

REPORT OF THE CHIEF FIRE OFFICER

CO-RESPONDER LEGAL CASE FUNDING

1 Purpose of Report

To seek the opinion of Shropshire and Wrekin Fire Authority in response to the request made by the Employers in Circular EMP/01/06 (attached at Appendix B) that Fire and Rescue Services share the cost of the impending legal action by Nottinghamshire and Lincolnshire in relation to co-responding (further details of the role of co-responder are provided in the leaflet attached at Appendix A).

2 Recommendations

Members are asked to decide:

- a) Whether or not to agree to share the legal costs associated with the proposed action as proposed in the Circular; and, if so
- b) In what manner, considering the options set out at section 6 of this report.

3 Background

At its meeting on 21 February 2006 the Human Resources Committee received a report from the Chief Fire Officer seeking Members' opinion in response to the request made by the Employers in Circular EMP/01/06 that Fire and Rescue Services share the cost of the impending legal action by Nottinghamshire and Lincolnshire in relation to co-responding.

Co-responding has been a contentious issue since it was introduced during the pay agreement and the Fire Brigades Union has been against the introduction of the role. The National Employers have consistently responded that there is a contractual link in the Scheme of Conditions of Service to the role maps agreed within the National Joint Council and that Co-responder schemes are simply an example of the type of work that can be required through those role maps. In taking this position, the



National Employers have been mindful of the advice provided by both those responsible for drawing up the role maps and legal advisers.

Two authorities, Nottinghamshire and Lincolnshire, have now indicated to the Fire Brigades Union their intention to seek resolution of this matter through a legal route. Unless the Fire Brigades Union accepts the Authorities' position, the matter will be pursued through the High Court.

Circular EMP/01/06 (attached at Appendix B) encourages all UK Fire and Rescue Services to commit to a cost-sharing approach on this matter, similar to that previously taken on the matter of retained firefighters and the application of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, as the judgement will apply to all Fire and Rescue Services (see Employers Circular EMP/1/01 attached at Appendix C to this report). The reply form asks each Authority to indicate whether it is willing to share the total cost, estimated to be at least £125,000 (not including appeal costs), proportionately accordingly to the number of uniformed employees (i.e. wholetime and retained duty) as at February 2005.

Members should note that all Fire and Rescue Services are encouraged under the National Framework Document to consider the use of co-responder schemes and could potentially, therefore, employ people in a co-responder role. The situation in Shropshire is that after exploratory talks in 2002, the Ambulance Service indicated that they did not wish to proceed. In view of the requirement of the National Framework Document officers are, however, currently exploring this issue with the Ambulance Service again.

The Co-Responder Role

More information on the role of the Co-responder (also referred to in Shropshire as a Community First Responder) is provided in the leaflet attached at Appendix A.

4 Human Resources Committee Consideration

The Human Resources Committee was informed that the Integrated Risk Management Planning process for 2006/07 would identify whether there was a need for Shropshire Fire and Rescue Service to be involved in the co-responder scheme.

Members discussed the request for funding at length, but felt that there was too much uncertainty regarding the total cost implications of the court case. It was also unknown how many other authorities would agree to provide funding. The Committee was, therefore, unable to make a decision without more information. The Local Government Employers have been informed that the matter will be considered by the full Fire Authority and they await Members' decision.

Members went on to discuss the various funding options available and tasked officers to provide a report, outlining the options discussed by the Human Resources Committee, for consideration by the full Fire Authority at its next meeting on 10 May 2006.

5 Supporting Information

Since the original request was made officers have been able to confirm with the Local Government Employers that of the 58 Fire Authorities asked, 44 have agreed to the



cost-sharing arrangements, 6 have refused and the remaining 8 (including Shropshire) have not yet reached a decision.

6 Options for Consideration

The various options discussed by the Human Resources Committee were that the Fire Authority could:

Option	Comments
a) Agree to contribute, providing a significant majority of other fire authorities also make a contribution;	44 out of 58 Authorities have agreed to cost sharing, 6 have refused and 8 have yet to respond. Should Shropshire become the 45 th Service to agree, costs may be split between 45. £125,000 divided by 45 = £2,777.77
b) Propose a specific amount to be contributed; or	Members could agree that legal costs be shared up to a maximum amount specified, for example £125,000 divided by 58 = £2155.17
c) Contribute, but on wholetime firefighter figures and not on the number of uniformed personnel as a whole, i.e. not to include Retained personnel.	Rather than splitting the cost equally per Service, Members may wish to consider payment proportionate to the number of wholetime firefighters employed per Service on the basis that Retained Duty Staff would need to volunteer to undertake the role. The Employers stance on this is that the Firefighter role map includes the requirement to co-respond and does not distinguish between duty system and so applies to all firefighters.

7 Legal Implications

There is no legal requirement for the Fire Authority to agree to bear a share of the costs, but it does have the power to do so.

8 Appendices

Appendix A – Shropshire Ambulance Service leaflet – Shropshire Ambulance First Emergency Responder Scheme

Appendix B – Circular EMP/01/06

Appendix C - Circular EMP/1/01



9 Background Papers

Shropshire and Wrekin Fire Authority

Human Resources Committee 21 February 2006

Report 5 - Co-responder Legal Case Funding and Minutes

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balance Score Card		Integrated Risk Management Planning	*
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Equality and Diversity		Retained	*
Efficiency Savings		Risk and Insurance	
Environmental		Staff	*
Financial	*	Strategic Planning	
Fire Control/Fire Link		West Midlands Regional Management Board	

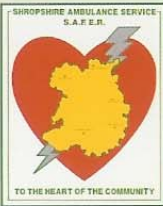
For further information about this report please contact Louise McKenzie, Assistant Chief Officer, on 01743 260201.





Appendix A to report on
Co-Responder Legal Case Funding
Shropshire and Wrekin Fire Authority
10 May 2006

SHROPSHIRE AMBULANCE SERVICE



Shropshire Ambulance First
Emergency Responder Scheme
(S.A.F.E.R.)
Serving your Community



Managed by West Midlands Ambulance Service NHS Trust



Message from the Chief Executive

I am delighted that you have taken the time to enquire about the Shropshire Ambulance First Emergency Responder scheme (S.A.F.E.R.)

Shropshire Ambulance Service covers an area of some 1,400 square miles, with a population of approximately 430,000. Villages and hamlets located throughout such a large County sometimes create difficulties for the Ambulance Service when responding to life-threatening medical conditions. This is where the role of the Community First Responder is vital.

The Shropshire Ambulance First Emergency Responder scheme is not designed to negate the necessity for the attendance of Shropshire Ambulance Service, but to provide that crucial medical response until such time as an ambulance arrives on scene.

If you would like to know more about the S.A.F.E.R scheme after reading this information pack, please contact our S.A.F.E.R Co-ordinator at Shropshire Ambulance Service Headquarters.

By supporting this invaluable initiative you are helping us to help those living and working in your own community. Thank you for your interest in the scheme.

Barry Johns
Chief Executive



Introduction to the S.A.F.E.R Scheme

Shropshire Ambulance First Emergency Responder scheme consists of a group of dedicated volunteers who live or work in rural communities. Members of the scheme will be trained to attend emergency calls received by Shropshire Ambulance Service and administer life support techniques until an emergency ambulance arrives on scene.

Medical research has indicated, that a patient suffering cardiac arrest will have a greater chance of surviving if the series of treatment (indicated below) known universally as the "Chain of Survival" is followed.

1. Early Access
2. Early Resuscitation (CPR)
3. Early Defibrillation
4. Early Advanced Life Support

Shropshire Ambulance Service believes that introducing the "Chain of Survival" in association with increased public awareness, training in basic life support and the use of community based defibrillators, will increase the survival rate for patients suffering a cardiac arrest.

This brochure has been designed to provide you with answers to some of the most frequently asked questions about the S.A.F.E.R. scheme. The brochure also contains further information and contact details should you wish to pursue an interest in the scheme.



Community First Responder Schemes

The criteria for locating a Community First Responder scheme is determined by a number of factors.

Those areas targeted are:

- Villages or hamlets where it has been identified that an emergency ambulance would find it difficult to respond to life-threatening calls within 8 minutes.
- Where the total number of calls received within these locations should be significant to warrant a Community First Responder scheme.
- Where sufficient members of a community have indicated a desire to operate as Community First Responders.
- All of the SAFER schemes are designed to be financially self-supporting. Although Shropshire Ambulance Service will provide all necessary support, training and the loan of medical equipment, it is likely that scheme members will wish to become involved in a variety of fundraising events in support of their scheme.



Frequently Asked Questions

Q How can I become a Community First Responder ?

A The S.A.F.E.R. scheme is open to anyone over 18 years of age, physically fit and holder of a current driving licence. Members should have a sympathetic and caring approach to people and must demonstrate a satisfactory standard of proficiency after training.

Q Do I get paid ?

A No. The S.A.F.E.R. scheme is voluntary. Shropshire Ambulance Service is unable to pay members for their time. However, mileage costs incurred will be reimbursed at the appropriate user rate.

Q Will I be supervised ?

A Volunteer schemes will be established within specific areas of the County. A full-time Emergency Medical Responder from the Service will be responsible for supervising your scheme.

Q How many hours do I have to work ?

A There will be no minimum or maximum period of 'on-call' for individual members. You can work as much or as little as you wish.

Q Will I be insured ?

A West Midlands Ambulance Service NHS Trust who manage Shropshire Ambulance Service, will indemnify you when acting on behalf of the Service at emergency incidents. However, the Service cannot accept liability for any volunteer contravening the Road Traffic Act whilst attending incidents. All members of the scheme are strongly advised to notify their car insurance company they intend to use their own motor vehicle in connection with volunteer duties.



Frequently Asked Questions (Cont)

Q Will I be trained ?

A Yes. It is vital that you are afforded the appropriate training to be confident in dealing with the variety of incidents you may be sent to. After successfully completing your initial training it is important that your new skills are not allowed to diminish. To ensure a high level of competence, all S.A.F.E.R. members will be expected to attend regular training sessions.

Q What sort of incidents will I be sent to ?

A S.A.F.E.R. members will only be asked to attend incidents they have been trained to deal with. These incidents may include sudden collapse, medical problems, accidents in the home, workplace or in a public place. Volunteers attending serious incidents may well be exposed to visual and emotional situations. You will not be sent to incidents considered unsafe or detrimental to your welfare, such as a violent situation or road traffic accidents.

Q Will there be support for me following a serious incident ?

A Following all serious incidents your supervisor will contact you to facilitate an appropriate level of support or counselling.

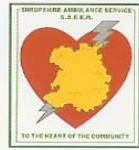
Q Can I contact Ambulance Control in an emergency ?

A Yes. You will receive a mobile phone programmed with the number of Ambulance Control. Should you be required for an emergency call-out, Ambulance Control will also contact you by mobile phone.



Frequently Asked Questions (Cont)

- Q Will an emergency ambulance always be dispatched to an incident I am attending ?**
- A** Yes. Ambulance Control will dispatch an ambulance at the same time as you receive your call, or as soon as a vehicle becomes available.
- Q What equipment is provided ?**
- A** Shropshire Ambulance Service will provide the necessary medical equipment and takes responsibility for its maintenance.
- Q What if a member of the public makes a complaint about me ?**
- A** Shropshire Ambulance Service has an established complaints procedure. All complaints received by the Service are investigated by a senior manager.
- Q Can I use horns and blue lights ?**
- A** All Road Traffic laws must be obeyed. You will not be permitted to use audible and visible devices.
- Q Will I be vetted by the Police / Criminal Records Bureau**
- A** As a representative of Shropshire Ambulance Service you should be aware that the welfare and integrity of the patient must be safeguarded at all times. It is therefore necessary for the Service to request the appropriate authority to undertake character verification prior to your participation in the scheme.



Useful Contact Address

If you would like to set up a Community First Responder scheme in your community, or join an existing scheme, you can contact the S.A.F.E.R. Co-ordinator by writing to:

S.A.F.E.R Scheme
Shropshire Ambulance Service
Headquarters
Abbey Foregate
Shrewsbury
Shropshire
SY2 6LX

Tel: 01743 273674

Fax: 01743 243184

e-mail: ivor.alton@wmas.nhs.uk

Website: www.wmas.nhs.uk

**Your support is urgently needed,
help us to help your community**

Layden House, 76-86 Turnmill Street,
London, EC1M 5LG
Telephone 020 7296 6600 Fax 020 7296 6686
Employers' Secretary, Mike Walker

Direct Dial
020 7296 6723
020 7296 6712

e-mail: fire.queries@lg-employers.gov.uk

FIRE BRIGADES National Employers

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities**

Members of the Employers' Side of the NJC

30 January 2006

CIRCULAR EMP/1/06

Dear Sir/Madam

CO-RESPONDER SCHEMES

1. Authorities will be aware of the Fire Brigades Union opposition to the introduction of co-responder schemes involving the fire and rescue service throughout the UK.
2. The FBU argue that an authority cannot require its employees to carry out such work.
3. The National Employers have consistently responded that there is a contractual link in the Scheme of Conditions of Service to the rolemaps agreed within the National Joint Council. Co-responder schemes are simply an example of the work that can be required through those rolemaps.
4. In taking this position the National Employers have been mindful of the advice provided by both those responsible for drawing-up the rolemaps, and legal advisers.
5. Two authorities, Nottinghamshire and Lincolnshire, have now indicated to the Fire Brigades Union their intention to seek resolution of this matter through a legal route. Unless the Fire Brigades Union accept the authority's position the matter will be pursued through the High Court.
6. The National Employers would wish to encourage all authorities throughout the UK to support this action. In particular, authorities are encouraged to commit to a cost-sharing approach similar to that previously undertaken on the matter of retained firefighters and the application of the Part-Time Workers (Prevention of less favourable treatment) Regulations.

7. The legal teams for both of the authorities will work closely with that of the National Employers to ensure consistency of position and to reduce duplication wherever possible. The Employers' Secretariat will also continue to assist the parties.
8. it is anticipated that costs at this stage will be in the region of £125,000. Should an appeal prove necessary further costs would be incurred. The court may also make an award in respect of costs to the benefit of the successful party.
9. The intention would be that each authority covers a share of the cost pro-rata to the number of uniformed employees in post as at February 2005 (the date of the most recent figures provided by authorities to the Secretariat).
10. The National Employers very much hope that your authority will be able to support this request. You will appreciate the benefit to all Fire and Rescue Services of achieving legal clarity on this question.
11. A pro-forma is attached for completion and return by no later than **21st February 2006**
12. If you require any further information please do not hesitate to contact me.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Gittins', with a stylized flourish underneath.

Gill Gittins
Principal Negotiating Officer

Layden House, 76-86 Turnmill Street,
London, EC1M 5LG
Telephone 020 7296 6600 Fax 020 7296 6686
Employers' Secretary, Mike Walker

Direct Dial
020 7296 6723
020 7296 6712

e-mail: fire.queries@lg-employers.gov.uk

FIRE BRIGADES National Employers

**To: Chief Fire Officers/Firemasters
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities**

Members of the Employers' Side of the NJC

4th January 2001

URGENT

CIRCULAR EMP/1/01

Dear Sir/Madam

RETAINED FIREFIGHTERS AND THE PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS

1. I am writing to let you know the latest position regarding the application to retained firefighters of the Part-time Workers Regulations. **Please read this circular immediately. It requires urgent action by all brigades in the United Kingdom (other than London and Merseyside).**
2. You will be aware from previous circulars that Employment Tribunal applications have been lodged by members of the Retained Firefighters Union and the Fire Brigades Union respectively. The latest position regarding these cases is set out below.

RFU applications

3. Individual applications have been lodged by 2,563 members of the RFU against individual fire authorities. Most of these applications cite the Secretary of State as the second respondent because of his statutory responsibility for the Firefighters' Pension Scheme.
4. In most regions the pensions element of the applications has been stayed pending the outcome of the *Preston* case, which concerns equal pay issues also included in the RFU cases. However, the Tribunals have said that the pay and conditions element of the RFU applications should proceed.

FBU applications

5. The FBU has lodged one application with the Employment Tribunals for each of the 56 brigades in the UK that employs retained firefighters (ie all brigades except London and Merseyside) together with the Isle of Man (which is not covered by the NJC). Each of those applications names all retained firefighters in that brigade who are members of the FBU so there are effectively some 16,000 FBU applications.
6. All the FBU applications cite the Secretary of State as the second respondent. However, because the FBU applications cite only the Part-time Workers Regulations (and not equal pay issues) the pensions element has not been stayed. Both the pay and conditions and pension elements of the FBU claims are therefore proceeding.

All applications

7. Both the FBU and RFU cases (except for the pensions element of the RFU cases) are now effectively at the same stage in the Tribunal system. A “directions hearing” will be required with solicitors for all the parties (ie the FBU, the RFU and each authority in England and Wales that employs retained firefighters). The directions hearing will determine the process by which the applications will be taken forward through the system. It is anticipated that the Tribunal Boards in Scotland and Northern Ireland will be asked to hold their claims pending the outcome of the process in England and Wales.
8. The Employers and FBU have said that they believe the present uncertainty on the application of the Regulations is unhelpful and have therefore agreed to co-operate in ensuring that test cases on this point are brought as speedily as possible. To that end the Employers and the FBU are continuing to work closely together in achieving this aim. Because the Secretary of State is cited as second respondent in the applications the Joint Secretaries have written to the Minister of State at the Home Office seeking Home Office agreement to this strategy.
9. It will be for the Employment Tribunals to agree whether the agreed test cases are appropriate and also whether there should be an RFU test case or cases.

Representation at the directions hearing

10. Because each fire authority is the employer it is they rather than the National Employers who must respond to the claims. However, the Employers have agreed to assist brigades by asking the Employers’ Secretariat to act as co-ordinators over legal representation for all brigades. The Employers’ Side is therefore recommending that brigades agree to be represented at the directions hearing by Beachcroft Wansboroughs (solicitors to the Employers’ Organisation for Local Government). This will ensure commonality of approach and significant cost savings.
11. We anticipate that the total costs of the legal work currently being undertaken and for the directions hearing itself will be about £8,000, which would be charged to individual brigades in proportion to the number of retained firefighters they employ. If all brigades were to agree to participate in this joint approach then the cost of each individual brigade would be minimal. Any brigade (in England and Wales) that did not wish to participate

would have to make its own arrangements for the representation at the directions hearing and meet its own costs. The directions hearing will cover both the FBU and RFU cases so brigades agreeing to the joint approach will not have to take any further action themselves in terms of making an initial response to the applications.

12. The directions hearing applies only to England and Wales. However, in anticipation that the claims in Scotland and Northern Ireland will be held pending the outcome in England and Wales, the Employers have agreed that all brigades in the United Kingdom be asked to contribute to the legal costs.
13. The FBU applications will shortly be served on individual authorities by the Regional Tribunal Boards. Authorities will have twenty-one days to respond to those applications. Could you therefore provide a brief written response **as soon as possible but in any event no later than 12th January** confirming:
 - (i) that you are content with your authority to be represented at the directions hearing by Beachcroft Wansboroughs (fire authorities in England and Wales only);
 - (ii) that you will contribute towards the legal costs incurred by the Employers' Organisation for Local Government (see paragraph 11 above) on a basis proportionate to the number of retained firefighters in your brigade.
14. Please respond to Gill Gittins by one of the following:

e-mail	gill.gittins@lg-employers.gov.uk
Fax	020 7296 6751
15. LGA and COSLA representatives on the Employers' Side, on behalf of their respective fire authorities, both support this joint approach to legal representation.

Yours faithfully

Phil White
Assistant Employers' Secretary