

MINIMUM SERVICE PROVISION CONSULTATION**REPORT OF CHIEF FIRE OFFICER****For Noting****1. PURPOSE OF REPORT**

- 1.1 The purpose of the report is for the Executive Members of the Cleveland Fire Authority to note the Home Office Consultation on Minimum Service Levels (MSLs) in the Fire and Rescue Service (FRS) and the Authority's response to the survey.

2. RECOMMENDATIONS

- 2.1 That Members:

- (a) note the consultation on MSLs in FRSs
- (b) note the Chief Fire Officer's response sent on behalf of the Cleveland Fire Authority (CFA)

3. THE PURPOSE OF MINIMUM SERVICE LEVELS (MSL)

- 3.1 The aim of MSL is to limit the impacts of strike action on the lives and livelihoods of the public and to find a balance between the ability of unions and their members to strike with the need for the wider public to be able to access key services during strikes.
- 3.2 The introduction of multi-sector Minimum Service Levels (MSL) legislation is designed to enable people to continue to attend their place of work, access education and healthcare, and go about their daily lives during strikes, whilst balancing this against the ability to strike. Where MSL are applied, there should be a more consistent level of service for the public from strike to strike, as well as minimising the circumstances in which there are no services at all. This will help protect the public and guard against disproportionate risks to lives and livelihoods.

4. **BACKGROUND/OVERVIEW OF THE BILL**

4.1 The Government intends to legislate to ensure a minimum service level (MSL) for certain services provided by fire and rescue services (FRSs) is maintained during any strike action. The Minimum Service Level Bill that was introduced to Parliament on 10 January will, if passed by Parliament, amend the Trade Union and Labour Relations (Consolidation) Act 1992 Act to:

- Protect the public's access to essential services by imposing conditions on the protection of trade unions from legal action in respect of strikes relating to services where provision has been made for minimum service levels (MSL). The services will be prescribed by regulations, following consultation.
- impose obligations on trade unions and individuals to comply with minimum service levels and enabling employers within specified services to issue work notices to roster the workforce required to secure the minimum service level on a strike day.

4.2 The Bill would, if passed:

- provide a power for the Secretary of State to make regulations providing for levels of service in the event of strike action in the form of strikes in relevant services – referred to as minimum service levels
- provide for a further power for the Secretary of State to specify in regulations the relevant services for which minimum service level regulations may apply. This power to make regulations specifying relevant services is limited to the following categories: health services; **fire and rescue services**; education services; transport services; decommissioning of nuclear installations and management of radioactive waste and spent fuel; and border security.
- enable employers to issue work notices to unions and those persons required to maintain those minimum service levels.

4.3 The Bill provides that work notices are the mechanism that puts minimum service levels into practice for particular strikes in relevant services. Under the Bill, work notices may be given by the employer to trade unions and must identify the persons required to work during the strike in order to maintain MSL and specify the work to be carried out by them during the strike in order to maintain MSL. A work notice must not identify more persons than are reasonably necessary for the purpose of providing the levels of service under the minimum service regulations [nor can the employer have regard to whether the person is or is not a member of a trade union (or a particular trade union)]. There is a requirement for the employer to consult with the union over the number of persons to be identified and the work to be specified in the work notice.

- 4.4 For fire and rescue services, the government seek to implement an MSL that would focus on public safety as well as ensure that firefighters are operating at safe levels when numbers are reduced due to strike action. The government contend that the fire-specific MSL will be introduced to FRSs to ensure that crews can respond to incidents to sustain the safety of the public during strike periods. The MSL would ensure that the employers are able to plan for adequate staffing cover to be maintained for emergency response. Employers will be able to do this through issuing work notices to appropriately trained staff irrespective of their membership of a union.

5. CONSULTATION

- 5.1 On 9 February 2023, the Secretary of State launched a consultation on Minimum Service Levels for Fire and Rescue Services (**Appendix 1 refers**). The aim of the consultation is to seek views on the:

- appropriate MSL which should apply during strike action in relation to FRSs.
- the relevant services provided by FRSs' workforces to which the MSL should apply.
- how to reasonably mitigate risk where possible to ensure public safety whilst maintaining workers' rights.

- 5.2 Specifically, this consultation seeks views on the definition of 'essential services' in FRSs and on five (5) different approaches to setting minimum service levels.

- 5.3 The Consultation Questions are listed in **Appendix 2**.

6. CONSULTATION RESPONSE

- 6.1 The consultation closed on Wednesday 3 May 2023.

- 6.2 The CFA response to the consultation is attached at **Appendix 3**.

IAN HAYTON
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