



Home Office

Minimum service levels for fire and rescue services

Government response

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Ministerial Foreword

Fire and rescue services (FRSs) play a crucial role in protecting our communities and ensuring public safety. In the last year, FRSs attended over 600,000 incidents: both fires and non-fire incidents have the potential to threaten life and property, with even small incidents having the potential to become catastrophic.

While the Government recognises that the ability to strike is an important part of Great Britain's industrial relations framework, this needs to be carefully balanced with the rights of the public to access vital services when they need them. It is for this reason that we passed the Strikes (Minimum Service Levels) Act in 2023. Similar legislation exists in a range of countries in Europe and beyond, and the International Labour Organization (an agency of the United Nations) recognises that this is justifiable for services where their interruption would endanger citizens' lives, personal safety, or health. The legislation in Great Britain allows Secretaries of State to make minimum service regulations in six key sectors: these regulations will specify a minimum level of service that is to be met through work notices during industrial action. Regulations setting out minimum service levels for ambulance services, passenger rail, and border security were passed by Parliament in December 2023, with other sectors expected to lay their regulations later this year.

In February 2023, the Home Office launched a consultation on potential approaches for implementing minimum service levels for FRSs during periods of strike action. During the consultation period, officials were also able to engage with the fire and rescue sector to test potential delivery approaches. I am grateful to all the fire and rescue professionals, industry experts, trade unions, other representative groups and members of the public who have taken the time to share their views. Your input has been invaluable in supporting the development of a robust, proportionate and practical approach to minimum service levels for fire and rescue services.

The model that the Government has chosen to adopt is designed to enable improved public and firefighter safety on strike days and reduce the impact of major incidents. For firefighters, we have chosen to set a national minimum service level based on appliances,¹ thereby allowing fire and rescue services the appropriate local flexibility to determine the number of staff who should be included on work notices in order to meet the level of service specified in regulations. The regulations also allow FRSs to determine the number of other staff required in order to ensure access to fire and rescue emergency services is maintained on strike days. This will ensure, for example, that emergency control room calls will be answered, assessed and resources dispatched as appropriate as if it were a non-strike day.

¹ The term 'appliance' in this case refers to fire engines and other vehicles that may attend an incident.

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To ensure that these regulations are fair and proportionate, I recognise that there should be practical measures in place to counter-balance the restriction on the ability to strike. There is sufficient provision within existing national collective bargaining negotiating mechanisms for fire and rescue services, which provide for mandatory arbitration which would usually follow conciliation, where either the employers or employees request it. I consider this provides a practical compensatory measure and would strongly encourage employers to commit to the same measures for local disputes where the relevant unions request these.

Our policy approach to the minimum service level for fire and rescue services is to focus around three key aspects: the control room, emergency incident response and fire safety, which encompasses prevention and protection. Broadly speaking, the consultation responses, including those from the majority of fire and rescue services, were in favour of a nationally set minimum service level but with some degree of local flexibility.

To put this new approach into practice, I will lay regulations in Parliament that will provide the legislative underpinning for the minimum service level. The Government firmly believes that the ability to strike is an important part of industrial relations in Great Britain: however, these regulations will provide fire and rescue services with a useful mechanism through which they can enhance public safety during any future strike action. As one FRA representative noted, 'a MSL will have a positive impact for the communities we serve'.

Introduction and contact details

This document sets out the Government's response to the consultation on minimum service levels for fire and rescue services, which was published by the Home Office in February 2023. It will cover:

- the background to the consultation;
- a summary of the consultation responses;
- detailed responses to the specific questions posed in the consultation and an assessment of the key themes emerging from the responses;
- summaries of specific policy themes that were raised in consultation responses and during engagement;
- policy conclusions; and
- the next steps following the consultation.

Further copies of this report and the consultation paper can be obtained by contacting the Fire Safety Unit at the address below:

**Fire Safety Unit
Home Office
2 Marsham Street
London SW1P 4DF**

Email: FRSminimumservicelevels@homeoffice.gov.uk

This report is also available at <https://www.gov.uk/government/consultations/minimum-service-levels-for-fire-and-rescue-services>

Alternative format versions of this publication can be requested from the email address above.

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Home Office at the above address.

Background

The consultation on minimum service levels for fire and rescue services was launched on 9 February 2023 and ran for 13 weeks, closing on 11 May 2023.² It invited comments on:

- which of the services provided by fire and rescue services (FRSs) should be included in a minimum service level (MSL); and
- the most suitable approach for setting and delivering MSLs for the sector.

Essential services

The regulations setting out the MSL for the fire and rescue sector will need to specify which of the services provided by FRSs will be within the scope of the MSL. Some of these essential services are captured in the Important Public Services (Fire) Regulations 2017³, namely:

- a) “services provided by firefighters in extinguishing fires and protecting life and property in the event of fires; and
- b) services provided by fire and rescue authority personnel in dealing with, and organising a response to, a call made from a telephone or other device to request the services provided by firefighters as mentioned in paragraph (a)”

In the consultation document, we sought views on the proposal that the essential services in scope of an MSL should include but not be limited to:

- firefighting;
- rescues (including but not limited to those on the road network, water rescues or rescues at height). This would include rectifying potentially hazardous situations to avoid future risk of fire and rescue, for example clearance of debris on motorways and major roads;
- dangerous substance clean-up;
- ability to maintain crewing of national resilience assets; and
- services necessary to carry out the above, including, for example, control room activities.

² <https://www.gov.uk/government/consultations/minimum-service-levels-for-fire-and-rescue-services>

³ [The Important Public Services \(Fire\) Regulations 2017 \(legislation.gov.uk\),
https://www.legislation.gov.uk/uksi/2017/134/contents/made](https://www.legislation.gov.uk/uksi/2017/134/contents/made)

Delivery approaches

The consultation document set out five potential options for delivering MSLs. These fell into two broad categories: options based on maintaining a certain percentage level of staffing; and options where the MSL would be shaped to varying degrees by local assessments of risks and priorities. The options set out in the consultation document were:

- 1) Staff who provide essential services listed above must never go below a certain level of attendance in line with business-as-usual levels or around appliance availability;
- 2) staffing levels must be geared to respond to specific risks, including a minimum standard to respond to a major incident;
- 3) local leaders input into what the MSL is for the local FRS, i.e. not a national level but based on local priorities and pressures;
- 4) MSL is in place and set by Secretary of State / Home Office and chief fire officers and their organisation decide specifics for local area; and
- 5) staffing numbers must maintain cover on high-risk days/hours (which could be combined with another MSL option).

The consultation document also noted that it may be appropriate to use elements from different options in combination, for example an approach based on a percentage of staffing (option 1) could be combined with maintaining a higher level of cover on certain days or periods (option 5).

This report summarises the responses to the consultation and sets out how the consultation process influenced the further development and final shape of minimum service levels policy for the sector. During the consultation period we also identified a number of key themes that required more specific research and engagement. These included on-call staffing models, return-to-work agreements, control room functions and national resilience assets. This report will also set out our findings and conclusions in relation to these issues.

The impact assessment accompanying the consultation has been updated to take account of evidence provided by stakeholders during the consultation period and has been published.

Relevant legislation

Strikes (Minimum Service Levels) Act 2023

The Strikes (Minimum Service Levels) Act achieved Royal Assent on 20 July 2023 ('the 2023 Act'). The 2023 Act inserts into the Trade Union and Labour Relations (Consolidation) Act 1992 ('the 1992 Act') a power for relevant secretaries of state to make regulations providing for levels of service where there are strikes in relevant services, which are defined as 'minimum service regulations'.

New section 234B(2) of the 1992 Act provides that minimum service regulations may apply to strikes that take place on any day after they come into force, even if notice of the strike was given on or before that day, or the ballot in respect of the strike was on or before the day on which the 2023 Act came into force. This means that the regulations may apply to all such strikes, regardless of when employers are notified of the strike.

Section 234B(3) provides for a further power for the Secretary of State to specify in regulations the relevant services for which minimum service level regulations may be made. This power to make regulations specifying relevant services is limited to the categories of services listed in section 234B(4), namely:

- health services;
- fire and rescue services;
- education services;
- transport services;
- decommissioning of nuclear installations and management of radioactive waste and spent fuel; and
- border security.

Further provision restricts the protection of trade unions under the 1992 Act from legal action in respect of strikes relating to certain services and the automatic protection of employees from unfair dismissal where provision has been made for minimum levels of service. The services will be prescribed by regulations, following consultation.

There is also provision to enable employers to issue work notices to require the minimum service levels to be delivered for particular strikes in specified services.

Methodology

The consultation was open to any respondents based in Great Britain, including members of the public, unions and other representative groups for the fire and rescue service workforce, operational and political leaders working in the fire and rescue sector, and staff working in the wider fire safety, public safety, and protection sectors.

Responding individuals and organisations could answer as many or as few questions as they wanted, and in some cases provided supplementary narrative. The figures set out in this document represent the total number of consultation responses received, as well as, where possible, the number of responses for each individual question. As respondents were able to skip questions, the total number of responses received in relation to any given question may be lower than the overall number of consultation responses.

Some of the questions prompted respondents to select a level of agreement with particular proposals, some asked for respondents to choose from a range of options, and some allowed respondents to write their response in a free text box. Where possible, the responses received are presented in graph format.

Where open questions were asked or free text boxes provided, or separate narratives were provided in covering letters, all responses were analysed to identify common themes and coded where possible to collate similar views and comments. Key themes or issues are presented to provide a summary of these responses.

While the majority of the consultation responses were submitted via the online survey tool, some were sent to the Home Office via email. Officials manually submitted these via the survey platform to ensure all data could be collated in one place.

All responses received by the closing date have been considered, and this document provides a summary of those responses. The most common themes raised by respondents have been reflected in the summary data set out for each question.

Limitations

Quantifying

All consultation responses were read in detail and analysed. In some instances, comments were made by individuals or organisations that did not fall within a specific theme. These comments have not been included in this document: however, they have been considered during wider policy discussions. Qualitative analysis was not intended to assess the strength of a theme through the number of responses that express a certain view. However, we have endeavoured to provide an indication of the weight of opinion among responses, using words such as ‘many’, ‘some’, ‘several’, or ‘a few’ as well as sometimes

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the number of responses mentioning each view. We would caution against overinterpreting these terms as we received a relatively small number of responses to this consultation.

In some instances, percentages used may not add up to 100%. This is due to rounding and does not mean that we have chosen to exclude any data.

Interpreting the free text boxes

In addition to allowing responding individuals and organisations to indicate the degree to which they supported or opposed each proposal, some consultation questions offered respondents the opportunity to submit free text answers outlining the rationale for their opinions and any further comments they wished to make. However, we have been cautious not to place undue weight on the free text responses. Those who supported the proposals may have been less likely to fill out the free text boxes than those who did not accept the proposals. We have therefore sought to consider the views expressed in the round, taking into account the number of responses in favour or against any given issue, and the quality of any reasoning and evidence presented in support of such responses.

Online survey errors

During the process of analysing the consultation responses, we identified that one question in the online version of the MSL consultation had incorrect answer options provided. This only affected responses that were submitted using the online survey and not those submitted via email.

The issue affected a minority of the respondents to the consultation. Where possible, respondents were given the opportunity to respond in the correct format. We were able to contact six respondents via email to clarify their answers and for those we could not contact, we derived a response.

To do this we developed an approach to derive an indicative response for use in analysis ('tend to agree' / 'neither agree nor disagree' / 'tend to disagree' - avoiding the extremes of the original scale) based on all available evidence. In all but three cases, it was possible to derive an indicative response: therefore, after application of the methodology, the number of responses to the question that were available for analysis increased from 52 to 67 (from 72% to 93% of overall responses).

Engagement during and after the consultation period

During the consultation period, the Home Office engaged with industry experts to help develop the policy options set out in the consultation in greater detail.

Senior leaders from all FRSs in England were invited to attend workshops to discuss their views on the challenges and opportunities posed by the various policy options and how they could be operationalised within services. The Home Office held five of these sessions: three were tailored to focus specifically on the views of fire and rescue services that are classified as significantly rural, predominantly rural or predominantly urban, and the remaining two were designed as open sessions that could be attended by any FRS. Participants at all sessions were encouraged to openly express their views on the proposals.

These sessions helped identify further questions and issues to be considered as part of the overall development of MSL policy. Home Office officials then hosted deep dive sessions to consider each of these issues in greater detail. All FRSs were invited to attend any deep dive sessions that they felt would be especially relevant to them in light of the characteristics of their individual service and its workforce.

The Home Office also held bilateral discussions with FRSs that had questions or concerns that were unique to their individual service and ran sessions with unions representing FRS staff to test their views around proportionality and implementation of different options. All advice was considered and taken on board where possible.

In analysing the consultation responses, we were careful not to put more weight on information provided at the workshops than on content received directly via the consultation document. Additionally, the Chair for each workshop sought to encourage all participants to express their views openly, for points of disagreement to be debated, and for no individual participant or viewpoint to dominate the discussion.

The consultation

The consultation set out one proposal on the scope of the essential services to be included within any MSL for fire and rescue services and five possible approaches for implementing the MSL. Individuals and organisations responding to the consultation were asked a total of 28 questions about these six proposals.

A total of 72 consultation responses were submitted. The majority of English FRSs (38 of 44) submitted some form of response, either a bespoke response or a letter stating that their views aligned with those set out in the response submitted by the National Fire Chiefs Council (NFCC). Responses were also submitted by six trade unions, ten other organisations with a role or interest in fire and rescue provision, six FRS employees and twelve members of the public.

Respondents were asked whether they felt each option would be proportionate and whether it would provide an adequate mitigation of risks during periods of strike action by fire and rescue service staff. Free text questions were also included in order to allow respondents the opportunity to expand on the rationale for their opinions and to detail any benefits or drawbacks they felt that each option would have. Where alternative approaches to the policy options were provided, these have been included in the analysis.

Summary of responses

This section provides a breakdown of the responses received to each question and the Government's response. The questions have been grouped thematically rather than in the order in which they appeared in the consultation.

Essential services

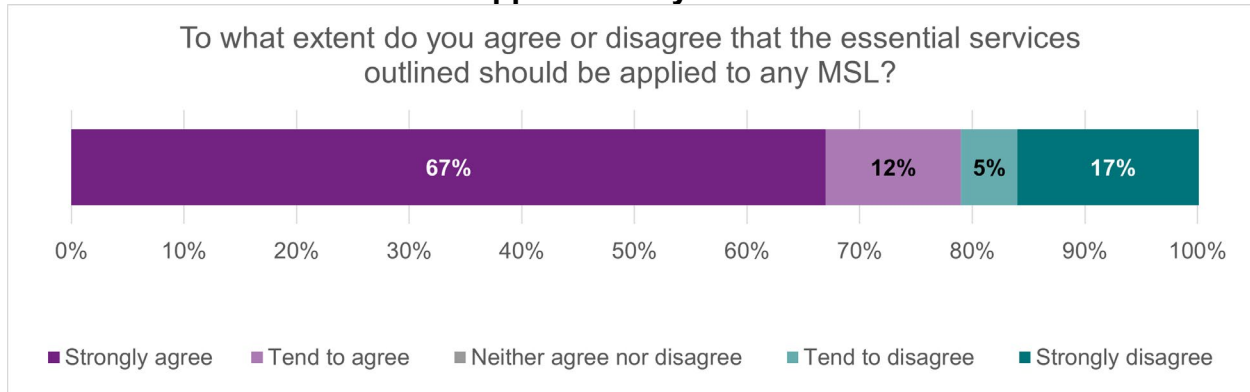
Q11. The 'essential services' to which we intend to apply MSLs can be simply understood as covering:

- **firefighting**
- **rescues, including actions to avoid further harm**
- **dangerous substance clean-up**
- **crewing of national resilience assets**
- **services necessary to carry out the above, e.g. control room activities.**

To what extent do you agree or disagree that the essential services outlined should be applied to any MSL?

Two thirds (67%) of consultation responses strongly agreed that the essential services outlined should be applied to any MSL, and a further 12% tended to agree.

Figure 1. To what extent do you agree or disagree that the essential services outlined should be applied to any MSL?



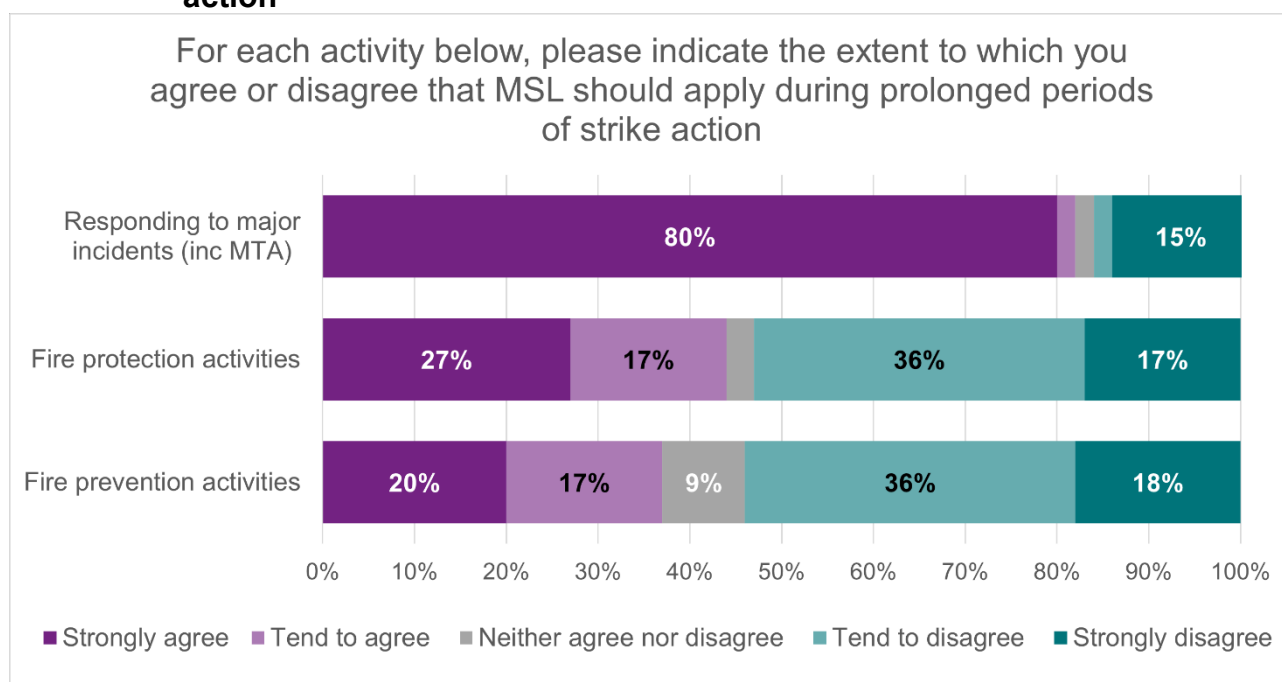
Q12. However, MSLs (especially during prolonged action) may need to take into account requirements for some additional activities. For each activity below, please indicate the extent to which you agree or disagree that MSLs should apply to during prolonged periods of strike action.

- **responding to major incidents including marauding terrorist attacks**
- **fire protection activities such as enforcement actions**
- **fire prevention activities.**

Four fifths (80%) of consultation responses strongly agreed that during prolonged periods of strike action, MSLs should apply to responding to major incidents (including marauding terror attacks), and a further 2% tended to agree.

Overall, just over two fifths (44%) of consultation responses agreed that during prolonged strike action, MSLs should apply to fire protection activities (27% strongly agreed and 17% tended to agree). Just over a third (36%) agreed that in those circumstances, MSLs should apply to fire prevention activities (20% strongly agreed and 17% tended to agree).

Figure 2. For each activity below, please indicate the extent to which you agree or disagree that MSL should apply during prolonged periods of strike action



Q13. If you have any further comments about the range of activities to be covered by MSL, please outline these in the space below.

33 responses provided comments about the range of activities to be covered by MSLs.

Scope

Twenty-one of the responses generally alluded to the scope of activities to be included. Three responses indicated that the essential services outlined in the consultation would be suitable but that we could also consider specialist skillsets needed and local flexibility. Two respondents made each of the following points:

- the specifics of the MSL should be based on local risk and allow for differences between different fire and rescue services;
- the functions outlined in FRSs’ business continuity plans should be included in the MSL;
- MSLs should include the statutory responsibilities of FRSs; and
- the MSL should include the full range of FRS responsibilities, including specialist skillsets and areas of non-statutory duty such as responding to flooding and water rescues.

Fire safety services

Prevention and/or protection were central to 22 of the comments received. Four responses stated that prevention and protection functions save lives and so are important to maintain

during periods of strike action, with some noting that high-risk prevention and protection visits should be included. Others suggested that such activities should be included when strikes are longer in duration but could be covered by grey book staff⁴ in the shorter term.

Conversely, three responses mentioned that while prevention work is important, they did not consider it necessary to include in an MSL. A further three responses emphasised that applying an MSL to prevention and protection work would be a disproportionate approach to the risk.

Return to work

Around half of the comments (17 out of 33) related to 'return-to-work' protocols, by which striking staff would return to duty if a major incident was declared. Overall, 13 responses stated that return-to-work agreements (based on a service's own 'business as usual' return for staff and appliances) should be included in MSL legislation, regardless of strike length. Two responses suggested that return-to-work protocols should be based on the Joint Emergency Services Interoperability Programme (JESIP).

Major incidents/national resilience

A total of 11 comments mentioned major incidents or national resilience. The majority of these (9 of 11) suggested that responding to major incidents should be covered by the MSL. The remaining two comments suggested that given the small number of staff who are trained to fulfil these functions, including them within the MSL could effectively remove the ability to take strike action from these employees and therefore result in equality claims.

Call handling/mobilisation

Four responses related to call handling and mobilisation. Of those, two expressed a view that the ability to maintain effective provision for call handling and mobilisation of the right resources at the right times is critical. Another pointed out that all calls need to be answered to enable non-essential calls to be filtered out, and another questioned how an MSL could apply where control rooms are not staffed by employees of the FRS they serve.

Extended work notice period

One response argued that for FRSs to have enough time to prepare for industrial action and to issue work notices, the notice period would need to be extended from seven days.

⁴ 'Grey Book' protocol constitutes all operational and control room staff (around 81% of FRS staff). The remaining 19% are categorised into gold and green book staff. 'Green book' staff are those who are not firefighters or control room staff but staff who perform administrative, technical and community work, including fire prevention work. The 'Gold Book' classification includes brigade managers or equivalent and accounts for around 0.3% of FRS staff.

Auxiliary staff

Two responses made comments about auxiliary staff: one noted that dangerous substance clean-up is undertaken by specialist contractors and not FRS staff; and the other argued that enabling functions such as ICT, fleet and technical services, operational support and estates management would need to be considered.

Administrative burden

One response stated that we should consider the possibility of multiple strikes being announced in quick succession, which would result in a significant amount of negotiation with unions and a large volume of paperwork for administering work notices.

Option 1 – Attendance by staff who provide essential services must remain in line with a specified proportion of business-as-usual levels

Option 1 would set a percentage level that staffing must remain in line with. This could be based on:

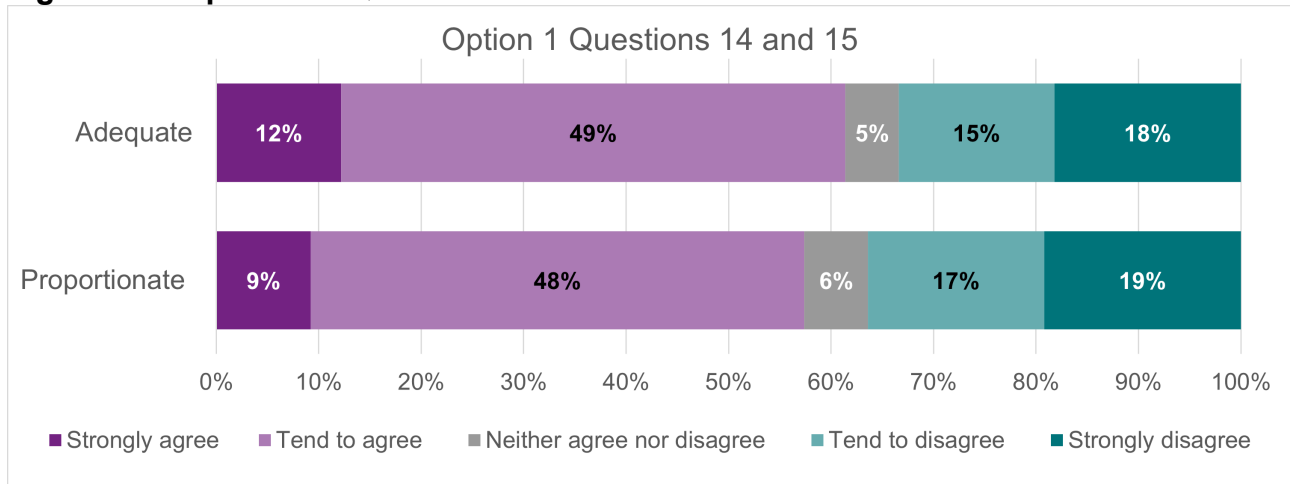
- i. The number of staff required to cover essential services in a 'business as usual' situation; or
- ii. The number of appliances (fire engines) or the percentage of normal appliance capacity that would be required in order to deliver essential services. The number of staff required to work on a strike day would be determined on the basis of the number required to crew this percentage of appliances, as well as necessary staff working in other functions such as control rooms.

Q14. To what extent do you agree or disagree that option 1 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?

Q15. To what extent do you agree or disagree that the approach to setting an MSL described in option 1 would be a proportionate requirement to cover essential services?

Three fifths (62%) of consultation responses agreed that option 1 would be an adequate approach to setting an MSL in order to mitigate fire and rescue risks (12% strongly agreed and 49% tended to agree). Similarly, 58% agreed that option 1 would be a proportionate requirement to cover essential services (9% strongly agreed and 48% tended to agree).

Figure 3. Option 1 – Questions 14 and 15

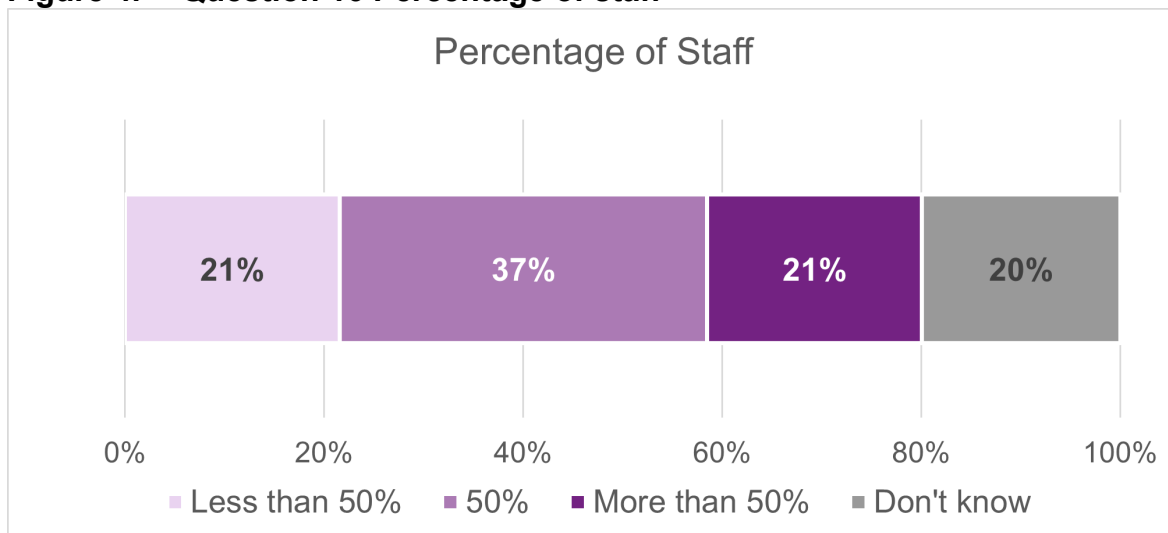


Q16. Which of the following percentage of staff do you feel would be appropriate as an MSL if option 1 was used?

When asked which level of staffing would be most appropriate if option 1 was introduced, responses expressed a range of views:

- 21% suggested that more than 50% of staff should be required (with no further detail on the exact MSL level they would prefer);
- 37% of responses suggested setting the MSL at 50% of staff;
- 21% indicated a preferred MSL of less than 50% of staff (with 7% indicating that they would prefer an MSL set between 30 and 45% of staff, and 15% preferring a level of 25% or less); and
- 20% stated that they did not know what percentage of staff would be appropriate.

Figure 4. Question 16 Percentage of staff

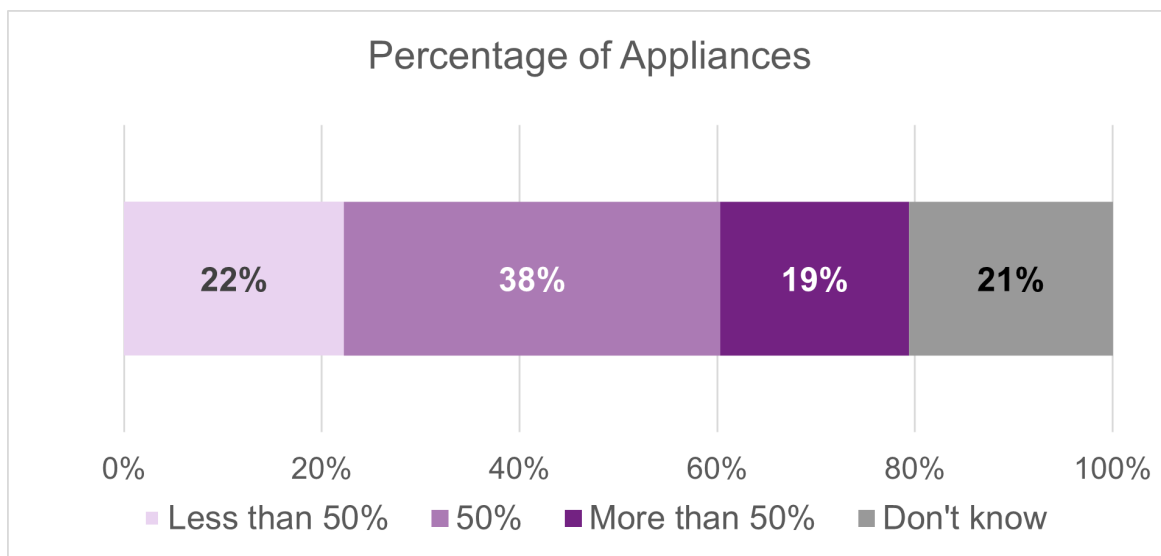


Q17. Which of the following percentage of appliances do you feel would be appropriate as an MSL if option 1 was used?

Responses also expressed a range of views with regard to the level of appliance cover that would be most suitable if option 1 was introduced:

- 19% suggested that more than 50% of appliances should be required (with no more detail on the exact level at which they thought the MSL should be set);
- 38% suggested setting the MSL at 50% of appliances;
- An MSL of less than 50% was suggested by 22% of responses, with 13% preferring a level of 25% or less; and
- 21% of responses stated that they did not know what percentage of appliances would be appropriate.

Figure 5. Question 17 Percentage of Appliances



Q18. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in option 1.

56 responses included comments about potential benefits of option 1.

Consistency

Open text comments outlined several potential benefits to implementing option 1, with consistency being mentioned most frequently. Twenty-seven responses observed that this approach would provide a consistent nationwide benchmark for MSLs. Twenty-one responses indicated that a flat percentage MSL would provide a consistent and equitable approach nationally regarding the ability to strike, without variation between FRSs. Twenty-one responses stated that by setting a consistent baseline MSL across England, FRSs could have greater assurance that cross-border support may be feasible on strike days. Three responses argued that option 1 would provide clarity and understanding to

those who need it, and another commented that it would mitigate against the potential for local disputes.

Less planning/consultation

The second most commonly identified potential benefit of option 1 was that, as it involves a set percentage level, it would require less planning and consultation within FRSs. This argument was made in 26 responses.

Q19. Please use this space to outline any drawbacks or difficulties that may arise from option 1. We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.

41 responses included comments about potential drawbacks of option 1.

Localisation

Thirty-one responses suggested that more flexibility would be required at a local level than option 1 allows for, and that this would be the case across all aspects of MSLs (specifically referencing staff, appliances, percentage flexibility, resources, emergency response plans and worst-case planning scenarios).

Application to specific staff groups or specialised appliance staff

Almost half of the responses detailing perceived drawbacks of option 1 (18 of 41) felt that it would be difficult to apply an MSL to on-call staff⁵, with three responses arguing that work notices will disproportionately affect whole-time staff. Thirteen responses called for flexibility in the percentage level in order to ensure sufficient coverage among support staff, and two felt it would be difficult to apply a set percentage to support staff. Four responses noted that option 1 does not take staff specialisms into account, and a further three suggested that it may act as a deterrent to taking up specialist training if staff felt that their specialism would increase the likelihood of being included on a work notice during strike action. Four responses noted that option 1 does not take specialist appliances into account.

Industrial relations and the ability to strike

Six responses gave the view that option 1 infringes on individuals' ability to strike, and three argued that it would have a negative impact on industrial relations. Individual responses also mentioned the potential to increase resentment from staff, to increase absences, and to worsen staffing shortages.

⁵ On-call firefighters have other primary employment and support their local FRS around this, providing cover when an incident arises. Whole-time firefighters work for their FRS for 42 hours a week on a set shift pattern.

Negative impact on cover and service

There were some strong views expressed on the degradation of cover and service.

Twenty-six responses stated that any MSL is a degradation of the day-to-day business as usual service level.

Option 1 - Neutral comments, questions and suggestions

Twenty-four responses stated that CFOs would be best placed to understand local risks and resources, and six said that MSLs should involve local flexibility in the percentage level and/or that a fixed percentage would not take local variation into account. Fourteen responses suggested a percentage range may be better than a flat percentage.

Fourteen responses pointed out that on its own, option 1 would be insufficient to mitigate fire and rescue risks during periods of industrial action. Sixteen individuals commented that there would be variation between predominantly on-call and predominantly whole-time FRSs and between urban and rural FRSs.

Almost half of responses (20) said that clarity would be required on how a percentage-based MSL would work in a local dispute considering the mutual aid provided between neighbouring FRSs on a daily basis. Fourteen responses said that option 1 should include a protocol for a level of staff cover to mitigate risk of major incidents during industrial action.

Views on the staff-based and appliance-based versions of option 1 were relatively evenly split. Nineteen responses stated that the MSL percentage should be based on the number of crewed appliances and not on a percentage of firefighters, while conversely, 16 responses stated that an MSL based on a number of appliances would be difficult to implement.

Seventeen responses stated that an MSL for support roles should be set at a minimum of 50%.

Option 2 - Staffing levels must be geared to respond to specific risks, including a minimum standard to respond to a major incident

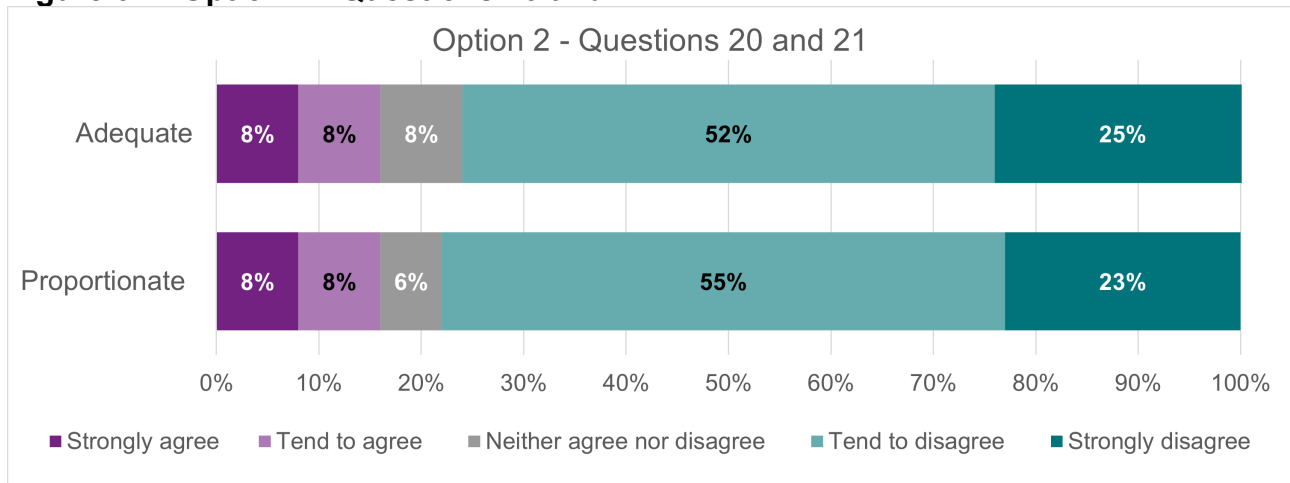
This option would involve setting a higher MSL during periods when there is an increased risk of major incidents that pose a serious risk to life, or in the event that such an incident occurs. This approach would require a clear definition of what constitutes a major incident: this could be drawn from the Joint Emergency Service Interoperability Programme (JESIP), which defines such incidents as ‘an event or situation with a range of serious consequences which requires special arrangements to be implemented by one or more emergency responder agency’.

Q20. To what extent do you agree or disagree that option 2 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?

Q21. To what extent do you agree or disagree that the approach to setting an MSL described in option 2 would be a proportionate requirement to cover essential services?

Three quarters (77%) of consultation responses disagreed that option 2 would be an adequate approach to setting MSLs (25% strongly disagreed and 52% tended to disagree). Similarly, 78% disagreed that option 2 would be a proportionate requirement to cover essential services (23% strongly disagreed and 55% tended to disagree).

Figure 6. Option 2 - Questions 20 and 21



Q22. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in option 2.

51 responses included comments about potential benefits of option 2.

No benefit

A significant proportion of the responses (27 out of 51) believed there were no perceived benefits in implementing the MSL outlined in option 2.

Incorporate major incident response

Nineteen responses mentioned that the benefits of option 2 could come from incorporating major incident response into a wider MSL provision.

Q23. Please use this space to outline any drawbacks or difficulties that may arise from option 2. We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.

35 responses included comments about potential drawbacks of option 2.

Planning

Approximately two thirds (25) of the comments about drawbacks of option 2 noted that it would be difficult for FRSs to plan for and manage, with one response also stating that a risk-based approach to MSLs would require additional work and resource compared to option 1 and so may be unattractive to fire authorities.

Levels required for major incident cover

Twenty-five responses stated that if the MSL was designed to cover major incident response, it would require staffing levels of close or equal to 100% of business-as-usual cover. Two of these responses suggested that it would be impossible for an MSL to mitigate the risks from major incidents without requiring almost 100% of business-as-usual staffing. Another two of these responses stated that an approach similar to option 2 is already used for FRS resource planning and is set out in each FRS' Community Risk Management Plan (CRMP): these responses argued that adopting a similar approach for MSLs would require the level to be set at 100% of normal provision.

Sixteen responses suggested that an additional MSL for major incidents would improve FRS' ability to respond if such an incident were to occur on a strike day, but that there would probably be practical challenges involved in implementing an MSL of this nature.

Staff availability

Concerns around staff availability for responding to major incidents were set out in 24 responses. Seventeen responses stated that there could be practical difficulties in contacting the members of staff required to return to work if a major incident occurred, and that on-call staff may be unavailable due to arrangements with their primary employer or their family circumstances on the day in question. Fifteen responses stated that option 2 was too focused on the whole-time employment model for firefighters, with one response commenting that it does not appropriately reflect the nuances of the on-call model.

Impact on staff

Twenty-four responses stated that option 2 could affect staff wellbeing and industrial relations, with specific comments made regarding its potential impact on the ability to strike, on staff morale and on FRS recruitment and retention.

Eight responses stated that option 2 would not be sufficient to mitigate the risks posed by fires during periods of strike action if implemented as a standalone option.

Option 2 - Neutral comments, questions and suggestions

Twenty-three responses mentioned that they would like to see a return-to-work protocol for major incidents incorporated into MSLs for FRSs. Similarly, 15 responses stated that major incident response should be incorporated into the other options set out in the consultation document. Seventeen responses specifically commented that a return-to-work protocol should adopt the definition of a major incident used within JESIP, as this would mean that FRSs would be required to respond if a major incident was declared by another emergency service.

Other points made by significant numbers of responses were that the nature, staffing requirements and appliance requirements for incidents are variable across the country (as mentioned by 21 responses), and that shaping MSLs to allow response to different types of risks would be dependent on the competency levels of staff (as mentioned by 13 responses).

Option 3 – Local leaders and organisations provide information on a proposed MSL for their FRS area to the Home Office, and the Home Secretary then agrees the MSL to be implemented in each FRS area.

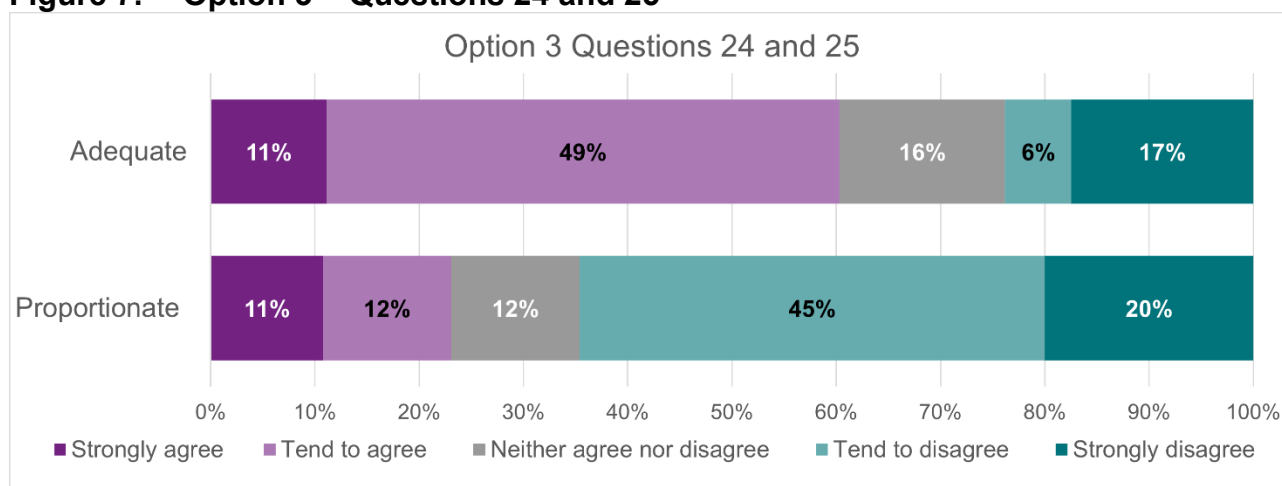
Rather than implementing the same MSL across all FRS areas, option 3 would involve setting different levels for each FRS in light of each local area's priorities, pressures and risk profile. The chief fire officer and other local organisations in each FRS area would be asked to submit a plan to the Home Office detailing the level at which they feel the MSL should be set in their area, how it should operate and the evidence underpinning these recommendations. The Home Office would then consider these recommendations and consult on them. On completion of this process, the Home Secretary would make a decision on the MSL to be implemented in each FRS area.

Q24. To what extent do you agree or disagree that option 3 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?

Q25. To what extent do you agree or disagree that the approach to setting an MSL described in option 3 would be a proportionate requirement to cover essential services?

Three fifths (60%) of consultation responses agreed that option 3 would be an adequate approach to setting MSLs to mitigate fire and rescue risks: 11% of responses strongly agreed that this was the case, with 49% tending to agree. However, fewer responses mentioned that this option would be a proportionate way of covering essential services: approximately a quarter (23%) of responses agreed, with 11% strongly agreeing and 12% tending to agree.

Figure 7. Option 3 – Questions 24 and 25



Q26. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in option 3.

51 responses included comments about potential benefits of option 3.

Local flexibility using local knowledge

Fourteen responses stated that allowing for flexibility based on local knowledge and insight would be an advantage of implementing option 3. Three responses agreed that option 3 would be beneficial for each of the following reasons:

- It would ensure that appliances would be staffed by crew members with appropriate skill sets, and that the right commanders would be available;
- It would guarantee the availability of on-call firefighters;
- It would ensure appropriate cover in control rooms; and
- It would reduce the need for FRSs to procure external support in order to ensure resilience on strike days.

Three responses stated that any approach to setting MSLs would be improved by allowing each FRS’ MSL to be adapted in light of local priorities and pressures. Moreover, two responses stated that option 3 would be their preferred approach as they felt that the emphasis placed on local knowledge would make it more proportionate than the other options consulted on.

Scope

Nine responses made positive comments about the likely impact of option 3, including that it would allow for local geography and resourcing to be considered, and that chief fire officers and local organisations are best placed to understand the risk profiles of their local areas.

No benefit

In response to the question about potential benefits of option 3, four responses stated that there would be no benefits to adopting this approach.

Q27. Please use this space to outline any drawbacks or difficulties that may arise from option 3. We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.

35 responses included comments about potential drawbacks of option 3.

Implementation

Drawbacks arising from the complexity of implementing option 3 were mentioned in 20 responses. For example:

- Six responses mentioned that it would create a slow and bureaucratic process that would place additional burden on FRSs;
- Three responses stated that it would require more time to be spent on planning and administration than some other options would;
- Three responses outlined concerns about potential difficulties in reaching agreement between the Home Office, chief fire officers and FRAs; and
- Two responses questioned how MSLs could be future-proofed or kept up to date.

Thirteen responses stated that while they felt flexibility across local areas was important, there would be challenges involved in building public understanding of this and of the different levels of MSL in different FRS areas.

Variation in ability to strike

Nine responses expressed concern that variation in the MSLs set across the country could mean that staff in certain areas would face a disproportionate impact on their ability to take strike action.

Option 3 – Neutral comments, questions and suggestions

Alternative models

In assessing the practicality of option 3, 18 responses suggested an alternative model.

Minimum Service Levels for Fire and Rescue Services – Government Response

Fifteen responses suggested that the process for setting MSLs as outlined in option 3 could be incorporated into the process of public consultation on FRS' Community Risk Management Plans. Thirteen responses stated that combining the two consultation processes would bring further advantages in terms of accountability.

Thirteen responses stated that they would be more likely to support an approach that combined elements of the other options put forward and which included some degree of national MSL benchmark.

Guidance needed

Fifteen responses felt that if option 3 was adopted, the Government would need to publish guidance to assist local areas in navigating the process. Eight responses highlighted the need for guidance to cover the setting and benchmarking of MSLs, and seven responses argued that not publishing guidance could lead to disparities in levels of cover and therefore also of public safety.

Requires operational independence

Twenty-two responses suggested that option 3 would require chief fire officers to have a greater level of local independence than they currently do. Eighteen responses referred to the operational independence of CFOs not currently being referenced in the national framework⁶, and four responses stated that implementing option 3 would require the progression of the Government's 2022 White Paper entitled 'Reforming Our Fire and Rescue Service'. One of the three key pillars of the White Paper is governance, and it discusses granting chief fire officers operational independence to enable greater flexibility. Further to the Government's Response to the Fire Reform White Paper, published in December 2023, the Home Office has confirmed that it will seek to legislate to give chief fire officers operational independence "at the earliest opportunity."

CRMPs are already flexing to local changes

Sixteen responses noted that CFOs already plan for risks through the CRMP process and suggested that reduced staffing levels during industrial action can be included in these plans as an identifiable risk.

⁶ The national framework sets out the Government's priorities and objectives for fire and rescue authorities. The government has a duty under the Fire and Rescue Service Act to produce the framework and keep it current. Fire and rescue authorities must have regard to the framework in carrying out their duties.

Option 4 – a national MSL benchmark is set by the Home Secretary, and chief fire officers and their organisations are able to decide specifics for their local areas

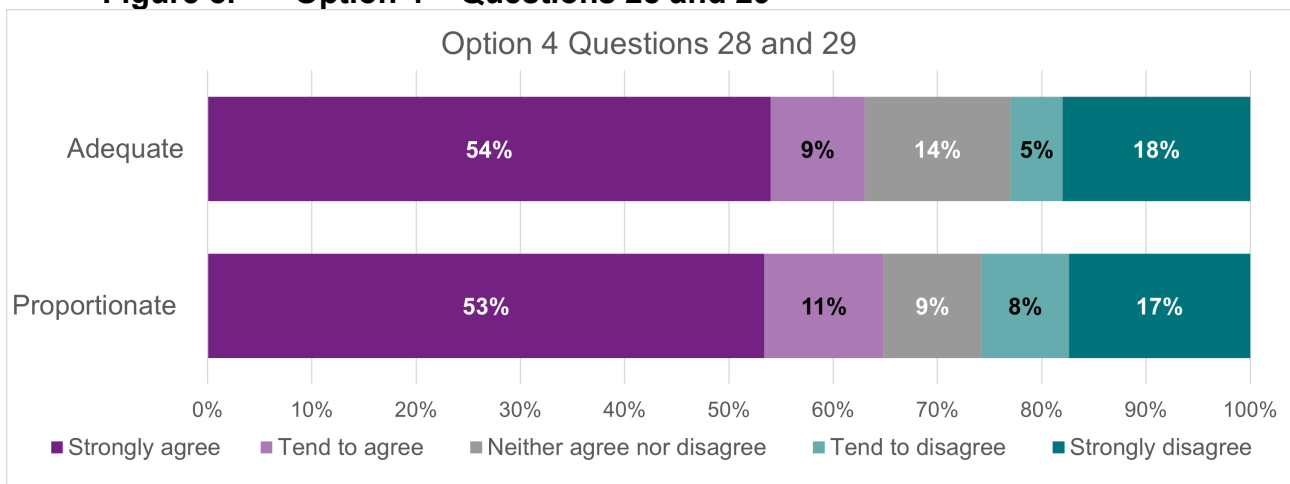
This option would involve the Secretary of State setting a national MSL standard but providing scope for CFOs and their local organisations to tailor this to meet the needs of their local communities. This could involve taking account of local requirements to be able to combat potential high-rise fires, scaling up the MSL level if a strike occurs during a period of severe weather in an area with a flood-prone landscape, or reducing the MSL in periods where an FRS expects demand to be below average.

Q28. To what extent do you agree or disagree that option 4 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?

Q29. To what extent do you agree or disagree that the approach to setting an MSL described in option 4 would be a proportionate requirement to cover essential services?

Almost two thirds (63%) of consultation responses agreed that option 4 would be an adequate approach to setting MSL to mitigate fire and rescue risks (54% strongly agreed and a further 9% tended to agree). Similarly, a majority indicated that this would be a proportionate way of covering essential services, with 53% strongly agreeing and 11% tending to agree.

Figure 8. Option 4 – Questions 28 and 29



Q30. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in option 4.

51 responses included comments about potential benefits of option 4.

Consistency

Almost half of responses (25 of 51) stated that including an element of national consistency would be a key benefit of adopting option 4. Of these 25 responses, nineteen stated that allowing for local flexibility within a nationally consistent framework would make this option preferable to option 1.

Local flexibility

Thirteen responses emphasised the importance of allowing flexibility between FRS areas and noted that this was a key benefit of option 4. These responses suggested that variation in local areas' MSLs could be based on a combination of CFOs' experience, their understanding of their local area, and their FRS' CRMP.

Accountability

Nineteen respondents stated that a benefit of option 4 would be that it would ensure clear accountability. Option 4 would provide for a consistent MSL to be set by the Secretary of State, but without the drawbacks of a flat percentage MSL as outlined for option 1 or the potential for significant variation in MSL levels that would accompany option 3.

Proportionality

Fourteen responses noted that by setting MSLs centrally, but allowing for local flexibility, option 4 would provide a level of national consistency and ensure that employees' ability to take part in industrial action would not vary between FRSs in a way that could be judged to be disproportionate.

Appliances

When looking at this approach from an appliance point of view, 17 responses mentioned that option 4 should be amended to include a process whereby the Secretary of State sets a percentage MSL, for example 50% of staff or average of business as usual appliances, to apply nationwide, but allows CFOs the opportunity to customise the specifics of this figure to account for the specialist teams and appliances within their FRS, and the geography of their area. One further response specifically stated that mentioned local variation could support FRSs to maintain the availability of specialist appliances for local or regional strategic response.

Q31. Please use this space to outline any drawbacks or difficulties that may arise from option 4. We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.

33 responses included comments about potential drawbacks of option 4.

Further clarification required

Nineteen responses stated that the primary drawback of option 4 is that it does not sufficiently define how the MSL would be set, and that it is therefore unclear how this option would operate in practice.

Consistency

Fourteen responses suggested that variability in the MSL level introduced by different services could potentially undermine assurances made to the Government with regard to resilience.

Local expertise

Fourteen responses stated that the local knowledge and expertise of CFOs ought to be used to allow FRSs to set the MSL below the national percentage level if the CFO deemed this appropriate.

Thirteen responses said that it would be useful for CFOs to be able to customise the specifics of their MSL to allow scope for their specialist teams and appliances to be included, as well as to account for the geography and risk profile of their areas (drawing on their CRMPs and local degradation plans).

Despite some flexibility being provided to local leaders, five responses argued that the majority of the decision-making would be undertaken by central government if option 4 was adopted, and that this would not reflect the ambition to increase fire chiefs' operational independence that was set out in the Government's White Paper 'Reforming Our Fire and Rescue Service.' One response argued that this could cause accountability issues.

Cross-border activity

Three responses mentioned that this option may cause challenges in understanding the level of service that a neighbouring FRS may be able to provide, and that it would therefore be useful for FRSs to incorporate the plans of their neighbouring services into their own industrial action preparedness plans.

Industrial Relations

Four responses mentioned that introducing this option could have a negative impact on industrial relations.

Option 4 - Neutral comments, questions and suggestions

National guidance

Just over half of responses (28) suggested that to support CFOs in operationalising this approach, option 4 should be accompanied by clear national guidance detailing how MSLs

Minimum Service Levels for Fire and Rescue Services – Government Response

would be benchmarked and implemented. One FRS commented that ‘option 4 provides this flexibility to customise options beyond a nationally set and inflexible minimum expectation of a percentage’.

Major incidents

Twenty-three responses suggested that a major incident return to work protocol would need to be introduced alongside this baseline MSL provision to provide sufficient resources in the event of a major incident and reduce the number of employees who would need to be included on work notices.

Suggested adaptation of option 4

An MSL approach that is quite similar to option 4 whilst incorporating elements of option 2 including setting an additional 100% MSL for when a major incident is declared was proposed by 13 responses. It was suggested that the Secretary of State could set an MSL of around 50% of business-as-usual appliance or staff numbers to apply nationwide as long as CFOs were able to draw on local evidence to adapt the specifics of this 50% MSL provision in their FRS based on a local determination of risk and resources.

Option 5 – Maintaining cover on high-risk days/hours

This option would involve increasing the MSL during periods of peak demand for essential fire and rescue services when these fall during strike action. These periods of peak demand could include:

- Bonfire Night and its nearest weekends.
- periods of severe weather, such as extreme flooding or wildfires.
- periods when other blue light services are taking strike action.

Depending on the level of demand anticipated, this option could enable work notices to be issued to ensure full business as usual capacity for the essential services would be maintained during these periods of peak demand.

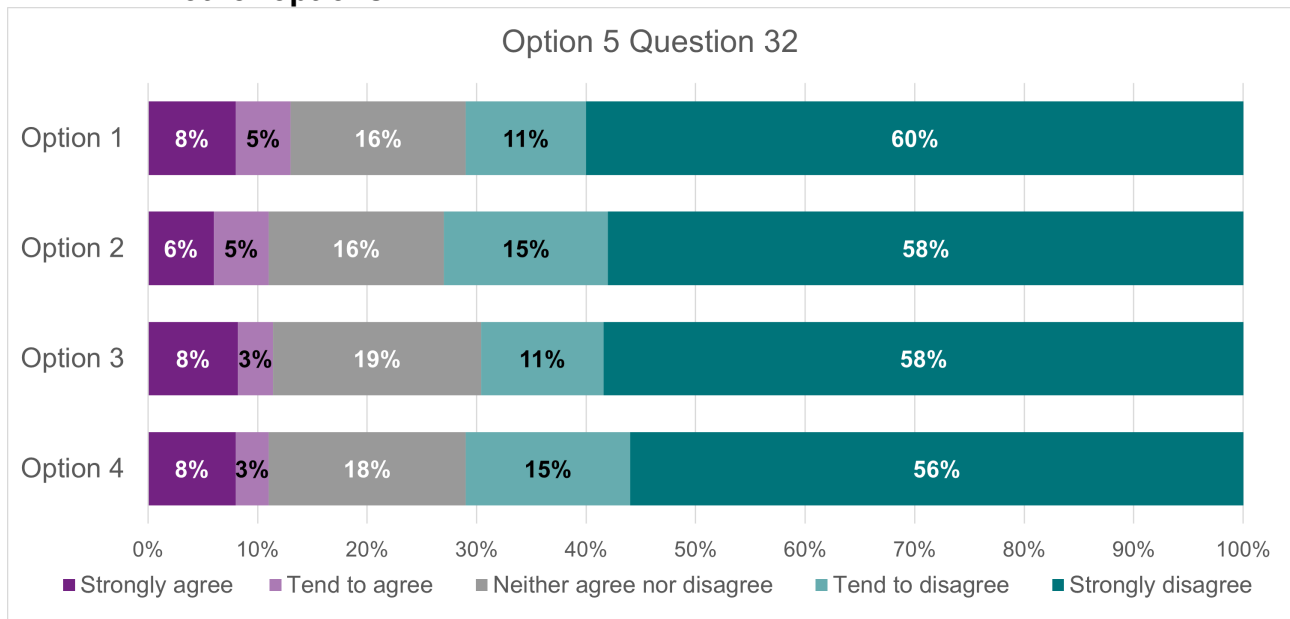
This option would not form the entirety of the MSL approach but could be adopted in conjunction with another option set out in the consultation.

Q32. To what extent do you agree or disagree that option 5, applied in addition to each of the other options outlined in this consultation, would be an adequate minimum service level to mitigate fire and rescue risks during times of strike action?

When asked about combining option 5 with any of the previous options set out in the consultation document, a majority of responses disagreed that this would be an adequate way of setting an MSL in order to mitigate fire and rescue risks. Overall, 13% of responses

agreed that a combination of option 5 and option 1 would be adequate, and 11% felt this way about each of the other potential option combinations.

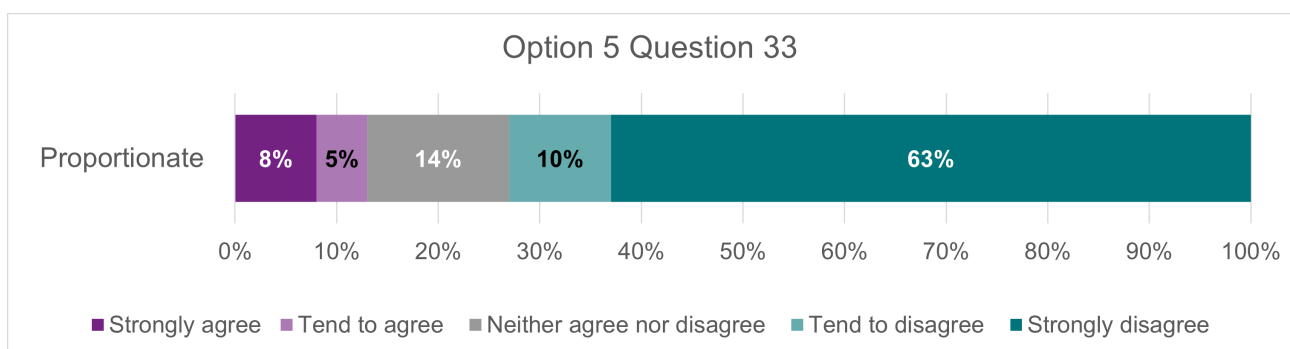
Figure 9. Option 5 – Question 32, agreement/disagreement with combination with other options



Q33. To what extent do you agree or disagree that the approach to setting an MSL described in option 5 would be a proportionate requirement to cover essential services?

Almost three quarters of responses (73%) disagreed that option 5 would be a proportionate way of covering essential services, including 63% that strongly disagreed.

Figure 10. Option 5 – Question 33



Q34. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in option 5.

43 responses provided further comments about potential benefits of option 5.

Flexible and responsive to risk/demand expectations

Twelve responses argued that option 5 would be a sensible mechanism for allowing more resource to be available on days of higher demand. They suggested that it would allow services to deploy more resources at known times of peak risk, and that this option recognises the need for flexibility.

Public safety reassurance

Three responses argued that this option would be valuable for the public as it would provide assurance that the fire and rescue service would be available during known periods of peak demand or higher risk.

Other benefits

Three responses mentioned other potential benefits of option 5, including that it would be data-led and that it would be helpful to draw on when finalising CRMPs.

No benefit

Twelve responses stated that this option would offer no benefits.

Q35. Please use this space to outline any drawbacks or difficulties that may arise from option 5. We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.

31 responses provided further comments about potential drawbacks of option 5.

Not a demand-led service

Many (23) responses stated that FRSs are not demand-led services and that it would therefore be difficult to assess demand and risk in the way that option 5 would require. They argued that this option would not effectively mitigate risk and does not align with current procedures in FRSs.

Difficulties in planning

Twenty-three responses stated that risk would need to be determined locally and could not be 'prescribed'. They noted that it may be possible to identify some seasonal variations in risk, but that it is generally difficult to anticipate. As a result, they noted that this option would add complexity to FRSs' planning, but that it would be unlikely to accurately reflect the actual level of risk on any given day.

Complexity

Five responses suggested that if an MSL was set appropriately, option 5 would not be required and would instead add an unnecessary level of complexity. They also argued that combining option 5 with option 4 could make the MSL unnecessarily complex.

Disproportionate

Five responses argued that option 5 would further reduce the workforce's ability to take strike action, and that essentially preventing the ability to strike on certain days or times could cause tensions within the workplace.

Option 5 - Neutral comments, questions and suggestions

Proposals as additions to other options

Six responses reiterated that, while option 5 could be combined with another option, it would not be appropriate to introduce on its own.

Impact on equality

Q36. Do you believe that our proposals to introduce minimum service levels for fire and rescue services will have an impact (either positive or negative) on individuals with a protected characteristic under the Equality Act 2010? Protected characteristics under the Act are disability, gender reassignment, age, pregnancy and maternity, race, marriage and civil partnership, sex, sexual orientation and religion or belief.

20 responses provided further comments about the potential impact of the proposals on equality.

Disability

Some responses stated that MSLs would offer members of the community with disabilities greater certainty that the fire and rescue service would be available if needed during periods of strike action, and therefore create more confidence that they would be able to receive any additional support they might require if an incident occurred.

One further response stated that the links between disability, age and socio-economic deprivation and rates of injury and fatality in fires are well known and would benefit from more prevention activity.

One response noted that FRS staff with autism or anxiety may find short notice changes to work notices challenging.

Gender reassignment and sexual orientation

While these characteristics are separate and independent, one response suggested that LGBT staff who are firefighters are more likely to be whole-time than on-call, and as such are more likely to be subject to a work notice.

Age

One response suggested that MSLs could have a positive impact on members of public most at risk of fire, including the elderly. As referenced above, one further response stated that the links between age, disability and socio-economic deprivation and rates of injury and fatality in fires are well known and would benefit from more prevention activity.

Pregnancy and maternity

One response suggested that pregnant women may require additional support to evacuate buildings and therefore would need fire and rescue services to be available at all times.

Race

Two responses mentioned the potential impact of MSLs on staff of different ethnic backgrounds. One response suggested that MSLs would have little impact with regard to race as the vast majority of the FRS workforce are from a white ethnic background. However, the other stated that firefighters from ethnic minority backgrounds are more likely to be whole-time than on-call, and that whole-time staff will be more likely to be included on work notices.

Marriage and civil partnership

No responses made direct reference to the potential impact of MSLs on people with this protected characteristic.

Sex

Four responses suggested that MSLs would have a greater impact on female employees. One suggested that this was because the majority of control room staff are female, and the MSL set for these roles may be higher than for firefighters in order to ensure that calls are appropriately screened during industrial action. A further response suggested that women are more likely to be union members, and that this could result in a negative impact.

Two responses suggested that anyone with caring responsibilities could be adversely affected by the issuing of work notices, and one of these responses noted that women are more likely to have caring responsibilities.

Conversely, one response stated that MSLs would have a disproportionate impact on men as they comprise approximately four fifths of FRS staff.

Religion or belief

Three responses suggested that in order to mitigate against a potential negative impact of MSLs on members of the workforce who practise a religion, employers could give consideration to any staff who had booked leave for religious celebrations and festivals when issuing work notices in order to ensure that staff retain the ability to take time off for religious purposes.

Positive impact for the public

Eight responses argued that the implementation of MSLs would be beneficial for the general public. Five stated that MSLs would offer people with disabilities greater reassurance that the fire and rescue service would be available if needed during periods of strike action, and therefore create more confidence that they would be able to receive any additional support they might require if an incident occurred. This would also be the case for any other person who might require additional support in evacuating a building in the event of a fire.

Negative impact for the public

Three responses suggested potential negative impacts that the introduction of MSLs could have on the wider public. One response suggested that if the MSL was set at a low level (such as 25% or below), this would mean that vulnerable members of the community would receive a reduced level of service. Another suggested that MSLs could result in a lower level of service in the longer term if their introduction were to damage industrial relations within FRSs. The third response stated that only one of the policy options set out in the consultation document considered local risks and marginalised communities.

Ability to strike/ industrial relations

A total of five responses stated that these proposals would limit individuals' ability to withdraw their labour. One response also noted that this would likely damage industrial relations.

Pay, recruitment and retention

The potential for MSLs to keep pay low or inhibit negotiation around pay increases was mentioned in two responses.

Two responses also suggested that MSLs would disincentivise people from joining the fire and rescue service, and another argued that this could result in a less skilled sector (including the loss of experienced professionals) if more frequent strike action were to take place.

Q37. Where you have identified potential negative impacts, can you propose ways to mitigate these?

Thirteen responses provided free text for this question, of which five suggested potential approaches for mitigating any negative impacts that MSLs might have on equalities. These were:

- That an option involving local flexibility would allow services to consider relevant levels of risk, especially for vulnerable people;
- To include the full range of FRS activity in MSLs regardless of the duration of any industrial action;
- That engagement with key stakeholders should continue in order to develop initial MSLs and to adapt these as demands change;
- That option 1 would be best to implement as it would most effectively support business as usual activity; and
- That it would be helpful to allow managers discretion to track patterns where staff are not complying with work notices.

Six responses stated that they did not support any of the proposed options, and therefore did not feel able to suggest mitigations for any negative impacts on equalities (other than not implementing MSLs).

Final Comments

Q38. Is there anything further you wish to make comment on that this consultation has not explicitly laid out?

30 responses provided further comments.

This free text comment section was frequently used to reiterate points made in earlier free text questions, but also often drew out issues that were felt to apply to multiple MSL options. The key themes covered by responses to the question were:

Implementation

Eighteen responses included comments about issues that could arise when implementing MSLs. The majority of these (15) stated that there would need to be a clear and consistent approach across England that can be easily understood by staff and senior leadership, and that MSLs should not be seen as an accepted safe level of staffing outside periods of industrial action. One response raised concerns over the impact of MSLs on any control room staff who are employed by external organisations rather than by FRSs, and another suggested that there could be difficulties in ensuring that MSLs gel with the business continuity plans that FRSs have already implemented for periods of industrial action.

Sixteen of the responses raised specific issues that could result if an MSL was set on a percentage basis. Fourteen responses suggested a hybrid approach where the Secretary of State would set a percentage level for a business-as-usual MSL to apply nationwide, but with local flexibility available to CFOs to tailor the MSL to local needs, akin to option 4 of the consultation. One response stated that it would be important to ensure the MSL is not too simplistic and so would not limit services in providing for local or complex needs.

Return to work protocols

The desire for a clear return to work agreement was mentioned in 18 responses. The majority of these argued that such an agreement would need to be set out in advance and should include provision for responding to major incidents regardless of strike length.

Clarity

Twenty-four responses made comments about clarity: these related to the Strikes (Minimum Service Levels) Act, the scope of MSLs and the relationship between MSLs and the wider fire reform agenda (with some responses including comments about more than one of these issues).

Nineteen responses commented on the relationship between the MSL legislation and wider reform of the fire and rescue sector (including the White Paper 'Reforming our Fire and Rescue Service'). Of these responses, 14 recommended that MSLs are introduced alongside a review of the negotiation machinery for pay and conditions in FRSs currently overseen by the National Joint Council, and three specifically stated that MSLs should align with the White Paper.

Eighteen responses made comments on the clarity of the legislation underpinning MSLs, with fourteen stating that they were not clear whether the Strikes (Minimum Service Levels) Act applies to local as well as national disputes.

Seventeen responses requested further clarity on the scope of MSLs. Fourteen stated that while they agreed with the list of essential services set out in the consultation document, they would not want this list to be interpreted as exhaustive and that all roles conducted by firefighters are essential.

Staff engagement

Workforce challenges were mentioned 106 times in response to this question. These comments were split across seven general sub-themes, with some responses addressing more than one. These sub-themes were:

- Culture – 14 responses stated that any increase in workplace tensions as a result of MSLs could affect efforts to improve culture and inclusion in FRSs.
- Recruitment and retention – 14 responses stated that MSLs could have unintended consequences in this regard.

Minimum Service Levels for Fire and Rescue Services – Government Response

- Control room staff – 13 responses stated that any MSL would need to include appropriate coverage from control room staff and any support staff required in order to carry out FRSs' business as usual activities, including where these staff and services are shared across multiple FRSs.
- On-call staff – 13 responses stated that the operationalisation of MSLs could prove difficult in areas with higher numbers of on-call staff due to the compatibility of work notices with the retained duty system, and that non-compliance could be challenging to manage.
- Funding and pay – 13 responses stated that MSLs could put additional pressure on fire and rescue authorities without additional funding.
- Prevention and protection – 13 responses suggested that including prevention and protection activities in the scope of an MSL could be disproportionate, including in the case of prolonged industrial action.
- General – 14 responses stated that the introduction of MSLs could potentially lead to more grievances and disciplinary cases, which could subsequently require more resource to manage, lead to long-term challenges with staff relations and increase workforce tensions.

Industrial relations

Twenty responses raised concerns about the impact of MSLs on industrial relations, with 13 specifically stating that the legislation is unlikely to be welcomed by unions and that the Government should be aware of the potential workplace tensions that MSLs could cause.

Safety

Eighteen responses mentioned safety, including 13 which stated that they would welcome the implementation of MSLs as this would improve public safety during periods of strike action. These responses also stated that it would be crucial for MSLs to be set in an effective manner, and that this would be especially important for the most vulnerable communities.

Local flexibility

Seventeen responses mentioned the need for local flexibility to be included in any MSL option. These responses highlighted the differing local risk profiles of FRS areas, geographical variations and workforce differences.

Work notices

Work notices were mentioned 46 times in response to this question. These comments were split across three key themes, with some responses covering more than one. These themes were:

- Work notice administration – 16 responses stated that the development and issuing of work notices would create an additional administrative burden.
- Effective implementation – 13 responses argued that the time allowed for issuing work notices should be extended to allow FRSs sufficient time to ensure they can be implemented effectively, with clear guidance provided on the process of issuing work notices.
- Impact on equalities – 13 responses argued that staff who have joined FRSs via particular entry streams or who have certain types of contract may be more likely to be included on work notices than their peers. One response specifically stated that work notices could have a disproportionate impact on staff who are female, from ethnic minority backgrounds and/or identify as LGBT.

General drawbacks

Seven responses stated that they disagreed with the Strikes (Minimum Service Levels) Act and with MSLS but did not offer any specific detail.

Comparison graphs of all options

Figures 11 and 12 below set out the levels of support for options 1-4. The graphs do not include option 5 as it was put forward as a potential additional component of options 1-4 rather than as a standalone option.

As mentioned in the analysis set out earlier in this document, overall agreement that the various options would provide an adequate level of response was highest for option 4 (63%), closely followed by option 1 (61%) and option 3 (60%). The level of agreement with option 2 was significantly lower (16%).

When looking specifically at the proportion of respondents who strongly agreed with each option, option 4 stands out: 54% of respondents strongly agreed with this option, compared to 12% for option 1, 11% for option 3 and 8% for option 2.

Figure 11. Level of support for each option as an adequate level of response

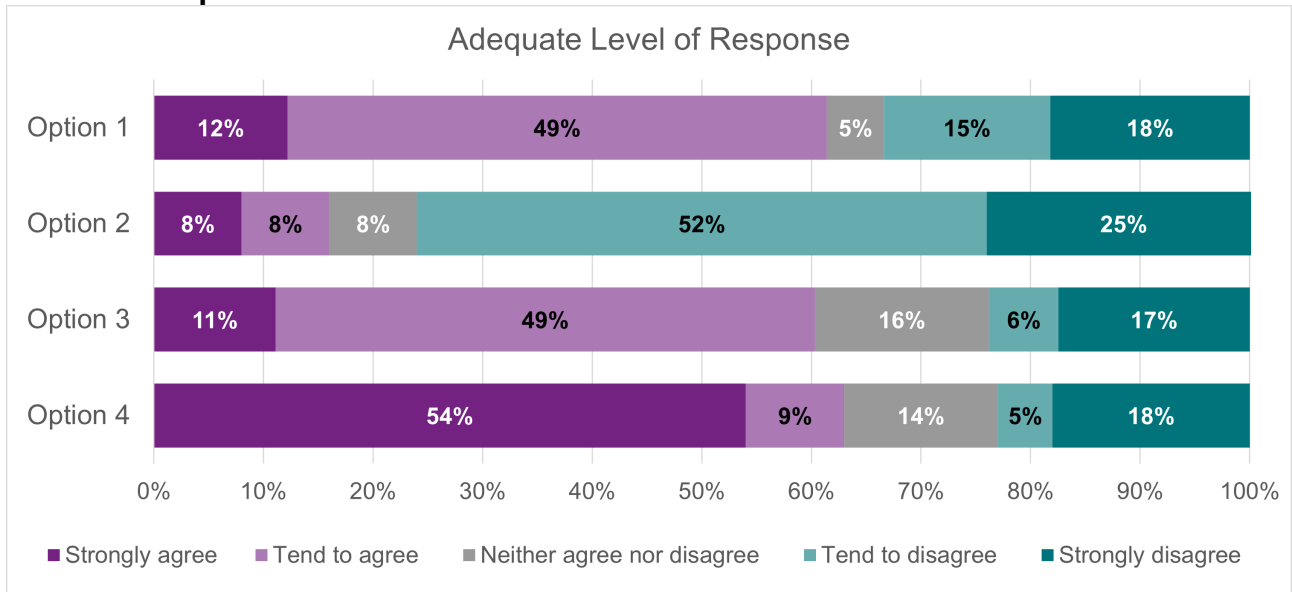
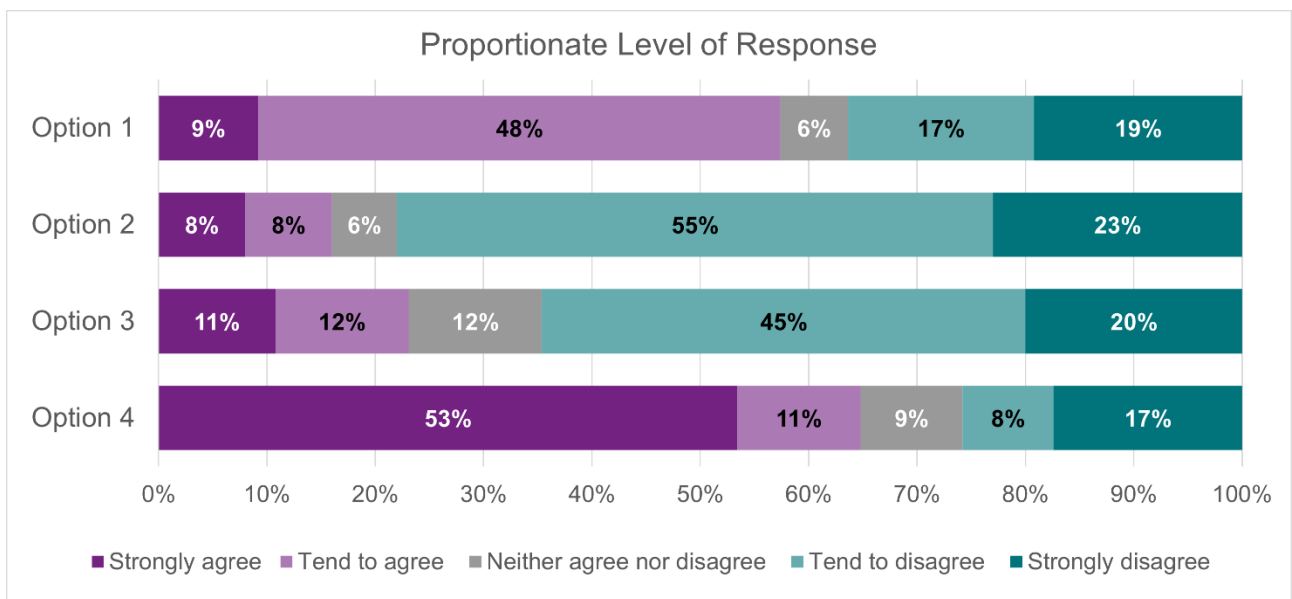


Figure 12. Level of support for each option as a proportionate level of response



With regard to whether each option would enable a proportionate level of response during periods of strike action, the level of overall agreement was highest for option 4 (65%) and option 1 (57%), and significantly lower for option 3 (23%) and option 2 (16%). The proportion who strongly agreed was by far the highest for option 4 (53%), compared to 11% for option 3, 9% for option 1 and 8% for option 2.

Areas of specific policy consideration

A number of specific policy issues arose during stakeholder engagement and in written responses to the consultation. This section provides summaries of consideration given to these issues including on-call firefighters, control rooms, return-to-work agreements and prevention and protection.

On-Call Firefighters

While this consultation did not ask any specific questions about on-call firefighters, the issue of how MSLs could interact with this employment model was raised in 26% of responses and in stakeholder engagement sessions undertaken during the consultation period. The majority of the consultation responses that referenced on-call firefighters noted that there would be practical challenges involved in including on-call staff in an MSL, citing considerations such as the flexibility of their employment model, administrative challenges and potential recruitment and retention issues. These themes were echoed in the stakeholder engagement sessions.

Despite these challenges, we consider that giving chief fire officers the ability to include on-call firefighters on work notices is necessary and will help improve public safety on strike days. On-call firefighters comprise approximately half (52.8%) of the firefighter workforce in England, and this proportion varies significantly between FRSs. Stipulating that on-call firefighters could not be included on work notices would therefore have a significant impact on the volume of cover that the policy could provide for on strike days. It would also further affect the ability of whole-time staff to take strike action, as prohibiting on-call firefighters from being included on a work notice would mean that a higher proportion of whole-time staff would need to be included in order to meet the MSL. Providing chief fire officers with the flexibility to include these staff on work notices will provide a mechanism for requiring that these staff provide cover as they would during business as usual without providing more cover than the MSL requires.

Control Rooms

We did not ask any specific questions on control rooms in the consultation: however, responses did mention the topic, particularly in relation to the essential services that the MSL regulations will cover. Twenty responses expressed a desire to see control room staff included in the MSL due to their crucial role in answering and filtering calls. Engagement held with fire and rescue services during the consultation period also highlighted the importance of the role of control room staff and the need to ensure there is provision within the MSL to include such staff.

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The functions carried out by fire control room staff are critical in providing incident responses and for public safety. Staff in control rooms have expertise which is essential in answering emergency calls, dispatching resources, providing guidance, incident management, and communicating with other control rooms. It is for these reasons that we believe control room staff should be included in MSLs and enough staff should be maintained to safely operate the control room. In previous periods of industrial action, where there has been a lack of control room staff and an overload of calls, other staff have been trained to support the operation: however, there remains a risk of an overflow of calls and subsequent delays in providing the right response.

We know staffing levels in control rooms vary considerably between FRSs and that there are a number of hub models that cover several different FRSs. With such a difference in operating models we consider it best to not set a national MSL percentage for control room staff but instead to provide the ability for FRSs to determine the number of staff needed to ensure an effective control room operation on strike days.

Return to Work Agreements

Return-to-work (RTW) agreements were mentioned over 70 times in the consultation responses. Previous discussions on RTW agreements led to the development of a national voluntary commitment to return to work if a major incident occurred. However, a small number of consultation responses indicated a risk that the introduction of MSLs could mean that these voluntary arrangements would no longer be agreed. Several responses therefore asked for RTW agreements to be included in legislation to ensure that FRSs would be able to respond to any major incident that occurred during industrial action.

Inclusion of a mandatory RTW agreement is not within the scope of our current legislation: however, we consider the MSL legislation to be sufficient for ensuring that an adequate initial response to major incidents can be provided, which could be supplemented through cross-border support.

Fire Safety

Each fire and rescue service provides capacity to deal with fire safety issues, with regard to both protection and prevention. Inspection programmes operate with the intention to ensure that buildings, within scope, are compliant with the Regulatory Reform (Fire Safety) Order 2005 (FSO). Where issues arise, an FRS will provide advice to responsible persons under the FSO and, if necessary, appropriate enforcement action. Similarly, fire and rescue services regularly provide prevention advice to those within the communities they serve.

The priority for the MSL for fire and rescue services is to ensure that the emergency response is maintained. However, if industrial action extends to members of staff involved

in protection and prevention activities then we consider that there is an argument for ensuring that there is the ability to provide advice and attendance, where necessary, in order to protect public safety. This could include taking enforcement action, where appropriate.

We consider that the MSL on prevention and protection activities should be restricted to instances where there is a need to provide an urgent intervention in the same way as on non-strike days. In the case of protection this could relate to a call that is made to a fire and rescue service highlighting the blockage of vital escape routes. For prevention, this could be urgent advice sought by or on behalf of vulnerable persons residing in the community and for whom there may be fire safety concerns.

National Resilience

National Resilience (NR) duties were included as an essential service in the consultation document. NR capabilities are vital in maintaining public safety via the mitigation of risks identified in the National Security Risk Assessment (NSRA). This includes attendance at major incidents, such as a marauding terror attack or a large scale building collapse which has the potential to overwhelm a single FRS. We consider it important that FRSs can continue to provide these services where necessary as they would on a non-strike day.

Modelling

Introduction

After publishing the consultation and alongside stakeholder engagement activity, the Home Office sought to build its evidence base by undertaking modelling to judge the impacts of different MSL levels and help identify appropriate options. This is summarised below.

Summary

The modelling is based on two core data sources:

- **Appliance utilisation data.** Using internal operational data as recorded by English FRSs from April 2018 to March 2023, the model considers the maximum number of pumping appliances (fire engines) simultaneously used by each English FRS on each day in the previous five years.
- **Average daily business-as-usual availability of pumping appliances** in each English FRS, including whole-time and on-call appliances. This is gathered directly from English FRSs and aligns with data used in previous strike planning.

The analysis calculates the proportion of days that each FRS had more pumping appliances (pumps) simultaneously mobilised than an MSL would ensure were available.

For example, if an FRS has 30 pumps available on a business-as-usual day and a 50% MSL was being considered, the model would count the number of days over the past five years on which the FRS had more than 15 pumps simultaneously mobilised to incidents and divide this by the number of days for which data is available over the time period. The modelling only includes incidents which have been classed as “essential” to respond to during strike action.

The model applies RAG (red, amber, green) ratings to each FRS based on the proportion of days on which they would exceed the MSL. These are set at the following levels:

- **Red-rated** FRSs would exceed the MSL on more than 2% of days;
- **Amber-rated** FRSs would exceed the MSL on between 1 and 2% of days; and
- **Green-rated** FRSs would exceed the MSL on less than 1% of days.

These thresholds are based on risk appetite set by the Home Office to protect public safety and as advised by chief fire officers and the NFCC for business continuity planning.

Simultaneous mobilisation is considered the best metric for risk, as this measures the likelihood of a scenario in which the MSL fails, and an FRS needs more appliances than they have available during industrial action. Just because an FRS does not exceed their

MSL, this does not mean there would be no public safety impacts of reducing appliance availability below BAU. Response times may increase because not all stations would be open or fully staffed, and FRSs may prioritise differently, or respond with fewer than usual appliances, to prevent them from exceeding their MSL appliance number.

There are some notable caveats to the modelling:

- The number of pumping appliances each FRS reports as having available during business-as-usual will vary over time as it will be informed by the priorities of individual fire authorities. Therefore, any analysis that considers appliance availability relative to business-as-usual deployment will be sensitive to these variations.
- Analysis is based on past data, which cannot fully predict future demand.
- The analysis assumes that during periods of strike action, FRSs would respond to incidents with the same number of appliances as they would during business as usual. However, anecdotal evidence suggests that services would revise their operational responses (i.e. use fewer appliances) relative to risk. Any change in deployment behaviour would similarly change the likelihood of exceeding their MSL.
- Deep dives into the appliance utilisation modelling suggest that MSLs are more likely to be exceeded because of single low-chance, high-impact incidents that require many appliances to attend, as opposed to a high volume of “normal” incidents that each require a low level of attendance.

Conclusion and next steps

Background

The Strikes (Minimum Service Levels) Act 2023 provides that, once regulations for relevant sectors are in force, an employer will be able to issue a ‘work notice’ to a trade union identifying the staff required to work during the strike and the work to be carried out by them in order to secure the MSL. For fire and rescue services the employer is the fire and rescue authority (FRA) and the provisions set out in the FRS MSL regulations apply if an FRA decides to issue work notices.

Prior to laying regulations, we ran a public consultation which sought to gather opinions on the best approach for setting the fire and rescue services MSL policy and we would like to thank all respondents for their insightful responses that have informed our legislation.

The consultation described five different options on how to implement an MSL, as well as providing the option to combine elements of these options to formulate the eventual policy approach. The responses in relation to these options have been analysed above.

The majority of respondents to the consultation, including those from fire and rescue services, provided considered replies and expressed a preference for one of the particular MSL options outlined in the consultation. One response commented that ‘we strongly support the introduction of MSLs for fire and rescue services to ensure communities receive the service they deserve during periods of strike action’. Other consultation responses, including those from a number of unions, did not express a preference for a particular option.

There was also broad support from consultation responses with regard to the essential services that MSLs should extend to in question 11, where the definition extended widely to include firefighting, rescues, dangerous substance clean up and crewing of national resilience assets, but in a more limited way to responding to fire prevention and protection activities.

We have sought to reflect the requests in responses from fire and rescue services to have a national set level for consistency, with some local flexibility in setting MSLs. This broadly aligns with option 4 of the consultation, which would set a national percentage but allow for some local flexibility. We have taken a more nuanced MSL policy approach and the level to be set in respect of control room services, emergency incident response and fire safety services is set out below.

Policy position

Essential services

As set out earlier in this consultation response we sought views on specific services that an MSL for fire and rescue services should cover. Whilst responses on this were useful, we concluded that it would be unhelpful to list specific types of incidents that should be covered on strike days in this way.

Our regulations therefore more broadly set out that fire and rescue services answer all emergency calls on strike days and provide a response to emergency incidents as if it were a non-strike day. This mirrors the approach taken in the regulations setting out an MSL for ambulance services.

The regulations will also capture services provided by fire and rescue services as outlined below.

Control room staff

The functions carried out by fire control room staff are critical in providing incident responses and for public safety. Staff in control rooms have expertise which is essential in answering emergency calls, dispatching resources, providing guidance, incident management, and communicating with other control rooms. It is vital that there is business as usual control room cover on strike days.

For control room staff we have opted for an approach that will see the functions of a control room carried out as if it were a non-strike day. It will be up to FRSs to determine how best to ensure these services continue to function, including other potential sources of cover, and how many employees will need to be included on work notices to help fulfil that. Our approach recognises that staffing levels in control rooms vary considerably between FRSs and that there are a number of hub models that cover several different FRSs. With such a difference in operating models we consider it is best not to set a national percentage but to provide the ability for FRSs to determine the number of staff needed to ensure usual control room operations are maintained on strike days.

Fire and rescue

We consider that the best option for the provision of fire and rescue emergency response is to set a national percentage based on FRS appliances, noting that these regulations will apply to services provided by English FRAs and English FRA contractors. This approach provides a tool allowing individual FRSs to decide, following the work notice consultation with trade unions required by the 1992 Act, how many firefighters they need to crew these appliances and will therefore enable the staffing level to be tailored to take account of local risk.

In considering the most appropriate percentage level at which to set the MSL, we have acknowledged the principle of the ability to strike but considered this against the need to

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protect public safety. Fire and rescue is a key blue light service and when an emergency call is made, particularly where a fire breaks out, attendance is required in the vast majority of circumstances. The risk of the spread of fire and what this means in respect of threat to life and/or serious injury often does not become clear until the fire and rescue service attend and assess an incident. It is therefore important that the public have confidence that their fire and rescue service can attend incidents on strike days in the same way that they would ordinarily.

Given the focus on protecting the public on strike days and maintaining the emergency response as best as possible, whilst allowing the ability to strike for some, we have decided to set the MSL at 73% of appliances that would normally be available on non-strike days. The 73% figure is based on evidence from our modelling where all but one FRS is rated through the RAG system as green with regard to the risk of simultaneous call outs exceeding the level of the MSL.

FRSs will have the ability to include supervisory and senior ranks as well as the crewing for specialist appliances and other vehicles that may be used to attend incidents within the 73% figure.

As well as prioritising public safety, an MSL set at 73% of appliances has further advantages such as providing better cover for the possible lack of availability of on-call workers, providing better mitigation for the potential loss and inherent limitations of return-to-work agreements used for major incidents, and accounting for seasonal spikes in demand such as the wildfires seen in the summers of 2018 and 2022.

National Resilience assets

We are making provision within the regulations that allows National Resilience assets to be deployable as they would be on a non-strike day. Such provision will be accounted for in the regulations but not as part of the 73% appliances based percentage for firefighting. This will mean that these vital services will continue to be provided during industrial action and will help mitigate the major public safety risks of significant incidents such as a wildfire requiring a high volume pump, or a building collapse.

Fire safety

Alongside maintaining an effective emergency response on strike days, we consider it important to provide the ability for FRSs to deal with urgent fire safety issues relating to both protection and prevention services.

While we anticipate the amount of cover required should be minimal, if a call relating to fire safety is placed which would normally require same day attendance then it is important to ensure there is capability provided for this which is included in our regulations.

Territorial scope

With regard to the territorial extent of these regulations, we received letters from the devolved administrations making clear that they did not support the application of minimum service levels in Wales and Scotland.

The UK Government considers that people should have confidence that fire and rescue services will respond to emergency calls on strike days.

These regulations will apply to England only at this time, but we will consider extending the ability to make use of MSLs to Scottish and Welsh fire and rescue services in future, based on modelling of relevant data.

Trade unions

We understand that many of the unions that responded to the consultation, or have made written comments on the policy in other forums, are strongly opposed to MSLs. However, we are committed to our intentions of delivering an improved life safety position, proportionality in balancing the ability to strike and providing essential services, protecting FRS staff during periods of strike action, making MSLs straightforward to operationalise, and reducing the need for future military assistance or cover from private companies, which is unsustainable.

Impact Assessment, Equalities and Welsh Language

Economic Impact Assessment

An initial economic impact assessment was published at the same time as the consultation paper. A full economic impact assessment has also been published, which provides further an analytical assessment of the estimated impacts of this policy.

Equalities impact assessment

We have considered the potential impact of these changes on members of the FRS workforce and the public who have protected characteristics including disability, race, sex, gender reassignment, age, religion or belief, sexual orientation, pregnancy and maternity, marriage and civil partnership. These considerations are set out in full in an Equalities Impact Assessment published alongside this document.

The EIA takes account of consultation responses, relevant evidence from stakeholder engagement and an analysis of workforce and incident statistics. This assessment collates the impacts identified and presents a summary of how the proposed MSL policy may affect different groups with various protected characteristics. Overall, despite some impacts on different groups within the FRS workforce, we believe that this is justified as a necessary and proportionate means of protecting public safety. We believe MSLs will potentially have a positive impact on members of the public with protected characteristics as they will help ensure that emergency call attendance will largely be maintained on strike days.

Welsh Language Impact Test

We received a letter from the Welsh government to state that they would not be engaging with the MSL consultation, and they did not raise any particular considerations for Wales or Welsh speakers. Given that the territorial scope of the regulations is limited to England only at this time, we do not consider that a Welsh impact test is needed.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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