



NFCC
National Fire
Chiefs Council

**Industrial Action Business Continuity Plan Review
Leicestershire Fire & Rescue Authority**

30 May 2018

Prepared by Julian Hilditch & Paul Hitchen

Industrial Action Business Continuity Planning Review

Background

Fire and Rescue Authorities (FRAs) have a statutory requirement to put in place effective business continuity arrangements in the event of industrial action, as laid out in the Civil Contingencies Act 2004. Furthermore, within these arrangements FRAs must make every endeavour to meet the full range of service delivery risks and national resilience duties and commitments that they face (Fire & Rescue Service National Framework).

The National Joint Council (NJC) is responsible for the national pay, terms and conditions of uniformed fire and rescue service personnel across the UK, from firefighters through to middle managers. Pay negotiations for 2017/18 remain on going which has consequently led to an emerging risk of national industrial action. During the negotiations the NJC has also approached Ministers in all four nations with a view to seeking additional, sustained central funding to support negotiations on widening the role of fire and rescue services.

The current risk of national industrial action occurring within fire and rescue services in England is assessed as being medium – high by Home Office (HO) and the National Fire Chiefs Council (NFCC).

Officials and the NFCC have considered what can be done to mitigate the likelihood of a strike, recognising that the Government has no direct involvement in the NJC pay negotiations. Government are however, engaging with the employer' side on a regular basis to establish their position and to facilitate progress.

Officials and the NFCC are in close contact with FRAs, Chief Fire Officers and the Devolved Administrations to keep the risk of industrial action under regular review. The NFCC wrote to all fire and rescue services (FRSs) in 2017 to ask them to review their Business Continuity Plans (BCPs). In December 2017 v7 of the returns were jointly reviewed by the HO and NFCC. This assessment identified a wide range of BCP arrangements and disparities in the predicted availability of firefighting appliances, critical national resilience assets, officials also sought to confirm the availability within FRS's of internal offensive high rise compartment firefighting capabilities.

Following this assessment, the Minister for Policing and the Fire Service wrote to Leicestershire FRA, along with other FRAs, on 11 January 2018 highlighting his concerns and requested a number of improvements to be made by the Authority. The improvements were specific to the achievement of a 25% appliance availability (compared to business as usual) level of resilience, the availability of internal compartment high rise firefighting capabilities and what critical national resilience assets would be available during periods of industrial action.

An exchange of correspondence occurred between the Authority and the Minister on 18 January and 28 February 2018, which provided useful information regarding the existing BCP arrangements. A subsequent visit was arranged to Leicestershire FRS

Protect - Management

on 30 May for officials and the NFCC to clarify arrangements, share good practice and identify opportunities that would deliver further improvements.

Purpose

The purpose of this review is to assist Leicestershire FRA in delivering its statutory duty as laid out in the Civil Contingencies Act 2004. This has been approached by clarifying the existing industrial action BCP arrangements that are in place, sharing good practice that has been adopted by other FRA's and importantly by identifying opportunities that may facilitate improvements and deliver enhanced levels of resilience and public safety during periods of national industrial action.

Key Lines of Enquiry

The review adopted the following key lines of enquiry:

- Clarify the statutory responsibility laid out in the Civil Contingencies Act 2004 and the expectations laid out in the FRS National Framework
- Gain an understanding of Leicestershire's governance arrangements, culture and relationships with representative bodies
- Explain the purpose of undertaking an annual assessment of individual FRA BCPs and the role of the NFCC in carrying out this process
- Provide an overview of the Industrial Action Memorandum of Understanding and Concept of operations between HO and the NFCC Ops (Sept 2017)
- Summarise the joint assessment of the FRA's BCP (Dec 2017 v7)
- Explain the ministerial requirement to improve levels of resilience, the provision of a high rise firefighting capability and availability of critical National Resilience Assets
- Discuss the exchange of letters between the Minister and the FRA
- Confirm the FRA's existing BCP including crewing arrangements and how available resources are modelled to risk during periods of IA
- Understand the FRA's use of non-striking firefighters/control staff, support staff, auxiliary firefighters and private contractors during periods of IA
- Understand the FRA's industrial action service policies, procedures and improvement plans which includes how Leicestershire FRS applies bullying and harassment policies during IA
- Consider the FRA's use of its reserves for IA purposes
- Review local mutual assistance arrangements and understand how these arrangements are used to support the availability of critical National Resilience assets
- Review the FRA's use of resilience contracts, auxiliary firefighters and private contractors
- Identify cultural reforms that would facilitate medium to long term improvements to IA BCPs

Existing Industrial Action Business Continuity Planning arrangements

Leicestershire IA BCP arrangements:

- Planned minimum 6 firefighting appliances crewed by non-striking wholetime firefighters and officers (availability of On Call/Retained Duty System firefighters not included)
- Minimum 25% level of resilience confirmed
- High Rise firefighting capability confirmed
- Availability of Urban Search & Rescue Team dependent upon enacting the national Return to Work Agreement
- Detection, Identification and Monitoring capability (DIM) hosted regionally. **(Availability not confirmed)**. No other critical National Resilience Assets hosted by Leicestershire FRS.
- Mass Decontamination Initial Operational Response (IOR) confirmed

Findings

- Leicestershire FRS business as usual arrangements comprise of 24 firefighting appliances. There are 16 Wholetime appliances during the day and 13 at night. There are 8 On-call appliances during the day and 11 at night. The availability of On-Call appliances fluctuates throughout the day.
- Currently the FRS IA BCP arrangements comprise of 6 firefighting appliances being available, modelled to risk and deployed at non FRS sites. These arrangements are delivered by non-striking Wholetime firefighters and officers.
- When compared to business as usual (24 firefighting appliances) these arrangements deliver a predicted minimum 25% firefighting appliance level of resilience. These arrangements meet the standards required by the Fire Minister in his January letter. Leicestershire FRS would expect levels of resilience to be higher with some availability provided in their own area by On Call/Retained Duty System firefighters as per the 2013-15 pensions dispute.
- These arrangements include an internal high rise firefighting capability.
- Leicestershire FRS would expect their specialist Urban Search & Rescue response capability to be available during periods of IA. However, these arrangements are dependent upon specialist trained firefighters and officers complying with the national Return to Work (RTW) agreement. This arrangement presents a residual risk that is created by a delayed critical response time and with some uncertainty in the number of firefighters who would respond.

Protect - Management

- Leicestershire FRS support a regionally hosted DIM capability and availability is dependent upon specialist trained officers and middle managers. It is anticipated that a regionally provided response could still be provided using non-striking officers who are DIM qualified. This would be enhanced by compliance with the national Return to Work agreement. This is a voluntary agreement and presents a residual risk.
- The Assistant Chief Fire Officer (ACFO) explained the strong union culture within the workforce. Approximately 90% of firefighters are members of the FBU which includes On Call/Retained Duty System firefighters.
- The ACFO provided a useful overview of previous industrial action arrangements and challenges that occurred during the 2013-15 pensions dispute. Lessons have been learned from these experiences and there was a very evident commitment from both the ACFO and Chair of the FRA to improve business continuity arrangements for the future.
- The FRS has bullying and harassment policies and procedures in place and examples were provided when these arrangements have previously implemented these arrangements when inappropriate behaviour has occurred during IA.
- The ACFO outlined his commitment to providing mutual assistance to neighbouring FRSs during periods of industrial action on a best endeavours and prioritised (life risk) basis. Examples were provided of how mutual assistance had been effectively delivered within the East Midlands region during the 2013-15 national pensions dispute.
- Provision of Fire Control. **Paul Hitch to add details**. Approximately 40% of Fire Control staff are members of the FBU. Regular assessments by the Control Room Manager indicate that only 2 to 3 of those would take part in industrial action. It therefore believed that a full Control Room function can be maintained for Leicestershire at all times. We have a tri-service control function however, receiving and providing fall back support from/to Nottinghamshire and Derbyshire Fire and Rescue Services. The resilience provided within Leicestershire may not be replicated in the other services.
- The ACFO and Chair expressed their views on how a firefighter's right to strike impacts the FRA's ability to put IA BCP plans in place, particularly in a Service like Leicestershire where there is a strong trade union culture which extends to local communities.
- The ACFO and Chair expressed their concerns regarding the option of delivering industrial action business continuity arrangements through a private sector provider and the associated costs. Their opinion was that this option could not provide a feasible solution to support the availability of the USAR

Protect - Management

capability due to skill requirements and the significant recurring costs which could not be funded through reserves over the medium to long term. The preferred approach of the FRA is to deliver business continuity through the existing arrangements with consideration given to the potential benefits of using Resilience Contracts and reserve/auxiliary firefighters.

- The Chair expressed his apologies for the delay which had previously occurred in providing Leicestershire FRSs IA BCP.

Recommendations

- The Chief Fire Officer (CFO) is encouraged to share the contents of this report with the Chair of the FRA with the intention of providing support and justification for improvements to be made to the existing business continuity arrangements.
- The CFO and Authority are encouraged to explore the use and implementation of Resilience Contracts for firefighters and middle managers who may be prepared to work during periods of IA. Leicestershire FRS should seek a legal view on the conditions and use of such contracts. Other FRSs in England have introduced similar arrangements which have proven to improve the resilience of their IA BCP arrangements.
- The senior management team should explore the potential of using reserve/auxiliary firefighters and combining this type of capability alongside the use of non-striking firefighters and the use of Resilience Contracts rather than have a single approach that may be adversely affected by a firefighter's right to strike.
- Leicestershire FRS are encouraged to contact Nottinghamshire FRS to gain an understanding of the initiative Nottinghamshire FRS are developing with Nottinghamshire Police for the use of PCSOs as Contingency Operatives (Reserve firefighters) for periods of IA. This may have the potential to be developed into an East Midlands joint Fire and Police initiative.
- The senior management team are encouraged to discuss with their middle managers alternative trade membership that maybe better suited to the views and interests of this management group. This intervention could result in the FRS securing further improvements to BCP levels of resilience.
- Leicestershire FRSs critical national resilience assets are dependent upon the nationally agreed RtW (2013) agreement. To assist these arrangements a refresh of this agreement is required and this should be undertaken prior to the FBU lodging a formal trade dispute with the employers. This refresh will be referred to and should be led by the Chair of the NFCC and negotiated with the FBU Executive Council. The content of the RtW agreement needs to

Protect - Management

be strengthened and aligned to the TUCs Code of Conduct for the provision of emergency services during periods of IA.

- Leicestershire FRS are encouraged to take local action and in conjunction with Nottinghamshire, Derbyshire, Lincolnshire and Northamptonshire FRSs to strengthen the availability of the regionally hosted DIM capability during periods of IA.
- Mutual assistance arrangements during periods of IA have proven to work effectively during previous periods of IA. The senior management team are encouraged to maintain these arrangements and with their neighbouring FRSs identify how these arrangements can be further improved.

.....