

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

Item No 10

MEETING: 20 March 2017

SUBJECT: POLICING AND CRIME ACT 2017

**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 aims to update members on the changes introduced as a result of the new Policing and Crime Act 2017 and its implications for this Authority.
- 1.2 It also informs members of a request made under the Policing and Crime Act 2017, by the Police and Crime Commissioner, for a seat on the Fire Authority.

2 BACKGROUND

- 2.1 The Policing and Crime Act 2017 ("the Act") received Royal Assent on 31 January 2017. The Act 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 It also enacts a number of specific provisions on policing that do not impact on fire and rescue services policy or operations.
- 2.3 The majority of the Act's provisions will be brought into force by regulations that are to be made in due course by the Secretary of State. There is currently no formal timetable for implementation, although it is possible that key provisions affecting fire and rescue authorities could commence by 3 April 2017.
- 2.4 Officers have monitored the legislation closely as it has progressed through Parliament. The Act's provisions that impact on fire and rescue services, generally, and TWFRA's position on these, are set out below.

3 DUTY TO COLLABORATE

- 3.1 There is a new duty on police, fire and rescue, and English emergency ambulance services to collaborate by way of a formal collaboration agreement where it is in the interests of their efficiency or effectiveness;

- 3.2 Following amendments to the provisions in the original Bill, local partners have the flexibility to vary a collaboration agreement where they all agree or alternatively replace it with a new collaboration agreement. Each collaboration agreement entered into must also make provision for a party to withdraw from the agreement where, in the view of that party, the agreement is no longer in the interests of its efficiency or effectiveness.
- 3.3 The Minister of State for Policing and the Fire Service has recently announced that this new duty will come into force in April 2017.
- 3.4 TWFRA already have strong collaborative arrangements in place with our partners and we will look to refine our processes, in line with the Act.

4 GOVERNANCE

- 4.1 In addition to the above, the Act makes provision for Police and Crime Commissioners (PCCs) for an area, to be the fire and rescue authority for that area, where a local case is made.
- 4.2 The functions of a fire and rescue authority are those set out in the Fire and Rescue Services Act 2004 and are principally to make provision for the purposes of promoting fire safety in its area, extinguishing fires in its area and protecting life and property in the event of fires and making provision for the purpose of rescuing people in the event of road traffic accidents and protecting people from serious harm in the event of road traffic accidents. This includes securing the provision of all personnel, services, equipment and training necessary to efficiently meet all normal requirements and making arrangements for dealing with emergency call outs. Fire and Rescue Authorities are also major precepting authorities for the purposes of the Local Government Finance Act 1992.
- 4.3 PCCs who take on the responsibilities of a Fire and Rescue Authority and mayors of combined authorities who exercise both police and fire functions, can delegate fire and rescue functions to a single chief officer for police and fire, where a local case is made;
- 4.4 A number of changes were made to the Bill as it progressed through Parliament. The amendments mean that before submitting proposals for a transfer of governance, PCCs will now have to consult both local residents and any employees who would be affected by the transfer as well as the relevant local authorities.

- 4.5 Additionally, PCCs seeking a transfer of governance will have to publish their response to the representations made or views expressed in response to the consultations. In cases where the proposals are not supported by the relevant local authority, the Secretary of State is required to obtain an independent assessment of the proposals. The transparency around the independent assessment of the PCC's business case has also been strengthened as the Secretary of State will now have to publish the independent assessment as soon as reasonably practicable after making a decision on the business case.
- 4.6 The grounds on which a transfer of governance can occur have been amended so that a transfer cannot take place if it would adversely affect public safety.
- 4.7 Amendments also provide for greater flexibility in the arrangements between the chief constable and the fire and rescue service when a PCC takes on governance of the fire and rescue service, and also around producing a joint fire and police and crime plan.
- 4.8 Where a PCC has not become responsible for fire and rescue, the PCC can be represented on their local Fire and Rescue Authority with voting rights, where the Authority agrees. The Act amends section 26 of the Local Government Act 1985 to provide that a metropolitan county fire and rescue authority may appoint a relevant PCC to be a member of the authority. Such appointment can only be made in response to a request by the PCC, which the authority is required to consider. Reasons for the authority's decision to either agree or refuse the request must be given and also published in such manner as the authority thinks appropriate.
- 4.9 Nine PCCs have expressed an interest in taking on governance of the fire and rescue service in their areas and are actively developing proposals, though not all these have support from their Fire and Rescue Authority. As indicated in paragraph 4.4 above, where a local authority objects to the transfer of governance to the PCC, there will have to be an independent assessment of the PCC's business case.
- 4.10 Dame Vera Baird, Northumbria PCC has made a request to be appointed to the Fire Authority. A copy of her letter is attached at Appendix A. It is understood a similar letter was sent to the Fire lead Member at Northumberland County Council regarding Northumberland Fire and Rescue service. It is anticipated that a commencement order will shortly be made to bring the relevant provision of the Act into force, at which time the Authority must consider the request. The Authority may decide to either agree or refuse the request, but, as indicated

above, reasons must be given for whichever decision is made and these reasons must be published in such manner as the authority thinks appropriate.

- 4.11 The standing orders of the Authority currently provide for members to be appointed from the five constituent Tyne and Wear local authorities only. In the event that the request of the PCC is agreed, consequential amendments to standing orders will be required to reflect the change in membership and members may, in that eventuality, wish to delegate to the Clerk to the Authority the power to make such consequential amendments as are then necessary.
- 4.12 No recent definitive analysis exists of the current intent for each PCC. However, some analysis was undertaken in June 2016, by Comparing Police and Crime Commissioners Limited (CoPaCC). They surveyed 40 PCCs, to consider the appetite that existed for PCCs to take over the governance of fire. This analysis is set out in appendix B, whilst this is dated; there is some correlation with our own analysis.
- 4.13 Officers recently analysed PCC and FRA web sites for each locality to identify where any declarations of intent in relation to governance have been made. Some PCCs, such as Northumbria, have not made public their current thoughts. However, where PCCs' indicated a position this is captured in Annex C attached to this report.

5 INSPECTION

- 5.1 The Act introduces an independent inspection regime for fire and rescue in England, to inspect and report on the efficiency and effectiveness of English fire and rescue authorities.
- 5.2 The Secretary of State is to determine the number of inspectors to be appointed, one of whom is to be appointed as Chief Fire and Rescue Inspector for England. The Secretary of State must also approve any programme or framework of inspection. The Chief Fire and Rescue Inspector is required to publish the reports of inspections and to submit to the Secretary of State and lay before Parliament an annual report.
- 5.3 Fire inspectors will have power to enter premises, obtain information, and undertake joint inspections with HM Inspectors of Constabulary;
- 5.4 It is understood that the decision on who will conduct the inspections is to be made shortly. Two organisations, HMIC and Blue Light Works, were asked to

submit proposals. The proposals include piloting the inspection regime from April to October 2017 when full inspections would start.

- 5.5 It is understood that the first inspections will focus on diversity, collaboration and flexible deployment.

6 LONDON FIRE COMMISSIONER

- 6.1 The Act contains a specific provision that abolishes the London Fire and Emergency Planning Authority and transfers its functions to a new London Fire Commissioner, appointed by and directly accountable to the Mayor of London.
- 6.2 The London Fire Commissioner will be a corporation sole and will therefore be the employer and own the assets of London Fire Brigade. He or she must execute all the functions of a fire and rescue authority for Greater London and secure that the London Fire and Rescue Service is efficient and effective. However, the Commissioner is subject to any guidance, general directions or specific directions issued by the Mayor as to the manner in which he or she exercises his or her functions as Commissioner.
- 6.3 Alongside the Commissioner, the Mayor will be able to appoint a Deputy Mayor for Fire to take on any function of the Mayor relating to fire and rescue. The London Assembly will have to appoint a fire and emergency committee to review the exercise of the Commissioner's functions, as well as investigate and prepare reports about the decisions and actions of the Deputy Mayor for Fire.

7 RISK MANAGEMENT

- 7.1 A risk assessment will be undertaken as any changes are considered as a result of the Act.

8 FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications in respect of this report.

9 EQUALITY AND FAIRNESS IMPLICATIONS

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

10 HEALTH AND SAFETY IMPLICATIONS

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

11 RECOMMENDATIONS

11.1 The Authority is recommended to:

- a) Note the contents of this report;
 - b) Note the request from the PCC; and
 - c) Receive further reports as appropriate.
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BACKGROUND PAPERS

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

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

