



Department for  
Communities and  
Local Government

# Protocol on Government intervention action on fire and rescue authorities in England

Summary of responses

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## Introduction

The consultation paper on the '*Protocol on Government intervention action on fire and rescue authorities in England*' was published on 20 September 2012. It invited comments by 15 November 2012.

A total of thirty five consultation responses were received. The majority (80%) of these were from fire and rescue authorities, and the rest were from other local authorities, professional bodies, representative organisations and individuals.

This document provides a summary of the responses received, together with a Government response (included in italics). It is not the intention of the document to repeat the content of the draft protocol, although reference may be made, if necessary, in the context of a particular point.

## Overview of responses

The consultation paper invited comments on a range of areas within the draft protocol. The aim of the consultation was to seek views on:

- whether the protocol was sufficiently clear about the respective roles of the Government and fire and rescue authorities in the event of intervention by the Secretary of State
- whether there was anything that respondents would change
- whether there was anything not included in the protocol that should be added

Several authorities questioned the purpose of the protocol, with some noting the intervention arrangements set out in the Local Government Act 1999 and/or Local Government Accountability Statement. Conversely, others concluded that it was a practical and proportionate response which recognised the need for a more localist approach.

*The intervention protocol is produced because there is a requirement, under section 23 of the Fire and Rescue Services Act 2004, for the Secretary of State to prepare a protocol about the exercise of his power of intervention, and for the Secretary of State to have regard to that protocol before exercising his power.*

Further detail on the specific questions asked in the consultation is set out in the paragraphs below.

## Responses to consultation questions

### Question 1

**Does the draft protocol clearly set out what is expected of the Government and fire and rescue authorities in their respective roles in the event of intervention by the Secretary of State?**

Most of the respondents considered that the protocol was clear. There were some suggestions of areas where further clarification could be useful, such as definitions of: 'normal services'; 'statutory intervention'; 'risk'; 'urgent action'; 'sustained and determined attempt'; and 'functions'.

There were also queries on whether the actions that might trigger the need for intervention should be considered as sequential or not.

*Where appropriate, we have given further clarification to aid definition of certain terms. We have not sought to define which specific actions may trigger intervention, or whether such actions would be sequential, since decisions on intervention will be made on a case to case basis, with the input of the appropriate partners and taking into account any relevant information.*

Some respondents asked for uniformity of language and expectations between the protocol, the Fire and Rescue National Framework for England, the Fire and Rescue Services Act 2004 and the Local Government Act 1999. A couple of respondents suggested that the requirement for a protocol, as set out in sections 22 and 23 of the Fire and Rescue Services Act 2004, should be removed.

*The protocol text has been amended where relevant to ensure consistency with Fire and Rescue National Framework for England and the Fire and Rescue Services Act 2004, and any other relevant legislation.*

There was also some uncertainty among respondents on the role of the Chief Fire and Rescue Advisor.

*The role of the Chief Fire and Rescue Adviser, as an appointed Her Majesty's Inspector, is set out in section 28 of the Fire and Rescue Services Act 2004. We have stated that ministers may ask the Chief Fire and Rescue Adviser, as an appointed HM Inspector, to lead an investigation if there are concerns regarding operational performance. Ministers may also seek assurance from the Chief Fire and Rescue Adviser (or other advisers) in respect of specific issues that they may identify.*

## **Question 2**

### **Is there anything you would change?**

It was proposed by several respondents that the protocol should recognise the specific governance differences between the types of fire and rescue authorities – i.e. between combined fire authorities, metropolitan authorities and county fire authorities – and between the different issues which arise in each type of authority should intervention be deemed necessary.

*We acknowledge that there are significant governance differences between the various types of authority. We have revised the protocol so that differences in governance structures are better accommodated but, in order to retain consistency in the treatment of authorities, we have not sought to differentiate between them.*

There were a number of comments regarding the roles of key partners in the process. A few respondents asked for greater clarity on who would determine whether a fire and rescue authority was “unwilling or unable to engage with sector-led improvement measures” following attempts to resolve problems.

Also, a small number of respondents considered that there should be further detail on the role of the Local Government Association in working with authorities to help address issues and improve performance. Some respondents noted that the protocol did not reflect the role of the Chief Fire Officers Association in the process. Another respondent queried how the views of individuals could be taken into account.

*One of the main aims of the protocol is to set out those whom the Secretary of State would consult before exercising his power of intervention. The protocol has been amended to incorporate the valuable role played by the professional leadership. However, the broad objective of the protocol is to set out the strategic expectations and enable the authorities, relevant partners, and Government to adopt a bespoke approach as appropriate. In short, it does not describe every potential scenario nor set out the procedure to be followed for every case, as this will vary depending on individual circumstances.*

### **Question 3**

#### **Is there anything not included in the protocol that should be added?**

Some respondents suggested that the provision and management of resources in the event of an intervention by the Secretary of State should be referenced in the protocol.

A couple of respondents noted that there was an opportunity to make more explicit links and references to the statements of assurance.

*There is no link between the intervention protocol and the statements of assurance, as these documents address unrelated issues.*

#### **Other comments**

A few respondents noted that there was no reference to how measures/interventions could be applied to other Category 1 and 2 responders as set out in the Civil Contingencies Act 2004, where expectations of resilience could impact on performance of fire and rescue authorities.

*The protocol applies only to fire and rescue authorities in England.*

There was some reference to further detail on information sharing arrangements, with one respondent noting that there needed to be a central repository of performance information to help increase public and external partner’s wider confidence.

*We would encourage the sector or individual organisations to collaborate if they consider there is a need for central information sharing arrangements.*