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Findings and further consultation on the extension to charging by Fire and Rescue Authorities

Issued by:

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Fire and Rescue Service Development Division

Addressed to:

The Chair of the Fire and Rescue Authority
The Chief Executive of the County Council
The Clerk to the Fire and Rescue Authority
The Clerk to the Combined Fire and Rescue Authority
The Commissioner of the London Fire and Emergency Planning Authority
The Chief Fire Officer

Please forward to:

Chairs of Regional Management Boards
Regional Resilience Teams
Regional Government Offices

Summary

This circular accompanies the findings of the limited consultation on the extension of the Charging Order. This includes a further consultation on adding one specific category to the Charging Order.

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1.0 Charging consultation

- 1.1 Fire and Rescue Service Circular 60-2006, published 26 September 2006, accompanied the limited consultation on the extension to the Charging Order by Fire and Rescue Authorities.
- 1.2 The consultation closed on mid-day on 10th January and the findings from this are attached.
- 1.3 The findings include a second consultation which asks for comments on adding one specified category to the Charging Order.
- 1.4 This consultation is also limited in that it has been sent to specific stakeholders. This does not prevent the document being passed on to others for comment and response.
- 1.5 The deadline for responses to this consultation is mid-day on 30th May 2007.

2.0 Further Information

- 2.1 If you require any further information regarding these consultations please contact:-

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Extension to Charging by Fire and Rescue Authorities

Findings and further consultation



Extension to Charging by Fire and Rescue Authorities

Findings and further consultation

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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Section 1 – Findings on the Limited Consultation Exercise on Extension to Charging Order by Fire & Rescue Authorities

1.1 Background

- 1.1.1 Fire & Rescue Authorities (FRAs) had a power under section 3(1)(e) of the Fire Services Act 1947 to charge for the provision of services other than fire-fighting services. In 2003, section 3 was amended by the Marine Safety Act 2003, to allow fire authorities to recover the costs of fire-fighting at sea. The 1947 Act was repealed by the Fire and Rescue Services Act 2004 (the 2004 Act).
- 1.1.2 Section 19 of the 2004 Act re-enacts the power to charge but prohibits any charge being made for extinguishing fires, protecting life and property in the event of a fire and providing emergency medical assistance.
- 1.1.3 Beyond this, the power to charge, up to full cost recovery, is circumscribed by the requirement for the category of service to have been specified by the Secretary of State in a statutory instrument (i.e. the Charging Order). The Order must also provide for a description of the categories of person in respect of whom a charge may be made for the provision of a specified service.
- 1.1.4 The Charging Order (the Fire and Rescue Services (England) Order 2004, SI 2004/2305) came into effect on 1st October 2004¹. It does not lay down a scale of charges nor lay down the circumstances in which an authority should charge or not charge for a particular service. These aspects are still for each FRA to decide.
- 1.1.5 In 2003 the Select Committee on the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions in their Third Report² recommended that more research should be conducted on the potential for Fire Authorities to charge for their activities. Ministers made a commitment to consult in relation to charging for any extension including road traffic collisions and repeat false alarms.
- 1.1.6 Subsequent stakeholder correspondence also raised the issue of whether charging for attending dangerous sports incidents could also be included as a category.
- 1.1.7 In the summer of 2006 DCLG undertook research on the charging policies of similar/related organisations. At the same time the Chief Fire Officers' Association (CFOA) reviewed existing charging practices by Fire & Rescue Authorities. It was anticipated that both pieces of information would help inform the consultation.
- 1.1.8 However, the limited responses received raised more questions than answers and it was decided that opinions should be sought on whether there was any inclination to extend the charging regime and if further research was needed on this before committing considerable time and resources to the consultation.

¹ <http://www.opsi.gov.uk/si/si2004/20042305.htm>

² <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmmodpm/43/4309.htm>

1.1.9 A limited consultation on a possible extension to the Charging Order by FRAs was issued to specific stakeholders (as listed in Annex A) on 21 Sept 2006 including the draft guidance on the charging order. Three specific questions were posed in the consultation and any general comments on charging were welcomed. The deadline for response was 10 Jan 2007.

1.2 Responses

1.2.1 The limited consultation was sent to over 130 stakeholders including all English Fire & Rescue Authorities, other emergency services, certain charities and lobby groups, businesses and suppliers of fire and rescue equipment. The consultation was distributed by e-mail and made available on the Department's web site.

1.2.2 31 responses were received with 29 answering the questions posed in the consultation.

1.2.3 One respondent noted that they were unable to answer the questions raised due to a query on validity of the information presented in the draft guidance and this has been dealt with in Question 3. The remaining respondent gave further information on the scheme adopted by Department of Health for Road Traffic Collisions.

1.2.4 The breakdown of responses is as follows:

Fire & Rescue Authorities (FRAs)	15
Industry	7
Lobby Groups	3
Charities	2
Devolved Authority	1
Local Government	1

1.3 Question 1 – What is your opinion on extending the charging regime at this time?

1.3.1 15 of the respondees felt that there should be an extension to the charging regime and 14 believed that there should not be any further categories added.

1.3.2 All of industry respondents were in the no category and though the majority of Fire & Rescue Authorities were supportive of the extension there were some who did not. The rest of the groups were mixed in their responses.

1.3.3 Reasons given for extension were as follows:

- Greater flexibility for limiting demand, raising income and funding new initiatives
- Lessen burden on communities who contribute towards funding of Fire & Rescue Service
- Secure effective installation and management of fire alarms

- Current powers constrain FRAs
- Additional demands now being faced by FRAs – needs to be funded.

1.3.4 There were some caveats to extending the powers including:

- that it does not impact on those who are vulnerable and in need of the service
- FRAs have discretionary power to decide whether to charge or not and what to charge
- Further resources needed to implement changes

1.3.5 Reasons given for no further categories to be added were as follows:

- Potential conflict of interest over role
- FRAs would monopolise market
- Inappropriate for emergency services to become involved in income generation – deter those who need the service
- Erode public esteem, not in best interest of customer
- Impact on cost of insurance
- Administration for collecting costs are more than the charge

1.3.6 There were several responses concerning the specific categories for inclusion in the extension:

1.3.7 *Road Traffic Collisions (RTCs)* – though there was some support for including this as a category for extension it was mostly seen as too administratively burdensome and complex to be included at present. Further work is needed for this area.

1.3.8 *Repeat False Alarms* – this was the one category with the most support for including in the charging order since it was recognised that there was a need to encourage businesses to improve their fire detection systems and currently this was taking a lot of FRA resources. However it was noted that there were some schemes such as the Unique Recognition Number (URN) run by the Chief Fire Officers' Association already being implemented by FRAs. There were concerns over the legal challenges that might occur with charging for this category and it was felt that there should be further work by FRAs with key stakeholders to reduce the problem before charging was considered.

1.3.9 *Attending dangerous sports* – this category did not generate many comments. Without further definition of what constitutes a dangerous sport and under what circumstances a charge should be made it should not be included as category in the charging order.

1.3.10 An area that will need a new category added to the charging order came to light after the limited consultation was published and was raised by several respondents. As part

of the 9 regional control centres (RCC) created by FiReControl 8 will need to be established as local authority controlled companies that will manage the RCC on behalf of the FRAs within its region.

- 1.3.11 Although these companies will be wholly owned and controlled by the FRAs within their region they are public bodies for the purposes of the Local Authorities (Goods and Services) Act 1970 and so the FRAs cannot recover the cost of providing services to the companies. The consequence of this in practice is that FRAs will not automatically be able to provide back office functions to the RCC as they would have done to their current control room or would do to another FRA.
- 1.3.12 The new category would allow FRAs to charge for the 'provision of administrative, professional or technical services and advice related to the operation of the regional fire control service.' The local authority controlled company would be the only body that would be charged for this service.
- 1.3.13 It is important to note that the services that are being considered here are only those services which the current control facility currently has access to while it is cited within the FRA. These would include but not necessarily be limited to:
- i. Legal
 - ii. Financial (including accounting and payroll)
 - iii. Administrative
 - iv. Human Resources (including diversity and disability)
 - v. Health and Safety
- 1.3.14 This enables the retention of the current status quo regarding the provision of services from FRAs and does not extend their capacity to charge more generally. The intention is not for the FRA to make a profit in terms of supply of these services, but rather to administer what is effectively an in-house function in the most cost effective way as ultimately FRAs will be both supplying and paying for the service.
- 1.3.15 Without an addition to the current charging order an FRA will not be able to undertake the same service provision to their RCC as they currently do internally for their control room. If the current situation remains RCCs will not be able to gain the range of assistance and advice that they require to operate a full fire control service.
- 1.3.16 Recommendation: There is no clear support for extending the charging order in the areas of Road Traffic Collisions (RTCs), repeat false alarms or attending dangerous sports incidents and it is not proposed that they are taken any further at this time.
- 1.3.17 There is a compelling need to extend the charging order to include the provision of back office functions by FRAs to the newly created local authority controlled companies and a consultation on this specific service will follow. This will replicate the arrangements that currently exist in regional control rooms. This will not impact on businesses or the public.

1.4 Question 2 – What is your inclination about undertaking further research for this?

1.4.1 27 out of the 29 respondents replied to this question with 20 agreeing that some form of further research would be needed prior to any extension and 7 indicated that they were not in favour of any further work in this area.

1.4.2 Reasons for not carrying out any further research were as follows:

- More appropriate for national policy and effects on wider society should be considered first
- Research costly when little appetite for extension
- Resources could be better spent on other research projects
- Timing for further research is not appropriate – maybe later in future

1.4.3 Reasons for further research were as follows:

- All charging opportunities are identified to avoid repeating similar exercise
- Debate shows need for more info
- Should include cost benefit analysis
- Need to understand impact of change especially on Small & Medium sized Enterprises (SMEs)
- Outcomes need to be defined and measures put in place

1.4.4 Recommendation: Further research is not currently required however it will be necessary to find out more information if extension on Road Traffic Collisions and Repeat False Alarms goes forward in the future. Key stakeholders will be fully consulted if and when this goes ahead including impact assessments and risk analysis.

1.5 Question 3 – Do you require any changes, additions or deletions to the draft charging guidance?

1.5.1 20 respondents answered the question on the guidance with six saying that no further changes were needed and the remainder making comments on specific contents.

1.5.2 Some of the comments to improve the guidance included:

- More guidance needed on fire safety advice and potential conflict of roles
- Further guidance on 'surplus funds' required

- More prominence needed for paragraph on Competition Act and effect on local businesses
- Consideration on limitation of cost recovery needed

1.5.3 There was also a request to issue a standard list of charges and circumstances on which FRAs should charge. This is not currently possible as the powers are discretionary however as much information as possible will be included in the final guidance on charging.

1.5.4 There were a couple of comments on the validity and interpretation of information given in the guidance, especially paragraph 4, and this will be passed to legal colleagues to consider.

1.5.5 Recommendation: Where possible required changes will be made and clarification will be sought on certain information contained within the draft guidance. Key stakeholders will be involved before publishing final guidance.

1.6 General comments

1.6.1 One respondent commented that there should also be a review of existing categories and trading issues.

1.6.2 It is not intended to review existing categories at this time though this does not rule out the possibility at a later date. Trading will be subject to a separate consultation as the current power is transitory until midnight on 29 Sept 2007.

1.7 Recommendations

1.7.1 There is no clear support for extending the charging order in the areas of Road Traffic Collisions (RTCs), repeat false alarms or attending dangerous sports incidents and it is not proposed that they are taken any further at this time.

1.7.2 There is a compelling need to extend the charging order to include the provision of back office functions by FRAs to the newly created local authority controlled companies and a consultation on this specific service will follow. This will replicate the arrangements that currently exist in regional control rooms. This will not impact on businesses or the public.

1.7.3 Further research is not currently required however it will be necessary to find out more information if extension on Road Traffic Collisions and Repeat False Alarms goes forward in the future. Key stakeholders will be fully consulted if and when this goes ahead including impact assessments and risk analysis.

1.7.4 Where possible required changes will be made and clarification will be sought on certain information contained within the draft guidance. Key stakeholders will be involved before publishing final guidance.

1.8 Next steps

- 1.8.1 The consultation on adding the specified category of FRAs charging for the back office functions for fire control centre services is included within Section 2.

Section 2 – Fire & Rescue Services Act 2004: Section 19(7) Consultation on Adding a Specified Category to the Charging Order

2.1 Purpose of consultation

- 2.1.1 This consultation seeks views on whether one specified category should be added to the current charging regime set out in the Fire and Rescue Services (England) Order 2004³ (the Charging Order).
- 2.1.2 This consultation has been sent to those stakeholders who have been listed in Annex A. This does not prevent the document being passed on to others for comment and response.
- 2.1.3 A Regulatory Impact Assessment (RIA) has not been undertaken as there is no impact on businesses, charities or the voluntary sector, or significant costs to the public sector.
- 2.1.4 We welcome responses to the specific question posed in this document and any other general comments that you may have. It would be helpful if responses were submitted electronically. This will considerably reduce the time needed to compile and analyse the comments received.
- 2.1.5 Responses and comments, to be received by mid-day on 30th May 2007, should be sent to:

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2.2 After the consultation period

- 2.2.1 Within 3 months after 30th May 2007, we will analyse the responses to the consultation and produce a feedback document which summarises the:
- received responses and comments
 - actions to be taken following consultation

³ S.I. 2004/2305.

- 2.2.2 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 2.2.3 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 2.2.4 The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.
- 2.2.5 A Regulatory Impact Assessment has not been undertaken as the change has no impact on the costs of business, voluntary bodies or public authorities.

2.3 New category under consideration

<i>Action taken by FRA</i>	<i>Person who may be charged</i>
Provision of administrative, professional or technical services and advice related to the operation of the regional fire control centre service.	A local authority controlled company the members of which comprise fire and rescue authorities in England and whose objects include the operation of a regional fire control centre.

Q1. Do you agree with the action taken by FRA?

Y or N

Please give explanation for your answer

Q2. Do you agree with the proposed persons who may be charged?

Y or N

Please give explanation for your answer

Annex A – List of Consultees

ACPO – Association of Chief Police Officers
ACPOS (Scotland)
All-Party Parliamentary Fire Safety and Rescue Group
The Ambulance Service Association
Arson Prevention Bureau
Association of British Insurers
Association of Building Engineers
Association of Fire Consultants
Association of Insurance and Risk Managers
Association of Lowland Search and Rescue (ALSAR)
AA Motoring Trust
BAA Fire Service
Brake
British Automobile Racing Club (BARC)
British Cave Rescue Council
British Safety Council
Business & Community Safety Forum
Car Users Entrapment Extrication Society
Chartered Institute of Housing
Chief Fire Officers Association
Child Accident Prevention Trust
Confederation of British Industry
Department for Transport
Department of Health – Ambulance Policy Team
Department of Health – NHS Income Generation
Disability Rights Commission
Environment Agency
Environment Agency (Wales)
Federation of Small Businesses
FIRE
Fire and Rescue Authorities
Fire Brigades Union
Fire Industry Confederation
Fire Protection Association
Fire Service College
Fire Times
Health Protection Agency
Health and Safety Executive
Help the Aged
Highways Agency
Institution of Fire Engineers
Institution of Occupational Safety and Health
International Aviation Fire Protection Association (IAFPA)
International Emergency Technical Rescue Institute (iETRI)
International Fire Consultants Ltd
Local Government Association

Maritime & Coastguard Agency
Mid & West Wales Fire Authority
MyGARD plc
National Association of Healthcare Fire Officers
National Search and Rescue Dog Association (NSARDA)
Network Rail
Northern Ireland Fire Brigade
Norwich Union
Parliamentary Advisory Council for Transport Safety (PACTS)
Retained Firefighters Union
Rivers Authority (Northern Ireland)
RoadPeace
Royal National Lifeboat Institution (RNLI)
RoSPA Royal Society for the Prevention of Accidents
RoSPA in Scotland
RoSPA in Wales
RoSPA in Northern Ireland
Royal Society for the Prevention of Cruelty to Animals (RSPCA)
Scottish Fire Service College
Society of Industrial Emergency Services Officers (SIESO)
Trades Union Congress
Transport 2000
Welsh Assembly Government – Housing Directorate