

## EAST SUSSEX FIRE & RESCUE SERVICE

**Committee:** Fire Authority  
**Date:** 13 February 2020  
**Title:** Future Provision of Offshore Maritime Response Team  
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**Appendices** Appendix A – Table showing FRS declared at sea capability

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**PURPOSE OF REPORT:** To update the Fire Authority on the East Sussex Fire and Rescue Service Maritime Response and outline proposals to remove the off shore capability in order to better facilitate the Statutory Responsibility for ship alongside firefighting resilience.

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**EXECUTIVE SUMMARY:** ESFA does not have a statutory duty to provide an offshore maritime firefighting capability.

ESFA has the responsibility to use its resources to address any significant community risk it identifies as part of its IRMP and as a Coastal fire service with a Statutory Responsibility to provide resilience to a ship alongside incident should it occur at one of our ports.

ESFA currently spends approximately £50,000 each year in providing our current Fire and Rescue Maritime Response (FRMR) team, known locally as the 'Maritime Team'. ESFRS has responded to a very limited number of operational incidents offshore over the past 14 years.

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**RECOMMENDATION** That the Fire Authority support Option 2 in Section 13 of this report, and withdraw the offshore maritime firefighting team in order to reinforce the Statutory ship alongside firefighting resilience.

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### 1 **BACKGROUND**

1.1 ESFA currently provides funding for a Maritime Team to support the national response to an incident involving a fire, chemical hazard or industrial accident at sea. As part of the Demand Management Review under the current IRMP, the maritime capability has been reviewed by officers to provide the Fire Authority with options for the future offshore response capability.

- 1.2 There is no statutory duty imposed on fire and rescue authorities (FRAs) in the UK for the provision of an offshore firefighting capability and, as such, funding is not provided. However, coastal FRS's, of which there are 27, do have a statutory duty to fight fires on vessels alongside (i.e. in harbour) within their area by virtue of Section 72 of the Local Government Act 1972<sup>1</sup>.
- 1.3 In 2009/10, the Maritime and Coastguard Agency (MCA) launched the Maritime Incident Response Group (MIRG), supported by funding from Central Government which, for the first time, standardised equipment, training and operational procedures, therefore providing greater interoperability in the national arrangements.
- 1.4 In the period in which MIRG operated, teams deployed operationally on 5 occasions. The first incident attended under MIRG arrangements was the MV CALYPSO, a passenger ferry with over 300 persons on board, which caught fire off the Sussex coast.
- 1.5 From January 2012, following the demise of the MIRG, and the Central Government funding that supported it, of the original 15 FRS who supported at-sea firefighting, as of January 2020 only 6 FRS's are still "Declared at Sea", including ESFRS. This arrangement is now known as the Fire & Rescue Marine Response (FRMR), which represents a National Fire Chief's Council (NFCC) work stream.
- 1.6 Since its inception, the ESFRS team has been one of the most operationally active Maritime Team in the Country. However the last deployment was to the MV Sea Charente during Feb 2009 (for assessment only) and the low frequency of incidents has led to a review of the future need for the provision of an offshore team.
- 1.7 In April 2012, the Fire Authority agreed to maintain an offshore response and agreed funding for this to be managed locally. To finance the additional burden of specialist training and maintenance of the transit equipment the ESFA provided the sum of £50,000 year-on-year, for a period of three years.
- 1.8 In February 2015, the Fire Authority agreed to continue funding the team but it was agreed that the team would reduce in size from 40 down to 26 firefighters and 10 officers to make a total team of a maximum 36. Annual funding of £67,000 was agreed for three years. The last deployment of the team was in February 2009 (for assessment only); this low frequency of incidents has now led to a review of the future need for the provision of an offshore team.
- 1.9 In February 2016 the Authority agreed a saving in the 2016/17 revenue budget of £3,000 relating to cost of storage at Newhaven. In February 2019 the Authority agreed a saving in the 2019/20 revenue budget of £30,000 relating to a reduction in the maritime service.

## **2 LEGISLATIVE CONTEXT NATIONAL/REGIONAL POSITION**

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1972/70/section/72>

- 2.1 There is no statutory duty within the UK for a response to fires on vessels 'at sea', where 'at sea' is defined as "tidal rivers and estuaries where the significant wave height could not be expected to exceed 2m at any time, or seaward of these waters<sup>2</sup>". However the Fire and Rescue Services Act 2004 (FRSA) confers powers on Local Authority Fire Services where they may make provision for dealing with incidents that occur outside of their area, e.g. 'at sea'. The FRSA further determines that this provision is not restricted to the territorial sea of the United Kingdom.
- 2.2 Appendix A attached shows the current national FRMR availability. A number of FRS have recently withdrawn their offshore capability. From 2020, only Cornwall, Jersey and Northern Ireland will be maintaining offshore firefighting teams, with Kent and Hampshire maintaining a smaller team that can provide an on-scene assessment and advice only.
- 2.3 The Marine and Coastguard Agency (MCA) is responsible for the initiation and co-ordination of civil maritime search and rescue within the United Kingdom search and rescue region. This includes the mobilisation, organisation and tasking of adequate resources to respond to persons either in distress at sea, or to persons at risk of injury or death on the cliffs or the shoreline of the United Kingdom. There is, however, no specific requirement identified relating to the provision of a dedicated capability to deal with fire, chemical hazards and industrial accidents at sea placed on the MCA.
- 2.4 The recovery of costs in relation to an operational incident remains an extremely complex legal area with individual FRS's having to engage with ship's owners, insurers and salvors in order to progress any claims, a situation that would still be applicable today outside the former MIRC Memorandum of Understanding. The Merchant Shipping Act 1995 is the basis on which the MCA recovers costs associated with maritime incidents and The Merchant Shipping and Maritime Security Act 1997 allows the Fire Service to reclaim costs from whoever calls them out to an incident. In practice this is usually the MCA as they would still task a FRS to attend. The FRS could also reclaim the costs from the ship's owner (or insurer), if the MCA refuse to act.
- 2.5 The Localism Bill (Chapter 2 Part 9 Section 2 (1)) states that 'a fire and rescue authority in England may charge a person for any action taken by the authority – (a) in the UK or at sea or under the sea'. It is currently unclear how this may be applied in relation to the provision of training, equipment and management structures prior to any action undertaken or the extent to which any limits on charging may be imposed e.g. Ch 2 Pt9 S2 18B (4) 'does not authorise charging for rescuing individuals from serious harm, in the event of an emergency'.

### **3 ESFRS CURRENT CAPABILITY**

- 3.1 ESFRS currently maintains a Maritime Team based at Newhaven Community Fire Station, supported by specialist officers.

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<sup>2</sup> FRS Circular 35/2004

- 3.2 The current team is funded for 26 Firefighters based at Newhaven Fire Station and 10 officers. This capability secures two teams of 6 to deal with a fire incident on board a vessel at sea. ESFRS is also able to provide a team of 4, known as an *assessment team* that will consist of 2 officers and 2 firefighters. This assessment team will be able to board a vessel and make an initial assessment of the resources, command structure and tactical plan that will need to be implemented should the vessel arrive alongside in port.
- 3.3 All resources can be transferred to the casualty vessel by air using the MCA provided aircraft or by sea using the MV Watchful. The MV Watchful is a 40 foot vessel contracted by ESFRS to assist in this role when needed.

#### **4 NATIONAL SITUATION**

- 4.1 All Coastal FRAs have a statutory duty to provide a firefighting capability to ships alongside. However as there is no legal obligation to provide an offshore capability and the picture nationally is very mixed.
- 4.2 Some FRS still maintain a limited capability to respond offshore, but this response is unlikely to be able to extinguish a severe fire on a vessel. It is designed to contain a fire whilst the vessel is brought alongside, from where a serious attack on the fire can be made by land-based resources from the relevant FRS.
- 4.3 Fire Services that currently provide an offshore firefighting capability are: Kent, Hampshire, Cornwall, Jersey and Northern Ireland. Both Kent and Hampshire have confirmed that they intend to withdraw their firefighting capability during 2020 and retain an assessment team only.

#### **5 MARITIME TEAM FUNDING**

- 5.1 The funding required to allow the Maritime Team to operate can be broken in to three categories:
- Training
  - Equipment
  - Pay/Allowances/Insurance
- 5.2 Firefighters and supervisory managers on the Maritime Team are paid an Additional Availability Allowance (AAA) for providing an undefined amount of availability beyond their contracted hours. Arguably, a proportion of this allowance could also be considered an Additional Responsibility Allowance (ARA) for duties such as air transfer and Helicopter Underwater Escape Training (HUET), which are outside of the role map of a firefighter. If the Maritime Team were to be withdrawn, Service policy (and established custom and practice) requires this allowance to be protected for a period of time.
- 5.3 The Maritime Service has been delivered within budget since 2015 and following the saving taken at the beginning of 2019/20 the cost has been absorbed within the overall operations and insurance budgets.

The significant costs profile within ESFRS for 2019/20 (pre-saving) is as follows:

Retainer for support vessel	£4,500
Newhaven Crew (Maritime Allowance)	£20,500
Training:	
• Maritime firefighting training	£7,000
• Sea Survival/HUET Training	£2,000
• Exercises	£1,000
Equipment (purchase and maintenance) – Transportation	£8,000
Equipment (purchase and maintenance) – Firefighting	£6,500
<b>Total</b>	<b>£49,500</b>

5.4 If the Maritime Team capability is withdrawn ESFRS would not need to provide Sea Survival/HUET training, would not need to pay a specific additional Maritime Allowance to team members and would not need to maintain a contract for a support vessel.

5.5 The equipment used for offshore deployment includes flight suits, life jackets, and other minor ancillary pieces. The total value of this equipment is approximately £70,000 and this is replaced on an agreed cycle. On average, £14,500 per year is spent on equipment purchase and maintenance. Some of the equipment currently purchased for use by the Maritime Team will still be needed to deal with a ship alongside incident. An estimate of the equipment saving that would be made if the Maritime Team were to be withdrawn is £10,500 per annum.

5.6 A summary of the projected savings from the withdrawal of the Maritime Team is as follows:

Retainer for support vessel	£4,500
Newhaven Crew Maritime Allowance	£20,500
Training	£6,000
Equipment (Purchase and maintenance)	£10,500
<b>Total Saving</b>	<b>£41,500</b>

This exceeds the £30,000 already taken from the 2019/20 revenue budget. The remainder of the training and equipment (£8,000) would still be required to support operations for an incident involving a ship alongside.

## **6 SHIP ALONGSIDE FIREFIGHTING**

6.1 ESFA has a duty to provide suitable resilience for a ship alongside fire and whilst ESFRS has responded to very few off-shore incidents over the past 14 years it is accepted that there will remain a risk of a ship fire off the coast of East Sussex. In these circumstances it is the responsibility of the Ship's Captain to navigate

the vessel to the nearest and most appropriate port. In the event this is in East Sussex ESFRS crews will respond to a ship alongside incident.

- 6.2 Officers have recognised the need to enhance our capability for dealing with a ship alongside incident, and widen the competency and training to crews at fire stations along the coast in Brighton, Hove, Roedean, Newhaven, Eastbourne, Bexhill and Hastings. A small amount of specialist equipment is also required.

## **7 CONSULTATIONS**

- 7.1 Consultation has taken place within the following:

- Crews at Newhaven Fire Station
- NFCC FRMR forum meeting
- MCA
- FBU (informal)

- 7.2 The NFCC FRMR forum and MCA noted that we are reviewing our capability and have requested that we keep them informed of the outcome.

- 7.3 The FBU noted that we are reviewing our capability and have requested that we keep them informed of the outcome. They have only been consulted informally at this time. They recognise that the function falls outside of our statutory responsibilities and expressed concern that their members may lose an established allowance. Formal consultation will be necessary in due course, when a firm proposal can be tabled.

## **8 CROSS DIRECTORATE ISSUES**

- 8.1 The Maritime Team is supported within ESFRS by Training & Development (training administration), Engineering Services (equipment maintenance), Operational Policy and Procedures, Health and Safety Department and Safer Communities (operational personnel).

- 8.2 If the maritime team were to be withdrawn in the future, the burden on the Engineering, Operational Policy and Health & Safety departments would be slightly reduced.

## **9 HEALTH & SAFETY ISSUES**

- 9.1 Any changes to the deployment protocols as developed under FRMR have the potential to impact on the management of national risk assessments, safe systems of work, operational policies and procedures and maintenance of training competencies. It is therefore essential that the NFCC FRMR Group continues to undertake these activities to ensure that firefighter safety is not compromised.

## **10 LEGAL**

- 10.1 There is no statutory duty imposed on East Sussex Fire Authority to provide a response to fires 'at sea'. However, the legislation permits the service to use its resources for this purpose if it wishes to do so.

## **11 COMMUNICATION IMPLICATIONS**

- 11.1 If the Maritime Team were to be withdrawn, the change would need to be communicated sensitively to ensure that those members affected understand the reasons. This should also involve liaison with the NFCC FRMR Group to allow the national FRS impact to be assessed.
- 11.2 Communication with Training & Development will need to be clear and thorough to ensure expectations and limitations are understood.
- 11.3 The Communications team will need to be engaged to help inform the service of any decisions made.

## **12 SUMMARY**

- 12.1 Off shore firefighting is not a Statutory Duty and with no new national finances available and significantly low demand, ESFA have the option to withdraw the off shore capability and redirect the provision to support the Statutory Duty for resilience for a ship alongside fire.
- 12.2 All funding needed to support training and equipment for ship firefighting alongside should be drawn from normal training and equipment budgets in the future, as this is necessary to support a statutory function.

## **13 OPTIONS CONCERNING THE FUTURE OF THE MARITIME TEAM**

- 13.1 Members are asked to consider the future options for the ESFRS offshore capability given the information provided above on the current local and national situation. One of the two options below should be selected:

### **13.2 Option 1**

Continue to operate a locally funded Maritime Team with the money drawn planned into the revenue budget, whilst working with the NFCC Marine Response Group. This would ensure that we are able to support the national interest around maritime response.

The estimated cost of keeping the Maritime Team is £49,500 per year.

### **13.3 Option 2**

Withdraw the Maritime Team offshore capability due to the low frequency of calls and the non-statutory nature of the duty. The cost saving would be £41,500 per year. This is the recommended option.

FRMR Declared At Sea Table

FRS	Lead Assisting FRS		Assisting FRS	Asses't	Firefighting	Chemical Incident (DIM)	Technical Rescue (USAR)	NOTES
	Own Area	Other Areas						
Kent	Green	Green	Green	Green	Green	Green	Yellow	Confirmed planned withdrawal in 2020, maintaining Assessment Team only in the future.
East Sussex	Green	Green	Green	Green	Green	Red	Red	
Hampshire	Green	Green	Green	Green	Green	Yellow	Red	Confirmed planned withdrawal in 2020, maintaining Assessment Team only in the future.
Cornwall	Green	Green	Green	Green	Green	Red	Red	
Jersey	Green	Green	Green	Green	Green	Green	Yellow	
Northern Ireland	Green	Green	Green	Green	Green	Red	Red	
Scotland	Red	Red	Red	Red	Red	Red	Red	Withdrew capability 27-2-17
Humberside	Red	Red	Red	Red	Red	Red	Red	Withdrew capability 31-12-16
Norfolk	Red	Red	Red	Red	Red	Red	Red	Withdrew capability 26-5-17