



RESEARCH PAPER 04/09  
22 JANUARY 2004

# *The Fire and Rescue Services Bill*

**Bill 38 of 2003-04**

This Bill would update the statutory basis of the fire service. It would broaden the duties placed on the service to include rescue and tackling terrorist action, as well as the traditional role of tackling fires. In addition, more emphasis is to be placed on fire prevention. The Bill would devolve responsibility for the fire service in Wales. The Bill would not repeal the law relating to the fire service in Scotland, nor would it cover Northern Ireland.

Christopher Barclay

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## **Summary of main points**

The Bill is part of the Government reform plan for the fire service, which derives partly from the industrial dispute in 2002 and 2003. It would update the legislation governing the fire service, some of which dates back to 1947, and broaden the statutory objectives of the service. Instead of just relating to fire fighting, the statutory objectives would include fire prevention and work relating to road accidents. There is provision for the Secretary of State to make further duties related to emergencies, including those resulting from terrorism. The Secretary of State will have the power to arrange schemes to merge fire authorities.

The Secretary of State will also provide the statutory basis to require fire and rescue authorities to produce integrated risk management plans. Those plans will allow a move away from nationally determined fire safety standards and towards a position where each fire authority sets the appropriate fire standards for the risk in its area. That in turn, the Government hopes, would allow resources to be distributed according to need, resulting in a reduction in casualties from fires.

The Secretary of State will be given the power to establish new negotiating bodies, to get away from the current position in which a single negotiation covers all levels of staff.



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# I The Government Reform Agenda for the Fire Service

## A. Background

A Government White Paper in June 2003 described the current position of the fire service:

The fire and rescue service is highly regarded by the public. It has traditionally protected the community by providing fire fighting and rescue intervention as an emergency service. It has been successful in ensuring the fire safety of workplaces, other public buildings and the home, through the enforcement of fire safety legislation, and, more recently, through its community safety initiatives. It has also been responsible for ensuring the fire safety of workplaces and other public buildings. Over the last quarter of a century, the number of deaths from fire has come down; in 1979 there were 896 deaths in England and Wales from fire. By 2001, this had fallen to 492.

While the overall trend in deaths from fire is going down, the number of injuries has increased; from 7,600 in 1979 to around 14,800 in 2001 (or 10,000 excluding precautionary check-ups – that is, where there was no obvious sign of injury). The overall cost of fire to the economy of England and Wales, estimated at almost £7 billion, is enormous.

The role of the fire and rescue service has expanded over the past 25 years. In 1979 the fire service responded to 85,000 non-fire incidents. By March 2001 this figure had increased to 180,000...The fire and rescue service has, over the years, acquired a wide and sophisticated range of equipment to enable it to respond better to such incidents. For example, the fire and rescue service has much expertise in the safe extraction of road traffic accident victims. This expansion of activity has been recognised and acknowledged. Since April 1997, Government and local authority spending on the fire service has increased by more than a quarter.<sup>1</sup>

The current fire service operates under the *Fire Service Act 1947*, as well as other legislation. There are 50 fire authorities in England and Wales, varying in size enormously, but based on local authority boundaries. Some are urban authorities, with large populations but small areas, staffed by full-time firefighters. Some rural authorities, on the other hand, rely upon part timers called “Retained firefighters” to cover large areas in which the population density is low.

Retained firefighters play a key role in the service. These are firefighters who are paid a retainer and a call-out fee to respond to emergencies when required. Retained services provide fire cover for around 60 per cent of the UK’s land area, mainly in rural areas. In various ways Retained firefighters feel that they are treated as second class citizens,

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<sup>1</sup> ODPM, *Our Fire and Rescue Service*, June 2003, Cm 5808, p13

according to their trade union, the Retained Firefighters Union. There is a 20% shortfall in the number of Retained firefighters.<sup>2</sup>

Fire Authorities operate to national standards of fire cover, which dictate the level and speed of response to fires depending upon the density of buildings in the area. The statutory duties of fire authorities concentrate upon fire fighting rather than either prevention or non-fire work such as road accidents.

There is a considerable amount of information on the fire service on the ODPM website: [http://www.odpm.gov.uk/stellent/groups/odpm\\_fire/documents/sectionhomepage/odpm\\_fire\\_page.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_fire/documents/sectionhomepage/odpm_fire_page.hcsp)

## **B. The Bain Review of the Fire Service in 2002**

The *Fire and Rescue Services Bill* is part of the Government plan to reform the fire service, which developed in 2002 and 2003, partly as a result of an industrial dispute. During the dispute, the Government commissioned the *Independent Review of the Fire Service*, known as *The Bain Review* after its chairman Sir George Bain, which has formed the basis for subsequent policy. The Report, *The Future of the Fire service: Reducing Risk, Saving Lives* was presented to the Deputy Prime Minister on 16 December 2002.<sup>3</sup> It called for changes in working practices and in the organisation of the fire service.

The Bain Review noted positive features of the fire service but pointed out that many people were dying in fires, while the number of fires was increasing. It pointed out that earlier studies had produced clear recipes for change, but that little progress had been achieved. It called for:

- a fresh approach led by Government, with a new policy-making body led by ministers;
- a new emphasis on the prevention of fire, rather than methods of dealing with fire after it has started;
- a system of deploying people and equipment so they are prepared to deal with the most likely risks of fires in the most cost-effective way based on risk management;
- brigades to work together to bring the benefits of regional organisation without the cost of a major re-organisation;
- new institutions within the fire service, with the Fire Service College becoming the focus for developing the new thinking required by the Service while the Fire Service Inspectorate should become a major engine for change and play a critical part in driving through the proposed reforms;

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<sup>2</sup> RFU, *Seizing opportunities and overcoming barriers*, <http://www.rfuonline.co.uk/>

<sup>3</sup> Sir George Bain et al, *The Future of the Fire Service: taking risks saving lives*, December 2002 <http://www.irfs.org.uk/docs/future/index.htm>

- a new reward structure where new career paths are opened and new skills are displayed, but no increase in pay for firefighters and control room staff;
- a new pay structure to encourage mobility and flexibility, that would achieve higher levels of pay after completion of the reform package;
- improved management training for senior staff to cope with their increased responsibilities;
- comprehensive modernisation of the Firefighters Pension Scheme;
- reform of conditions of service, with only a core established nationally and managers left free to negotiate other conditions;
- modernisation of the relationship between Retained firefighters and their full-time counterparts, who should receive the same hourly pay, while having the same medical and training standards so as to be fully interchangeable.

### **C. Some reactions to the Bain Review**

The Government reaction to the Bain Review showed how far that Review had gone beyond the immediate industrial dispute and had become the basis for a reform programme. The Deputy Prime Minister's statement on the very day of publication included the following comments, amongst others on the consequences for the immediate pay dispute:

The report recommends primary and secondary legislation to modernise the fire service institutions; to deal with the difficulties arising from the discipline regulations, and the appointment and promotion regulations; and to bring fire authorities' statutory duties in line with a modernised fire service. The report also makes recommendations to improve the inspection and delivery of services, and to establish a new central organisation to drive forward the process of modernisation.

Many of the report's recommendations to the Government will require detailed consideration, but we have been looking at these issues for some time and we have given further detailed consideration since the publication of the interim Bain position paper on 11 November. Today, with the publication of the final Bain report, I can set out the steps that the Government will take to put into effect the Bain recommendations.

First, the Government accept the recommendation to repeal section 19 of the 1947 Act and we will do so at the earliest opportunity, as requested. Secondly, we accept in principle the report's recommendations for legislation to modernise the fire service, to improve inspection and delivery of services and to set up a new central body to drive forward modernisation. Thirdly, I am committing the Government to produce a White Paper on the fire service in the spring in order to fulfil our part of the programme of modernisation. The White Paper will set out in detail the legislative and other changes required.

That is a clear programme of reform that will be taken forward immediately and will sustain the drive to modernise the framework in which the fire service

operates. My guiding principle will be to transform the fire service into a modern emergency fire and rescue service focused on the safety of people and communities. That is what modernisation is about. Some of it will save money, but some of it will cost money, including, for example, training in basic life support skills and providing life-saving equipment for firefighters. The primary objective will be to improve the safety of the public and create a fire service that can deliver the highest standards.<sup>4</sup>

The Bain review was rejected by the Fire Brigades Union (FBU) which had refused to cooperate with it.<sup>5</sup> The FBU's focus on a pay dispute left them unsympathetic to a review that did not recommend a general pay increase. The Bain report also argued that those pay increases it did recommend for greater flexibility should be funded by efficiency savings. The FBU considered that a euphemism for job losses. The FBU General Secretary Andy Gilchrist was clear:

Bain is recommending a return to the days when Firefighters were forced to work overtime on top of their 48 hour shift. He then wants us to go home and provide Retained cover from our houses whilst we are off duty and says this would be good for equality and family friendly policies...His report, if accepted, would completely dismantle the Professional Fire Service as we know it. He freely admits that his 'modernisation' agenda is entirely driven by the need for savings (i.e. cuts) and is not about improving the service for the public or the employees within the service.<sup>6</sup>

Although many people have welcomed the Bain Report, the County Councils' Network of Chief Fire Officers regretted the way it had become the basis for reform:

The White Paper, and to a degree the Bain Review, is a reaction to the strike action taken by the Fire Brigades Union. Although we accept this is an understandable political response to what was seen at that time as a national crisis, we would argue this has brought about conclusions being made for the long-term future of the Fire and Rescue Service which are in some cases lightweight; verging on the superficial. Prior to the strike action of 02-03 there had been no substantial research or meaningful analysis of the Fire and Rescue Service for almost two decades. Thus we feel, in some respects there is an "information/understanding vacuum".<sup>7</sup>

Dr Dennett, an independent fire consultant giving evidence to the ODPM Committee, went further in criticism of the Bain review:

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<sup>4</sup> HC Deb 16 December 2003 cc 553-4

<sup>5</sup> Fire Brigades Union Press Release, *Fire Brigades Union will not get involved in review of the fire service*, 5 September 2002

<sup>6</sup> Fire Brigades Union Press Release, *Government independent wreckers attempt hatchet job on fire service*, 12 November 2002

<sup>7</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev 106

I think it [the Bain Review] is significantly flawed because it did not collect the evidence available to it...I think it is a political report; I think it errs on the side of Government and looks at the solution to the problem, if you like, rather than the problem. There is so much in it, for example, that is unsubstantiated about recruitment, about bullying and about the general standards of fire cover, and there is nothing in the report that I have seen that is supportive of those conclusions.<sup>8</sup>

## **II Developments since the Bain Review**

### **A. Fire service legislation in 2003**

#### ***a. The Fire Services Act 2003***

The *Fire Services Act 2003* was passed as a result of an industrial dispute. It was a very short Act giving the Secretary of State powers, by order, to do one or both of the following:

- fix or modify the conditions of service of fire brigade members;
- give specific or general directions to fire authorities about the use or disposal of property or facilities.

The power to modify conditions of service was clearly related to the dispute. The power to direct fire authorities about use or disposal of property or facilities is more closely related to the Government's reform agenda for the fire service. However, the two topics are linked because the dispute went beyond simple questions of pay and conditions into more general concern about the direction of reform. No orders have been made under those powers, partly because the dispute was settled without them.

#### ***b. Repeal of s.19 of the Fire Services Act 1947***

*The Local Government Act 2003* s.121 repealed provisions in s.19 of the *Fire Services Act 1947* that had required fire authorities to have the permission of the Secretary of State before closing a fire station or reducing the number of whole-time firefighters.

### **B. The White Paper, June 2003**

The Government published a White Paper, *Our Fire and Rescue Service*, (Cm 5808) on 30 June 2003. The Deputy Prime Minister's statement on it stressed his aim to reform the fire service, in line with the recommendations of the Bain Review. He wanted the service to be more proactive in preventing fires; to have more effective institutions; and to be more effectively led and managed so as to be better able to adapt to change, in order to save lives and reduce injuries. He stressed six main themes in the White Paper:

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<sup>8</sup> Oral Evidence to the ODPM Committee, 4 November 2003, QQ 118-120

- First, it explains the new emphasis of the service on the prevention of fires and other emergencies as well as on firefighting... We will also make changes so that fire authorities will ensure a better allocation of resources on the basis of risk...
- Secondly, the White Paper sets out our proposals for a more coherent regional approach to fire and rescue...
- Thirdly, the White Paper sets out the institutional changes that we will make to improve the management of the service...
- Fourthly, the White Paper sets out our plans for improved scrutiny and inspection. In line with Bain's advice we are working with the Audit Commission to develop its role in inspecting and reporting on the work of the service...
- Fifthly, the White Paper sets out changes to reform the machinery for negotiating pay and conditions...
- Finally, the White Paper sets out our proposals for modernising the personnel management arrangements of the service...<sup>9</sup>

### C. Bain on Progress since the review

Evidence to the ODPM Select Committee by Sir George Bain and report secretary Bob Evans on 19 November 2003 shows how far developments in 2003 fitted in with the Bain Review recommendations:

*Mr Evans:* Our position is that we are pleasantly surprised at just how much progress there has been since we put the review in place. If you look at the long list of things which are in train, whether it is the production of integrated risk-management plans, the White Paper, the preparation of the legislation, the reform of the institutions - the College, the Inspectorate - the Government's arrangements for the creation of a practitioner's forum, and a national framework will be published shortly, these are all tangible examples of progress and I think when you look at it it is very difficult to feel other than really quite pleased that we have gone so far so quickly.

**Q348 Christine Russell:** Having applied your mind to modernisation of the service, what did you actually think about the White Paper when it came out? Did you think it was a good document?

*Professor Bain:* I thought it was a very good document. I suppose in part one says that because it virtually accepted all the points which were made in the review. There is, I think, very little difference at all so it was a confirmation. Often when you do reports governments do not accept them. In this case it seems to have been accepted virtually in its entirety.<sup>10</sup>

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<sup>9</sup> HC Deb 30 June 2003 cc 21-24

<sup>10</sup> Oral Evidence to the ODPM Committee, 19 November 2003, QQ 347-8

## **D. The ODPM Select Committee**

The ODPM Select Committee began an investigation into the fire service after the appearance of the White Paper, and published written evidence on 20 October 2003.<sup>11</sup> This written evidence from interested parties contains extensive comment on the White Paper and on the Government's policy more generally. It is supplemented by oral evidence on the ODPM Select Committee website. However, no draft Bill was published and the Committee was not undertaking pre-legislative scrutiny. At the time of writing, the Committee has not yet produced its report, although it is due to appear before Second Reading of the *Fire and Rescue Services Bill*.

This paper makes use of the public evidence given to the Select Committee. Partly because the Select Committee is investigating the fire service as a whole, this paper concentrates more upon the Bill and policy directly related to it. Many of the issues mentioned in this paper are more complex in detail than is shown here – for example the pension scheme, the role of Retained firefighters or the proposed new institutions. However, much of that is not closely related to the Bill. Those issues will be more fully covered by the Select Committee.

## **E. An overview of the Bill and reaction to it**

The ODPM Press notice launching the Bill noted that the reform package included:

- Safer communities - the new duty on all fire and rescue authorities to promote fire safety will underpin the shift toward a more prevention based approach thereby saving more lives by reducing fires occurring in the first place.
- Modern legislative framework - replace out-dated legislation with a new statutory framework that recognises the Fire and Rescue Service's existing role in responding to a range of incidents, e.g. road traffic accidents alongside its traditional firefighting role. The Bill will also create a new duty to respond to other emergencies for example serious flooding and measures to plan for and respond to the new terrorist threat.
- National Framework - the Bill will give statutory force to the Fire and Rescue National Framework and place a duty on the Secretary of State to keep it up to date and report against it. The draft National Framework, issued for consultation on 11 December 2003 sets out the Government's requirements for the Fire and Rescue Service and the support it will provide. The Bill will provide the power to ensure that if necessary fire and rescue authorities are required to comply with the requirements of the Framework.
- The regional approach - Strengthen and streamline existing powers to combine

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<sup>11</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03

fire and rescue authorities to ensure that should voluntary regional management arrangements prove unable to deliver, functions such as planning for serious emergencies, joint control rooms, procurement and training can be organised on a regional basis.

- Civil resilience - Underpin Fire and Rescue Service contribution to national resilience through new powers to direct fire and rescue authorities during particular specific emergencies to ensure a co-ordinated and strategic response and resources are focussed where they are needed most.

- Reinforcement schemes - update existing powers to allow fire and rescue authorities to enter into reinforcement schemes with other authorities to provide mutual assistance in the discharge of their new core duties under the Bill

- Partnership - Fire and rescue authorities powers to delegate functions will be extended to cover their new powers and duties to enable partnership with others for example in the promotion of fire safety. The Bill will retain the present position whereby an authority can only delegate its duty for fighting fires to another authority or others who employ firefighters.

- Equipment power - provide powers for the Secretary of State to procure equipment and services for fire and rescue authorities, and to direct them on the use of their equipment, to ensure uniformity of approach across the Service - crucial to national resilience - or in the interest of public safety.

- Charging - maintain the existing ability for fire and rescue authorities to charge for particular services as occurs elsewhere in local government. The Bill will continue to exclude the possibility of charging for fire fighting.

- Negotiating bodies - reserve powers to set up new bodies to negotiate pay and conditions of service. Effective negotiating machinery is critical to modernisation. A review of the current NJC arrangements is underway but the powers in the Bill could be used to establish new statutory bodies if the review does not result in satisfactory new arrangements. The Bill will also allow Ministers to issue guidance to negotiating bodies whether or not the bodies are statutory.

- Engaging stakeholders - the Bill will abolish the Central Fire Brigades Advisory Council (CFBAC) which had become too cumbersome and complex and incapable of delivering swift, meaningful change. More effective and flexible stakeholder advisory and consultative forums are already in place to ensure advice from producers and users of the Service informs future direction. The Secretary of State will be required to consult on all orders made under the Bill for which the CFBAC acted as statutory consultee.

- Pensions - will bring forward existing pension provisions while providing new powers to create new, multiple pension schemes.

- Devolution - the Bill will devolve responsibility for the Fire and Rescue Service in Wales to the National Assembly for Wales. Responsibility for the Fire and



Rescue Service in Scotland and Northern Ireland is already a devolved matter. The Scottish Executive is consulting on proposals to change the legal framework for the Fire and Rescue Service in Scotland.<sup>12</sup>

Reaction to the reform objectives has been generally positive. However, many responses have expressed concerns about the speed at which the Government intends change to take place.

### III Part 1 of the Bill - Fire and Rescue Authorities

#### A. The Government plan for regional authorities

**Clause 1** of the Bill states the current position, with a wide range of local authorities being fire authorities. The only change is that they would become “fire and rescue authorities”. **Clauses 2, 3 and 4** would allow the Secretary of State to make schemes for combining two or more existing fire and rescue authorities. This move to large regional fire authorities is a key part of Government policy. In his statement in June 2003, the Deputy Prime Minister described the reasons for wanting much larger authorities:

[T]he White Paper sets out our proposals for a more coherent regional approach to fire and rescue. Professor Bain, in his report, recognised the strength of argument in favour of regional organisation of the fire service. Current arrangements for managing the fire service are confused and inefficient. There are too many small fire authorities that cannot generate economies of scale and do not have the resources to tackle some of the major threats, particularly those from terrorism, facing us today. For example, the cost of control rooms responding to a single fire incident ranges from £168 in the smallest authority to £18 in the largest. That is an ineffective use of resources. We therefore expect local fire authorities to set in hand arrangements at regional level so they are more efficient, more effective and better able to respond flexibly to threats and emergencies.

In due course, where directly elected regional assemblies are established, we envisage there being regional fire and rescue authorities that are democratically accountable to those assemblies. The fire and rescue service is, however, delivered locally. Better regional co-ordination and management of the service must not detract from the local focus of the service on working with communities on fire prevention and other community safety measures. We will work closely with local authorities, the Local Government Association and others to ensure that that happens. In accordance with Bain's recommendations, and with the support of the Welsh Assembly, we will devolve responsibility for fire issues to Wales.<sup>13</sup>

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<sup>12</sup> ODPM Press Notice ODPM-005, *Bill paves the way for modern fire and rescue services*, 13 January 2004

<sup>13</sup> HC Deb 30 June 2003 c 22

The White Paper announced that local fire authorities would be required to establish, before 1 April 2004, robust regional management arrangements with members from existing fire authorities. It adds:

We will discuss with existing authorities, the Local Government Association and other stakeholders this system of regional management to ensure that it meets the objectives of the National Framework. We hope that such voluntary arrangements will succeed. But if these arrangements do not deliver modernisation quickly, we will use our powers to require combinations of fire authorities, in order to establish regional fire and rescue authorities. We will be strengthening these powers in the forthcoming fire legislation in order to ensure that such combinations can be achieved more quickly than at present, and to allow the Secretary of State to nominate some of the members of the regional combination authorities.<sup>14</sup>

The Bain Report had recommended co-operation between brigades rather than a reorganisation on a regional structure:

6. There are cogent arguments in favour of moving the Fire Service onto a regional structure. New responsibilities are emerging, such as the need to deal with major terrorist incidents. These are best handled above brigade level. We do not, however, favour a major re-organisation at the moment; the Fire Service will already have a major programme of change to handle. But brigades should increasingly work together where it is clear that increased efficiencies and economies could result. Brigades should also work more closely with others in their community, for example, to provide “co-responder” assistance to medical emergencies. The Service must increasingly recognise that the people and other resources are there to serve the community across a wide range of activities.<sup>15</sup>

Part of the impetus towards larger authorities comes from the failure of earlier attempts to encourage voluntary co-operation between fire authorities.

A report by consultants, Mott Macdonald, in 2000 had already recommended that fire authorities must work together to eliminate control rooms that handle less than 20,000 incidents per year. A report by the HM Fire Service Inspectorate Report in November 2003 examined the 47 reviews submitted by fire brigades, to see what progress had been made in this area.<sup>16</sup> It suggested little willingness by fire brigades to collaborate. The following points, amongst others, from the Executive Summary show that this approach has not worked:

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<sup>14</sup> ODPM, *Our Fire and Rescue Service*, June 2003, Cm 5808, p33

<sup>15</sup> Sir George Bain et al, *The Future of the Fire Service: taking risks saving lives*, December 2002, Executive summary paragraph 6

<sup>16</sup> HM Fire Service Inspectorate, *Analysis of the Best Value Reviews (BVRs) of Control and Communications*, November 2003

- Of the 47 Best Value Reviews (BVRs) examined, only five authorities appear to have approached the reviews with an open mind taking account of national guidance and principles of Best Value. Additionally three authorities received “Invest to Save” (ISB) funding to provide joint/shared controls.
- The outcomes will do little to improve collaboration and joint working between neighbouring brigades and emergency services or reduce the number of fire controls in the short to medium term.
- Most of the BVRs attempt to deliver improvements in local community services, rather than necessarily meet the aspirations of national guidance or the Mott MacDonald report.
- Of the reviews examined, 89% have significant areas of weakness.<sup>17</sup>

The Analysis argued that the failure of co-operation between brigades had been partly due to lack of strong central direction. In addition, the lack of central funding was sending mixed messages and causing confusion about what the Government wanted to happen in the national interest.

The December 2003 update of the original Mott Macdonald report in 2000 argued strongly in favour of managing the fire service via nine regional control rooms in England and one in Wales. They favoured vertical integration of the fire service rather than an alternative model co-locating (without merging) control centres handling fire service, police and ambulances at a local level.<sup>18</sup>

## **B. Comment**

Evidence to the ODPM Committee supported the need for some form of regional working, whether by co-operation or regional authorities. However, many witnesses expressed concern about the Government’s move to regional fire authorities replacing the present ones. The Association of Chief and Assistant Chief Fire Officers (CACFOA), while welcoming the White Paper overall, felt that more research was needed:

In its deliberations on regionalisation, the White Paper lacks clarity. The lack of focus and detail around the timing of any future regionalisation, and the weight placed on “encouraging” voluntary arrangements merely adds to the confusion. It has a particular impact on County Council Fire Authorities who already enjoy the benefit of economies of scale for many of their support activities.

It is clear that collaboration across larger areas than the current boundaries of fire authorities is needed to unlock the benefits of modernisation. It is also a question

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<sup>17</sup> HM Fire Service Inspectorate, *Analysis of the Best Value Reviews of Control and Communications*, November 2003

[http://www.odpm.gov.uk/stellent/groups/odpm\\_fire/documents/page/odpm\\_fire\\_026181.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_fire/documents/page/odpm_fire_026181.pdf)

<sup>18</sup> [http://www.odpm.gov.uk/stellent/groups/odpm\\_fire/documents/page/odpm\\_fire\\_026179.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_fire/documents/page/odpm_fire_026179.pdf)

of the capacity and resources to deliver change, and it is apparent that smaller authorities simply do not have the capacity to deliver. The regional issue, thus, merits further scrutiny, and clarity about Government expectations.<sup>19</sup>

The FBU expressed reservations:

The FBU agrees that the Service should share resources when it makes sense to do so. However, pooling resources should not be at the expense of diminishing levels of service, or delivery at the point of need. The proposals to move towards a regional Service need further consideration. The Union is minded to agree that in the event of regional elected assemblies, it would make sense, both in terms of delivery and democracy, for regional fire and rescue authorities to be established. However, as even the White Paper states, even in the best-case scenario, the first regional assemblies are not expected to be in place for several years. The Paper also states that local fire authorities will need to establish regional management boards with members from existing fire authorities before 1 April 2004. The preparedness of the Service to respond to such a demand has to be questioned. The Government should not rush ahead with reform before the proper structures are put in place.<sup>20</sup>

The Fire Officers Association was generally more positive about the need for change, but also expressed some concerns over the plans:

We believe it is vital for new arrangements to be put in place as swiftly as possible, in order that people's energies may be concentrated on developing issues. Not least of these is the question of regionalisation. Many aspects of the proposals regarding this remain unclear, for instance the timescale for implementation of regional controls. We are also concerned that there are no proposals regarding governance arrangements and structure of fire authorities. To continue with so many different models of fire authorities in place, makes the prospect of blending them into efficient regional management boards extremely unlikely, to say the least.<sup>21</sup>

In oral evidence, the Chairman of the Local Government Association noted some risks of regionalisation:

Q312 **Mr Betts:** Could you say more about that regional issue?

**Sir Jeremy Beecham:** Our view is that there is scope and we need to pursue it rigorously to effect change at a regional level in some areas, for example, in procurement and possibly in control rooms where clearly there are economies of scale that might be effective; equally on the training side. However, we are somewhat apprehensive about the concept in the White Paper of effectively

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<sup>19</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev74

<sup>20</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev90

<sup>21</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev96

regionalising the Service in those areas which first of all have elected regional assemblies simply because much of the effort is going to depend on very close local working with other local authority services, not least on the building regulation side. Again, if you are going to engage members in that and make sure there is political accountability and drive there, it seems to us that it is more likely to take place at a more local level than at a regional level. We do have reservations about that. We also have a reservation about whether it might prove a distraction in terms of delivering what has to be done in such a comprehensive way on Risk Management and all the rest of the White Paper proposals if people are looking over their shoulder wondering what the structure is going to be, where there careers are going and so on in the context of regionalisation.<sup>22</sup>

The Association of Principal Fire Officers, while welcoming the Government's reform agenda, expressed concerns about regionalisation. It opposed "the blanket application of this approach without further research. Smaller brigades also have proven track records in delivering economies of scale and best practice."<sup>23</sup>

The County Councils' Network of Chief Fire Officers criticised the lack of evidence in favour of the regional model:

- Regional Fire Councils. No business case, very limited evidence, almost a "Nelson approach", failing to look at other alternatives, many of which could supply similar levels of operational integrity and value for money.
- Simply stating that a Fire Authority which has fewer than 700 people is inefficient without supplying any argument to support this, verges finely between simplistic and arrogant. We can easily furnish evidence that smaller Authorities, many of which are linked to County Councils outperform much larger fire brigades, frequently at a lower expense.<sup>24</sup>

## **IV Part 2 of the Bill – Functions of Fire and Rescue Authorities**

### **A. Government policy on statutory duties of authorities**

The Bill would impose duties on fire and rescue authorities relating to core functions: fire safety (**clause 6**); fire-fighting (**clause 7**); and road traffic accidents (**clause 8**). Although fire authorities have undertaken these functions for many decades, they were under no statutory obligation to do so. In addition, clause 9 of the Bill would give the Secretary of State the power by order to confer on a fire and rescue authority functions relating to

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<sup>22</sup> Oral Evidence to ODPM Committee, 11 November 2003, Q 312

<sup>23</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev25

<sup>24</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev106

emergencies. In other words, that clause might lead to an increase in operations in that area.

The Deputy Prime Minister, in his statement in June 2003, explained the reasons for changing the functions of the authorities:

The White Paper... explains the new emphasis of the service on the prevention of fires and other emergencies as well as on firefighting. Much can be done by sensible fire precautions and other measures to reduce the number of fires that start and reduce the risk to our firefighters. For instance, we will continue to review the building regulations, rationalise existing legislation and increase our investment in community fire safety, arson reduction measures and measures to combat terrorism. We will also make changes so that fire authorities will ensure a better allocation of resources on the basis of risk.

The risk-based approach means that more emergency cover will be available at times of highest risk. At present, cover is based on the number and type of buildings in an area, rather than on the risks faced by the people in them. In future, authorities will plan to provide cover for all the risks facing our communities, not just those from fire. In recognition of that wider role we will rename the fire service as the fire and rescue service.<sup>25</sup>

## **B. Comment**

Comment on the proposals has generally welcomed the change in emphasis. The Chair of the London Fire and Emergency Planning Authority said:

We are delighted to see that the Bill lays out many of the changes that we in London have been calling for. We are already committed to increasing the amount of work we do in the community to cut fire deaths and welcome the emphasis the Bill places on this important work. It also recognises the other duties, beyond firefighting, that our staff carry out every day. We believe that these changes will help us create an even more professional fire service and help London become a safer city in which to live and work.<sup>26</sup>

The Chief and Assistant Chief Fire Officers Association (CACFOA) also welcomed the proposals:

CACFOA welcomes the announcement and publication of the new Fire and Rescue Services Bill. The provision of a statutory duty to promote Fire Safety is particularly welcomed. Safety from fire is the first priority, but recognition in the Bill of the wider emergency response role of the Fire and Rescue Services is important in securing the social, economic and environmental well being of the Country.

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<sup>25</sup> HC Deb 30 June 2003 cc 21-22

<sup>26</sup> LFEPA PR94/04, *London Fire Authority welcomes key elements of new legislation*, 13 January 2004

CACFOA is encouraged by the Government's determination to move quickly to remove many of the current barriers to modernisation and to ensure that the necessary laws are in place as soon as possible. This will allow the Fire Authorities to deliver modern Fire and Rescue Services which match the country's needs.<sup>27</sup>

However, Ann Everton, Professor of Fire Law, considered the overall proposed reform as very ambitious and noted that it might not succeed. She noted three particular problems, partly relating to what has become Part 2 of the Bill, and partly to the risk framework that comes under Part 3:

- (i) The thrust: The Paper expressly acknowledges its implications. The authors observe that "[The] Authorities will take on new responsibilities for making judgements about the risks within their area, the balance between prevention and intervention, and for determining response standards and resource allocation." And, they go on: "Fire and rescue authorities will need to assure themselves that they have access to the necessary expertise in risk management and analysis to do all this."
- (ii) The size: It appears that fire authorities are to be festooned with duties. With duties come possible, potential legal liabilities...
- (iii) The complexity: Each and every facet of the load is intrinsically intricate. Consider, for instance, not only the intricate but also the demanding role of the fire authorities in their capacity as enforcers of fire safety legislation. Moreover, in this capacity the fire authorities are soon to be encountering obligations which, though they will build on a pattern with a few years' pedigree, nevertheless lack a sufficient history of usage to make for any ease of pursuit.<sup>28</sup>

In her oral evidence to the ODPM Committee, she raised another concern:

My... concern comes from the way in which I actually come to this subject. My prime subject is fire safety law and, as you know, we are in the midst of an extensive reform programme for fire law and the fire authorities are absolutely at the heart of that reform as enforcers and, although they will have some experience of what is going to be asked because it is European inspired and has been in their remit for a few years, I wonder if they have sufficient experience of it to be able to cope with it fully when you take into account the width of the activity which will surround it - they will not just be fire law enforcers, there will be all the other matters as well - and, added to that, it concerns me that, these days, there is great emphasis on community fire safety. I would not detract from that at all. I think to educate a child particularly is a good way forward, but I wonder if there will be so much emphasis on that that it may detract from the task of fire law enforcement which, to me, is pivotal.<sup>29</sup>

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<sup>27</sup> CACFOA Press Release, *Chief Fire officers Response to New Bill*, 13 January 2004

<sup>28</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev134

<sup>29</sup> Oral Evidence to ODPM Committee, 4 November 2003, Q 110

The FBU criticised the whole reform agenda as using some good ideas as window dressing for cuts, and a downgrading of the rescue role of the fire service. The General Secretary Andy Gilchrist said:

The Fire Service has been involved in prevention work for nearly 100 years. But prevention is never a substitute for intervention. We don't launch crime prevention measures then slash the police force. We don't tell people to stop smoking and eat their fruit and veg and then cut the number of doctors and nurses and close hospitals. Prevention is an important addition to the rescue role of the fire service but it is not a replacement for it.

And the investment in prevention measures is pathetic: £5 million extra each year for 3 years. It's useful but it hardly adds up to major expenditure on a new initiative. The Government needs to commit itself to a major reduction in all fire deaths and injuries and reducing the number of all fires wherever they are and however they start. There is only a commitment to reduce fire deaths in the home. There is no commitment to reduce arson deaths at all and no mention of reducing deaths and injuries outside the home. We need zero-tolerance of all fire deaths. That means having a target of ZERO fire deaths however caused and wherever they happen. When the Government sets testing targets like that we know they will be serious.<sup>30</sup>

The Fire Protection Association (FPA) welcomed the move to increased emphasis on fire prevention but called for a better definition of the objective:

FPA in common with other stakeholder groups has welcomed the vision reinforced throughout the White Paper that the fire service must refocus on fire prevention rather than intervention. The document acknowledges that this change in culture has become known as community fire safety, however we were disappointed that the continued references to community fire safety appear to be totally focussed on fire safety in the home. It should be important to recognise that the commercial sector is an important part of local communities. In our experience the term "community fire safety" is open to quite wide and varied interpretation and we would hope that any Fire Bill that may emerge contains a clear definition of the term.<sup>31</sup>

The Retained Firefighters Union (RFU) enthusiastically supports the idea of community safety, preferring that term to "community fire safety". Their response to the White Paper adds:

We believe the concept of the "Community Fire and Rescue station" has great potential for not only reducing risks, but also in making the public more aware of

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<sup>30</sup> FBU Press Notice, *FBU warns Fire and Rescue Services Bill is window dressing for cuts and calls for pilot-testing for new ideas*, 13 January 2004

<sup>31</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev153



the Retained service. A higher local profile, through utilising Retained stations for wider community services and schemes, like young firefighters, will undoubtedly aid recruitment...There is great scope for the wider use of Retained personnel on Community Safety, especially when the overall response to reactive calls is reduced by call management.<sup>32</sup>

The Greater Manchester Fire Authority raised the issue of resources needed for training for these new functions. The Authority faces a particular problem after the Health and Safety Executive (HSE) tried to secure the conviction on a manslaughter charge of their Chief Fire Officer after a fireman died during a water rescue:

Even if additional funding is forthcoming, question marks exist as to whether any fire service would have the capacity in terms of establishment levels and training time to provide a rescue role for all incidents at every station. This is compounded by the approach of the HSE that apparently intend to benchmark the fire service against “single industry experts” that only carry out one function and then mainly in a controlled and static environment. Specialist response teams may be the answer but these demand funding to establish and maintain. In any case the nearest firefighters and fire engines would always be required to respond and stabilise a life-threatening situation prior to the arrival of any specialist team.<sup>33</sup>

### C. Government policy on emergencies

**Clauses 9 and 10** relate to emergencies. **Clause 9** would allow the Secretary of State to confer on a fire and rescue authority functions relating to emergencies, other than fires and road traffic accidents. **Clause 55** would define the term “emergency”. This will be the third new definition of “emergency” to come before the House within a week, since there are two definitions in the *Civil Contingencies Bill 2003/4*. The definition in the *Fire and Rescue Services Bill* relates to incidents that that would not necessarily qualify under the *Civil Contingencies Bill* definitions. The Explanatory Notes suggest that this might include flooding and terrorist incidents. The Secretary of State will also have the power to direct authorities as to how they should plan, equip for and respond to such emergencies. Such duties, including planning for coping with new types of terrorist emergencies, are potentially expensive. Paragraph 81 explains Government plans to cope with that:

With regard to any cost and manpower implications of new duties and powers to respond to emergencies such as the new dimension of terrorism, the Secretary of State is able to purchase, and will continue to own, the necessary assets required by the Fire and Rescue Service. Where there are revenue implications arising from the use of such assets for New Dimension purposes, they have been or will be met by the Secretary of State.

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<sup>32</sup> Retained Firefighters Union, *Seizing opportunities and overcoming barriers*, 2003, p12

<sup>33</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev78

## **D. Comment**

A written memorandum from Dr Dennett, an independent fire consultant, criticised the Government's suggestion that the problems were new:

The Government appears to be unaware that the threats to our society, from chemical, biological or radiological and nuclear releases have been present for a long number of years. A massive chemical, biological or radiological and nuclear release from a facility in a densely populated urban area (facilities which Government planning legislation has allowed), is just as hazardous as if the release was intentional as part of a terrorist attack. It is inconceivable that the Government really thinks that its "New Dimension" policy will solve the potential problems. In respect of the planning and funding of means of dealing with the threats outlined, the events of 11 September are an irrelevance.<sup>34</sup>

## **V Part 3 of the Bill – Administration**

### **A. Government policy on risk management**

Clause 21 requires the Secretary of State to prepare a Fire and Rescue National Framework. A paragraph in the Bain Review explains the background:

5. The system for deploying the people and resources of the Fire Service was put in place decades ago; it was designed to meet different threats in different circumstances. The emphasis was on putting out fires in buildings. What is needed now is a system which deploys the resources of people and equipment so they are prepared to deal with the most likely risks of fire in the most cost-effective way, using an approach based on the management of risk which recognises that people move around. Local fire authorities must determine the most appropriate ways of managing the risks. This new approach should enable resources - people, machines and, in some cases, fire stations - to be re-deployed to best effect. And it should be possible to move more resources into fire prevention - community fire safety and fire safety enforcement. In turn, this should help reduce the existing level of fires. This new approach can be put in place immediately. But new primary legislation is also needed to put the Fire Service on a proper, modern basis.<sup>35</sup>

On 11 December 2003, ODPM published the draft Fire and Rescue Framework 2004-5. One key passage relates to risk management. The Government proposal to replace national standards of cover by risk standards chosen by each fire authority is at the heart of the proposed reform:

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<sup>34</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev57

<sup>35</sup> Sir George Bain et al, *The Future of the Fire Service: taking risks saving lives*, December 2002 Executive Summary paragraph 5

### **Integrated Risk Management Plans**

1.2 The old 'standards of fire cover', which set out the speed and weight of response to fire depending on building density, were insufficiently flexible to allow Fire and Rescue Authorities to respond to the needs of their communities. In future they will be replaced by local Integrated Risk Management Plans (IRMPs).

1.3 IRMPs should set out each Fire and Rescue Authority's strategy for:

- reducing the number and severity of fires, and in collaboration with other agencies, road traffic accidents and other emergency incidents occurring in the area for which it is responsible;
- severity of injuries in fires, road traffic accidents and other emergency incidents;
- reducing the commercial, economic and social impact of fires and other emergency incidents;
- safeguarding the environment and heritage (both built and natural); and
- providing value for money.

1.4 An IRMP should set out an authority's assessment of local risk to life and, in line with this analysis, how it is going to deploy its resources to address these risks and improve the safety of all sections of society. The IRMP should identify the ways in which the authority can work in partnership with neighbouring authorities and other agencies to deliver improved public safety. It must also set out the targets an authority will set itself and the standards it will apply. This must be done in the context of its statutory duty to secure continuous improvement and achieve best value for its local council taxpayers. The IRMP itself should be a strategic, forward-looking document with the approach and detail of business and change management plans. Annual action plans, which may be produced separately or integrated with the main plan, will set out what the authority plans to do in the year ahead.

1.5 This year (2003/4) authorities drew up their first IRMPs and went out to consultation on them with their local communities over September and October. The consultation period for most authorities ends at the end of January, and they will then have a period of two months to revise their plans as necessary for implementation in the financial year 2004/05. Authorities should keep their IRMPs under review, and revise them on a regular basis when new evidence or analytical tools become available. Further guidance on the operational aspects of IRMPs is included in Chapter 3.

## **B. Comment**

Several fire authorities welcomed the IRMP approach – East Sussex,<sup>36</sup> Devon,<sup>37</sup> Cambridgeshire and Peterborough,<sup>38</sup> Avon,<sup>39</sup> Hertfordshire,<sup>40</sup> Greater Manchester.<sup>41</sup>

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<sup>36</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev3

<sup>37</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev152

<sup>38</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev21

<sup>39</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev42

However, several responses expressed concerns at the timetable for producing the new IRMPs and at the Government belief that the change would produce financial savings.<sup>42</sup> The view of Professor Everton the difficulty of producing IRMPs has already been quoted. The FBU has similar concerns:

The FBU supports a further move towards preventing, rather than reacting to fire and other risks, through the new system of Integrated Risk Management Plans (IRMPs). However, while all Brigades already undertake fire prevention, and different Brigades undertake varying levels of community fire safety, their ability to shift quickly from a nationally prescriptive to a local risk-based system of cover has to be questioned. In addition, productivity gains and investment have not resulted in a significant reduction in fire deaths and injuries. The FBU would like to propose a comprehensive audit of community fire safety initiatives, the results of which further reform should be based upon.

Fire Authorities are currently being expected to draw-up IRMPs within a matter of months. The FBU has some serious concerns about the ability of personnel to manage these new responsibilities within the timescales envisaged. The union would prefer to see the introduction of IRMPs, involving the active participation of staff, through a series of pilots, so that best practice can be established and realistic funding arrangements put in place.

Whilst supporting the new risk-based approach the FBU believes that there should be a national risk-based standard and national Fire Service Strategy policy to replace the 1985 Standard.<sup>43</sup> This approach was pioneered by the “Fire Cover Review” 2002. This is required to ensure that both public and staff are protected and that the service doesn’t degenerate into a Post Code lottery. Such a national standard should have at its centre the target of zero fire deaths.<sup>44</sup>

Cornwall Fire Authority, while supporting the IRMP approach, noted one particular problem for rural areas:

It is a well publicised fact that people die as a result of fire in their homes rather than in businesses or other areas of commerce and industry. It is anticipated that IRMPs will clearly demonstrate this fact with the potential for a transfer of risk cover from areas of current “A” and “B” risk (that of industry and commerce) to “C” and “D” risk (areas where people live). In rural areas comprised exclusively of “C” and “D” risk, such as Cornwall, additional fire cover may be required. The Committee may wish to consider the financial considerations of

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<sup>40</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev45

<sup>41</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev50

<sup>42</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev82

<sup>43</sup> The 1985 standard is the one referred to in the ODPM draft Fire and rescue Framework as the old standard of fire cover, see p26 of this paper

<sup>44</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev90

implementing a life risk based model of fire cover in rural or semi-rural areas such as Cornwall.<sup>45</sup>

## **VI Part 4 of the Bill – Employment**

### **A. Negotiating Bodies**

#### **1. The Government proposals**

**Clause 31** would allow the Secretary of State to make provision for establishing one or more negotiating bodies for the industry.

The Deputy Prime Minister's statement in June 2003 explained why he wanted to reform the negotiating arrangements:

[T]he White Paper sets out changes to reform the machinery for negotiating pay and conditions. The shortcomings of the current arrangements have been clearly exposed during the fire dispute. At present, the employers side has to represent 58 separate fire brigade employers. That is simply too unwieldy to work effectively, so we will set up three smaller bodies to negotiate pay and conditions for chief fire officers, middle managers, and firefighters and control room staff.<sup>46</sup>

#### **2. Comment**

The FBU disagreed with the proposals in the White Paper:

The White Paper proposes some fundamental changes to the current industrial relations framework of the Service. It is not clear how the Government envisages that changing the current negotiating structure will meet any of the key objectives (as set out in para 1.6). The Government's intention to determine the number, composition and chairing of the new negotiating bodies, and to force through changes to secure its objectives, is at odds with good industrial relations practice. The FBU believes that it is for the social partners to agree on these matters. The proposal for three separate negotiating bodies is also contrary to current pay bargaining practice where for some years now, in both public and private sectors, there has been a move to single table bargaining as a reflection of modern working practices. In fact, in 1999, following a proposal from the Employers, the FBU supported the move from multiple to single table bargaining for these very reasons.<sup>47</sup>

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<sup>45</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev 81

<sup>46</sup> HC Deb 30 June 2003 c 23

<sup>47</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev92

## **B. Pensions**

**Clauses 33, 34 and 35** would re-enact provisions of the *Fire Services Act 1947*. The pensions issue is an important one, and the Government plans reforms, but does not need new primary legislation in order to do so. The Bain Review called for reform of the pension system:

The Firefighters' Pension Scheme is part of a set of structures that reinforce current inflexibilities. The Scheme is not designed to accommodate a diverse workforce or flexible working patterns and includes some perverse incentive. It includes some generous benefits but the cost of the accruing liabilities is high among public service pension schemes both to the employees, at 11 per cent of pensionable pay, and to employers whose implied contribution probably amounts to about an extra 25 per cent on top of firefighters' basic pay rates. The Scheme does not provide best value to the employer, and many members might find an alternative package more attractive. Some changes can be accomplished within the existing scheme but in the longer term, the Scheme requires more wholesale modernisation.

The arrangements by which Fire Authorities meet the cost of pensions in payment creates unnecessary difficulties for employers and fails to give the right signals about the current costs of the Service. We recommend that revised financing arrangements are implemented without delay.

We recommend that investigating the forms which pension provision for Retained staff should take be a component of the way forward.

The report then continues to highlight the need to provide pensions for Retained firefighters:

9.14 According to evidence by the Retained Firefighters Union (RFU), the delay in implementing a pension scheme generally for Retained firefighters is regarded as the single major injustice suffered by them. The issue has a long history. They are not eligible to join the Fire Service Pension Scheme (although "Bounty" payments are made after ten years' service and every five years thereafter). A recent test employment tribunal case found that this did not amount to less favourable treatment of part-time workers. The applicant Retained firefighters have appealed the decision to the Employment Appeal Tribunal and the respondents have cross-appealed. The RFU notes that fifteen brigades have introduced voluntary Retained retirement pension schemes, some with an employer contribution, but not all.

9.15 It is clearly in line with Government policy that Retained firefighters should make adequate pension provision to provide for their old age. Moreover it is essential that pension provision is taken into account if overall parity with wholetime firefighters is to be achieved. We recommend further investigation of the forms which pension provision for Retained staff should take. Accommodating them within a revised scheme may be one option. But some type of stakeholder pension may generally better suit a group many of whom have

other main occupations. Such investigation is beyond the scope of our review, but should be included as a component of the way forward.<sup>48</sup>

### The ODPM consultation document

In July 2003, ODPM published a consultation document on pensions, asking views on:

- Broadening the definition of the term "fire fighter" to allow those employees who undertake certain roles other than fighting fires to be in the pension scheme;
- Allowing for part-time working;
- Placing an obligation on fire and rescue authorities to use independent medical assessments before approving applications for early retirements on ill health grounds.

Mr Raynsford said:

"Our White Paper sets out plans for a modern fire and rescue service where we have the right resources, in the right place and at the right time, to save lives. An important aspect of this is developing the role of fire fighters, which is good news for staff because it will make the service more effective and efficient and the jobs of those working in the service more rewarding. Our pension reforms will tackle some of the short comings in the current system.

"We want to see in place a good pension scheme for fire fighters - one which caters better for people going into the fire service later in their working lives, those wanting to take career breaks and those whose roles go beyond fighting fires. At present, fire fighters cannot stay in the scheme if they are unfit for all operational duties. Today's announcement will change this. But let me make it clear our proposals will not affect a fire fighter's conditions of service. The aim is not to retain people who are unfit for all operational duties or who do not have the skills to undertake non fire fighting roles. They are designed to continue to draw on the experience of trained fire fighters, who may no longer undertake fire fighting duties and enable fire fighters to stay in the scheme and receive the benefits that it offers. The use of independent medical referees has already been adopted throughout the service as best practice and this amendment will put the requirement on a statutory basis and will take forward work already in progress to improve the management of sick absence."

The consultation also covers a range of other issues:

- tidying up of provisions to take account of maternity, adoption and paternity leave and benefits paid to dependants;
- the introduction of part-time regular fire fighters into the service;
- clarification of pensionable pay;

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<sup>48</sup> Sir George Bain et al, *The Future of the Fire Service: taking risks saving lives*, December 2002, Part 9 <http://www.irfs.org.uk/docs/future/09.htm>

- a revision in the responsibilities of Medical Appeal Boards and how costs might be apportioned in the future; and
- who might act as representatives at Appeal Tribunals.

The consultation document on amendments to the Fire Fighters' Pension Scheme is available on the ODPM website and the deadline for response is 30 September.

Notes to editors

1. The current pension scheme dates from 1947. It provides a full pension of two-thirds pensionable pay after 30 years' service and has generous ill-health retirement and injury benefits. Retirement at age 55, or 60 for senior officers, is compulsory. . .<sup>49</sup>

Some responses to the consultation are available on the ODPM website.<sup>50</sup> This paper does not go into them, partly because the consultation is not complete, and partly because the powers in the Bill would allow a range of decisions on these complex issues.

## VII Parts 5 and 6 of the Bill – Water Supply; Supplementary

Part 5 of the Bill, covering water supply, would re-enact provisions from the Fire Services Act 1947.

### A. False Alarms

**Clause 47** would re-enact a provision from the *Fire Services Act 1947* making it a criminal offence knowingly to give a false alarm. False alarms account for 41% of fire engine callouts, compared to 42% for fires.<sup>51</sup> Of course, many of these false alarms are caused by faulty alarm systems rather than by malice. The Government originally considered introducing charging for attendance after false alarms. However, the idea was not popular and it was dropped.

### B. Abolition of the Central Fire Brigades Advisory Council

**Clause 49** would abolish the Central Fire Brigades Advisory Council (CFBAC), which was set up under the *Fire Services Act 1947* to provide general advice to the Secretary of State on matters relating to the operation of that Act.

Opinions on the CFBAC are divided. The Fire Protection Association states that: “current institutional structures such as the Central Fire Brigades Advisory Council and its sub committees have stifled much reform”.<sup>52</sup> The Chief Fire Officer of County Durham states: “The replacement of the Central Fire Brigades Advisory Council and the re-structure of the National Joint Council inclusive of a modernised disputes procedure is

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<sup>49</sup> ODPM Press Notice 142, *Consultation starts on pension arrangements for fire fighters*, 18 July 2003

<sup>50</sup> [http://www.odpm.gov.uk/stellent/groups/odpm\\_fire/documents/page/odpm\\_fire\\_024280.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_fire/documents/page/odpm_fire_024280.hcsp)

<sup>51</sup> Sir George Bain et al, *The Future of the Fire Service: taking risks saving lives*, December 2002, Fig 3.1

<sup>52</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev153



central to the future possible direction of the Service.”<sup>53</sup> The Avon Fire Service says that it has “for many years been frustrated by the ineffectiveness of many of the institutions within the service.”<sup>54</sup>

However, the FBU regretted the change:

The FBU regrets the Government’s intention to disband the CFBAC and replace it with a number of bodies, from most of which staff representatives are to be excluded. Neither do we understand why the membership of these new bodies needs to be mutually exclusive. The FBU supports a partnership approach to these new bodies, and believes that the Union, as the legitimate voice of the majority of staff should be involved in all aspects of the service including strategy, policy and delivery. Any attempt to exclude the FBU from these important bodies contradicts the Government’s public commitment to social partnership.<sup>55</sup>

### C. Scotland and Wales

**Clause 59** would extend the provisions of the Bill to Wales, as if for each reference to the Secretary of State there were substituted a reference to the National Assembly for Wales. In other words, it provides the same basic statutory framework for the Welsh fire service, but allows the relevant regulations to be made and decisions to be taken by the National Assembly for Wales.

**Clause 60** states that the Bill would apply only to England and Wales, except for some clauses relating to pensions, since pensions are a reserved matter.

### D. Financial effects of the Bill

Paragraph 80 of the Explanatory Notes contains an important statement of Government policy. For many Bills, the statement: “The Bill is not expected to have a significant impact on either public expenditure or manpower” is routine. In this case, that is not so, because it is a clear statement that the changes can be financed via efficiency savings. Several responses quoted in this paper support the idea of reform, but doubt whether the changes can be carried through without some new funding.

## VIII Political Comment on Government Policy

The Deputy Prime Minister’s statement in the House of Commons launching the White Paper offered an opportunity for comment on Government policy for the fire industry. The speeches for the Conservative and Liberal Democrat Parties are given below. In each

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<sup>53</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev20

<sup>54</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev42

<sup>55</sup> ODPM Committee, *The Fire Service: Written Evidence*, 20 October 2003, HC 1168-II 2002-03, Ev91

case, the reply by the Deputy Prime Minister on a factual question raised by that speech is also included.

## **A. The Conservative Party**

David Davis spoke for the Conservative Party, including the following comments:

I am sure that there is much in the White Paper that we will support and commend, but I tell the Deputy Prime Minister that in other European countries, such as the Netherlands, Switzerland and Austria, rates of death from fire are much lower than they are in the United Kingdom. If we lowered our rate to match that of the Swiss or the Dutch, we would save about 300 lives a year. New Zealand, which four years ago had the same level of fatalities as us, has halved its death rate as a result of reforms; in this country, that would be equivalent to about 300 lives a year. My first question to the Deputy Prime Minister is, therefore, will he estimate how many lives the reforms flowing from the White Paper will save every year?

The reform will entail a major overhaul of the fire service's structure. Will the right hon. Gentleman confirm that that overhaul and the financing of pay increases that he has approved will be achieved by cuts to the number of firefighters and stations? Some fire services are more efficient than others: how will he ensure that today's efficient brigades will not be penalised because they have less scope to save money to pay for the increases? Will the grant formula in respect of such authorities, many of them Tory, explicitly recognise that? Will the reforms result in disproportionate manpower cuts in metropolitan brigades?

Throughout the past year's long dispute, the retained firefighters of this country have performed heroically, standing by their posts and by the public when others went on strike. Given that, will the right hon. Gentleman today repeat the guarantee that he has given me before that not one of our much-valued retained firefighters will lose their job as a result of the reform process?

Will the Deputy Prime Minister also pledge that rural communities, which have already lost their post offices, their police stations, their schools and their health centres, will not be penalised as a result of the integrated risk management approach? If he decides to press ahead with station closures or moves, will he commit to holding local public consultations on the changes?

The Deputy Prime Minister has announced today that he will move control of fire services from local authorities to his proposed regional assemblies. Can he explain how it will help, say, Kent's fire service to be amalgamated with that of Oxfordshire, or—perhaps more appropriate—Cheshire's with that of Cumbria? This will not reassure those who are concerned for the future of their local fire services. Yet again, power is moved upwards, away from real local control.

Some of this morning's newspapers were headlined, "Prescott takes revenge on the firefighters". As a result, and unsurprisingly, other newspapers were

headlined, "New Fire Strike Threat". The Government have clearly not lost the delicacy of touch that we have got used to over the past year.

We understood from the Deputy Prime Minister, when he announced the settlement of the dispute, that the Fire Brigades Union had signed up to reform. If it is now threatening to strike over job losses, will the right hon. Gentleman tell the House exactly the terms of the deal that he struck with the FBU behind closed doors?

Does the right hon. Gentleman agree that in the 21st century the fire service needs to operate within a no-strike culture, but that the quid pro quo for that is a modern and civilised pay review and arbitration process to ensure justice for the individual firefighter as well as a modern, effective and low-risk service for the public? There is no mention of such an arbitration mechanism in the right hon. Gentleman's statements. I shall be interested to hear what he has to say about that. After all, the right to strike is an important right, but that right is not more important than the public's right to life.

When will we see legislation arising from the White Paper? In particular, what will happen to the Fire Services Bill that is now before another place? Obviously it has direct implications in this context.

I have asked the Deputy Prime Minister a series of important questions, which I hope he will be able to address. We have made clear throughout the dispute that the Opposition will give the right hon. Gentleman support so long as his reforms are genuinely geared to saving lives. This must not be about revenge against the Fire Brigades Union and a display of synthetic machismo. It must not simply be an exercise in crude cost cutting to pay for the settlement. Instead, it must be about protecting the lives of the British public. In that endeavour, the right hon. Gentleman will always have our full support.<sup>56</sup>

The Deputy Prime Minister said that local authority leaders and the negotiating team said that there would be no need for compulsory redundancies, largely because of natural wastage.<sup>57</sup>

## **B. The Liberal Democrat Party**

Edward Davey spoke for the Liberal Democrats:

[M]ay I take the opportunity to welcome the fact that the long and bitter fire dispute has come to an end? Given the months of argument and damaging strikes, can the Deputy Prime Minister reassure the House that the White Paper is line with the agreed settlement, and that there is nothing in either his statement or the White Paper that would undermine the parameters of the agreement signed by the

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<sup>56</sup> HC Deb 30 June 2003 cc 24-5

<sup>57</sup> HC Deb 30 June cc 26-7

employers and the FBU? Now that the dispute is over, and given that the Deputy Prime Minister's own White Paper talks about strong arguments for restricting the right to strike, is there not a case for consulting on a limited and specific restriction on the right to strike, applicable to life-saving fire duties only? While the White Paper is largely based on the Bain review, the Deputy Prime Minister will be aware that certain parts of Bain are not in the details published today. Can he explain those omissions, and tell us why there is not more detail on new building regulations for fire sprinklers? Does he not regard that as a key part of fire prevention, which receives new emphasis in the White Paper? The White Paper talks about more research, but surely there is enough research to press ahead with those vital new proposals to save lives through fire prevention.

On the proposed restructuring of fire authorities, can the right hon. Gentleman give the House a cast-iron guarantee that no powers will be taken from local fire authorities unless and until there are directly elected assemblies in place? No powers should be given to regional quangos. Can he say what powers will be taken down from Whitehall to any new regional authorities or to local fire authorities?

Can the Deputy Prime Minister make clear his latest position on resources for fire authorities that have modernised already? The issue was raised by the right hon. Member for Haltemprice and Howden (David Davis) and has been raised repeatedly by us, but we have received no reassurance from Ministers. Can the Deputy Prime Minister say whether fire authorities that have already reaped the financial benefits of reform will be compensated for the higher costs built into the recent agreement—yes or no?

The White Paper is not without merit, but the Deputy Prime Minister knows that the case for modernisation rests on saving more lives. That will be its true test. I hope he will respond to proposals that could save many lives over the coming years.<sup>58</sup>

On the question of compensation for authorities that have already reformed, the Deputy Prime Minister replied:

On the question whether fire authorities will be denied the resources that they want, there are some that have carried out modernisation. We said that we would consider compensation. It is not my first priority. There is scope for all the fire authorities to achieve greater efficiency, if they so wish. We will consider how best to achieve that and give them the proper support. Change will take place. It costs money, but the Government will face up to their responsibilities.<sup>59</sup>

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<sup>58</sup> HC Deb 30 June 2003 cc 27-8

<sup>59</sup> HC Deb 30 June 2003 c 29