



Home Office

Enabling Police and Crime Commissioners (PCCs) to sit and vote on Combined Fire and Rescue Authorities (FRAs)

Summary of consultation responses and next steps

May 2018

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Foreword

Summary of consultation responses and next steps following the consultation on enabling Police and Crime Commissioners (PCCs) to sit and vote on Combined Fire and Rescue Authorities (FRAs).

I would like to thank all those who gave their time to respond and contribute to our consultation on the proposal to vary the combination schemes of Combined FRAs.

The responses demonstrate strong support among those directly affected for implementing the provisions of the 'representation model', with 91% of affected Combined FRAs agreeing to the proposed amendments.

This consultation was about ensuring that Combined FRAs can appoint a PCC with voting rights, and that the same level of transparency applies to Combined FRAs as it does to County or Metropolitan FRAs. Having carefully considered the consultation responses, the Government has decided to vary the combination schemes of those Combined FRAs who have agreed to the proposed amendments. A negative statutory instrument (SI) will now be drafted to make these amendments and it is then expected to be laid before Parliament in the autumn.

This sets a clear expectation for opportunities for closer working and cooperation to be implemented and encourage collaboration in areas where a PCC does not take on responsibility for local fire and rescue services. I expect each affected FRA to now carefully consider a relevant PCC's membership request should it be made. While the decision to grant membership rests with the FRA – and to be clear, neither the Government nor these amendments mandate the granting of membership - I see no substantive barriers to FRAs not agreeing to appoint a PCC as a member.

Two FRAs objected to the proposed amendments. As such, we intend to hold an inquiry under the provisions of the Fire and Rescue Services Act 2004 [the 2004 Act] to better understand their concerns and to help come to a view on whether to make the proposed amendments to their respective combination schemes. An independent person has been appointed to consider the objections of FRAs, the position of other relevant stakeholders such as the PCCs and the Government's position and to then come to a judgement on the

strength of objection. The inquiry will be launched in May, with plans to publish an inquiry report and a Government response to the inquiry expected shortly thereafter.

There are clear opportunities for collaboration to go further and faster and we are committed to supporting PCCs in seeking greater involvement in the governance of fire and rescue. I look forward to working with you all in the coming months and to seeing how this develops in local areas.

A handwritten signature in blue ink that reads "Nick Hurd". The signature is written in a cursive, slightly slanted style.

Nick Hurd MP

Minister for Policing and the Fire Service

Introduction

This document sets out the Government's response to the consultation on proposals to apply the 'representation model' to Combined FRAs established or continued in existence under section 2 and 4 of the 2004 Act through varying their combination schemes.

The Policing and Crime Act 2017 made various legislative amendments to enable PCCs to be represented on their local FRA (and/or its committees), with voting rights, subject to the consent of the FRA. This 'representation model' will enable PCCs to take part in discussions and decisions in a meaningful way to foster closer collaborative working between policing and local fire and rescue services. It is for individual FRAs to take the decision to grant membership when a PCC requests to become a member, and in interests of transparency FRAs are required to publish their decisions.

Combined FRAs established under sections 2 and 4 of the 2004 Act must have their combination schemes amended before the 'representation model' can apply. Where the Secretary of State wishes to proactively make amendments to an FRA's combination scheme, a period of formal consultation is required. Such a consultation started in November 2017 and closed on 15 January.

The Government has now completed a review of the responses, and a summary of the findings and how we intend to proceed is explained in this document.

Summary of responses

Summary analysis of responses

A total of 67 full or partial responses were received and analysed. The largest group responding to the consultation were representatives from FRAs, who contributed to just under a third of responses (33%).

Responses were also received from PCCs, Police and Crime Panels, the Association of Policing and Crime Chief Executives, National Fire Chiefs Council, members of the public and private companies.

All of the affected Combined FRAs responded to the consultation¹. 20 of the 22 authorities that took part in the consultation (91%) agreed with the proposed amendments to the combination schemes of Combined FRAs established or continued in existence under sections 2 and 4 of the 2004 Fire and Rescue Services Act. Two FRAs (9%) objected to the proposed amendments.

Those agreeing with the proposed amendments highlighted a number of benefits of applying the 'representation model' to Combined FRAs:

- *It will provide a reliable mechanism for fostering and safeguarding effective collaborations between emergency services in a way that can contribute meaningfully to public safety. - Fire and Rescue Authority*
- *It will streamline the process for enabling PCCs to become a member of the FRA with voting rights, and potentially drive increased integration and shared services between police, fire and constituent authorities. - Local council*
- *It will help enhance existing working relationships between the fire and police services at governance level. - Police and Crime Commissioner*
- *It will further develop collaborative relationships for the benefit of communities in areas where PCCs are already members of FRAs (on an informal non-voting basis). - Police and Crime Commissioner*

¹ Hampshire FRA is currently the only authority that has had their combination scheme amended to implement the representation model.

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A number of themes emerged from FRAs who either sought further information during the consultation, or who did not agree with the proposed amendments. This included issues regarding political balance, membership numbers, extending the right to a PCC to appoint a deputy to attend meetings of the FRA where the PCC is unable to, and membership allowance.

These issues are discussed below:

Retention of political balance and membership numbers

- *A number of FRAs raised that membership numbers are based on a ratio formula of population (by constituent authority) and then constituted with political balance. It was suggested that adding the PCC as a member could have an impact on political balance where there is more than one constituent authority. The FRAs also added that the proposal lacked guidance on how political balance could be retained to ensure a consistent approach across all Authorities.*

The Home Office offered further clarification in response to the concerns around retaining political balance, should the PCC request to become a member of the FRA with voting rights.

FRAs are required to take membership into account when calculating proportionality in accordance with section 15 of the Local Government and Housing Act 1989. The requirements under section 15 would apply to each constituent authority and the FRA itself separately.

It is up to the FRA to consider the impact of a PCC's membership locally and to determine how they wish to proceed. If the combination scheme allows, it is possible to go above the upper limit of members currently permitted by the scheme, with the new number being the maximum number of members of the FRA. An authority should keep their numbers under review to ensure that it is sufficient enough to allow effective scrutiny, while being focused, nimble and decisive and not over burdensome.

Deputy PCCs

- *The majority of FRAs did not express concerns about extending the right to a PCC to appoint a deputy (DPCC) to attend meetings of the FRA where the PCC is unable to. However, while some FRAs recognised that the DPCC would not have voting rights, they had concerns that the DPCC would have the opportunity to speak and influence decisions. The concern was that elected members did not have the same entitlement to be substituted by an unelected deputy. Some PCCs, however, felt a deputy should have the right to vote, particularly where there is more than one FRA in the police force area in order to allow for effective engagement and collaboration.*

In response to concerns around arrangements for deputyship, the Home Office clarified that Section 18 of the Police Reform and Social Responsibility Act 2011 enables a PCC to delegate certain functions to a DPCC or arrange for any person not the DPCC to exercise these functions (a deputy). This would include enabling a deputy to attend and speak at meetings of the FRA where the PCC is unable to, and potentially enables a deputy to have voting rights (subject to amendments being made to the relevant combination scheme).

Hampshire FRA is currently the only combined authority who have had their combination scheme amended to implement the representation model. The proposed amendments mirror what has already been placed in the amendments to the Hampshire Order (see Annex A). In line with the Hampshire Order, our policy approach to Combined FRAs is to enable a PCC to delegate to a deputy to attend and speak at FRA meetings, but that this deputy does not have any voting rights and will not be treated as a member of the Authority for any purpose, for example being part of the meeting quorate. This is owing to FRAs comprising of elected individuals, who do not themselves have similar rights to delegate to an unelected official as exists for PCCs. This deputy will be accountable to the PCC and speak on their behalf. We have sought to carefully balance the two legislative frameworks and believe this to be an appropriate position to take.

Membership allowance

- *Some authorities highlighted that they were under pressure to reduce FRA membership in order to demonstrate savings and were therefore, reluctant to increase the number of members to accommodate the PCC.*

We have carefully considered the views of FRAs on membership allowances, and our policy intention is that we would not expect PCCs to receive any additional allowance for being represented on an FRA. The rationale behind this intention is that the PCC would be represented on the FRA in their capacity as a PCC and would therefore be exercising their functions in that capacity. As they are already remunerated for their role and functions, we would not want the PCC's representation to increase the cost of governance of the FRA.

PCCs would therefore be able to claim expenses but only in relation to their role as a PCC and not as a member of the FRA. This would ensure that PCCs can claim what they reasonably require, but not at an additional cost to the FRA.

Next steps

The Government has considered the consultation responses, and has decided to draft a negative statutory instrument to amend the combination scheme of FRAs who are supportive of the amendment. The statutory instrument is expected to be laid before parliament in the autumn.

In response to the objections to the proposed amendments from two FRAs, the Home Office intends to launch an inquiry under the provisions of the 2004 Act to better understand their concerns and to help come to a view on whether to amend the respective combination schemes.

The 2004 Act does not specify how the inquiry should run; therefore the Home Office will determine the process, which is intended to be underpinned by the principles of impartiality, fairness and transparency. This will involve the appointment of an independent person to consider the objections of the FRA. This independent person will be required to engage with the relevant FRAs to better understand their objection, and to consider other consultation responses within an FRA's area, such as those from the local authority(s) or the PCC, though it will be for the inquiry to determine whether to meet these stakeholders.

The inquiry will also consider the views of the Government and assess any other relevant material and to then come to a judgement on the strength of objection. Due to the inquiry being targeted at a small number of authorities we expect the inquiry to be time-limited. The inquiry is expected to be launched in May, with plans to publish an inquiry report and a Government response to the inquiry shortly thereafter.

In the coming weeks we will start to engage FRAs who are supportive of the amendment on the draft negative statutory instrument to amend their combination schemes, and as part of that process we will seek the views PCCs and FRAs on the issue of membership allowances for PCCs. One of the two FRAs which objected raised this as a concern so we would anticipate that the independent inquiry will also look to explore this.

We would also welcome any views on membership allowance from local Government representatives, and County and Metropolitan FRAs where the representation model already applies.

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Please send in your comments in by Friday 29 June.

All enquiries regarding this publication should be sent to us at
Nurjahan.Begum5@homeoffice.gsi.gov.uk

List of organisations responding

Association of Policing and Crime Chief Executives
Avon Fire and Rescue Authority
Avon and Somerset Police and Crime Commissioner
Bedfordshire Fire and Rescue Authority
Bedfordshire Office of the Police and Crime Commissioner
Berkshire Fire and Rescue Authority
Buckinghamshire & Milton Keynes Fire and Rescue Authority
Cambridgeshire Fire and Rescue Authority
Cheshire Fire and Rescue Authority
Cheshire Police and Crime Commissioner
Cleveland Fire and Rescue Authority
Cumbria Police and Crime Commissioner
Derbyshire Fire and Rescue Authority
Devon and Somerset Fire and Rescue Authority
Dorset and Wiltshire Fire and Rescue Authority
Dorset Police and Crime Commissioner
Durham County Council
Durham and Darlington Fire and Rescue Authority
East Sussex Fire and Rescue Authority
Harrogate Borough Council
Hartlepool Borough Council
Hereford and Worcester Fire and Rescue Authority
Humberside Fire and Rescue Authority
Humberside Police and Crime Commissioner
Jones Lang LaSalle Property Management (Fareham, Hampshire)
Kent and Medway Fire and Rescue Authority
Leicestershire Fire and Rescue Authority
Lancashire Fire and Rescue Authority
Members of the public
National Fire Chiefs Council
Northumbria Police and Crime Commissioner
North Yorkshire Fire and Rescue Authority
North Yorkshire Police and Crime Commissioner
Nottinghamshire Fire and Rescue Authority
Nottinghamshire Police and Crime Commissioner
Office of the Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly
Office of the Police and Crime Commissioner for Kent
Office of the Police and Crime Commissioner West Yorkshire
Shropshire and Wrekin Fire and Rescue Authority
Shropshire Council
South Gloucestershire Council
Stoke-on-Trent Fire and Rescue Authority

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Staffordshire Fire and Rescue Authority

Sussex Police and Crime Commissioner

West Mercia Police and Crime Commissioner

Wiltshire County Council

Wiltshire and Swindon Police and Crime Commissioner

Annex A: The proposals

The proposed changes will be to each Combined FRA combination scheme to ensure that the representation model applies to all types of FRAs in England.

Respondents were asked to comment on the following proposed amendments;

A. Subject to paragraphs B and C, the Authority may appoint a relevant police and crime commissioner to be a member of the Authority.

B. A relevant police and crime commissioner may only be appointed as a member of the Authority in response to a request by the commissioner.

C. If a relevant police and crime commissioner makes such a request the Authority must—

- (a) consider the request,
- (b) give reasons for its decision to agree to or refuse the request, and
- (c) publish those reasons in such a manner as it thinks appropriate.

D. Paragraph E applies where the Authority appoints a relevant police and crime commissioner to be a member of the Authority and the police and crime commissioner makes arrangements under section 18 of the Police Reform and Social Responsibility Act 2011⁽²⁾ to delegate their attendance at a meeting of the Authority.

E. A person who attends a meeting of the Authority on behalf of a relevant police and crime commissioner—

- (a) may speak at the meeting but not vote, and
- (b) is not to be treated as a member of the Authority for any purpose.

The above amendments will;

A – Enable a PCC to be appointed with voting rights;

B – Set out this provision can only take place after a request has been made by a PCC;

C – Set out the process for making such a request;

D and E – Enable a PCC to delegate to a deputy to attend and speak at FRA meetings, but that this deputy does not have any voting rights and will not be treated as a member of the Authority for any purpose, for example being part of the meeting quorate. This is owing to FRAs comprising of elected individuals, who do not themselves have similar rights to delegate to an unelected official as exists for PCCs.

⁽²⁾ 2011 c. 13; section 18 was amended by paragraphs 52 and 53 of Schedule 7 to the Localism Act 2011 (c. 20) and paragraphs 115 and 116 of Schedule 12 to, the Local Audit and Accountability Act 2014 (c. 2).

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These amendments will enable a PCC to have representation on their local FRA and/or its committees, with voting rights; this will be subject to PCCs requesting to sit on the FRA and the FRA agreeing. The FRA will be required to publish their response to ensure transparency. The provisions will enable a PCC to be a member of the FRA until there is either a vacancy in the OPCC or if there were to be no vacancy in the office before then, the day on which their term of office as PCC would end.

To note, there will be some minor consequential amendments as necessary to ensure these provisions apply as intended in the context of the rest of the combined FRAs combination scheme.



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