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21 December 2000

- The Chief Executive to the County Council
- The Clerk to the Fire and Civil Defence Authority
- The Clerk to the Fire and Emergency Planning Authority
- The Clerk to the Police Authority
- The Clerk to Combined Fire Authority
- The Chief Executive, London Borough Councils
- The Chief Executive, Common Council of the City of London
- The Chief Fire Officer
- The Chief Officer of Police

Dear Sir/Madam

FIRE SERVICE CIRCULAR No 21/2000

HOME OFFICE CIRCULAR No 44/2000

THE INVESTIGATION OF FIRES WHERE THE SUPPOSED CAUSE IS NOT ACCIDENTAL

Introduction

Fire Service Circular No 10/1992 dated 16th November 1992, which was also distributed to Chief Officers of Police as Home Office Circular 106/1992, clarified earlier

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advice on procedural requirements to be observed in the investigation of fires where the supposed cause is not accidental. It also provided guidance about giving evidence in court in relation to such fires. The purpose of this joint Circular, which replaces that of 1992, is to give further advice in the light of the findings and recommendations of the report of the Arson Scoping Study entitled "*Safer Communities – Towards Effective Arson Control*". Appendix 1 to this Circular gives additional information concerning the recording of the 'most likely cause' and 'defect, act or omission' on the Fire Report Form FDR1. Appendix 2 gives revised guidance on the procedures to be followed in the investigation of fires where the supposed cause is not accidental. The work of the newly formed Arson Control Forum, and the findings of the proposed Thematic Review of police and fire service arrangements to tackle Arson, may result in the issue of further guidance.

The Extent of the Problem of Non-accidental Fires

2. Both the fire service and the police record the number of fires reported to them where cause is not thought to be accidental. However, each service uses different recording criteria which leads to variance in the recorded figures. In 1997, the fire service in England and Wales recorded some 76,500 primary (i.e. significant) fires as being not accidental. Around a further 104,000 secondary fires were also thought to have been started deliberately. Taken overall, fires of non-accidental origin currently represent about 47% of the total number of fires attended by brigades. During the same period, the police recorded 31,500 arson offences, of which only a small proportion were recorded as "arson endangering life". Recorded arson offences represent 41% of the non-accidental fires attended by the fire service but only 1% of total recorded crime, being overshadowed by other offence groups such as burglary and theft. Only 7% (5,000) of the significant non-accidental fires were cleared up (i.e. persons charged, summonsed or cautioned or the offence taken into consideration with other offences). Only a tiny proportion of these cases resulted in a conviction.

3. In terms of financial cost, the figure most often quoted for non-accidental fires is the estimate of insured property losses of £1 million per day made by the Association of British Insurers. However, this figure omits a number of significant factors and, as the report of the Arson Scoping Study indicated, the true cost of arson in the UK is much higher if the cost of investigation time, uninsured losses and total social cost is included.

4. The report cited a number of excellent examples of liaison and multi-agency initiatives to tackle non-accidental fires at a local level but it also highlighted a number of significant gaps and deficiencies in the existing arrangements. Whilst this Circular does not propose any radical departure from the guidance and procedures recommended in 1992 it does offer advice and clarification on certain aspects of procedures. The Circular also re-emphasises the importance of a clear understanding of the respective roles of the police, fire and forensic science services in the investigation of fires where the origins are not thought to be accidental.

Roles and Responsibilities of the Police and Fire Service

5. The successful investigation of a fire suspected as not accidental including the prosecution of any suspected offenders requires the closest possible liaison, co-operation and mutual assistance between the police and fire service. This requires not only an awareness of the legal responsibilities of the respective services but also an

appreciation of the special qualities and different skills, experience and support facilities that are available to them. Where the fire involves an insured property loss the information available via the insurers or their agents may also be useful but the respective roles, responsibilities and limitations of the individual organisations involved in the investigation of a non-accidental fire must be clearly understood and respected.

6. The police service is responsible for the prevention and detection of crime and for reporting to the Coroner any death that results from a fire. The police are solely responsible for the direction and control of any criminal investigation into the cause of any non-accidental fire. In order to facilitate such investigation, access to the scene of the fire *post-extinction* should be at the discretion and direction of the police senior investigating officer.

7. At the scene of a fire, the senior fire brigade officer present has, under section 30(3) of the Fire Services Act 1947, sole charge of all operations for the extinction of the fire, and fire officers will often be at the fire scene before the police. It is important therefore that they recognise and record those phenomena which may indicate that the fire is not of accidental origin. These observations may contribute significant evidence to any subsequent investigation, so it is vital that the officer in charge ensures that full and accurate contemporaneous notes are taken and made available to the police.

Multi-agency partnerships and Information Sharing

8. The ethos of the Crime and Disorder Act embodies the multi-agency approach to tackling crime and disorder. It recognises that many of the deeply embedded problems that afflict communities are not ones that any single agency can address on its own. The Act places a requirement on community safety partnerships to develop and implement strategies to address crime and disorder in their area. It therefore provides an ideal opportunity for the police and fire services to develop local initiatives and programmes in relation to the investigation and prevention of non-accidental fires. The report of the Arson Scoping Study refers to a number of examples of local initiatives and programmes that are aimed at improving the present levels of detection and investigation techniques and other police forces and fire brigades may wish to adopt similar procedures.

Fire Investigation Training

9. Sound training in fire investigation methodology and techniques is crucial to the long-term prospects of reducing the number of fires regardless of cause. Both the police and the fire service provide general training in the techniques of fire investigation; the Forensic Science Service participates in this training and in courses run at the Fire Service College in which both police and fire officers participate.

10. The training emphasises that the primary task of the fire officer is to investigate the cause of the fire and to assist the police by providing them with information and evidence about the origin, growth and decay of the fire. Where a police investigation is being conducted, it is the responsibility of the police to collate all the information that comes to light, to collect and maintain the integrity of recovered evidence, to take appropriate measures in co-operation with the fire officer to preserve the scene of the fire and to decide in each case whether to arrange the attendance of forensic scientists.

11. There are no hard and fast rules but it should be clearly understood that it is unrealistic to proceed on the basis that training courses for fire or police officers can provide a level of qualified scientific expertise equal to that possessed by a forensic scientist. In particular, such training does not equip fire or police officers to give interpretative evidence in Court as "expert" witnesses and they should not seek to give, or be drawn into giving, such evidence unless they have relevant expertise. The giving of evidence by fire or police officers should normally be restricted to "factual" evidence, and they should adhere to this principle if asked for an opinion based on experience.

Publicity

12. The clear message to be put across is that the fire and police services work closely together, are highly professional investigators and are becoming increasingly successful in identifying non-accidental fires. These successes, coupled with improvements in scientific techniques, should lead to a corresponding increase in the detection and prosecution of arson.

Distribution

13. Copies of this Circular are being sent to Chief Fire Officers, Chief Officers of Police and also to the Forensic Science Service. The circular, and the report of the Arson Scoping Study 'Safer Communities: Towards Effective Arson Control', may also be viewed on the Fire Policy Unit (FPU) page at the Home Office internet site:- www.homeoffice.gov.uk/fepd/fpu.htm

Enquiries:

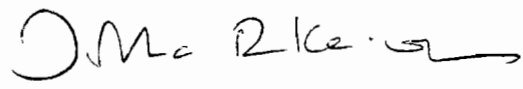
14. Enquiries about this circular may be directed to:

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Yours faithfully



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JONATHAN DUKE-EVANS

Copies sent for information to: - Local Government Association and the Forensic Science Service.

RECORDING 'MOST LIKELY CAUSE' AND 'DEFECT, ACT OR OMISSION' ON THE FIRE REPORT FORM (FDR1) IN CASES WHERE THE SUPPOSED CAUSE IS NOT ACCIDENTAL⁽¹⁾

The primary source of information on fires remains the Fire Report Form (FDR1), used to compile national fire statistics. Every FDR1 form requires (at section 5.1) that an indication is given as to the most likely cause and that additional details are given as to any defect, act or omission giving rise to ignition. It is essential that the information on the most likely causes of fire given on the form is that which is assessed on the evidence available to the fire brigade at the time. Where further investigation of the fire establishes a cause different from that entered earlier on the form (for example, "deliberate" rather than "accidental") Chief Officers are reminded that the change should be notified on an FDR2 form. Further information may be recorded in the appropriate space on the FDR1 form.

2. As indicated in the Arson Scoping Study report, fire brigades and police forces appear to find the particular vocabulary, terminology and recording practices surrounding malicious, deliberate and doubtful fires to be a problem and this part of the Circular gives further advice about the recording of these fires.

3. In completing the FDR1 form it is important to have regard to the provisions of the Criminal Procedures and Investigation Act 1996. Under this legislation, *all* information contained in the FDR1, together with *all* items referred to in the form (e.g. any contemporaneous notes taken by the fire service), may be presented in evidence or disclosed to the defence in any subsequent criminal proceedings. Care must be taken to ensure that only accurate and factual data is recorded on the FDR1. Where an opinion is requested, it should be provided only on the basis of the recorded facts.

4. The terms 'malicious' and 'doubtful' have been subject to differing interpretation, often leading to misunderstanding and occasionally attracting legal challenge. The Arson Scoping Study recommended that these terms should be avoided, but also acknowledged that a true measure of arson and deliberate fire setting encompassing all the various data sources (including secondary fires) is required. The Arson Control Forum is expected to address terminology as an early priority, and further guidance will be issued as it becomes available.

5. In the meantime, the Fire Statistics Section at the Home Office advises that brigades may avoid problems associated with the terms 'malicious' and 'doubtful', where they appear in Section 5.1a) of the FDR1, by recording these fires as 'deliberate'. This will not affect analysis of data as the three categories 'malicious/deliberate/doubtful' are currently grouped together for analytical purposes. Brigades are reminded that for analysis purposes, the small number of cases where 'not known' is indicated under 5.1a) are grouped together with fires of 'accidental' origin. Additionally, brigades are advised not to indicate a percentage likelihood of cause where a supposed cause is 'deliberate', and to base any information given under 5.1 c) solely on factual evidence.

(1) Accidental as defined by FDR1(94) Guidance Notes – for analysis purposes, this category includes a small number of cases where the cause is "not known"

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SUMMARY OF PROCEDURES TO BE FOLLOWED IN THE INVESTIGATION OF FIRES WHEN THE SUSPECTED CAUSE IS OTHER THAN ACCIDENTAL.

The purpose of this Appendix is to provide guidance on the appropriate response of the police and fire services when the cause of a fire is not thought to be accidental.

The fire service divides fire incidents into two categories for reporting purposes:-

'primary fires' – broadly those involving buildings and structures, and other property such as vehicles, storage, plant and machinery; fires involving casualties, rescues or escapes; fires where significant fire service resources are employed.

and

'secondary fires' – broadly those involving derelict buildings or vehicles; single buildings under demolition; fires confined to chimneys; other outdoor fires such as those involving grassland, gardens and fences, refuse and refuse containers.

The procedures set out below should be adopted when the fire officer in charge at the scene of a fire initially suspects that the cause of the fire may not be accidental.

PRIMARY FIRES

1. The fire officer in charge at the scene of the fire will ensure that the scene is preserved and undisturbed as far as possible and will immediately report, or have reported, any suspicions to Fire Brigade Control who will in turn immediately inform the Police;
2. Fire Brigade Control, on receiving such a report, will dispatch to the scene an officer of Station Officer rank or above and, if the circumstances of the fire warrant it, alert a brigade specialist fire investigator;
3. The Police, upon receiving such a report will attend the fire scene to liaise with the senior fire officer present. If the cause of the fire is suspected by either party to be of non-accidental origin, or where crime is alleged by any person the fire will be recorded by the police as a crime in accordance with Home Office counting rules;
4. Where crime is suspected at a fire scene the first police officer attending will assume initial responsibility for the investigation and, where appropriate, will call for the assistance of police scientific support staff;
5. The police will arrange for a police supervisor to attend any fire resulting in death or serious injury, whether or not the fire is suspected to be accidental. The attendance of a police supervisor should also be considered if, after initial investigation, it is suspected that the origin of the fire is not accidental *and* the property loss is expected to be of high value;
6. The police will be responsible for the conduct of any investigation into suspected

crime in relation to the fire, or where death or serious injury occurs. Any such investigation should be conducted in liaison with the senior fire officer and, where applicable, the brigade specialist fire investigation officer, as well as in liaison with forensic scientists where appropriate. The investigating officer may also wish to consider enlisting the co-operation of any insurer of the affected property, or their representative, who may be able to provide information valuable to the investigation;

7. The senior fire officer and the police investigating officer will be aware of the potential contribution which forensic scientists can make to a fire investigation. However, it is the responsibility of the police investigating officer, in consultation with scientific support staff, to determine whether a forensic scientist should be requested to attend the scene;
8. The vital importance of scene preservation and the collection of evidence for subsequent scientific/technical investigation by a forensic scientist cannot be over-emphasised. It is the responsibility of the senior fire brigade officer, insofar as it is practicable, to recognise and make a contemporaneous record of any suspicious phenomena at the scene up to the point where the fire is extinguished. Thereafter, the scene should be preserved by the fire brigade until the arrival of the police. It is the responsibility of the police investigating officer, in consultation with the Scene of Crime Officer and having taken into consideration any advice offered by the senior fire officer, to take appropriate measures to preserve such evidence as may be needed for investigation by forensic scientists. It is essential that no evidential material is removed if the fire scene is to be examined by forensic scientists. When a fire scene is not attended by a forensic scientist, it is the responsibility of the Scene of Crime Officer to collect and package any materials requiring forensic examination;
9. Where death or serious injury has been caused and is being investigated by the police it will be usual for a senior investigating officer (SIO) to be appointed. Such investigations are conducted under the auspices of guidance issued by the Association of Chief Police Officers. In circumstances such as these a senior brigade fire investigator should be an integral part of the investigative team. Where this does not occur, for any reason, the SIO should record the reasons and decisions made in the policy log for that investigation. All fire brigade staff assisting in such investigations must recognise that the police have the responsibility for the investigation, and understand the issues of confidentiality that accompany such investigations;
10. The fullest possible liaison between the police and fire services is desirable in the course of any fire investigation; it should include:-
 - (a) the passing to the fire service of any relevant information for recording purposes and any appropriate action;
 - (b) the opportunity for a senior fire officer to participate in briefings and conferences held by the SIO with the investigation team and other invited experts, especially in the case of a major investigation;

- (c) a full and free exchange of information between the police, fire and forensic scientists; and
- (d) close co-operation in the management of information and handling of media interest.

SECONDARY FIRES

1. In many cases, although deliberate ignition may be suspected, the nature of these incidents will not warrant the attendance of the police or a senior fire officer. However, such incidents often form part of a wider pattern of criminal or anti-social activity, and can have a devastating effect on the immediate neighbourhood.
2. It is important that the police and fire services have standing arrangements to locally share information about these incidents, that emerging trends and patterns are identified and, where appropriate, positive steps are taken to reduce the number of such incidents. In the absence of such standing arrangements the procedures set out for primary fires should be followed.
3. It may be appropriate for such standing arrangements to be extended, by agreement between the relevant police and fire services, to include specified types of Primary Fires.



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