Reform (Fire Safety) Order 2005 (“the Order”).

Recommendation

2. That Members note the extension of the Primary Authority Scheme to the Regulatory Reform (Fire Safety) Order 2005 and the requirement to abide by the terms and conditions of the Scheme when undertaking its regulatory activities.
3. That Members endorse the active participation of Merseyside Fire and Rescue Authority (MFRA) in delivering the scheme.

Introduction and Background

4. The Government’s economic growth agenda is focussed on supporting business development through the provision of consistent fire safety advice and through the transparent application of the Order thereby reducing the regulatory burden on businesses, whilst ensuring compliance.
5. The Primary Authority Scheme (PAS) is a statutory scheme available to businesses with a presence in more than one local authority area. The businesses can enter into a legal partnership with a single local authority to secure greater coordination of regulatory and enforcement activities. It applies to a range of regulations.

6. When PAS was first introduced, a statutory instrument meant that fire safety law was not included. However central Government agreed to revisit that decision at a later date.
7. The Enterprise and Regulatory Reform Act 2013 proposed the extension of the PAS to fire safety law.
8. A six month pilot began in January 2013 to determine whether PAS was suitable for fire safety law, the pilot included 2 options, a non-statutory scheme coordinated by the Chief Fire Officers Association (CFOA) and a statutory scheme coordinated by the Better Regulation Delivery Office (BDRO).
9. A number of Fire and Rescue Authorities (FRA's) were involved in the pilot schemes. MFRA, actively participated in the statutory pilot with two large retail organisations: Ladbroke's and Superdrug. MFRA continues to support these partnerships using existing resources.
10. The national outcome of the pilot is that the statutory PAS will be extended to fire safety law, subject to Parliamentary processes, in April 2014.
11. Additionally, the Enterprise and Regulatory Reform Act 2013 has also extended the ability to enter into a partnership to trade associations and franchises, thereby opening the PAS scheme to thousands of small businesses.
12. Entry to any PAS partnership remains voluntary for either side and unless both the Authority and the business agree that the partnership is mutually beneficial then there is no requirement to proceed.
13. However every Fire Authority in the country will be legally bound to comply with the terms and conditions contained within the PAS. This will either be as a Primary Authority partner or as an enforcing authority, should it choose not to commit resources to supporting the development of a partnership arrangement.
14. PAS provides a route for Authorities to recover costs from partners in line with BDRO guidance; however Authorities are not entitled to pursue the scheme to gain profit.
15. The Protection Department recognises the benefits of the scheme in providing consistent, professional advice that is respected within the business and fire sectors. The key benefits to MFRA are:
 - a. National adoption of the scheme by the FRAs and the consequential coordination of risk information will enable all Fire and Rescue Authorities to focus on high risk premises and free up businesses that wish to comply, to invest, grow and contribute to the local economy;
 - b. PAS partnerships create development opportunities for Protection officers;

- c. External funding based on recovering all costs arising from PAS partnerships will support the Protection functions succession plan by retaining fire safety technical expertise; and
- d. Entering into a partnership provides a potential vehicle to access support from business to contribute to our community fire prevention activities.

The benefits must be considered against the risk of over-stretching the capacity of fire safety technical expertise in MFRA.

- 16. In view of the benefits, this report recommends that MFRA actively seeks partnerships, however, in recognition of the risks careful consideration should be given to the number and suitability of PAS partnerships.
- 17. Should MFRA support the recommendation then the Community Fire Protection function should be tasked to produce a plan for engagement of PAS partnerships.
- 18. All partnership agreements would be signed and managed on behalf of the MFRA by the Community Fire Protection function as per the guidance from the BRDO. There will be an annual review of all partnerships in accordance with provisions of the scheme.
- 19. BRDO have arranged Regional training events, with the NW event taking place on 21 and 22 February 2014 having been attended by senior Protection staff.

Equality and Diversity Implications

- 20. Consultation on the PAS has been completed by the Government at a national level and submissions were provided by CFOA, MFRA and a number of other Fire and Rescue Authority's.
- 21. The proposals in this report are not considered to have any negative impact on any of the protected groups.

Staff Implications

- 22. The number of people required to manage and administer partnerships will depend upon the appetite for MFRA to 'enter' into the partnerships market. Sufficient resources will be required to provide resilience to a partnerships team to reduce any potential reputational loss from misadministration of the partnership scheme.
- 23. Staff implications have been considered as part of the risk and benefits of the scheme (see 15 – 16 above).

24. To manage any potential ongoing risk the role of Primary Authority Officer is deemed to be appropriate at Station Manager level or equivalent and they are required to report directly to the Head of Community Fire Protection.

Legal Implications

25. Under the PAS scheme MFRA will be expected to deliver correct advice to any partners. If this advice is proved to be negligent or inappropriate then there is a risk of legal challenge.
26. There is also a risk that if any advice has been given to a business and then there is a fire or injury on the premises, MFRA could potentially be summonsed to Court
27. Any PAS partnership agreements and subsequent risk assessments will be scrutinised and authorised by the Authority's legal team.

Financial Implications & Value for Money

28. One of the fundamental principles of the PAS is that a local authority may recover the costs associated with running the partnership. The costs are bound by the Government publication – “Managing Public Money” (HM Treasury, July 2013). This results in all associated personnel being externally funded, although transitional funding may be required until full cost recovery is established.
29. If a partnership is later dissolved there will be a consequential loss of income but it may not be possible to reduce the related costs immediately. So there may be a temporary increase in net spending.
30. Physical resources – office accommodation may be required depending on the number of partnerships. This may have to be factored into any cost recovery.
31. Information and communications technology resources – it is expected that, as the number of partnerships grows, the team members will be drawn from experienced business fire safety personnel. This is because of the level of competency expected from the business partners. Therefore existing ICT resources will be utilised.
32. Active rather than passive, participation in the scheme will ensure that the MFRA is meeting the expectations of local business in supporting local economic sustainability.

Risk Management, Health & Safety, and Environmental Implications

33. Reputational risk might arise if a business decision made as a result of advice received results in loss of business to the partner. The level of competency required to undertake the role of a partnerships officer, in accordance with the CFOA fire safety regulator competency framework, should ensure the quality of advice and limit the reputational risk.

34. Under the PAS scheme MFRA will be expected to deliver correct advice to any partners. If this advice is proved to be negligent or inappropriate then there is a risk of legal challenge.
35. There is also a risk that if any advice has been given to a business and then there is a fire or injury on the premises, MFRA could potentially be summonsed to Court

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

36. Active participation, as a Primary Authority partner, will directly contribute to our mission by enhancing the effectiveness against the Community Fire Protection risk based strategy, enabling the Service to retain and develop technical expertise and to focus our resources on higher fire risk in the built environment.
37. Active participation will additionally create an opportunity to seek external funding from the partner's corporate social responsibility budgets in order to support the Authorities prevention activities.

BACKGROUND PAPERS

CFO/111/11 If this report follows on from another, list the previous report(s)

GLOSSARY OF TERMS

MFRA	M erseyside F ire and R escue A uthority is the physical and legal entity. When writing reports MFRA is the “object”.
MFRS	M erseyside F ire and R escue S ervice is the service provided by MFRA. When writing reports MFRS is the “action”
CFOA	Chief Fire Officers Association
PAS	Primary Authority Scheme
BRDO	Better Regulation Delivery Office
FRS	Fire and Rescue Service
SMG	Strategic Management Group