



Office of the
Deputy Prime Minister

Creating sustainable communities

FiReControl *Governance Arrangements*

Consultation on Detailed Proposals



Office of the
Deputy Prime Minister

Creating sustainable communities

FiReControl *Governance Arrangements*

Consultation on Detailed Proposals

Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Telephone: 020 7944 4400
Web site: www.odpm.gov.uk

© *Crown copyright 2006.*

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at www.opsi.gov.uk/click-use/system/online/pLogin.asp or by writing to the Office of Public Sector Information, Information Policy Team, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: HMSOlicensing@cabinet-office.x.gsi.gov.uk.

Alternative formats of the publication are available from:

ODPM Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Textphone: 0870 1207 405
E-mail: odpm@twoten.press.net
or online via www.odpm.gov.uk

March 2006

Product Code 05 FSED 03793

Contents

Executive Summary	5
FiReControl Governance Arrangements	7
Introduction	7
Purpose of Consultation	7
Current state of play and timing	7
Establishing Companies	8
London	8
Context and Background	9
Financial Implications & Business Case	9
Vanguard RCCD	9
RCC Performance Monitoring	9
Best Value duties	9
HR issues	10
Training	10
Terms and Conditions	10
Transfer of Undertaking (Protection of Employment) (TUPE) Regulations	10
Redundancies	11
Pensions	11
Discharge of national functions	11
Classification of RCC Companies	12
Resilience & New Dimension	12
Detailed Governance Arrangements	13
Issues which articles and memorandum of association seek to address	13
Freedoms and Flexibilities	14
Company Structure	15
Directors	15
Company Name	15
Relationship with RMB	15
Risks and Directors' liabilities	16
Functions and role of companies	16
Asset management	17
Role in Management of Project	18
Responding to Consultation	18
Deadline & address for responses	18

Annex A	19
Articles of Association of [LACC] Limited	19
Summary	19
Draft Articles of Association of [LACC] Limited	24
Annex B	41
Memorandum of association of [LACC] Limited	41
Summary	41
Draft Memorandum of association of [LACC] Limited	42
Annex C	47
Briefing Note for Elected Members on Director’s liabilities	47
Company Undertaking Regional Control Function	47
Role of Elected Members/Officers in the Company	47
Role of Shareholders	48
Role of Directors	48
Personal Liability of Directors	50
Disclosure of Interests of Directors	50
Guidelines to Avoid Liability	50
Conclusion – liability issues	51
Local Government legislative controls	52
Annex D	53
Timeline for Key HR decisions/Activities for employing entity	53
Preparatory stage	53
Consultation & Selection Stage	55
Staff Transition Stage	56
Annex E	57
National Functions Outline	57
Introduction	57
Design Principles	57
Scope	58
Discharging the national functions	60
Staffing	60
Organisation	61
Data table for National Functions	62
Annex F	64
Recruitment Process for Vanguard RCC Director	64

Executive Summary

1. The Minister with responsibility for the fire & rescue service, Jim Fitzpatrick, invited Regional Management Boards (RMBs) in September 2005 to confirm that they were willing to set up local authority companies to run the regional control centres. Further information about how the companies would be constituted, their role, the implications for the relationship with Fire and Rescue Authorities (FRAs) and the potential liabilities was requested before setting up the companies.
2. This paper sets out some background on how local authority companies could deliver and run the network of regional fire and rescue control centres. It sets out options and specific questions on which it invites the views of FRAs and RMBs.
3. It continues to be ODPM's objective that the fire and rescue service remains a locally accountable service. Accordingly, local accountability for regional control centres remains the primary aim in establishing the governance framework.
4. The draft articles and memorandum of association for the prospective local authority companies have been drawn up to meet the following key criteria:
 - Full responsibility for running the fire control service should continue to rest with fire and rescue authorities;
 - Fire and rescue authorities should have as much freedom as possible in running their own control service, working within the National Framework and observing national standards;
 - Safeguards must be built into the system to ensure that the control centres operate effectively as a national network and the resilience assets are deployed as national and regional imperatives require;
 - These safeguards should be designed to achieve voluntary cooperation and minimise the need for national intervention; and
 - The companies should not be able to operate in a way that could pose risks for the other companies and thus for the safe operation of the assets.
5. Some FRS officers have expressed the view that the companies could run services other than those currently described in the draft Memorandum of Association. However, the Secretary of State's view is that giving authorities such a freedom could place the company and the network in a position of unnecessary risk. The proposed articles do not therefore allow for diversification.
6. In considering the constitution of the new board, FRAs should think about the delivery of the project and the relationship between the Regional Management Board and the company. The RMB will continue in existence after the formation of the company, and on behalf of its FRAs will continue to oversee the delivery of functions other than FiReControl in accordance with the National Framework.

7. Particular concern has been expressed about directors' and authorities' liabilities in the event of a fatal accident occurring within their boundaries which could be traced back to errors arising from the actions of staff or technical equipment failure located outside their authority or region. Consultees will wish to consider whether they wish RCC Companies, as local authority type bodies, to be subject to the same provisions relating to conduct and maladministration as LAs and other "relevant bodies".
8. Views on all aspects of the paper, but in particular responses to the questions, are invited by 14 June 2006. The address for responses is at the end of the paper.
9. Here is a list of the specific questions in the paper:

Q1: Do the governance arrangements described above offer the most effective way of:

- *delivering a resilient national control centre network and the effective management of national resilience assets; while at the same time*
- *maintaining FRA accountability and an appropriate level of flexibility for elected members in ensuring that the service meets the needs of local people?*

Q2: Should the local authority companies be restricted in the scope of their activities as described in this consultation document, or should they be given the freedom to diversify?

Q3: Should authorities be given complete freedom in the composition and selection of board members and the naming of their company?

Q4: Should there be a relationship between RCC companies and RMBs and if so what form should it take?

Q5: Should RCC companies be subject to the same provisions on conduct and maladministration as local authorities and other relevant bodies, and to the rules relating to local authority indemnity?

Q6: Are you content with the draft Memorandum and Articles of Association? Please comment freely on both.

Q7: Do FRAs have views about the best way to manage the relationship between the RMB and the company in the running of the project?

FiReControl Governance Arrangements

Introduction

10. This paper is the second consultation document on governance arrangements for FRS regional control centres. The first, issued in November 2004, discussed the relative merits of local authority companies and lead authorities as a governance vehicle. The responses to that consultation, while mixed, led the government to confirm its view that local authority companies were the preferred option.
11. This second paper sets out the government's views on the ways in which it would expect local authority companies to operate as vehicles for delivering and running the network of regional fire and rescue control centres. It sets out options and specific questions on which it invites the views of Fire and Rescue Authorities (FRAs) and Regional Management Boards (RMBs). Views on all aspects of the paper, but in particular responses to the questions, are invited by 14th June 2006. A template for replies including where to send them is at the end of the paper.

Purpose of Consultation

12. This consultation sets out the key questions necessary to finalise the articles and memorandum of association for RCC companies. It continues to be ODPM's objective that the fire and rescue service remains a locally accountable service. Accordingly, local accountability for regional control centres remains the primary aim in establishing the governance framework.

Current state of play and timing

13. The Minister with responsibility for the fire & rescue service, Jim Fitzpatrick, invited RMBs in September 2005 to confirm that they were willing to set up local authority companies to run regional control centres. While most authorities agreed, before they were prepared to take any practical steps they wanted further information about how the companies would be constituted, their role, the implications for the relationship with FRAs and potential liabilities. This paper sets out the government's current understanding on these issues.

Establishing Companies

14. At the end of the consultation period, authorities will be requested to take steps to establish the companies as indicated in the National Framework for 2006-2008. Further guidance will be issued on this. The costs of setting up the companies, including the legal work on the memorandum and articles of association, initial work on ensuring that a company secretary is in place and the training of the directors, will be borne by central government directly. Further information on the training will be issued during the consultation period.
15. The plan for the development and roll-out of the new centres requires the management arrangements for the three regions in the first wave to be established by 1 August 2006 so that they can start work on the HR issues. The need to start work on the HR issues and deal with staff's concerns is the key driver of the timetable, and it will be important that a consistent approach is taken to consultation with staff. A considerable amount of work has already been done by the business change and people and organisational development work streams of the project to prepare the ground for this.
16. The remaining companies should be established as soon as possible thereafter. The sooner they are established the sooner they can confirm their approach to HR policies and practices and give answers to staff who will be affected by the establishment of the new centres.

London

17. London as a regional authority does not need to set up a company to provide a single management organisation and the authority has established systems in place for its regional centre. Consequently, there is no intention to set up a company to run the new London centre when it is established. However, in all other respects the operation and management of the London centre will be the same as that of the other centres. Any arrangements which need to be established on a national basis to ensure the efficient running of the network as a whole will be established between LFEPA and the eight companies.
18. Most of the contents of this document do not apply to London, except where specifically mentioned in the text. However, London will share equally with the other regions in complying with or contributing to the national functions, which are essential to ensure the effective operation of the national network.

Context and Background

Financial Implications & Business Case

19. The paper does not deal with the business case or the financial implications for individual authorities of the FiReControl project. The government recognises that authorities want to know what the financial implications of the project are as well as the governance implications. These will not be fully knowable until the results of the technology procurement currently under way and the scope and costs of the national functions necessary to run the network are available. Through the Finance Working Group, the national project team is sharing information on actual costs as they become available, and the full national business case will be published later in the year. Actual costs for authorities will depend on further work to be done on how costs may be shared between regions, and on decisions by authorities themselves on such matters as staffing levels and how they want to share costs within regions. The decisions on governance can be considered independently of the very important financial issues.

Vanguard RCCD

20. A “vanguard” Regional Control Centre Director is being appointed in the East Midlands to work with the new companies and ODPM on HR and other issues. The “vanguard” director will have the same role and responsibilities as all the other Regional Control Centre Directors, and will be employed by and report to the East Midlands company in due course, but will help shape the development of policy for all RCCs. The recruitment process for the RCCD is set out in Annex F.

RCC Performance Monitoring

21. RCC performance monitoring is not about dictating what should be sent to an incident but rather about being able to determine whether or not the control centres are meeting the agreed service levels. In all cases, pre-determined attendances set in local Integrated Risk Management Plans (IRMPs) will be followed. In the interests of maintaining a resilient national network nationally agreed non-statutory performance standards for areas such as call answering and speed of mobilisation will be set, with which LFEPA and the regional control centre companies will be expected to comply.

Best Value duties

22. Some concern has been expressed as to whether authorities will be discharging their duties under the Best Value legislation by using the services provided by the regional control centre companies. In carrying out their statutory duties, appointed auditors are required to comply with the Audit Commission’s Code of Audit Practice, and to have regard to available statutory guidance. The appointed auditor of any authority would have regard to statutory requirements, including the National Framework, when reviewing and reporting on an authority’s Best Value duty on how it met those requirements.

HR issues

23. The Regional Control Centre Companies will all be responsible for recruiting and employing staff. The roles and organisation structures will be common to all regions, so that the network can operate on a national basis, with automatic mutual understanding of the command structure and functions in each. The roles will fit within the IPDS framework. For resilience purposes, there will be agreed service levels and expected associated staffing levels. There will also be a basic agreed framework and structures for the centres, taking account of mutual assistance. RCCs will not be able to under staff on the assumption that other centres will be able to compensate for their shortfall (there will be financial penalties if agreed service levels are not met). However, they will be able to keep the benefits for their authorities of any efficiencies they make (e.g. through improved absence management) in delivering those agreed service levels.
24. The companies will be responsible for ensuring that staff are security cleared (and FRAs will be compensated for initial security checks under new burdens).

Training

25. The suppliers of the technology will be responsible for training staff in the operation of the system during the migration period. However, the companies will be responsible for training staff to common national standards and according to an agreed methodology once the network is up and running.

Terms and Conditions

26. The pay and terms of conditions of new staff will be a matter for the companies as employers to determine. They should do so in conjunction with the representative bodies within a framework for national negotiation established by the Local Government Association/Employers' Organisation. Work is in hand on a draft Staff Handbook which companies may consider using.

Transfer of Undertaking (Protection of Employment) (TUPE) Regulations

27. The Cabinet Office *Statement of Practice* of January 2000 makes it clear that existing and new employers in the public sector will be expected to manage staff transfers as though TUPE regulations apply. It will be necessary to identify the employees who will transfer, decide on the timing of the transfer, inform and consult with the Trade Unions, and deal with implications of a change of location. Alternative employment should be sought for any employees who do not wish to re-locate.

Redundancies

28. If there are redundancies, it has yet to be decided whether the redundancies will be made by the existing employers or the companies as the new employers. There are good staff management reasons for the current employers undertaking the redundancy process.

Pensions

29. The expectation is that the control centre companies will be Scheme Employers (“resolution bodies”) in the Local Government Pension Scheme (LGPS). Employees will be eligible for membership of the LGPS provided they are covered by a statutory resolution by the resolution body. The pension costs, whether immediate or deferred, of scheme members who cease employment (through redundancy etc) at the point when the function is transferred to the new employers will be met from their existing fund in the normal way. For members who transfer, there will be a bulk transfer payment to the new pension fund which will be negotiated by the fund actuaries (or, if fewer than 10 staff transfer, on the basis of guidance issued by the Government Actuary). The pension costs of members who transfer and are subsequently made redundant will be met by the new fund in the normal way. It is recognised that there may be financial implications in consequence of transfers or redundancies for importing and exporting employers which will depend on a number of factors.
30. Regional Control Centre companies will be in the same position as any other company when presenting accounts in accordance with UK GAAP. However, the application of FRS17 for financial years starting on or after January 2005 may mean that a Regional Control Centre company could from time to time recognise a liability in its accounts resulting from the company’s requirement to fund any deficit in the pension fund. The company would recognise a deficit in its net asset position, which could question whether it is a going concern. Local authorities would be expected to consider how to fund the future commitment to pensions. Legal advice is being sought on the best mechanism to ensure that this funding commitment is dealt with.
31. These and other pension implications are being considered by the FiReControl Finance Working Group.

Discharge of national functions

32. Work is under way to scope the national resilience functions, which are those functions necessary to ensure the ongoing effective management and operation of the national resilience assets and systems. The costs of the national functions will be distributed across regions so that costs will be broadly similar on a cost per head basis. The FiReControl Finance Working Group will be involved in devising the formula for sharing these costs equitably. Some regions may house some of the national functions (e.g. the geographic mapping data base) and these additional costs to those regions will be reflected in the formula.
33. The current thinking is that the various national functions will be performed by bodies that have roles analogous to or consistent with the new national functions. Some of the functions will be taken forward by peer groups operating within the RCCs (e.g. upgrades to the technology). Others will be done in tandem with other resilience national functions. For example, we expect that the Firelink and FiReControl technology contracts will be managed by the same people. Details of the functions that have been identified are at Annex H.

Classification of RCC Companies

34. Once the companies are set up the Office of National Statistics is required to make a decision about which part of the national accounts the companies should be classified to. It is ODPM's policy objective that RCCs (and the FRS generally) remain local services accountable to locally elected members.

Resilience & New Dimension

35. The events of 9/11 and their aftermath created new territory in terms of the delivery of resilience. There is no existing governance template which ensures that local government retains control and responsibility for a particular service and yet delivers national resilience to the standards expected by the public. Through the National Framework, the Secretary of State aims at providing coordination and consistency of approach to help local government deliver national resilience objectives. Although he has reserve powers to ensure that decisions can be taken and arrangements established in the national interest, the Secretary of State fully recognises the importance of the accountability of locally elected members.
36. ODPM is considering options for the long term management and ownership of resilience assets. Local ownership is one of several options on which Ministers will take a view. There is a need to ensure that the assets can be deployed in ways which meet the requirements of a particular emergency, whatever the administrative demarcations. i.e. it must be possible to operate flexibly across both authority and regional boundaries. Work is in hand by ODPM and the Chief Fire Officers' Association (CFOA) to develop proposals on mutual assistance which it is proposed will replace existing protocols and provide a new framework for this. Mutual assistance gives rise to difficult issues: operational, legal and financial. The FiReControl Finance Working Group and the Legal Working Group have been looking at these and some of their early views are reflected in this document.

Detailed Governance Arrangements

Issues which articles and memorandum of association seek to address

37. The draft articles and memorandum of association for the prospective local authority companies, attached at Annexes A and B respectively, have been drawn up to meet the following key criteria:
- Full responsibility for running the fire control service should continue to rest with fire and rescue authorities;
 - Fire and rescue authorities should have as much freedom as possible in running their own control service, working within the National Framework and observing national standards;
 - Safeguards must be built into the system to ensure that the control centres operate effectively as a national network and the resilience assets are deployed as national and regional imperatives require;
 - These safeguards should be designed to achieve voluntary cooperation and minimise the need for national intervention; and
 - The companies should not be able to operate in a way that could pose risks for the other companies and thus for the safe operation of the assets.
38. The approach in the memorandum and articles of association has been to require the companies to pay regard to advice and guidance issued by the relevant professional institution (the Chief Fire Officers' Association) insofar as it affects the operation of the resilience assets.
39. The intention is by a separate agreement to constrain the companies from changing the articles without the agreement of all Fire and Rescue Authorities (including the London Fire and Emergency Planning Authority). There is deliberately no requirement in the articles to obtain the Secretary of State's consent to changing them to reflect overarching policy objective of local control.
40. FRAs are required to operate within the constraints of the Fire and Rescue Service Act 2004 and the FRS National Framework. They will use the companies as their vehicle. They will be bound by the licence for the control centre technology. The details of that licence will restrict their freedom to make any changes to the technology which could prejudice the operation of the system by the other companies and thus affect national resilience. However, FRAs acting collectively will be able to initiate beneficial changes to the technology.
41. The draft memorandum and articles of association have been reviewed on behalf of the Fire Lawyers' Network by an independent firm of solicitors experienced in the issues associated with local authority companies. The version of the memorandum and articles in Annexes A and B reflects their comments.

Q1: Do the governance arrangements described above offer the most effective way of:

- *delivering a resilient national control centre network and the effective management of national resilience assets; while at the same time*
- *maintaining FRA accountability and an appropriate level of flexibility for elected members in ensuring that the service meets the needs of local people?*

Freedoms and Flexibilities

42. Some FRS officers have expressed the view that the companies could run services other than those currently described in the draft Memorandum of Association. This could offer several advantages in principle (the companies could for example be used to deliver efficiencies by operating functions on a regional basis).
43. However, the Secretary of State's view is that giving authorities such a freedom could place the company and the network in a position of unnecessary risk. It is possible that the fire and rescue authorities in the area of a regional control centre might be held legally responsible for any consequences of that control centre's failing to deliver non-control functions on behalf of other bodies. In addition, if financial risks were involved in taking on those wider functions, any failure relating to those functions might compromise the centre's viability, with implications for its ability to deliver its key resilience functions.
44. The articles do not therefore allow for diversification. The proposed agreement not to change them without the agreement of all FRAs is designed to restrict their activities to those allowed for in the Memorandum. However we would be content for companies to provide shared non-control services for other RCC companies or for them to outsource non-control services (e.g. HR).
45. Trading would only be possible in principle if all the constituent authorities met the requirements of s.95 of the Local Government Act 2003 and the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2004 (as amended). The proposed restrictions would not, however, prevent authorities from working together to decide how corporate services should be provided, and whether these should be divided up between them.

Q2: Should the local authority companies be restricted in the scope of their activities as described in this consultation document, or should they be given the freedom to diversify?

Company Structure

Directors

46. The government sees no need to prescribe the number of or qualifications for directors of the company, or whether there should be non-executive as well as executive directors. It sees these as matters which are best determined by

authorities themselves so that they may choose the constitution which best suits local circumstances and gives a fair voice to all authorities. Authorities may wish to have elected members, officers and independent directors on the board if they choose, or to constrain membership to elected members only. Annex C, drafted by the Fire Lawyers' Network, sets out some options which authorities may wish to consider.

47. It is possible that the company may wish to include the regional control centre director as a board member, given their key role in the operations of the company.

Company Name

48. Subject to the general law on company names, the choice of name for the RCC company will be the region to determine when they set up the company.

Q3: Should authorities be given complete freedom in the composition and selection of board members and the naming of their company?

Relationship with RMB

49. In considering the composition of the company board, the authority will wish to consider its relationship with the Regional Management Board. The RMB will continue in existence after the formation of the company, and on behalf of its FRAs will continue to oversee the delivery of functions other than FiReControl in accordance with the National Framework. In considering the constitution of the new board FRAs should think about the delivery of the project and the relationship between the RMB and the company.

Q4: Should there be a relationship between RCC companies and RMBs and if so what form should it take?

Risks and Directors' liabilities

50. Particular concern has been expressed about directors' and authorities' liabilities in the event of a fatal accident occurring within their boundaries which could be traced back to errors arising from the actions of staff or technical equipment failure located outside their authority or region. Consultees will wish to consider whether they wish RCC Companies, as local authority type bodies, to be subject to the same provisions relating to conduct and maladministration as LAs and other "relevant bodies". This would include members being subject to a code of conduct with misconduct allegations against them being investigated by the Standards Board, and allegations of maladministration against members and staff being subject to investigation by the Local Government Ombudsman. It would also be possible for the rules relating to LA indemnity to apply to the RCCs. Under these rules LAs have powers to provide for staff and members to be exempt from liability in respect of actions taken by them in good faith.

51. More generally, RCCs will carry a range of business risks associated with the running of a company. ODPM has employed insurance brokers to scope the risks and provide advice on whether/how best to insure against the risks identified. This advice was shared with the FiReControl finance working group in February.

Q5: Should RCC companies be subject to the same provisions on conduct and maladministration as local authorities and other relevant bodies, and to the rules relating to local authority indemnity?

Functions and role of companies

52. The functions and roles of the companies as described in the Memorandum of Association will entail their:
- recruiting and employing staff;
 - being responsible for ensuring the building is properly maintained and for discharging the terms of the lease agreement with the developer;
 - delivering the control service in accordance with the requirements of the National Framework and the overarching operational strategy.
 - observing the financial and reporting requirements of a (LA) company;
 - paying for use of the FiReControl system (i.e. maintaining infrastructure);
 - paying for the usage of the Firelink radio system in whatever way is agreed as a result of the consultation exercise currently under way;
 - ensuring that constituent fire and rescue authorities are charged for the company's services; and
 - reporting to their members of the company on agreed service levels.
53. These functions differ from the functions currently discharged by fire and rescue authorities in some key respects, as follows.
54. To ensure resilience requirements are met, RCCs will mobilise across borders on a more flexible and frequent basis than at present. It is likely with automatic vehicle location and the mobilisation of the closest appropriate appliance that mobilising across FRA boundaries will increase. In a fall-back situation or where incidents occur close to regional boundaries, an RCC will mobilise resources from another region.
55. Proposals for the mutual assistance and reinforcement arrangements which will underpin this are currently under development by CFOA. They will set out the operational protocols under which control staff will discharge their responsibilities and the implications for command and control in an operational context. It is hoped that the financial arrangements for reimbursing authorities

for their contributions in such circumstances will be subject to this standard protocol, making charging and reimbursement easier than it is at present. Work is in hand on these issues.

*Q6: Are you content with the draft Memorandum and Articles of Association?
Please comment freely on both.*

Asset management

56. The agreement for lease for the eight regions outside London has been signed between the developer and the Secretary of State. The landlord, who may or may not be the developer depending on the region, will grant the lease to the company on Practical Completion (PC) of the building, and the first payment of rent will be payable by the company six months after PC.
57. The company will take the lease at PC and the rent will be funded by ODPM under new burdens until the completed building and its technology are finally handed over after cutover in that region is complete.
58. The companies will be responsible for maintaining the control centre premises and for maintaining appropriate security standards. In the first instance the developer will arrange for facilities management pending the establishment of permanent arrangements. It may be that a single national contract or a contract covering more than one region delivers best value, and work is in hand to cost these options.
59. The longer term ownership of the control centre technology, the associated radio systems and the New Dimension assets is the subject of separate work, on which there will be consultation in due course.

Role in Management of Project

60. The company will be legally responsible for the running of the control centre only at the point at which it is handed over to it. Currently the regional project director reports to the RMB. If the RMB comprises the board of the new company, then the company can be confident that RMB decisions on the project as it develops reflect its wishes. If the board comprises members other than those currently sitting on the RMB, then the company will need to consider how it ensures that its interests in the management of the project are protected. Consultees may think this is an issue of such significance that it needs to be underpinned by some formal mechanism.

Q7: Do FRAs have views about the best way to manage the relationship between the RMB and the company in the running of the project?

Responding to Consultation

Deadline & address for responses

61. A standard form is provided to assist in replying to the consultation. This is available from the project website at www.firecontrol.odpm.gov.uk (under *Library* then *Useful Documents* on the left hand panel) and will be sent out to FRAs and RMBs.
62. Please send your responses on the seven questions and general comments on the articles and memorandum of association to:

daniel.hallam@odpm.gsi.gov.uk

or if you need to reply by post to:

Daniel Hallam,
Floor 4, Allington Towers,
PO Box No 50200,
Allington Street,
London SW1E 5WY

63. Responses should be submitted by 14th June 2006.

Annex A

Articles of Association of [LACC] Limited

Summary

Company Members

Any member must be approved by all Fire and Rescue Authority Members.

Membership ceases if the member:

- a. resigns membership by written notice; or
- b. ceases to carry on its business; or
- c. is subject to an Insolvency Event.¹

The rights and privileges of a member shall not be transferable to any non-member.

General meetings

Annual general meetings (AGM) shall be held annually with no more than 15 months between AGMs. The first AGM must be held within 18 months of incorporation.

Extraordinary general meetings (EGM) can be held when the directors see fit or following a member's request. Directors can invite Observers to attend and speak at any EGM however, the Observer may not vote.

Notice of AGMs/EGMs ('General Meetings')

Fourteen day's notice of all General Meetings must be given to the members unless a special resolution is to be voted on at the meeting when 21 clear days' notice must be given. Shorter notice may be given if agreed by all the members entitled to attend and vote at that meeting.

¹ an Insolvency Event means that the member becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or if a liquidator, receiver, administrator, trustee, manager or similar officer is appointed in relation to the whole or any part of the assets or undertaking of that member or any analogous step is taken in connection with that member's insolvency or dissolution.

Proceedings at General Meetings

Members may appoint a proxy to attend, speak and vote on their behalf at a General Meeting.

The quorum for General Meetings is such not less than 75% of all Fire and Rescue Authority Members.

If there is not a quorum within half an hour of the meeting time then the meeting shall be adjourned to the same time, day and place the next week.

The Chairman of any General Meeting shall be the Chairman of the board.

Any director may attend and speak at any EGM.

Resolutions shall be decided on a show of hands or if requested a poll vote. A poll may be demanded:

- a. by the chairman; or
- b. by at least two members having the right to vote at the meeting; or
- c. by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting;

In the case of an equality of votes, the chairman shall be entitled to a casting vote.

Every member whether voting on a show of hands, on a poll or by proxy, shall have one vote.

Conduct of the Company's affairs

Fire and Rescue Authority Members shall exercise their voting rights to procure that:

- a. the Company complies its obligations under pursuant any Applicable Law, including the Local Authorities Order and the Companies Act, including:
 - i. stating on relevant documents that it is controlled by the relevant Fire Rescue Authority;
 - ii. obtaining the Audit Commission's consent to the appointment of its auditor; and
 - iii. making the minutes of General Meetings available for inspection by any member of the public.
- b. Company's activities are consistent with the functions of the Fire and Rescue Authority Members in their capacities as public sector bodies.

Number of directors

The minimum number of directors (other than alternate directors) shall be [4] of which at least [2] shall be Fire and Rescue Authority Directors.

Each Fire and Rescue Authority Member may appoint one director. Any other director may be appointed and removed by ordinary resolution of the members.

Alternate directors

A director may appoint an alternate director who may perform all the functions of his or her director in his or her absence.

Decisions

Unanimous consent of the directors is required for:

- a. The taking of any loan, borrowing or credit by the company above £25,000.
- b. The appointment or removal of the company secretary.

Unanimous written consent of the members is required for:

- a. The admission of any person as a new member of the company;
- b. The making of any variation to the Memorandum or Articles;
- c. Any amalgamation or merger of the company or the acquisition of any shares in any company or the participation by the company in any legal partnership or joint venture.
- d. The making any petition or resolution to wind-up the company or any application for administration or giving any notice of intention to an administrator unless in the company insolvent and the directors reasonably consider that the company ought to be wound-up.

Delegation of directors' powers

The directors may delegate any of their powers to:

- a. a committee consisting of one or more directors; or
- b. to any managing director or executive director.

Disqualification and removal of directors

A director shall be removed from office if he/she:

- a. he/she Resigns;
- b. he/she Is declared bankrupt or similar;
- c. he/she is, or may be, suffering from mental disorder;
- d. he/she is absent for more than six consecutive months without permission;
- e. he/she fails to declare any interest in any contract with the Company;
- f. the member which appointed him/her to the board ceases to be a member of the Company;
- g. he/she ceases to be an employee, officer or member of a member;
- h. in the case of a Fire and Rescue Authority Director who is an elected member of an Fire and Rescue Authority Member, he or she ceases to be an elected member or is disqualified from such membership; or
- i. he or she is validly removed from office by the members or, in the case of a Fire and Rescue Authority Director, by the Fire and Rescue Authority Member who appointed him/her.

Remuneration of directors

Directors' remuneration shall be set by the members through an ordinary resolution. The directors reimbursed any proper expenses.

No payments can be made to Fire and Rescue Authority Directors.

Directors' appointments and interests

The directors may appoint any director to an executive office. The terms and remuneration of any such appointment may be determined by the directors. Any executive appointment shall terminate if the executive director ceases to be a director

Generally a director shall not vote in respect of any contract or arrangement in which he or she is directly or indirectly interested or any matter which conflicts or may conflict with the interests of the Company. A director shall not be deemed to be interested in a contract or arrangement with any Fire and Rescue Authority Member merely by reason that he or she or his or her spouse or registered civil partner is a member, officer or employee of any Fire and Rescue Authority Member.

All directors who are members, officers or employees of any Fire and Rescue Authority Member shall comply with the requirements of any codes of conduct and declare personal and prejudicial interests as relate to them. In the case of prejudicial interests he or she shall not participate in any decisions to be made by the Company and shall withdraw from any meeting of the directors or committee at which such matter is considered.

The restrictions on voting may be relaxed if the members so decide.

Proceedings of directors

Subject to the articles, the directors may regulate their proceedings as they think fit.

Each director shall have one vote and questions shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a casting vote.

There will be not less than [four] meetings of the directors each year. Any director may call a meeting of the directors at any time.

The quorum for a board meeting shall be not less than 75% of all duly appointed directors, of whom at least 50% of the directors present shall be Fire and Rescue Authority Directors. UNLESS the number of Fire and Rescue Authority Directors is less than 50% of 75% of all directors in which case the quorum shall be 75% of all directors including all of the Fire and Rescue Authority Directors.

A resolution in writing signed by all the directors shall be valid.

Secretary

The directors may appoint (or remove) the secretary on such terms as they may think fit.

Accounts

No member shall have any right of inspecting any accounting records or other document of the Company unless authorised by statute or the directors or by ordinary resolution of the Company.

Indemnity

Every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in which judgment or relief is given in his or her favour.

The Companies Acts 1985 and 1989 Company limited by Guarantee

Draft Articles of Association of [LACC] Limited

Interpretation

1. In these regulations:

the **Act** means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force.

Applicable Law means any applicable law (whether criminal, civil or administrative), whether common law, judgment, court order, statute, statutory instrument, regulation, directive, European Community decision (insofar as legally binding) by-law or treaty.

these **articles** means these articles of association of the company whether as originally adopted or as altered from time to time by the requisite resolution of the members.

clear days in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

communication means the same as in the Electronic Communications Act 2000.

the **Company** means [LACC] Limited.

electronic communication means the same as in the Electronic Communications Act 2000.

executed includes any mode of execution.

Local Authorities Order means the Local Authorities (Companies) Order 1995.

Fire and Rescue Authority Directors means the directors appointed by the Fire and Rescue Authority Members and reference to **Fire and Rescue Authority Director** shall be to any of them.

Fire and Rescue Authority Members means **, **, ,

** and ** and reference to **Fire and Rescue Authority Member** shall be to any of them.

Observer means any person authorised to attend a general meeting or a meeting of the Board pursuant to regulation 8.

office the registered office of the Company.

the **seal** means the common seal of the Company.

secretary means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary.

the **United Kingdom** means Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the Company.

The appendix forms part of these articles and shall have the same force and effect as if set out in the body of these articles and reference to these articles shall include the appendix.

Members

2. The subscribers to the Memorandum of Association of the Company and such other persons as are admitted to membership in accordance with the articles shall be members of the Company. No person shall be admitted as a member of the Company unless their application is approved by the unanimous consent of the Fire and Rescue Authority Members. Every person who wishes to become a member shall deliver to the Company an application for membership in such form as the Fire and Rescue Authority Members shall require.
3. Notwithstanding regulations 2 and [5], a fire and rescue authority that, pursuant to the Fire and Rescue Services Act 2004, takes the place of one or more of the Fire and Rescue Authority Members shall, unless it is a member of another company of like nature and objects to the Company, be entitled to apply for and be admitted as a member of the Company.
4. A person shall automatically cease to be a member immediately on the happening of any of the following events:
 - a. if by at least seven clear days' notice in writing to the Company that member resigns its membership; or
 - b. if that member:
 - i. ceases to carry on its business or substantially the whole of its business; or
 - ii. becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or if a liquidator, receiver, administrator, trustee, manager or similar officer is appointed in relation to the whole or any part of the assets or undertaking of that member or any analogous step is taken in connection with that member's insolvency or dissolution.

5. The rights and privileges of a member shall not be transferable or transmissible by operation of law to any person who is not a member.

General meetings

6. The Company shall hold an annual general meeting each year in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it. Not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next. The Company shall hold its first annual general meeting within 18 months of its incorporation. All general meetings other than annual general meetings shall be called extraordinary general meetings.
7. The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the Company may call a general meeting.
8. The directors shall be entitled to invite any one or more persons (each an **Observer**) other than the directors to attend, in observer capacity, any general meeting of the Company. The Observer shall be entitled to speak but shall not be entitled to vote at such meetings and shall have no other powers or rights in relation to the Company.

Notice of general meetings

9. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:
 - a. in the case of an annual general meeting, by all the members entitled to attend and vote at that meeting; and
 - b. in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent of the total voting rights at the meeting of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

The notice shall be given to all the members and to the directors and auditors.

10. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings or any resolution passed at that meeting.

Proceedings at general meetings

11. Each member, for so long as it remains a member of the Company, shall be entitled to appoint an authorised representative to attend, speak and vote on their behalf at general meetings and reference to the “members” in these regulations shall be construed accordingly.
12. No business shall be transacted at any meeting unless a quorum is present. Subject to regulation [13], such number of members as represents not less than 75% of all Fire and Rescue Authority Members entitled to vote upon the business to be transacted, or a proxy for such member, shall be a quorum.
13. If the number of Fire and Rescue Authority Members falls below [three], the remaining Fire and Rescue Authority Members may continue to act for the purpose of increasing the membership and for appointing any new member of the Company.
14. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.
15. Any member may participate in a general meeting by means of a conference telephone or similar communications system whereby all persons participating in the meeting can hear and address each other and participation in a general meeting in this manner shall be deemed to constitute presence at such meeting for all purposes including that of establishing a quorum. A general meeting held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such a majority the location of the member’s chairman shall be deemed to be the place of the general meeting.
16. The chairman, if any, of the board of directors or in his or her absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he or she shall be chairman.
17. If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
18. A director shall, notwithstanding that he or she is not a member, be entitled to attend and speak at any general meeting.

19. The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
20. A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:
 - a. by the chairman; or
 - b. by at least two members having the right to vote at the meeting; or
 - c. by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting;and a demand by a person as proxy for a member shall be the same as a demand by the member.
21. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
22. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
23. A poll shall be taken as the chairman directs and he or she may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
24. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he or she may have.
25. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

26. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
27. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more members.

Votes of members

28. On a show of hands every member present in person shall have one vote. On a poll every member present in person or by proxy shall have one vote.
29. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
30. The appointment of a proxy shall be executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve) -

“[LACC] Limited

I/We, ** , of ** , being a member/members of the above-named company, hereby appoint ** of ** , or failing him, ** of ** , as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the company to be held on ** , and at any adjournment thereof.

Signed on ** .”

31. Where it is desired to afford members an opportunity of instructing the proxy how he or she shall act the appointment of a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve) -

“[LACC] Limited

I/We, ** , of ** , being a member/members of the above-named company, hereby appoint ** of ** , or failing him, ** of ** , as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the company, to be held on ** , and at any adjournment thereof.

33. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited or, where the appointment of the proxy was contained in an electronic communication, at the address at which such appointment was duly received before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

Conduct of the Company’s affairs

34. The Fire and Rescue Authority Members shall exercise all voting rights held by them in relation to the Company so as to procure (insofar as they are able by the exercise of such rights) that:

the Company fully complies with any obligations which it may from time to time have pursuant to Applicable Law, including the Local Authorities Order and the Act, including but not limited to:

- a. the requirement to state in all relevant documents that the Company is controlled by the relevant Fire Rescue Authority, as required by the Local Authorities Order;
- b. the requirement to obtain the Audit Commission’s consent to the appointment of the Company’s auditor as required by the Local Authorities Order; and
- c. the requirement to, until the expiry of the period of four years beginning with the date of the meeting, to make available for inspection by any member of the public, a copy of the minutes of any General Meeting of the Company as required by the Local Authorities Order. In accordance with the Local Authorities Order, no copies of minutes are to be made available which include any matter the disclosure of which would be in breach of any enactment, or of an obligation owed to any person;

the activities of the Company are at all times consistent with the functions which may be performed by the Fire and Rescue Authority Members in their respective capacities as public sector bodies and that such activities are performed on the same basis on which those functions would be performed by the Fire and Rescue Authority Members.

Number of directors

35. Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall be not less than [four] of which at least [two] shall be Fire and Rescue Authority Directors.

36. Each Fire and Rescue Authority Member shall be entitled for so long as it is a member of the Company to appoint one director and may at any time remove such person and appoint another person in his or her place. Any other director shall be appointed and removed by ordinary resolution of the members, provided that the directors will be entitled to make recommendations to the members regarding the appointment of any person as a director.
37. Removal of a Director shall be deemed to take place in any of the circumstances specified in regulation 48.

Alternate directors

38. Any director (other than an alternate director) may appoint any other director, or any other person approved by resolution of the directors and willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.
39. An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his or her appointor is a member, to attend and vote at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions of his or her appointor as a director in his or her absence but shall not be entitled to receive any remuneration from the Company for his or her services as an alternate director. But it shall not be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.
40. An alternate director shall cease to be an alternate director if his or her appointor ceases to be a director; but, if a director retires by rotation or otherwise but is reappointed or deemed to have been reappointed at the meeting at which he or she retires, any appointment of an alternate director made by him which was in force immediately prior to his or her retirement shall continue after his or her reappointment.
41. Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
42. Save as otherwise provided in these articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his or her own acts and defaults and he or she shall not be deemed to be the agent of the director appointing him.

Powers of directors

43. Subject to the provisions of the Act, the memorandum and these articles (including, without limitation to the generality of the foregoing, regulation 44) and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all the powers of the Company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by these articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
44. No decision relating to the matters listed in Part 1 of the appendix may be taken or implemented by the company unless such matter has been unanimously approved by all of the directors entitled to receive notice of a meeting of directors. No decision relating to the matters listed in Part 2 of the appendix may be taken or implemented by the company unless the company has received the prior written consent of all of the members to such matter.
45. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of its powers.

Delegation of directors' powers

46. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

Retirement of directors

47. The directors shall not be required to retire by rotation.

Disqualification and removal of directors

48. The office of a director shall be vacated if:
- a. he or she ceases to be a director by virtue of any provision of the Act or he or she becomes prohibited by law from being a director; or
 - b. he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
 - c. he or she is, or may be, suffering from mental disorder and either:
 - i. he or she is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960, or
 - ii. an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his or her detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his or her property or affairs;
- or
- d. he or she resigns the office by notice to the Company;
 - e. he or she shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that the office be vacated;
 - f. he or she is directly or indirectly interested in any contract with the Company and, in the opinion of the directors (acting reasonably) (including on recommendation by the secretary) has failed to declare his or her interest in manner required by the Act and these regulations; or
 - g. the member, of which the director is an employee, officer or member, ceases to be a member of the Company;
 - h. he or she ceases to be an employee, officer or member of a member;
 - i. in the case of a Fire and Rescue Authority Director who is an elected member of a Fire and Rescue Authority Member, he or she ceases to be an elected member or is disqualified from such membership; or
 - j. he or she is validly removed from office by the members pursuant to regulation 36 or, in the case of a Fire and Rescue Authority Director, by the Fire and Rescue Authority Member who appointed him pursuant to regulation 36.

Remuneration of directors

49. The directors shall be entitled to such remuneration as the Company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

Directors' expenses

50. No payments whatsoever shall be made to any Fire and Rescue Authority Director or any Observer who is for the time being an employee, officer or member of any Fire and Rescue Authority Member. Save as the members may otherwise agree in writing, no payment shall be made to any Observer. Subject to the foregoing, and to such general rules and limitations as the Company may by ordinary resolution determine from time to time, the directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or otherwise in connection with the discharge of their duties.

Directors' appointments and interests

51. Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his or her employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his or her services as they think fit. Any appointment of a director to an executive office shall terminate if he or she ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the Company. A managing director and a director holding any other executive office shall not be subject to retirement by rotation.
52. Save as otherwise provided by these regulations and subject to regulation [53], a director shall not vote in respect of any contract or arrangement in which he or she is directly or indirectly interested or any matter arising out of such contract or arrangement or any matter which conflicts or may conflict with the interests of the Company and if he or she does so vote his or her vote shall not be counted. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he or she is not entitled to vote. A director shall not be deemed to be interested in a contract or arrangement with any Fire and Rescue Authority Member (or any other fire and rescue authority for the purposes of the Fire and Rescue Services Act 2004 or equivalent authorities in Scotland) merely by reason that he or she or his or her spouse or registered civil partner is a member, officer or employee of any Fire and Rescue Authority Member (or any other fire and rescue authority for the purposes of the Fire and Rescue Services Act 2004 or equivalent authorities in Scotland).

53. All directors who are members, officers or employees of any Fire and Rescue Authority Member shall comply with the requirements of any codes of conduct of such Fire and Rescue Authority Member for the time being in force in respect of members, officers and/or employees of such Fire and Rescue Authority Member relating to the declaration of personal and prejudicial interests. Those directors shall respectively declare personal interests as defined in such codes at any meeting of the directors or committee at which the matter giving rise to the interest is considered and, in the case of prejudicial interests as defined in such codes, shall not participate in any decisions to be made by the Company and shall withdraw from any meeting of the directors or committee at which such matter is considered.
54. The Company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of these articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
55. Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each director separately and (provided he or she is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his or her own appointment.
56. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his or her ruling in relation to any director other than himself shall be final and conclusive.

Directors' gratuities and pensions

57. The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company and for any member of his or her family (including a spouse or registered civil partner and a former spouse or former registered civil partner) or any person who is or was dependent on him, and may (as well before as after he or she ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

Proceedings of directors

58. Subject to the provisions of the articles, the directors may regulate their proceedings as they think fit.

59. Unless otherwise determined by the Company by ordinary resolution, there will be not less than [four] meetings of the directors in each calendar year. A director may, and the secretary at the request of a director shall, call a meeting of the directors at any time. Any such notice shall include an agenda of the matters to be discussed at such meeting and, unless the directors unanimously so decide, no matter may be discussed or voted on which is not included in any such agenda. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Each director shall have one vote and questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. A director who is also an alternate director shall be entitled in the absence of his or her appointor to a separate vote on behalf of his or her appointor in addition to his or her own vote.
60. The quorum for the transaction of the business of the directors shall be such number of directors as represents not less than 75% of all duly appointed directors, of whom not less than 50% of the directors present shall be Fire and Rescue Authority Directors. For so long as the number of Fire and Rescue Authority Directors is less than 50% of 75% of all duly appointed directors then 75% of all duly appointed directors including all of the Fire and Rescue Authority Directors then in office shall constitute a quorum. A person who holds office only as an alternate director shall, if his or her appointor is not present, be counted in the quorum.
61. If such a quorum is not present within half an hour from the time appointed for the meeting or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day the next week at the same time and place or to such time and place as the directors may determine. If a quorum is not present at such reconvened meeting, the meeting shall be dissolved.
62. The continuing directors may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
63. The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he or she is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he or she is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
64. All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

65. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his or her appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.
66. Any director may participate in a meeting of the directors by means of a conference telephone or similar communications system whereby all persons participating in the meeting can hear and address each other and participation in a meeting of the directors in this manner shall be deemed to constitute presence at such meeting for all purposes including that of establishing a quorum. A meeting of the directors held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such a majority the location of the chairman shall be deemed to be the place of the meeting of the directors.

Secretary

67. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

Minutes

68. The directors shall cause minutes to be made in books kept for the purpose -
- a. of all appointments of officers made by the directors; and
 - b. of all proceedings at meetings of the Company and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

The seal

69. The seal shall only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

Accounts

70. No member shall (as such) have any right of inspecting any accounting records or other book or document of the Company except as conferred by statute or authorised by the directors or by ordinary resolution of the Company.

Notices

71. Any notice to be given to or by any person pursuant to the articles (other than a notice calling a meeting of the directors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In this regulation and the next, “address”, in relation to electronic communications, includes any number or address used for the purposes of such communications.
72. The Company may give any notice to a member or director either personally, or by sending it by post in a prepaid envelope addressed to the member or director at the address within the United Kingdom that he, she or it has notified to the Company, or by leaving it at that address, or by giving it using electronic communications to an address for the time being notified to the Company by the member or director.
73. A member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
74. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

Indemnity

75. Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

Appendix

Part 1 – Unanimous consent of the directors

1. The taking of any loan, borrowing or credit by the company (whether a single transaction, a series of transactions or transactions in aggregate during the lifetime of the company) above a threshold of £25,000.
2. The appointment or removal of the person from time to time appointed as the Secretary.

Part 2 – Unanimous consent of the members

1. The admission of any person as a new member of the company (subject to regulation[s] 3 [and 4]).
2. The making of any variation to the Memorandum or these articles.
3. The amalgamation or merger of the company with any other company, business or undertaking or the acquisition of any shares in any company or any business or undertaking of any person or the participation by the company in any legal partnership or joint venture (whether incorporated or not).
4. The making any petition or resolution to wind-up the company or any application for administration or giving any notice of intention to an administrator unless in any case the company is at the relevant time insolvent and the directors reasonably consider (taking into account their fiduciary duties) that the company ought to be wound-up.

Annex B

Memorandum of association of [LACC] Limited

Summary

Name and status of the Company and registered office

The name of the Company is [LACC] Limited, with its registered office in England. The Company is limited by Guarantee not having a share capital. The liability of the members is limited.

The objects of Company

The main purpose of the Company is to operate a regional control centre covering the fire and rescue authority areas of [** , ** , ** and **] as part of the English network of regional control centres, which may extend to mobilisation of fire and rescue resources from or to anywhere within Great Britain.

The Company shall respect the policies of the Chief Fire Officers' Association and the Secretary of State in relation to the operation of regional control centres and to the National Framework prepared by the Secretary of State.

In pursuance of the objects of the Company, the Company may, as it sees fit,:

enter into arrangements with any fire or rescue authority within the meaning of the Fire and Rescue Services Act 2004 and any other organisation within the British Islands certified by the Secretary of State;

supply services and undertake activities as required;

purchase, take on lease or exchange, hire or otherwise acquire any real or personal property and to construct, maintain and alter any buildings or erections;

sell, let, sub-let, lease, dispose of or turn to account all or any of the property or assets of the Company as may be thought expedient and to accept surrenders of leases and tenancies and to make allowances to and arrangements with tenants;

take any gift of property, whether subject to any special trust or not;

invest the moneys of the Company not immediately required in or upon such investments, securities and property as may be thought fit;

borrow or raise money and to give security;

create subsidiary companies, enter into joint venture agreements and establish any body necessary;

affiliate, co-operate or amalgamate with any other organised body having similar objects to the Company;

make such rules and regulations for the management of the Company and for matters connected therewith as the Company in its discretion think fit and from time to time to so add amend vary revoke or replace any such rules and regulations;

appoint and constitute such committees, boards or bodies (whether advisory or not) for the better management and administration of the Company and to pay such committee members or board members an honorarium or fee or salary to and expenses incurred as it deems fit;

acquire any patents, patent rights, brevets d'invention, inventions, licences, conversions, trade marks, or secret processes, which may further the objects of the Company, and to grant licences to use the same;

establish or promote any Company for the purpose of acquiring all or any of the property, rights or liabilities of the Company which may seem to benefit the Company;

pay all or any expenses incurred in connection with the promotion and incorporation of the Company, and to remunerate any person, firms or Company rendering services to the Company, either by cash payment or otherwise; or

to do all such other things in pursuance of its objects or as shall seem to be in the best interests of the Company, its members, its subscribers or other users of the Company's services.

Payment by the Company

The Company shall make payment in good faith of:

Interest on money lent to the Company by any member of the Company at a rate per annum not exceeding a reasonable and proper commercial rate;

Reasonable and proper rent for premises demised or let to the Company by any member of the Company;

Reasonable and proper remuneration to any member, officer or servant of the Company in return for any services rendered to the Company;

Any exhibition scholarship, fellowship, or other reward or prize established or paid out of the funds of the Company to any person bona fide holding the same;

Fees, remuneration or other benefit in money or money's worth to a Company of which a member of the Company may be a member, and such member shall not be bound to account for any share of profits it may receive in respect of any such payment.

Consequences of insolvency or ceasing trade

Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up while it is a member, or within one year after it ceases to be a member, for

payment of the debts and liabilities of the Company contracted before it ceases to be a member, and

the costs, charges and expenses of winding up, and

for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one pound.

If any property remains after the winding up or dissolution of the Company, it shall be paid to or distributed equally among the members.

The Companies Acts 1985 to 1989 Company limited by guarantee and not having a share capital

Draft Memorandum of association of [LACC] Limited

1. The name of the Company is [LACC] Limited and in this document it is called the **Company**.
2. The registered office of the Company will be situated in England.
3. The objects for which the Company is established are:
 - a. To operate a regional control centre covering the fire and rescue authority areas of [** , ** , ** and **] as part of the English network of regional control centres, which, for the avoidance of doubt may extend to mobilisation of fire and rescue resources from or to anywhere within Great Britain (including any resources that can be used for the purpose of responding to incidents regardless of who the owner is). In particular, without prejudice to the generality of the foregoing and subject to any statutory guidance in issue from time to time, the Company is established to:
 - i. enter into arrangements from time to time with any one or more fire and rescue authorities (**FRA**), within the meaning of the Fire and Rescue Services Act 2004 (**FRSA**), in England and any other organisation within the British Islands certified by the Secretary of State;
 - ii. have regard to the policy of the Chief Fire Officers' Association in relation to the operation of regional control centres; and
 - iii. have regard to the policy of the Secretary of State in relation to the operation of regional control centres, in particular, but without prejudice to the generality of the foregoing, to the National Framework prepared by the Secretary of State pursuant to section 21 of the FRSA;

in the event of conflict between the policies referred to in paragraphs 3aii and 3aiii above, the Company shall have regard to both policies and adopt the policy most relevant in the circumstance, subject at all times to any statutory guidance from time to time in issue.
 - b. In furtherance of the foregoing objects but not further or otherwise the Company shall have the following powers:
 - i. To supply services of all kinds and to carry on any activity, including the employment of staff, normally undertaken by an organisation with these or similar objects.

- ii. To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Company may think necessary or convenient for the furtherance of its objects, and to construct, maintain and alter any buildings or erections necessary or convenient for the work of the Company.
- iii. To sell, let, sub-let, lease, dispose of or turn to account all or any of the property or assets of the Company as may be thought expedient and to accept surrenders of leases and tenancies and to make allowances to and arrangements with tenants, as may be deemed expedient in the interests of the Company.
- iv. Subject to such consents as may be required by law, to borrow or raise money for the purposes of the Company on such terms and on such security as may be thought fit.
- v. To invest the moneys of the Company not immediately required for its purposes in or upon such investments, securities and property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.
- vi. To take any gift of property, whether subject to any special trust or not, for any of the objects of the Company.
- vii. To create subsidiary companies, enter into joint venture agreements and establish any body necessary or incidental to the carrying out of the objects of the Company.
- viii. To affiliate or co-operate with any other organised body in the United Kingdom, Europe, or elsewhere, having objects similar to those of the Company, with a view to furthering the objects of the Company, and to amalgamate with any company having objects similar to those of the Company.
- ix. To make such rules and regulations for the management and administration of the Company and for matters connected therewith as the Company in its discretion think fit and from time to time to so add amend vary revoke or replace any such rules and regulations but so that nothing in this sub-clause shall be deemed to authorise any application of any part of the investments and property held by or on behalf of the Company or the income thereof otherwise than in conformity with this Memorandum of Association.
- x. To appoint and constitute such committees, boards or bodies (whether advisory or not) as the Company may consider desirable for the better management and administration of the Company and to make amend vary revoke and replace rules and regulations for the purpose of defining their functions powers and organisation and also (if the Company shall think fit) to pay an honorarium or fee or salary to and defray expenses incurred by any member of such committee board or body appointed as aforesaid.

- xii. To apply for and take out, purchase or otherwise acquire, any patents, patent rights, brevets d'invention, inventions, licences, conversions, trade marks, or secret processes, which may further the objects of the Company, and to grant licences to use the same.
- xiii. To establish or promote any company for the purpose of acquiring all or any of the property, rights or liabilities of the Company, or for any other purpose which may seem calculated to benefit the Company.
- xiiii. To pay all or any expenses incurred in connection with the promotion and incorporation of the Company, and to remunerate any person, firms or company rendering services to the Company, either by cash payment or otherwise.
- xv. To do all such other things as are incidental or conducive to the attainment of the above objects or any of them or as shall seem to be in the best interests of the Company, its members, its subscribers or other users of the Company's services.

PROVIDED THAT:

- a. In case the Company shall take or hold any property which may be subject to any trust, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trust.
- b. The income and property of the Company wheresoever derived, shall be applied solely towards the promotion of the objects of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend or bonus or otherwise howsoever by way of profit to the members of the Company PROVIDED THAT nothing herein shall prevent any payment in good faith by the Company of:
 - i. Interest on money lent to the Company by any member of the Company at a rate per annum not exceeding a reasonable and proper commercial rate;
 - ii. Reasonable and proper rent for premises demised or let to the Company by any member of the Company;
 - iii. Reasonable and proper remuneration to any member, officer or servant of the Company in return for any services actually rendered to the Company;
 - iv. Any exhibition scholarship, fellowship, or other reward or prize established or paid out of the funds of the Company to any person bona fide holding the same;
 - v. Fees, remuneration or other benefit in money or money's worth to a company of which a member of the Company may be a member, and such member shall not be bound to account for any share of profits it may receive in respect of any such payment.

Annex C

Briefing Note for Elected Members on Director's liabilities

Company Undertaking Regional Control Function

This note assumes that the vehicle for undertaking the regional control function will be a company limited by guarantee.

Role of Elected Members/Officers in the Company

A company operates on 3 main levels:-

- a. Members of the company (i.e. shareholders).
- b. Directors of the Company (Executive and Non Executive).
- c. Employees of the Company.

There are several options as to how the role of Authorities Elected Members and Fire Service Officers can be accommodated in the Company structure. Some of the main options are as follows:-

	Shareholders	Directors	Employees
1	<ul style="list-style-type: none">Each Fire & Rescue Authority (as a corporate body)	<ul style="list-style-type: none">Each CFO (Non Executive) Regional Control Centre Director (Executive)	Control Room Staff
2	<ul style="list-style-type: none">Specified Elected Members appointed by the RMB.	<ul style="list-style-type: none">As above	As above
3	<ul style="list-style-type: none">Each Fire & Rescue Authority (as a corporate body)	<ul style="list-style-type: none">Specified Elected Members appointed by the Authorities (e.g. Members who are members of the NW Fire Control Board) (Non Executive)Each CFO (Non Executive)Regional Control Centre Director (Non Executive)	As above
4	<ul style="list-style-type: none">Specified Elected Members as appointed by the NWF&RMB.	<ul style="list-style-type: none">Specific Elected Members appointed by the shareholders (e.g. Members who are members of the NW Fire Control Board) (Non Executive)Regional Control Centre Director (Executive)	As above

It will be appreciated that if individual Elected Members are not appointed as shareholders or directors of the Company, there is still scope for control over policy matters through their role as Elected members of the constituent Fire & Rescue Authority, and the contractual agreements between those Authorities and the Company as to the supply of fire control call handling and mobilisation services to their Authorities. However Elected Members would, in such circumstances have less managerial control than they would if they were also appointed as Directors of the company.

It will also be appreciated that, in practice, any contractual liabilities on the part of the Company to any specific Authority for breaches in services or standards, (or to any other contractor) will in reality have to be met by the constituent fire & rescue authorities as sole funders of the Company.

Role of Shareholders

The shareholders can, in practice, have a limited role in the running of the company. Whilst their approval is required for some decisions, e.g. appointment of auditors, changing constitutional documents (i.e. articles and memorandum), appointment of directors, they will probably be able to perform their functions by holding a single meeting a year (e.g. the AGM), and can even decide to dispense with matters such as the holding of an AGM, the laying of accounts before the members, and the need to annually appoint an auditor.

Role of Directors

Companies legislation does not define the role of directors, but in fact the main role of the directors is to run the Company.

Those senior employees of the Company who are also directors are the Executive Directors. The other directors who are not employees are referred to as “Non Executive Directors”. However, the law makes no distinction between the above categories – Non Executive Directors are directors for all purposes of companies legislation.

1. Qualifications

Unless specified in the constitutional documents of the Company (i.e. the articles of association), there are no qualifications for becoming a director, but the following persons are prohibited from becoming directors:-

- a. Undischarged bankrupts, unless permitted by the Court.
- b. The Company’s auditors.
- c. Persons disqualified by the Court.

If Elected Members are to be directors, then the articles of association should provide that they automatically cease to hold office upon ceasing to be an Elected Member, or if they are disqualified from being an elected member. Similar provision as to automatic cessation of holding office as an employee director would also be appropriate in respect of employee directors upon termination of their employment.

2. Duty of Care & Skill

Whilst there are no formal qualifications required in law to perform the role of director, directors have a duty of care to exercise skill and care to the standard of a reasonably diligent person having both :-

- a. The general knowledge, skill and experience that may reasonably be expected of persons carrying out the same functions as carried out by that director in relation to the Company (i.e. the benchmark test of what would be expected of a director), and
- b. The knowledge, skill and experience that the director has (i.e. in addition, if the director has a particular skill, e.g. Finance, then they are required to exercise that skill).

3. Statutory Duties

Directors have many statutory duties imposed by the Companies Act and other legislation, such as health & safety legislation and environmental legislation. So, for example, under health and safety and environmental legislation, if an offence committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, they as well as the company are guilty of an offence and are liable to be prosecuted and punished accordingly.

4. Relief from Liability

It is not possible for the Company to grant general relief from liability of directors to the Company. However, a Company can take out directors liability insurance.

In addition, the constituent fire and rescue authority can indemnify its members/officers who are appointed as directors of the Company in respect of liability for act or omissions whilst acting on behalf of the Company, where they reasonably believed that they were acting within the scope of their authority (except in the case of acts of default, which constitute criminal offences or are the result of fraud or other deliberate wrong doing or recklessness on their part).

5. Remuneration of Directors

Whilst the general rule is that a director is not entitled to remuneration if they have no distinct executive or employee relationship with the Company, the constitutional documents invariably provide that directors are entitled to such remuneration as the Company determines, and in addition expenses for attending directors meetings can be paid.

Personal Liability of Directors

Directors have a duty to act in good faith in the best interests of the Company (fiduciary duty) and the duty of skill and care referred to above. Any breach will render a director personally liable to the Company in damages.

1. Wrongful Trading

If a director fails to take every step they should have taken to minimise loss to creditors once they knew or ought to have known that the Company was unlikely to avoid insolvent liquidation, then they can be liable to personally contribute to the assets of the Company. However, the prospect of liability of directors in the context of a regional fire control company should not arise because in reality the Company will continue to be funded by the constituent fire authorities.

Disclosure of Interests of Directors

Directors are required to disclose direct and indirect interests in contracts with the Company at a board meeting. When a director is a member of another company or firm, they can give a general notice stating their interest.

Directors who are employees or Members of an Authority, which is a party to a contract which is being considered by the Company should declare that interest to the company.

Elected Members who are appointed as directors of the Company are also required to declare a personal interest at a meeting of an Authority (or Regional Management Board to which they are appointed), if that meeting is considering any matter relating to the Company.

They can then consider that the personal interest is not a “prejudicial” interest if it only relates to the Company to which they have been appointed by their respective Authority/Regional Management Board.

However, Members should consider their position in the light of the particular circumstances and facts. So, for example, if the company is at risk of trading insolvently, the Ombudsman has indicated that Elected Members who are directors of that Company, should not participate in any decision by the Authority/Regional Management Board to provide finance or guarantees to the Company which might avoid that Elected Member, as a director, being personally liable. However, that would not preclude the Elected Members concerned from making a factual report to the Authority of relevant information concerning the Company or its officers.

Guidelines to Avoid Liability

Members/Officers sitting as a Director of a Company should have regard to the following:

1. Make sure the body in question holds fairly regular meetings. If you cannot attend a meeting you should write to the Chair of the Body, giving any opinion which you may have on any particular item on the Agenda.

2. Make sure that full and accurate minutes are kept, detailing the reasons for decisions which are made, advice received, factors taken into consideration and any arguments against a proposed course of action. If appropriate, make sure you ask for your dissenting view to be minuted. On the whole, you will not be liable for the acts of your co-directors unless you participate in any breach or wrong doing.
3. Make sure you are fully and properly briefed. Ensure that the organisation's administrative arrangements are effective in providing an adequate flow of information to you, particularly with regard to financial data.
4. Make sure that you seek professional advice where appropriate on significant issues, and clearly indicate that a decision is being made upon any advice received, but you must note that acting on professional advice will not of itself release you from liability if, for instance, you failed to disclose all relevant information to your adviser.
5. Make sure that you exercise the skill and care appropriate to your position and qualifications.
6. Make sure that you delegate with care. It is common for a Company to delegate its powers and duties to specific directors. The scope of the duties that have been delegated should be made clear in the minutes recording the terms of delegation.
7. Make sure you are familiar with the Company's objects and powers, as set out in its Memorandum of Association. If the Company sanctions any act which falls outside its powers then the Director could be exposed to a claim for breach of duty.
8. Always have in your mind what is in the best interests of the body upon which you sit.
9. Make sure you address, where appropriate, issues of safety. In exceptional cases, it is possible for those persons who form the "guiding and controlling mind" of an organisation to be held liable for manslaughter or for criminal offences under the Health and Safety Legislation, if employees or members of the public are killed or injured as a result of the Company's activities **IF** it can be shown beyond reasonable doubt that the individual persons concerned had recklessly disregarded questions of safety.
10. Consider whether it is in the best interests of the Company to arrange insurance against the personal liability of Directors. If the Company does not take out such insurance, consider whether it is worth you doing so personally.

Conclusion – liability issues

The above information has been prepared to indicate the main issues in respect of options for appointment to a Company and potential liabilities of appointees as directors. However, it is considered that *the likelihood of actually being held personally liable is very remote.*

In essence, if directors take the trouble to inform themselves of their duties and keep them at the forefront of their mind whilst serving on a Company, and always act in good faith, then they will realistically provide themselves with effective protection from the risk of liability.

The ODPM has also indicated that it is likely to provide at least some training for directors, funded by the ODPM.

Local Government legislative controls

A company owned and controlled by fire & rescue authorities is regarded as a 'controlled company'. As such the following requirements/provisions apply:

1. the company must mention on all relevant documents that it is controlled by the relevant fire & rescue authorities
2. the company is bound by the same restrictions on political publicity that apply to authorities
3. directors of the company must be removed if they become disqualified for membership of their fire & rescue authority (other than by being employed by a local authority or the controlled company).
4. The company is restricted as to the level of remuneration/travel/subsistence that it can pay the directors (i.e. to the greatest amount that would be payable by the fire & rescue authority in respect of a comparable duty/travel subsistence performed on behalf of the authority, less any amount paid by the authority in respect of that duty). In addition, under s.80 of the Local Government Act 1972, elected members who hold a paid office as a director of the company would become disqualified for being elected or being a member of a county council or district council if they hold any paid office appointments to which are made or confirmed by that County Council or District Council, or by a joint committee on which they are represented. [So elected members from a County Council fire service who are appointed to the fire control company by their council, or their RMB, would be disqualified from being a member of the County Council. However, this restriction would not affect elected members from metropolitan joint authorities, or combined fire authorities who are appointed to the fire control company]
5. Requirements are imposed as to the provision of information to the fire & rescue authority's auditor, and of financial information to the fire & rescue authorities/ regional management board
6. A controlled company must obtain the Audit Commissions' consent to the appointment of its auditor.
7. The company must allow for public inspection of its minutes, subject to certain restrictions.

Annex D

Timeline for Key HR decisions/ Activities for employing entity²

Preparatory stage			
By when (go live – X months): indicative	By whom	Decision	Dependence
– 30 mths	Employing Entity	Governance structures – sub-committees/delegation of authority.	Establishment of Employing Entity & adoption of articles etc.
– 30 mths	Employing Entity	Shift patterns for new organisation	Decision about NJC representation & terms & conditions.
– 30 mths	Employing Entity	Staff numbers for new organisation	Shift patterns decision
– 28 mths	Employing Entity	Terms & Conditions of Employment for all staff (operational control posts, and support posts)	Governance structures
– 28 mths	Employing Entity	Representation by an NJC, more than one NJC or none	Terms & Conditions of Employment
– 28 mths	Employing Entity	Recognition of representative bodies	i) Decision about NJC representation & terms & conditions. ii) Information about transferring staff: numbers & union membership as proportion of total workforce.
– 28 mths to 30 mths	Employing Entity	HR support for the new organisation: Decision at 30 mths implementation at 28 mths	Governance decision & establishment of employing entity
– 28 mths	Employing Entity	Selection mechanisms for existing staff who will be subject to TUPE transfer	Staff numbers
– 28 mths	Employing Entity	Recruitment & selection policy & procedures for new staff	Staff numbers
– 26 mths	Employing Entity	Scope & timing of employee consultation (together with FRAs)	External legal advice, existing local & regional fora and relationships, HR support for the new organisation

² Please note that this is a draft document and a work in progress, designed to give an indication of the sorts of decisions that will need to be made, ie timings are very indicative, and there may still be inaccuracies/logicalities in it at present.

Preparatory stage – continued			
By when (go live – X months): indicative	By whom	Decision	Dependence
– 26 mths	Employing Entity	Relocation assistance policy	Staff numbers
– 26 mths	Employing Entity	Travel allowances policy	Staff numbers
– 24 mths	FRA	Reasonableness criteria	Locations announcement
– 24 mths	FRA	Redundancy policy (if no pre-existing policy)	
– 24 mths	ODPM/Fire Service College	Operational Control Room Staff role maps & PQAs for new environment	
– 24 mths	Employing Entity	HR software provision	HR Support for the new organisation
– 20 mths	FRA	Identification of in-scope FRA ICT staff	Staff Numbers; technological solution
– 20 mths	FRA	Legacy organisation design	Staff Numbers
– 18 mths	Employing Entity	Payroll provision	HR Support for the new organisation
– 18 mths	Employing Entity	Pensions administration	HR Support for the new organisation
– 15 mths	FRA	Identification of staff to act as trainers (MDT training) & plan for release	Training supplier contract issued
– 15 mths	Employing Entity	Pay policy	i) Terms & conditions decision ii) NJC decision
– 15 mths	Employing Entity	Performance management policy	i) Terms & conditions decision ii) NJC decision
– 12 mths	Employing Entity	Performance Management procedures	Performance management policy
– 15 mths	Employing Entity	Training policy	ISOP; organisational business strategy & performance standards, Training Strategy draft
– 15 mths	Employing Entity	Absence Management policy	i) Terms & Conditions Decision ii) NJC decision
– 15 mths	Employing Entity	Disciplinary policy & procedures	i) Terms & Conditions Decision ii) NJC decision
– 15 mths	Employing Entity	Grievance procedures	i) Terms & conditions decision ii) NJC decision
– 12 mths	Employing Entity	Policy Monitoring mechanisms	HR software provision HR policies

Consultation & Selection Stage			
By when (go live – X months): indicative	By whom	Decision	Dependence
– 24 mths	FRA/ODPM	Identification of assessors for the selection process	
– 24 mths start – snr appts. – 12 mths extra CRO etc	Employing Entity	Timescales for beginning external recruitment	Need for external recruitment & selection
– 24 mths start – snr appts	Employing Entity	Timescales for beginning selection process (together with ODPM)	Project progress & timescales in general
– 24 mths start – Snr appts. – 12 mths additional CROs etc	Employing Entity	Need for external recruitment & selection	Reasonableness decisions Transfer decisions made
– 20 mths	ODPM (POD)	Training for assessors to be set up & run	Identification of assessors
– 18 mths	FRA	Notification of transfer status/ TUPE applying/‘at risk’	Staff numbers Reasonableness criteria
– 18 mths	Employing Entity	Consultation on selection criteria for transfers (where more possible transferrees than posts)	Relocation assistance policy, Travel allowance policy, FRA decisions on reasonableness
– 18 mths (ongoing)	FRA	Who could reasonably transfer	Reasonableness decisions At risk notification Identification of ICT in-scope
– 15 mths (ongoing)	FRA	Identification of redeployment opportunities	Who could reasonably transfer Legacy organisation design
– 15 mths	Employing Entity	Selection criteria decisions for new entrants	Staff numbers Reasonableness decisions Operational control staff role maps & PQAs for new entities
– 14 mths start (OM) – ongoing	Employing Entity	Transfer decisions start being made (with OM)	Timescales for selection process
– 5 mths (final posts)	Employing Entity	Recruitment decisions made	External recruitment

Staff Transition Stage			
By when (go live – X months): indicative	By whom	Decision	Dependence
– ???	ODPM	Rate & order of transfer	Transition workstream
– 15mths	FRA	Identification of early retirement candidates	Employing Entity staff numbers decision
– 15 mths	FRA	Identification of re-training needsfor redeployment	Identification of redeployment opportunities
– 12 mths & ongoing	– 12 mths & ongoing	Notification of redundancy (minimum 90 days notice required)	Transfer decisions made Redeployment decisions Early retirement decisions
– 12 mths	Employing Entity	Additional short term staffing requirements for first year of operation	Rate & order of transfer
– 12 mths	Employing Entity	Contractual terms for additional staff	Additional staffing requirements
– 12 mths	Employing Entity	Additional staff job roles	Additional staffing requirements
– 10 mths start	Employing Entity	Recruitment of additional staff	Additional staffing requirements
– 9 mths (ongoing)	FRA	Outplacement service	Notification of redundancy
– 7 mths	Employing Entity	Training needs analysis of transferring staff (together with training supplier)	Transfer decisions made
– 6 mths	FRA	Decisions on releasing transferring staff for training	Training needs analysis Training supplier timescales Rate & order of transfer
– 6 mths	FRA	Decisions on releasing operational firefighters for training on MDTs	Training supplier timescales
– 6 mths	Training Supplier	Final training design to meet Training needs analyses	Training needs analyses Rate & order of transfer
– 6 mths	Training Supplier/ FRA	Training Scheduling	Rate & order of transfer Completion of selection & transfer decisions
– 6 mths	Employing Entity	Training needs analysis of new staff	Recruitment decisions made
– 2 mths	Employing Entity	Training for additional staff	Additional staff job roles
– 1mth	Employing Entity	Training evaluation (together with training supplier)	Training scheduling, delivery & recording
0 months	FRAs	Severance at cut-over if not redeployed or transferred	Notification of redundancy

Annex E

National Functions Outline

Introduction

The successful operation of a national network of fire and rescue service control centres requires a number of national functions to be established, owned and discharged by one or more bodies. This requirement is comprised of two factors: the cost-effectiveness of doing some things collectively or only once; and, secondly, that some activities, by the nature of the network design itself, may only be undertaken once. Those who are responsible for these functions will support, co-ordinate and monitor the work of the control centres and related suppliers, enabling them to function as a national network.

National functions are defined as those activities which are required to be undertaken on an ongoing basis, beyond the end of the project, to enable the national network to operate and evolve. In seeking to define the scope of the national functions a set of design principles was established:

Design Principles

Although control centre activities will be regional, we recognise that some tasks need to be national, in the interests of uniformity and cost-efficiency. We will use the following principles to determine which activities can be categorised as national functions:

Discharges activities where a single national solution is required to provide a resilient network or where the activity cannot be cost-effectively discharged at regional level;

Supports the maintenance and enhancement of a single technology infrastructure, common operational processes and best practice management processes;

Balances the benefits of regional autonomy and tailored solutions against the need to function efficiently and cost-effectively as a national network;

Enables RCCDs to retain the autonomy and ownership of regional decisions to discharge their accountabilities successfully within the constraints of a national solution.

1. Around 40 national functions have so far been identified; these range from operational management issues, through to security and customer service activities. In some cases, the project workstreams are carrying out embryonic versions of these functions.

2. A small number of functions will have to remain the responsibility of the policy and sponsorship team or other teams within the Office of the Deputy Prime Minister (ODPM) – reporting on the network to Parliament through Parliamentary Questions, for example, or collecting statistical information on performance. The other national functions could report to a single, possibly new, administrative body or allocated to existing bodies. Being grouped within a single administrative body would not necessarily mean physically locating them in one place. Planning to date has assumed that some of the functions are most effectively and logically discharged in close proximity to control staff (ie located in a control centre) and that the spare capacity of certain centres is best used for this purpose.
3. The organisational design of the body or bodies with responsibility for discharging the national functions should comprise four elements:



Scope

Within the four generic categories shown above, a number of sub-groupings have been established to cluster together appropriate activities. Annex B provides further information on these, including resourcing and interface requirements. The national functions identified thus far are as follows (references in brackets indicate the location of the relevant data template in Annex B):

1 Manage Operations

- 1.1 Define national operational processes and standards
- *Guardian of all performance standards* (B-1)
 - *Guardian of all convergence solutions* (B-2)
 - *Representation of the control centres in matters relating to other emergency services nationally* (B-12)
- 1.2 Review operational performance
- *Assurance that all control centres are carrying out functions in the same way where this is necessary* (B-3)
 - *Best practice identification and promotion* (B-4)
- 1.3 Manage process change
- *Overview and guardian of all RCC processes* (B-5)
 - *Business Design Authority* (B-6)

- 1.4 Manage operational performance (real-time)
 - *Co-ordination of fallback and workload redistribution* (B-7)
 - *National resource co-ordination* (NCC) (B-8)
- 1.5 Plan national events
 - *Exercise planning* (B-9)
 - *National operations planning* (B-10)
- 1.6 Manage data
 - *Understand the data design for the whole platform* (B-11)
 - *Manage the sources of data* (B-11)
 - *Maintain and update processes for data management* (B-11)
 - *Manage any licences or contracts associated with data* (B-11)
 - *Manage relationships with other providers of data* (B-11)
 - *Consider need for any new datasets (including responding to requests)* (B-11)
 - *Lead on data issues for any wider projects* (B-11)

2 Manage Suppliers

- 2.1 Relationship management
 - *Dispute resolution* (B-12)
 - *Liaison with FRSs* (B-12)
- 2.2 Change management
 - *Review and agree changes* (B-13)
 - *Developing future technical strategy and roadmap* (B-14)
 - *Maintain understanding of the technical design* (B-15)
 - *Agree and implement service improvement plans* (B-12)
- 2.3 Service management
 - *Monitoring and auditing suppliers to ensure they follow good practice* (B-16)
 - *Fault and problem management* (B-12)
 - *Measurement and reporting* (B-12)
 - *Ensuring contract compliance* (B-12)
- 2.4 Contract Administration
 - *Commercial relationship management* (B-12)
 - *Calculation of contractual remedies* (B-12)
 - *Documentation administration* (B-12)

3 Manage Policy

- 3.1 Co-ordinate policy development and review, including:
 - *Investigating incidents within control centres* (B-17)
 - *Complaints handling* (B-18)
 - *FOI requests* (B-19)

- 3.2 Co-ordinate policy delivery, including:
- *Policy review and impact assessment* (B-20)
- 3.3 Define data standards
- *New equipment* (B-21)

4 Central Support

- 4.1 Manage finance
- *Authorising invoice payments and placing of work orders* (B-12)
 - *Maintaining financial models and authorisation processes* (B-12)
- 4.2 Manage HR
- *Managing the training aspects of the IS contract* (B-22)
 - *Talent management and co-ordination* (B-23)
- 4.3 Manage Legal
- *Contract disputes* (B-24)
- 4.4 Manage communications
- *Communication to control centre staff on national issues* (B-25)
 - *Communication to the fire and rescue service on national issues* (B-25)
 - *Manage national stakeholders* (B-26)
 - *Links with FirePRO, GNN and ODPM DoC* (B-27)
- 4.5 Monitor benefits realisation
- *Benefits management* (B-28)
- 4.6 Manage administration
- *Administrative duties*

Discharging the national functions

By definition, national functions are essential for the network to perform and evolve effectively. There remain many options for the organisational structure of the body or bodies required to discharge the national functions. These are discussed further below.

Staffing

It is estimated that the national functions have the following staffing requirements, where grades are indicative and will vary according to the body discharging the functions (all figures FTE): 1 G5, G6, 2 x G7, 8 x SEO, 6 x HEO, 4 x EO, 1 x AO.

In addition to those positions above, 2 posts are required to be responsible for NCC co-ordination and co-ordinating fallback and workload redistribution. These tasks need to be available on a 24/7 basis and it is therefore anticipated that approximately 10 FTE (subject to shift patterns) will be necessary to meet this requirement.

Organisation

To inform the policy decision on the body or bodies to be the owner of the national functions, a number of options for managing the national functions have been suggested. These include a single, purpose-built organisation, which would have the advantage of providing a central body which would co-ordinate and oversee the network as a whole; this organisation would be classified as a non-departmental public body. Its establishment might be received negatively by FRSs, possibly perceiving it as a part-nationalisation of the fire and rescue service.

Another option, which would see the functions retained in one place, involves allocating the functions to a body which already exists eg FiReBuy. However, the scope of the functions – if all were transferred – would significantly alter the remit of this non-departmental public body.

Alternative options include dispersing the functions to a range of other bodies, at both national and regional level. A significant risk in this approach would be the difficulty of co-ordinating the activities, thus potentially undermining the underlying principles of national functions. To mitigate this risk, functions that are strongly dependent on one another would need to be grouped.

Whichever model is adopted, the absence of a central co-ordinating role risks the owners of different functions finding themselves in conflict. Likewise, interfaces between dependent functions and stakeholders may not work as intended without central oversight. That central body needs to be vested with authority to adjudicate in disputes or make decisions where necessary. It must, in effect, be the custodian of the FiReControl vision.

The central role could be part of the national functions organisation or directly located within ODPM, although the latter option may have political implications for the central-local government relationship.

The physical location of the staff whose job it will be to discharge the national functions is not necessarily related to whether one body or several bodies are chosen to be the receiving organisation(s). Some activities, for operational reasons, will need to be located within a control centre. For other activities, co-location might be possible and desirable, even if the national functions staff are not employed by the regional entity itself.

Data table for National Functions

Generic Function	Sub-category	National Function
Manage Operations	Define national operational processes and standards	Guardian of all performance standards
		Guardian of all convergence solutions
		Representation of FRS on matters relating to control centres with other emergency services
	Review operational performance	Assurance that all control centres are carrying out functions in the same way where this is necessary
		Best practice identification and promotion
	Manage process change	Overview and guardian of all control centre processes
		Business Design Authority
	Manage operational performance (real-time)	Co-ordination of fallback and workload redistribution
		National resource co-ordination
	Plan national events	Exercise planning
		National operations planning
	Manage data	Understand the data design for the whole platform
		Manage the sources of data
		Maintain and update processes for data management
		Manage any licences or contracts associated with data
		Manage relationships with other providers of data
		Consider need for any new datasets (including responding to requests)
		Lead on data issues for any wider projects
	Manage Suppliers	Relationship management
Liaison with FRSs		
Change management		Review and agree changes
		Developing future technical strategy and roadmp
		Maintain understanding of the technical design
		Agree and implement service improvement plans
Service management		Monitoring and auditing suppliers to ensure they follow good practice
		Fault and problem management
		Measurement and reporting
		Ensuring contract compliance
Contract Administration		Commercial relationship management
		Calculation of contractual remedies
		Documentation administration
Manage Policy	Co-ordinate policy development and review	Investigating incidents within control centres
		Complaints handling
		FOI Requests
	Co-ordinate policy delivery	Policy review and impact assessment
	Define Data Standards	New equipment

Generic Function	Sub-category	National Function
Central Support	Manage finance	Authorising invoice payments and placing of work orders
		Maintaining financial models and authorisation processes
	Manage HR	Managing the training aspects of the IS Contract
		Talent management and co-ordination
	Manage legal	Contract disputes
	Manage communications	Communication to control centre staff on national issues
		Communication to FRS staff on control centre issues
		Manage national stakeholders
		Links with FirePRO, GNN and ODPM DoC
	Monitor benefits realisation	Benefits management

Annex F

Recruitment Process for Vanguard RCC Director

A “vanguard” Regional Control Centre Director is being appointed in the East Midlands to work with the new companies and ODPM on HR and other issues. The “vanguard” director will have the same role and responsibilities as all the other Regional Control Centre Directors, and will be employed by and report to the East Midlands company in due course, but will help shape the development of policy for all RCCs. The recruitment process for the RCCD follows 4 stages:

- i) Initial sift against application form
- ii) 1st stage assessment centre (psychometric tests, personality profiling & clarification interview) – carried out by trained assessors.
- iii) 2nd stage assessment centre (group exercise, presentation, structured interview & technical interview) – carried out by trained assessors.
- iv) Final panel interview – panel composed of Regional HR representative, ODPM representative, and up to 3 members of the RMB.

The assessors used in stages ii & iii include representatives from the East Midlands region and from other first wave regions, as well as members of the national project team. All assessors will have been through training designed and delivered by the assessment tool producers.

