

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

Item No 8

MEETING: 19 JUNE 2017

**SUBJECT: REQUEST BY THE POLICE AND CRIME COMMISSIONER TO
BECOME A MEMBER OF THE AUTHORITY AND CONSTITUTIONAL
AND OTHER MATTERS ARISING FROM THE REQUEST**

**JOINT REPORT OF THE CHIEF FIRE OFFICER/CHIEF EXECUTIVE (THE CLERK TO
THE AUTHORITY) AND THE DEPUTY CLERK TO THE AUTHORITY**

1 INTRODUCTION

- 1.1 This report requests Members to consider the Police and Crime Commissioner's (PCC's) request, under section 26(6) of the Local Government Act 1985 (as amended by section 7 of the Policing and Crime Act 2017), to become a member of the Tyne and Wear Fire and Rescue Authority ("the Authority").
- 1.2 The report also sets out the changes to the Authority's constitutional provisions that will have to be considered should the Authority agree to the PCC's request.

2 BACKGROUND

- 2.1 The Policing and Crime Bill received Royal Assent in January 2017 and became the Policing and Crime Act 2017 (PCA 2017). The PCA 2017 aims to enhance the democratic accountability of fire and rescue services, and police forces, and to improve the efficiency and effectiveness of emergency services through closer collaboration.
- 2.2 In March 2017 the Authority considered implications of the PCA 2017 and the PCC's request for a seat on the Authority. A copy of her letter is attached at Appendix A. Minute 78 shows the Authority resolved that:-
 - (i) The contents of the report be noted;
 - (ii) The request from the PCC be noted and observer status on a temporary basis be offered;
 - (iii) A review of the governance arrangements be undertaken in light of the review; and
 - (iv) Further reports be received as appropriate.

This report is in response to action (iii)

- 2.3 Parts of the PCA 2017 that are relevant to fire and rescue authorities subsequently became operable from 3 April 2017. These include the new duty placed upon blue light emergency services to collaborate and also the option for PCCs to seek greater involvement in the governance of fire and rescue authorities, which is the subject of this report.

3 CONSIDERATION OF REQUESTS BY PCCs TO SEEK GREATER INVOLVEMENT IN THE GOVERNANCE OF FIRE AND RESCUE AUTHORITIES

- 3.1 Sections 6 and 7 of the PCA 2017 make amendments to the Fire and Rescue Services Act 2004 (FRSA 2004), the Local Government Act 1985 (LGA 1985) and other relevant legislation to make provision for PCCs to become involved in fire and rescue authorities.
- 3.2 Section 6 of the PCA 2017 amends the FRSA 2004 to enable PCCs to become the Fire and Rescue Authority for their area, where a local case is made. The section also enables the adoption of a single employer model for police and fire. The PCC for Northumbria has given no indication she wishes to pursue this option and it is not considered further in this report.
- 3.3 As an alternative to the section 6 option, section 7 amends relevant local government legislation to provide for the involvement of PCCs in fire and rescue authorities by them becoming members of existing fire and rescue authorities, with voting rights, where the authorities agree.
- 3.4 Subsections (5) to (7) of Section 7 of the PCA 2017 amend the LGA 1985 to allow a 'relevant' PCC to be appointed as a member of a metropolitan county fire and rescue authority. The Act says that a 'relevant' PCC is one:
- a) whose area is the same as, or contains all, the area of the authority;
 - or
 - b) all or part of whose area falls within the area of the authority.
- 3.5 Such an appointment can only be made in response to a request by the relevant PCC. If such a request is made, the Authority must:
- a) Consider the request,
 - b) Give reasons for their decision to agree to or refuse the request, and
 - c) Publish those reasons in such manner as they think appropriate.

- 3.6 The PCC for Northumbria falls within the definition of a 'relevant' PCC in respect of this Authority and can, therefore make a request of this nature under the provisions of section 26(6) of the LGA 1985 (as amended). On 9 February 2017, the PCC for Northumbria made such a request under Section 7 of the PCA2017. Following the coming into force of the legislation, the PCC has confirmed that she wishes the request to be considered. This paper considers this request and its implications for the governance of the Authority.
- 3.7 Taking into consideration the benefits of closer collaborative working already achieved, and the clear intention for further collaboration set out in the PCA 2017, it is recommended that Members look favourably on the PCC's request. Whatever Members decide, this must be published along with reasons. It is suggested that an appropriate way to publish those reasons would be by way of publication on the Tyne and Wear Fire and Rescue Service website for a period of at least 28 days.
- 3.8 The required changes to the Authority's governance arrangements that arise from a decision to agree to the request are set out below.

4 Membership of the Authority

- 4.1 The Authority was established as a metropolitan county fire and rescue authority under section 26 of the LGA 1985. Authority membership is drawn from Councillors of the constituent councils in the Authority's area.
- 4.2 The Authority may establish committees and sub-committees to provide governance functions and committees/sub-committees can include persons who are not members of the Authority. Decisions must be made by the majority of members of the Authority voting, with the person presiding having the casting vote if necessary.
- 4.3 Should the Authority agree to the PCC's request, the PCC will become a full member of the Authority, with the same rights and responsibilities as other metropolitan county fire and rescue authority members.
- 4.4 Although the PCA 2017 is slightly unclear on the point, advice from the Home Office identifies that it is the office of PCC that becomes a member of the Authority, not the individual holding that office from time to time. Thus, a change in the holder of the post of PCC would mean a change in the identity of a member of the Authority.

5 POLITICAL BALANCE

- 5.1 The Local Government and Housing Act 1989 requires that, where three or more members are appointed to the Authority by a constituent council, the balance of political parties in those appointments must reflect that of the constituent council.
- 5.2 The Authority's Standing Orders further state that "seats on each committee or sub-committee shall be allocated to each political group represented on the Authority in accordance with the Local Government (Committee and Political Groups) Regulations 1990.
- 5.3 To ensure an appropriate political balance is maintained on its committees and sub-committees in the event of the PCC becoming a member of the Authority, the Authority will need to review the composition of its committees and subcommittees in the light of whether or not the PCC formally becomes a member of any political group for the purposes of membership of the Authority.

6 AUTHORITY STANDING ORDERS

- 6.1 As a member of the Authority, the PCC may be appointed to any Committee or Sub-Committee.
- 6.2 In addition, amendments to Standing Orders would need to be considered in due course.

7 Authority Members' Codes of Conduct

- 7.1 The Members' Code of Conduct sets out what is expected of 'elected and co-opted members' of the Authority. If the PCC's request is agreed:
 - a) The PCC will be required to comply with the Members' Code of Conduct.
 - b) The definition of a 'member' or 'elected councillor' for the purposes of the Code of Conduct should be updated to include the PCC, and

- c) The Authority's procedures for Dealing with Complaints against Members will be required to include provision for any allegation against the PCC to be referred to the police and crime panel for the Commissioner's police area and for the Authority to take any report or recommendation made by the panel into account in determining whether the PCC has failed to comply with the Code of Conduct, whether to take action in relation to the PCC and, if so, what action to take.

8 TERMINATING PCC MEMBERSHIP OF FIRE AUTHORITY

- 8.1 Standing Orders provide for a person appointed as a member of the Authority to resign by a notice of resignation in writing delivered to the Clerk.
- 8.2 The PCA 2017 provides that if the PCC becomes Chair or Vice-Chair, resignation would be on a date agreed between the PCC and the Authority.

9 RISK MANAGEMENT

- 9.1 Risk associated with the PCC becoming a member of the Authority are mitigated if the Authority makes the recommended changes to its constitution as set out in this report.

10 FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications in respect of this report if the PCC agrees to forego any claim to a Member's allowance. If the PCC wishes to claim the allowance, the costs would equate to the allowance for one extra member.

11 EQUALITY AND FAIRNESS IMPLICATIONS

- 11.1 There are no equality and fairness implications in respect of this report.

12 HEALTH AND SAFETY IMPLICATIONS

- 12.1 There are no health and safety implications in respect of this report.

13 RECOMMENDATIONS

The Authority is recommended to:

- a) Consider the PCC's request to become a member of the Authority
- b) Specify the reasons for agreeing or refusing the PCCs request and the manner in which these are to be published.

And in the event that the PCC's request is agreed:

- c) Review the political balance of its Committees and Sub-Committees if appropriate;
- d) Consider the amendments to the Authority's Constitution referred to in the report and authorise the Clerk to the Authority, in consultation with the Chair and the Vice Chair of the Authority, to make all necessary and consequential amendments to the Standing Orders of the Authority, the Members' Code of Conduct and the procedures for Dealing with Complaints against Members;
- e) Receive further reports as appropriate.

BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report:

- **The Policing and Crime Act 2017 - 20 March 2017**
- **Members training – May 2017**

Appendix A – Letter from Dame Vera Baird

On 9 Feb 2017, at 16:00, sent by Scott Duffy OPCC

Letter to Cllr Tom Wright from Dame Vera Baird QC

Dear Tom,

I hope you are well.

I am writing to you following the new Crime and Policing Act 2017, which amends the Local Government Act 1972 to enable Police and Crime Commissioners to be appointed to a fire authority or a relevant council committee.

To date, we have worked together well which has benefitted both Northumbria Police and the Fire Service. The government has now legislated for PCCs to submit a proposal to the Secretary of State for an order making the PCC a fire and rescue authority. As you know, I prefer the collaboration model and would ask the fire authority consider the new legislation. The Home Office have made clear that the intention is that Police & Crime Commissioners should be accepted as members of the fire authority in their area. My legal advice is that I am obliged to make such an application to the fire authority, and that you will need to respond formally, and make public your decision, which I hope will be positive. The legislation clearly sets out the process –

The Commissioner must make a request to the relevant fire authority/local authority to be appointed;

The appointing authority/local authority must –

- a. consider the request,
- b. give reasons for its decision to grant/refuse the request, and,
- c. publish those reasons.

For me, we are working exceptionally well together on the strategic board and I do think that a report of the joint work we are achieving should be sent to the Police and Fire minister, Brandon Lewis MP. By fulfilling the spirit of the legislation we are showing the communities of Tyne & Wear that we are serious about working together, collaborating on initiatives to bring savings to both organisations and of course to secure the continued excellent service that both Northumbria Police and Tyne and Wear Fire Authority provide to our communities.

Thank you for considering this request.

Best wishes

Vera

Dame Vera Baird QC
Police & Crime Commissioner for Northumbria

