



Fire and Rescue Service Headquarters
Belmont Business Park, Durham
DH1 1TW

Safest People, Safest Places

Chief Fire Officer: Steve Helps

This matter is being dealt with by: Steve Helps

Ext: 5555

Date: 26 April 2023

Rt Hon Suella Braverman
Home Secretary
Fire Safety Unit
Home Office
2 Marsham Street
London
SW1P 4DF

Dear Home Secretary,

Minimum service levels for fire and rescue services consultation

Please see below consultation response from County Durham and Darlington Fire and Rescue Service (CDDFRS).

Respondent information

1) In which capacity are you responding to this consultation?

A manager working in a fire and rescue service.

2) Do your comments relate to the fire and rescue services in:

England

3) How many employees does your business or organisation have? [If response is from an organisation (Q1 response options 6-9 and 'other')]

Over 250

4) Please give the name of the organisation you represent (if applicable):

County Durham and Darlington Fire and Rescue Service

5) We may wish to mention specific feedback from named organisations that are content to be included in the consultation response.

Would you be content for your organisation to be identified in the published Government response to this consultation?

Yes

6) **About you [if responding as a member of workforce or public (Q1=1,2,3,4,5, 10 or 'other')]**

Not applicable

7) **How do you think of your gender?**

Not applicable

8) **How old are you?**

Not applicable

9) **What is your ethnic group?**

Not applicable

10) **Are your day-to-day activities limited because of a physical or mental health condition or illness that has lasted, or is expected to last, 12 months or more?**

Not applicable

11) **The 'essential services' to which we intend to apply MSL 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?

Strongly Agree.

CDDFRS support the essential services outlined above to be included in the MSL. The MSL should also consider specialist skill sets that are maintained across FRS including those where there is no specific legislative duty for the FRS to respond, e.g. flooding and water rescue. However, the MSL must be cognisant of the fact that FRS structures and response capabilities vary significantly across the FRS and Chief Fire Officers (CFOs) should be allowed the flexibility to adapt the specifics of their FRS MSL provision.

12) **However, MSL (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 MSL should apply to during prolonged periods of strike action.

Responding to major incidents including marauding terrorist attack

Strongly Agree

Fire protection activities such as enforcement actions

Tend to Disagree

Fire prevention activities

Tend to Disagree

Responding to major incidents including marauding terrorist attack should be classed as essential services and covered by MSLs as not including these would have a negative impact on FRS ability to provide an effective response to these incidents.

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

A major incident should be defined in line with JESIP and with the major incident return to work protocol incorporated into MSLs for FRS, replacing the current voluntary arrangements to provide assurance that FRS are able to respond to a major incident during periods of industrial action. The return-to-work protocol should determine levels of staffing replicating business as usual staffing and appliance levels as a major incident will most likely require full mobilisation of resources as well as support from other FRS and partner agencies. A major incident return to work protocol combined with a MSL baseline of 50% would balance the right to strike with assurances for public safety if a major incident was to occur.

Applying a MSL to prevention and protection work would be a disproportionate approach to the risk and the setting of MSLs as more recent strike action has covered shorter or intermittent periods meaning that prevention and protection activities would not be affected for extended periods of time with prevention and protection staff resuming their duties on their return to work. FRS employ prevention and protection staff on different terms and conditions in addition to those taking industrial action and would be available to undertake urgent actions if required for example serving a prohibition notice.

Minimum Service Level Options

Staffing levels

Option 1 – Staff who provide essential services listed above must never go below a certain level of attendance in line with business-as-usual levels

- 14) 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?**

Tend to Agree.

This option provides consistency across FRS and appears simplistic however utilising a flat percentage figure means effectiveness will vary due to the local risks and variances of staffing models, geography, specialist capabilities and national resilience assets available. Although there should be national consistency in the setting of the MSLs, the CFO should be afforded flexibility to adapt the percentage and allocation of staff, appliances and specialist skill sets to mitigate the risks to their local communities. CDDFRS believe serving work notices to on call staff due to the flexible operating model on call staff utilise is likely to be extremely challenging, complex and extremely bureaucratic this is therefore likely to result in a disproportionate number of work notices being served on wholtime staff members, in order to ensure sufficient MSL are established. For services with larger reliance on call staff this position is believed to be magnified.

The return-to-work protocol for a major incident should determine levels of staffing replicating business as usual staffing and appliance levels as a major incident will most likely require full mobilisation of resources as well as support from other FRS and partner agencies, a flat percentage MSL would be insufficient to enable a FRS to respond to a major incident.

- 15) 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?**

Tend to Agree.

A flat percentage MSL would provide a consistent and equitable approach in the right to strike nationally across FRSs which would ensure all staff affected would have an equal ability to strike with no variance between FRSs. However, if introduced, this should be done proportionately and with balance to ensure public safety is maintained and the right to strike is protected to maintain the long-term effectiveness of FRSs. For services with small essential teams, such as control rooms, the CFO should be afforded flexibility to increase percentages above the MSL, to 100% replicating normal staffing levels, to ensure a viable service is delivered.

- 16) Which of the following percentage of staff do you feel would be appropriate as a MSL if Option 1 was used?**

50%, however it must be recognised that any MSL is a degradation of the day-to-day business as usual response cover provided by FRSs and will not serve to alleviate or mitigate all FRS risks. The 50% MSL for firefighter roles should apply to the number of appliances to ensure that they can be fully crewed and not partially crewed. Government must recognise that it is difficult to specify a percentage that will account fully for local variance in risk, staffing models, geography, specialist skill sets and national resilience assets available. CFOs should be given flexibility to adapt the percentage distribution to staff or appliances based on local risk and resources. It should be noted that services with a higher proportion of on-call staff will be required to serve a disproportionate number of work notices to wholetime staff members due to the difficulties of serving work notices to on-call staff members. Furthermore for services with small essential teams, such as control rooms, the CFO should be afforded flexibility to increase percentages above the MSL, possibly as high as 100%, to ensure a viable service is delivered.

- 17) Which of the following percentage of appliances do you feel would be appropriate as a MSL if Option 1 was used?**

50%, the 50% MSL for firefighter roles should apply to the number of appliances to ensure that they can be fully crewed and not mobilised partially crewed. Staffing of Control Rooms should be based on the number of staff. Specialist skills and appliances e.g. water rescue should also be considered alongside the number of appliances available to enable a combined response to mitigate risks. CFOs should be given flexibility to adapt the percentage distribution to staff or appliances based on local risk and resources. The desire to maintain specialist skills is likely to mean services will be required to serve a disproportionate number of work notices to often a small select groups of staff members with specialist skillsets.

- 18) Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 1.**

This option provides national consistency across FRS and appears simplistic whilst ensuring staff have the right to strike with no variance between FRSs. A nationally consistent approach will also take cognisance of the day-to-day mutual support to incidents afforded to and from neighbouring FRS and will provide greater assurance that these FRS would have resources available to assist if required.

- 19) 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.**

Setting a MSL even if relatively high will reduce the capacity of FRS to mitigate risks and respond to incidents. Clarity will be required on how the percentage MSL would work in a local dispute

considering the mutual aid provided between neighbouring FRS on a daily basis. Setting of a flat percentage MSL for staff or appliances does not consider variance across FRS, their local circumstances and risks, in particular rural versus urban services and the amount of wholetime and on call staff employed. CFOs should be given flexibility to adapt the percentage distribution to staff or appliances based on local risk and resources. This flexibility is likely to require a disproportionate number of work notices to often a small select groups of staff members with specialist skillsets.

There is the risk that by setting a MSL, the representative body may decide to withdraw from the major incident return-to-work protocol, resulting in an inadequate response to a major incident.

Staffing levels

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

- 20) **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?**

Tend to Disagree.

This option if implemented on its own will not provide an adequate approach when setting an MSL for periods of industrial action to mitigate fire and rescue risks. When responding to major incidents, FRSs would require close to 100% of staff to respond to the incident as well as having sufficient staff and appliances to maintain business as usual activity. The major incident return to work protocol should be incorporated into MSLs for FRS, replacing the current voluntary arrangements to provide assurance that FRS are able to respond to a major incident during periods of industrial action.

- 21) **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?**

Tend to Disagree.

A MSL that is applied to ensure sufficient resources were available in the event of a major incident as well as maintaining business as usual resources would be disproportionate, as it would only be used in extreme circumstances and when a major incident was declared. This approach would also place a restriction on the right to strike by FRS staff.

- 22) **Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 2.**

No additional benefits identified, incorporating major incident response into the MSL provision would be a benefit as outlined previously.

- 23) **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.

A MSL geared to specific risks would be difficult to manage as the staff, appliances, specialist skills and national resilience assets required would be dependent on the nature of the incident, simultaneous incidents, geography and which will vary across the country. Although additional MSLs for major incidents during industrial action will improve the ability of FRSs to respond if

one occurs, practical implementation will be difficult as there may be difficulties in contacting staff to return to work and On-call staff may be unavailable due to business-as-usual arrangements with their primary employer or family circumstances.

Risk based staffing with local flexibility

Option 3 – Local leaders and organisational input into what the MSL is for the FRS in collaboration with Home Office/ Secretary of State, i.e. not a national level but based on local priorities and pressures

- 24) **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?**

Tend to Agree.

This approach would differ for each FRS but would benefit from using the expertise of CFOs and local organisations who understand the risk, demands and pressures faced by their organisations and communities during periods of industrial action. It would utilise local knowledge with flexibility to respond to local priorities and pressures and take into account the variance in resources, geography, staffing models and risks across FRSs to deploy resources accordingly. Clarity is required on who would determine and set the MSL, for example the CFO through operational independence or the CRMP process?

- 25) **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?**

Tend to Disagree.

This option may have a disproportionate effect on staffs right to strike across the country as if a MSL is not set at a national level there may be inconsistencies and significant variances across the country leading to an unequal right to strike. However local flexibility is beneficial to ensure that MSLs are set to respond to local circumstances.

- 26) **Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 3.**

This option is more responsive to local priorities and demands including risks, staffing models, appliances, specialist skills and national resilience assets rather than providing a national approach as outlined in option 1. It would benefit from being included within the CRMP process and the CRMP could include planning for industrial action and determining MSLs for local risks.

- 27) **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.

National guidance would be required to assist the determination and setting of MSLs. If CFOs were to use their expertise and local knowledge to set the MSL, a mechanism to formalise operational independence for CFOs is required to enable them to meet the risks and demands of their local communities and during periods of industrial action.

Risk based staffing with local flexibility

Option 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

- 28) **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?**

Strongly Agree.

This option combines a nationally consistent standard to the setting of MSLs with local flexibility to respond to and mitigate risks specific to a FRS. An option would be to set a national MSL and allow CFO the flexibility to utilise the percentage MSL set to account for the risks, geography, resources, specialist skills and appliances within their FRS area. The major incident return-to-work protocol should be introduced alongside this MSL to provide sufficient resources in the event of a major incident. Clear national guidance would be required to outline how the MSLs would be implemented.

- 29) **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?**

Strongly Agree.

Having a nationally set MSL with local flexibility provides a degree of national consistency across FRSs as well as ensuring staffs ability to strike does not vary between FRSs that could be disproportionate.

- 30) **Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 4.**

This option combines a nationally consistent standard to the setting of MSLs with local flexibility to respond to and mitigate risks specific to a FRS. An option would be to set a national MSL and allow CFO the flexibility to utilise the percentage MSL set to account for the risks, geography, resources, specialist skills and appliances within their FRS area. The major incident return-to-work protocol should be introduced alongside this MSL to provide sufficient resources in the event of a major incident. Clear national guidance would be required to outline how the MSLs would be implemented.

- 31) **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.

Clear national guidance to define how MSLs are to be set is required, to enable an understanding of how this option would operate practically as FRSs are diverse with regards to geography, staffing models and local circumstances and to ensure that CFOs have the authority to adapt a MSL to reflect local priorities. However, every FRSs MSL provision must incorporate a major incident return-to-work protocol to enable a full mobilisation of resources.

Risk based staffing with local flexibility
Option 5 – Maintain cover on high-risk days/hours

- 32) **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?**

Option 1 Strongly Disagree

Option 2 Strongly Disagree

Option 3 Strongly Disagree

Option 4 Strongly Disagree

This option in addition to the previous 4 options could complicate MSLs and further reduce staffs' ability to strike. Flexibility for CFOs to determine the allocation of resources for their FRS is more beneficial.

- 33) **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?**

Strongly Disagree.

This option in addition to the previous 4 options could complicate the setting of MSLs.

- 34) **Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 5.**

This option recognises the need to consider and adopt the approaches identified in the other options in setting MSLs to enable a clearer and more practical MSL. The flexibility for CFOs to determine the allocation of resources for their FRS is more beneficial.

- 35) **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.

Option 5 will not be sufficient to mitigate the various FRS risks. FRS staff undertake a significant amount of work in minimising risks to the community in addition to responding to incidents, hence it is not purely a demand-led service which this option alludes to.

Impact on public and professionals

- 36) **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.

Don't know.

37) Where you have identified potential negative impacts, can you propose ways to mitigate these?

Not applicable

38) Is there anything further you wish to make comment on that this Consultation has not explicitly laid out?

No

Should you require any further information please let me know.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Helps', with a stylized flourish at the end.

Steve Helps
Chief Fire Officer