

**PE1767/A**

Petitioner submission of 9 January 2020

In light of the content of the SPICe briefing paper, I wish to submit the following information for the consideration of the PPC.

I am aware that the Scottish Fire and Rescue Service continue to rescue persons from fires even though they still appear not to have a statutory duty to do so. I also believe that if the architects of the 2005 Scottish fire and rescue legislation considered it to be both necessary and appropriate to allocate the SFRS a statutory duty to rescue persons from road traffic accidents, landslides, the collapse of a building, tunnel or other structure, serious flooding or a serious transport incident, as they have done, it is surely equally necessary and appropriate to allocate a statutory duty to rescue persons from fires in order to ensure compliance with Article 2 of the European Convention on Human Rights and to facilitate legal accountability.

On page 2 of the SPICe briefing paper referred to in the first paragraph of this submission, the researcher opines ***“The SFRS’s principal function to protect life and property in the event of fires would include the rescue of individuals from fires, but only on the basis that to effect such a rescue would not endanger the lives of others or firefighters themselves.”***

This interpretation is not encapsulated within the Fire (Scotland) Act 2005 and its derivation is not detailed within the briefing paper itself. More importantly, it directly contradicts long established and documented operational practice and does not reflect fire and rescue service doctrine and philosophy. Nor, by my understanding, does it comply with Scottish Government human rights legislation.

It also appears reasonable for me to conclude that if the Scottish Government applies the above identified limiting criteria to rescues from fires, it will be equally valid for them to say to the SFRS that firefighters can only rescue victims from road traffic accidents, landslides, the collapse of a building, tunnel or other structure, serious flooding or a serious transport incident if the rescues can be accomplished without endangering the lives of firefighters or others. To apply these constraints to an organisation whose primary raison d’être is to save life, more often than not within a high risk environment, is totally unrealistic and must be challenged.

The Public Petitions Committee should be made aware of the Fire and Rescue Manual, Volume 2, Operations (3<sup>rd</sup> Edition, 2008), Chapter 4 on Page 65 detailing the Fire and Rescue Service Operational Risk Philosophy which states ***“The following statements embrace the philosophy of the service’s approach to managing risk at an incident. In a highly calculated way, firefighters; Will take some risks to save saveable lives; May take some risks to save saveable property; and Will not take any risk at all to try to save life or property that is already lost.”***

Any experienced firefighter would be able to confirm to the committee that it is practically impossible to carry out the successful rescue of victims from a fire without exposing firefighters to some degree of risk. As the 1998 Scottish Office publication Dynamic Management of Risk at Operational Incidents reminds us “An operational

incident can be an inherently dangerous workplace and may be impossible to make safe... Firefighters acknowledge that their work will occasionally put them in hazardous situations and they are willing to accept some risk to their personal safety in order to protect communities.”

Given the above factors, it is my opinion that were the Scottish Fire and Rescue Service to be given a directive that they can only rescue persons from fires or other life threatening emergencies on the basis that to effect such a rescue would not endanger the lives of firefighters or others, the Secretary/Minister/Official authorising such a directive would be acting ultra vires since Scottish Ministers have no power to act in a way that breaches Article 2 of the European Convention on Human Rights, which protects the right to life in law and which is an absolute right. It is also my belief that if the SFRS were to adopt such an operational policy as described in the briefing paper, the service might well be acting unlawfully under Regulation 6 of the Human Rights Act 1998.

The 2019 edition of the European Court of Human Rights Guidance on Article 2 of the European Convention on Human Rights makes clear in 1.A.1 and 2 on Page 6/50 that the operational procedures adopted by the Scottish Fire and Rescue Service for the protection of human beings must be both practical and effective, and goes on to state that there can be no derogation and that the provisions of Article 2 must be strictly construed.

Scottish Fire and Rescue Service statistics show that over a three year period between 2013 and 2016, they rescued some 2054 persons from fires. If the SFRS were forced to operate to the criteria detailed in the SPICe briefing paper, the vast majority of these rescues would not have taken place.

Speaking to the press following a serious fire in Glasgow in November 2019, the First Minister, Nicola Sturgeon, said “The immense courage and professionalism of firefighters undoubtedly prevented loss of life and serious injury in this incident – and I know the entire community of Pollokshields is extremely grateful to the firefighters who so selflessly went to the aid of those in need.”