The UK Approach to Applying Health and Safety Requirements to Fire & Rescue Service Work at Operational Incidents

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Summary

This paper decribes the application of health and safety requirements in the United Kingdom to the work of the emergency services, specifically the Fire & Rescue Service, at operational incidents. The links to Integrated Risk Management Plans are highlighted. The overall view from the U.K. regulatory agency (the Health and Safety Executive) is that the proper application of the U.K.'s health and safety legislation enhances the ability of the Fire & Rescue Service to carry out its vital role of protecting the community.

Legal Background

This section gives a brief overview as a non-lawyer and does not attempt to cover all aspects of the legal duties on employers in the U.K.

The core legislation is the Health and Safety at Work etc. Act 1974 [(1)] (HSWA). The key sections are s2 and s3 that deal, respectively, with employers' duties towards their own employees and their duties towards others who may be affected by the work activity.

> S2 states: *"It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees"*.
>
> S3 states: *"It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not exposed to risks to their health and safety"*.

These basic duties are expanded in both the HSWA and in the Management of Health and Safety at Work Regulations 1999, [(2)] but these do not change the principles set out in the two sections.

No exception is made for the emergency services, so the same legal provisions are applied as to any other employment sector. However, the principles behind the HSWA mean that the actual standards to be applied, and against which employers are judged, are context specific. "So far as is reasonably practicable" is a legal test that has been the subject of a number of legal judgments in the U.K. [(3)] In essence, there is a balance to be made between the quantum of risk on the one hand and the sacrifice (cost), whether in money, time, or trouble, which is needed to implement the measures necessary to control the risk. If there is a gross disproportion between them, the risk not being significant in relation to the sacrifice, then the duty holder has discharged its duty.

As far as the emergency services are concerned the sacrifice part of the computation may include the potential loss of life from not carrying out the activity. [4] The principle is to identify the risks and then control those risks "so far as is reasonably practicable." Particularly for the Fire & Rescue Service, where employees may have to put themselves at risk, in order to save life, complete elimination of all risks is simply not a viable option. However, there are sound reasons why risk should be identified and controlled to both minimise deaths, injury and ill-health and to provide an effective response.

The actual detailed legal framework, contained in HSWA and the Management of Health and Safety Regulations 1999, provides an appropriate way of approaching health and safety in the emergency services, as in any other employment sector. The framework is:

- Risk assessment;
- Provision of plant (equipment) and systems of work;
- Information;
- Instruction and training;
- Supervision; and
- Employee consultation.

These will be considered in detail in a later section. It is HSE policy that it is these issues that will be primarily considered in any incident investigation rather than looking, with the benefit of hindsight, at the operational decisions made by Officers-in-charge at incidents. Operational decisions that, in hindsight, were not appropriate may, of course, illustrate underlying failures in the systems, training, and procedures that were in place. The general approach is to focus on getting the underlying issues right so that the fire fighters on the ground have the appropriate training and resources necessary to protect their health and safety as well as members of the public.

The Health and Safety Executive takes decisions on enforcement [5] by means of a transparent mechanism. The Health and Safety Commission has published a statement [6] setting out the policy under which enforcement decisions are made. Inspectors use the Enforcement Management Model [7] (EMM) as a structure for decision-making. Decisions on prosecutions have to be made in accordance with the Code for Crown Prosecutors. [8] The process in the EMM starts with a benchmark standard against which actual performance is judged.

Working Environment

As every employment sector has its own unique characteristics, there must always be the possibility that the benchmark standards will vary from sector to sector. This is certainly the case for all the emergency services that face a number of issues not relevant to most employment sectors.

What then are these issues?

1. Lack of control over the workplace. The Fire & Rescue Service cannot control where they have to operate. It cannot prepare the incident ground

for operations and, intrinsically, has to operate in an emergency situation. Hazards will be present that either have been created by the emergency or are no longer controlled by normal procedures.

2. Inadequate information. Fire & Rescue Services may not know the full nature and extent of all the hazards that they may face, at least during the initial stages of an operational incident. While information may improve and expert advice may be available at some stage during an incident, often the Officer-in-charge will have to make decisions based on whatever information is to hand at the time.

3. Immediacy of response. Particularly when lives are to be saved, time may be of the essence. Decisions have to be made, without the benefit of lengthy times for consideration of all the options.

4. Dynamic nature of incidents. Operational incidents do not present a static set of hazards and challenges. Incidents develop, sometimes in unpredictable ways, and the Fire & Rescue Service has to be able to react appropriately to the situation as it is, not the one that theoretically it should be.

5. Range of responsibilities. The traditional role for the Fire & Rescue Service, that of fighting fire, remains a core part of its work. It has never been the case, of course, that this has been the only task that the Fire & Rescue Service has done. When the U.K. Fire Service was put on a sound footing after the Second World War, the Fire Services Act 1947 specifically allowed Fire Authorities to use the equipment and personnel provided for fire-fighting purposes to be used for other incidents. Over the years the demands on the Fire Service grew, for example responding to Road Traffic Accidents and rescuing householders during floods. Changing the name to the Fire & Rescue Service reflected this shift in emphasis, which has now been formalised in the Fire & Rescue Services Act 2004. The Act extended the legal role to include road traffic accidents and other major incidents. However, this increased range of responsibilities makes it more challenging for the Fire & Rescue Service to provide sufficient equipment and training for staff and thereby comply with their duties under health and safety legislation.

Application to the Fire & Rescue Service

As a generality, the management of health and safety should be an integral part of managing all aspects of a Fire & Rescue Service. If an organisation is generally well managed, then the health and safety of employees will also be well managed. When assessing the efficiency and effectiveness of Fire & Rescue Services, the way in which health and safety is managed should be used as an indicator of the overall state of the Service.

1. Risk assessment is the core for all decisions on risk management. Unfortunately, the concept is sometimes regarded as being rather more complex and mysterious than is actually the case. At heart, risk assessment

is the process of identifying what activities are carried out, what hazards are presented as part of those activities, what is the likelihood of the hazards occurring (leading to the risk) and what measures are appropriate to control the risk "so far as is reasonably practicable." In the Fire & Rescue Service the nature of the work means that most of these assessments must be generic. It is neither practical nor desirable for the assessments to deal with every permutation of the activities that the Fire & Rescue Service carries out. However, there should be assessments, in sufficient but not excessive detail, for every type of activity to establish sufficent "building blocks". The "building blocks" will enable appropriate systems and procedures to be in place that can be implemented in accordance with the actual situation faced in a real incident. Some of the assessments in place in the UK deal with very general issues, e.g. Firefighting in Buildings, while others deal with a very limited scenario, e.g. Rescues from Lifts and Escalators. There is a national suite of generic risk assessments, which individual Fire & Rescue Authorities take "ownership" of, integrating them into their own local practices and procedures.

The purpose of the risk assessments is not just to identify, and give some priority to, the risks faced by Fire & Rescue Service staff, but also to identify appropriate control measures so that the risk is minimised.

As well as these generic risk assessments, Fire & Rescue Service staff must employ the technique of "Dynamic Risk Assessment." This should enable all F&RS staff, but particularly Officers-in-charge at incidents, to make an on-going assessment of the hazards and risks during an operation and make appropriate decisions about the most safe and effective response at that time. It recognises that the nature and extent of risks vary during an incident and that adherence to a fixed course of action could even lead to increased risk to fire fighters and an ineffective response.

2. Fire & Rescue Services have a difficult job when it comes to selecting appropriate equipment. No fire appliance can carry every conceivable piece of equipment that might possibly be needed for any and every type of incident that might be dealt with. In practice, choices have to be made so that front-line crews have easy access to the range of equipment that they will most likely need. Equipment includes personal protective equipment and the range of incidents now faced calls into question whether a single set of clothing and breathing apparatus provides the best protection in all circumstances. In the U.K. there are a number of work streams looking at alternative clothing and respiratory protection so that staff can be appropriately protected while being enabled to work effectively. The generic risk assessments play a vital role in providing enough information and the control measures needed to drive appropriate decisions about the selection of equipment.

3. Over the years, the Fire & Rescue Service has developed many systems of work. In the UK these are brought together in the Fire Service Manual, which is produced by the Office of the Deputy Prime Minister (the

government department responsible for overseeing the Fire & Rescue Service in England). These are designed to provide a coherent set of procedures for dealing with the range of incidents faced by the Service in an effective and efficient manner. The results of the risk assessments feed into the general operating procedures, which in turn form the basis for much training activity.

4. Information, instruction and training are key activities for enabling the F&RS to carry out their role in an effective and safe manner. Health and safety training should be integrated into all other training so that an appropriate culture is created and F&RS staff respond to incidents in the way which maximises both their effectiveness in dealing with the situation and their own safety. Traditionally, in line with many employment sectors, information, instruction and training focussed on the ouputs, rather than the outcomes. Having been told certain facts and/or attended specific training courses were regarded as sufficient to enable the job to be done well. However, recent work [(9)] by HSE has focussed on the need to demonstrate understanding of the issues covered and competency in carrying out tasks. This is particularly true when infrequently met tasks are required, often in the stressful circumstances of dealing with an emergency. Although the work was done in the chemical industry, there are seen to be important lessons for the emergency services as well. The first step is to understand what are the safety critical tasks, decide on general competencies needed to deal with those tasks, and then assess the on-going ability of staff to meet those competencies.

5. The F&RS in the UK has a well-developed command and control system. [(10)] It builds upon what it has identified as best practice in the management of emergency incidents that have been developed over many years in the U.K. The key elements are:

   - Standard structure for organising resources on the incident ground;
   - Process of dynamic risk assessment;
   - System of structured support for the Incident Commander;
   - A national framework describing the tasks and performance standards expected of Incident Commanders;
   - A consistent methodology and terminology for exercising command; and
   - Recognition of the role of performance management and review, especially in terms of post-incident debrief procedures.

   These are key elements in providing an appropriate level of supervision during both training and operational incidents.

6. Employee involvement in the approach to their health and safety is an integral part of the U.K. system. Employees have legal duties to take reasonable care for their own health and safety and of other people who may be affected. These duties do not mean that the employer is able to delegate legal responsibility for their duties. Employees are also required to co-operate with their employers to enable their employers to comply with their legal duties. In addition, the philosophy of the U.K. health and

safety system is built on an informed partnership between employee representatives and employers to improve standards of health and safety in the workplace. Recognised trade unions have the right to elect health and safety representatives, who have powers to carry out workplace inspections, investigate incidents and have rights to be consulted over issues relating to workplace health and safety. Trade Union appointed health and safety representatives can ask for a safety committee to be set up. Non-union employees are also able to elect safety representatives who have the right to be consulted. In practice, this active involvement is found to be a very productive way of achieving improvements in standards of health and safety.

National Coordination

Responsibility for achieving good standards of health and safety among F&RS staff rests with the actual employers. These are the Fire Authorities, which are local government run bodies. There are 47 Fire Authorities in England, 8 in Scotland, and 3 in Wales. In practice there is a high degree of coordination at national level both through the government departments that sponsor the fire service (Office of the Deputy Prime Minister, Scottish Executive, and the Welsh Assembly Government) and through the Chief Fire Officers Association (CFOA). It is recognised that most health and safety issues are common across the country so most work is done through national coordinating groups. There is a good partnership in these groups between CFOA, the various unions, and the sponsor departments. The Health and Safety Executive, as the health and safety regulator, is also very closely involved in the work that is done.

Conclusion

The U.K. Fire & Rescue Service is going through a period of significant change, including receiving a wide range of new equipment to deal with major incidents, whether terrorist related or natural disasters. There are many challenges, with the health and safety system needing to respond actively to ensure standards are maintained and, if at all possible, improved. After a period with few fatalities as a result of work activities, there have been a number of incidents which give rise to concern. Currently, the HSE and F&RS is looking at the lessons which can be learned so that we can ensure there are robust systems in place to ensure a fully effective, efficient, and safe service to the community. The key message is that integrating health and safety into the day-to-day work of the Fire & Rescue Service is not just a means of complying with legal requirements, it is a positive way of improving the overall performance of the Service in its role of ensuring the safety of our communities.

Notes

1. 1974 c 37. Although amended many times since 1974, the core principles and key sections remain as they were originally set in 1974.
2. SI 1999/3242. These regulations replaced similar Regulations from 1992, which had implemented the EU Framework Dirctove 89/391/EEC.
3. Principally, *Edwards v National Coal Board* [1949] 1 All ER 743 at 747.

4. The point has not been explicitly considered in the context of criminal law, but the case of *Watt v Herts County Council* [1954] 1 WLR 835 at 838 may be of some relevance to this issue.
5. Within HSE, enforcement is wider than just prosecution, encompassing verbal ans written advice as well as legally binding enforcement notices and prosecution.
6. HSC: Enforcement Policy Statement http://www.hse.gov.uk/pubns.hsc15.pdf
7. HSE: Enforcement Management Model http://www.hse.gov.uk/enforce/emm.pdf
8. Code for Crown Prosecutors
http://www.cps.gov.uk/publications/docs/code2004english.pdf
9. Competence for hazardous industries RR086
http://hse.gov.uk/research/rrhtm/rr086.htm
10. Fire Service Manual, Volume 2 Fire Service Operations *Incident Command* ISBN 0 11 341280 0.

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About the Author

Andrew Strawson has worked for the Health and Safety Executive (HSE) as an Inspector of Health and Safety since October 1975. During that time he has gained experience of most employment sectors, including three years as the operational inspector dealing with the London Fire and Emergency Planning Authority. He has also had a number of policy jobs in HSE, with an eighteen month secondment to the World Health Organisation, working on chemical assessment programmes. Currently, he is in HSE's Defence, Fire and Police Unit, which provides Operational Policy support to these sectors and to HSE's operational inspectors. He has lead responsibility for the Fire & Rescue Service and CBRN issues.

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