


**Professor Pete Murphy and Research Associate Katarzyna Lakoma, Nottingham Trent University, look at the government's approach to reporting on fire services compliance with the National Frameworks**

# The (mis) interpretation of Section 25 of the Fire and Rescue Services Act 2004



Immediately before Parliament adjourned for its summer recess on July 22, the Home Secretary issued the regular bi-annual report on the extent to which fire authorities have been acting in accordance with the National Framework.

This is a statutory requirement of the Fire and Rescue Services Act 2004 and should include any formal steps the government has taken to secure compliance with the framework. When introducing the original Bill, the duty to keep the framework up to date and report on it was considered 'fundamental to ensuring the effective national provision of safety through the Fire Service'.

Submitting the report in July, shortly before the recess, has become the government's regular practice, as unfortunately has the lack of any public or parliamentary debate. This appears to be synonymous with the government's recent 'minimalist' approach to reporting on the Service adopted since Eric Pickles became Secretary of State in 2010. Looking back at previous reports, particularly those submitted during the Coalition Government, makes

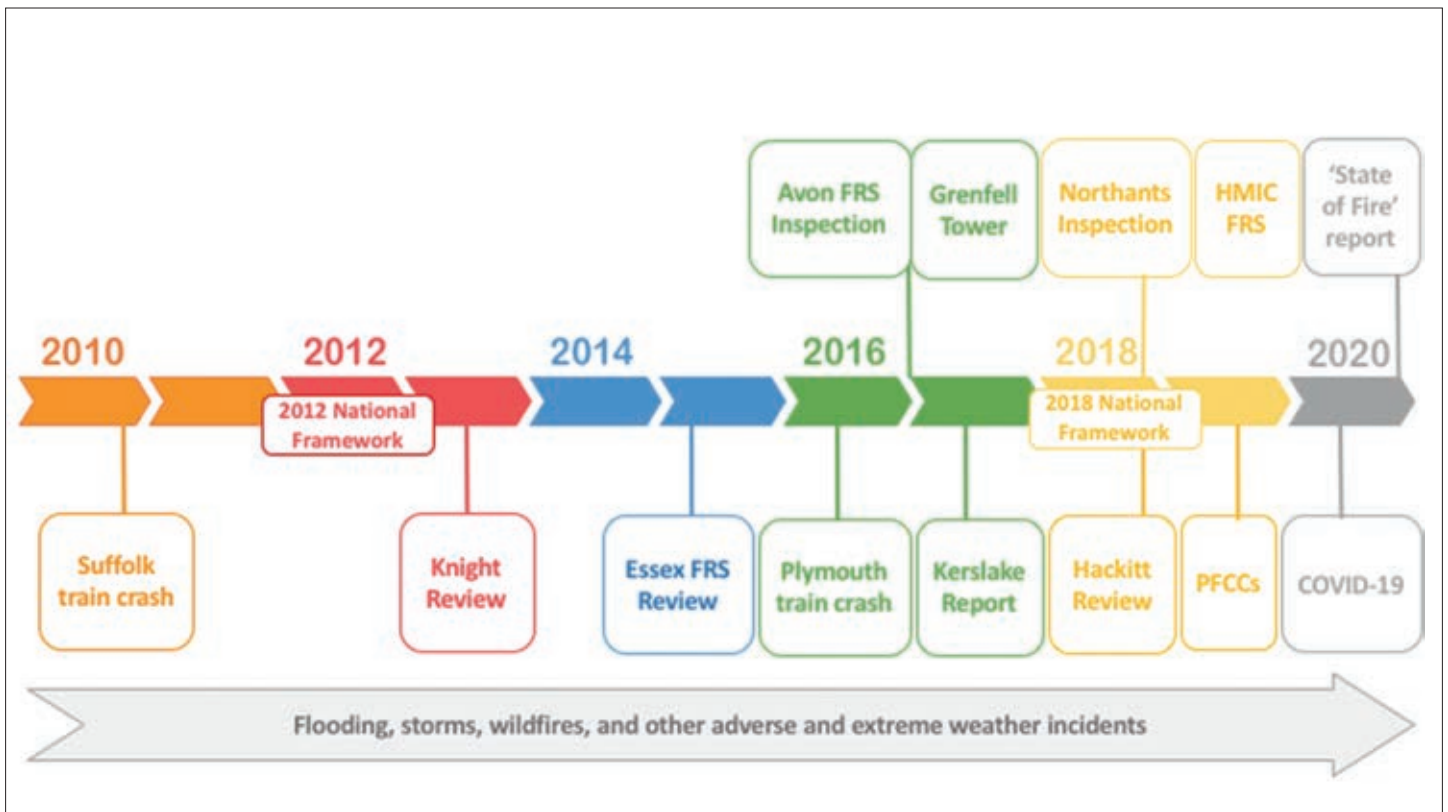
the latest reports covering two full sides of A4 subdivided into three sections, relatively substantial in comparison to their immediate predecessors.

This prompted us to have a look at what has been reported, and, possibly more interestingly, what could have been reported but has been left out.

It seems the 2016 report that followed the NAO and Public Accounts Committee reports in 2015 and 2016 was a bit of a watershed, but we will come to that later.

The latest (2020) report contains a section on the services' compliance with the 2018 National Framework, a section on the first cycle of inspections and *State of Fire* report from HMICFRS, and a final section on Grenfell Tower. Like its immediate predecessor in 2018 (but unlike most reports since 2010), it mentions issues or initiatives that have arisen or intensified between the end of the formal reporting period (March 31, 2020) and the preparation of the report itself in July. However, it omits any mention of the current Covid-19 pandemic or the services' response to it.

*“There is no mention of Covid-19 nor the Tripartite Agreement signed in March that allowed firefighters to drive ambulances, deliver vital supplies to the elderly and vulnerable, and move the bodies of the deceased”*



### Compliance

The latest report assured parliament that every authority had complied with the requirement to publish an annual statement of assurance. Having examined a sample of these to see what they said on 'Integrated Risk Management Plans and financial plans', the Secretary of State was satisfied that every fire and rescue authority in England has acted in accordance with the requirements of the National Framework, and no formal steps have been taken by the Secretary of State since the last assurance statement in 2018 to secure compliance.

This is interesting in three ways.

First, it places a heavy reliance on statements of assurance and adopts a very generous interpretation about their veracity. This contrast with the findings from NTU's evaluation of all statements of assurance (Spencer *et al* 2019) that found the guidance on preparing statements to be too broad and open to interpretation to be fit for purpose. It also found that whilst most authorities provided some form of report on their website, significant variations in terms of their length, structure, and content limited their value. At the time of our survey, 30 per cent of authorities did not have an up to date statement available online. The statement of assurance was introduced with the 2012 National Framework, and there were no changes to the requirements or guidance within the 2018 Framework.

Second, it omits any mention of the Covid-19 pandemic. FBU evidence to the recent Home Affairs Select Committee claimed that fire and rescue services had not been given guidance by the government on reacting to a pandemic for 12 years before the Covid-19 outbreak. In addition, their recent assessment of the current IRMPs, drawn up by 50 local fire services, shows that 60 per cent of services did not mention 'pandemic' or 'flu', and none provided detailed plans on how to deal with potential risk of pandemic in their IRMPs (FBU, 2020). This suggests failure to comply with the requirements on IRMPs, which need to 'reflect up to date risk analyses including an assessment of all foreseeable fire and rescue related risks that could affect the area of the authority' (Home Office, 2018).

Third, there is no mention of the Home Secretary's approval to transfer the governance of seven fire and rescue authorities to police, fire and crime commissioners having been satisfied that a local case has been for them to do so "in the interests of economy, efficiency and effectiveness, or public safety."

### Inspection

The report does include some of the outcomes from the first round of HMICFRS inspections and the Chief Inspector's *State of Fire* report from which it briefly highlights evidence of strengths as well as areas of

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concern. It also states that ‘the Home Office will keep under review the need for section 25 assurance reports in addition to those reports now produced by HMICFRS; a statement that echoes a similar comment in the 2018 report. It does not, however, mention that the inspections and the reports were about individual services and did not include inspection of the governance arrangements or the full range of authority’s responsibilities. Section 25 and the earlier Section 21, which establishes the National Frameworks, are directed explicitly at fire and rescue authorities, not fire and rescue services or the range of services covered in HMICFRS inspection framework.

The 2018 report was also interesting in terms of inspection. It chose to highlight the best value inspections into Avon FRS in 2017 (Baker, 2017) and Northamptonshire FRS in 2018, although the 2016 report did not mention the independent review in Essex FRS in 2015 (Lucas, 2015).

In relation to Avon, the inspection considered the authority’s compliance with its ‘best value duty’ under Section 3 of the 1999 Act which required the authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The Section 25 report states that in the lead inspector’s opinion, the authority was failing to comply with its duty under Section 3 of the 1999 Act and made a number of proposals for improvement in the areas of governance, leadership, culture and external scrutiny. However, rather confusingly, the Section 25 report states that the lead inspector found that the authority had met its obligations with reference to the National Framework. The inspector’s report states ‘in other ways the authority has met its obligations with reference to the National Framework such as with regard to assurance statements, Freedom of Information requests and publication of data’. This was after criticising the IRMP and stating that some important decisions were not transparent, and that the authority were failing to uphold the Nolan principles of public life.

In relation to Northamptonshire, the failure to comply with best value was due to a lack of budgetary control and an organisational culture that discouraged scrutiny. The Home Office subsequently asked the Chair of the NFCC to review Northamptonshire’s operational viability and he concluded that while it was under considerable stress – financially and operationally – it was fulfilling its statutory duty to comply with the National Framework, which may be taken by some as a further damning indictment of the inadequacy of the 2012 framework. Northamptonshire FRS has one of the seven PFCCs referred to above as Stephen Mold took over on January 1, 2019.

### **Grenfell Tower**

The third section of the 2020 report refers to Grenfell Tower and the publication on October 30, 2019 of Sir Martin Moore-Bick’s Phase 1 report covering the events on the night of the fire, including the role of the emergency services. Sir Martin made a number of recommendations for central government, which were all accepted in principle by the government. The report accepted that there was more to do but quoted progress in four areas:

- The introduction of the Fire Safety Bill to parliament clarifying the scope of the Fire Safety Order
- The new Fire Protection Board chaired by the National Fire Chiefs Council (NFCC) and supported by £10m of funding for protection work
- Working with London Fire Brigade and NFCC on implementation of the recommended operational changes
- The receipt of an additional £20m to enable services to increase fire inspection and enforcement capability.

While this innovation is clearly welcome, it does prompt the question as to why was there no mention of Dame Judith Hackitt’s interim or final reports on the Building Regulations and fire safety or the Kerslake Report (2017) into the preparedness and response to the Manchester Arena attack? Neither is mentioned in 2020, despite the 2018 report stating that the Hackitt Review (and Grenfell) ‘which was reporting on against the 2012 Framework may make recommendations which need to be reflected in further revisions to the National Framework’.

More surprisingly, in a report published in July 2020, there is no mention of Covid-19 nor the Tripartite Agreement signed in March that allowed firefighters to drive ambulances, deliver vital supplies to the elderly and vulnerable, and move the bodies of the deceased. The agreement and the activities covered have since been extended twice and now run to September 30. The NFCC website shows the range of activities undertaken to date but also a range of additional activities being discussed, as the impact of the pandemic extends further into the future and responses to it diversify.

### **A Watershed**

The 2016 report was the first of the (slightly) longer reports that have been published since 2010. It still only relates to compliance issues, but it does explain the heightened interest in Statements of Assurance, which were introduced with the 2012 National Framework. As the reports explains, the Public Accounts Committee report on the *Financial Sustainability of Fire and Rescue Service* had been published and ‘the Home Office agreed to

continue to check [sic] that all fire and rescue authorities in England have published assurance statements to confirm that they have complied with the requirements of the Framework. In addition, the Home Office agreed to conduct a rigorous examination of a random sample of fire and rescue authority assurance statements to seek evidence that authorities have complied with the Framework.'

Following this review and follow up clarifications, the Home Secretary was satisfied that all were compliant but produced a string of areas where practice could be strengthened: 'These include consistency of approach on how fire and rescue authorities present their evidence and the information in support their Assurance Statement; sign off by the Chair of the fire and rescue authority; the timing of revisions to integrated risk management plans; the provision of more information on how National Resilience requirements were being met; and the value of highlighting examples that could constitute best practice on assurance statements such as including a table of the requirements of the National Framework with references to evidence showing how each requirement was met.'

The accompanying assurance that the Home Office would liaise with authorities to explore where further guidance would be valuable came to nothing and the guidance remained unchanged by the 2018 National Framework. The Home Office agreement to continue to check was a bit disingenuous as the Home Office first wrote to authorities in April 2016, which was outside of the reporting period for the 2016 report. In previous years, it had been the Department of Communities and Local Government's (DCLGs) responsibility.

#### 2012 and 2014

These 'reports' were little more than statements that the Secretary of State was satisfied that fire and rescue services had been acting in accordance with the framework, although the NAO and PAC were later to dispute how the DCLG could give such an assurance given the inadequacy of their sponsorship and monitoring arrangements. The 2012 report mentions the forthcoming 2012 National Framework but would have been reporting against the 2008-2011 Framework. The 2014 report does report against the lamentable 2012 Framework but merely confirmed that fire and rescue authorities had all published annual statements of assurance and updated IRMPs and complied with national resilience assurance elements. There is no mention of Sir

Ken Knight's Review of efficiencies and operations undertaken for the department in 2013.

Throughout the 2010-2020 period there have been various man-made and natural disasters that have challenged the capacity and capability of fire and rescue services and changed the risk profile they are facing at national, regional and local levels. Natural disasters have included widespread flooding, storms, wildfires and other adverse and extreme weather incidents caused by climate change. The man-made disasters in addition to Grenfell and the Manchester Arena attack have included major train crashes in Plymouth and Suffolk as well as increasing terrorist incidents and in 2019 there was a significant rise in fatal motorway accidents as a result of so-called "smart" motorways. In fact, both man-made and natural disasters have increased in numbers and severity throughout the last ten years, but successive Section 25 reports have not mentioned any of them.

Now that HMICFRS are producing annual *State of Fire* reports rather than considering whether there is still a need for Section 25 reports as part of the parliamentary assurance arrangements, the Home Office should be making them complementary to the *State of Fire* report, more comprehensive in their coverage and more consistent in their content. The Section 25 reports should also contain a review of the implications of major incidents such as man-made and natural disasters and any issues for or changes needed to the National Framework of national guidance.

It is generally established that there has been wide variations in Covid-19 support required both across England and between the devolved administrations in Scotland, Wales, and Northern Ireland. Local lockdowns, a potential second wave and increasingly diverse responses to Covid-19 are likely to require a bigger, more agile and a more bespoke response from all the emergency services.

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