Communities and Local Government

www.communities.gov.uk
community, opportunity, prosperity

ANNEX 2

15 December 2009

John Bonney
CFOA President
Chief Fire Officer's Association
9-11 Pebble Close
Amington
Tamworth
Staffordshire
B77 4RD

Dear John,

Transfer of Ownership of New Dimension Assets

Thank you for your letter dated 17 November to Shona Dunn, regarding concerns raised with you about transfer of New Dimensions assets. As you are aware, I am covering for Shona until her return in the new year.

I have waited before responding until our New Dimension policy team had the opportunity to discuss your concerns with Susan Johnson for CFOA, David Wright for the Fire Lawyers Network, and Terry Standing and Jon Hall for the National Resilience Board, which took place on 9 December.

Firstly, I should say that we do understand CFOA's concerns about the current economic climate, and that FRAs will need to look very closely at the pressures and risks they face. For our part, the Department has given a high priority to the resilience agenda since the beginning of the Fire and Resilience programme in 2002, and will continue to do so in the future.

As authorities consider signing up to the New Dimensions transfer, with a natural focus on the funding arrangements, it is important not to underplay the importance of the other two elements of the arrangements which the Department, working closely with the sector, has put in place to safeguard the new capabilities in the long term: the national maintenance contract and the Assurance Body headed up by the National Resilience Board. As you would expect the National Resilience Board has previously debated to successful conclusion many of the points you raise and the answers to some of the specific concerns you raise lie within these structures.

Enclosed at Annex A is a list of the concerns in the order you raised them in your letter along with the Department's responses. I do hope this addresses your points and that, consequently, we can look forward to receiving responses from all FRAs in line with the original request. Clearly we seek a positive response, and I would hope

Department for Communities and Local Government
Fire and Resilience Directorate
Zone 3/D1 Eland House
Bressenden Place
London SW1E 5DU

Sandy Bishop
Acting Director
Tel: 0303 44 42927
Email: sandy.bishop@communities.gsi.gov.uk

that given the further constructive discussions which have taken place recently, you would feel able to echo this sentiment in advice to the FRS.

I copy this letter, as I understand you did yours, to all Chief Fire Officers and to the Chair of the Fire Lawyers' Network.

Yours sincerely,

Sandy Bishop

SANDY BISHOP
Acting Director of Fire and Resilience

ANNEX A – Detailed responses to the points raised in John Bonney's letter dated 17 November 2009 on the transfer of ownership of New Dimension assets

Control FRAs have over the level of costs apportioned to them under the maintenance contract and how FRAs are protected against the risks

1. The costs which fall on FRAs are:
    - USAR costs including crewing, some consumables, PPE and dogs for which FRAs are grant-funded;
    - Training costs, some of which are grant funded to FRAs, and some (where it makes sense to have a single purchaser) given to the Assurance Body;
    - Fixed costs of the maintenance contract – CLG has committed to fund these fixed costs under the contract – currently directly to the contractor, but after transfer of assets to be paid directly by FRAs and grant funded;
    - Consumables costs (except certain items funded for USAR above) – paid directly by CLG to the contractor, in the future planned to be paid directly by FRAs and grant-funded. These costs are within FRAs' control.
    - Unfair wear and tear (avoidable costs) – to be borne by FRAs at their own cost under the recharging policy which was issued on 30 November. To put in context, these costs, which also are within FRAs' control, amounted to £118k in the first 12 months of the contract (i.e. that is the amount all English FRAs together would have had to pay if a recharging policy had been in place for that first year). These costs may go up or down in the future – see Section 5 of the recharging circular (FSC 72/2009) – but give an indicator of the likely order of costs.

2. From the above list, the main cost risks an FRA would be exposed to are consumables and unfair wear and tear – which they themselves are in a position to control.

Rights to terminate the national maintenance contract, and holding the contractor to account

3. The point of the national maintenance contract is to ensure continued interoperability, resilience, convenience and economies of scale. By its nature the contract is collective, and Firebuy is the contracting authority with VT Group (the contractor) and therefore the terms of the Prime Contract can only be enforced directly by Firebuy or VT. The contract is closely managed by Firebuy and the National Resilience Board on the FRSs' behalf, and the NRB hosts quarterly meetings with Firebuy and the contractor to address issues raised by FRSs. In addition Firebuy are required to provide a report to the National Resilience Board on the contract performance at each of its regular meetings.

4. In terms of paying bills for unfair wear and tear under the contract, we can offer some reassurance by the way the process has operated in its first year. The Department has not sought to approve every single bill for repairs – there are thousands of these in a year. Under the arrangement we have with Firebuy and the contractor, for costs up to £250, the contractor goes ahead and does the work. Costs from £250-£1000 are subject to approval by Firebuy. Costs above £1000 require approval by the CLG policy team. This has worked well for the Department and given us the level of assurance we require. Firebuy have made

clear they will seek similar arrangements with FRAs post transfer, and will work with authorities to arrive at a process which gives the required assurance without being overly-burdensome or delaying every repair unduly to await permissions.

5. Further, with a year's worth of monthly statistics on costs, Firebuy is in a position to act as an 'intelligent client' and is doing so from a national perspective, to ensure best value for FRSs, for example it is able to spot the more frequent recurring costs, and consider how these may be addressed and potentially reduced in future – such as courier costs for parts which may be more sensibly changed at regular servicing thereby reducing costs. On this basis Firebuy is working on behalf of the FRS customer to try and reduce costs wherever able. In addition, it is fair to say that the contractor is consistently achieving its performance standards, and the feedback from FRSs is positive. There is no reason at this stage to envisage a scenario that would arise where the contractor defaults on the contract to the extent that termination would be justified. However, if any specific FRS has any concerns as to performance issues, then they should of course be fed through to Firebuy and the National Resilience Board, who will be receptive to such concerns, and will work towards satisfactory resolution of such issues as they share a common interest in ensuring that the respective performance requirements are met.

6. With regard to termination of the arrangements by a specific FRS, where a FRS has taken ownership of relevant New Dimension assets, and responsibility for associated maintenance payments, but is experiencing genuine financial problems, or is making structural arrangements within the service which causes difficulty for the FRS in supporting those arrangements, then an approach should be made to the National Resilience Board to explore the prospect of the relevant assets being transferred to another FRS.

Risks change over time and improvements to kit may drive up costs to FRAs

7. In the first instance it is worth noting that the National Resilience Board is funded by CLG around £1.5m pa for in-year necessary improvements, and promotes the interests of FRS. Whilst we cannot commit future Parliaments, we envisage 'major refreshes' every 5-6 years which would look at major changes to the capabilities which may be required by changing Government requirements (i.e. assessment of top risks changes).

8. The National Resilience Board has very clear procedure in place to deal with asset refresh both in turns of minor and major refresh. This is a good example of why we feel it is in the interest of FRA's to accept transfer of assets as opposed to other third party options (see below). To support this process the National Resilience Board report on an annual basis to CLG on FRS National Resilience, capability gaps and major refresh requirements. Of course major refreshes are in the context of a spending review so that Government can seek the money for changes required, including any impact on contracted maintenance costs.

9. Government is fully committed to the New Burdens rules as it has been for many years – if a Government policy or action means increasing costs to local authorities, including FRAs, then central Government funds that increase in costs. Government believes that the general track record, the record on New Dimensions, and the Assurance Body itself, should provide reassurance.

Transfer of function, and position on duties on FRS regarding flood response.

10. Transfer of function is a classification given by HM Treasury for accounting purposes. There is an important practical point for the Department in that if the transfer were not designated a transfer of function, we would have to account for the assets' capital value (i.e. the Department would need to cover the current capital value of the assets owing to the loss of this value on the Department accounts as a result of this transfer). The transfer of function mechanism enables CLG to transfer the assets without that accounting treatment and has no impact on the powers and duties which FRS already has. To be clear, the intention of the Department is for FRAs to own the assets and have an obligation to use the national maintenance contract. There is no intention by Government to impose or confer statutory duties of any sort on the FRAs through this transfer. Any such duties in the future would be for the appropriate statutory instruments.

What if most FRAs don't agree to the transfer, and could the assets they host be taken away?

11. We do recognise the wish by FRAs for as much certainty as possible, and hence the natural desire to know in advance what may happen if an FRA does not agree transfer. However, the premise of the New Dimensions programme since its inception has been that the FRS would take ownership of the assets they host after they were delivered. This was supported by LGA and CFOA at the beginning of the project, and the principle was reaffirmed as recently as last summer by the large majority of FRSs responding to consultation. We remain strongly of the view that the best outcome is for FRAs to take ownership, putting ownership with use. To assist this we have ensured, in conjunction with CFOA, that the necessary support is in place. To this end we have delivered a national maintenance contract, appropriate funding streams, and a robust National Resilience Board providing both governance and assurance, all elements which stakeholders agreed would be essential to secure asset transfer. Given delivery of these, we are consequently looking to complete the final element of asset transfer itself.

12. If we were in the unfortunate position that the majority of authorities did not agree transfer, then we should be clear that there is no option for CLG to retain ownership of a large fleet of specialist vehicles for the longer term. In such a case, the Department would look to other options for fleet ownership, but I would emphasise that for the assets to move to a third party rather than to the fire community would feel like a missed opportunity.

13. Should the transfer to FRAs not happen, at this stage, it is difficult to indicate whether this will have any bearing on the placement of the assets. Alternatively, we may be in a situation where the majority of FRAs do sign up to the transfer but that a few FRAs decline and on this basis, we may consider whether the assets hosted by the latter FRAs should be relocated. In either of these scenarios however we would work with the National Resilience Board and the authority concerned to ensure that the assets are positioned in locations which preserve the robustness of national resilience. I would note that in the roll-out of the assets over the last few years, the National Resilience Board, and its predecessor Transition Board, dealt with a number of difficult positioning issues, which were

sorted out pragmatically, reasonably and satisfactorily. We would expect that future relocation issues are likely to arise from time to time as part of normal business, and the National Resilience Board would work with the brigades concerned in a similar way.

14. I would add at this point, in the interests of clarity, that it would not be open for an FRS to choose to accept some of the New Dimension assets, (for example those which it more regularly uses) whilst not accepting transfer of the remainder of the assets which it currently hosts.

No guarantees for future USAR crewing grants

15. As stated above, the Department cannot commit future Parliaments. Nevertheless, the Government is fully committed to the New Burdens rules. We would point to the Department's record thus far on providing new burdens funding for both New Dimensions and in other areas. For New Dimensions alone this has amounted to nearly £90m over the last 5 years of which USAR crewing accounts for over 60%.

New burdens funding may be inadequate for full costs

16. Again as highlighted above, the Government is fully committed to the New Burdens principle, but recognises that there will always be a discussion between central and local government about the appropriate levels of funding. Through the LGA and ALG submissions to the Spending Reviews, local government has a clear route to raise its concerns about funding levels at the time when Government draws up its spending plans. We would expect that in coming to its views in the area of New Dimensions, the LGA would look to the sector-led National Resilience Board for advice both on levels of funding generally and any future need for additional or replacement resilience capability.

Lack of transparency if special grants moved to RSG or Area Based grants, and issues over FRAs at the floor

17. Currently funding for New Dimensions is provided to the FRAs through s31 special grants. This reflects that they relate to capabilities only recently put in place, and so that funding can follow the rather uneven cost distribution, given that FRAs hold different amounts and types of ND equipment. However, Government and local authorities have long held the view that the majority of central funding is best provided as block grant (RSG) rather than many small grants with the increased administrative effort, uncertainty of timing and hypothecating effects this involves. For this reason, across the range of Government support to local authorities, there has been a cycle of new special grants, many or most of which eventually are transferred into RSG.

18. Any proposed transfer into RSG, or the relatively new Area Based Grants (ABG) would be looked at together with the FRAs themselves (for RSG this would be through the normal Formula Review process), and with exemplifications of what a transfer would mean to each individual FRA.

19. In due course, when we consider options for the future funding mechanism, we will have regard to authorities' concerns that we are still in a transition phase, that the maintenance contract has been going for only a short while, and their wish to build up a pattern of spend over a period of time.

No clarity on future funding of the Assurance function

20. The MOU between CLG and the National Resilience Board regarding the assurance function the NRB provides, covers this Spending Review period, but is renewable so long as both parties agree, subject to consultation with stakeholders. The response to request for clarity on future funding for the National Resilience Board is no different to that on FRA funding more generally namely that, as noted above, we are unable to commit future Parliaments. However, from a policy point of view, we see the Assurance Body as working well and to the satisfaction of all, and think this bodes well for the future.

Fire and Resilience Directorate
15 December 2009