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This circular is	<b>For information</b>	Respond by	<b>31 December 2009</b>
This circular is	<b>Relevant to the National Framework</b>		
Status	<b>This circular provides a response to the recent consultation of the transfer of New Dimension assets and asks that Fire and Rescue Authorities (FRAs) sign up to the final Transfer of Ownership Agreement.</b>		

# Transfer of Ownership of New Dimension Assets

## Issued by:

**Fay Smith**

**New Dimension Policy Advisor**

## Addressed to:

**The Chair of the Fire and Rescue Authority  
The Chief Executive of the County Council  
The Clerk to the Fire and Rescue Authority  
London Fire Commissioner  
The Chief Fire Officer**

## Please forward to:

**Legal Directors  
Finance Directors**

## Summary

CLG has previously conducted two consultations with FRAs on the proposals surrounding the transfer of CLG's New Dimension assets to FRAs. This Circular provides a response to the most recent consultation earlier in 2009, and asks FRAs to sign up to the final version of the Transfer of Ownership Agreement by end December 2009.

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## Transfer of Ownership of New Dimension Assets

### 1.0 Background

- 1.1 The New Dimension Project will shortly be coming to a close and we now need to deliver on our long-term commitment to transfer ownership of the New Dimension assets to the FRAs which host them, so that they have full and direct responsibility for their management as well as their use.
- 1.2 Through Fire Service Circular 51/2007 (November 2007), CLG consulted FRAs and representative bodies on a draft Transfer of Ownership Agreement for the New Dimension assets. In response to that consultation, stakeholders sought further information on the long term plans for the New Dimension capabilities. Since then, the Department has delivered on three of the four areas of the long-term strategy:
- the announcement of funding over the full CSR period made in July 2008
  - the commencement of the long-term maintenance contract with VTCS covering all the assets in October 2008; and
  - establishment of the CFOA-led Assurance Body managed through the FRS National Resilience Board, under the terms of a Memorandum of Understanding (MoU) signed in March 2009, which provides future governance for New Dimension capabilities
- 1.3 Through Fire Service Circular 16/2009 (March 2009), CLG undertook a second consultation with FRSs on the transfer of New Dimension assets. This responded to questions raised by FRSs on the transfer, and provided a revised draft of the Transfer of Ownership Agreement for FRS comment. We also asked whether FRSs were content to sign up in principle to the transfer – prior to CLG seeking formal agreement from FRAs. Over the last few months we have also engaged with the Fire Lawyers Network, the LGA Fire Services Management Committee and the Fire Finance Network to seek their comments.

### 2.0 Consultation Response to 16/2009

- 2.1 In total, 39 FRSs responded to the second consultation, and although many had further questions, the majority confirmed support in principle for the transfer. Over the last few months the Department has been considering the responses carefully, and has replied individually to each FRA on their specific concerns.
- 2.2 Although there was a significant range of different queries raised by the FRAs, four concerns were common to many or most responses:
- i. future funding and the mechanism for this
  - ii. maintenance contract costs
  - iii. maintenance contract documentation; and
  - iv. asset refresh proposals
- 2.3 The Department set out the specific amounts of new burdens funding for New Dimension for the full CSR period in Circular 36/2008 last summer. Unfortunately, we are not able to do this for future spending review periods, as some FRSs requested, as it is not possible for Government to commit future parliaments. In relation to the mechanism of payment, currently the funding is provided through annual s 31 grants, and as set out in the Circular, we will

continue to pay s31 grants for the remainder of this CSR period. However, future funding may be on a different, more flexible basis in line with the Government's and the LGA's general policy.

- 2.4** Several authorities responding to the consultation expressed concern over any move to Revenue Support Grant (RSG, block grant), relating to distribution, the situation of 'floor authorities', and transparency. Whilst these concerns are understood, similar issues have been overcome for the many special grants which have transitioned to general grant in the past. Any transfer into RSG would be looked at together with the FRAs themselves, through the normal Formula Review process, and with examples of what a transfer would mean to each individual FRA. An alternative option may be to transfer the grants into Area Based Grant, a single s31 grant paid to the FRAs for a number of different purposes. In due course, when options for the future funding mechanism are being considered, we will have regard to authorities' concerns and will give particular consideration to whether we are still in a transition phase, and whether we have yet built up a consistent pattern of spend to support a move to an alternative funding mechanism.
- 2.5** On the costs resulting from the New Dimension maintenance contract, CLG has, through Circular 52/2008 (October 2008), committed to paying the fixed costs of the contract (around £100m) relating to routine maintenance and servicing, to ensure that the equipment and vehicles are ready to respond to a national incident over the next 16 years. Whilst New Dimension assets remain in the ownership of CLG we will pay the fixed monthly costs directly to the maintenance contractor, VTCS. However once the New Dimension assets are transferred to the FRAs, the authorities themselves will be responsible for arranging the monthly payment directly, and CLG will fund FRAs for this cost. Nevertheless, FRSs will be aware that maintenance costs due to wear and tear arising from the use of New Dimension assets for FRA purposes (so called 'unfair wear and tear'), currently being borne by CLG, will be payable by the FRAs in future regardless of ownership. The types of wear and tear that FRSs will be responsible for are outlined in Circular 52/2008. A further circular will shortly be issued in regard to recharging FRAs for these costs and the process surrounding this.
- 2.6** In signing up to the Transfer of Ownership Agreement, fire authorities will also be obliged to sign up to the maintenance contract (the Prime Contract). The contract itself is between VTCS and Firebuy (the contract manager) and the services provided by this contract are accessed through the Terms of Access. CLG, as the current owner of the New Dimension assets, have initially signed the Terms of Access to ensure that the vehicles and equipment are being maintained. However, upon transfer of the assets, each FRA will need to individually enter into the Terms of Access themselves.
- 2.7** A copy of the Terms of Access has been enclosed with the reply to each FRS and also to those who did not respond to the Circular 16/2009 consultation. There are restrictions on the circulation of the Prime Contract for commercial reasons, and we have informed FRAs that their legal advisors wishing to see a copy of the Prime Contract can do this via Angela Hooton, Firebuy Contract Manager (email: [angela.hooton@firebuy.gov.uk](mailto:angela.hooton@firebuy.gov.uk)) who can supply a PDF copy – a number of FRA legal advisers have already done so. In obtaining a

copy you may be asked to enter into a confidentiality agreement and copies will only be sent via secure fire authority email accounts.

- 2.8 On asset refresh, we recognise that some vehicles and equipment, over time, will reach the end of its life and there are two ways that we intend to deal with this. As you may be aware, the CFOA-led Assurance Body has been provided with an annual sum of money, around £1.5m, to deal with routine upgrades and changes to the New Dimension fleet. Secondly, we envisage that every 5-6 years there will be a need for a major refresh, which will look across the board at the capabilities, and see if they may need to change in the light of new technology, the changing risk environment, or the need to replace worn out vehicles. While a decision on this will always be a decision for the Government of the day, we would expect such major refreshes to be tied to a spending review so as to be able to identify resources to take forward the work. Where vehicles have been used extensively by the FRS on local incidents and their lifespans are unduly shortened, we would wish to discuss with the FRA concerned, and the Assurance Body, how the replacement costs should be fairly apportioned.
- 2.9 A comprehensive list of all the comments and questions raised by FRSs in response to the second consultation on the transfer of ownership proposals are provided in the 2<sup>nd</sup> Consultation Response document accompanying this Circular, along with the responses to each query from CLG.
- 2.10 The Department is also aware that there are two FRAs which are currently operating Private Finance Initiative (PFI) contracts, whereby the PFI contractor has overall management of and responsibility for the FRS fire appliance fleet. We are continuing discussions with both these FRAs surrounding the proposed transfer of ownership of assets to them and the operation of the New Dimension maintenance contract within their areas. The transfer arrangements may therefore need to be specific to those FRAs, but in keeping with the key principles that the New Dimension capabilities remain interoperable and fit for purpose over their lifetime.

### 3.0 Next Steps

- 3.1 Following the comments received from FRSs over the past two consultations on the draft Transfer of Ownership Agreement we have amended the document accordingly, though its content remains generally similar to the previous versions. A copy of the final Transfer Agreement is enclosed with this Circular. We therefore invite FRAs to consider this Agreement at their relevant Committee meetings to confirm whether they are content to sign up, and respond to the Department by **31 December 2009**. It is intended that actual enactment of the transfer (the date the assets will belong to the FRAs) will be undertaken early in 2010.
- 3.2 CLG is currently confirming the individual values (including the current net book value) of each of the New Dimension assets. CLG appreciates that FRAs need this information to inform authority accounts prior to the enactment of transfer occurring and that this information is to be included within the first Schedule of the Transfer Agreement. Once this exercise is complete, CLG will forward an individual copy of the Transfer Agreement to each FRA including the financial details surrounding the equipment currently hosted by that authority. This will be the version of the Transfer Agreement which we ask

FRAAs to sign.

- 3.3 In taking this matter through FRA Committees, we appreciate that many members and representatives may have limited knowledge of the New Dimension project. A short briefing note is therefore attached, summarising New Dimension from its inception in late 2001 to where we are today, and the partnership approach between CLG, FRSs and CFOA adopted by the project, which has led to the successful roll-out and operational delivery of the New Dimension specialist capabilities.
- 3.4 A copy of the three documents accompanying this circular (the 2<sup>nd</sup> Consultation Response, the final Transfer of Ownership Agreement and the Briefing Note on New Dimension for FRA Committees), are attached to the email issuing this Circular, or can be found at:

[www.communities.gov.uk/fire/resilienceresponse/newdimensionequipping/tcm/](http://www.communities.gov.uk/fire/resilienceresponse/newdimensionequipping/tcm/)

- 3.5 Finally, FRAs will wish to be aware that although New Dimension vehicles and equipment are currently owned by CLG, this is not a function which CLG can continue to perform in the medium term. We hope that your authority will feel able to sign up to the Agreement. This has always been the aim of the New Dimension Project and it makes most sense in terms of long-term management of the assets. However, if it becomes clear that your authority is not prepared to sign-up, please let us know as soon as possible so that we can start to consider alternative arrangements for the assets you host.

**Fay Smith**

**New Dimension Team**

## 2<sup>ND</sup> Consultation Response to Fire Service Circular 16/2009 on the New Dimension Transfer of Ownership Agreement

Subject	FRA issues raised from the Consultation	CLG Response
Specific Drafting Issues	1. Request for more information about Firelink equipment (Retained Equipment) referred to in clause 2.1.2 and Schedule 2 of the previous version of the Transfer of Ownership Agreement.	<p>FRSs will be aware that New Dimension vehicles contain Firelink equipment. Although ownership of the New Dimension equipment will be handed to FRAs through the Transfer of Ownership Agreement, the Firelink equipment will not and the Agreement needs to reflect this. Originally we intended that we would list what the Firelink equipment is in Schedule 2 of the Agreement but have since agreed with the Firelink Project Team there is no need to do this. FRSs will be very aware of what the Firelink equipment is but for reference:</p> <ul style="list-style-type: none"> <li>• Incident Response Unit (IRU) and Prime Mover - SAN A, External Loud Speaker, Handsfree.</li> <li>• Detection, Identification and Monitoring (DIM) Vehicle - 2 x SAN A, Handsfree.</li> <li>• Enhanced Command Support (ECS) Vehicle - 3 x SAN A, Handsfree.</li> <li>• As the rollout of Firelink Phase C progresses, all vehicles including the New Dimension fleet, will eventually also have a Mobile Data Terminal and printer.</li> </ul> <p>We have therefore revised clause 2.1.2 to take account of this advice and the original Schedule 2 (listing the Firelink Equipment) has now been deleted. (Please also refer to Q11 below).</p>
Specific Drafting Issues	2. In clause 2.2 of the Transfer Agreement, the Department should warrant that the assets are fit for purpose taking into account that the equipment being fit for purpose is wider than that	The maintenance contract addresses fitness for purpose in terms of the condition of the equipment – the maintenance provider, VTCS, are responsible for maintaining the equipment in its current condition. Hence, given this is covered already by the maintenance contract it is

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	<p>captured by the maintenance contract.</p>	<p>unnecessary to be included again within the Transfer Agreement.</p> <p>In terms of intended use and design issues, the New Dimension fleet is fit for purpose in this sense now, because it is assessed as meeting the requirements to deal with the top risks faced by the country, as determined by the Cabinet Office led Capabilities programme. That programme, and the Department, continue to monitor how New Dimension meets the top risks as they evolve over time. We would expect to pick up any need to make radical changes during the asset refresh process (detailed further at Q 26 below).</p>
<p>Specific Drafting Issues</p>	<p>3. Clause 3.1 of the Transfer of Ownership Agreement should refer to “the Equipment” rather than “the Assets” as currently drafted.</p>	<p>The Department has amended this within the final version of the Transfer Agreement.</p>
<p>Specific Drafting Issues</p>	<p>4. Request for an indemnity in Clause 5 of the Transfer Agreement.</p>	<p>We have previously noted that general Departmental policy does not allow us to provide an indemnity as requested. The Department agrees that it would be unreasonable for FRAs to pick up liabilities, obligations etc. arising prior to the transfer date and that were there to emerge such a liability, CLG undertakes, acting in good faith, to consider how that liability should be met and to act in a manner consistent with a reasonable public authority.</p>
<p>Specific Drafting Issues</p>	<p>5. Concern that Clause 6 of the Transfer Agreement relating to ‘Further Assurance’ is limited to steps entirely at the discretion of CLG.</p>	<p>To confirm that this clause is mainly in regard to the provision of documentation surrounding New Dimension capabilities. CLG has already provided the vast majority of necessary documentation associated with New Dimension project to the CFOA-led Assurance Body (the National Resilience Board) and has, and will continue to, respond to any further requests from them for further documentation or action on outstanding issues. Where FRSs require documentation associated with New Dimension they are able to request this from the</p>

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		Assurance Body. Nevertheless, if there is any specific documentation that FRSs are particularly concerned about please contact: Fay.Smith@communities.gsi.gov.uk.
Specific Drafting Issues	6. The word “the” should be included in the last line of clause 7.1 in the Transfer Agreement.	The Department has amended this within the final version of the Agreement.
Specific Drafting Issues	7. In clause 7.2 the period of the Transfer of Ownership Agreement should be the end of the VTCS maintenance contract rather than 16 years from the date of asset transfer.	Whilst the maintenance contract is obviously a key factor in the transfer, it is only a mechanism to address fitness for purpose in terms of the condition of the New Dimension equipment. The Transfer Agreement itself seeks to ensure that FRSs maintain an overall national capability for 16 years. On this basis we have stipulated that the maintenance contract should encompass the same period.
Specific Drafting Issues	8. The Department should insert the words “commencing at the Time of Transfer” at the end of clause 7.3.	Whilst the Department has agreed to fund the fixed costs arising from the New Dimension maintenance contract, maintenance costs due to wear and tear arising from the use of New Dimension assets for FRA purposes, currently being borne by CLG, will be payable by the FRAs in future regardless of ownership. On this basis it would be inappropriate to include this suggested amendment in the Transfer Agreement.
Specific Drafting Issues	9. Clause 7.4 should include a definition of interoperability.	<p>In regard to an actual definition of the term ‘interoperability’ this has been included at clause 7.4.2 of the final Transfer Agreement,.</p> <p>From a policy perspective, in terms of defining interoperability the starting point is that all New Dimension equipment was bought to the same specification and standard, and is maintained under the national maintenance contract to the same standard. It is a requirement that all FRAs taking ownership of the assets must use</p>

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		<p>this maintenance contract. With training, all FRS personnel using New Dimension equipment have been trained to a common standard, and as an operational matter, it is for the Assurance Body to maintain interoperability in this respect. This is a key part of their role, and obviously, from both operational and health and safety perspectives, is in the national collective interest as well in the interest of all FRSs.</p>
Specific Drafting Issues	<p>10. The provisions in Schedule 3 of the Transfer Agreement are unreasonable specifically concerning the need for CLG approval for relocation of New Dimension assets within the FRS.</p>	<p>The reason for CLG approval is because the assets need to remain ready to respond to a national incident in a cohesive and unified way. It would be in not be in the national interest if, by relocating assets, gaps across the country appeared so that some places could not be reached by any New Dimension asset within the set timeframes. Hence, when a relocation is proposed, CLG may need to check through modelling that no such gap appears.</p> <p>Such considerations played a large part in the initial siting of the assets. In some cases it was not easy to find an optimal site where an FRS could reasonably accommodate an asset, while meeting the national needs for coverage. In practice, through negotiation and a pragmatic approach, all assets were located to the satisfaction of CLG and FRSs. If an FRS in the future wants to relocate, CLG would expect the same reasonable approach to be taken, and if a difficult case arose, would expect to work with the Assurance Body to explore options and seek a viable solution to meet both FRS and national coverage needs.</p>
Specific Drafting Issue	<p>11. In regard to clause 1.4 of schedule 2 (previously schedule 3) of the draft Transfer Agreement, this may need to be revisited given that there may be situations that require New Dimension assets to be mobilised to Europe.</p>	<p>It is worth re-iterating that New Dimension capability is a domestic capability and that any decision to send this equipment abroad would require the agreement of Government.</p> <p>Previously the provisions of clause 1.4, schedule 2, were specifically</p>

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		<p>concerned with the decommissioning of Firelink equipment in the event that the capability is mobilised overseas. Since then we have discussed this further with the Firelink Project Team and have been informed that with regards to taking the terminals abroad, the conditions are set out in the Firelink Code of Practice (see extract below) which has been issued to all FRS terminal custodians and who are fully aware of their responsibilities.</p> <p><b><i>Use of Firelink Terminals Abroad</i></b></p> <p><i>Airwave's Radio Licence does not permit the use of Firelink terminals outside England, Wales and Scotland unless covered by formal inter-agency agreements. Any terminal taken abroad could be impounded and retained by foreign national authorities as an unlicensed radio transmitter or, in some instances, as an unapproved cryptographic device. FRS personnel must not take Firelink terminals outside the United Kingdom, unless covered by a formal inter-agency agreement.</i></p> <p>Given this, and the fact that FRSs are well aware of Firelink conditions we have decided to simplify clause 1.4 of schedule 2, to state that <i>“The FRA shall not without prior written approval of the Department... deploy the [New Dimension] Equipment overseas.”</i></p>
Specific Drafting Issue	12. In relation to Clause 4 of Schedule 2 (previously schedule 3), CLG does not recognise the CFOA position that a single FRS National Co-ordination Centre (NCC) should be maintained even after rollout of Regional Control Centres (RCCs).	We can confirm that on operational advice, CLG's Resilience Programme Board has determined that a single NCC should be maintained within a specified RCC after full rollout of the FiReControl project, with a second RCC providing a fallback NCC. The Department is currently considering where the future NCC, and back up, will be located. In light of this we have reviewed and amended all of clause 4 including the insertion of a new clause 4.5.

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Specific Drafting Issue	13. Clause 4.1 in Schedule 2 (previously Schedule 3) should be amended to read "whenever the Equipment becomes operationally unavailable and is expected to remain so for more than four hours, within an hour of the FRA becoming aware of the defect."	The Department has amended this within the final version of the Agreement.
Specific Drafting Issue	14. Request for insertion of a clause in the Transfer Agreement providing FRAs with the ability to terminate the obligations under the Agreement in the event that funding does not continue past the current CSR period.	On the funding point, as detailed in Q 28 below, Government is committed to providing new burdens funding to FRAs resulting from the costs incurred in delivering New Dimension capabilities. In regard to the termination of the Agreement, to reiterate that the transfer is a transfer of function and is not intended to be some temporary arrangement. In signing up to the Transfer Agreement, FRAs will accept ownership of the assets, and the responsibilities as set out within the Agreement for the specified period of time.
Specific Drafting Issue	15. Request that Transfer Agreement takes account not only of the equipment currently owned by CLG and to be transferred to FRAs, but also any future equipment purchased for New Dimension purposes by the Assurance Body on behalf of the FRSs – i.e. asset refresh.	The Department has inserted a new clause 1.1 in the Agreement to address this point and to ensure that the provisions of the Transfer Agreement cover both the equipment to be transferred under the Transfer Agreement, along with any subsequent equipment purchase for the FRA as a result of asset refresh.
Specific Drafting Issue	16. Whilst it is appreciated why CLG have refuse to insert a force majeure clause in the Transfer Agreement due to the very nature of the deployment of New Dimension capability - FRSs need assurances regarding the event of a local situation e.g. industrial action or a pandemic flu situation, where the FRA is prevented from meeting its national obligations.	CLG recognise that there are particular situations whereby an FRA may be unable to deploy its New Dimension capability – such as the circumstances highlighted. In these events, schedule 3, clause 3 of the Transfer Agreement would be relevant as it states “the FRA shall use best endeavours to retain a level of competent staff such that the Equipment may be deployed”. Whilst we would expect all FRAs to ensure they undertake everything possible to ensure availability for national deployment including using the provisions of the national

Subject	FRA issues raised from the Consultation	CLG Response
		mutual aid protocol, there may be the rare occasions when this may not be possible.
Transfer of function	17. Why is the transfer classed a transfer of function and not simply a transfer of assets.	We have been informed by HM Treasury and the National Audit Office that a transfer of this nature is properly termed a transfer of function. Further, in practical terms, for accounting reasons a transfer of assets would mean that we had to identify capital cover for the full value of the assets, which we would not be able to do, and would seem unreasonable, since the Department has already purchased the assets.
Insurance	18. Why is CLG only funding 3rd party insurance rather than comprehensive?	CLG have only ever provided third party insurance cover for the New Dimension vehicle fleet. Upon the enactment of the transfer of assets, CLG will provide funding to FRAs for third party insurance based on the costs that the Department have paid. Any decision to go beyond this lies with the FRAs themselves, at their own expense.
Insurance	19. What would be the situation should a New Dimension vehicle be involved in an accident and a claim was made on an FRSs fully comprehensive insurance cover and whereby the said insurer insisted on the FRSs obtaining three quotes for the cost of repair?	In the event that any of the New Dimension vehicles are involved in an accident where the FRS insurer requests several quotes for the repair work, we confirm that VTCS would contact both the FRS and if necessary, the insurance company to discuss the best approach and understand any specific requirements that the insurance company may have, such as multiple quotes.
Warranties	20. Request for further information on warranties that the FRSs will take on.	In regard to warranties, CLG does not, at this time, have any warranties to hand-over to the FRS in relation to the majority of the New Dimension assets. This is however, with the exception of the ECS vehicles where full roll-out is expected before the end of 2009. Details of any assignments, novations or warranties relating to the ECS vehicles that the FRS will need to know about prior to asset

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		transfer, will be provided to the FRS pending resolution of the ECS issues.
Maintenance Contract and Terms of Access	21. Request for the documentation surrounding the New Dimension maintenance contract (referred to in clause 7.1) of the Transfer Agreement.	<p>A number of FRSs have asked about the contractual documentation surrounding the maintenance contract for New Dimension assets. In signing up to the transfer of ownership agreement, FRAs will also be obliged to sign up to the maintenance contract (the Prime Contract). The contract itself is between VTCS and Firebuy (the contract manager) and the services provided by this contract are accessed through the Terms of Access. CLG, as the current owner of the New Dimension assets have initially signed the Terms of Access to ensure that the vehicles and equipment are being maintained. However, upon transfer of the assets it is a condition that FRSs will use the maintenance contract and hence, each FRA will need to individually enter into the Terms of Access themselves. A copy of the Terms of Access has been provided to every FRS.</p> <p>Please be aware that the Prime Contract itself is commercial in confidence and therefore its circulation requires to be closely safeguarded. For those FRA legal advisors who wish to see a copy of the Prime Contract, this can be obtained via Angela Hooton, Firebuy Contract Manager (email: <a href="mailto:angela.hooton@firebuy.gov.uk">angela.hooton@firebuy.gov.uk</a>) who can supply a PDF copy. A number of FRA legal advisors have done this already. In obtaining a copy you may be asked to enter into a confidentiality agreement and copies of the contract will only be sent via secure fire authority email accounts.</p>
Maintenance Contract and Terms of	22. Will FRAs be liable for maintenance costs that arise as a result of a defect or some other action or error which predates the time of transfer?	At the time that the transfer takes place, all New Dimension equipment will have been through at least one annual service by VTCS and any existing defects will have been repaired, at CLG cost.

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Access		<p>However, maintenance costs due to wear and tear arising from the use of New Dimension assets for FRA purposes, currently being borne by CLG, will be payable by the FRAs in future. Where claims arise owing to inherent design issues, given the design of New Dimension equipment and vehicles has been developed by CLG we would need to consider any resulting capability design flaws throughout the New Dimension fleet and hence, this could not be dealt with by an individual FRS.</p>
Maintenance Contract and Terms of Access	<p>23. Concern that only Firebuy have the right to terminate the maintenance contract, and that an FRS would have to seek agreement from Firebuy to terminate the contract early.</p>	<p>Firebuy is the contracting authority with VTCS and therefore the terms of the Prime Contract can only be enforced directly by Firebuy or VTCS. This is the only contract structure which can work for a national contract based on resilience and interoperability requirements. If VTCS were to enter into individual contracts with each FRS, the risks would be much higher and therefore so would the price. Instead the Terms of Access is a mechanism that allows the FRS to participate in the contract whilst maintaining national management and minimising the risks for all parties.</p> <p>Firebuy has robust arrangements in place to monitor the performance and costs of the maintenance contractor on behalf of the FRS. Formal meetings are regularly held between Firebuy, VTCS and the Assurance Body for this purpose, with the latter specifically responsible for raising FRS issues and concerns about the performance of the contract. In the event of an official dispute over the maintenance provision, there are formal dispute resolution procedures set out within the contract which are managed by Firebuy.</p> <p>In the event that collective concerns over the maintenance contract become irrevocable, the contract allows for two types of termination. First, if the contractor is in material or continuing default (breach) of</p>

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		<p>its obligations under the contract and fails to remedy the breach, then Firebuy has the right to terminate for cause. For example, if the contractor were to consistently fail to meet the Key Performance Indicators (KPIs) resulting in a general level of very poor performance across the contract rather than specific to individual FRs. Secondly, there is the right to terminate for convenience, i.e. if the relationship had severely deteriorated to the point where the relevant parties could not work together but where the contractor was not quite falling short of the KPIs sufficiently to trigger termination. For information, termination for convenience requires 12 months notice and cannot take effect before the third anniversary of contract start date - October 2011. However, Firebuy would obviously seek to exhaust every available opportunity for dispute resolution before termination is considered.</p>
<p>Maintenance Contract and Terms of Access</p>	<p>24. Although we have declared an interest in maintaining New Dimension vehicles in our fleet maintenance centre we have yet to be contacted by the nominated contractor.</p>	<p>There has been considerable progress on this issue since the last consultation on Transfer of Assets was undertaken. Earlier this summer Firebuy invited FRs to attend a meeting with both them and VTCS to discuss this issue further and that details around the issue of in-house maintenance are currently being considered by all those involved. Please contact the Firebuy Contract Manager if your FR has expressed an interest in this area but have not been involved in this.</p>
<p>Maintenance Contract and Terms of Access</p>	<p>25. Request for greater clarity over the unfair wear and tear procedure in relation to the maintenance contract.</p>	<p>FRs will already be aware that costs due to wear and tear arising from the use of New Dimension assets for FRs purposes, currently being borne by CLG, will be payable by the FRs in future. This is outlined in Circular 52/2008 and a further circular will shortly be issued in regard to recharging FRs for these costs and the process overall.</p>

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Asset Refresh	26. What happens when a vehicle (or equipment) reaches the end of its life or is written off either responding to a national incident or during local use?	<p>The maintenance contract recognises that this will occur over time as vehicles wear out, and this is something to be picked up in the major refreshes. As FRSs will be aware, the Assurance Body has been provided with an annual sum of money, around £1.5m, to deal with routine upgrades and changes to the ND fleet in year. In addition to this, we envisage that every 5-6 years there will be a need for a major refresh, which will look across the board at the New Dimension capabilities, and see if they may need to change in the light of new technology, the changing risk environment, or the need to replace worn out vehicles. While a decision on this will always be a decision for the Government of the day, we would expect such major refreshes to be tied to a spending review so as to be able to identify resources to take forward the work. Where vehicles have been used extensively by the FRS on local incidents and their lifespans are unduly shortened, we would wish to discuss with the FRS concerned, and the Assurance Body, how the replacement costs should be fairly apportioned. There is recognition that it may not be possible to replace some assets at the end of their lives, in which case the maintenance contractor would be responsible for the collection and disposal of the obsolete/irreparable vehicles.</p> <p>In the meantime, in the event that there was a substantial loss to New Dimension capability i.e. a vehicle or module, it would be the responsibility of the Assurance Body in the first instance to organise interim arrangements between FRSs, where necessary, to ensure adequate coverage throughout the country is maintained. Discussions between FRSs and the Assurance Body would be undertaken over how this would be taken forward.</p>
Asset Refresh	27. Request for further clarity on the Assurance Body and its process for annual refresh.	As part of the long term assurance arrangements for New Dimension, CLG funds the Assurance Body, around £1.5m pa for minor asset

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		<p>refresh purposes. In 2008/09 the Assurance Body's National Resilience Assurance Team (NRAT) conducted an exercise to establish the refresh requirements of each New Dimension capability through the capability leads. Those requirements have since been prioritised and the most urgent are currently being progressed at a central level, rather than each FRS given funding to procure new equipment on an individual basis. For the longer-term, the NRAT are developing formal procedures for asset refresh, details of which can be obtained from the NRAT secretariat.</p>
Funding	<p>28. Request that central funding arrangements currently in place, are continued, and that this future funding is not subsumed within the Revenue Support Grant (RSG).</p>	<p>The Department set out the specific amounts of new burdens funding for New Dimension for the full CSR period in Circular 36/2008 last summer. Unfortunately, we are not able to do this for future spending review periods, as some FRSs requested, as it is not possible for Government to commit future parliaments. In relation to the mechanism of payment, currently the funding is provided through annual S31 grants, and as set out in the Circular, we will continue to pay s31 grants for the remainder of this CSR period. However, future funding may be on a different, more flexible basis in line with the Government's and the LGA's general policy.</p> <p>Several authorities responding to the consultation expressed concern over any move to Revenue Support Grant (RSG, block grant), relating to distribution, the situation of 'floor authorities', and transparency. Whilst these concerns are understood, similar issues have been overcome for the many special grants which have transitioned to general grant in the past. Any transfer into RSG would be looked at together with the FRAs themselves, through the normal Formula Review process, and with examples of what a transfer would mean to each individual FRA. An alternative option may be to transfer the grants into Area Based Grant, a single s31 grant paid to the FRAs for</p>

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		<p>a number of different purposes. In due course, when options for the future funding mechanism are being considered, we will have regard to authorities' concerns and will give particular consideration to whether we are still in a transition phase, and whether we have yet built up a consistent pattern of spend to support a move to an alternative funding mechanism.</p>
Funding	<p>29. Responsibility for future provision of national capability should continue to lie with central government and that funding should be adequate and transparent and no burden put on the FRA.</p>	<p>In terms of the funding point, Government has consistently honoured the new burdens principle over many years. This commits the Department to fully funding burdens they place on local authorities. We stand by the principle that funding should remain adequate and transparent – to do otherwise would be place costs directly upon local taxpayers. Regarding responsibility for the national capabilities provided by New Dimension, there is clearly a shared responsibility to ensure the continued integrity of the New Dimension capabilities so that they remain fit for purpose and interoperable over their life. We do not see this as fundamentally different from any mutual aid between FRSSs, where different areas help each other to respond to emergencies beyond the capacity of local resources.</p>
Funding	<p>30. CLG should commit to paying the full costs of the New Dimension Maintenance Contract.</p>	<p>On the costs resulting from the New Dimension maintenance contract, CLG has, through Circular 52/2008, committed to paying the fixed costs of the contract (around £100m) relating to routine maintenance and servicing, to ensure that the equipment and vehicles are ready to respond to a national incident over the next 16 years. Whilst New Dimension assets remain in the ownership of CLG we will pay the fixed monthly costs directly to the maintenance contractor, VTCS. However once the New Dimension assets are transferred to the FRAs, the authorities themselves will be responsible for arranging the monthly payment directly, although CLG will fund FRAs for this cost in line with standard new burdens</p>

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		principles. Nevertheless, FRAs will be aware that maintenance costs due to wear and tear arising from the use of New Dimension assets for FRA purposes, currently being borne by CLG, will be payable by the FRAs in future. (Please refer to Q 25).
Funding	31. Funding for the CFOA-led Assurance Body (the National Resilience Board) has not been confirmed after the current CSR period	The Department understands that responsibility for the long term management of New Dimension cannot be undertaken by individual FRSs in silo and that there needs to be a collective oversight on a national basis. Given this, CLG has facilitated a mechanism whereby this function can be managed strategically by the CFOA-led Assurance Body. A Memorandum of Understanding has been put in place with the Assurance Body covering the CSR period but we are unable to commit future parliaments to funding beyond this period. We intend to review the MoU with the Assurance Body during the next financial year and the MoU does allow for an extension of the current arrangements by mutual agreement. We are very satisfied with the work of the Assurance Body to date.
Funding	32. If use of New Dimension equipment at local incidents is to be penalised by costs for wear and tear, it will act as a disincentive, to the FRS from operating the New Dimension kit at such incidents.	We have always been clear that FRSs are encouraged to use the New Dimension assets in local incidents, and statistics to date show that New Dimension deployments are frequent across the country. It is a matter for each FRS to decide when to deploy the assets they control. To suggest, uniquely, that in the case of New Dimension that such use would be unduly discouraged if FRSs had to pay for wear and tear neglects the benefits to the FRS of the deployment.
Funding	33. Given some costs cannot be accurately forecast, there is need for future flexibility should costs turn out to be significantly higher than anticipated.	The chance to look again at the totality of costs, and pressures on authorities arising from the project, is dealt with through the mechanism of the Spending Reviews. We recognise the need for some flexibility in the shorter term for necessary changes across the fleet, and for this reason have given the Assurance Body funds for

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		<p>annual refresh, assessed at £1.5m per annum for the CSR period. We have further given the Assurance Body the flexibility to move funds between its secretariat and national team, training, and annual refresh budgets, to prioritise as it sees fit, to maintain the capability. In putting the collective local authority position on costs and pressures to Government in the Spending Review, we would expect that the LGA would draw upon the views of the Assurance Body where they relate to New Dimension.</p>
Accounting Treatment	34. Have we sought advice from Local Government Finance (LGF) colleagues on the accountancy issues for the transfer?	<p>We can confirm that advice was sought from both LGF and our Central Finance Team in regard to the accountancy issues surrounding the transfer. As detailed in our first Consultation Response, accompanying FSC 16/2009, FRA accounts should reflect the net book values of the assets being transferred which will be calculated by CLG, and that the net book values of the assets are based upon modified historic cost adjusted for depreciation in accordance with CLG's accounting policy.</p> <p>Furthermore, at a recent Fire Finance Network meeting, we were also asked to consult with the Audit Commission over the accounting treatment. The Audit Commission have since confirmed that the advice we have provided to FRAs on their accounting for the transfer of assets is entirely consistent with The Statement of Recommended Practice on Local Authority Accounting (SORP), which is prepared by CIPFA/ LASAAC and formally endorsed by the Accounting Standards Board.</p>
Governance	35. Request that a central co-ordination function is maintained for the New Dimension capabilities to provide continuing support to FRSs and ensure interoperability of the New Dimension fleet.	As outlined previously, the Department recognises that responsibility for the long term management of New Dimension cannot be undertaken by individual FRS in silo and that there needs to be a collective oversight on a national basis. Given this, CLG has

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		<p>facilitated a mechanism whereby this function can be managed strategically by the Assurance Body. The aim of this body is to provide operational assurance that the New Dimension capabilities remain fit for purpose and can be deployed consistently across national and regional boundaries, including managing and monitoring operational practices, procedures and technical advice on New Dimension capabilities, and the associated operational IT, communications and training, asset refresh and any required siting or re-siting of assets. Representatives from the National Resilience Assurance team also attend meetings between Firebuy and the maintenance contractor (VTCS) to support effective management of that contract through representing the collective customer (FRS) interest.</p>
Governance	<p>36. How is FRS control of New Dimension assets consistent with the over-arching governance of the CFOA-led Assurance Body.</p>	<p>The point above sets out the justification for collective oversight on a national basis through the Assurance Body. The aim of this body is to provide operational assurance that the New Dimension capabilities remain fit for purpose and can be deployed consistently across national and regional boundaries, including managing and monitoring operational practices, procedures and technical advice on New Dimension capabilities.</p> <p>From a CLG perspective we require an overarching governance structure to ensure the continuing interoperability of the New Dimension assets over the 16 year life of the Transfer Agreement and make certain that the assets remain ready to respond to a national incident in a cohesive and unified way. For example, it would be in not be in the national interest if individual FRSs changed the specification of the equipment, jeopardising interoperability. Alternatively by FRSs relocating assets, this may create gaps in coverage across the country and mean that some places could not be</p>

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		reached by any New Dimension assets within agreed timescales. On this basis therefore, we believe that principles of FRS ownership and CFOA-led governance are complementary.
Generic	37. New Dimension units need to be issued with a full or accurate inventory.	<p>As part of the New Dimension maintenance contract, VTCS undertakes an inspection of each New Dimension vehicle every 13 weeks and annually of every module. As part of this, an inventory check is undertaken and it is a contractual responsibility of VTCS to ensure that all assets returned to their host FRS are fully stowed.</p> <p>In the event that there is missing equipment on an asset or module after servicing from VTCS, this should be reported to VTCS in the first instance as soon as possible after the asset is returned. VTCS carries out a final inventory check before an asset is returned, and the FRS will need to be able to demonstrate that they have adequate procedures in place to ensure equipment does not go missing at the station. If the issue is not resolved with VTCS, the FRS should contact their Regional Coordinator who will escalate to the Firebuy Contract Manager for further investigation.</p>
	38. All New Dimension equipment should be subject to a full pre-transfer inspection.	All New Dimension assets should be in full working order and be fit for purpose. It is the responsibility of the maintenance contract to ensure that the equipment remains functional and in a good working condition. On this basis the Department does not think it is appropriate that pre-inspections of the equipment are necessary.
Generic	39. How can you consider transferring ownership of the Enhanced Command Support (ECS) vehicles when the full ECS capability is yet to be rolled out?	We are working hard with the manufacturers to address the outstanding problems with the ECS vehicles. Good progress has been made. The ECS vehicles are now under the service and maintenance regime of VTCS, apart from the satellite communications systems, which are currently undergoing further

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		<p>testing. It is likely that the vehicles will complete all outstanding testing during the Autumn, with only the delivery of refresher training holding them back from entering service. This will mean that the ECS vehicles will have been under the same maintenance regime as the rest of the New Dimension fleet for a considerable period prior to any transfer of ownership, long enough for any persistent problems to emerge. Under such circumstances, we would include them in the transfer of assets. However, as with other New Dimension assets, we will only release the ECS vehicles when they are demonstrably fit for purpose, and if, regrettably, we are unable to do this in time, then we would not propose to transfer ownership of the vehicles at the same time as the other assets.</p>
Generic	<p>40. Concern that the policy on asset transfer to individual FRAs may lead to a fragmented situation, whereby some FRSs may refuse to provide mutual aid.</p>	<p>We have no evidence that any FRS has acted outside the intention and spirit of the national mutual aid protocol. Under that protocol, though this is not usual, an FRS may refuse to release an asset where it believes its own needs require it for use locally. The FRS National Co-ordination Centre arranges for mutual aid, and when it is not available from a particular FRS, will arrange for aid from an alternative source. This was routinely done, for example, in the Summer 2007 floods, where many high volume pumps were in use or on the road, and priorities were changed frequently to meet emerging needs.</p>
Generic	<p>41. What are the arrangements in place in terms of asset transfer and managing the maintenance process, with those FRSs who have existing PFI contracts.</p>	<p>Presently we are aware of two FRSs who are operating PFI contracts, whereby the PFI contractor has overall management of and responsibility for the FRS fire appliance fleet. We are continuing discussions with both these FRSs surrounding the proposed transfer of ownership of assets to them and the operation of the New Dimension maintenance contract within their FRSs. The current arrangements are specific to those FRS but in keeping with the key</p>

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		principles that the New Dimension capabilities remain interoperability and fit for purpose over their lifetime. In the event that other FRs are considering implementing a PFI scheme within their area, we would wish to discuss further with them the impact of this in relation to the transfer of assets and the maintenance contract.
Generic	42. Assurance sought that any assets would remain with New Dimension vehicles at all times and not cascaded amongst the other FRA's	Sign up to the Transfer Agreement would mean that ownership of all New Dimension assets to be permanently hosted by an FRA will become the property of that FRA. On this basis it is not intended that equipment owned by a specific FRA will be cascaded to other FRAs, and even if in the future this was considered, it could not happen without the FRA's permission as the legal owner.
Generic	43. In the event that an FRA declines to enter into the Transfer Agreement, what would happen in terms of ownership, placement and maintenance of the New Dimension assets the authority hosts.	Although New Dimension vehicles and equipment are currently owned by CLG, there is no option for the Department to continue to own them for the medium term. There are a number of alternatives for the future ownership of the New Dimension assets but the one which makes the most sense is for ownership to be transferred to those FRs which host them. In the event this does not happen, we would consider other alternatives in further detail and, at this stage, it is difficult to indicate whether this will have any bearing on the placement of the assets. Specifically on the maintenance point, as detailed above the long-term maintenance contract with VTCS in place for the next 16 years and CLG has already agreed to fund the fixed costs of this contract. This arrangement will continue regardless of ownership.
Generic	44. If a vehicle was involved in a minor RTC requiring some body repairs, and a claim made against our fully comprehensive insurance would our vehicle have to be returned to VTCS for	By signing up to the Transfer Agreement, FRAs will also have to sign up to the Terms of Access for the New Dimension maintenance contract with VTCS. Through this, FRAs will be obligated to use the VTCS contract for maintenance and repair of the assets. However we

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	repair or could this be undertaken by our own approved body repairers?	have encouraged VTCS to use the facilities of Fire and Rescue Services (FRS) where feasible to do so and they have already successfully employed the services of some FRS workshops. (See Q 24 above).
Generic	45. There remains some need for clarification with regard to mutual aid mobilisation and what is categorised as a level 4 incident? If FRS's are going to be penalised for wear and tear, damage, loss etc there could well be a reluctance to ask for or send such resources.	Authorities will be aware that all English FRAs signed up to the national mutual aid protocol, which sets out those costs an assisting authority may claim from an authority affected by a serious incident. When local authorities help each other to their mutual benefit, it seems wrong in principle that Central Government should pick up the costs merely by virtue of how the aid was mobilised. In the 2007 floods, authorities which were eligible were able to seek extra Government funding through the Bellwin scheme.
Generic	46. Request for a list of asset information, such as cost and depreciation values, relating to the equipment and vehicles to be transferred to FRAs.	CLG is currently collating this data and will be providing the specific asset information to each individual FRS in due course.
Generic	47. The recent National Audit Report suggests that there should/will be increased emphasis on training. We would wish to see any additional increase in training emphasis reflected in the considerations for 'fair wear and tear' and the level of grant given to FRAs.	You will be aware that the Government response to the NAO report, and the subsequent response to the Public Accounts Committee report which followed, has now been published. The Assurance Body's audit programme includes a focus on training (in the first instance, on mass decontamination). This will include whether current training levels are sufficient to maintain operational competence.
Generic	48. There remains a concern regarding consumables used for training. The level of funded consumables available for training needs to be realistic and reflect actual training needs that have developed with experience.	The level of funding for consumables during this CSR period has been set out in Circular 36/2008 and a list of those consumables that CLG is funding (mainly to enable FRSs to conduct training for national incidents) is detailed in subsequent Circular 52/2008. A review is currently being undertaken by VTCS and Firebuy to re-

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		examine the use of consumables as a result of the operational experience since the maintenance contract commenced. The results of this exercise will be carefully considered by CLG.
Generic	49. There are a number of unknowns with regard to ongoing funding, maintenance and ongoing training emphasis for all New Dimension equipment. We would seek a consultation/review of current predictions and assumptions one year on from transfer of assets so that FRS's are able to comment in the light of experience.	Most of the ND fleet has been in operation for a period of time so that we believe that there is a good basis for the structures, procedures and funding we have put in place, working closely with CFOA and the FRS. We would expect the collective experience of the FRS over time to be brought together by the Assurance Body. The annual refresh funding provided to the Assurance Body provides a way to address issues that arise from day to day, and that body also has control over the centralised training budget. FRAs collectively have the opportunity to raise pressures and costs which they believe Government should fund through the LGA submission to the Spending Reviews, and insofar as New Dimension capabilities are concerned, we would expect that submission to draw on the Assurance Body's views.