



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

**Evaluation of the pilots to
extend Primary Authority to
fire safety regulations**

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Executive Summary

Introduction

- 1 In January 2013, acl Consulting was commissioned by the Better Regulation Delivery Office [BRDO] to carry out an evaluation of two pilots to extend Primary Authority to cover regulations relating to fire safety. The pilots were announced in September 2012 and ran from the beginning of February to the end of June 2013.
- 2 Two approaches were piloted;
 - Primary Authority as currently operated by BRDO
 - An alternative approach – what became known as the Fire Authorities' Partnership Scheme [FAPS] – developed by the Chief Fire Officers' Association [CFOA].
- 3 The main differences between the piloted schemes related to:
 - Cost recovery for their input by the lead authority
 - Whether whole-sector commitment could be secured and maintained by a binding agreement between fire and rescue authorities [FRAs] under FAPS rather than being required by statute in Primary Authority
 - Alternative options for developing and delivering advice to businesses that other fire and rescue services [FRSs] would adhere to
 - The arbitration process in the event of disputes between FRSs
 - The supporting infrastructure – organisational and, more specifically, IT-related
- 4 However, in essence what FAPS was testing was whether something that looked substantially like Primary Authority could work without statutory under-pinning. Unless explicitly stated otherwise it should be assumed that the points made in what follows apply equally to both the FAPS and the Primary Authority pilots.

Objectives for the study

- 5 In broad terms, the task for the evaluation was to come to a view on whether some form of lead authority arrangement is a practical proposition for fire safety and, if it is, which of the piloted approaches appears to be the most (or to have the best chance of being) effective and to work to the benefit of all concerned – the public, businesses, FRAs and FRSs.

Pilot activity

- 6 Most of the key elements of 'lead authority' arrangements (advice to businesses; additional information; inspection plans; and enforcement-related interactions between authorities and/or authorities and businesses) were tested to some extent during the course of the pilot and, with some reservations and taking into account the restrictions imposed by a relatively short pilot, generally found to work satisfactorily in a fire safety context.
- 7 The principal exception was the determination process for dispute resolution between authorities where there is disagreement over advice given to a business: this was the subject of a simulation exercise in the FAPS pilot. A determination process already exists in Primary Authority; it has never been used and most FRSs found the circumstances when it would be required in a fire safety context hard to imagine.

Benefits and costs

- 8 The benefits to businesses from some form of coordination arrangement with a single authority are clear and potentially considerable; the associated costs of the arrangement are, by comparison, insignificant (though the costs of addressing any issues identified by the lead authority may not be).
- 9 For FRSs the position is less clear-cut. Benefits are there but are less tangible than is the case for businesses (in the main they relate to softer issues – more productive relationships with businesses; input into the wider fire safety agenda; quicker enforcement action; less reliance on formal enforcement processes; an ability to free up resources and target them at higher risk areas etc.).
- 10 The lead authority has the opportunity financially to break-even if they take full advantage of the opportunity to recover costs; in the pilot most were not doing this. If costs are fully recovered and the less tangible benefits are realised then lead authorities will also benefit.
- 11 For enforcing authorities the main benefit is the potential to make savings through lead authority arrangements (or to use less resource in dealing with businesses in partnerships and reallocate the unused resource elsewhere). The pilot did not develop sufficiently for this potential to be realised to any great extent but we would expect these gains to be made over the medium term should lead authority arrangements be introduced in an effective manner for fire safety. Enforcing authorities should therefore also be able to benefit from the arrangement.

Businesses' preferred way forward

- 12 Businesses had no concerns or difficulties with the principle of some form of lead authority arrangement applying to fire safety.
- 13 Of the alternative schemes on offer, businesses were concerned that FAPS would prove to be another voluntary scheme that, based on their experiences of other such schemes, would not be able to deliver the benefits that they were looking for – principally consistency in the interpretation of the regulations and a return on their investment of time and resources in the partnership.
- 14 In contrast, most businesses felt that Primary Authority effectively guaranteed that they would achieve these benefits.
- 15 On balance there was therefore a clear preference for Primary Authority among those businesses involved in the pilots though most would still engage if FAPS was selected.

FRSs' preferred way forward

- 16 For the most part FRSs' concerns with the concept of lead authority arrangements for fire safety had been addressed by the pilot – among those FRSs involved in the pilot, there is no longer any groundswell of opinion that fire safety and lead authority 'do not mix'.
- 17 Similarly, many of the concerns with Primary Authority as a means of introducing lead authority arrangements have been addressed during the pilots (though this does not mean that all think Primary Authority is the way forward).
- 18 Half of the FRSs in the pilot would prefer Primary Authority. Of the remainder, most are neutral between the schemes; a minority would prefer FAPS.

- 19 There is general recognition that the fact that all FRAs have not been able to commit to FAPS during the course of the pilot has not helped the non-statutory cause.

Impact on FRS resources

- 20 Other things being reasonably equal, and in particular partnership information being readily accessible for inspecting officers, we would expect that FRAs that are content for their FRS to take a low profile in relation to the lead authority role (in effect to engage only as enforcing authorities) will suffer little or no adverse impact in terms of their resources – in practice they may benefit if lead authority arrangements enable them to deploy their resources more effectively.
- 21 For FRAs that are keen for their FRS to take on the lead authority role the position is more complex. The impact on the resources of these FRSs will depend on a number of factors – in particular: the extent to which they actively pursue ‘lead authority work’; their approach to staffing-up the partnership function; the FRS’s interest in and ability to identify and recover the costs incurred from being a lead authority in full from their business; and the contribution that partner businesses make to the wider fire safety agenda (which will have the effect of bringing additional resource into the FRS).
- 22 On balance, providing that lead FRSs are able to identify costs and recover them from their business partners, a reasonable expectation would be for lead authority arrangements to have a neutral or marginally positive impact on FRS resources overall.

Impact on local operations and fire fighter safety

- 23 FRSs consider that lead authority arrangements will have no impact on work that needs to be carried out at local level to ensure fire fighter safety.
- 24 More generally the impact of lead authority arrangements on local FRS operations will be minimal – probably limited to a change of emphasis in inspections where formal advice has been issued, which would generally be welcomed if it enabled resources to be used more effectively.

Conclusion

- 25 The evidence from the evaluation suggests that:
- Fire safety is an appropriate regulatory area for the introduction of some form of lead authority arrangement
 - Both FAPS and Primary Authority are viable ways of introducing lead authority arrangements for fire safety
 - Of the alternative schemes on offer, we are not persuaded that FAPS offers sufficient and sufficiently clear advantages over Primary Authority
 - It is far from clear that all FRAs would sign up to FAPS and that all would contribute to the infrastructure costs that would be incurred from running a separate scheme that, to all intents and purposes, looked like Primary Authority.
- 26 Our conclusion is that Primary Authority therefore represents the most sensible way forward.
- 27 However, there are elements from FAPS that could improve Primary Authority in a fire safety context

1 Our study

Background to the study

- 28 acl Consulting [acl] was commissioned by the Better Regulation Delivery Office [BRDO] under the terms of its framework agreement with the Department for Business, Innovation & Skills [BIS] to undertake an evaluation of the pilots to extend Primary Authority (or another form of ‘lead authority arrangement’)¹ to cover regulations relating to fire safety.
- 29 The pilots were announced in September 2012 and ran from the beginning of February to the end of June 2013. Two approaches were piloted:
- Primary Authority as it currently operates
 - An alternative approach – what became known as the Fire Authorities’ Partnership Scheme [FAPS] – developed by the Chief Fire Officers’ Association [CFOA].
- 30 A list of those fire and rescue services [FRSs] and businesses involved in the pilots is included as Annex A: there were seven FRSs and nine businesses in FAPS partnerships and eight FRSs and ten businesses in primary authority partnerships.

Primary Authority

- 31 Primary Authority was introduced through Part 2 of the *Regulatory Enforcement and Sanctions Act 2008* [RESA], which was part of the previous Government’s commitment to implementing policies to address the findings of the Hampton Review. The Review concluded that significant variations and inconsistencies in the local application of what were supposed to be national regulatory standards resulted in conflicting advice, uncertainty and unnecessary administrative burdens for businesses and wasted effort for both businesses and local authorities.
- 32 Primary Authority allows businesses regulated by multiple local authorities to form a partnership with a single local authority: this local authority, once nominated by the Secretary of State, is known as the ‘primary authority’ for the business and is able to issue robust and reliable regulatory advice on the areas in scope for the scheme (known within the scheme as ‘Primary Authority Advice to Business’) which must be recognised by other local authorities that regulate the business (known within the scheme as ‘enforcing authorities’). The scheme also allows for the primary authority to issue inspection plans that provide guidance to enforcing authorities when undertaking inspections of that business. Outside the formal arrangements of Primary Authority, the primary authority may also work more informally with their business partner on other regulatory related matters.
- 33 Prior to the introduction of Primary Authority voluntary partnership schemes existed. The ‘Home Authority’ scheme that was run by the Local Authorities Coordinators of Regulatory Services [LACORS] and the Health & Safety Executive’s “Lead Authority Partnership Scheme” are the prime examples. The key difference between these schemes and Primary Authority is that the latter has statutory backing and any Primary Authority Advice to Businesses is therefore binding on enforcing authorities: this was not the case under the voluntary arrangements.

¹ Throughout this report we use the term ‘lead authority arrangement’ and related terms such as ‘lead authority’ generically when referring to both pilots.

- 34 Many early adopters of Primary Authority were either switchers from, or had previous experience of, the voluntary alternatives. At the time of writing – the beginning of August 2013 – there around eight hundred primary authority partnerships covering one or more of the eighteen regulatory areas, plus all aspects of Welsh regulation, currently in scope for the scheme.² The allocation of responsibility for each of the regulatory areas between the various forms of local government³ means that one business may have more than one primary authority partnership – each partnership may cover more than one regulatory area, however each regulatory area cannot be included in more than one partnership.

FAPS

- 35 Fire safety was excluded from the regulatory areas in scope for RESA and on the announcement of the pilots parts of the fire service community continued to have concerns about whether Primary Authority will work in a fire and rescue context:
- “CFOA remains to be convinced that [Primary Authority] can be applied to the fire safety enforcement regime and integrated risk management model currently applied in English FRs.”⁴
- 36 It is worth briefly reviewing the key elements of the current regime – chronologically the FRSA, the FSO and FRNFE⁵ – since they help to explain CFOA’s concerns and the development of FAPS as an alternative to Primary Authority for fire safety.
- 37 The FRSA came into effect on 1 October 2004, replacing the previous Fire Services Act 1947 in England and Wales; amongst other things, it clarifies the duties and powers of Fire & Rescue Authorities [FRAs] to respond to the particular *needs of their communities* and the risks they face. Fundamental to this is the statutory requirement for FRAs to produce an Integrated Risk Management Plan [IRMP] for *their area*. The IRMP identifies the risk from fire and other emergencies to the individual FRA’s *local community* and presents proposals to address these, thereby making that community safer.
- 38 The FSO abolished fire certificates, replacing them with a system based on organisations self-assessing risk and producing, implementing and periodically reviewing strategies to address those risks identified and how they address fire safety more generally (effectively bringing the approach to fire safety regulation in line with other areas of regulation including food hygiene and health and safety). Under the FSO, the role of FRAs is to ensure that the resources that they have for fire prevention, protection and response services are appropriately allocated on the basis of *local analyses of risk*: a key element of this is conducting periodic *inspections of individual premises* and the related risk assessment etc. documentation and, where these are found wanting, offering advice and/or taking action through enforcement, deficiency and prohibition notices.

² The full list is: age restricted sales; agriculture; animal establishments and companion animal welfare; consumer credit; environmental protection; explosives licensing; fair trading; farm animal health; food safety and hygiene; food standards; general licensing; health and safety; housing; metrology; petroleum licensing; pollution control; product safety; and road traffic. Four new regulatory areas (the age-restricted sale of gambling, the Housing Health and Safety Rating System, sunbed tanning, and Welsh regulations on single use carrier bag charging) come into scope on 1st October 2013.

³ In essence a unitary council has responsibility for all of the regulatory areas currently in scope for Primary Authority; county and district councils and FRAs each only cover a sub-set of the regulatory areas.

⁴ The quotes from CFOA here and elsewhere in this Section are taken from a CFOA press release re. the pilot dated 17th September 2012.

⁵ The Fire and Rescue Services Act 2004 [the FRSA]; the Regulatory Reform (Fire Safety) Order 2005 [FSO] and the Fire and Rescue National Framework for England [FRNFE].

- 39 The most recent element of the current enforcement regime, the FRNFE, was published in July 2012. It:
- “... recognises the proficiency and experience of FRAs and gives them the freedom and flexibility to *deliver services to their communities* without prescription from Whitehall; accountability moves away from central government and power is placed in the hands of *local communities*.”⁶
- 40 In the current context, the FRNFE is very much about the FRA “working in partnership with” and “being accountable to” *their local community* in implementing a risk-based programme to enforce the FSO – indeed the whole thrust of the legislation is about the FRAs and FRSSs working at the local level. Understandably there were – and doubtless continue to be – concerns from parts of the fire and rescue community that Primary Authority potentially cuts across this.
- 41 CFOA's position in late 2012 was that “... Primary Authority is not the right vehicle to provide consistency of enforcement” – it favoured “... enhancements to the voluntary arrangements currently in operation”⁷. However, for the purposes of the pilot, it agreed to develop and test an alternative to Primary Authority – what subsequently became known as FAPS.

The FAPS and Primary Authority pilots

- 42 Although the FSO was included in The Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009, enforcement actions under the FSO were classed as non-notifiable, therefore excluding fire safety regulation from the Primary Authority Scheme. However, in June 2011 there was a BIS consultation on *The Future of LBRO and extension of the Primary Authority scheme*.⁸ At the end of the consultation, in December 2011 the Government made a commitment that:
- “In the case of Fire Safety, we will look to introduce pilots to see whether and how Primary Authority could fit alongside current legislation and enforcement mechanisms.”
- 43 It is these pilots that are the subject of this evaluation.
- 44 The main differences between the piloted schemes related to:
- Cost recovery for their input by the lead authority
 - Whether whole-sector commitment could be secured and maintained by a binding agreement between fire and rescue authorities [FRAs] under FAPS rather than being required by statute in Primary Authority
 - Alternative options for developing and delivering advice to businesses that other fire and rescue services [FRSSs] would adhere to

⁶ From the press release announcing FRNFE issued by Fire and Rescue Minister Bob Neill.

⁷ A number of voluntary arrangements have operated at various times in relation to fire safety: chief among these is the Retail and Fire Key Authority Partnership [RAFKAP], developed by the CFOA and the British Retail Consortium [BRC] and available since 2006. There are also examples of a Home Authority-based approach being used for fire safety – post-2006 some of these switched to RAFKAP others continue on a Home Authority basis (mainly those in sectors other than retail). However, we believe we are talking relatively small numbers here – around a dozen partnerships in total.

⁸ Following the consultation the Better Regulation Delivery Office [BRDO] was created on 1 April 2012 as an independent unit within BIS. It took over responsibility for Primary Authority from the Local Better Regulation Office [LBRO], which: was set up as a publically owned company in September 2007; became a Non-Departmental Public Body with statutory powers (one of which was to operate Primary Authority) in October 2008; and, following the consultation, was dissolved in March 2012.

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- The arbitration process in the event of disputes between
- The supporting infrastructure – organisational and, more specifically, IT-related

45 However, in essence what FAPS was testing was whether something that looked substantially like Primary Authority could work without statutory under-pinning. The fact that, for most intents and purposes, the pilots are the same is important for what follows in this report – unless explicitly stated otherwise it should be assumed that the points made apply equally to both the FAPS and the Primary Authority pilots.

Objectives for the study

46 The task for this evaluation was to come to a view on whether some form of lead authority arrangement is a practical proposition for fire safety and, if it is, which of the piloted approaches appears to be the most (or to have the best chance of being the most) effective and to work to the benefit of all concerned – the public, businesses, FRAs and FRSs and their employees.

47 More detailed objectives covered:

- Benefits and costs to business and to fire and rescue services
- Business confidence in the alternative approaches
- The impact of the schemes on FRAs' resources
- The impact of the schemes on FRS operations at a local level

48 In parallel to this evaluation, a separate piece of work looking at how the legislative and policy framework for fire safety and local risk intelligence are protected under Primary Authority and the legal implications of bringing fire safety under lead authority arrangements was undertaken by BIS and Department for Communities and Local Government [DCLG] lawyers.

Methodology

49 The evaluation ran from February to July 2013 and comprised three main strands of fieldwork:

- Attendance at and input into a series of workshops – three for each pilot – held between early February and mid-April 2013
- An 'early' visit to each partnership in April 2013
- A 'late' visit to each pilot between mid-June and mid-July 2013.

50 Copies of the checklists of issues that were used as a guide to discussions during the visits to the partnerships are included at annexes B and C.

51 All FRSs participating in the pilots were asked to record the time spent on pilot-related activity on a proforma timesheet prepared by CFOA.

52 In addition to this final and summative report, a paper summarising the findings from the work undertaken up to the end of April was drafted in May 2013.

53 We are grateful for the various contributions made to the research by businesses and FRSs and for the support of staff at the BRDO – in particular Lynsey Pooler and Duncan Johnson – and CFOA – in particular Brian Neat.

Structure of this report

- 54 We use the objectives for the evaluation to provide a framework for the bulk of this report (sections 3 to 7).
- 55 The full report is structured as follows:
- Section 2 – a review of the range of activity that has taken place during the pilots
 - Section 3 – benefits and costs arising under the pilots
 - Section 4 – business confidence and concerns with the alternative approaches at the end of the pilot
 - Section 5 – FRS confidence and concerns with the alternative approaches at the end of the pilot
 - Section 6 – the impact of the pilots on FRS resources
 - Section 7 – the impact of the pilots on FRS operations at the local level
 - Section 8 – other issues raised by the research
 - Section 9 – conclusions.

2 Pilot activity

Introduction

- 56 Before presenting the key findings from the research, it is worth reviewing the range of activity that took place during the pilot: this provides the context for much of what follows in subsequent sections.

Longer term partnerships *not* short term pilots

- 57 It is important to note at the outset that none of the businesses or FRSs viewed their participation in 'pilot' terms. All involved were committed to continuing the partnership well beyond a, from their perspective, entirely arbitrary end date for the pilot of 30th June 2013.
- 58 In part this is because, for some, their involvement continues a pre-existing relationship (RAFKAP or another form of voluntary arrangement or Primary Authority in other regulatory areas) – see Annex 1 for an indication of any engagement with other 'lead authority' arrangements. For many, working within the fire safety pilots is simply an extension of these relationships within a (for fire safety) different operational framework.
- 59 More generally all those involved in the pilots expect the relationship to continue beyond the life of the pilot 'whatever happens' – the fact that, for the first six months of 2013 this relationship is developing as part of one or other pilot is largely incidental.

We have always seen the pilot phase as being about developing the relationship – everything else is a secondary consideration. [FRS and business in the Primary Authority pilot]⁹

The partnership is of long standing and the pilot has built upon good practice in communications and in sharing issues developed over many years. [FRS and business in the Primary Authority pilot]

- 60 The pilots have therefore been about 'establishing (in some cases 'continuing') the relationship': this is important for the remainder of this Section because it has had an impact on how the partnerships have been set-up and what the pilots have been able to achieve to date.

Partnership agreements

- 61 In some cases reflecting where they had come from (a pre-existing arrangement) and, in all cases, taking into account where they were heading (a continuing relationship post-pilot), the partnerships were not especially concerned about getting an agreement between the partners signed-off during the six months of the pilot: they had other priorities.
- 62 As it happens, four partnerships were able to take matters forward to the point that an agreement was signed before the end of the pilot period.

⁹ The text in this box – and similar boxes elsewhere in the report – is not necessarily a direct quote from our interviews but is intended to reflect comments made during our discussions. We would expect our interviewees to recognise the sentiment even if they do not recall the exact words used here.

We have signed an agreement for an initial 2 year period. The document covers:

- The basis for cost recovery
- The scope of services to be delivered
- Monitoring and review arrangements
- Arrangements for making any amendments to the agreement
- The voluntary contribution the business partner will make to the wider fire safety/fire prevention agenda – which will add to the benefits that the FRS will get from the arrangement

The contract prices out a planned programme of activity for each year, to give the FRS some certainty over their income stream, and a per hour cost for any additional input on other tasks. [FRS and business in the FAPS pilot]

63 However, the vast majority of work during the pilots took place on the basis of an informal agreement between the parties and an understanding of the sorts of issues that the business would like to cover during the pilot.

64 For the purposes of the pilot, this approach to partnership agreements was advantageous; it meant that the partners could focus on what was important (i.e. testing out the key concepts – advice; inspection plans; and enforcement activity) and that the FRSs could focus on developing their understanding of their business partner(s) to the point at which they were confident issuing advice and inspection plans on a trial basis.¹⁰

65 Among those who had – or who were thinking about – a partnership agreement, there was a preference for multi-year and/or some form of rolling agreement to give more certainty to FRSs in terms of the demands that the partnership would place on their resources.

We have been working on an informal basis up to now but are looking at a two year agreement with an expectation that this would be renewed or would operate on a rolling basis. Two years gives the FRS some certainty over its income stream and enables proper planning of activity to take place; there is the possibility of additional fees for work that is over and above the agreed programme. [Business in the Primary Authority pilot]

Developing FRSs' understanding of their business partners

66 FRSs generally spent much of their time during the pilot becoming familiar with their partner's business through a combination of desk-based reviews of fire safety-related policies, procedure and other documentation and visits to a small number of the business's outlets covered by the partnership to observe/test their implementation.

Our FRS carried out a programme of store visits and a visit to our maintenance services provider and prepared a report on each of these activities with an associated action plan. [Business in the Primary Authority pilot]

67 Apart from familiarising the FRS with the way the business operates and setting fire safety in context, this work served two purposes:

- i. Identification of areas where further work by the business was required – usually formally summarised and presented to management

¹⁰ 'Trial basis' because, as this was a pilot, any advice etc. given could have no standing in practice.

- ii. Preparatory work for issuing additional information, advice and/or inspection plans.

Additional information, Primary Authority Advice and inspection plans

- 68 It is fair to say that there was some confusion about the distinction between additional information, advice and inspection plans (and which should be used and when) among some of the partnerships; if either approach is taken forward, further clarification (or pointing partnerships specifically towards the relevant guidance, parts of the Primary Authority Manual, training etc. that already exists) would doubtless be helpful.
- 69 In what follows we use the terminology that was used by the partnerships when they issued the documentation

Additional information

- 70 'Additional information' is information that would be helpful for enforcing authorities to know when carrying out their work – it is specifically not advice or an inspection plan, which are covered in subsequent sub-sections. The pilot produced one fully worked up example of additional information – the document described where responsibilities for fire safety matters lay within a business's portfolio of properties. In essence the issue that the business was trying to address was incorrectly issued notices – historically enforcing authorities had often been unclear as to who was responsible for what and therefore tended to issue notices to the business by default. In fact responsibility depends on the terms of the lease between the business and their tenant. The additional information sought to provide further guidance on this matter by summarising, by fire safety-related area (alarms; lighting; doors; signage; equipment; risk assessment etc.) who is the responsible person under each type of lease.

We have never been able to get this sort of document circulated beforehand and feel that, without Primary Authority, we would not been able to make any progress on it now. [Business in the Primary Authority pilot]

- 71 Other FRSs in both pilots who had had a chance to look at – and in some cases to use – the information had found it to be extremely helpful.¹¹
- 72 The principle of making this sort of additional information available in this way was viewed positively by the FRSs.

¹¹ Another business received informal advice on similar matters during the course of the pilot and is proposing to upgrade it to Primary Authority Advice/Authoritative Information in due course.

Primary Authority Advice/Authoritative Information¹²

73 Four worked up examples of Primary Authority Advice/Authoritative Information were produced during the course of the pilot in respect of:

- Safety training (Article 21 of the FSO)
- Fire safety arrangements during refurbishment
- The use of sprinkler systems in warehouses and the scope that this offers for reducing the number of fire extinguishers (Article 13 of the FSO)
- The maintenance and testing of fire safety-related equipment and systems (Article 17 of the FSO).

74 Other pilots had either produced examples of Primary Authority Advice or Authoritative Information that were not formally published or had identified potential areas for such advice if one or other approach was approved for roll-out.

The document was not taken to Primary Authority Advice stage because the pilot had no legal standing. However, once revised, it will certainly be ready for publication. [Business in the Primary Authority pilot]
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75 Our impression is that the examples of Primary Authority Advice/Authoritative Information that were produced during the pilots were generally made available 'in the spirit of the pilots' – i.e. as a test of the concept rather than as something that if the partnership was approved 'tomorrow' would be formally issued the 'day after'. Inevitably there were therefore some areas of concern regarding the advice that had been published. However, pilots were generally comfortable with the concept of Primary Authority Advice/Authoritative Information.

76 Businesses (and FRSs) varied in the extent to which they saw Primary Authority Advice/Authoritative Information as central to their partnership – at one extreme wanting to issue it for every article of the FSO; at the other seeing little scope for using it at this stage (the immediate focus being on developing the authority's understanding of the business).

77 Reflecting the concerns that some had with the advice that was published – and the experience of the arbitration process simulation run by the FAPS pilot¹³ – there is a view that having the option of a pre-publication review of Primary Authority Advice/Authoritative Information would be helpful: assuming that one or other scheme is taken forward there would be value in considering whether this should be included.

78 There was also a concern that not requiring Primary Authority Advice /Authoritative Information to be published (albeit that commercial considerations might mean that this might need to be in fairly broad terms – “We have issued advice in relation to Articles ...”) would compromise the extent to which the benefits for both businesses and enforcing authorities could be realised.

79 Finally in relation to advice, the need for a more fire safety-specific template within which to set the advice was raised – this could include:

- References/links to the relevant FSO article(s)

¹² 'Authoritative Information' is the term adopted by FAPS for its equivalent of Primary Authority Advice.

¹³ A full simulation of an arbitration process was run as part of the FAPS pilot. In practice it proved hard to identify a situation in which the FRSs would disagree about what to do in the event of a breach of the policy (which is an interesting finding in itself); the simulation therefore became, in effect, a 'pre-publication review of the advice' which resulted in changes being suggested by the arbitration panel.

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- A clear statement of who is the responsible person for any deficiencies noted
- What the preferred notification procedures are (pre- and post- visit)
- Some information on the policy process – how it is set/determined; how it is delivered locally; how delivery is tested by the business; how improvements are identified and fed back etc.

Overall any published advice should be giving comfort to the FRSs using it (not causing them concerns) and should clearly answer “What does this mean for me” from the inspecting officer’s perspective. Some of the advice published during the pilot does not pass these tests. [FRS in the FAPS pilot]

Inspection plans

- 80 An inspection plan acts as a guide to enforcing authorities when discharging their regulatory functions with a partner business. The perception that, under Primary Authority, inspection plans afford the opportunity for one FRS to direct the regulatory work of others – in particular to ‘require’ them to do work that they would not otherwise do – was a major concern for many FRSs pre-pilot: through a combination of a better understanding and some redrafting of the guidance and a better understanding of Primary Authority more generally, this concern has largely been removed.
- 81 The pilots were put under some pressure during the course of the pilot (by BRDO and CFOA) to attempt to produce an inspection plan – one or two rose to the challenge.
- 82 Feedback suggests that, at this stage (and with one or two notable exceptions) FRSs and businesses could generally see the value of an inspection plan that asks for information on an ‘if you are going to one of our premises, can you provide us with feedback on X’ basis; they were less convinced about other uses of inspection plans.

We see Primary Authority as being primarily about Primary Authority Advice with inspection plans being used to get FRSs to check that the policies covered by it are being correctly implemented if they happen to go to any of our premises. [Business in the Primary Authority pilot]

We may issue an inspection plan to ask for prior notification of an inspection visit – this is mainly so we are aware that an inspection is taking place and can follow-up with the local management to see if any actions were identified. [Business in the Primary Authority pilot]

- 83 More generally, most pilots questioned the need for inspection plans. The sort of businesses involved in the pilots – almost invariably they would be assessed as low risk and, as such, subject to infrequent scheduled inspection visits – means that inspections of their premises are rare. In these circumstances the value of having an inspection plan for the occasions when inspections do take place was questioned.

Other advice

- 84 Examples of other advice offered to businesses by their FRS partner would include:
- Advice on which areas initially to focus the work of the partnership on – and, by implication if not explicitly, which areas are currently satisfactory
 - For specific areas, any input by the lead authority that has not yet led to the publication of additional information, Primary Authority Advice/Authoritative Information and/or an inspection plan had at least resulted in some informal feedback from the FRS to the business

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- More general advice on fire safety matters that arose during the course of business-FRS interactions (for example on tendering for fire risk assessment services)
- Responding to queries from enforcing authorities.

Ready access to more general advice from the FRS is at the heart of the relationship. [Business in the Primary Authority pilot]

Our FRS has reviewed the fire risk assessment process and the associated computer-based training re. fire safety. The FRS was found to be difficult for managers to use and has been redesigned, with new training alongside. [Business in the Primary Authority pilot]

Enforcement activity

- 85 Each pilot had two FRSs that were involved in an enforcing authority capacity only – i.e. they did not have a business partner. The idea was that these four FRSs would test the lead authority concept from the perspective of an FRS that was only engaging as an enforcing authority (i.e. an authority that would not also have a lead authority relationship with a business).
- 86 In practice, and despite attempts to engineer contacts for the purpose of the pilot, of the group of four only one had any interaction with the businesses in their pilot – the (relatively minor) issues were handled at local level and the enforcing authority felt no need to consult with the business’s primary authority or the business in advance, though the matters will be reported to them in due course.

We addressed the query direct to the local manager and he is responding to the issues raised. Had he not done so, then the primary authority would have been asked to help. [FRS in the Primary Authority pilot]

- 87 Fortunately all those FRSs that were in a partnership with a business were also technically acting as enforcing authorities for the other partnerships in their pilot¹⁴: this afforded additional opportunities for enforcement-related activity to take place and enforcement-related interactions were reported by most partnerships.
- 88 All the interactions were resolved satisfactorily – either the matter was dealt with at local level without involving the partners or the clarification provided by the lead authority satisfied the enforcing authority or the lead authority (and the business) agreed that the action that the enforcing authority was planning to take was entirely appropriate and the enforcement process proceeded ‘as normal’.

¹⁴ For example Nottinghamshire FRS has a primary authority role in relation to its pilot partnership with Boots The Chemist but also potentially has an enforcing authority role to play for each of the other primary authority partnerships in the pilot (i.e. those where Hertfordshire, Tyne & Wear, Leicestershire, London, West Yorkshire, Cornwall and Merseyside are the primary authority).

Routine inspection identified a signed fire exit route that led into a loading bay where the external door might be locked without any means of opening it from the inside. After calculation it was agreed that this particular fire exit route was unnecessary and the signage was removed, resolving the incident without any enforcement activity being required. [FRS in the FAPS pilot]

We had three enforcement-related interactions. In two of the three cases the points made by the local FRS were accepted by us and the business and the enforcement proceeded as normal. In one case the local FRS was asking for fire risk assessments to be re-done more frequently than we thought was necessary. After discussion we were able to agree on a reasonable interval between assessments. [FRS in the FAPS pilot]

Before there would not have been a third party (i.e. our FRS) at the table: from our perspective this three way negotiation was a great improvement over the previous arrangements. [Business in the FAPS pilot – commenting on the incident above]

- 89 There were no instances where a disagreement between the lead authority and/or the business and the enforcing authority was in danger of triggering the determination process for dispute resolution.

Other activity

- 90 Other activities during the course of the pilot have included: FRS attendance at and input into company training events re. fire safety; and, as already noted, a simulation of a determination process, run by the FAPS pilot.

Conclusions

- 91 Most of the key elements of 'lead authority' arrangements (advice to businesses; additional information; inspection plans; and enforcement-related interactions between authorities and/or authorities and businesses) were tested to some extent during the course of the pilot and, with some reservations and taking into account the restrictions imposed by a relatively short pilot, generally found to work satisfactorily in a fire safety context.
- 92 The principal exception was the determination process for dispute resolution between authorities where there is a disagreement over advice given to a business: this was the subject of a simulation exercise in the FAPS pilot. A determination process already exists in Primary Authority; it has never been used and most FRSs found the circumstances when it would be required in a fire safety context hard to imagine.

3 Benefits and costs

Introduction

- 93 We were asked to review the benefits and costs of lead authority arrangements to business and to FRSs; these are covered in this Section – benefits and costs to businesses are taken first.

Benefits for businesses

- 94 Many of the benefits to businesses seen in the pilots reflect those identified in our interim evaluation of Primary Authority: this is encouraging and we would expect to see them enjoyed more widely should lead authority arrangements be introduced for fire safety.

Access to specialist advice about fire safety

- 95 Not all businesses have a fire safety specialist in-house – often responsibility for fire safety is included within the role of other staff (e.g. those with responsibility for other regulatory areas or for other tasks, such as maintenance of the business's estate, where fire safety impinges). Where this is the case then access to specialist input in relation to fire safety is particularly valued.
- 96 However, those with an in-house specialist still value the input from FRS colleagues.

The ability to get advice from an FRS that understands fire safety better than anyone in the business and who, through the pilot, is able to develop an understanding of our business has made a real difference. [Business in the Primary Authority pilot]

Greater openness re. fire safety

- 97 Businesses in the pilots have found that they are able to have a more frank discussion with their authority partner – and through them or directly – a more open relationship with the wider enforcing community about fire safety issues. There is value in recognising that whilst not everything is perfect 'now' you are able to demonstrate that you are serious about improving matters.

Businesses should not fear the consequences of disclosing/discussing fire safety issues with an enforcing authority and should not be on the back foot or guarded in their interactions with enforcing authorities. [Primary Authority] can only lead to better compliance, quicker and at less cost. [Business in the Primary Authority pilot]

Reassurance

- 98 For some businesses, simply having what they are doing or proposing to do re. fire safety reviewed by someone from the regulatory community provides valuable reassurances that their approach is correct and reasonable: this can also result in savings being made as businesses do what is necessary rather than adopting a 'belt and braces' approach.

We value having our procedures 'approved' by our FRS partner – it gives us reassurance that we are doing the right thing. [Business in the Primary Authority pilot]

We are much reassured that the level of precautions we are taking is sufficient and consistent for business safety. The difficulty with phrases [in the FSO] such as 'so far as is necessary' and 'reasonable steps' is that these can only be interpreted with advice. Working with an FRS has helped us to determine what is indeed necessary and reasonable and, to an extent, this has been less than we had feared. Without this understanding we might have erred on the side of caution and over-invested in alarm systems, prevention, etc. [Business in the FAPS pilot]

Better-placed to contest compliance issues

- 99 Without wishing to overplay the issue since, for most businesses involved in the pilots, scheduled inspection visits are rare and instances of non-compliance noted during such visits even rarer, some considered that lead authority arrangements put them in a better place from which to contest compliance issues.
- 100 During the course of our discussions, businesses reported to us that historically it had often been easiest for them simply to agree to rectify any defects reported during an inspection rather than contest the issue with the FRS concerned – in some cases they would do this whether or not the issue raised was technically the business's responsibility and even if the majority of (or all) inspections by other FRSs had not raised the matter as an issue.
- 101 Over time, responding to defects in this way will lead to an erosion of 'standard company procedures' and result in the business incurring unnecessary costs – for example: "We use this format for our fire risk assessments, except for those in where we have had to develop this one instead."¹⁵
- 102 Having the support of an FRS partner was felt to put the business in a better place to challenge the more 'unreasonable' deficiency notices raised by other FRSs – to continue the example from the preceding paragraph, under lead authority arrangements the business would feel more able to say: "You may not like our format for fire risk assessments but our FRS partner is entirely happy with it and therefore we do not propose changing it."

Advice from our FRS partner has enabled us to triangulate recommendations made by local inspectors and, in some instances, to decide not to implement the suggestions made. Previously we tended to implement whatever the local inspector suggested, often at significant cost. [Business in the Primary Authority pilot]

- 103 Our interim evaluation of Primary Authority suggests that often matters do not need to go any further than this – i.e. a primary authority giving its opinion to the business is sufficient. However, the back-up of formally issuing Primary Authority Advice (or Authoritative Information under FAPS) is there if required.

¹⁵ This is an actual example from the fieldwork.

We have already plugged our FRS partner into the process that we use for handling notices etc. and widely broadcast the fact that we have an arrangement with them. As a result when they identify any issues during inspections FRSs have generally contacted our partner in the first instance: this has resulted in some notices not being issued and, as a minimum, has meant that we know about those that have been issued and can be sure that they have at least gone to the responsible person. [Business in the Primary Authority pilot]

The pilot has given us the resolve (and, to an extent, the language) to raise any concerns with enforcement at the local FRS level. Previously this would not have been seen as a possible way forward: now it is, and has produced results for us. [Business in the Primary Authority pilot]

A more strategic approach to fire safety

- 104 Those businesses in the pilots that have a higher risk profile and are therefore subject to more frequent inspections expressed frustrations at the difficulties they were experiencing in developing a more strategic approach to fire safety – their attention was constantly being diverted to address issues raised through local inspection. For these businesses the hope, from both the business and their partner FRS, was that a ‘lead authority’ arrangement would buy them some time and allow them to develop this more strategic approach to fire safety.

With the support of our FRS partner we are now starting to implement a more strategic approach to fire safety that we can then operationalize, rather than continually having to fire-fight issues as they are raised. In particular our FRS has an understanding of our work plan in relation to fire safety and has been able to encourage others FRSs not to take action in certain areas because they are aware of the work schedule. [Business in the Primary Authority pilot]

Enhanced reputation re. fire safety

- 105 Some businesses felt that their being deemed to be ‘worthy’ of a partnership with an FRS would help to demonstrate their commitment to fire safety: for some this was seen as a potential source of competitive advantage (something that they were doing that their potential rivals may not be).

Raised internal profile for fire safety

- 106 In addition to enhancing businesses’ external profile, in some cases the pilot has helped to raise the profile of fire safety internally.

The pilot has raised the [internal] profile of fire safety considerably and this has resulted in a significant increase in the budget available for fire safety improvements: this would not have happened without the pilot. [Business in the Primary Authority pilot]

Better intelligence, advice and guidance re. regulation

- 107 Businesses also value their partnerships for the insight into fire safety issues that they often afford.

Without the targeted support and advice the partnership provides, there is a danger of either doing far too much or too little – both of which have costs and/or risks attached. Each time we meet our FRS we gain useful information about the regulatory environment. [Business in the FAPS pilot]

There is always more a business can learn about fire safety – for instance monitoring legislative changes and reviewing all incidents that do occur for learning points for the organisation. The partnership provides a good way in which this learning process can be facilitated. [Business in the Primary Authority pilot]

Material improvements to fire safety

- 108 Ultimately any test of the impact of ‘lead authority’ arrangements will need to include some consideration of the extent to which there have been improvements in fire safety. It is probably too early to expect to see much sign of this – although some of the points already made should have an impact over time (e.g. the additional resource for fire safety and the development of a more strategic approach) – however specific examples were reported by some pilots.

Our maintenance contractor used to put fire safety work on ‘to do’ lists until there was sufficient volume of work in an area to warrant sending a repair team in. Our FRS stated that any fire safety-related work should be done immediately and our contractor has adopted this way of working. Without the pilot there would have been no change to our procedures here. [Business in the Primary Authority pilot]

Savings for business

- 109 It is also generally too early to identify quantifiable savings from lead authority arrangements. However, the following are illustrative of the benefits that businesses engaged in the pilots expect to derive (in some cases have already derived) from their partnership:

The time taken for our fire risk assessments has been reduced by 70%, representing a saving of one and a half days per assessment for each of our stores. [Business in the FAPS pilot]

We have reduced the servicing interval on fire extinguishers to every other year and revised how we will install fire alarms: this will lead to significant savings for the business, is entirely due to advice from our FRS and would certainly not have happened without the pilot. [Business in the Primary Authority pilot]

We were in the process of contracting out our fire risk assessments to an external supplier but pulled the tender process on advice from our FRS partner. On advice from our FRS, we have reduced the frequency of the assessments and taken on a properly qualified risk assessor as an employee, saving c£70K when compared to the cost of using a contractor. Our FRS is happier because they know the assessments will be PAS 7 [fire risk management systems] & 79 [risk assessment methodology] compliant. [Business in the Primary Authority pilot]

Advice from our FRS has led to the capacity limits of our new head office building being increased, which could represent a significant capital saving in future. More generally fire safety expenditure will be more effectively targeted and therefore secure better value for money in future. [Business in the FAPS pilot]

Simply on costs we would have incurred appealing incorrectly issued notices we estimate we will save at least £20K a year. [Business in the Primary Authority pilot]

- 110 As will be readily apparent, the potential savings from lead authority, particularly when scaled across businesses of the size involved in the pilots, are substantially in excess of any costs likely to be recovered by the FRSs from their business partners.

Consistency of interpretation of the regulations re. fire safety

- 111 For all of the businesses, **the key benefit** of having a lead authority arrangement *that all of the regulatory community was signed up to* was that it would remove most instances of contradictory/inconsistent advice being given by different FRSs – or at least provide businesses with a means of defence against having to take action to address any such inconsistencies. “Standardisation without fear of local contradictions” as one business put it to us.

Most businesses want to be compliant but want a consistent line from FRSs on what ‘being compliant’ means. [Business in the Primary Authority pilot]

- 112 It is reasonable to assume that some of the benefits highlighted above could be obtained from existing voluntary arrangements:

- Access to specialist advice about fire safety
- Reassurance
- Enhanced reputation re. fire safety
- Raised internal profile for fire safety (though using this to make the case for extra investment may be easier under a lead authority arrangement)
- Better intelligence, advice and guidance re. regulation.

- 113 Equally it is reasonable to assume that consistency of interpretation will be an important factor in determining the extent to which other benefits are enjoyed; from those identified in the preceding paragraphs we would highlight the following:

- Open discussions re. fire safety with lead and enforcing authorities
- Being in a better-placed to contest compliance issues
- A more strategic approach to fire safety
- Material improvements to fire safety (on the grounds that material improvements will only occur when more resource is committed in the context of a more strategic approach to fire safety).

- 114 We also believe that significant savings for business (of the sort highlighted above) will usually only be realisable under some form of lead authority arrangement.

We are now working at a whole new level – more dynamically. We have got a lot further, a lot faster and in a much better way than we would have [without the pilot]. [Business in the Primary Authority pilot]

- 115 Anticipating a discussion in Section 4, businesses (and some FRSs) have doubts as to how consistency can be secured under FAPS.

The key benefit that Primary Authority brings over FAPS is that it effectively guarantees consistency of interpretation. [Business in the Primary Authority pilot]

Consistency is the clearest potential benefit [to be had from lead authority arrangements] – it is not clear to us how this can be guaranteed by FAPS. [FRS in the FAPS pilot]

FAPS would struggle to deliver consistent advice which the business could rely upon in all circumstances – this would undermine the whole approach [Business in the Primary Authority pilot]

- 116 However, it is important to note that it is not always the FRSs that are the source of contradictory advice and that lead authority will not therefore remove all instances of it. In the fieldwork reference was made to insurance company requirements which can: (a) differ between companies at any given point in time; and (b) vary over time for the same company. There is little that lead authority arrangements can do about this.

Costs to businesses

- 117 The relevant costs to businesses of lead authority arrangements are two-fold:
- i. Sums paid to the lead FRS under cost-recovery (or some other form of reimbursement for costs incurred)
 - ii. Costs relating to any additional work required to address fire safety issues identified.
- 118 Costs incurred by staff employed by the businesses who have fire safety as part of their responsibilities can be ignored since fire safety constitutes part of the core work of the individuals concerned.
- 119 Costs under i. are relatively insignificant given the size of the businesses – budgets for the pilot period typically were in the £6K to £12K range. The highest annual figure we were quoted for post-pilot partnership working was c£25K per annum.
- 120 Although even at the upper end of the range sums involved are apparently trivial, it is worth noting that the staff concerned still anticipated having to identify the budget and to make a case for using the funds for fire safety partnership purposes and for this to require approval by senior managers in their business.
- 121 From a business's perspective the major costs from lead authority arrangements will arise – if they arise at all – in relation to implementation of necessary actions (ii. above): this is particularly so when an FRS identifies a concern that was not previously known about as 'an issue' from the businesses perspective.

The only potential downside is that the bill for remedying any faults/shortcomings may be considerable. [Business in the Primary Authority pilot]

- 122 However, businesses were generally comfortable with having to spend more 'if that was what their FRS felt was necessary' – the main focus is on the effectiveness of what is spent rather than the quantum. And, as noted above, the scope for savings to be made, either over what is currently spent or over what it was planned would be spent, is considerable (particularly when scaled up across a large estate).

On balance, the business is spending more on fire safety. But it is doing a much better job as a result, and overall fire risks are going to be reduced. [Business in the Primary Authority pilot]

The Board is entirely sold on the benefits [of Primary Authority] and has committed resources to implementing all of the changes identified by our partner FRS to date. [Business in the Primary Authority pilot]

Benefits for FRSs

- 123 The benefits of lead authority arrangements to FRSs are generally less tangible than those for their partner businesses.

Improved knowledge of the business

- 124 Lead authority enables an FRS to develop a far more detailed understanding of a business than would otherwise be possible. In part this is because an FRS is able to put time into understanding how the business operates and the particular fire safety context (we have already referred to the work each FRS has undertaken to develop their understanding of their partner's business – see Section 2). It is also because, as part of this process, a business is able to take an FRS far more into its confidence than would ordinarily be possible.

We are getting early information about business decisions before they are set in stone, which means that targeted advice can be given in good time. We are also learning about retailing issues more generally, which will help our work in the business community overall. [FRS in the FAPS pilot]

- 125 Improved understanding leads to more informed discussions and more appropriate advice about fire safety matters and – though not testable within the context of the pilots – hopefully better solutions to fire safety issues and improved public safety.

We now have a greater appreciation of how what we do impacts on businesses when we are acting in an enforcing authority capacity. [FRS in the Primary Authority pilot]

Better understanding makes for a better discussion of the various alternatives available. The FRS now understands the issues we face and is also much more aware of the multiplicative effect that what they recommend can have: one small change can have massive financial implications if it has to be rolled out in all circumstances across the entire estate. This does not mean that we are no longer required to take action but does mean that we have an FRS that is more conscious of the potential costs of the various alternatives and can take this into account when determining what would be reasonable. [Business in the Primary Authority pilot]

The FRS has gained a great deal of useful information about the operation of our business and indeed about the sector in general. This could be used to advantage in partnerships with others – we see no conflict of interest in this; fire safety is not a competitive issue for us. [Business in the FAPS pilot]

More productive relationships with business

- 126 There are two dimensions to the more productive relationship with businesses.
- 127 Firstly, a lead authority partnership is based on the premise that the business wants to improve re. fire safety (and/or to gain assurances that it is 'doing the right thing') – in

this context the relationship becomes one that is based on openness and cooperation rather than disclosure 'if asked' and enforcement.

- 128 Secondly, the nature of most if not all businesses involved in the pilots is that they are low risk in a fire safety context. Ordinarily FRSs would spend little if any time with them. Lead authority offers FRSs the opportunity to spend considerably more time (at no cost, assuming full cost recovery) with these businesses with, as we have seen in the preceding sub-section, some not insignificant impacts.

Without the partnership, we would not have had the opportunity to make anything like this investment into a low-risk business. RAFKAP would never have managed to leverage this resource in and, almost certainly, the areas we have been able to look at would not have been tackled. [FRS in the Primary Authority pilot]

Input into the wider fire safety agenda

- 129 FRSs were keen to stress that they were looking for a contribution from their business partners to the wider fire safety agenda – indeed that this was one of the key areas where they felt a real benefit to FRSs could be derived from lead authority arrangements. Some were writing this dimension into their partnership agreements – examples included contributions to: fire safety awareness; safer communities; and retained fire fighter recruitment.
- 130 There were concerns that Primary Authority might prevent this (particularly the standard agreement proposed in the guidance consultation document).

Cost recovery

- 131 The ability to recover costs – clear under Primary Authority and recently clarified for local authorities more generally therefore now also available under FAPS – if not an absolute benefit at least means that any authority taking on the lead role has the option not to be 'out of pocket' should they wish to take it.
- 132 Of course the position is not as straightforward as this: some authorities may decide that they wish to offer the lead role free of charge or at a reduced cost as a service to local businesses (most likely as part of a general council policy for county or combined FRSs applied in a fire safety context); and, more generally, it may prove difficult to identify the full costs incurred by FRSs. However, the option fully to recover costs incurred is there.

The combination of targeted resources by the FRS and cost recovery to defray the costs of activity means that the FRS is using its resources to promote fire safety in a very effective way. [FRS in the FAPS pilot]

- 133 It is arguable that most if not all of the benefits for FRSs listed above are also at least partially achievable under the voluntary arrangements currently available. However, there is a range of benefits that, in our view, are only achievable (or only achievable to a significant extent) under lead authority arrangements; these are reviewed in the following paragraphs.

Quicker enforcement actions

- 134 There is evidence from the pilots (and from our interim evaluation of Primary Authority) to suggest that the enforcement process is quicker under lead authority arrangements – in particular, it will be easier to establish who the responsible person is and the existence of a lead FRS will assist the process (either speeding up the

process if action is required or getting to the point at which it is agreed that no action is required more quickly).

Evidence from our partnership suggests that if dialogue between the FRSs happens then a better Notification process follows and any actions required are taken more quickly. The ability of the FRS to ask for – and get – clearer instruction on what the problem is so that ‘hunt the deficiency’ is avoided will definitely reduce the regulatory burden on business and speed up the whole enforcement process. [FRS and business in the Primary Authority pilot]

There are often nuances around who is responsible for what that are by no means always obvious and that can generate unnecessary work for businesses and FRSs around enforcement. Our FRS can pick this sort of issue up and quickly resolve it. [Business in the Primary Authority pilot]

More effective use of resources

- 135 In part this arises from the preceding point – if enforcement action is a more efficient process then there is less wasted effort and resources can be used on other inspection activity.
- 136 Similarly, and particularly if formal advice (Primary Authority Advice or Authoritative Information) has been issued that reduces the scope of the work that enforcing authorities are required to carry out (e.g. not to look at the content of fire safety training as the lead authority has formally signed this off but instead to focus on its delivery at local level), then any resources no longer required for the inspection of a partnership business can be redirected elsewhere.

Rather than ‘investigate’, I simply referred the matter to the lead FRS and received the answers I needed from them. Much simpler – I needed to make one contact with the lead FRS and it was sorted. In each case the lead FRS agreed with our preferred approach locally and indeed encouraged us to proceed along the lines we suggested: this was a much more effective use of our resources. We had instant access to good information and knowledge about the business via the lead FRS, which saved us time and energy and speeded up the compliance process. [FRS in the Primary Authority pilot]

- 137 However, as noted elsewhere, the businesses in the pilot are not generally subject to a significant number of fire safety inspections activity and we would not wish to overlay this (or the preceding) point.
- 138 Such quantifiable benefits as there are to be had for FRSs will be enjoyed by enforcing authorities in the main (lead authorities only have the opportunity to cover costs) and will not be of the same order of magnitude as those for businesses.

Costs for FRSs

- 139 There are real and additional costs to participating in lead authority arrangements for the lead authority. The pilot attempted to identify these by asking all lead FRSs to record the time that they put into pilot-related activities on a simple timesheet in Excel format; most did this – we have records for fifteen of the partnerships.
- 140 The information provided is of generally good quality but varies in a number of important respects:

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- Some FRSs have no intention of billing their business partners for pilot costs – it would be understandable if they were less thorough in how they recorded their time
- Some businesses are more complicated than others and ‘required’ more input from their FRS during the pilot
- Not all FRSs have recorded time for the whole period of the pilot
- The treatment of certain activities varied – for example some recorded the pilot workshops as chargeable, some recorded it but mark it as non-chargeable and some did not record it at all
- Various other activities are shown by some but, we assume, not recorded at all by others (e.g. updating of CFRMIS; input from staff who are not, for the purposes of the pilot, the main contact(s)).

141 It is also important to note that:

- Not all partnerships were starting from the same place – this will have had some effect on what work was required; relationships that existed before the pilots started might have needed less time for the FRS to become familiar with the operation of the business for example
- This was a pilot – the time input during it may not reflect what would happen were the partnerships set-up under more normal circumstances (for example where there is less pressure to test out the key concepts, produce advice etc.).

142 Nevertheless, we have access to some data on costs and it would be remiss not to utilise it.

143 For obvious reasons we did not have access to individuals’ salary details so, to ‘price’ the recorded inputs, we costed the hours using information provided by CFOA re. standard rates for the various grades of officer involved (the most common grades were Watch Manager, Station Manager and Group Manager): it is important to note that these cover salary-related costs only and would therefore be less than a full cost recovery rate.¹⁶

144 Even so, the grade rates we used were generally significantly above the hourly rate that we know, through the fieldwork interviews, most pilots were charging – c.£70 being a typical hourly grade-based rate compared to c.£60, which would be a typical rate used by the FRSs for recovering pilot-related costs from the business. Through the fieldwork we are aware that some FRSs were actually costing their input at substantially less than £60 per hour. We suggest that FRSs might appreciate some guidance on cost recovery.

145 The timesheet information has a wide spread:

- Recorded hours input by FRSs ranged from 17.5 to 193.0 (the median was 72 hours)
- The implied cost of these hours ranged from £1K to £14K with hourly rates ranging from £43 to £97.

146 The information provided is of particular interest for what it tells us about the costs incurred in relation to three broad categories of activity that took place during the pilot – i.e.:

¹⁶ For information, we understand that a cost recovery rate of £140 per hour would not be unusual in respect of Health and Safety lead authority activity.

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- For partnerships where the FRS 'only' became familiar with the operations of the business during the course of the pilot – at standard grade rates this typically cost between £2K and £3K over the five months that the pilot was 'live'
 - For partnerships where the FRS became familiar with the operations of the business during the course of the pilot and gave a reasonable level of informal advice to the business, either on the basis of what was found during the course of these visits or more generally – at standard grade rates this typically cost between £4K and £7K over the five months that the pilot was 'live'
 - For partnerships where the FRS became familiar with the operations of the business during the course of the pilot, gave some informal advice and developed one or more of the more formal outputs (published advice, additional information and/or an inspection plan) – at standard grade rates this typically cost between £8K and £13K over the five months that the pilot was 'live'
- 147 This gives some idea of what costs were being incurred during the course of the pilot – though it will be recalled that the grade rates used recover salary costs only and are not full cost recovery rates.
- 148 It is also important to note that some FRSs were uncomfortable with the concept of charging their partners for costs incurred during the course of a 'pilot' and were only recording costs for information purposes (i.e. the business was not being charged); for the same reason, other partnerships had yet to decide what, if any, pilot costs would be recoverable.
- 149 As far as we can determine from the information provided, there are no material differences between FAPS and Primary Authority in terms of the time taken to produce key outputs – for example a piece of Primary Authority Advice does not appear to take more or less time to produce than a piece of Authoritative Information under FAPS.

Conclusions

- 150 The benefits to businesses from some form of coordination arrangement with a single authority are clear and potentially considerable; the associated costs of the arrangement are, by comparison, insignificant (though the costs of addressing any issues identified by the lead authority may not be).
- 151 For FRSs the position is less clear-cut. Benefits are there but are less tangible than is the case for businesses (in the main they relate to softer issues – more productive relationships with businesses; input into the wider fire safety agenda; quicker enforcement action; less reliance on formal enforcement processes; an ability to free up resources and target them at higher risk areas etc.).
- 152 The lead authority has the opportunity financially to break-even if they take full advantage of the opportunity to recover costs; in the pilot most were not doing this. If costs are fully recovered and the less tangible benefits are realised then lead authorities will also benefit.
- 153 For enforcing authorities the main benefit is the potential to make savings through lead authority arrangements (or to use less resource in dealing with businesses in partnerships and reallocate the unused resource elsewhere). The pilot did not develop sufficiently for this potential to be realised to any great extent but we would expect these gains to be made over the medium term should lead authority arrangements be introduced in an effective manner for fire safety. Enforcing authorities should therefore also be able to benefit from the arrangement.

4 Business confidence and concerns

Introduction

- 154 We were asked to comment on how business confidence varied under each of the pilots; it is worth re-emphasising that the following points were made fairly consistently by businesses in both pilots.

Concerns with/confidence in FAPS

Securing FRA commitment

- 155 Businesses were concerned about whether CFOA would be able to secure the commitment of all FRAs to FAPS. The original intention had been for FRAs to commit to FAPS before the end of the pilot; all parties to the pilots recognised that if this commitment could not be secured then the case for FAPS would be undermined.
- 156 Despite considerable efforts by CFOA, at the end of June the formal commitment of all FRAs to FAPS had not been secured.

The failure to get FRAs to sign-up to FAPS before the end of the pilot is a real concern – and a real blow for the scheme. [FRS in the FAPS pilot]

The lack of a demonstration of commitment to FAPS has undermined the CFOA approach. [FRS in the Primary Authority pilot]

Retaining commitment to FAPS

- 157 The failure to secure full commitment to FAPS effectively renders this concern largely irrelevant, however – assuming that an initial commitment to FAPS could be secured – businesses were concerned as to whether this could be retained over time. A change in CFO or in the make-up of the FRA could lead to a change in attitude towards FAPS.
- 158 There is therefore a concern that any FRA that wished to leave FAPS would be able to do so at any time and with impunity,

No sanctions

- 159 At a more detailed level, within FAPS FRSs would in practice be free to ignore any advice or inspection plan produced or the conclusion of any determination process at any time; again they could do this with impunity.

We are sceptical that a FAPS-based scheme would actually deliver the goods – we suspect that individual enforcing authorities would seek to breach the voluntary agreement sooner rather than later. [Business in the Primary Authority pilot]

Concerns with/confidence in Primary Authority

- 160 Businesses were generally far more confident about Primary Authority's ability to deliver the key benefits they were looking for – consistency and, consequently, a return on the time and resource invested.
- 161 The principal reason for this confidence is the statutory under-pinning that comes with Primary Authority and the opportunity to issue Primary Authority Advice that this brings.

162 Statutory under-pinning was considered to mean that:

- No FRA/FRS can opt out
- There is no need to plead for recalcitrant services to join (and subsequently remain in) the scheme
- The advice of all services is treated equally and cannot be ignored if formally issued as Primary Authority Advice.

163 As a result business can rely on the advice they are given, feel secure in the knowledge that no enforcing authority can require them to do anything different (particularly when Primary Authority Advice has been issued) and be confident that the regulations will be interpreted in a consistent manner.

164 A number of businesses went on to make the point that consistency offered them the best chances of securing the maximum return on the investment they were making in the partnership. Without the knowledge that any advice given by their primary authority would automatically carry substantial weight with enforcing authorities this return could not be guaranteed; the case for involvement in lead authority arrangements would be harder to make to senior managers as a result.

Concerns with/confidence in 'lead authority' arrangements in general

165 Businesses had no concerns or difficulties with the principle of some form of lead authority arrangement applying to fire safety.

Conclusions

166 To summarise, businesses were concerned that FAPS would prove to be another voluntary scheme that, based on their experiences of other such schemes, would not be able to deliver the benefits to business that they were looking for – principally consistency in interpretation of the regulations and a return on their investment of time and resources in the partnership.

The benefits cannot be achieved without statutory backing – ultimately an FRS could always say “no” and there is nothing that CFOA or anyone else could do about this. [FRS in the Primary Authority pilot]

FAPS would not be the preferred way forward – it is only a voluntary scheme: these have not worked in the past and will not work now. [FRS in the Primary Authority pilot]

We would remain to be convinced that benefits for the business are to be had from a voluntary approach. [Business in the FAPS pilot]

167 In contrast, most businesses felt that Primary Authority effectively guaranteed that they would achieve the benefits they were looking for from lead authority arrangements.

The statutory scheme gives specific protections and guarantees to businesses; these are valuable to us. [Business in the Primary Authority pilot]

The key benefits for the business are consistency (we are not sure how FAPS can guarantee this) and access to expert support and assurance that you are doing things appropriately (which both schemes offer). [Business in the FAPS pilot]

There is nothing that CFOA can, in practice, do about it if an FRS chooses not to engage. In the final analysis, FAPS is an impotent scheme which FRSs will find it easy to ignore: this means that FAPS can offer no guarantees re consistency, which in the end is what businesses want. [Business in the Primary Authority pilot]

168 On balance there was therefore a clear preference for Primary Authority among those businesses involved in the pilots:

- Whilst some businesses in the FAPS pilot would prefer FAPS, some now clearly preferred Primary Authority and others had 'no preference' between the schemes
- There was no movement the other way – i.e. away from Primary Authority to FAPS – and almost all those businesses involved in the Primary Authority pilot had a preference for Primary Authority over FAPS

169 However, most businesses preferring Primary Authority would still engage if FAPS was selected as the way forward – albeit with reservations:

We would engage with FAPS but would be constantly asking why we were not doing this 'properly' as part of Primary Authority. [Business in the Primary Authority pilot]

We would endeavour to make either approach work but are quite clear that Primary Authority is the better scheme. [Business in the Primary Authority pilot]

The risk is that there will be no return on businesses' (or FRSs') investment so FAPS is more likely to generate "Why are we doing this?" questions from the Board. [Business in the Primary Authority pilot]

170 To some extent it would be surprising if the majority business view was otherwise. As Annex A shows:

- There are more businesses in the Primary Authority pilot than in FAPS
- Only two of those businesses engaged in the Primary Authority pilot had no experience of the scheme working for them in other regulatory areas (and one of those was in the advanced stages of discussions about establishing a scheme to cover other regulatory areas) compared to four of the businesses in FAPS
- There is also some experience of the voluntary alternatives in a fire safety context (RAFKAP and the LGR schemes).

171 Given that Primary Authority has worked for them in other regulatory areas, their preference for it to be introduced for fire safety is understandable.¹⁷

Based on our experiences of both Primary Authority and voluntary arrangements, we are strongly of the opinion that statutory underpinning is vital if the full benefits of the partnership are to be gained. [Business in the Primary Authority pilot]

¹⁷ It is also worth noting that this is entirely consistent with our interim evaluation of Primary Authority, which found that those (mainly large) businesses that had previous experience of the voluntary schemes were more likely to be positive, or even strongly positive, about Primary Authority than those businesses whose first experience of a lead authority scheme was Primary Authority.

5 FRS confidence and concerns

Introduction

172 We were not specifically asked by the invitation to tender to comment on FRSs' confidence in/concerns with the pilots but feel it is appropriate to do so.

Concerns with/confidence in FAPS

173 FRSs' concerns with FAPS are largely the same as those of businesses – i.e.:

- Securing the commitment of all FRSs – there were concerns that this had not been done by the end of the pilots; we were also told that some (non-pilot) FRSs were known to be reluctant to commit to it. Though this does not mean that they would necessarily be any keener to commit to Primary Authority, statutory underpinning of that scheme means that would, as a minimum, be required to engage in an enforcing authority capacity
- Retaining the commitment of FRSs – even if commitment to FAPS could initially be secured, the on-going risk of FRSs disengaging at some point in the future was recognised
- A lack of sanctions – if an FRS chose to disengage or to ignore published advice or the outcome of a determination then the feeling was that there was little in practice that could be done about it.

174 In addition concerns were also expressed about who would perform the central, BRDO-equivalent, role and how it – and any necessary development work – would be funded, especially in a period of budget cuts for the Service.

175 Based on our discussions with FRSs, our estimate is that half of the FRSs in the pilots would prefer Primary Authority. Of the remainder, most are neutral between the schemes; a minority have a clear preference for FAPS.

Concerns with/confidence in Primary Authority

176 It is fair to say that many of the concerns FRSs had about Primary Authority have been addressed by the pilot. However, some (generally a minority) of FRSs still had issues with the statutory approach.

Impact on community work

177 Some FRSs were concerned that Primary Authority might restrict their ability to continue to engage their business partners in the wider work they undertake in the community. The requirement in the new guidance to use the standard Primary Authority partnership agreement was a further cause for concern in this context – would there be scope to make additions to the standard agreement and/or to have a separate annex to any agreement that would enable other matters to be covered? Clarification on this point would be helpful.

Ability to direct other FRSs' resources

178 Concerns about the ability to direct other FRSs' resources – in particular to require them to do work that they would not otherwise be doing – remain for a small minority of FRSs: this is despite assurances to the contrary and the content of the revised guidance, paragraph 11.7c of which states that:

“An inspection plan should not ... require a local authority to undertake a proactive inspection or other check on compliance of the business when it would not otherwise have undertaken a proactive inspection or other check on compliance at that time.”

- 179 In essence the remaining concerns are due to the content of the relevant legislation (the *RESA*) which, in the event of a challenge, would take precedence over whatever is in the guidance.

A requirement/expectation to issue Primary Authority Advice/inspection plans

- 180 There is a view that there is an expectation that primary authority partnerships will be expected to move to publishing Primary Authority Advice and inspection plans.
- 181 There are, as far as we can determine no such expectations from BRDO (though they would acknowledge that their view is that it is only through Primary Authority Advice and inspection plans that the principal benefits of Primary Authority can be accessed).

Primary Authority is a sledgehammer to crack a nut

- 182 The reverse of the preceding point – if in practice the main tools available within Primary Authority are used infrequently then is it really necessary?

The partnership has moved us towards greater cooperation and less (in fact zero) reliance on enforcement. The fact that FRSs in general (unlike perhaps some other regulators) prioritise resolving potential enforcement issues over proceeding to enforcement is a powerful argument that FAPS is all that is required. Since enforcement is a last rather than a first option, statutory protection against enforcement activities is of little value. [Business in the FAPS pilot]

- 183 Points that supporters of Primary Authority would make in relation to this would include:
- That if voluntary schemes worked in practice then the Hampton Review would not have identified any business concerns with them
 - That it is the fact that a primary authority partnership exists that makes enforcing authorities take note of the opinion of the primary authority, whether or not it is formally expressed as Primary Authority Advice
 - That from a business's and an FRS's perspective returns on their investment of time and resources are guaranteed by Primary Authority and cannot be guaranteed under voluntary arrangements.

Primary Authority is less responsive/flexible than FAPS

- 184 Because Primary Authority is based in statute, should the need arise it will be more difficult to make amendments to it – further legislation would be required. As a non-statutory scheme, the assumption is that FAPS would be easier to change.

Our main concerns re. Primary Authority relate to perceptions that it is inflexible/cumbersome and that, if any tweaks are required to make it work for fire safety, these will either take a long time to come or will not be possible to introduce at all. We feel that FAPS has more chance of being responsive to changing needs/requirements than a Primary Authority scheme that is not specifically set up for fire safety. [FRS and business in the FAPS pilot]

- 185 However, recent experience would suggest that there seems to be reasonable scope to adapt Primary Authority through revisions to the scheme's guidance.

There is no fire safety-based experience within BRDO

- 186 This is true but it is also the case for every other regulatory area currently in scope and does appear to have hampered the take-up of Primary Authority in these areas. CFOA appears to be well-placed to offer any technical support that might be required on behalf of the sector.

The ability to say “No”

- 187 FRSs are concerned that they will be a requirement to engage with any interested business under Primary Authority. The involvement of trade associations and similar representative organisations is a concern in this context. Again clarification on when it is possible to turn down an approach would be helpful.

Concerns with/confidence in ‘lead authority’ arrangements in general

- 188 Most FRSs could see no reason why lead authority arrangements should not apply to fire safety. However, a number of concerns were raised.

Allows businesses to ‘pass the buck’

- 189 Based on the content of some of the Primary Authority Advice/Authoritative Information issued during the pilot, there is a concern that lead authority arrangements are a means through which the business can pass the blame for any failure off as a local implementation/‘rogue local manager’ issue. Our view is that this down to insufficiently considered drafting of the Primary Authority Advice/Authoritative Information and that it is therefore readily addressable.

Little in it for FRSs

- 190 It is certainly the case that there is more for businesses in lead authority arrangements than there is for FRSs. However, there is still the potential for gains to be had for the regulators – these have been reviewed in Section 3.

Incompatibility with the FSO

- 191 There is a view that lead authority represents a move away from the self-assessment-based approach to fire safety introduced by the FSO – in particular that there is a consequent risk that FRSs will end up assuming the role of ‘responsible person’.
- 192 We believe that the legal advice provided addresses this point to the satisfaction of most FRSs.

Definition of ‘chargeable work’

- 193 FRSs are required to undertake fire safety-related work with local businesses; some were not clear on where the line between what they are required to do and what is additional and therefore cost recoverable is drawn. Further guidance on this may be helpful.

Working with low risk businesses

- 194 It is probable that lead authority arrangements will only attract those already committed to 'doing the right thing' re. fire safety – depending on how the lead authority role is resourced, it is possible that an FRS's best inspectors will therefore end up working with these businesses rather than on those that are, from a fire safety perspective, more challenging.

Conclusions

- 195 For the most part FRSs' concerns with the concept of lead authority arrangements for fire safety had been addressed by the pilot – among those FRSs involved in the pilot, there is no longer any groundswell of opinion that fire safety and lead authority 'do not mix'.
- 196 Similarly, many of the concerns with Primary Authority as a means of introducing lead authority arrangements have been addressed during the pilots (though this does not mean that all think Primary Authority is the way forward).
- 197 Half of the FRSs in the pilot would prefer Primary Authority. Of the remainder, most are neutral between the schemes; a minority would prefer FAPS.
- 198 There is general recognition that the fact that all FRAs have not been able to commit to FAPS during the course of the pilot has not helped the non-statutory cause.

6 Impact of 'lead authority' on FRS resources

Introduction

199 To the extent that the number of businesses involved and their risk profile both remain relatively low, the impact of lead authority arrangements on FRS resources will be minimal – such businesses will be inspected relatively infrequently and, when they are inspected, few if any issues will be identified. Our task in this Section is to explore whether or not we think this is a likely scenario.

Additional tasks/costs

200 From the FRS perspective, as outlined in Section 3, we believe that, other things being equal:

- Providing costs are fully recovered, the lead authority role should break even
- The impact of lead authority arrangements on the enforcing authority role should at worst be cost neutral and may actually result in less resources being utilised in inspecting businesses once they have a partnership than would otherwise be the case.

201 We are as certain as we can be that our view of the impact of lead authority arrangements on FRSs *qua* enforcing authorities will be as described above – there is one major area of uncertainty relating to the supporting systems for lead authority and how easy it will be for inspectors to establish: (a) that a partnership covers a premises that they are scheduled to inspect; and (b) what advice, additional information and/or inspection plans have been issued by the business. If this information is not readily available for inspecting officers then the extent to which the gains from lead authority arrangements can be made will be compromised.

202 There are many more areas of uncertainty that apply to FRSs *qua* lead authority.

203 In the following sub-section we review these areas of uncertainty vis a vis lead authority arrangements and their potential impact on FRS resources.

Areas of uncertainty

FRA and senior FRS staff views

204 At this stage we are unclear as to what the attitude of FRAs and senior FRS staff to lead authority arrangements will be.

205 From our fieldwork we would feel confident in stating that there are five FRSs that are 'up' for engaging as the lead authority in numbers that we would consider to be meaningful (we have set the barrier for 'meaningful' as leading ten or more FAPS/primary authority partnerships). The rest of the pilot FRSs are currently looking at taking on no more than (literally) a handful of partnerships.

206 However, the preceding paragraph is based on our discussions with those directly involved in the pilot; we do not know what the views of the FRAs and more senior FRS staff will be. Nor do we know how the twenty-seven FRSs in England and Wales who have not been part of the pilots will respond – though it might be reasonable to suppose that, having not engaged in the pilots, they will initially not be pressing to take on the lead authority role to any significant extent.

207 If an FRA decides that its FRS should not engage as lead authority to any significant extent then the impact of lead authority arrangements on that FRS will be limited to

the effect of lead authority arrangements on enforcing authorities (we have already suggested these should at worst be neutral and potentially could be positive).

- 208 If an FRA decides that its FRS should actively seek to take on the lead authority role then the impact on FRS resources will depend on the extent to which the FRA requires its FRS fully to recover costs; if costs are fully recovered then the impact on the FRS's resources should, in theory, be neutral. However, there are more factors to take into account.

Level of demand from businesses

- 209 At this stage we do not know what the level of demand from businesses for a fire safety partnership will be.
- 210 We do know that eight hundred or so businesses are in primary authority partnerships with around a hundred local authorities: even allowing for some double-counting (businesses in partnership with more than one authority) and for the fact that some will not be interested in (or indeed eligible for) a fire safety partnership because they operate out of a single local authority area¹⁸, this represents a potentially significant pool of businesses waiting for the opportunity to add fire safety to the list of regulatory areas covered by their primary authority partnership(s) (or to set up a FAPS agreement).
- 211 Our view is that it would be reasonable to assume that most of those businesses whose operations would make them eligible for a fire safety-based partnership (i.e. those with multi-site operations across multiple FRA areas) will want one fairly quickly after it is made available. Why would they not? We would therefore expect a significant level of demand to come through as any extension of lead authority arrangements to fire safety is announced – more so if the decision is for Primary Authority but still significant if it is for FAPS.
- 212 If there are forty-six FRAs willing to take on the lead role – and a willingness among businesses to go where there is capacity¹⁹ – then the impact on FRS resources will be manageable. If, as we fear, relatively few FRSs are willing to be lead authorities then, potentially, the impact on them will be significant.

Staffing models

- 213 The most FRS staff we saw at any one interview during the fieldwork was four; most FRSs had no more than two professional members of staff engaged in the pilot to any significant extent and in almost all cases partnership work was only part of their job: going forward this is only a sustainable model for staffing partnership-related activity if the FRA has no ambition for its FRS to develop any lead authority work. Based on our fieldwork, our assessment is that most FRAs will be proceeding on this basis – i.e. the main contact(s) for the pilot will continue in a (generally part-time) partnership-related role as demand and capacity allows.
- 214 Apart from the (obvious) lack of capacity, this over-reliance on one person to 'do partnerships' gives us a number of causes for concern:

¹⁸ For example, for reasons that we do not need to go into in detail here, a business that manufactures in one local authority area but supplies its goods to outlets in more than one other area can have a primary authority partnership for certain regulatory areas. It would not be possible (or necessary) for such a business to have a primary authority partnership for fire safety.

¹⁹ This is an important point. Our expectation is that, if left to their own devices, businesses will tend to gravitate towards the larger metropolitan FRSs and bigger county services.

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- De-skilling the member of staff concerned through over-specialisation (career-wise there is a concern that partnership work could be a back-water – albeit an interesting one)
 - Lead authority can come to be seen to be ‘X’s thing’ – if ‘X’ moves on then there is a risk that lead authority will disappear with them; we are already aware of partnerships where key people are indeed moving on post-pilot (both on the FRS and/or the business side) and there is more hope than certainty over ‘what will happen next’ vis a vis the organisations’ continuing engagement in lead authority
 - Continuity of service will be difficult to maintain – what if ‘X’ is away, sick, training etc.
 - Personal rapport between the key people involved is important if a long term relationship is to be built – the tendency of FRSs to move officers around relatively frequently acts against this (but is a good counter-balance against de-skilling).
- 215 A more sustainable approach that also brings with it greater organisational resilience in terms of an ability to ensure continuity of service is to split the lead authority role across a number of staff. We came across two approaches in our fieldwork that FRSs were actively considering:
- Contracting-in resource on fixed term contracts as required to meet the demand to service partnerships as it develops – this FRS does not intend to pull any staff from inspecting officer roles (in its view, to do so would not be in the interests of the FRS and would detract from its core task of reducing the risk of deaths from fire). Of course managing a potentially large contracted-in workforce creates its own set of challenges
 - Split the partnership role across (in this case) three members of staff – this helps to ensure that continuity of service is maintained and that those inspecting do not become de-skilled through only doing partnership-related work. However, the immediate task is to generate sufficient business to meet the costs of employing the equivalent of an additional inspector on partnership work.
- 216 Unless a contract-in on demand model is used, staff costs will also be ‘lumpy’; if the equivalent of an inspector, however defined, can run an average of ten partnerships what does the FRS do when it is approached by an eleventh business looking for a lead authority? Recruit some more inspector time in anticipation of further enquiries in future (in which case some costs will be non-recoverable for a while)? Ask existing staff to do accommodate another business within their existing workload? Or simply pass the enquiry on to another FRS?
- 217 The solution is not obvious – particularly in a time of budget cuts and when an FRA’s core duty is to meet the needs of its local area. The decision on which approach is taken will have an impact on FRS resources.

Level of input required

- 218 Most of the pilot businesses have required relatively low levels of input from their FRSs to date: at this stage there is no way of telling whether this will continue to be the case in future.
- 219 Our assumption is that it will be possible for FRSs to say “No” to a potential partner – and therefore to avoid the potentially most resource intensive partners that come their way. However, arguably these are the businesses where there is greatest scope for lead authority arrangements to make a real difference and, as such, those that FRSs should be trying to work with if at all possible.

- 220 On balance our expectation is that on average those businesses wanting a partnership will become more challenging (less low risk) over time, particularly given that Primary Authority has opened up to trade associations. We would expect the level of input from FRSs on a per partnership basis is therefore likely to need to increase over time: this will have an impact on FRS resources.

Ability to leverage in additional support from business partners

- 221 We have already referred in previous sections to FRSs' interest in gaining the support of their business partners for other aspects of their wider agenda. If they are able to do this, this will bring in additional resource to the FRS.

Accessibility of data/information

- 222 For lead authority to have maximum impact all inspecting officers need to be aware that a partnership is in place before inspecting. To achieve this the main requirement is that whatever system is used offers a quick and easy way for FRSs to identify whether a premises (or business) is covered by a partnership and – if it is – what the implications are (in terms of advice, additional info and/or inspection plans).
- 223 At present FRSs' main concern is that the information is not readily accessible and does not currently link well with existing FRS systems (Community Fire Risk Management Information System [CFRMIS] or an equivalent system). In practice it is doubtful whether inspecting officers will consult external (BRDO) and internal (CFRMIS etc.) databases before inspecting; partnership information must therefore be readily accessible from FRS systems.
- 224 For pilot purposes some FRSs have gone through their databases and manually tagged all the premises covered by a pilot partnership in their patch (or as many as they have been able to identify). Post-pilot there needs to be an easier more certain and regularly updated way of doing this. At the time of writing the Primary Authority IT System is subject to a major upgrade which we understand includes a Geographical Information System [GIS] element that should make the identification of premises subject to a primary authority partnership easier – should Primary Authority be the preferred way forward we are not currently clear if/how this will interface with CFRMIS.
- 225 Accessibility of data is particularly important from an enforcing authority perspective – the more accessible (and accurate) the data is the greater the opportunities for FRSs to realise the potential savings/benefits to be had from lead authority arrangements.

We could put a list of our premises on the BRDO site and/or the CFOA Community for FRSs to use to determine whether a particular building was 'one of ours': the list is a post-code searchable document and is how we operate our other primary authority partnerships. [Business in the Primary Authority pilot]

Conclusion

- 226 We could doubtless continue the analysis, identifying more factors that will have an impact on the resources of FRSs wanting to take on the lead authority role, however we think that the point is made – for a variety of reasons the impact of lead authority arrangements on FRS resources is currently unclear.
- 227 Other things being reasonably equal, and in particular partnership information being readily accessible for inspecting officers, we would expect that FRAs that are content for their FRS to take a low profile in relation to the lead authority role (in effect to engage only as enforcing authorities) will suffer little or no adverse impact in terms of

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their resources – in practice they may benefit if lead authority arrangements may enable them to deploy their resources more effectively.

- 228 For FRAs that are keen for their FRS to take on the lead authority role the position is more complex. The impact on the resources of these FRSs will depend on a number of factors – in particular: the extent to which they actively pursue 'lead authority work'; their approach to staffing-up the partnership function; the FRS's interest in and ability to identify and recover the costs incurred from being a lead authority in full from their business; and the contribution that partner businesses make to the wider fire safety agenda (which will have the effect of bringing additional resource into the FRS).
- 229 On balance, providing that lead FRSs are able to identify costs and recover them from their business partners, a reasonable expectation would be for lead authority arrangements to have a neutral or marginally positive impact on FRS resources overall.

7 Impact on local operations and fire fighter safety

Introduction

- 230 Section 1 highlighted the responsibilities that FRAs have to their local community; this and the issue of fire fighter safety mean that it is important that any introduction of lead authority arrangements does not compromise “necessary local, risk-based decision-making by FRAs”, to quote from the invitation to tender.
- 231 During our second round of interviews with FRSs we therefore explored whether, after their experiences of the pilot, they had any concerns in relation to:
- Confusion over who is the responsible person – specifically whether there was any perceived risk that a lead authority could be seen to be assuming this role
 - Any potential impact of lead authority arrangements on the local operations of an FRS – in particular on their ability to visit business premises in their area.
- 232 These points are covered in the following sub-sections. The legal advice that the Departments have commissioned separately from this evaluation will doubtless have more to say on these issues.

Responsible person

- 233 For fire safety purposes the ‘responsible person’ is defined by Article 3 of the FSO and their duties are described at Article 5. There is, as we understand it, no equivalent to the responsible person in any other regulatory area. *Prima facie* to the layman it is hard to see how an FRS acting as lead authority could assume any aspect of this role – possibly under Article 5(4)(b) (“Where a person has, by virtue of any contract ... an obligation of any extent in relation to the safety of any premises ...”) – however some concerns were raised at the start of the pilots regarding this issue.
- 234 By the end of the pilots, most FRSs could only conceive of a lead authority being in any way potentially at risk if it had been negligent in signing-off a business’s procedures as compliant before issuing Primary Authority Advice/Authoritative Information and/or it had not taken into account subsequent findings from multiple inspections that suggested that the business was no longer complying with the signed-off procedure and pulled the advice pending further investigation.
- 235 However, most FRSs were quite clear that there were no circumstances in which they would become the responsible person, even in circumstances where Primary Authority Advice/Authoritative Information had been issued – this on the basis that the FRS is basing its opinion on the robustness of the business’s processes not taking over the responsibility for the design and/or ownership of them in any sense.
- 236 Indeed, if anything, lead authority arrangements were considered to have the potential to clarify who was the responsible person – see the discussion of additional information in Section 2.
- 237 One FRS had discussed the responsible person issue with its insurer and confirmed with them that they were happy that there was no issue here (they were getting the wording of the policy changed to make this absolutely clear). Another had included a specific clause in its partnership agreement to ensure that they had absolutely squared this area of concern off.

Impact on the IRMP

- 238 It is a statutory requirement for FRAs to produce an IRMP for their area. The IRMP identifies the risk from fire and other emergencies to the individual FRA's local community and presents proposals to address these, thereby making that community safer. Part A of the Fire Safety Audit Form is generally used for collecting the information that feeds into the IRMP process.
- 239 FRSs were not concerned that lead authority arrangements would affect their ability to collect Part A data – on the contrary one business in the Primary Authority pilot felt that they may be able to help provide some of it.

For Part A, we have most of this information to hand on our system and would be happy to make it available to FRSs if this would be helpful. [Business in the Primary Authority pilot]
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Impact on Fire Safety Audit inspections

- 240 Under the FSO, the role of FRAs is to ensure that the resources that they have for fire prevention, protection and response services are appropriately allocated on the basis of local analyses of risk: a key element of this is conducting periodic inspections of individual premises and the related risk assessment etc. documentation and, where these are found wanting, offering advice and/or taking action through enforcement, deficiency and prohibition notices. Part B of the Fire Safety Audit Form is generally used to document these inspections.
- 241 FRSs had two principal concerns in relation to Part B:
- That their ability to inspect would be restricted – principally by inspection plans
 - That the scope and content of inspections would be affected – principally by the issuing of Primary Authority Advice/Authoritative Information.
- 242 As discussed in Section 2, inspection plans were generally seen as having less relevance to the sort of business likely to be engaged in a lead authority partnership (low risk; few inspections). To the extent that they had a role to play, this was felt to be more likely to be relatively passive (“If you go into one of our sites, can you give us feedback on ...”) than directive (“No need to look at ...”). After their initial concerns, most FRSs were now relaxed about the impact of inspection plans on the content of inspections.
- 243 It is probable that, where it is issued, the content of inspections will be affected by Primary Authority Advice/Authoritative Information. To take an obvious example, if the lead authority signs-off the content of a business's fire safety induction training then an enforcing authority will not be able to comment on the content of that training as part of their inspection (the lead authority has already signed it off as fit for purpose); it will however be able to ask recent recruits if they have received their induction training re. fire safety, to check their understanding and to report back any concerns they have.
- 244 FRSs were generally relaxed or positive about the impact that this shift in the emphasis of inspections from policy content to policy implementation might have.

The local relationship remains key and there is no expectation that lead authority will have any effect on it other than to make the work that we do more useful because our time and input will be better targeted. [FRS in the Primary Authority pilot]

We have no concerns on these issues – if anything the impact on inspections should be beneficial; we will have less to look at and can make a more effective use of resources when an inspection takes place. [FRS in the Primary Authority pilot]

- 245 Businesses were also positive about the impact of lead authority on inspections.

When we see an inspecting officer, we don't want them each reviewing our approach to training, risk assessments etc. We want them checking to see that the policy is being properly implemented at local level and to tell us when it isn't so we can do something about it. [Business in the Primary Authority pilot]

- 246 Part C of the Fire Safety Audit Form uses the data from Part A and Part B to calculate a Relative Risk Rating score – the type of premises and the Relative Risk Rating score determine the risk level of the premises and the frequency with which it will be inspected: this informs each FRS's Risk-based Inspection Programme. FRSs had one principal concern in relation to this part of the inspection process: that they would be directed to undertake inspection activity by the lead authority that was not required by their risk rating process.

- 247 As already noted in Section 5, for a variety of reasons (assurances to the contrary; the content of the revised guidance; experience and understanding of inspection plans during the pilots etc.) almost all the pilot FRSs no longer had any concerns that they would be directed to do unscheduled inspections under lead authority arrangements.

We have no concerns on this matter – directing other brigades' resources is absolutely not an issue. The drafting of the legislation is not as helpful as it might be but we are quite clear that this issue has been satisfactorily resolved. [FRS in the Primary Authority pilot]

Impact on the provision of site-specific risk information

- 248 FRSs have a legal obligation under various pieces of legislation (the Health and Safety at Work Act 1974; the Management of Health & Safety Regulations 1999; the Fire & Rescue Services Act 2004; and the Civil Contingencies Act 2004) and the FRNFE to provide site-specific hazard/risk-related information to fire fighters and other emergency responders who may attend incidents in their area.
- 249 Site-specific risk information is made available to operational crews on the way to or at an incident via mobile data terminals and is important in helping to ensure fire fighter safety – in layman's terms it gives operation crews a 'heads-up' on what to expect when they attend an incident at a particular premises.
- 250 Sources for the information that feeds into an individual site-specific record can include the Audit Form, data on CFRMIS, site plans and relevant information from other sources (e.g. the local authority). Site visits may be necessary – either initially to fill any gaps in the information that cannot be provided through other means and/or for periodic review of the record and/or where there has been a significant change such that the record is potentially no longer accurate.

- 251 Again FRSs were quite clear that there is nothing in lead authority arrangements that would impinge on their ability to visit premises for the purpose of gathering site specific risk information.

There are requirements on all FRAs to have in place effective arrangements for gathering site specific risk information and to make it available to operational crews. Nothing in [Primary Authority] can override the need for visits to collect any data necessary for these purposes. [FRS in the Primary Authority pilot]

Impact on familiarisation visits

- 252 Under section 7(2)(d) of the FRSA an FRA must in make arrangements for the obtaining of information needed for the purpose of extinguishing fires and protecting life and property in the event of fires occurring in its area – these visits are generally known as ‘familiarisation visits’ and are carried out by operational crews.
- 253 Again FRSs are quite clear that lead authority arrangements have no impact here.

There is an absolute distinction between familiarisation visits under section 7(2)(d) of the FRSA and fire risk assessments under the FSO. Any partnership, whether statutory or FAPS, covers only the second of these and has no role in relation to the first. [FRS in the FAPS pilot]

Other reasons for visiting businesses

- 254 As will be apparent, there are many reasons why an FRS might want to visit business premises in its area – in addition to those identified above, FRSs may each have its own local ‘flavours’ for visits and we could not claim to have covered them all here²⁰. The key point is that FRSs are of the view that lead authority arrangements should have no impact on whatsoever on them: to the extent that lead authority arrangements impinge on local operations at all, this is only in a limited way and in respect of FSO inspections.

We have no concerns whatsoever about the impact of Primary Authority or FAPS on our ability to do any aspect of ‘the day job’. [FRS in the Primary Authority pilot]

- 255 Of course, given the range of visits that take place, there may be a confusion at local level as to why a fire officer is visiting and whether a particular type of visit is affected by any lead authority arrangement, particularly if fire officers do not state clearly why they are ‘on the premises’. However this is a different point and should be readily manageable by clearer communication of the purpose of the visit – familiarisation; inspection; inspection follow-up etc.
- 256 Put simply, if fire officers make it quite clear what they are doing then confusion does not need to arise.

²⁰ By way of an example, the web site of an FRS involved in the pilots list the following: fire safety audits (a comprehensive inspection to gathers data and information to ascertain compliance with the Fire Safety Order); thematic inspections (a shorter inspection to assess the general risk and identify future actions); follow-up inspections (an assessment of the progress which has been made to address deficiencies noted in an inspection); peak risk inspections (carried out at a time that reflects the potential maximum risk to assess the systems and protocols that are in place); specific inspections (usually unplanned and focused on a specific identified risk) and statutory and other consultations (for example in relation to licensing or building control).

Conclusion

- 257 FRSs consider that lead authority arrangements will have no impact on work that needs to be carried out at local level to ensure fire fighter safety.
- 258 More generally the impact of lead authority arrangements on local FRS operations will be minimal – probably limited to a change of emphasis in inspections where formal advice has been issued, which would generally be welcomed if it enabled resources to be used more effectively.

8 Other issues

Introduction

259 In this Section we briefly review a number of other issues raised during the course of the project.

Capacity to deliver

260 As will be apparent from Section 6, we have concerns about the capacity of the FRS community to meet the level of demand for partnerships from the business community.

261 Primary Authority has been running for five years and yet less than a quarter of local authorities have taken on the role of primary authority – most in a fairly minor way. Our view is that whilst proportionately more FRS will engage, very few will do so to any meaningful extent in terms of the number of fire safety partnerships they take the lead role in. The ability of the FRSs collectively to meet the demands of businesses for partnerships is open to question.

Launch date

262 Our view – shared by most FRSs – is that whichever scheme is taken forward there will be a considerable amount of development work required before we have a scheme that is ready to launch: this is particularly so for FAPS but also applies to Primary Authority. FRAs will need to form a view on how actively they will engage and how the necessary resources will be secured; current partners' contracts will need to be negotiated; systems will need to be fixed; those not involved will need to be briefed (and then will need to form a view on how actively they will engage etc.).

263 In this context it is worth noting that fewer than half of FRSs have engaged in the pilots – and only a third have been involved as a lead authority.

264 Of the options that we understand are available, April 2014 feels like a more realistic launch date than October 2013.

Scotland and Northern Ireland

265 Much was made initially of FAPS ability to bring Scotland and Northern Ireland into their approach to lead authority – Primary Authority has limited applicability outside England and Wales.

266 However, the position vis a vis fire safety is now much simplified – Scotland and Northern Ireland each now has a single FRS – and we see no particular reason why a national Service that could be persuaded to engage with one scheme could not equally be persuaded to engage with the other on the same or a similar basis.

9 Conclusions

Introduction

267 The task for this evaluation was to come to a view on whether some form of lead authority arrangement is a practical proposition for fire safety and, if it is, which of the piloted approaches appears to be the most (or to have the best chance of being the most) effective, working to the benefit of all concerned – the public, businesses, FRAs and FRSs.

Is 'lead authority' practical for fire safety?

268 In relation to the first question – is some form of lead authority arrangement a practical proposition for fire safety – the conclusion to be drawn from the pilots is that it is.

269 During the course of each visit to the partnerships, businesses and FRSs were asked whether there was anything fundamentally different about fire safety that makes it difficult to imagine a lead authority approach working for this area of regulated activity: the response was an overwhelming 'No'.

270 The pilot has certainly had an impact in terms of addressing any concerns that the fire and rescue service community might have had in this regard; there were far more doubts about whether fire safety was an appropriate area for some form of 'lead authority' arrangement at the start of the pilots than there are at the end.

FAPS or Primary Authority?

271 Because the pilot arrangements require (in the case of Primary Authority) or promise (in the case of FAPS) that all FRSs will engage, they are both considered to be better ways forward than the voluntary alternatives currently available, offering potentially significant benefits to businesses and, at worst, having a neutral impact on most FRSs.

272 Both FAPS and Primary Authority represent credible ways forward. However, Primary Authority:

- Has largely addressed the concerns that some in the fire and rescue service community had
- Has significant support, in particular from the businesses engaged in the pilot but also from many FRSs
- Is immediately available – FAPS would require further development work
- Offers consistency with other regulatory areas
- Guarantees that all services will engage – no one can opt out; there is no need to plead for recalcitrant services to join (and stay) in; all services are treated equally. All of these are potentially areas of risk under FAPS.

273 Given this, to be preferred we suggest that FAPS would need to offer significant advantages over Primary Authority – we are not persuaded that such advantages exist. Indeed, as the pilot has progressed FAPS and Primary Authority have become largely indistinguishable.

You have a perfectly acceptable scheme [Primary Authority] with a Government-supported infrastructure; why would you set up something else that basically does the same thing and that the sector would have to fund? [FRS in the Primary Authority pilot]

- 274 If you are persuaded that some form of lead authority arrangement should now apply for fire safety – and on the basis of the evidence from the pilots you should be – then the evidence suggests that you should choose Primary Authority.

We have a definite preference for Primary Authority – it provides a ready-made solution that is fit for fire safety purposes and we doubt that CFOA has the resource to run an 'equivalent' scheme. [FRS and business in FAPS pilot]

Lessons to be learned from FAPS

- 275 However, the pilots also suggest that there are elements from FAPS that could improve Primary Authority in a fire safety context – for example:
- The CFOA On-line Community – this was open to all (FAPS and Primary Authority; FRSs and businesses) to join during the pilot and has been widely praised as a means through which to share documentation prior to publication and, more generally, as a means of communication. It is seen as more user friendly than the IT system used by Primary Authority (though this is currently being re-designed)
 - A process for reviewing Primary Authority Advice prior to publication – comments on the advice produced under the pilot and the FAPS arbitration process have both shown the value that could be brought to the process by some form of peer review; more generally comments made to us indicated that there would be support from the FRSs for such a review process to be available
 - Advice template – something that is more fire safety-specific, along the lines discussed in Section 2 would add value
 - Dispute resolution – CFOA's technical input would be required in the determination process for resolving disputes around Assured Advice.
- 276 There are other areas for development that might make Primary Authority work better in a fire safety context – for example:
- The Primary Authority partnership agreement – there is now a standard format that all partnerships will be required to use, however our understanding is that this can be added to (either in the agreement itself or as an annex to the agreement): this will enable services to cover the wider range of fire safety issues in their relationship with their business partners that many services would want to develop a part of any partnership (fire safety awareness/safer community campaigns; retained fire fighter recruitment etc.)
 - Notification – possibly through the CFOA On-line community – of 'approaches for a partnership that we have turned down' or more broad-brush guidance on 'sectors/type of organisation that we have concerns about giving Primary Authority to'. For example, if one service has been approached by and explored the possibility of partnering with a business and identified concerns then it is probable that other services would come to a similar conclusion if approached; a means of sharing these concerns between FRSs may be helpful
 - As the scheme develops, links to CFRMIS (or the local equivalent) to provide ready access for inspecting officers to information on premises in their area that are occupied by businesses that have a primary authority partnership in place
 - Links to the competency framework for protection officers currently being developed by CFOA.

Conclusion

- 277 The evidence from the evaluation suggests that:

Evaluation of the pilots to extend Primary Authority to Fire Safety

- Fire safety is an appropriate regulatory area for the introduction of some form of lead authority arrangement
- Both FAPS and Primary Authority are viable ways of introducing lead authority arrangements for fire safety
- Of the alternative schemes on offer, we are not persuaded that FAPS offers sufficient and sufficiently clear advantages over Primary Authority
- It is far from clear that all FRAs would sign up to FAPS and that all would contribute to the infrastructure costs that would be incurred from running a separate scheme that, to all intents and purposes, looked like Primary Authority.

278 Our conclusion is that Primary Authority therefore represents the most sensible way forward.

279 However, there are elements from FAPS that could improve Primary Authority in a fire safety context

A1 Pilot partnerships

Evaluation of the pilots to extend Primary Authority to Fire Safety

FRS engaged in the non-statutory pilot (FAPS)	Experience as 'lead authority' under other arrangements ²¹	FRS engaged in the statutory pilot (Primary Authority)	Partner business(es)	Current/recent engagement with other 'lead authority' arrangements ²²
West Midlands	RAFKAP		Marks and Spencer	Primary Authority and RAFKAP
			Nationwide	None
Hampshire	RAFKAP		Home Retail Group	Primary Authority and RAFKAP
			B&Q	Primary Authority
Surrey	None		MRH (Development Co.)	Primary Authority
Bedfordshire	None		Moto Hospitality	Primary Authority
Greater Manchester	RAFKAP and Primary Authority		McDonalds	None
Essex	None		Royal Mail	None

²¹ FRSs may currently be involved in Primary Authority as a primary authority for petroleum licensing and explosives licensing. The table only records instances where the FRS is the primary authority; it does not record instances where, in the case of a County FRS, another part of the local authority may perform the primary authority role for these regulatory areas.

²² This could be for fire safety (through RAFKAP) or for any of the regulated areas currently in scope for Primary Authority.

Evaluation of the pilots to extend Primary Authority to Fire Safety

FRS engaged in the non-statutory pilot (FAPS)	Experience as 'lead authority' under other arrangements ²¹	FRS engaged in the statutory pilot (Primary Authority)	Partner business(es)	Current/recent engagement with other 'lead authority' arrangements ²²
Staffordshire	None		BUPA	None
	None	Hertfordshire	Tesco	Primary Authority and RAFKAP
	None	Nottinghamshire	Boots	Primary Authority
	LGR and Primary Authority	Tyne and Wear	Sainsbury's	Primary Authority
	LGR	Leicestershire	Travelodge	Primary Authority and LGR
	RAFKAP and Primary Authority	London Fire Brigade	SSP Ltd	None
			Enterprise Inns	Primary Authority
	RAFKAP	West Yorkshire	ASDA	Primary Authority and RAFKAP
	None	Cornwall	St Austell Brewery	None
	None	Merseyside	Ladbrokes	Primary Authority
			Superdrug	Primary Authority

Evaluation of the pilots to extend Primary Authority to Fire Safety

FRS engaged in the non-statutory pilot (FAPS)	Experience as 'lead authority' under other arrangements²¹	FRS engaged in the statutory pilot (Primary Authority)	Partner business(es)	Current/recent engagement with other 'lead authority' arrangements²²
South Yorkshire	None			N/A – these services engaged in the pilot as enforcing authorities only
East Sussex	None			
	None	Devon & Somerset		
	None	Shropshire		

A2 Interview checklist – early visits

Proposed questions for businesses and their FRS partners

The questions below are designed to be used in the first round of (mainly) joint meetings with businesses and their FRS partners involved in the pilots. Unless otherwise indicated, questions can be asked jointly to both parties (the parties may, of course, have different views about the answers).

The questions may from time to time need to be phrased/read slightly differently according as to whether the pilot is a statutory or FAPS pilot (for instance, in referring to the supporting IT, where the two pilots use different systems). For ease of reading these differences of phrasing are left to the interviewer/interviewee and are not spelt out here.

There are references to “statutory underpinning” in the discussion of the differences between the two pilots. Obviously there is not, at this present time, any *de facto* statutory underpinning for the “statutory pilot”. But it is being run as if there were.

As a result of their work on the interim evaluation of Primary Authority, acl has some knowledge about the working of PA more generally and, depending amongst other things on the timing of your interview, will be able to share this knowledge if it helps interviewees answer the questions or aids the discussion.

Background

Briefly outline the nature of the business and any key issues in relation to Fire Safety.

Experience of current (non-pilot) arrangements

Outside the Fire Safety pilots, which other lead authority arrangements do you have experience/knowledge of and in respect of which regulated areas?

Based on your previous knowledge/experience, what conclusions do you draw about lead authority arrangements – both in general and more specifically in terms of how they might operate in a Fire Safety context?

Establishing the pilot

Tell us the history of how your two organisations became involved in this partnership. Who approached whom? Were any other partners considered? Did you consider engaging in the pilots through the other model – i.e. not the one you are piloting?

What objectives do you have for the partnership during the course of the pilot? Where have these been formally articulated/set down? How is progress against them being monitored?

Tell us about the charging arrangements for this partnership. How were they determined? If no charge is currently made, why is this? If you have other PA partnerships in place, do you charge/are you charged? If the scheme progressed beyond pilot stage, would you consider/recommend a charging regime, and if so what might it look like?

Experiences to date

Have you issued (or do you intend to issue over the course of the pilot) any assured advice and/or inspection plans? What areas are covered? Why these areas? Based on your experience, what are your views of this (these) aspect(s) of the pilot?

Which FRSs have you been involved with so far in their role as enforcing authorities? How has this relationship worked in practice?

What regulatory-related activities have been handled by/gone through the partnership to date?

Have you made use of the supporting IT system? If so, what are your views of it? What (if anything) more would you require of it if it is to provide adequate support for lead authority arrangements in Fire Safety going forward?

Were there any specific areas of concerns in respect of the current regulatory approach to Fire Safety that you hoped the pilot might address/mitigate? How are matters progressing in respect of these areas?

Early evidence of impact

At this early stage, do you have any evidence of the arrangements having a beneficial impact – either in terms of the claimed benefits of PA (reduction in instances of contradictory advice; more effective use of resources; less duplication of effort) and/or in other ways?

and

Are there any specific instances where the partnership arrangements appear not to be “working” and/or to be developing in such a way that you fear the benefits you expected may not materialise? How can the model be adapted to ensure that such matters are better addressed going forward?

To date, what evidence do you have of the impact the pilot has had on local FRSs and their relationships with business at a local level?

In which ways has the “pilot” way of doing things led to specific improvements that would not otherwise have been achieved? Could we have arrived at the same point in any other way(s)?

Based on what you have seen, at the moment do you have any areas of concern that should be addressed if a decision is taken to roll out this pilot?

For FRSs. Have you discovered, or had reported to you any instances:

Of conflict with safety management principles?

Where differing views of legislation or regulation could not be easily resolved?

Of conflict between the partnership and the local level?

Are you getting: more feedback from enforcing authorities; better quality feedback; feedback you can make better use of? At this stage do you see any more evidence to suggest that findings from regulatory activities might have more of an impact on what the business does?

Expectations for the future

What benefits do you hope will flow from the pilot? If your pilot was rolled out broadly “as is”, based on your experience of the pilot to date, to what extent do you expect these benefits to be realised in the future?

Did or do you now foresee any drawbacks from/downsides to the pilot arrangements, any “prices to be paid” (including any knock-on effects on other aspects of the service)?

What is your view of the arrangements for resolving areas of disagreement between the lead and other authorities proposed for your pilot? If tested, how would they perform? Can you foresee any issues/scenarios that they would struggle to cope with?

Costs and benefits

Can you quantify the costs of participation in the pilot – at this stage particularly in relation to costs incurred in setting-up the pilot?

To the extent that they are identifiable (or can be anticipated) at this stage, on-going operational costs are also of interest to us. Do you have any evidence of the on-going costs of operating lead authority arrangements?

Other issues

For statutory pilots. In particular, to what extent would voluntary arrangements (without statutory underpinning) have provided the same advantages/avoided any of the drawbacks? Does being statutory appear to create any risks/inflexibilities and/or bring any benefits?

For FAPS pilots. In particular, does the lack of statutory underpinning in any way hamper (and/or help) what the FAPS model has been able to achieve? Have some benefits been missed (or only been realised) as a result of the lack of statutory underpinning? Does not being statutory appear to create any risks/inflexibilities and/or bring any benefits?

On balance at the moment are you satisfied or dissatisfied with your pilot? Would you recommend that other businesses in a similar position establish a partnership for Fire Safety with their FRS, if the opportunity for them to do so subsequently became available?

For FRSs. Would you actively seek to establish partnerships with other businesses if the model were rolled out nationally?

At this stage in the pilot, do you have an opinion on whether your pilot should move to being nationally available? Can you envisage both statutory and voluntary options being available or in your view is it an “either/or” situation?

At this stage, do you have any doubts as to whether the regulation of fire safety is a suitable field for the introduction of any form of “lead authority” type of arrangement? If so, what are your doubts?

What improvements could you suggest that would enhance its impact if it were to be rolled out nationally?

To the extent that you are clear about what is involved, what is your opinion of the other pilot arrangements that are being run and evaluated in parallel to your own approach?

Proposed questions for enforcing authorities (including lead authorities in the pilots in their role as enforcing authorities for other partnerships in their pilots)

The questions below are designed to be used in the first round of interviews with FRSs in their role as enforcing authorities for the Fire Safety pilots – there are two dimensions to this:

- Each model being piloted has two FRSs that are not in a partnership with a business but are involved in the pilot solely in an enforcing authority role
- All those FRSs that are in a partnership with a business are also acting as enforcing authorities for the other partnerships in their pilot – for example Nottinghamshire FRS has a primary authority role in relation to its pilot partnership with Boots The Chemist but also has an enforcing authority role to play for each of the other pilots trialling the statutory PA model (Herts., Tyne & Wear, Leicestershire, London, West Yorks., Cornwall and Merseyside).

The questions may from time to time need to be phrased/read slightly differently according as to whether the pilot is a statutory or FAPS pilot (for instance, in referring to IT systems where the two pilots use different systems). For ease of reading these differences of phrasing are left to the interviewer/interviewee and are not spelt out here.

There are references to “statutory underpinning” in the discussion of the differences between the two pilots. Obviously there is not, at this present time, any *de facto* statutory underpinning for the “statutory pilot”. But it is being run as if there were.

As a result of their work on the interim evaluation of Primary Authority, acl has some knowledge about the working of PA more generally and, depending amongst other things on the timing of your interview, will be able to share this knowledge if it helps interviewees answer the questions or aids the discussion.

As far as possible, we would like you to bear in mind when answering our questions that should the pilot (either version) be rolled out, enforcing authorities would no longer be volunteers but would be *obliged* or *required* to respect any partnership that involved business premises in their geographical area.

What experience of other forms of lead authority arrangements (e.g. PA, Home Authority, RAFKAP) not necessarily in the field of Fire Safety do you have?

How do the pilot arrangements for Fire Safety compare to these arrangements?

Is there anything fundamentally different about fire safety that makes it difficult to imagine a lead authority approach working for this area of regulated activity?

Can you please talk us through the range of interactions you have had acting as an enforcing authority for your pilot’s lead authority partnerships.

How have these interactions differed from what would have happened had the pilot not been in place:

Was the process faster or slower in elapsed time terms?

Did it involve you and your colleagues in more, or less work?

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Was it simpler or more complex? Was it necessary to involve a wider range of colleagues?

If you needed to liaise with your colleagues or refer to any advice, guidance and/or documentation that they produced, how easy was this to do?

Were you inhibited from saying or doing anything you would otherwise have said or done?

If an inspection plan and/or assured advice is in place, what did you think of the content (was it reasonable in the circumstances et.) and what impact did it/they have on the work you carried out (e.g. was it possible to apply it consistently)?

What do you think of any other guidance or non-assured advice given to you by lead authorities in your pilot?

Based on what you have seen to date, how comfortable are you taking advice from another FRS that might impinge on the work you do with businesses in your area?

How has the pilot affected the relationship between you and the businesses involved in the pilot at a local level – the activities you carried out; what you looked at; how you allocate resources etc.?

More generally, what benefits do you think the pilot has brought so far? A number of the benefits claimed for PA more generally are listed below: can you see any evidence of them here? Can you add to the list? Are any of particular importance from an enforcing authority perspective?

A reduction in “wasted” resource – if so in what field and by which party?

A reduction in duplicated effort – who benefits from this reduction?

An overall improvement in the level of confidence in the system?

More effective use of your/others' time?

Are there any drawbacks/downsides of the pilot from an enforcing authority point of view? What are they? Are you at all concerned, for example, about

The impact of a lead authority arrangement on your local decision-making and relationships

Any conflict between the need to maintain consistency across a partnership and fire safety management principles and operational practice at a local level

Any delays that might be introduced into the system by the need to consult

Any potential for conflicts between a local enforcing authority view, based on local knowledge, and agreements formed between the business “HQ” and the lead authority?

Whether any disputes that arise can be successfully resolved by the means provided in your pilot?

Are there any specific instances where partnership arrangements appear not to have “worked” from your perspective? What were the circumstances? How can the model be adapted to ensure that such matters are better addressed going forward?

Evaluation of the pilots to extend Primary Authority to Fire Safety

The theory is that what enforcing authorities incur in terms of any additional costs incurred are offset by benefits/savings derived from lead authority arrangements under the pilot (in essence through better-directed enforcement activity)? Does your experience to date support this?

What impact has the pilot had on how you deploy your resources?

Would an FRS that found itself in an enforcing authority-only role be in any difficulties or at any disadvantage, either financially or otherwise?

What improvements could you suggest (at this stage in the pilot) to arrangements within your pilot that would improve it and/or increase its impact if it was rolled out nationally?

To the extent that you are clear about what is involved, what concerns do you have about the other pilot arrangements that are being run and evaluated in parallel to your own?

A3 Interview checklist – late visits

Proposed questions for businesses and their FRS partners

The questions below are designed to be used in the second round of (mainly) joint meetings with businesses and their FRS partners involved in the pilots. Unless otherwise indicated, questions can again be asked jointly to both parties (the parties may, of course, have different views about the answers).

As before, the questions may from time to time need to be phrased/read slightly differently according as to whether the pilot is a statutory or FAPS pilot. For ease of reading these differences of phrasing are left to the interviewer/interviewee and are not spelt out here.

We continue to refer to “statutory underpinning” in the discussion of the differences between the two pilots, following the convention we used in our first round of interviews. We acknowledge that there is not at this present time any *de jure* statutory underpinning for the “statutory pilot”.

Many of these questions will be familiar from the first round of interviews: this is deliberate and reflects the fact that operational experiences of the pilots were limited. However, and to avoid confusion, when we ask for experiences, outcomes, etc. we are usually asking for a full summary of experiences since the pilot began, and not just since we last met.

In addition to the issues below, the interviewers will refer back to the first discussion and explore points specific to each partnership arising from these discussions.

Briefly summarise the partnership activity that has taken place since we last met. Are you happy with the progress that has been made?

The achievements of the Pilot

How has the partnership operated in practice? How could this be improved?

How have the objectives for the partnership evolved or developed over the course of the pilot? Are they now formally articulated/set down?

Reviewing the specific areas of concern in respect of the current regulatory approach to Fire Safety that you hoped the pilot might address/mitigate, what progress has been made to date?

Is there a contract in place/available in draft? If not, is one anticipated? What does/will it cover? Were there any difficulties in negotiating it?

Now that the Pilot is more or less complete, has your partnership produced (is it considering issuing) or made:

Informal advice or additional information.

Any Assured Advice (for FAPS, Assured Information) that has been issued.

Any progress towards Inspection Plans.

For each of these, what is covered?

Which FRSs have you been involved with in their role as enforcing authorities? How has this relationship worked in practice?

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What regulatory-related activities have been handled by/gone through the partnership to date? What about informal contacts rather than/in addition to “compliance” activities?

What use have you made of the supporting IT systems? What (if anything) more would you now require of it if it is to provide adequate support for lead authority arrangements in Fire Safety assuming these are approved by Ministers?

What is your view of the arrangements for resolving areas of disagreement between the lead and other authorities proposed for your pilot?

Evidence of impact

What evidence do you now have of the arrangements having a beneficial impact?

In which ways has the “pilot” way of doing things led to specific improvements that would not otherwise have been achieved? Could we have arrived at the same point in any other way(s), perhaps over a longer time period?

Have there been any specific instances where the partnership arrangements appear not to have worked, or not to have yielded the benefits you expected?

What impact, if any, has the pilot had on local FRSs (i.e. in their role as enforcing authorities) and their relationships with the business at a local level?

For FRSs. Have you discovered, or had reported to you any instances:

Of conflict with safety management principles?

Where differing views of legislation or regulation could not be easily resolved?

Of conflict between the partnership and the local level?

For FRSs. Are you specifically concerned about any of the following issues:

Possible confusion over the definition of “responsible person” where advice (Assured or otherwise) has been given by a lead authority

Possible conflicts between inspection plans and local FRSs’ approach to IRMP

Potential impacts of inspection plans on fire fighter safety (arising, for instance, were an inspection plan, through restricting the extent of an inspection, to reduce the amount of information available to a local FRS)

Potential impacts of inspection plans in terms of giving direction to other FRSs on how they should use their resources?

Any effects of lead authority arrangements on the fire safety audit (Part A and/or Part B) or on the ability of operational crews to make familiarisation visits to employers’ premises?

Costs and benefits

Can you quantify the costs of participation in the pilot? To what extent do the charging arrangements (if any) cover the FRS's costs – or are there additional (setup or on-going) costs that are in effect not being charged for? Apart from meeting the charge requested, are there staff or other costs (start-up or on-going) that fall on the business?

If the scheme progresses beyond pilot stage, how would you change the current charging arrangements?

Can you (even notionally) put a value on the benefits derived from the pilot? Do the benefits, *to you*, justify the costs?

What, if any, difficulties do you anticipate having in justifying continued participation in the partnership to senior management in the FRS or the business?

The two pilots

The two pilots differ in a number of ways. From where you are, in your particular pilot (FAPS or Statutory), what is your view on:

The value, or the drawbacks, of statutory underpinning

The extent to which benefits could be achieved under the CFOA model

What might be lost and/or gained from a FAPS-based scheme

The importance of the role that BRDO would play in a statutory scheme – and the extent to which CFOA could (or should) mirror this role if the FAPS model is taken forward

The extent to which colleagues (both businesses and FRSs) in Scotland and Northern Ireland could collaborate with either a statutory or a FAPS scheme, and the importance of this.

Would you recommend that Fire Safety partnerships be made available to all eligible businesses following the conclusion of the pilot?

If the Secretary of State approves “the other” pilot, would this affect your decision to continue with a “lead authority” arrangement for Fire Safety?

Would you recommend that other businesses in a similar position establish a partnership for Fire Safety with an FRS?

What, if any, doubts do you have as to whether the regulation of fire safety is a suitable field for the introduction of “lead authority” arrangements?

The future

What intentions do you have for the period immediately after the pilot? Will you continue with your current working arrangements to the extent you are able to do so, regardless of the decision of the Secretary of State?

For FRSs. Would you actively seek to establish partnerships with other businesses if the model were rolled out nationally?

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For FRSs. If a decision was taken to introduce either FAPS or Primary Authority, when would the wider fire service be ready for the national launch of such a scheme and what activity would need to take place between now and then to ensure that any launch was successful?

What improvements could you suggest that would enhance the impact of partnership schemes in Fire Safety if they are to be rolled out nationally?

How do you see the partnership developing in the medium term – say the next three years? Can you foresee a point at which “lead authority” for Fire Safety will no longer be necessary for you?

Based on your experiences, do you have any areas of concern that should be addressed if a decision is taken to roll out this pilot?

Proposed questions for enforcing authorities (including lead authorities in the pilots in their role as enforcing authorities for other partnerships in their pilots)

The questions below are designed to be used in the second round of interviews with FRSs in their role as enforcing authorities for the Fire Safety pilots – there are two dimensions to this:

Each model being piloted has two FRSs that are not in a partnership with a business but are involved in the pilot solely in an enforcing authority role

All those FRSs that are in a partnership with a business are also acting as enforcing authorities for the other partnerships in their pilot. We continue to refer to “statutory underpinning” in the discussion of the differences between the two pilots, following the convention we used in our first round of interviews. We acknowledge that there is not at this present time any *de jure* statutory underpinning for the “statutory pilot”.

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Many of these questions will be familiar from the first round of interviews: this is deliberate and reflects the fact that operational experiences of the pilots were limited. However, and to avoid confusion, when we ask for experiences, outcomes, etc. we are usually asking for a full summary of experiences since the pilot began, and not just since we last met.

In addition to the issues below, the interviewers will refer back to the first discussion and explore points specific to each partnership arising from these discussions.

As far as possible, we would like you to bear in mind when answering our questions that should the pilot (either version) be rolled out, enforcing authorities would no longer be volunteers but would be *obliged* or *required* to respect any partnership that involved business premises in their geographical area.

Briefly summarise the partnership activity that has taken place since we last met. Are you happy with the progress that has been made?

The enforcing authority context

Can you talk us through the complete range of interactions you have had acting as an enforcing authority for your pilot’s lead authority partnerships.

How have these interactions differed from what would have happened had the pilot not been in place?

Have you had drawn to your attention any:

Informal advice or additional information issued by the “lead authority” FRS to one of the pilot businesses?

Assured Advice (for FAPS, Assured Information)

Inspection Plans?

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What do you think of the content of any of these (was it reasonable in the circumstances etc.) and what impact did it/they have on the work you carried out (e.g. was it possible to apply it consistently)?

How comfortable have you been/would you be taking advice from another FRS that might impinge on the work you do with businesses in your area?

How has the pilot affected the relationship between you and the businesses involved in the pilot at a local level?

Costs and benefits of partnership arrangements in Fire Safety

Can you see any evidence of the benefits claimed for Primary Authority in your pilot:

Improved understanding of the business and its issues by the "lead authority" FRS, who is in turn better able to brief enforcing authorities

Improved understanding of fire safety issues by the business

Availability of informal advice and guidance to the business

Reductions in (unnecessary) expenditure on fire safety

More effective use of resources by businesses in other ways

More effective use of resources by FRSs

Reductions in instances of (potentially contradictory) advice being given to businesses by different FRSs

Enforcing authority queries being handled by the FRS on the business's behalf

Better lines of communication between FRSs and the business

Action being taken by the business more promptly, or more effectively, following concerns raised by you

An overall improvement in the level of confidence in the system?

Are there any drawbacks/downsides of the pilot from an enforcing authority point of view? Are you at all concerned, for example, about

The impact of a lead authority arrangement on your local decision-making and relationships

Any conflict between the need to maintain consistency across a partnership and fire safety management principles and operational practice at a local level

Any delays that might be introduced into the system

Any potential for conflicts between a local enforcing authority view and agreements formed between the business "HQ" and the lead authority

Diversion of experienced staff to work with generally low risk businesses

Whether any disputes that arise can be successfully resolved?

Are you specifically concerned about any of the following issues:

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Possible confusion over the definition of “responsible person” where advice (Assured or otherwise) has been given by a lead authority

Potential impacts of inspection plans on fire fighter safety

Possible conflicts between inspection plans and your IRMP

Potential impacts on the fire safety audit (Part A and/or Part B) or on the ability of operational crews to make familiarisation visits to employers’ premises?

Needing to invest more time that you would otherwise do in routine engagement with a low risk business, in order to “support” the partnership locally?

Are there any specific instances where partnership arrangements appear not to have “worked” from your perspective?

Based on your experience of the pilot, is there anything fundamentally different about fire safety that makes it difficult to imagine a lead authority approach working for this area of regulated activity?

Does your experience to date support the theory that any additional costs incurred by enforcing authorities are offset by benefits/savings derived from lead authority arrangements under the pilot (in essence through better-directed enforcement activity)?

The two pilots and the future

The two pilots differ in a number of ways. From where you are, in your particular pilot (FAPS or Statutory), what is your view on:

The value, or the drawbacks, of statutory underpinning

The extent to which benefits could be achieved under the CFOA model

What might be lost and/or gained from a FAPS-based scheme

The role that BRDO would play in a statutory scheme – and the extent to which CFOA could or should mirror this role if the FAPS model is taken forward

The extent to which colleagues (both businesses and FRSs) in Scotland and Northern Ireland could collaborate with either a statutory or a FAPS scheme, and the importance of this.

From what you have seen so far, would you consider becoming a lead authority for a Fire Safety pilot in your own right if a scheme is rolled out nationally? Would it depend at all on which model (Statutory or FAPS) was chosen?

What improvements could you suggest to arrangements within your pilot that would improve it and/or increase its impact if it was rolled out nationally?

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