



Department for
Communities and
Local Government

Protocol on government intervention action on fire and rescue authorities in England

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Introduction

1. It is a requirement under section 23 of the Fire and Rescue Services Act 2004 (the 2004 Act) that an intervention protocol be prepared, and for the Secretary of State¹ to have regard to it in the exercise of his power of intervention.
2. Intervention is by order, subject to the negative Parliamentary procedure, and can only be made if the Secretary of State considers it would promote public safety, the economy, efficiency and effectiveness of the relevant fire authority, or the services it provides. The Secretary of State's order-making powers under section 22 are to ensure that fire and rescue authorities act in accordance with the *Fire and Rescue Framework for England* (the Framework).
3. To date there has been no formal intervention in the operations of a fire and rescue authority by the Secretary of State. Use of this power is seen as a last resort. The expectation is that the political and professional leadership will put in place processes to ensure that sector-led support is provided to any fire and rescue authority that needs it.
4. This intervention protocol (the protocol) broadly sets out the arrangements between the Secretary of State, the Local Government Association and fire and rescue authorities should formal intervention be considered necessary.
5. This protocol recognises the vital role of the Local Government Association, often in partnership with the relevant professional body, in maintaining an overview of performance in the sector and enabling preventative improvement. This echoes arrangements in place for the wider local government sector.
6. In this protocol the term 'intervention' is used to refer to action by the Secretary of State in exercise of his powers under section 22 of the 2004 Act. Although the Secretary of State also has other powers of intervention (for example, under section 15 of the Local Government Act 1999) this protocol does not apply to an intervention under those powers.

Role of the Local Government Association in supporting authorities at risk

7. The Local Government Association will, as part of their challenge and intelligence role, work collaboratively with key bodies² to identify at an early stage serious risks to performance or the requirement to act in accordance with the Framework. The Local Government Association will work with these bodies to prevent the escalation of those risks to avoid any negative impact on the reputation of the sector.
8. If there are specific concerns in respect of performance, or if there is evidence that indicates a fire and rescue authority is failing, or is at risk of failing, to act in

¹ Secretary of State for Communities and Local Government

² This could refer to fire and rescue authorities, the relevant professional leadership, other sector-owned bodies, inspection bodies, and/or Government Departments

accordance with the Framework, the Local Government Association will work with the authority to help them address the issues and improve.

9. This systematic approach to identifying authorities that could benefit from support, based on data and informal conversations with the sector, is set out in *Sector-led Improvement in Local Government*, published in June 2012.

Circumstances leading to statutory intervention

10. No intervention would be considered unless there was clear evidence that an authority was failing to act in accordance with the Framework, and that the failure was so serious as to require Government intervention.
11. If, following a sustained and determined attempt to resolve problems through sector-led improvement, an issue cannot be resolved, or if a fire and rescue authority is unwilling or unable to engage with sector-led improvement measures, the Secretary of State can commission a corporate governance investigation³, to ensure a robust evidence base.
12. If there are concerns regarding operational performance, ministers may ask the Chief Fire and Rescue Adviser, in his capacity as an appointed Her Majesty's Inspector,⁴ to lead an investigation. Ministers may also seek assurance from the Chief Fire and Rescue Adviser (or other advisers) in respect of specific issues that they may identify.
13. The Secretary of State has a wide range of powers with regard to, for example, requesting information regarding a fire and rescue authority's functions;⁵ or conferring on a fire and rescue authority functions relating to emergencies.⁶

What happens upon statutory intervention?

14. In the event that statutory intervention is considered necessary, the Secretary of State will consult both the authority concerned and the Local Government Association, and any other body or authority which he considers necessary, before exercising his powers of intervention under section 22.
15. The form or extent of any formal intervention will be a matter for determination on a case by case basis, taking into account the views of the Local Government Association, the relevant fire and rescue authority, and any other consultees depending on the nature and the severity of the failure under consideration.
16. Following such deliberations, the Secretary of State may ask the relevant fire and rescue authority to draw up a recovery plan and they may be encouraged to seek help in the development of their plan. The recovery plan will need to consider alternative ways in which services and their delivery might be improved.

³ Section 10 of the Local Government Act 1999

⁴ Section 28 of the 2004 Act

⁵ Section 26 of the 2004 Act

⁶ Section 9 of the 2004 Act