

**EXPLANATORY MEMORANDUM TO
THE FIRE AND RESCUE AUTHORITIES (NATIONAL FRAMEWORK)
(ENGLAND) (REVISION) ORDER 2014**

2014 No. 3317

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**
 - 2.1 This instrument gives effect to the Fire and Rescue National Framework Addendum prepared by the Secretary of State for Communities and Local Government and published on 15th December 2014.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. **Legislative Context**
 - 4.1 Section 21 of the Fire and Rescue Services Act 2004 requires the Secretary of State to prepare a Fire and Rescue National Framework setting out the priorities and objectives for fire and rescue authorities in England. The Framework can also contain guidance and other matters relating to fire and rescue authorities or their functions. Fire and rescue authorities are required to have regard to the Framework in carrying out their functions. Under section 21(6) any significant revision to the Framework must be brought into effect by order.

 - 4.2 The Fire and Rescue National Framework for England was published on 11th July 2012 and given effect by the Fire and Rescue Authorities (National Framework) (England) Order 2012 (S.I. 2012/1886).

5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In 2013, the Department consulted on a set of fitness principles which at that time were considered to provide the possible basis of dealing with fitness and capability issues, which had emerged during the Fire Brigades Union's pension dispute. Generally fire and rescue authorities were supportive of fitness principles, but did not wish to have their discretion fettered in dealing with individual cases regarding pension options for those 55 and over, where the opportunity to offer an unreduced pension existed if they had fitness issues, and were not eligible for an ill-health pension. After that consultation closed, a series of discussions took place with key stakeholders regarding how fitness and capability are measured in the fire and rescue service, the ability of firefighters to maintain a reasonable and safe standard and the appropriate methods by which firefighters' fitness can be measured and monitored, along with possible legislative changes which would help support that. Following the discussions, and given the length of time lapsed since the original consultation, the Department consulted again on slightly amended principles. The fitness principles in the National Framework build upon those agreed in principle between both sides of the National Joint Council for Local Authority Fire and Rescue Services.

7.2 It is important that firefighter fitness standards and assessments are transparent and fair, that all firefighters who have difficulties in maintaining fitness are fully supported, and that those who are unable to maintain fitness are treated fairly in looking for redeployment or in the event of them having to leave the service. The Department believes that the Fire and Rescue National Framework for England provides the best means by which fire and rescue authorities can be guided in their responsibilities, while continuing to serve the interests of both their employees and communities. This change underpins reforms to the firefighters' pension schemes through putting in place a set of high level guiding principles for fire and rescue authorities to follow.

- Consolidation

7.3 The addendum appears alongside the original Fire and Rescue National Framework for England on the www.gov.uk website.

8. Consultation outcome

8.1 A consultation was undertaken from 28 October to 9 December 2014. The Department has received 36 responses to the consultation, the vast majority highlighting the excellent work already going on in fire and rescue authorities to improve the fitness of their staff.

8.2 Generally, the responses were supportive of the general principles regarding firefighter fitness although the need to include the principles within the National Framework for Fire and Rescue was questioned. The Local Government Association recognised that the fitness principles largely reflected their discussions within the NJC.

8.3 Respondents were less favourable to the consideration of a local authority initiated pension for a firefighter aged 55 or over, who fails a fitness test through no fault of his or her own, and for whom there are no redeployment opportunities. This enables fire and rescue authorities to provide, at their discretion, an unreduced pension. The Department, however, considered that including this measure ensures that this option remains in fire and rescue authorities' minds, as employers seek to resolve possibly difficult fitness issues. However, it considers that this would in practice be a consideration in rare circumstances, if at all, since effective implementation of the principles by fire and rescue authorities and other support measures such as a working group on fitness facilitated by the Chief Fire and Rescue Adviser to produce good practice, will ensure that firefighters without an underlying permanent medical condition (which would lead to ill health retirement) will be able to maintain their fitness, or be redeployed and enabled to work, to their normal pension age. In certain circumstance the Department has powers of intervention under the legislation. Furthermore, the Department is not aware of where the situation would arise where someone would lose their ability to regain fitness, but would not have an underlying identifiable ill-health problem that would make them eligible for ill-health retirement. Given the principles above, and the expected rigorous application of them, the Department cannot foresee the circumstance in which on the rare occasion it might be necessary, a fire and rescue authority as a good employer would not offer an unreduced pension.

8.4 Overall, the Department concluded that amending the National Framework for Fire and Rescue in England as proposed was a proportionate approach to firefighter fitness issues, building upon existing practice.

9. Guidance

9.1 The additions to the Fire and Rescue National Framework are self-explanatory and we do not consider that further guidance is necessary.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is simply that it will codify good practice. It is not considered that this will add to the costs of fire and rescue authorities.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Section 21 of the Fire and Rescue Services Act 2004 requires the Secretary of State to report on:

(a) the extent to which fire and rescue authorities are acting in accordance with the Framework prepared under section 21;

(b) any steps taken by him for the purpose of securing that fire and rescue authorities act in accordance with the Framework.

13. Contact

Melanie Gillett at the Department for Communities and Local Government
Tel: 0303 444 1047 or email: Melanie.Gillett@communities.gsi.gov.uk can answer any queries regarding the instrument.