

## **Update on European Union (EU) developments**

### **Purpose of report**

This paper provides Fire Management Service Committee (FMSC) Members with an update on recent European Union (EU) related legislative developments, which affect Fire and Rescue Authorities (FRAs).

### **Summary**

At the November 2011 FMSC meeting, Members requested further information about EU developments affecting Fire and Rescue Authorities (FRAs). This paper is written with the Chief Fire Officers Association (CFOA).

### **Recommendations**

Members are asked to consider the issues raised in this report, both in terms of the joint LGA CFOA approach to coordinating its EU work and also the content of the key issues associated with the 2012 EU Work Programme.

### **Action**

Officers to take forward members' recommendations.

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## **Update on European Union (EU) developments**

### **Summary**

1. At the November 2011 FMSC meeting, Members requested further information about EU developments affecting Fire and Rescue Authorities (FRAs). This paper is written with the Chief Fire Officers Association (CFOA).
2. Since EU laws affect FRAs, and the LGA directly lobbies on draft EU laws affecting local authorities and the services they provide or procure, it was logical for the LGA and CFOA to coordinate its activity to influence EU legislation and share intelligence on other developments i.e. potential EU funding. This was in the context of National Functions arrangements.
3. As British, European, and International standards impact on products used by FRAs such as labelling of fire extinguishers etc, CFOA has established links with the British Standards Institute. It will contribute to standards development as and when required. There is no funding from CLG to support this.

### **Update on EU developments**

4. The EU 2012 work programme, equivalent to our Queens Speech, was published on 15 November 2011. It contains legislative proposals to be put forward between 2012 and 2014. From this, the LGA has identified proposals which could have a regulatory, financial or administrative impact on local authorities and the services they provide or procure. It includes ongoing issues carried over from previous years. The issues are categorised as: “priority” where we will proactively lobby, or “watching brief” where less staffing resource will be provided (see **Appendix 1**). Most relevant for FRAs is the Working Time Directive review. Members may consider other issues in the wider list are also relevant.
5. CFOA is part of the Federation of European Union Fire Officers Association (FEU). The aim of FEU is to represent the interests of the 2.7million fire fighters across the EU by providing expertise to EU institutions on issues relating to fire brigades and fire safety. It has developed a pan European strategy, Fire Vision 2020, which will be launched in Brussels in March 2012.
6. It recognises that common threats (terrorism, natural disasters, fires, road traffic accidents and major emergencies) mean fire services must share intelligence better. Specific actions include to establish a fire related interest group in the

European Parliament, work towards common recognised safety systems in hotels and buildings, support EU-wide standards for fire safe cigarettes, champion the provision of smoke detectors in all homes.

### **The EU decision making process**

7. The EU decision making process has three main stages: pre-legislative (including Social Dialogue); legislative; and implementation. We are active at each stage to influence EU decision makers (Brussels and Whitehall).
  - 7.1 *Pre-legislative: European Commission (EC)* initiates draft EU laws. Its annual Work Programme highlights proposals years in advance.
  - 7.2 The social dialogue process, allows some legislation to be drafted through negotiation between European-wide social partners. Cross-sectoral social partners are represented by public sector employers (CEEP), private employers (Business Europe) and trade unions (ETUC). If negotiations are successful, national Governments implement amended legislation.
  - 7.3 *Legislative:* In most other cases, once the EC publishes a draft law, *Members of the European Parliament (MEPs)* and *national governments* (Council of the EU) debate, amend, approve or reject it.
  - 7.4 *Implementation:* UK government must transpose EU laws into UK statutory instruments, and communicate this to local authorities.

### **LGA activity to influence the revision of the Working Time Directive**

8. The Working Time Directive, implemented in the UK as the *Working Time Regulations 1998*, provides workers with the right to annual leave and rest breaks and sets a 48-hour weekly limit on working time (subject to exceptions). This has significant implications for 24/7 services, such as FRAs and residential care homes/children's homes. The EC announced a review of the Directive in its 2010 and 2011 work programmes.
9. The LGA will negotiate and lobby to:
  - 9.1 Retain the 48 hour opt-out and flexibility of the reference period over which average hours are calculated.
  - 9.2 Ensure not all on-call time is classed as working time (specifically when staff are inactive whilst at their employers' premises).

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- 9.3 Call for flexibility of timing of minimum daily and weekly compensatory rest periods.
10. The review is currently taking place through the social dialogue process as the employer and employee side social partners agreed to negotiate a revision, thereby suspending legislative proposals (originally forecast for autumn 2011). The outcome will be important. If agreement is reached, it will be adopted and implemented by national governments, and UK regulations will be amended.
11. Negotiations commenced late in 2011. Social partners have nine months to reach agreement which may be extended at their request. The next meeting takes place in February 2012. The LGA is involved in the social dialogue process via the LGA Workforce team which provides policy and technical expertise to Mick Brodie, (North East Regional Director), and Vice President of the Social Affairs Committee of CEEP (European Centre of Employers and Enterprises providing Public services).
12. If agreement is not reached, the European Commission will propose revision through the legislative process, so *Members of the European Parliament (MEPs)* and *national governments* (Council of the EU) must agree a final text before the Directive can be amended. This is the stage where previous attempts to amend the Directive have failed.
13. The LGA will lobby to influence the outcome of legislative proposals. Using evidence from the sector to strengthen our policy position, the LGA will:
- 13.1 Work through our pan European LGA, Council of European Municipalities and the Regions, to build early and effective relationships with the **European Commission**, responsible for drafting legislation.
- 13.2 Brief and support UK locally elected members on the EU's advisory body for local government, known, as the **Committee of the Regions**, to engage and influence MEPs and Government.
- 13.3 Directly lobby **UK government**, in Whitehall (BIS) and in Brussels (UKREP), and collectively through the Council of the EU.
- 13.4 Lobby **MEPs** to support the LGA position (LGA MEP Vice Presidents).
14. The LGA has now established a European and International Board, which is chaired by Cllr David Wilcox. This Board takes on reputational and lobbying issues in Europe on behalf of the LGA. If FSMC Members have specific issues

relating to the revision of the Working Time Directive we can facilitate contact with the European and International Board.

### **The Localism Act and EU Financial Sanctions**

15. The UK must comply with legal obligations. EU laws have a significant impact on FRAs i.e. Directives on Working Time, Public Procurement, Green Procurement of Vehicles etc; and comply through UK statutory instruments.
16. The Localism Act (Nov 2011) EU Financial Sanctions provisions make clear why we need to get future EU laws and their implementation into UK law right, and for local authorities/FRAs to fulfil their obligations arising from them. It gives Ministers a discretionary power to seek to pass on to a local or public authority all, or part of, a fine imposed on the UK for failing to comply with a Court of Justice of the EU ruling for non compliance with EU law. Ministers must adhere to a policy statement covering the law.
17. The UK has never been fined for non-compliance with any EU legislation but by introducing this section into the Act, the Government confirms there is a real risk EU fines may be imposed. The Government has not disclosed how likely it is the UK will receive a fine, but the provisions are wide ranging since it covers any EU directive/ regulation.
18. We warned that original proposals were unfair, unworkable, dangerous for local budgets and had no independent appeals process. Sustained lobbying by LGA and Greater London Authority (GLA) including calls to scrap the proposal resulted in Government redrafting to include scrutiny by Parliament (designation process) and independent appeals process through an Independent Advisory Panel. Legislation and an LGA proposed Government policy statement address our previous concerns and provide sufficient safeguards for our members including a new model of partnership working between Government and local authorities to better involve local authorities when developing a UK line on a new EU law, to mitigate future fines.
19. DCLG will issue a three-month consultation based on our proposal to finalise a Government policy statement. The LGA will respond to to ensure the safeguards we sought for the sector are maintained in the final version. We also look to our member authorities to respond to the consultation also.

**Appendix 1**

**LGA EU LOBBYING PRIORITIES**

| <b>EU proposal and expected impact on our member authorities</b>   | <b>When</b>                           | <b>Priority/ Watching brief</b>   |
|--|---------------------------------------|---|
| <b>Children and Young People</b>   |                                       |   |
| <b>Child poverty:</b> common principles of intervention on support to families (labour market, income support) and childcare, education, healthcare, housing, social services.   | June 2012                             | <i>Watching brief</i>   |
| <b>Economy and Transport</b>   |                                       |   |
| <b>EU Budget review (2014-2020) incl. structural funds:</b> UK councils benefit from £8bn EU skills and regeneration funding. We seek a coherent, locally responsive and accessible future funding package.  | Live                                  | <b>Priority</b>   |
| <b>CO2 from cars and vans:</b> new targets for manufacturers, but may affect procurement of local authority fleet.   | Dec 2012                              | <i>Watching brief</i>   |
| <b>Revisions to regional aid guidelines</b> post 2013 will affect the UK 'assisted areas' map and the levels of grant support councils can offer to both EU and UK businesses.<br><b>Revisions to 'block exemption' &amp; de minimis state aid regulations</b> could make it easier for councils to award state aid to companies without having to notify the EU.<br><b>Revisions to state aid rules for broadband</b> may make it easier for councils to provide support schemes locally. | Sept 2012<br><br>July 2012            | <b>Priority</b><br><br><i>Watching brief</i><br><br><i>Watching brief</i> |
| <b>Environment and Housing</b>   |                                       |   |
| <b>Directive on energy efficiency:</b> LGA opposes inflexible annual 3% binding renovation target for buildings by 2014.   | Live                                  | <b>Priority</b>   |
| <b>Directive on water efficiency in buildings:</b> expected to set binding targets and incur a significant cost to councils as owners of municipal buildings and social housing.   | Expected 2012                         | <b>Priority</b>   |
| <b>Review of Environmental Impact Assessment Directive</b> will seek to improve councils' implementation of EU laws. Other items: <b>seventh environmental action programme</b> including better enforcement, and evaluation. Potential review of <b>Environmental Liability Directive</b> .   | July 2012<br><br>Oct 2012<br><br>2014 | <b>Priority</b><br><br><i>Watching briefs</i>                             |
| Revision of <b>Waste Framework and Waste Stream Directives</b> must not add to existing duties. New diversion targets from other waste streams to be added to <b>Landfill Directive</b> moving towards zero land filling by 2050.  | Both in 2014                          | <b>Priority</b>   |
| <b>Air Quality Directive:</b> review may set new air quality   | 2013                                  | <b>Priority</b>   |

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| management standards. 2013 is European air quality year  |  |                       |
| <b>Energy efficient production and distribution:</b> may scope EU harmonisation of smart energy grids / metering.  | Autumn 2012                            | <i>Watching brief</i> |
| <b>Revision of EU Greenhouse Gas:</b> fluorinated greenhouse gases (led to fridge mountains).  | June 2012                              | <i>Watching brief</i> |
| <b>Finance</b>   |  |                       |
| <b>Review of MIFID directive:</b> Proposes reclassification of UK councils as 'non-professional' investors, thus harming their ability to invest public funds.   | Live                                   | <b>Priority</b>       |
| <b>VAT affecting public authorities:</b> councils' ability to claim back VAT from government for goods/services they buy for the public sector (crèches etc) may be threatened by common EU approach for public bodies in the EU.          | <i>In 2011 plan, but not published</i> | <i>Watching brief</i> |
| <b>Improvement</b>   |  |                       |
| <b>Major review of EU public procurement rules. LGA will lobby to ensure a simpler and lighter regime overall, and a more flexible approach to shared services.</b>  | Live                                   | <b>Priority</b>       |
| Lobby for light touch regulation on <b>service concessions</b> affecting councils' franchise arrangements: toll bridges car parks, leisure centres, waste, school canteens   | 2012                                   | <b>Priority</b>       |
| <b>International</b>   |  |                       |
| Role of civil society and local authorities in development.  | Oct 2012                               | <i>Watching brief</i> |
| European Neighbourhood Policy and Eastern Partnership  | 2012                                   | <i>Watching brief</i> |
| <b>Regulation</b>  |  |                       |
| Proposals to review EU Directives/regulations on organic food, tobacco sales, general product safety, animal health, and official food chain controls may affect councils' <b>trading standards</b> and <b>environmental health</b> teams. | During 2012-13                         | <i>Watching brief</i> |
| <b>European consumer agenda:</b> consumer safety, rights redress and access to justice, enforcement, information.  | Summer 2012                            | <i>Watching brief</i> |
| <b>Tourism</b>   |  |                       |
| <b>European tourism label sector:</b> legislation to bring quality evaluation of the sector.   | 2012                                   | <i>Watching brief</i> |
| <b>Workforce</b>   |  |                       |
| <b>Working Time Directive Review:</b> may affect care homes and fire services. LGA lobbying to keep 48 hour opt-out; ensure not all on-call time classed as working time; and compensatory rest is taken flexibly.                         | Ongoing                                | <b>Priority</b>       |
| <b>Freedom of movement for workers</b> within the EU may   | Late                                   | <i>Watching</i>       |

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| establish certain obligations on employers, incl councils.   | 2012 | <i>brief</i>          |
| <b>Green Paper on restructuring:</b> identify good practice in employment restructuring promoting employment/growth. | 2012 | <i>Watching brief</i> |
| <b>Protection of workers</b> may set cancer risk levels and extend scope to risks which are toxic for reproduction.  | 2012 | <i>Watching brief</i> |
| <b>Work/family and private life</b> - measures to increase female employment rates and tackle demographic change     | 2012 | <i>Watching brief</i> |