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This circular is	<b>For guidance</b>	No response required	
This circular is	<b>Relevant to the National Framework</b>		
Status	<b>This circular clarifies earlier advice on procedural requirements to be observed in the investigation of fires where the supposed cause is not accidental.</b>		

# *The Investigation of Fires where the Supposed Cause is not Accidental*

## Issued by:

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## 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**  
**The Clerk to the Combined Fire and Rescue Authority**  
**The Commissioner of the London Fire and Emergency Planning Authority**  
**The Chief Fire Officer**

## Please forward to:

**The Clerk to the Police Authority**  
**The Chief Officer of Police**

## Summary

This Circular gives guidance on the procedures to be followed in the investigation of fires where the supposed cause is not accidental. Appendix 1 gives additional information concerning the recording of the 'most likely cause' and 'defect, act or omission' on the Fire Data Report (FDR1).

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### 1.0 Introduction

1.1 Fire Service Circular No 21/2000 dated 21 December 2000, which was also distributed to Chief Officers of Police as Home Office Circular No 44/2000, clarified earlier advice on the procedural arrangements for 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 Circular, which replaces that of 2000, is to give further advice in the light of research conducted by the Arson Control Forum. Appendix 1 to this Circular gives additional information concerning the recording of the 'most likely cause' and 'defect, act or omission' on the Fire Data Report (FDR1) which is completed for primary fires. Appendix 2 gives revised guidance on the procedures to be followed in the investigation of fires where the supposed cause is not accidental. Appendix 3 sets out a suggested step-by-step approach to such investigations.

#### *The problem of non-accidental fires*

1.2 In 2004/05, the fire and rescue service in England and Wales recorded 77,700 deliberate primary fires. A further 256,000 secondary fires were also thought to have been started deliberately. Taken overall, deliberate fires currently represent about 70% of the total number of fires attended by the fire and rescue service.

1.3 However, the police record far fewer offences - in 2004/05 they recorded 48,000 arson offences of which only a small proportion were recorded as "arson endangering life". Police recorded arsons represent 61% of the deliberate primary fires attended by the fire and rescue service but only 1% of total recorded crime. In 2004/05 only 9% (4,200) of the police recorded arsons were cleared up (e.g. persons charged, summonsed or cautioned or the offence taken into consideration with other offences). This compares with the average clear up rate for other offences of about 20%. In 2003, 721 defendants were sentenced for arson offences in the Crown Court, of which 416 received custodial sentences; and 747 were sentenced in Magistrates' Court, of whom 79 received custodial sentences.

1.4 Deliberate fires are estimated to have cost the economy about £2.8 billion in 2003<sup>1</sup>. This is an increase of 32% since 2000, proportionally a larger increase than in the total cost of fire over this period. Both anecdotal and statistical evidence suggests that the fire damage is more significant in deliberate fires and the evidence is that fire spread in deliberate fires is twice as extensive as in accidental ones.

### 2. Roles and responsibilities of the police and fire and rescue service

2.1 The successful investigation of a suspicious fire including the prosecution of any suspected offenders requires close co-operation and mutual assistance between the police and the fire and rescue 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 suspicious fire must be clearly understood and respected.

2.2 The fire and rescue service has a key role to perform at the scene of a fire because fire officers will often be at the fire ground before the police. It is important therefore that they recognise and record those phenomena which may indicate that the fire is not accidental in origin. These observations may contribute significant evidence to any

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<sup>1</sup> The economic cost of fire: estimates for 2003: ODPM March 2005

subsequent investigation, so it is vital that the senior fire officer present ensures that full and accurate contemporaneous notes are taken and made available to the police.

- 2.3** The Fire and Rescue Services Act (2004) provides formal powers for fire and rescue services to investigate the causes of fires and the reasons for fire spread. These powers, which are balanced by safeguards for the public, may be used in cases where permission for fire investigation cannot be obtained from, or are withheld by, the person responsible for the premises in question. However, special considerations apply in the case of suspicious fires that are the subject of a police investigation.
- 2.4** 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 Act (1964) charges the senior police officer with primary responsibility for the direction and control of any criminal investigation into the cause of any suspicious fire. In order to facilitate such investigation, access to the scene of a suspicious fire post-extinction should be at the discretion and direction of the senior police investigating officer.
- 2.5** It is good practice to draw up a “Memorandum of Understanding” (MoU) between the fire and rescue service and their relevant police force. The MoU should cover the respective roles and responsibilities of the police and the fire and rescue service to work as partners to make communities safer from the threat of fire. Also, the problem of deliberate firesetting can only be addressed by working together with other organisations within the Criminal Justice System, local authorities and Crime and Disorder Partnerships, the insurance industry, commercial bodies and research organisations.

### **3. Multi-agency partnerships and information sharing**

- 3.1** The Crime and Disorder Act (1998), as amended, places a requirement on crime and disorder reduction partnerships to develop and implement strategies to address crime and disorder in their area. This therefore provides an ideal opportunity for the police and the fire and rescue service to develop local initiatives and programmes in relation to the investigation and prevention of non-accidental fires.
- 3.2** Few agencies are able to deploy adequate resources at all times to ensure effective fire investigation. In the case of suspicious fires the lead authority will ultimately be the police but a degree of flexibility should be built into any working protocols to allow other agencies to contribute effectively at various stages of the investigation process under the overall direction of the police. The Arson Control Forum has developed a suggested step-by-step approach to such investigations and police forces and fire and rescue services may wish to adopt it as good practice. A copy of the guide is attached at Appendix 2. These are supported by new National Occupational Standards for fire investigation for the fire and rescue service, the police and the Forensic Science Service which were accredited for use in April 2005. Copies of the National Occupational Standards can be found on the Employers’ Organisation Website – [www.lg-employers.gov.uk](http://www.lg-employers.gov.uk)
- 3.3** The Fire and Rescue National Framework recommends that using the model protocol and the supporting National Occupational Standards, Fire and Rescue Authorities should, through Regional Management Boards, ensure appropriately trained specialist fire investigation capacity is pooled to provide an effective and efficient regional capability.

### 4. Fire investigation training

- 4.1 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 and rescue 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. It should be noted however that there are a number of credible private organisations that provide similar courses that encompass the core components of the National Occupational Standards.
- 4.2 The training emphasises that the primary task of the fire and rescue service 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 and rescue service to preserve the scene of the fire and to decide in each case whether to arrange the attendance of forensic scientists.
- 4.3 It is a matter for the Courts to determine whether fire or police officers should be regarded as “expert witnesses” but it is clearly unrealistic to proceed on the basis that the routine training courses in fire investigation for fire or police officers can provide a level of qualified scientific expertise equal to that possessed by a forensic scientist.
- 4.4 Normally the giving of evidence by fire or police officers should be restricted to factual evidence but on occasion, each may be required by the Courts to provide an opinion within their own area of expertise. For example, a fire officer may not have the qualifications to give evidence regarding the laboratory examination of a piece of physical evidence, but could provide qualified opinions regarding the behaviour of structures in fires or adequate “means of escape” based on experience. In such cases they should make it clear to the Courts that this is what they are doing.

### 5. Publicity

- 5.1 If the fire is being investigated jointly by the police and the fire and rescue service, the police should generally lead on media strategy and all press releases should be referred to the senior police officer in charge of the investigation.
- 5.2 The message to be put across is that the police and the fire and rescue services work closely together, are highly professional investigators and are becoming increasingly successful in investigating suspicious fires. For example, the primary motivation for arson in many stolen vehicles hitherto has been the destruction of forensic evidence. It is already technically possible to recover DNA from burnt-out vehicles and the Forensic Science Service is working to make this technology more widely understood and available. These successes, coupled with improvements in scientific techniques, should lead to a corresponding increase in the detection and prosecution of arsonists.

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### Appendix 1

#### RECORDING 'MOST LIKELY CAUSE' AND 'DEFECT, ACT OR OMISSION' ON THE FIRE REPORT FORM (FDR1) IN CASES WHERE THE SUPPOSED CAUSE IS NOT ACCIDENTAL<sup>2</sup>

The official source of information on primary 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 the 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 best evidence available to the fire and rescue service at the time of completing the form. Where further investigation of the fire establishes a cause different from that entered earlier on the form (for example, "deliberate" rather than "accidental") Chief Fire 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. It should be noted that new arrangements for the electronic reporting of fires and other incidents attended by fire and rescue services will be introduced in 2006/07. One of the benefits of this change will be that the new system will capture more detailed information on the type and location of deliberate secondary fires, enabling trends and patterns to be identified and intervention strategies to be developed.

2. Fire and rescue services and police forces appear to find the particular vocabulary, terminology and recording practices surrounding malicious, deliberate and doubtful fires to be a problem. An important change to the reporting system will be that the options 'malicious' and 'doubtful' have been removed from section 5.1(a) of the FDR1 and paragraph 4 below gives further advice about the recording of these fires

3. In completing the FDR1 form and the successor electronic system 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 and rescue 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 are recorded on the FDR1 and the new electronic return. 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. These terms should be avoided. Fire and rescue services may avoid the problems associated with these terms by recording such fires as 'deliberate'. This will not affect comparative analysis of data as the three categories 'malicious/ deliberate/ doubtful' are currently grouped together for analytical purposes. Fire and rescue services are additionally advised not to indicate a percentage likelihood of cause where a supposed cause is 'deliberate', and to base any information given under section 5.1(c) solely on factual evidence.

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<sup>2</sup> 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"

### Appendix 2

#### SUMMARY OF PROCEDURES TO BE FOLLOWED IN THE INVESTIGATION OF FIRES WHEN THE SUPPOSED CAUSE IS NOT ACCIDENTAL.

The purpose of this Appendix is to provide guidance on the appropriate response of the police and fire and rescue services when the cause of a fire is thought to be non-accidental.

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

- (a) **'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 and rescue service resources are employed; and
- (b) **'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 investigative framework proposed has distinct and intertwining levels from crew manager investigator to specialist investigator at major and unusual fire scenes:

- Level One: Basic fire and arson investigations.
- Level Two: Intermediate fire and explosion (non-terrorist) investigations
- Level Three: Advanced fire and explosion (non-terrorist) investigations.

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 Control who will in turn immediately inform the Police.
2. Fire Control, on receiving such a report, will dispatch to the scene an officer of appropriate role (unless such a person is already in attendance at the incident) and, if the circumstances of the fire warrant it, alert a fire and rescue service specialist fire investigator.
3. The Police, upon receiving such a report will attend the fire scene to liaise with the fire and rescue service incident commander 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 a 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 Criminal Investigation Department staff and/or 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 any 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 fire and rescue service 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 fire and rescue service incident commander 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. It is the responsibility of the fire and rescue service incident commander, 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 and rescue service until the arrival of the police. It is the responsibility of the police investigating officer, in consultation with the Scenes of Crime Officer, having taken into consideration any advice offered by the fire and rescue service incident commander, to take appropriate measures to preserve such evidence as may be needed for investigation by forensic scientists. Where feasible the police should provide a cordon and corridor of entry to the fire scene to ensure access is controlled and no cross-contamination occurs, and set up a Crime Scene Log. Once a police cordon is established fire and rescue service personnel must comply with it and seek specific guidance from the police.
9. Each suspicious fire scene should receive an initial assessment by the fire and rescue service incident commander and police officer in attendance. If deemed necessary (and in all cases of fatality or serious injury) a Senior Investigating Officer should be appointed and consideration given to the formation of a Forensic Management Team, to cover all aspects of evidence recovery. Such investigations should be conducted under the auspices of the guidance issued by the Association of Chief Police Officers. In circumstances such as these, a senior fire and rescue service fire investigator should be an integral part of the investigative team. Where this does not occur, for any reason, the Senior Investigating Officer should record the reasons and decisions made in the Crime Scene Log for that investigation. All fire and rescue service staff assisting in such investigations must recognise that the police have the prime responsibility for the investigation, and understand the issues of confidentiality that accompany such investigations.
10. The vital importance of scene preservation and the collection of evidence for subsequent scientific/technical investigation by a forensic scientist cannot be overemphasised. It is essential that no evidential material is removed if the fire scene is to be examined by forensic scientists. The Senior Investigating Officer in consultation with the Scenes of Crime Officer or Crime Scene Examiner may, where it is considered necessary, request the attendance of a forensic scientist. When a fire scene is not attended by a forensic scientist, it is the responsibility of the Scenes of Crime Officer to collect and package any materials requiring forensic examination. The Senior Investigating Officer may also wish to determine, in collaboration with the fire and rescue service incident commander and/or specialist fire investigation officer whether the attendance of the Fire and Rescue Service Hydrocarbon Detector Dog Team is required, if one is available.
11. The fullest possible liaison between the police and fire and rescue services is essential in the course of any fire investigation; it should include:-

- the passing to the fire and rescue service of any relevant information for recording purposes and any appropriate action;
- the opportunity for the fire and rescue service incident commander to participate in briefings and conferences held by the Senior Investigating Officer with the investigation team and other invited experts, especially in the case of a major investigation; a full and free exchange of information between the police, fire and forensic scientists; and
- 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 and rescue services have standing arrangements to share information locally about these incidents, that emerging trends and patterns are identified and, where appropriate, positive steps are taken to reduce the number of such incidents. Such information will be of great value to local Crime and Disorder Partnerships both in drawing up their surveys of crime and disorder in their areas and their strategies to address the problems identified. 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 and rescue services, to include specified types of Primary Fires such as deliberate vehicles fires where for example, patterns may emerge as to where vehicles were stolen and where they were disposed of.

Appendix 3

