



# Home Office

## Minimum Service Levels for Fire and Rescue Services

A consultation on implementing minimum service levels for fire and rescue services during periods of strike action

February 2023



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Any enquiries regarding this publication should be sent to us at:

**Home Office**

2 Marsham Street

London

SW1P 4DF



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# Fire and Rescue Minimum Service Level Consultation Document

## Foreword

As Home Secretary, public safety is my foremost priority and responsibility. Fire and rescue services are an important part of that mission and I am grateful to all of the firefighters and staff who perform their duties with courage, professionalism and skill.

The risk of fire is ever present and fires can have truly tragic consequences. Fire affects people across our society, especially the most vulnerable. Both fire and rescue services and the Government, continue to learn lessons from the tragedy at Grenfell Tower. There are continued concerns about the potential risks of fire in multi-occupied residential buildings, as was so tragically highlighted at Grenfell. This is why the Government continues to make funding available and drive forward vital work to remediate dangerous cladding on buildings so that people can feel safer in their homes.

Whilst we recognise the principle of workers and unions to negotiate over fair pay, it is also right that we protect the public who rely on their services. So, when a fire and rescue emergency occurs, it is legitimate for the public to expect a response that will help save lives and reduce the risk of serious injury and damage. Even relatively small fires can potentially spread rapidly and quickly develop into significant incidents.

It is for this reason that we will ensure that the public will always be able to receive a minimum level of service from their fire and rescue service during periods of strike action. We also want to ensure that these MSLs are delivered in a proportionate way.

The Government has already made clear its intention to enshrine this protection to key public services in law and that is why we are legislating through the Strikes (Minimum Service Levels) Bill currently being debated in Parliament. This consultation represents the next step in delivering this measure.

We are publicly consulting on the most suitable approach for delivering minimum service levels for fire and rescue services. We welcome views from anyone who wishes to reply. From there we will give due regard to consultation responses and move to ensure that regulations are laid as soon as practicable so they are in place in the event of future strike action. Fire and rescue services perform a critical role in our society, and it is right that the public should have confidence that sufficient cover is in place to respond to emergencies.

# Strikes (Minimum Service Levels) Bill summary

## The purpose of Minimum Service Levels (MSL)

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.
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.

## Overview of the Bill

3. The Strikes (Minimum Service Levels) Bill amends the Trade Union and Labour Relations (Consolidation) Act 1992 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.

## Implementation of MSL

4. The Bill includes powers for the Secretary of State to set MSL, for services within specified key sectors (categories), through regulations.
5. The key sectors (categories), which are specified within the Bill, are:
  - health services
  - fire and rescue services
  - education services
  - transport services

- decommissioning of nuclear installations and management of radioactive waste and spent fuel
  - border security
6. The Secretary of State must consult such persons as they consider appropriate on the proposed regulations and the regulations must be approved by both houses of Parliament before they are made. The consultation requirements may be fulfilled before and after the Bill receives Royal Assent.
  7. The Bill will come into force on Royal Assent. However, MSL will not take effect until the regulations that detail the sector specific MSL come into force. Once implemented, MSL may be applied in relation to any strike in the specified services.

### Work Notices

8. Once an MSL is implemented via regulations in relation to a service, where a trade union gives notice of strike action to an employer, the employer may decide to issue a notice (known as a work notice) ahead of the strike day(s) to specify the persons required to work and the work they must carry out to secure that the MSL for that strike period is provided. The work notice must be given no later than 7 days before the day of the strike but can be varied up to 4 days before (or later if agreed with the union).
9. The employer must consult the union about the numbers of persons to be identified and the work to be specified in the work notice and have regard to their views before issuing the work notice. A work notice must not identify more persons than are reasonably necessary for the purpose of providing the MSL and, in deciding whether to identify a person in the work notice, the employer must not have regard to whether the person is or is not a union member.

### Enforcement of work notices

10. If an employee identified in a valid work notice for a strike day takes strike action on that day which does not comply with the work notice, the employee would lose automatic protection from unfair dismissal, provided their employer has notified them (before the strike day) that they are named in and must comply with a work notice and the work which they need to carry out.
11. Where a work notice is validly given by the employer to the union, the Bill provides that a union loses its protection from damages claims by the employer if it does not take reasonable steps to ensure that members of the union named on the work notice comply with the work notice. Such compliance by union members would mean not participating in strike action on strike days when those members are required by

the work notice to work. An employer might also be able to obtain an injunction in such circumstances to prevent the strike taking place.

## Geographical Scope

12. The Bill will apply to England, Wales and Scotland (Great Britain). The purpose and substance of the Bill is to regulate employment rights and duties and industrial relations in specified services. Employment rights and duties and industrial relations are reserved matters.
13. This Bill enables the Government to apply MSL to key sectors across Great Britain. We recognise that in some cases this will affect employers operating services that are devolved. As part of the development of MSL and the consultations that are legally required to inform these, the UK Government are engaging with the Scottish Government and Welsh Government on the geographical scope of the regulations.

## Background

14. 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 (Strikes (Minimum Service Levels) Bill - Parliamentary Bills - UK Parliament) 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:
  - restrict the protection that is provided to trade unions and employees in respect of strikes where provision has been made in regulations for minimum levels of service.
  - enable employers to issue work notices to unions and those persons required to maintain those minimum service levels.
15. 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.
16. 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.

17. The Secretary of State is required to consult before making regulations setting MSL and specifying relevant services to which MSL apply. The Bill provides that the consultation process may be carried out before (and after) the Bill is passed. This consultation document starts the process of consultation on both the 'relevant services', within fire and rescue services, to which an MSL should apply, and possible minimum service level options. The aim of this consultation is to understand the framework in which we are working, compare to similar models and clarify benefits and shortfalls of each option. **Please note: these proposals are subject to final parliamentary approval of the Bill before Parliament.**

## Why minimum service levels matter

18. The intention behind setting an MSL for fire and rescue services is to keep the public safe. The aims of this consultation are to meet with the consultation requirements of the Bill, and ensure that the MSL reflects the relevant parameters of service, ensuring that they are set to a level which mitigates risk and threat to the public whilst preserving the ability to strike as much as reasonably possible for members of the FRSs.
19. People have the right to expect that their emergency services will help to keep them safe. While we recognise the importance of the ability to strike, this should be balanced against the need to protect the lives of the public. The Government committed to introducing minimum service levels for transport in its manifesto and we are extending that approach to include and protect emergency services.
20. We need to be continually aware of the dangers of fire: across communities and particularly for the most vulnerable. This was tragically highlighted by the Grenfell Tower fire in which 72 people died. As a result of this tragedy, more is known about the built environment and concerns still very much exist with a number of multi-occupied residential properties. The Government is taking action to make these buildings safer, as highlighted by its commitment to provide an unprecedented level of funding for remediation of cladding, but there is still work to do. In addition, the Government has committed to reforming fire and rescue services following challenging inspection findings and the tragic events at both Grenfell and Manchester Arena. The proposed reforms were set out in the Fire Reform White Paper in May 2022 and the Government response to that consultation will be published soon.
21. Recent years have also seen an increase in weather related events. The summer of 2022 highlighted the need, in many areas, for fire and rescue services to tackle wildfires. The FRSs play an essential role in flooding events and in efforts to uphold our national security and resilience.
22. Against this background, and given the risk that fires can potentially spread rapidly, it is vital that fire and rescue services maintain a level of emergency response and service during periods of strike action; protecting the safety and wellbeing of the public and the places they live and work.
23. In this consultation we will consider the balance between public protection and workers' rights. The ability to strike is an important part of industrial relations in the UK, rightly protected by law. Any strike action will inevitably cause some form of disruption. Therefore, it is important to find a reasonable balance between public protection and workers' rights. Proposals will be developed with a principal focus on essential services and will not include routine activity unless strikes are prolonged, in which case resuming wider activities like protection, prevention and community education becomes essential.

24. To fully support all life-saving activity conducted by fire and rescue services we will not limit the legislation to firefighting. We will be inclusive of all essential rescue activity covered by these services but to do so in a proportionate way with the principal focus on first responders.
25. Although our first consideration is to protect public safety, cost is also a relevant factor. To ensure appropriate resources are in place, external support is often required at significant cost. MSL provide the ability to help reduce the cost burden to the public purse.

## Comparison – International Comparisons and Legal Context

26. Minimum Service Levels (MSLs) exist in a range of countries within the EU, and globally, as a legitimate mechanism to balance the ability to strike with the needs of the public. These are generally negotiated between employers and unions and can also cover issues like the notice period that has to be given before industrial action takes place.
27. In Portugal, when a strike is declared in key sectors, including firefighting, the organisers are obliged by law to provide a minimum level of service, normally agreed between employers and unions by collective agreements. An arbitration board determines minimum services if they fail to agree.
28. In France, minimum service level legislation has been in place since 2008, with the levels agreed through negotiations with trade unions. Spain allows for public hearings on MSL rules. In Italy the rules are also collectively agreed with unions.
29. When setting an MSL, the interference with Article 11 of the European Convention on Human Rights, which is the freedom of assembly and association, must be justified. We believe the MSLs are justified as they seek to protect the rights and freedoms of others, including the public. This is set out within the memorandum on the European Convention on Human Rights, which accompanied the Strike (Minimum Service Level) Bill at its introduction to the House of Commons on the 10 January 2023.
30. The International Labour Organisation, which is an agency of the United Nations, has stated that minimum service levels are justifiable for the following services<sup>1</sup>:
- Services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term);
  - Services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population; and

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<sup>1</sup> [Compilation of decisions of the CFA content \(ilo.org\)](https://www.ilo.org/public/english/condemnation/decisions/decisions.htm)

- in public services of fundamental importance.

We believe that fire and rescue services are in scope of these definitions as strikes within these services would cause interruption which would endanger public safety as they are services of fundamental importance. We therefore consider this to be a legitimate aim of the policy.

31. It is also worth noting that countries including Canada, Australia and parts of America have the ability to ban, or have already banned, emergency services from striking.

### Comparison on MSL with other departments

32. The Department of Health and Social Care are consulting on MSL simultaneously. The Department of Transport will consult in due course. Other sectors referenced in the Strikes (Minimum Service Levels) Bill are looking to pursue voluntary MSL in the first instance.

### Cost analysis of MSL

33. An impact assessment to support this consultation will be published shortly.

## Proposals

34. The Strikes (Minimum Service Levels) Bill provides a power for the Secretary of State to specify in regulations the relevant services, which are subject to 'minimum service regulations'. The list of relevant services specified in the Bill includes 'fire and rescue services'. In our proposal below we set out the essential services that we consider the MSL should cover, and we are seeking views and options on how it could be applied. For fire and rescue services, we 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. We propose that this 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.

This consultation seeks views on:

- 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.

35. The consultation is aimed at seeking a wide range of views from the public. We are particularly keen to hear from operational and political leaders working in fire and rescue authorities, unions, staff groups, employees and people working within both fire and rescue services and the wider fire safety, public safety and protection sectors.

36. In England, fire and rescue services are provided by 44 different fire and rescue authorities. FRSs are run differently in England, Scotland and Wales and are the responsibility of the Scottish and Welsh Governments respectively. We are keen to understand, including through the responses to this consultation and engagement with devolved administrations, the implications for setting minimum service levels in fire and rescue services in England, Scotland and Wales. This will help to inform a decision on whether minimum service level regulations are needed across Great Britain and, if so, whether different regulations for England, Scotland and Wales are needed to take account of operational differences.

## Essential Services

37. It is important to be clear on which essential services should be covered in minimum service regulations to ensure the MSL is proportionate. Some of these essential services are captured in The Important Public Services (Fire) Regulations 2017, namely:

“(a) services provided by firefighters in extinguishing fires and protecting life and property in the event of fires; and

(b) services provided by fire and rescue authority personnel in dealing with, and organising a response to, a call made from a telephone or other device to request the services provided by firefighters as mentioned in paragraph (a).”

38. In simple terms we consider the services in scope should include but not be limited to:

- firefighting
- rescues (including but not limited to, those on the road network, water rescues or rescues at height). This includes actions to avoid further harm such as rectifying potentially hazardous situations to avoid future risk of fire and rescue, for example clearance of debris on motorways and major roads.
- dangerous substance clean-up
- ability to maintain crewing of national resilience assets
- services necessary to carry out the above, including for example control room activities.

39. We consider that activities which are not considered essential should not be covered in minimum service regulations, however we are interested in hearing views on this – see question 7a to 7c, including whether in the event of a prolonged strike, other protection and/or prevention services might become essential (for example fire safety audits and enforcement action). We will also engage further with stakeholders during the consultation period to discuss what should be covered by ‘essential services’.

### How would Minimum Service Levels be applied to the workforce?

40. The workforce of FRSs are self referentially divided up between ‘Grey Book’ staff, ‘Green Book’ staff and ‘Gold Book’ staff with headcount numbers as outlined in figure 1. We consider that ‘Grey Book’ protocol staff are most likely to be in scope of the MSL. However, this is not an exclusive group and once the MSL is set, work notices could be issued to any other members of staff that would be required to ensure MSL plans are met safely.

**Figure 1**

	<b>Grey Book</b>	<b>Green Book</b>	<b>Gold Book (FTE)</b>	<b>Total headcount</b>
Headcount England March 2022	35,997	8,233	120	44,350

41. ‘Grey Book’ protocol constitutes all operational and control room staff (around 81% of FRS staff). We believe that the responsibilities of those in this category can capture a

more immediate risk and therefore justify being subject to minimum service regulations during strike action.

42. 'Green Book' staff (those who are not firefighters or control room staff) comprise around 19% of the FRS workforce and perform administrative, technical and community work including fire prevention work such as domestic fire safety visits. Although still very important to the day to day running of an FRS, an immediate threat to life from strike action is less arguable for the work done by 'Green Book' staff. Therefore, it is less likely that such staff would be subject to any MSL.
43. 'Gold Book' classification includes brigade managers or equivalent and accounts for around 0.3% of FRS staff. 'Gold Book' staff may also be involved in the delivery of essential services and so could be subject to an MSL.

## Respondent information

### **Q1. In which capacity are you responding to this consultation? As...**

- A firefighter
- A member of control room staff working in a fire and rescue service
- A manager working in a fire and rescue service
- Another member of staff working within a fire and rescue service
- A member of the public
- A fire and rescue authority
- A trade union
- Another fire organisation (please specify)
- A non-fire organisation (please specify)
- Another fire professional (please specify)
- Other (please specify)

### **Q2. Do your comments relate to the fire and rescue services in:**

- England
- Wales
- Scotland
- All of the above

**IF RESPONSE IS FROM AN ORGANISATION (Q1 response options 6-9 and 'other)**

**Q3. How many employees does your business or organisation have?**

- 1-10
- 11-50
- 51-250
- Over 250
- I don't know
- Not applicable

**Q4. Please give the name of the organisation you represent (if applicable):**

**Q5. We may wish to mention specific feedback from named organisations that are content to be included in the consultation response.**

**Would you be content for your organisation to be identified in the published Government response to this consultation?**

- Yes
- No
- Don't know

**Q6. About you [if responding as a member of workforce or public (Q1=1,2,3,4,5, 10 or 'other')]**

*The following questions are optional.*

*These questions will help us monitor equality between different groups, including protected characteristics. The information you provide is kept anonymous and will not be used to identify any individual.*

*Equality monitoring helps make sure that everyone is treated fairly.*

**Q7. How do you think of your gender?**

- Female
- Male
- I think of myself in another way
- Prefer not to say

**Q8. How old are you?**

- Under 16
- 16 to 17
- 18 to 24
- 25 to 34
- 35 to 44
- 45 to 54
- 55 to 64
- 65 to 74
- 75 to 84
- 85 to 94
- 95 and over
- Prefer not to say

**Q9. What is your ethnic group?**

Please choose one option that best describes your ethnic group or background

**White**

- a. English/Welsh/Scottish/Northern Irish/British
- b. Irish
- c. Gypsy or Irish Traveller
- d. Any other White background, please describe

**Mixed/Multiple ethnic groups**

- e. White and Black Caribbean
- f. White and Black African
- g. White and Asian
- h. Any other Mixed/Multiple ethnic background, please describe

**Asian/Asian British**

- i. Indian
- j. Pakistani
- k. Bangladeshi
- l. Chinese
- m. Any other Asian background, please describe
- Black/ African/Caribbean/Black British**
- n. African
- o. Caribbean
- p. Any other Black/African/Caribbean background, please describe
- Other ethnic group**
- q. Arab
- r. Other - please specify
- s. Prefer not to say

**Q10. Are your day-to-day activities limited because of a physical or mental health condition or illness that has lasted<sub>1</sub> or is expected to last<sub>1</sub> 12 months of more?**

- Yes
- No
- Prefer not to say

**Q11. The ‘essential services’ to which we intend to apply MSLs can be simply understood as covering:**

- **Firefighting**
- **Rescues, including actions to avoid further harm**
- **Dangerous substance clean-up**
- **Crewing of national resilience assets**
- **Services necessary to carry out the above, e.g. control room activities.**

**To what extent do you agree or disagree that the essential services outlined should be applied to any MSL?**

*RESPONSE OPTIONS: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree; Not sure/Don't know*

**Q12. However, MSL (especially during prolonged action) may need to take into account requirements for some additional activities.**

**For each activity below, please indicate the extent to which you agree or disagree that MSL should apply to during prolonged periods of strike action.**

*RESPONSE OPTIONS: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree; Not sure/Don't know*

Responding to major incidents including marauding terrorist attack  
Fire protection activities such as enforcement actions  
Fire prevention activities

**Q13. If you have any further comments about the range of activities to be covered by MSL, please outline these in the space below.**

## Minimum Service Level Options

44. The options for a potential MSL will be expanded upon in more detail below. We will be looking at:

- a) Staffing percentage levels including
  - Staff must never go below a certain level of attendance, based on a percentage of business-as-usual levels or around appliance availability.
  - Staffing levels must be geared to respond to specific risks, including a minimum standard to respond to a major incident.
  - Staffing numbers must maintain cover on high-risk days/hours (which could be combined with another MSL option).
  
- b) Risk based staffing with local flexibility
  - Local leaders input into what the MSL is for the local FRS, i.e. not a national level but based on local priorities and pressures.
  - Chief Fire Officers decide specifics, but a MSL is in place.

Note, we consider that it may be appropriate to use elements from different options in combination, for example to use a staff percentage approach (option 1) combined with maintaining a higher level of cover on certain days or periods (option 5).

## Staffing levels

Option 1 – Staff who provide essential services listed above must never go below a certain level of attendance in line with business-as-usual levels

45. This could be based on:

- i. A percentage based on how many people are required to cover essential services in a 'business as usual' situation; or

- ii. An appliance (fire engine) availability based MSL – i.e. set the number of fire appliances (or a percentage of normal appliance capacity) required to deliver essential services, which would then require a minimum level of firefighters to crew those as well as necessary control room staff.

46. In relation to option i above, the percentage, as a minimum, should be high enough to provide an adequate level of cover to deliver the essential services outlined in the earlier section. Currently, fire and rescue services will provide a level of continuity during periods of strike action based on estimates of non-striking resources available, which may include external support that has been brought in. The planning assumptions generally start from the point of ensuring capacity that is at least 25% of business-as-usual staffing.

47. However, moving forward, in urban areas a higher percentage of staff or appliances may be required to take account of the greater volume of buildings that present a higher risk to life and limb in the event of a significant fire, such as high-rise residential buildings. In rural areas the set level could potentially be lower than urban areas but may need to account for seasonal risks arising from weather related events, such as wildfires and flooding. Setting the percentage at a higher level will also help reduce the need to cover the costs of bringing in external support, which also includes relevant training. The Government envisages that some degree of flexibility may be required with both option i. and ii. above and would also be interested to hear views on an appropriate percentage level and how it could be applied flexibly.

**Questions for Option 1** – Staff who provide essential services listed above must never go below a certain level of attendance in line with business-as-usual levels

**Please consider the information in the MSL Option 1 before formulating your responses to the following questions.**

**Q14. To what extent do you agree or disagree that Option 1 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q15. To what extent do you agree or disagree that the approach to setting an MSL described in Option 1 would be a proportionate requirement to cover essential services?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q16. Which of the following percentage of staff do you feel would be appropriate as a MSL if Option 1 was used?**

Please select all percentages that you think would be appropriate.

*RESPONSE OPTIONS: Less than 25% 25%, 30%, 35%, 45%, 50% more than 50%, Don't know*

**Q17. Which of the following percentage of appliances do you feel would be appropriate as a MSL if Option 1 was used?**

Please select all percentages that you think would be appropriate.

*RESPONSE OPTIONS: Less than 25% 25%, 30%, 35%, 45%, 50% more than 50%, Don't know*

**Q18. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 1.**

**Q19. Please use this space to outline any drawbacks or difficulties that may arise from Option 1.**

**We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.**

Option 2 - Staffing levels must be geared to respond to specific risks, including a minimum standard to respond to a major incident.

48. Under this option an MSL, or higher MSL, would be set for incidents that pose a serious threat to life risk, ranging from a significant or large incident all the way to a Major Incident. As to what is included in a 'major incident' one definition that could be drawn on is through JESIP which defines this as 'an event or situation with a range of serious consequences which requires special arrangements to be implemented by one or more emergency responder agency' (see also Annex C). An alternative reference point is the major incident agreements between the National Employer and the Fire Brigades Union published on 23 December 2022).
49. Under this option, employers would be able to issue work notices to staff stating that they will be required to work in certain circumstances, e.g. where there is a significant risk arising from wildfires or an ongoing serious fire that is taking a prolonged period to extinguish.

50. Where a major incident occurs, the MSL could be set to cover up to 100% of business-as-usual staffing (depending on the severity and likelihood of that Major Incident). Local degradation and community risk management plans could assist with indicating what resource is necessary based on the local staffing picture in the FRS. Note that responses to major incident can include additional resource from bordering fire and rescue services.
51. It should also be noted that, with option 1, an MSL based on employees or appliances also offers the ability to provide a level of cover that would ensure there is cover for both essential services and major incidents. Option 1 could also be used in conjunction with option 2.

**QUESTIONS for Option 2** - Staffing levels must be geared to respond to specific risks, including a minimum standard to respond to a Major Incident.

**Please consider the information in the MSL Option 2 before formulating your responses to the following questions.**

**Q20. To what extent do you agree or disagree that Option 2 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q21. To what extent do you agree or disagree that the approach to setting an MSL described in Option 2 would be a proportionate requirement to cover essential services?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q22. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 2.**

**Q23. Please use this space to outline any drawbacks or difficulties that may arise from Option 2.**

**We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.**

## Risk based staffing with local flexibility

Option 3 – Local leaders and organisational input into what the MSL is for the FRS in collaboration with Home Office/ Secretary of State, i.e. not a national level but based on local priorities and pressures

52. This would include a more detailed process where Chief Fire Officers and the organisation would be asked to input and provide evidence to determine what a local level informed MSL should look like. This evidence will be considered by the Home Office and consulted on and decisions on the local MSL will be taken by the Secretary of State and set out in regulations.
53. This may have some attractions in that it allows for local flexibilities, which would promote the different needs of urban and rural FRSs. It could, for example, mean that a metropolitan area would be able to provide a higher staffing level to respond quickly to any fire where dangerous cladding/high-rise building risks are a concern. For rural areas it would allow more seasonal cover for wildfires.
54. However, as the power to set MSL will rest with the Secretary of State, this is likely to cause operational and administrative issues in respect of how this would work in practice. It is worth noting that there are 44 FRS in England alone and compiling this information at speed could be challenging and limit a fully incorporated approach to a safe and effective MSL option. A further concern is that it could lead to much greater variation between areas and there is an argument to say that local pressures and risks should already be factored into staffing levels.
55. For this to be viable the Government may need to set some parameters with further consultation on specific MSL, and the final approval having to be made by the Secretary of State through regulations.

**QUESTIONS for Option 3 – Local leaders and organisational input into what the MSL is for the FRS in collaboration with Home Office/ Secretary of State, i.e. not a national level but based on local priorities and pressures**

**Please consider the information in the MSL Option 3 before formulating your responses to the following questions.**

**Q24. To what extent do you agree or disagree that Option 3 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q25. To what extent do you agree or disagree that the approach to setting an MSL described in Option 3 would be a proportionate requirement to cover essential services?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q26. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 3.**

**Q27. Please use this space to outline any drawbacks or difficulties that may arise from Option 3.**

**We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.**

**Option 4 – MSL is in place and set by Secretary of State / Home Office and Chief Fire Officers and their organisation decide specifics for local area**

56. This could potentially be combined with elements from other options, such as a minimum percentage staffing level. It would mean there would be a national standard in place but with flexibility for individual areas to adapt to their needs, which could provide cover for specific risks.

For example:

- London could have a higher percentage level, above the national standard, set to cover the risks arising from a serious fire in a high-rise residential building.
- An urban FRS could be provided with flexibility, in addition to the national standard, to account for seasonal risks, such as severe flooding and wildfires.

**Questions for Option 4 – MSL is in place and set by Secretary of State / Home Office and Chief Fire Officers and their organisation decide specifics for local area**

**Please consider the information in the MSL Option 4 before formulating your responses to the following questions.**

**Q28. To what extent do you agree or disagree that Option 4 would be an adequate approach to setting a minimum service level to mitigate fire and rescue risks during times of strike action?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q29. To what extent do you agree or disagree that the approach to setting an MSL described in Option 4 would be a proportionate requirement to cover essential services?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q30. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 4.**

**Q31. Please use this space to outline any drawbacks or difficulties that may arise from Option 4.**

**We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.**

## Option 5 – Maintain cover on high-risk days/hours

57. This option would see MSL set for peak demand periods for essential fire and rescue services when these fall during strike action. This would allow for some pre-planning where high levels of demand were anticipated in advance or to manage continuing high demand. Depending on the level of demand, it could enable work notices to be issued to ensure a full, business as usual, level of service for the essential services during such periods.
58. It is expected that this option would be used in conjunction with one of the other options to cover essential services.

For example:

- i. MSL apply to days with increased demands on the service such as Bonfire Night (and its nearest weekends).
- ii. MSL apply in times of severe weather, i.e., extreme flooding or wildfires.
- iii. Potential consideration to MSL during other blue light service strikes.

### **QUESTIONS for Option 5 – Maintain cover on high-risk days/hours**

**Please consider the information in the MSL Option 5 before formulating your responses to the following questions.**

**Q32. To what extent do you agree or disagree that Option 5, applied in addition to each of the other options outlined in this consultation, would be an adequate minimum service level to mitigate fire and rescue risks during times of strike action?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

- Option 1
- Option 2
- Option 3
- Option 4

**Q33. To what extent do you agree or disagree that the approach to setting an MSL described in Option 5 would be a proportionate requirement to cover essential services?**

*RESPONSE SCALE: Strongly Agree; Tend to Agree; Neither Agree nor Disagree; Tend to Disagree; Strongly Disagree*

**Q34. Please use this space to outline any benefits you perceive may arise from implementing the minimum service level outlined in Option 5.**

**Q35. Please use this space to outline any drawbacks or difficulties that may arise from Option 5.**

**We would value any alternative suggestions or improvements to this option to ensure the creation of a viable, adequate and proportionate minimum service level during strike action.**

## Impact on public and professionals

### Public Sector Equality Duty

59. The Government is undertaking a Public Sector Equality Duty assessment of the potential for this legislation to have an adverse impact on individuals with protected characteristics as defined under the Equality Act 2010. This considers the impact on those with protected characteristics from the perspective of those who choose to strike, those who do not and members of the public who may be affected.

### Impact on fire and rescue workforce

60. In respect of people with protected characteristics we are working on the assumption that a minimum service level would be more likely to apply to firefighters and control room staff. We have identified some impacts relating to the varying demographic characteristics of these staff groups.

61. For example, firefighters are more likely to be male and/or aged 25-45, while control room staff are more likely to be female, and so staff with these characteristics may be less able to take strike action as a result of the roles they more commonly fill. However, we consider that any such difference in treatment could be justified as a proportionate means of achieving a legitimate aim, on the basis that MSL will seek to protect public safety. In particular, the impact on firefighters and control room staff with protected characteristics is justified because the duties of their roles are essential to public safety and therefore any strikes by these groups pose higher immediate risk.

62. Whilst it is possible that these measures could impact good relations between those groups with protected characteristics who are most affected (as listed above), and those who do not share those characteristics, we consider that any such impact

would be justified for the reasons set out above. The affected groups may consider that they do not have equality of opportunity as compared with groups who will not be subject to the MSL and who do not share their protected characteristics (because their right to strike will be restricted), however, again, we consider this approach is justified for the reasons set out above.

### Impact on the wider public

63. Positive impacts of the legislation could include offering groups that are more likely to be seriously harmed in a fire greater reassurance that the fire and rescue service will be available if they need it. These groups include older people and people with disabilities. This will help to reduce any discrimination suffered by these groups, and also advance equality of opportunity (i.e., to be protected from fire and other risks) between those groups and others who do not share these protected characteristics. Similarly, these measures may foster good relations between firefighters (mostly male as set out above), and these groups.

**Q36. Do you believe that our proposals to introduce minimum service levels for fire and rescue services will have an impact (either positive or negative) on individuals with a protected characteristic under the Equality Act 2010?**

**Protected characteristics under the Act are disability, gender reassignment, age, pregnancy and maternity, race, marriage and civil partnership, sex, sexual orientation and religion or belief.**

*RESPONSE SCALE: Yes (please describe the potential impact)/ No/ Don't know*

**If yes, please describe the potential impact.**

**Q37. Where you have identified potential negative impacts, can you propose ways to mitigate these?**

*RESPONSE SCALE: Yes (please suggest mitigations)/ No/ Don't know/ not applicable (no impacts identified)*

**Q38. Is there anything further you wish to make comment on that this Consultation has not explicitly laid out?**



## Contact details on how to respond

Please send your response by 3 May 2023 to:

**Email:** [frsminimumservicelevels@homeoffice.gov.uk](mailto:frsminimumservicelevels@homeoffice.gov.uk)

## Deadline

The deadline for responding is 3 May 2023.

## Publication of response

A paper summarising the responses to this consultation will be published in due course. The response paper will be available online at <https://www.gov.uk/government/consultations/minimum-service-levels-for-fire-and-rescue-services>

## Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the UK General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

## Annex A

Possible MSL options that we have actively chosen to disregard

### Subject to certain areas only

FRS must be fully staffed in metropolitan areas but not so in rural because of the higher risk around greater concentration of buildings in metropolitan areas.

Justification – Each FRS will staff to their local requirements and will be running the reasonable number of staff for their specific risks on a normal day. If this MSL option was to be location specific, we would be creating unnecessary risk for certain areas and imposing a high threshold for urban areas. The government believes that an alternate MSL will mitigate these risks more appropriately deeming this one irrelevant to the purpose of this consultation.

### All 999 response

FRS must be staffed to answer and respond to all 999 requests relating to fire and rescue, however this would allow for less focus on vital protection/prevention.

Justification – Upon further discussion, the Home Office feel that this approach would have limited feasibility and would be difficult to staff. Picket lines are not as common and you would not be able to pull a sufficient number of staff from a potential picket line to respond to a 999 call. You would therefore need to have firefighters on site during periods of IA which would result in complications as it would be challenging figuring out how to compensate through pay when they do or don't get called out.

## Annex B

### Incident response categories for Fire and Rescue Services

Home Office's online Incident Recording System (IRS) allows for FRS to complete an incident form for every incident attended, be it a fire, a false alarm or a non-fire incident (also known as a Special Service incident).

### Full List of Mobilise Incident Types (Q2.3)

The incident types are split into 8 generic groups, which are:

- A Alarms
- E Explosion
- F Fire \*
- HM Hazardous Material
- R Rescues
- UA Unlawful Act
- HA Humanitarian or Assistance
- CD Civil Disturbance / Unlawful Act

Further information can be found at [IRS Fire \(fire.gov.uk\)](https://www.fire.gov.uk/irs-fire)

\* Please note the option FIRE: FIRE has a specific definition and should only be selected where the nature of the fire cannot be specified by the caller or the fire is too far away, in the distance, or they are unsure of the location.

## Annex C

### Joint Emergency Services Interoperability Programme (JESIP)

The JESIP - Joint Doctrine: the interoperability framework sets out a standard approach to multi-agency working, along with training and awareness products for responding organisations to train their staff. The image provided (Image X) outlines the principles of joint working during JESIP response.

For more information please see: [Download the Joint Doctrine - JESIP Website](#)



Figure: Diagram showing the principles for joint working