

MEETING: 21 DECEMBER 2009

SUBJECT: TRANSFER OF OWNERSHIP OF NEW DIMENSION ASSETS

JOINT REPORT OF THE CHIEF FIRE OFFICER, CLERK TO THE AUTHORITY AND THE FINANCE OFFICER

1 INTRODUCTION

- 1.1 This report outlines, for the consideration of Members, the content of Fire Service Circular (FSC) 59/2009, published by the Department of Communities and Local Government, (CLG). The FSC contains within it a formal request to the Authority to confirm, or otherwise, acceptance of the proposed transfer of ownership of the New Dimension Assets.
- 1.2 Members are asked to consider the report and subsequently approve that the Chairman write to CLG accepting the transfer on condition that the New Dimension funding remains in place.

2 BACKGROUND

- 2.1 Members will recall that at the Authority meeting held on the 15 June 2009, a paper was presented outlining the current status of the proposal by CLG, set out in FSC 16/2009, to transfer the ownership of the New Dimension Assets to Fire and Rescue Authorities. These assets include vehicles and associated equipment relating to Urban Search and Rescue, Mass Decontamination and chemical detection capabilities. (A full list of the assets is attached at Appendix A).
- 2.2 As stated in the Circular, CLG are of the opinion that such a transfer would have a number of key benefits including:-
- Ensuring that the New Dimension capability can be fully integrated into fire and rescue service business
 - Providing a fully operational fleet that will be maintained through a long term maintenance contract paid for by CLG
 - Access to a long term assurance body led by CFOA which will ensure that the capabilities do not degrade over time
- 2.3 CLG also reiterated that funding for the New Dimensions programme has been fully factored into CSR07 and that the Department is committed to future funding after this date.
- 2.4 At the conclusion of the Fire Service Circular, CLG requested that Fire and Rescue Authorities consider the proposal to transfer the ownership of the

assets and to subsequently provide a response to CLG outlining their stance in respect of the proposal.

- 2.5 Having debated the issue, Members expressed their support in principle for the asset transfer providing there were acceptable assurances forthcoming from CLG with regard to future funding and an acceptable mechanism is in place by which such funding is channelled to the Authority and this was communicated in writing to CLG (Minute 17/2009 refers).

3 RESPONSE FROM THE DEPARTMENT OF COMMUNITIES AND LOCAL GOVERNMENT

- 3.1 On the 22nd July 2009 CLG responded to the Authority's written comments. In their letter they provided, as far as they practicably can, an assurance was given as to future funding and CLG reiterated their view that they will look to channel any future funding through a different mechanism to the Section 31 grant system at some point in the future.

- 3.2 CLG also confirmed that, whatever method is eventually proposed to replace the Section 31 grant mechanism, the concerns of this and other Authorities would be considered prior to the implementation of any change.

4 UPDATED POSITION

- 4.1 CLG have now released Fire Service Circular 59/2009 and within it have once again stated that it is committed to the future funding of the New Dimension assets beyond the CSR07. CLG also reiterated their preference for channelling funding through the Revenue Support Grant at some stage in the future but have committed not to do so without examining the issue closely with the Fire and Rescue Authorities.

- 4.2 CLG have also confirmed that it is committed to paying the fixed costs of the long term contract covering the routine maintenance and servicing of the assets to ensure that the equipment and vehicles are ready to respond to a national incident over the next 16 years (the existing life of the Firebuy contract). This contract is with Vosper Thorneycroft Critical Services Limited.

- 4.3 The Circular concludes with a formal request for Fire and Rescue Authorities to write to CLG by the 31st of December 2009 stating whether they are prepared to accept the transfer of ownership of the New Dimension assets. CLG have also intimated that should an Authority not wish to accept the assets then they will look to place them with other Fire and Rescue Authorities who are prepared to accept the transfer of ownership

5 ISSUES TO CONSIDER

- 5.1 The key issue to consider is that of future funding of the New Dimension programme. CLG have undoubtedly provided significant financial backing for the programme since 2001 and this funding is guaranteed until the end of CSR07.

- 5.2 However, CLG are unable to categorically state that the funding will continue beyond this time on the grounds that they do not have the authority to commit future Parliaments to such funding. Nevertheless, CLG have provided strong written assurances that the New Dimension programme will continue to receive backing into the future and this has been reinforced by the Fire Minister, Shahid Malik MP, who has written to the Chairman thanking the Authority for its support in the past and requesting its support for the transfer of the assets.
- 5.3 A more specific issue to consider is in relation to the long term New Dimension maintenance contract awarded to Vosper Thorneycroft Critical Services Ltd. A close examination of this contract has been undertaken by Sunderland City Council (Legal Services) with particular attention focussed on the Terms of Access agreement which each Fire and Rescue Authority will be required to sign if it agrees to the transfer of the New Dimension assets.
- 5.4 This agreement will require the Authority to use Vosper Thorneycroft Critical Services Ltd for all maintenance work on the New Dimension vehicles and equipment and to recompense them accordingly. The additional cost of this to the Authority will be met by CLG through Section 31 grant, although, as referred to at paragraph 3.2, the mechanism for reimbursing Authorities could change from 2011/2012 onwards.
- 5.5 Furthermore, although the FRA is responsible for complying with its obligations under the terms of access, it does not have any right to enforce the terms against the prime contractor. Any such disputes must be referred to Firebuy as the contract manager. Only Firebuy has the right to enforce performance standards and any of the contractor's other obligations under the prime contract. Firebuy also have the final say in any dispute about payments that may arise between the FRA and the Contractor.
- 5.6 Whilst, on first examination, this appears to be an onerous requirement, it is not unusual. The majority of the Framework contracts that have been let by Firebuy include such a stipulation and Members should not be unduly concerned by its presence in this agreement.
- 5.7 Perhaps a more significant risk linked to the Terms of Access agreement is the fact that there is no facility for the Authority to withdraw from the agreement once it is signed. Thus, should CLG funding be reduced or withdrawn at some stage in the future, the Authority would still be bound to honour the agreement with the resultant potential for the maintenance costs to fall to the Authority to meet.
- 5.8 However, whilst this represents a risk to the Authority, the Chief Fire Officer does not believe that this situation is likely to materialise, based on announcements to date. The contract that has been entered into with Vosper Thorneycroft is for 16 years and it is anticipated that the funds needed to meet the cost of maintaining the vehicles and equipment over this period will be provided to Fire and Rescue Authorities by CLG and the department has confirmed this.

5.9 Finally, the maintenance contract also contains a recharging schedule for costs arising from unfair wear and tear (repair or replacement of equipment owing to either mis-use, loss of equipment or damage caused by response to anything other than a national level event). Such costs will have to be met by each Authority. It is felt that such charges are reasonable given that individual Fire and Rescue Services can, and do, use the assets to deal with local incidents when required.

6 CONCLUSION

6.1 The information provided by CLG in their letter of 22 July 2009 and within Circular 59/2009 attempts to provide further reassurance and confidence in the future financial and management arrangements as previously questioned by this and other Fire and Rescue Authorities. To this extent the letter and the Circular is to be welcomed.

6.3 The Chief Fire Officer is of the opinion that the assets are well located within Tyne and Wear and are of benefit to local communities as well as being a critical element of a regional/national response to large-scale incidents.

6.4 Ongoing financial support for the New Dimension programme is clearly the most significant issue as there is no absolute guarantee of future funding should the transfer of ownership take place. However it is important to recognise the effort that CLG has made in order to provide as much clarity as it possibly can at this point in time and the Chief Fire Officer, having consulted with the Finance Officer and the Clerk to the Authority, is of the opinion that the transfer of ownership is the most appropriate course of action for the Authority to take.

7 FINANCIAL IMPLICATIONS

7.1 The transfer of ownership will vest certain assets in the Authority which will be valued at cost less depreciation for Balance Sheet purposes although they will be transferred at no cost to the Authority.

7.2 In accepting these assets the Authority will take on certain obligations. These obligations include;

- Maintenance of the assets under a maintenance contract procured and financed by CLG at a cost of £100 million over 16 years.
- Third party insurance in connection with the operation of vehicles and equipment.
- Replacement of assets damaged in any local incident not falling under New Dimensions where the Authority has chosen to mobilise the assets.
- Costs arising from unfair wear and tear after the formal transfer of assets.

7.3 Historically, costs have been borne by CLG under the New Burdens principle and grant paid to the Fire and Rescue Authorities to cover the costs arising. The Grant will continue to be paid under the Section 31 grant mechanism in the current Spending Review period as already determined. This Authority currently receives £887,369 per annum to cover the running costs of the New Dimension resources (excluding maintenance costs).

8 RISK IMPLICATIONS

- 8.1 The specific financial risk to the Authority is that the New Dimension funding stream is reduced at some point in the future. However, CLG have stated very emphatically that they do not envisage this scenario arising. However, in the unlikely event of this occurring then the Authority could take the decision to no longer provide New Dimension services due to the lack of financial support. This would prevent the financial burden of the providing New Dimension services from falling on the Authority, with the possible exception of ongoing maintenance costs, although such action could have a detrimental impact on the Authority's operational capability and its reputation.
- 8.2 Should the Authority decline to accept the transfer of ownership then it is likely that CLG would remove the New Dimension assets from Tyne and Wear and locate them elsewhere in the country. This could also have a detrimental impact on the Authority's ability to respond effectively to large scale incidents and also adversely effect the reputation of the Authority.

9 RECOMMENDATIONS

- 9.1 The Authority is recommended to:
- a) Consider the content of this report and, in particular, note the explicit assurances from CLG and the Minister in respect of continuing to fund the ongoing costs of the New Dimension programme; and
 - b) On the basis of the above assurances agree that the Chairman responds to the CLG request on behalf of the Authority confirming support for the transfer of ownership of the New Dimension assets and the ongoing provision of operational services, subject to the ongoing availability of financial support, and
 - c) Receive further reports as appropriate

BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report:

- Fire Service Circular 16/2009
- Letter: Transfer of Ownership of New Dimension Assets; 22nd July 2009
- Transfer of Ownership of New Dimension Assets, FA report 15/6/09
- Fire Service Circular 59/2009

- Letter: Shahid Malik MP Transfer of Ownership of New Dimension Assets
12/11/09

APPENDIX A

Through this programme a substantial amount of assets have been delivered to FRGSs, including hundreds of vehicles and thousands of pieces of equipment. The Assets apportioned to Tyne and Wear Fire Authority are detailed below:

Asset	No.	Location
Fork Lift Truck Training Rig	2	BTC
USAR Module 5	1	Sunderland East
USAR Module 4	1	Sunderland East
USAR Module 3	1	Sunderland East
USAR Module 1	1	Sunderland East
HVP Hose Module	0	Gateshead North
HVP Pump Module	0	Gateshead North
Mass Decontamination Special	0	
Mass Decontamination Re-robe	1	Sunderland Central
Mass Decontamination De-robe	1	Sunderland West
Detection, Identification & Monitoring Vehicle	1	Gateshead South
Prime Mover	6	3 x Sunderland East 1 x Sunderland Central 1 x Sunderland West 1 x Gateshead North
Incident Response Unit (inc Fork Lift Truck)	1	North Tyneside East

