Transfer of Ownership of New Dimension Assets

Issued by:
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New Dimension Policy Advisor

Addressed to:
Please forward to:
The Chair of the Fire and Rescue Authority
The Chief Executive of the County Council
The Clerk to the Fire and Rescue Authority
London Fire Commissioner
The Chief Fire Officer
Legal Directors
Finance Directors

Summary
CLG has previously conducted two consultations with FRAs on the proposals surrounding the transfer of CLG’s New Dimension assets to FRAs. This Circular provides a response to the most recent consultation earlier in 2009, and asks FRAs to sign up to the final version of the Transfer of Ownership Agreement by end December 2009.

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1.0 Background

1.1 The New Dimension Project will shortly be coming to a close and we now need to deliver on our long-term commitment to transfer ownership of the New Dimension assets to the FRAs which host them, so that they have full and direct responsibility for their management as well as their use.

1.2 Through Fire Service Circular 51/2007 (November 2007), CLG consulted FRAs and representative bodies on a draft Transfer of Ownership Agreement for the New Dimension assets. In response to that consultation, stakeholders sought further information on the long term plans for the New Dimension capabilities. Since then, the Department has delivered on three of the four areas of the long-term strategy:

- the announcement of funding over the full CSR period made in July 2008
- the commencement of the long-term maintenance contract with VTCS covering all the assets in October 2008; and
- establishment of the CFOA-led Assurance Body managed through the FRS National Resilience Board, under the terms of a Memorandum of Understanding (MoU) signed in March 2009, which provides future governance for New Dimension capabilities

1.3 Through Fire Service Circular 16/2009 (March 2009), CLG undertook a second consultation with FRSs on the transfer of New Dimension assets. This responded to questions raised by FRSs on the transfer, and provided a revised draft of the Transfer of Ownership Agreement for FRS comment. We also asked whether FRSs were content to sign up in principle to the transfer – prior to CLG seeking formal agreement from FRAs. Over the last few months we have also engaged with the Fire Lawyers Network, the LGA Fire Services Management Committee and the Fire Finance Network to seek their comments.

2.0 Consultation Response to 16/2009

2.1 In total, 39 FRSs responded to the second consultation, and although many had further questions, the majority confirmed support in principle for the transfer. Over the last few months the Department has been considering the responses carefully, and has replied individually to each FRA on their specific concerns.

2.2 Although there was a significant range of different queries raised by the FRAs, four concerns were common to many or most responses:

i. future funding and the mechanism for this
ii. maintenance contract costs
iii. maintenance contract documentation; and
iv. asset refresh proposals

2.3 The Department set out the specific amounts of new burdens funding for New Dimension for the full CSR period in Circular 36/2008 last summer. Unfortunately, we are not able to do this for future spending review periods, as some FRSs requested, as it is not possible for Government to commit future parliaments. In relation to the mechanism of payment, currently the funding is provided through annual s 31 grants, and as set out in the Circular, we will
continue to pay s31 grants for the remainder of this CSR period. However, future funding may be on a different, more flexible basis in line with the Government’s and the LGA’s general policy.

2.4 Several authorities responding to the consultation expressed concern over any move to Revenue Support Grant (RSG, block grant), relating to distribution, the situation of ‘floor authorities’, and transparency. Whilst these concerns are understood, similar issues have been overcome for the many special grants which have transitioned to general grant in the past. Any transfer into RSG would be looked at together with the FRAs themselves, through the normal Formula Review process, and with examples of what a transfer would mean to each individual FRA. An alternative option may be to transfer the grants into Area Based Grant, a single s31 grant paid to the FRAs for a number of different purposes. In due course, when options for the future funding mechanism are being considered, we will have regard to authorities’ concerns and will give particular consideration to whether we are still in a transition phase, and whether we have yet built up a consistent pattern of spend to support a move to an alternative funding mechanism.

2.5 On the costs resulting from the New Dimension maintenance contract, CLG has, through Circular 52/2008 (October 2008), committed to paying the fixed costs of the contract (around £100m) relating to routine maintenance and servicing, to ensure that the equipment and vehicles are ready to respond to a national incident over the next 16 years. Whilst New Dimension assets remain in the ownership of CLG we will pay the fixed monthly costs directly to the maintenance contractor, VTCS. However once the New Dimension assets are transferred to the FRAs, the authorities themselves will be responsible for arranging the monthly payment directly, and CLG will fund FRAs for this cost. Nevertheless, FRSs will be aware that maintenance costs due to wear and tear arising from the use of New Dimension assets for FRA purposes (so called ‘unfair wear and tear’), currently being borne by CLG, will be payable by the FRAs in future regardless of ownership. The types of wear and tear that FRSs will be responsible for are outlined in Circular 52/2008. A further circular will shortly be issued in regard to recharging FRAs for these costs and the process surrounding this.

2.6 In signing up to the Transfer of Ownership Agreement, fire authorities will also be obliged to sign up to the maintenance contract (the Prime Contract). The contract itself is between VTCS and Firebuy (the contract manager) and the services provided by this contract are accessed through the Terms of Access. CLG, as the current owner of the New Dimension assets, have initially signed the Terms of Access to ensure that the vehicles and equipment are being maintained. However, upon transfer of the assets, each FRA will need to individually enter into the Terms of Access themselves.

2.7 A copy of the Terms of Access has been enclosed with the reply to each FRS and also to those who did not respond to the Circular 16/2009 consultation. There are restrictions on the circulation of the Prime Contract for commercial reasons, and we have informed FRAs that their legal advisors wishing to see a copy of the Prime Contract can do this via Angela Hooton, Firebuy Contract Manager (email: angela.hooton@firebuy.gov.uk) who can supply a PDF copy – a number of FRA legal advisors have already done so. In obtaining a
copy you may be asked to enter into a confidentiality agreement and copies will only be sent via secure fire authority email accounts.

2.8 On asset refresh, we recognise that some vehicles and equipment, over time, will reach the end of its life and there are two ways that we intend to deal with this. As you may be aware, the CFOA-led Assurance Body has been provided with an annual sum of money, around £1.5m, to deal with routine upgrades and changes to the New Dimension fleet. Secondly, we envisage that every 5-6 years there will be a need for a major refresh, which will look across the board at the capabilities, and see if they may need to change in the light of new technology, the changing risk environment, or the need to replace worn out vehicles. While a decision on this will always be a decision for the Government of the day, we would expect such major refreshes to be tied to a spending review so as to be able to identify resources to take forward the work. Where vehicles have been used extensively by the FRS on local incidents and their lifespans are unduly shortened, we would wish to discuss with the FRA concerned, and the Assurance Body, how the replacement costs should be fairly apportioned.

2.9 A comprehensive list of all the comments and questions raised by FRSs in response to the second consultation on the transfer of ownership proposals are provided in the 2nd Consultation Response document accompanying this Circular, along with the responses to each query from CLG.

2.10 The Department is also aware that there are two FRAs which are currently operating Private Finance Initiative (PFI) contracts, whereby the PFI contractor has overall management of and responsibility for the FRS fire appliance fleet. We are continuing discussions with both these FRAs surrounding the proposed transfer of ownership of assets to them and the operation of the New Dimension maintenance contract within their areas. The transfer arrangements may therefore need to be specific to those FRAs, but in keeping with the key principles that the New Dimension capabilities remain interoperable and fit for purpose over their lifetime.

3.0 **Next Steps**

3.1 Following the comments received from FRSs over the past two consultations on the draft Transfer of Ownership Agreement we have amended the document accordingly, though its content remains generally similar to the previous versions. A copy of the final Transfer Agreement is enclosed with this Circular. We therefore invite FRAs to consider this Agreement at their relevant Committee meetings to confirm whether they are content to sign up, and respond to the Department by **31 December 2009**. It is intended that actual enactment of the transfer (the date the assets will belong to the FRAs) will be undertaken early in 2010.

3.2 CLG is currently confirming the individual values (including the current net book value) of each of the New Dimension assets. CLG appreciates that FRAs need this information to inform authority accounts prior to the enactment of transfer occurring and that this information is to be included within the first Schedule of the Transfer Agreement. Once this exercise is complete, CLG will forward an individual copy of the Transfer Agreement to each FRA including the financial details surrounding the equipment currently hosted by that authority. This will be the version of the Transfer Agreement which we ask
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FRAs to sign.

3.3 In taking this matter through FRA Committees, we appreciate that many members and representatives may have limited knowledge of the New Dimension project. A short briefing note is therefore attached, summarising New Dimension from its inception in late 2001 to where we are today, and the partnership approach between CLG, FRSs and CFOA adopted by the project, which has led to the successful roll-out and operational delivery of the New Dimension specialist capabilities.

3.4 A copy of the three documents accompanying this circular (the 2nd Consultation Response, the final Transfer of Ownership Agreement and the Briefing Note on New Dimension for FRA Committees), are attached to the email issuing this Circular, or can be found at:

www.communities.gov.uk/fire/resilienresponse/newdimensionequippin
g/ltcm/

3.5 Finally, FRAs will wish to be aware that although New Dimension vehicles and equipment are currently owned by CLG, this is not a function which CLG can continue to perform in the medium term. We hope that your authority will feel able to sign up to the Agreement. This has always been the aim of the New Dimension Project and it makes most sense in terms of long-term management of the assets. However, if it becomes clear that your authority is not prepared to sign-up, please let us know as soon as possible so that we can start to consider alternative arrangements for the assets you host.

Fay Smith

New Dimension Team