



The Fire Brigades Union

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Mr B Lewis MP
Parliamentary Under Secretary of State
Communities and Local Government
Eland House
Bressenden Place
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3 February 2014

Dear Minister

DCLG PROMULGATION OF BREATHING APPARATUS GUIDANCE

The Fire Brigades Union (FBU) has always been an advocate of good quality national guidance for the fire and rescue service and has for many years been calling for robust mechanisms for its production. On 14 January 2014, DCLG promulgated "Operational guidance: breathing apparatus" (ISBN 97080117541146) which was developed on a collaborative basis by fire and rescue sector organisations.

There are many areas within the guidance which we welcome and support. However, it is our clear view that the guidance as currently written, if adopted in its entirety into local procedures, will not resolve errors and problems experienced in the past which will place our members at imminent serious risk, which is a position we must seek to avoid. In our view, in some key risk-critical areas, the guidance reduces the level of protection and safe systems of work for our members as contained in TB1/1997.

The FBU is very clear that it wishes to resolve this matter through dialogue. However, against a background where:

- firefighter fatalities are almost becoming an annual event;
- the findings from serious accident investigations;
- fire and rescue services resist attempts to settle compensation claims from our members when they become injured;
- where managers are placed on trial for manslaughter;
- and where a fire and rescue authority has argued in court that it has no responsibility to protect the safety of firefighters and that a firefighter who was killed at an incident has negligently contributed to his own death,

you can imagine that we consider this to be a pressing issue.

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As above, the FBU is very supportive of the promulgation of guidance and was supportive of a review of the content of Technical Bulletin 1/1997 which had not been subject of a comprehensive review since its inception. This support, however, was dependent upon ensuring that what would emerge would be a competent document, with similar code of practice status. Though the structures and arrangements for the development and production of guidance has changed over the last few years, one of the key common principles throughout has been to ensure that guidance addresses learning outcomes from a variety of sources that have arisen from incidents. These sources include "rule 43" recommendations; findings and recommendations by the HSE; and accident investigation reports. Issues which have been identified in the intervening period include:

- problems in respect of arrangements for command and control and other relevant matters arising from inspection,
- causes and contributory factors identified from investigations in respect of firefighter fatalities,
- other problems which had been observed, reported or otherwise become known in the intervening period which include a disparity between reported positive outcomes of peer-reviewed inspections and serious incident ground injuries including fatalities.

You will recall that it was identified from the outset that stakeholder endorsement was viewed as a critical success factor and that this was reflected in the Project Initiation Document. The FBU has been engaged throughout the project and has identified and raised areas of concern during the review process.

We are very clear that if guidance is to be produced it must be of the highest quality. The publication of this guidance will undoubtedly prompt fire and rescue service management teams to approach our officials, including our safety representatives. Accordingly, we have advised our officials not to agree any alterations to current procedures within fire and rescue services without seeking advice from FBU Head Office. This does not mean that our officials and representatives should not attend meetings to hear alterations that individual fire and rescue services may suggest. It is only appropriate that we provide information and safety guidance to our representatives.

Similarly, relevant government departments within the devolved administrations will undoubtedly consider the DCLG publication when reviewing their guidance on breathing apparatus. We will therefore be contacting the relevant ministers in Wales, Scotland and Northern Ireland. Key organisations locally are the individual Fire and Rescue Authorities, and we will be making contact with them on this matter. We have contacted the Health and Safety Executive, the national employers' side of the NJC as well as other appropriate bodies such as CFOA and the LGA. Finally, and by no means least, we shall raise our concerns with the relevant persons involved in the co-ordination and organisation of the operational guidance work. You will note that this letter has been sent to some of the aforementioned as copy co-respondents.

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It is fortunate that with the document having been published only very recently, there is time for particular risk-critical issues to be reconsidered as fire and rescue services and local safety representatives begin the initial contact and information-sharing phase of their local consultations.

Beyond the concerns related to safety matters, there is insufficient guidance within the document in respect of planning. Whilst there are references to the Fire and Rescue Services National Framework and the Civil Contingencies Act 2004, there is no such reminder in respect of what is required by the Fire and Rescue Services Act 2004. In this respect, we note that the publication understandably brings the attention of fire and rescue services to the need to take into account the key areas of interoperability and national resilience. The document fails however to remind fire authorities/services of their responsibility to ensure that they have adequate resources available within their service to ensure that the procedures can be implemented at the earliest opportunity.

To be clear, we believe the guidance is not fit for purpose. The use and deployment of breathing apparatus are primary safety matters and the procedures regarding deployment and use of breathing apparatus are risk-critical issues. Tragic experience informs us that safe and effective breathing apparatus guidance, procedures and operational practices are quite simply a matter of life and death for firefighters. We are committed to working to resolve our concerns quickly and through dialogue. We suggest the precise mechanism for resolving this matter will emerge from discussions between the parties. In the first instance, could I suggest an urgent meeting between the FBU and the Department at the earliest opportunity.

Yours sincerely



ANDY DARK
Assistant General Secretary

Cc: Mr Anthony Maude - DCLG
Mr Peter Holland - CFRA
Mr Neil O'Connor - DCLG