

MEETING: 19 MARCH 2018

SUBJECT: PRIMARY AUTHORITY SCHEME UPDATE

**JOINT REPORT OF THE CHIEF FIRE OFFICER/CHIEF EXECUTIVE (THE CLERK
TO THE AUTHORITY) AND THE STRATEGIC FINANCE OFFICER**

1 INTRODUCTION

- 1.1 The purpose of this report is to provide members with an update regarding the Primary Authority Scheme (PAS). The report highlights the impact PAS has had with our partners and the shared benefits resulting from this partnership approach.

2 BACKGROUND

- 2.1 PAS is a means for businesses to receive assured and tailored advice on meeting environmental health, trading standards or fire safety regulations through a single point of contact.
- 2.2 PAS, launched in 2009, with the aim of making local regulation of businesses operating from multiple premises across the UK more consistent. Building on the success of the scheme, the eligibility criteria for PAS has expanded. From 1 October 2017, all businesses can now benefit from PAS. The Office for Product Safety and Standards (OPS&S) part of the Department for Business, Energy and Industrial Strategy (BEIS) provides oversight of the scheme with input from the National Fire Chief's Council (NFCC).

3 THE PORTFOLIO OF CURRENT PARTNERS

- 3.1 The Authority initially partnered with Sainsbury's Supermarkets Ltd for explosives licensing and soon after expanded to include fire safety. This successful relationship has continued to mature throughout the life of the partnership.
- 3.2 The Authority's PAS partnerships have subsequently developed to include the following:
- Home Group - a national social housing company that is one of the biggest housing associations in the UK with a turnover of over £350m;
 - Places for People Group Ltd - one of the largest property management, development, regeneration companies and leisure companies in the UK;

- English Heritage Trust - own and manage over 400 heritage buildings and sites across England;
- NHS Property Services - a limited company owned by the Department of Health in the UK that took over the ownership of around 3,600 National Health Service premises;
- Huntercombe Group - a specialist health provider in the UK operated by Four Seasons Health Care, it has 56 hospitals and specialist centres located throughout England and Scotland;
- Hugo Boss – a global fashion retailer with revenues of €2.809 billion;
- Intu Properties plc - a UK-based real estate investment trust, largely focused on shopping centre management and development. Intu's portfolio includes Eldon Square and the Metrocentre;

4 PARTNERSHIP BENEFITS

- 4.1 The Authority were one of the first fire and rescue authorities to establish a PAS partnership. Officers have worked closely with OPS&S to develop the scheme using expert knowledge developed in Tyne and Wear whilst supporting other FRAs introduce PAS locally. The net benefits for business, the public and the Authority include working with business to improve fire safety standards, support other FRAs with the consistency of enforcement and provide mediation between the partners preventing the need for resource intensive enforcement.
- 4.2 PAS provides access to external funding on cost recovery basis. This facilitates targeting of existing resources at high-risk premises and enables businesses that wish to comply, invest and contribute to economic growth. The scheme also provides participating FRAs with access to seek further support for other activities such as home safety campaigns and diversionary activities.
- 4.3 Direct and indirect benefits are grouped under three main headings of advice, education and mediation.
- 4.4 **Advice** – provided through 'assured advice' and 'reactionary advice'. Assured advice allows other FRAs to use the advice as a benchmark when auditing premises. Often described as 'best practice', this allows inspecting officers to reduce their inspection time thus reducing the regulatory burden on business and resource demands on participating FRAs.
- 4.5 The need for reactionary advice has heightened following the Grenfell Tower tragedy. Officers supporting the Authority's involvement in PAS have responded promptly to growing concerns by researching, reviewing associated documentation and visiting the premises to assist with risk assessment. This prompt action has helped mitigate risk, protect the public, provide business support and reduce the need for local enforcement.

- 4.6 Advice provided through PAS at a strategic level has had a wider impact across the UK, growing the Authority's reputation with business, Government departments and other FRAs.
- 4.7 **Education** – provides opportunities for partners to better understand their role in preventing fire and the role of the fire and rescue service in prevention and protection activities.
- 4.8 In addition to traditional education, activities the Authority have introduced include a 'Fire Perspective Day', a unique opportunity to allow decision makers from partner organisations to become a firefighter for the day. This helps develop a better understanding of how fire starts, develops and how it affects their business. Feedback has been extremely positive leading to the nomination of the programme for an award by OPS&S. Participation has led to a request from some partners to provide additional training in other areas of fire safety. OPS&S have agreed this approach through the PAS and interested partners are involved in developing a detailed programme.
- 4.9 **Mediation** - Historically fire safety enforcement has not be applied consistently from FRA to FRA, with each responsible authority having their own interpretation of the relevant legislation and its application. In some areas, this has led to confusion, frustration and cost to business and FRAs.
- 4.10 The Authority have taken leading role in this area by training all officers to the Skills for Justice, Fire Safety Diploma level, providing additional training in legal and investigative skills, and retaining the services of Counsel, David Stotesbury QC.
- 4.11 This heighten level of competence ensures officers can mediate more effectively between parties to provide a solution. Direct benefits of this approach include improving standards, maintaining positive working relationships and the reduction of expenditure for both parties whilst ensuring the continued protection of the public. Over the past 12 months, officers have successfully mediated in:
- One potential serious prosecution
 - Eight Enforcements Notices
 - One Prohibition Notice

5. RISK MANAGMENT

- 5.1 Members should be aware that PAS partnerships which can be dissolved at any time by either partner. However, a reflection of the Authority's approach is the growing support from and requests for potential partnerships with the Authority. Additional risks include:

- Loss of funding – each partnership is charged at a rate to recover all costs arising from the partnership. If a partnership dissolves, there will be a loss of income with a potential delay to reducing the related costs.
- Conflict of Interest – the Authority are the responsible authority in Tyne and Wear for ensuring compliance with the Regulatory Reform (Fire Safety) Order 2005 (FSO) and for providing general fire safety information to businesses. A conflict of interest may arise if the Authority provide fire safety advice to a partner business through the PAS that is challenged by the relevant responsible authority outside Tyne and Wear. OPS&S have a determination process in place to resolve these areas of difference, this differs from the FSO determination process that looks to resolve technical fire safety issues between the business and a responsible authority taking enforcement action.
- Legal – the Authority may be regarded as a duty holder under the Article 5(3) of the FSO and as such may be subject to legal proceedings. Whilst OPS&S legal advisors have not dismissed this possibly their advice indicates that would not be regarded in the public interest should an attempt to enforce the provisions of the FSO be brought against a PAS authority.
- Reputational risk – may arise if a business decision made resulting from advice received by the Authority causes a loss to the partner. The level of competency of officers is assessed against the principals of the NFCC fire safety regulator competency framework; this ensures the quality of advice provided and limits the reputational risk.

6 FINANCIAL IMPLICATIONS

- 6.1 The Authority's participation in PAS was approved on a full cost recovery basis and cost continues to be monitored as active partnerships develop. The current costs of participation are met from funding provided through the scheme.

7 EQUALITY AND FAIRNESS IMPLICATIONS

- 7.1 There are no equality and fairness implications in respect of this report.

8 HEALTH AND SAFETY IMPLICATIONS

- 8.1 There are no health and safety implications in respect of this report.

9 RECOMMENDATIONS

- 9.1 The Authority is recommended to:
- a) Note the contents of this report
 - b) Receive further reports as appropriate.
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BACKGROUND PAPERS

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

