

## Health and Safety Executive Improvement Notice Served on Warwickshire County Council

### Report of the Chief Fire Officer

For further information about this report please contact Alan Taylor, Chief Fire Officer, on 01743 260201 or Paul Raymond, Deputy Chief Fire Officer, on 01743 260205.

### 1 Purpose of Report

This report informs Members about the Health and Safety Executive (HSE) Improvement Notice served on Warwickshire County Council, acting as Warwickshire Fire and Rescue Authority, following the tragic incident at Atherston-on-Stour.

### 2 Recommendations

The Fire Authority is asked to note the contents of this report.

### 3 Background

Following the tragic fire at Atherston-on-Stour, which resulted in the deaths of four firefighters, the HSE has been carrying out a joint investigation into the incident with Warwickshire Constabulary. Under the terms of the national protocol for liaison between the two organisations they are investigating the work-related death incident.

Alan Craddock, Head of Operations for the HSE in the Midlands Region, said recently:

‘The investigation is complex and involves a thorough investigation of all aspects of the incident. In terms of health and safety, the HSE team also has to consider the wider arrangements the Authority has in place for managing risks not only on the night in question but also more generally. Likewise, HSE, with the Police, is also looking at other duty holders involved with those premises as part of the investigation.’



As a result of the ongoing investigation the HSE has formed an opinion, based on the evidence it has seen, regarding the current arrangements employed by the Authority. Its opinion is that those arrangements do not comply with the Authority's statutory duties to provide firefighters with all of the information they should have to assist them in making the appropriate decisions when attending a fire.

#### **4 The Improvement Notice**

On 16 January 2008 the HSE served an Improvement Notice on Warwickshire County Council (attached as an appendix) which states:

'At locations within the responsibility of Warwickshire Fire and Rescue Authority at which Warwickshire Fire and Rescue Service may be operationally deployed you as an employer are contravening regulations 3, 5 and 10 of the Management of Health and Safety at Work Regulations 1999 (as amended). The reasons for my said opinion are that you have not made appropriate arrangements for the implementation, monitoring and review of the preventative and protective measures arising from your risk assessments in that the operational premises risk information available to fire fighters, specifically including special circumstances likely to pose an enhanced level of risk by virtue of premises design, construction, condition or use etc, is insufficient to ensure so far as is reasonably practicable the health and safety of fire fighters.'

The Authority has until 16 May 2008 to remedy the said contraventions.

#### **5 The Management of Health & Safety at Work Regulations 1999**

##### **Regulation 3**

This refers to the carrying out of assessments of the health and safety risks to which employees are exposed at work in order to identify the measures needed to comply with aspects of safety law. A risk assessment is carried out to identify the risks to health and safety to any person arising out of, or in connection with, work or the conduct of the undertaking. It should identify how the risks arise and how they impact on those affected. The information is needed to make decisions on how to manage those risks so that the decisions are made in an informed, rational and structured manner and the action taken is proportionate.

##### **Regulation 5**

This states that every employer shall make, and give effect to, such arrangements as are appropriate, having regard to the nature of the activities and the size of the undertaking, for the effective planning, organisation, control, monitoring and review of the preventative and protective measures. These arrangements should be written down.



## Regulation 10

This states that every employer shall provide employees with comprehensible and relevant information on the risks to their health and safety and the protective and preventative measures to take / taken to protect their health and safety.

In relation to 'operational' health and safety these regulations and the Improvement Notice say that the employer should provide necessary information to secure the health and safety of firefighters. This means that all firefighters should have access to suitable risk information on significant risk premises and the relevant contents etc. so that they can make decisions about the appropriate actions to take, given the circumstances they face.

## 6 Current Position of this Authority

In a similar way to all Fire and Rescue Services, Shropshire Fire and Rescue Service has a system of operational risk information to provide suitable and sufficient information to its staff. This is achieved in a number of ways:

- For generic risks, such as asbestos, acetylene etc, firefighters have Specific Incident Procedures, which cover the requirements of the legislation for information and risk assessment.
- For significant risk premises crews carry out inspections under section 7 ii D of the Fire and Rescue Services Act to gather information. The relevant results of the risk assessment are then made available to guide their decision-making process.

Both of the above are made available in paper and electronic format on vehicle-mounted data terminals.

In addition, officers-in-charge have training in dynamic risk assessment to guide their decision making and a structured incident command system, which ensures an appropriate level of command competence for any given size of incident.

In the summer of 2007 a full review was carried out of the process of risk information and management under section 7iiD and a number of recommendations for improvement were made. Following the incident at Atherston-on-Stour, the Service is now carrying out a full review of all operational risk information, in line with data quality best practice, with a view to making improvements where necessary. For example, the new fire safety premises database and the digitised premises files (when completed) will be made available on incident command vehicles, thus making all relevant premises data available to incident commanders. This review is due for completion by the end of February 2008. Any necessary urgent improvements identified during the review will be rectified immediately.



Alongside the Improvement Notice, the Service received a letter from the Chief Fire and Rescue Advisor, Sir Ken Knight, which states that the Chief Fire Officers Association's Strategic Director of Operational Response is urgently carrying out a review of existing national guidance to determine whether more detailed guidance should be issued to all FRs in respect of the HSE findings. This may impact on our own review.

## 7 Financial Implications

There are no immediate financial implications arising out of the Improvement Notices served on Warwickshire County Council.

## 8 Legal Comment

There is a responsibility under the health and safety legislation for the continual review of arrangements, which is currently taking place.

## 9 Equality Impact Assessment

This report is purely an information item and thus has no immediate equality or diversity implications.

## 10 Appendix

HSE Improvement Notice

## 11 Background Papers

There are no background papers associated with this report.

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	*
Business Continuity Planning		Legal	
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	*
Efficiency Savings		Retained	
Environmental		Risk and Insurance	*
Financial		Staff	
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*



