

SURREY COUNTY COUNCIL

CABINET

DATE: 27 MAY 2014

REPORT OF: MRS HELYN CLACK, CABINET MEMBER FOR COMMUNITY SERVICES

LEAD OFFICER: RUSSELL PEARSON, CHIEF FIRE OFFICER

SUBJECT: RENEW CONTRACT ARRANGEMENTS FOR SPECIALIST RESCUE AND CONTINGENCY CREWING



SUMMARY OF ISSUE:

Surrey Fire and Rescue Authority (SFRA) must provide contingency cover for Industrial Action, according to the Fire and Rescue Services Act 2004, National Framework and Civil Contingencies Act 2004.

In 2012, Surrey Fire and Rescue Service (SFRS) entered into a contract with a private provider for specialist rescue on a day-to-day basis, and contingency crewing, run as a pilot (for proof of an innovative concept). The pilot has been extended until 31 March 2015.

The pilot contract has worked successfully and Cabinet is asked to consider options on how to proceed. SFRS propose to commence a full tender process for a long term contract for the provision of this service and for the possibility to extend the full use of capabilities to obtain better value for money and to develop new ways of working. The overarching purpose of the proposal is to keep the people of Surrey safe in all foreseeable circumstances.

RECOMMENDATIONS:

It is recommended that Cabinet approves Surrey County Council (SCC) Procurement and SFRS to commence the tendering for a new contract that delivers value for money and innovative ways of working, as well as the current contingency and specialist rescue capacity, from 31 March 2015.

REASON FOR RECOMMENDATIONS:

- SFRA remains compliant with legal requirements (Fire and Rescue Services Act 2004, National Framework and Civil Contingencies Act 2004).
- SFRS could develop opportunities for the supply of specialist rescue capability to / with partners.
- This move assists progress on the SFRS's transformation agenda, and by broadening the contract scope would meet the increasing financial pressures and create a partnership to deliver new and innovative ways of working to the benefits of all Surrey residents.

DETAILS:

Background

1. Sir Ken Knight's national review of efficiencies and operations in fire and rescue authorities in England ('Facing the Future', 2013) recognised that fire and rescue services are facing a changing demand, so they must adapt to provide more effective and efficient services. In particular the review identified that the biggest opportunities lie in wider transformative structural and collaborative approaches, requiring ambition and leadership to achieve this. Surrey Fire and Rescue Authority (SFRA) are refreshing the current Public Safety Plan setting out their longer term vision against the changing environment and national and local demands. This will be presented as the Public Safety Plan (PSP) 2015-2025.
2. The increasing financial pressures faced by public services emphasise the need to consider alternative models of delivery and operation to support the broadening range of activities delivered by fire and rescue services. The PSP 2015-2025 will set out a framework within which alternative models for service delivery are evaluated and recommended.
3. In addition to strategic challenges that require SFRS to consider alternative ways of working, SFRS also need to meet the service requirement under the Fire and Rescue Services Act 2004, National Framework and Civil Contingencies Act 2004 for the provision of contingency crewing during industrial action or due to degradation of capability (for example, Pandemic Flu).
4. In October 2012, Surrey County Council Cabinet approved for SFRS to let a contract (as a pilot scheme) for the provision of contingency crewing and other rescue capabilities to support SFRS to meet specialist rescue requirements for example surface and sub-surface water rescue/recovery, high level working, cave or other confined space rescue. A Surrey-based contractor was identified and since December 2012, SFRS have had a contract in place for the provision of contingency crewing and specialist rescue delivery on a day to day basis, until 31 March 2015 when the contract, which has been extended, ends.

Evaluation of pilot scheme

5. Surrey County Council first contracted the services of a private company ('the incumbent supplier') on 1 December 2012.
6. The initial pilot was intended to run for one year with the ability to extend by mutual agreement. In October 2013, Cabinet approved the extension of the contract until 31 March 2015. The incumbent supplier provides support to SFRS at all times when the Service is unable to fully crew appliances such as during industrial action, or to assist with specific incident types including:
 - Persons requiring water or underwater rescue or recovery
 - Persons missing or trapped underground
 - Persons trapped or protesting/threatening suicide at height
 - Persons trapped or missing in collapsed structures
 - With an additional resource of a helicopter which provided daily critical aerial reconnaissance during the recent spate flooding period.

7. There are a number of services and capabilities provided by the incumbent supplier that have developed outside of the original specification e.g.
- Co-responding (with vehicles supplied by SFRS) – providing support for South East Coast Ambulance Service in Surrey (a suitably trained individual when first to arrive at an incident can administer first aid including the use of a defibrillator, in the absence of a Paramedic).
 - Incidents on or near water training which was procured.
 - Chainsaw operation.
8. 15 personnel of the incumbent supplier received initial recruit fire-fighter training over 14 weeks, which they all passed to a highly competent level. Further, personnel of the incumbent supplier underwent training on specialist SFRS vehicles. Employees of the incumbent supplier are trained to the same standards as SFRS operational staff with ongoing competency based assessment and training using the systems in place for SFRS regular operational staff. This enables a full range of fire and rescue service operations to be undertaken as a direct force replacement when it is required albeit in reduced volume.
9. The specialist rescue capability that is supplied through the contract consists of one crew of five personnel available on an immediate response basis on weekdays from 08:00 – 17:00 hours, with the same capability available on a one hour delay at all other times. Additionally other crews are available on request and the whole of the incumbent supplier’s capability can be brought up to immediate readiness at any time with just a few hours’ notice.
10. This provision of staff, vehicles and equipment (capability) for Fire and Rescue in accordance with Surrey competency standards plus specialist rescue operations is a unique model which gives both flexibility in how capability is drawn together and the ability to rapidly change the focus and priority of the rescue effect required as the situation changes.
11. The incumbent supplier’s services provided during the contract period are listed below:

Flooding Major Incident Dec 2013 – Feb 2014	1215 persons rescued by SFRS and assisting Fire and Rescue services 119 persons rescued by incumbent supplier 233 rescued by others, e.g. military															
Incumbent supplier’s use for specialist rescue at times outside of Industrial Action Apr 2013 – Mar 2014	115 incidents (attended on water rescues)															
Traditional Fire and Rescue duties – undertaken during Industrial Action Sep 2013 – Jan 2014	Number of appliances on strike days: Mixed crewing on all appliances <table border="1"> <thead> <tr> <th>Date</th> <th>SFRS appliances*</th> <th>Personnel of incumbent supplier</th> </tr> </thead> <tbody> <tr> <td>25/09/13</td> <td>12</td> <td>11</td> </tr> <tr> <td>01/11/13</td> <td>10</td> <td>13</td> </tr> <tr> <td>04/11/13</td> <td>8</td> <td>11</td> </tr> <tr> <td>13/11/13</td> <td>12</td> <td>11</td> </tr> </tbody> </table>	Date	SFRS appliances*	Personnel of incumbent supplier	25/09/13	12	11	01/11/13	10	13	04/11/13	8	11	13/11/13	12	11
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	14/12/13	8	10
	31/12/13	8	10
	03/01/14	11	13
* SFRS providing all appliances			

12. The SFRS's use of the incumbent supplier during industrial action has varied from the concept that was described in the contract with SFRS officers now commanding fire appliances that were crewed with the incumbent supplier's personnel, clearly this increased the effect achieved on strike days.
13. SFRS continuity arrangements require a minimum of six appliances available in the event of Industrial Action. The table above shows the number of operational appliances during each strike action. This varied from eight to twelve appliances, with an average of ten.
14. On each of the eight strike days (listed above) SFRS had in total between 45 and 55 crewing staff comprising a mix of Flexi Officers, Retained Duty System personnel and commercially contracted fire-fighters available for emergency cover. The incumbent supplier was able to provide a secure and planned availability for the hours of industrial action enabling on average an additional three operational appliances through the use of their staff. Having compared the contractual requirements against what has been delivered at each day of industrial action by the incumbent supplier, the level of cover has exceeded the contractual requirements.
15. By entering into the contract, the Fire Authority was able to comply with its obligations and requirements as set out in paragraphs 62-64 governing Fire and Rescue Authorities to ensure business continuity in the case of an emergency.
16. With their specialist skills the incumbent supplier provided full support and equipment throughout the recent flooding major incidents within Surrey and carried out numerous rescues and evacuations saving lives.
17. Since the beginning of the pilot the trend for use of the incumbent supplier has significantly increased as SFRS Officers gain confidence in the incumbent supplier's ability and cultural difficulties are starting to be overcome.

Conclusion

18. The pilot contract has worked successfully and SFRS wish to continue to have contingency crewing and specialist rescue capabilities in place, provided through a contract.
19. The contract in its present form is a new concept and it was recommended that this innovative approach offered the potential to explore income generating possibilities for the future and new ways of working. To date this has not been fully explored therefore it needs to be part of the scope and specification of a new contract.

Options

Option 1: Cease current contract

20. It is a statutory requirement, under the Fire and Rescue Services Act 2004 and Civil Contingencies Act 2004 for SFRA to provide contingency crewing insofar as is reasonably practicable (please see the Legal Implications section below).
21. The Fire and Rescue National Framework for England published by the DCLG on 11 July 2012 states that all Fire and Rescue Authorities must have effective business continuity arrangements in place in accordance with their duties under the Civil Contingencies Act 2004 and to meet the full range of service delivery risks: such business continuity plans should not be developed on the basis of Armed Forces assistance being available.
22. Ceasing the contract would result in Surrey Fire Authority not meeting its statutory requirements.
23. **This option is not recommended, due to legal implications.**

Option 2: Continuing with current provision

24. In 2012, a waiver was given to set up a contract for specialist and contingency crewing for SFRS, which meant that a full tender process was not needed.
25. The arrangement with the incumbent supplier could be continued to deliver current services (contingency crewing, specialist rescue). By maintaining the status quo, SFRS would meet its legal obligations for contingency cover but could not achieve the planned Medium Term Financial Plan (MTFP) savings or realise any benefits of a full tender process.
26. **This option is not recommended, due to financial implications.**

Option 3: Broadening the contract scope

27. SFRS could seek to tender a contract that continues the provision for contingency crewing and specialist rescue services, but also allows the development of innovative ways of working to create MTFP savings.
28. SFRS are recommending Cabinet to approve option 3 (to broaden the scope of the existing contract and commence the tendering process) funded through the development of mainstream savings and integrating the use of contingency contract's capacities and capabilities (see Part 2 for details).
29. **This option is recommended, as it delivers value for money, covers legal requirements and supports the service's strategic direction of travel.**

Tender process

30. The contract must meet following criteria:

Strategic objectives and operational requirement of the service	<ul style="list-style-type: none"> • Implementation of transformation agenda: SFRS is responsive to changing demands, uses different partnerships to assist in the delivery of change, efficiency and innovation. • Ensure the service business continuity arrangements are maintained through business continuity planning and assurance. • Contractor shares SFRS values and meets its standards and community's expectations of fire and rescue services
Value for Money	<ul style="list-style-type: none"> • Benefits derived from competitive bidding for contract • Robust contract management to ensure contractor's performance adheres to agreed levels • Include new ways of service delivery that save SFRS money / generate income
Flexibility	<ul style="list-style-type: none"> • Contract must be able to grow to meet the strategic needs of the fire service for the period of the contract term. • Contract must include the appropriate break clauses with a clearly defined exit strategy within the contract. • Contract must include an option for the supplier to consider any joint venture, joint venture contract or other corporate vehicle that the Service may choose to enter into.
Legal requirements	<ul style="list-style-type: none"> • Cover the requirements to the service (Fire & Rescue Services Act 2004 and Civil Contingencies Act 2004) • Ensures the set up and delivery complies with the current legal framework.

31. The tendering process and outcome must:

- Ensure stakeholder engagement and support for the delivery and implementation of the project through a fair, equitable and transparent process.
- Ensure the provider will strengthen public confidence in SCC and SFRS reputation and brand by delivering improved services whilst meeting the SCC and SFRS strategic aims and vision.
- Plan for contractor and SFRS cooperation (equipment, training, relationship between SFRS and contractor staff).
- Ensure that all Equalities and Diversity considerations have been fully explored and requirements met.

32. The exact length of the contract will be determined during the tender process; however it is likely to be a five year contract with the option to extend by two years. The aim is that at the end of the tendering process, SFRS will have a long term partner to work with to meet its aims and objectives to deliver a sustainable service with different and challenging ways of working.

CONSULTATION:

33. SFRS have been liaising closely with internal stakeholders, including Fire and Rescue Service Advisory Group, Chief Officer Group, SCC Procurement and SCC Finance. The recommended option has also been shared with staff and their representative bodies, including the Fire Brigade Union (FBU), who did

not support this proposal but realised that SFRS have a statutory duty to have contingency crewing in place.

34. The proposal is to be scrutinised by the Communities Select Committee at their meeting on 19 May 2014.

RISK MANAGEMENT AND IMPLICATIONS:

35. Option 1 would breach the service's legal duty under the Civil Contingencies Act 2004 and Fire and Rescue Services Act 2004. Option 2 is financially unfeasible, which is why pursuing these options have not been further explored.
36. Contracting the provision of contingency crewing, specialist rescue and other services, bears following risks:
- Cultural and operational integration of contractor – communication across service and combined exercises with operational personnel, Health and Safety issues to be addressed.
 - Staff dissatisfaction / FBU - Full consultation with all representative bodies before the appointment of a contractor.
 - SCC reputation – the full support of Cabinet for new concept would appear to be essential.
 - Nationally - there is no benchmark to compare or evaluate the new contract and its delivery against.
 - Regionally – ensure that the contractor possesses interoperability capabilities.
37. Procurement are to manage any possible risk in contract development (robust contract management planning, legal requirements to be adhered to, requirements fully reflect service needs, financial evaluation of tenders, exit strategy, etc).

Financial and Value for Money Implications

38. The MTFP has been based upon option 3. Following the tender exercise, provided that the cost of the new contract can be contained within the allowed budget, and, it is possible for the planned efficiency savings to be achieved, this option enables the service to meet the assumptions built into the MTFP.
39. The cost of the new contract cannot be stipulated with full certainty at this point, as there is no comparable set up in the country to test the market or benchmark costs. Further the tender process will shine further light on the likely cost based on tender negotiations and establishing detailed contractual specifications. The cost and savings assumed in the MTFP are based on the previous experiences with the pilot period, and the predictions of what future savings might be achieved from SFRS's experience. See Part 2 for further details.

Section 151 Officer Commentary

40. From a financial point of view, this paper sets out an appropriate way forward, given the following factors:

- most other Brigades take the risk of having no such contract, and Surrey CC could potentially revert to that position;
- however, the pilot assessment shows that the contract has worked well, and concludes that for operational reasons as well as complying in the clearest possible way with the legal requirements, the contract should be extended if financially viable;
- extension under current arrangements is not financially viable;
- but extension under broader arrangements does have the potential to deliver what is required financially under the MTFP.

41. The financial factors therefore support the recommendation for Option 3, that a tender is sought under broader arrangements. The outcomes can then be assessed to determine whether it is financially viable to continue with this means of meeting the Council's contingency obligations. Until that outcome has been secured, there is an achievability risk of providing contingency cover and to the delivery of the planned efficiency savings in the MTFP.

Legal Implications – Monitoring Officer

42. Only Fire Authority Fire fighters are legally allowed to force entry into a building (Fire and Rescue Services Act 2004 (Sec 44 (2) (a)). During strike action this has been addressed by operating mixed crewing on appliances so that there is a SFRS Officer available to attend incidents and direct operations.
43. SFRS must comply with the core functions identified in the Fire and Rescue Services Act 2004. These include extinguishing fires in its area and protecting life and property in the event of fires in its area. In order to do so the FRA must “secure the provision of the personnel, services and equipment necessary to efficiently meet all normal requirements”, each of which must be taken into account.
44. The Civil Contingencies Act 2004 places a duty on Fire and Rescue Authorities (FRA) to put in place business continuity management arrangements to ensure that they can continue to exercise their functions in the event of an emergency so far as reasonably practicable.
45. Section 21 of the Fire and Rescue Services Act 2004 requires FRAs to comply with the Fire and Rescue National Framework for England (FRNF) (revised by the DCLG in July 2012) The FRNF provides an overall strategic direction for fire and rescue authorities) which must be complied with by SFRS. Key priorities for fire and rescue authorities in the new framework include:
- identifying and assessing the full range of foreseeable fire and rescue related risks their area faces
 - making provision for prevention and protection activities and responding to incidents appropriately
 - working in partnership with their communities and a wide range of partners locally and nationally to deliver their service; and
 - being accountable to communities for the service they provide.

46. In making their decision Members should have due regard to the Council's public sector equalities duty and Cabinet needs to take account of the Equalities Impact Assessment due to be submitted and to the paragraph below relating to Equalities and Diversity.
47. Following receipt of instructions, Legal Services will advise upon the conditions of contract, means of procurement and compliance with the Public Contracts Regulations.

Equalities and Diversity

48. This paper seeks Cabinet approval for a recommendation that builds on an existing arrangement, so the original EIA completed for the pilot scheme has been reviewed (see Annex 1).
49. Impact on E&D groups will be investigated during the contract development stage, as service requirements and potential providers' capabilities will become clearer. A full EIA will be submitted with the next Cabinet paper that seeks approval to appoint the contract.

WHAT HAPPENS NEXT:

50. Should the recommendation be approved, SCC Procurement will commence to lead on the tendering process:
 - 2 June 2014 – publish advertisement for tender
 - 15 December 2014 – Recommendation to appoint contract presented to Cabinet

Contact Officer:

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Consulted:

FRAG, COG, Procurement, SFRS staff and FBU

Annexes:

Annex 1 - EIA

Sources/background papers:

- Fire and Rescue Services Act 2004
- Civil Contingencies Act 2004
- Fire and Rescue National Framework for England. July 2012
- SCC Cabinet Paper (23 October 2012) Surrey Fire and Rescue Service Specialist Rescue and Contingency Capability
- SCC Cabinet Paper (26 November 2013) Specialist Rescue and Contingency Crewing extension

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