



AGENDA ITEM: 12

NORTH WALES FIRE AND RESCUE AUTHORITY

19 December 2016

STATUTORY DUTY TO RESPOND TO FLOODING AND OTHER WATER RELATED EMERGENCIES.

Report by Gary Brandrick, Assistant Chief Fire Officer

Purpose of Report

- 1 To inform members of the proposal by Welsh Government (WG) to place a statutory duty on the Fire and Rescue Authority (FRA) to respond to flooding and other water related emergencies and to present the consultation response from this Authority for approval.

Background

- 2 North Wales Fire and Rescue Authority (NWFRA), as with the other two Authorities in Wales, has statutory duties under the Fire and Rescue Services Act 2004 to make provision for and respond to fires (section 7 of the Act) and road traffic collisions (section 8 of the Act).
- 3 There is no statutory duty to respond to flooding and other water related emergencies under the 2004 act, however under section 11 of the Act, an FRA has the power to use its resources to respond to 'other eventualities'.
- 4 Section 9 of the 2004 Act empowers Welsh Ministers to confer additional functions relating to emergencies on FRAs by way of an order.
- 5 This power was previously exercised in making the Fire and Rescue Services (Emergencies) (Wales) Order 2007, which imposed duties on FRAs to deal with emergencies involving collapsed buildings, trains, trams and aircraft as well as chemical spills and other substances.

- 6 Members will recall that the Authority considered ceasing responding to flooding as part of its budget options in December 2014, but chose to continue to provide this service because of the risk and the recent serious flooding incidents in St Asaph and the East Rhyl area.
- 7 The specialist equipment and training that North Wales Fire and Rescue Service has for responding to flooding and other water related emergencies has been provided through use of its own budgets and through support, via grant funding, from Welsh Government and the Department for Environment, Food and Rural Affairs (DEFRA).

Information

- 8 Fire and Rescue Authorities in England do not, at present, have a statutory duty to respond to flooding and other water related emergencies.
- 9 However Welsh Government proposes to again use its power under section 9 of the 2004 Act to amend the 2007 Order to include the duty to make provision for;
 - (a) the purpose of rescuing people, or protecting them from serious harm in the event of flooding in its area and
 - (b) for the purpose of rescuing people from inland water in its area, where the situation is likely to cause one or more individuals to die, be seriously injured or become seriously ill.
- 10 As well as providing a response to the set questions within the consultation (see appendix 1), comment is made regarding the additional costs that having this as statutory duty will bring to the Authority.

Financial Implications

- 11 Being a predominantly rural service with the majority of stations being retained, large scale and protracted incidents can result in significant additional costs to the Authority, the floods at St Asaph for example, cost an additional £31k in pay.

- 12 Given the specialist nature of the activities including boat operation, the greatest revenue cost is that of training which is in the region of £130k. This includes initial, refresher and reaccreditation training.
- 13 It is not expected that there will be replacement of high value items such as boats and vehicles requiring capital expenditure within 10 years, replacement of certain specialist equipment and consumables will need to take place annually costing £15k.
- 14 There are additional revenue costs circa £10k per annum for the maintenance and servicing of equipment.
- 15 The response asks that WG enter into detailed dialogue with the FRAs around the issue of funding ahead of any formal decision on the proposal.

Recommendations

- 16 That members:
 - (i) note the information contained in this report;
 - (ii) approve the response to the consultation attached as appendix 1.

Consultation on proposals to introduce a statutory duty on Fire and Rescue Authorities (FRAs) in Wales to respond to Flooding and Other Water-Related Emergencies

Consultation response form

The consultation seeks your views and any evidence relating to all aspects of the consultation document; in particular comments are welcomed on the key questions 1-9 listed below.

Please return this form to reach the Welsh Government no later than 22 December 2016.

If you have any questions, please email:

fire@wales.gsi.gov.uk

| Consultation on proposals to introduce a statutory duty on FRAs in Wales to respond to Flooding and Water-related Emergencies | | |
|---|--|----------|
| Date | 8 th December 2016 | |
| Name | Gary Brandrick | |
| Organisation | North Wales Fire and Rescue Authority | |
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| Type <i>(please select one from the following)</i> | Individual | |
| | Business | |
| | Local Authority | |
| | Government agency/Other public sector body | x |

Consultation response form

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| | Professional body/Interest group | |
| | Voluntary sector (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation) | |
| | Other group not listed above | |

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| Q1. | What are your views on the proposed definition of inland waters in Article 2 of the draft Order? |
| <p>Comments:</p> <p>We agree generally with the broad definition applied, however in terms of still waters we would consider that ponds/pools should also be included as a clear definition of when a pond/pool becomes a lake is difficult to find and apply.</p> <p>We would also consider that there are issues the application of the description with regard to tidal rivers and estuaries and would therefore agree with the difficulties of the application of mean low water mark as a cut-off point.</p> <p>This is both for the reasons as shown by the examples given in the consultation document and also of its application to rivers as they course inland where the mean low water mark of the river could technically mean no FRA response to an 'inland water'.</p> <p>We would agree that the responsibility for the safety of (and as appropriate the rescue of) persons using facilities for water borne leisure and recreational facilities, lies with the responsible agency or operators for that facility in the first instance.</p> <p>We would ask that any definitions used should be consistent to be in line with that used in other organisations and documents such the DEFRA Flood Rescue Concept of Operations (2010 revised 2011).</p> | |

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| Q2. | Do you have any alternative proposals for a definition of 'inland waters'? | | |
| | Yes | | No |
| | | | x |
| Supporting Comments: | | | |
| <p>The definition is acceptable (subject to our comments to Q1 above) however the limits with regards to tidal and estuarine circumstances will need establishing.</p> | | | |

Consultation response form

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| Q3. | Do you have any views on the proposal to limit the duty to emergencies that cause or are likely to cause people to die, be seriously injured or become seriously ill, whether by direct exposure to water or because of other damage that flooding might cause? | | |
| | Yes | x | No |
| Supporting Comments: | | | |
| <p>We agree with the proposal and would crucially see the duty to respond to flooding incidents that threaten the critical infrastructure as essential given the potential serious indirect consequences.</p> <p>The proactive response to threats to the critical infrastructure is also of significance in positively influencing the recovery phase of such incidents and events.</p> <p>The discretion to use existing powers under section 11 of the 2004 Fire and Rescue Services Act to attend to other incidents as resources allow related to flooding, but not falling within the duty, should remain with the FRA's (as it is now). The exclusions from the specific duty as listed in the consultation i.e. pets, livestock or property (with the exception of property related to the critical infrastructure) should be listed within the order so as to provide absolute clarity to FRAs, other agencies and the public.</p> | | | |

Consultation response form

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| Q4. | Do you think that a duty to 'make provision' in respect of flood and inland water rescue should mirror the approach already in place for responding to fires and road traffic collisions? | | |
| | Yes | x | No |
| Supporting Comments: | | | |
| <p>We would agree with the provisions as listed in paragraph 26 (as per Article 4 of the Fire and Rescue Service (Emergencies) (Wales) Order 2007.</p> <p>We would comment however that in doing so the financial requirements of meeting the provisions need to be fully met. The FRAs do not at present have to budget for meeting the statutory duties as proposed in this consultation. Being a predominantly retained or 'on call' service there will be costs associated with actually responding to flooding and other water related emergencies. In large scale area wide or protracted incidents these costs can be significant. Incidents of this nature are occurring more frequently and the term 'unprecedented' when describing the nature and/or impact of the event is used increasingly both by Government and the media. Forecasts are for reoccurrences and increasing severity of events in future years and this situation needs to be considered in year on year funding of the FRAs.</p> <p>The provision, maintenance and replacement of the equipment required will need budgetary requirement above that currently provided to the FRAs. Likewise, and to as far practicable ensure the health, safety and well-being of staff involved in responding to incidents involving flooding and other water related emergencies, safety risk critical training will also be in excess of current core budgetary provision.</p> <p>We would see that the role of other agencies in aspects such as flood prediction, awareness raising, flood guidance and advice remaining with those agencies as they are better equipped, trained and experienced in these areas.</p> <p>We would see the FRA continuing in its key role of preparing for such emergencies both internally and with other agencies.</p> | | | |

Consultation response form

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| Q5. | Do you agree that there is no need to place a duty on FRAs to respond to flooding and water rescue emergencies across FRA boundaries as set out in Article 5 of the 2007 Order? | | |
| | Yes | x | No |
| Supporting Comments: | | | |
| <p>As some neighbouring services at present would not be subject to a statutory duty to respond to flooding and water related emergencies at all and therefore have no duty to respond across boundaries, we would agree with not placing such a duty on the FRAs in Wales.</p> <p>We believe that the current arrangements in place nationally for declaration and release of resources to flooding and other water related incidents in other FRA boundaries, provides adequately for this at present.</p> | | | |

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| Q6. | Do you agree that we should not include a duty to lead or co-ordinate the multi-agency response to flooding or water rescue incidents? | | |
| | Yes | No | x |
| Supporting Comments: | | | |
| <p>We agree, however we do consider that the FRA from both its experience in dealing with large scale and protracted incidents (fire and flooding) and its resources in terms of command and control is better placed than some responding organisations to lead and coordinate elements of the multiagency response and rescue phase of incidents.</p> <p>We would seek to agree this within the JESIP principles in multi agency preplanning for emergencies within existing structures such as the Local Resilience Forums and JESG Inland flood and water rescue group. We would ask that Welsh Government, through its contact and involvement with other agencies, supports this.</p> | | | |

Consultation response form

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| Q7. | Do you have any other comments on the draft Order? |
| <p>Comments:</p> <p>Article 3A of the order needs to reflect what the duty to respond to flooding and other water related emergencies does not extend to i.e. rescue of pets, livestock and property. Article 3A will also need to include that the duty for the activities listed in article 2(2) of the 2007 order (to be amended in part by the 2017 amendment order), referring to the taking of steps to prevent or limit serious harm to the environment, do not apply to the FRA when responding to the duties contained within Article 3A.</p> <p>We would ask that WG recognise this FRA does not have the capability for sub surface search and rescue. This would require further specialist equipment, and extensive training, further increasing the financial requirements of the FRA.</p> <p>Article 5 will need to include that it does not apply to statutory duties contained within Article 3A</p> <p>It is important that these are specified within the order so as to assist the FRAs in planning for and dealing incidents and in managing other agencies' and wider public expectations.</p> | |
| Q8. | We do not believe that this policy affects opportunities for people to use Welsh or treats the language less favourably than English, or that it could be reformulated or revised to have positive effects. If you disagree, we would welcome your comments on this issue. |
| <p>Comments:</p> <p>We would agree</p> | |

Additional Comments

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| Q9. | We have asked a number of questions, but are there any other issues you would like to raise in this area? |
| <p>Comments:</p> <p>We have raised the issue of funding for an additional statutory duty in part in our responses the questions above. Whilst the FRA has developed considerably with its response to flooding and other water related emergencies, it has done so at times through financial support from, and in partnership with, Welsh Government. The financial situation at present and indeed that forecast makes taking on the costs for an additional statutory duty exceptionally difficult at a time when we as an Authority are looking to resource reductions to cut costs whilst continuing to deliver our current statutory duties. We would ask that full dialogue with the FRAs on detailed costings be undertaken prior to any decisions being made formally on this proposal.</p> <p>We would ask that given the high profile nature of this proposal that an effective communication plan is drawn up by WG working with the FRAs to inform other agencies and the wider public. This is of crucial importance in managing the expectations of both.</p> | |

How to respond

Please submit your comments by email or post, to reach the Welsh Government by 22 December 2016.

Email

Please send the completed consultation response form to:

fire@wales.gsi.gov.uk

(Please include '**Consultation Response - Statutory duty for FRAs to respond to Flooding and Water-related Emergencies**' in the subject line).

Post

Please send the consultation form to:

Lisa Walters
Fire Services Branch
Welsh Government
First Floor, North
Rhydycar
Merthyr Tydfil
CF48 1UZ

Confidentiality — Responses to consultations may be made public on the internet or in a report

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please indicate here: