

Policing and Crime Bill

Emergency Services Collaboration: Overview of Part 1 of the Bill

1. The Home Office, Department for Communities and Local Government¹ and the Department of Health jointly launched a public consultation on 11 September 2015. Building on the Government's manifesto commitment to "enable fire and police services to work more closely together and develop the role of our elected and accountable Police and Crime Commissioners" this sought views on how to implement a range of proposals to enable greater collaboration between the emergency services. The consultation ran for six weeks, ending on 23 October 2015 and received over 300 responses.
2. The response to the consultation was published² on 26 January 2016. This set out legislative proposals to:
 - introduce a high level duty to collaborate on the three emergency services to improve efficiency or effectiveness;
 - enable Police and Crime Commissioners (PCCs) to take over governance of their local Fire and Rescue Authority (FRA) where a local case is made - the 'governance' model;
 - where a PCC takes on the responsibilities of a FRA, enable him or her to create a single employer for police and fire staff, facilitating the sharing of back office functions and streamlining management - the 'single employer' model;
 - enable PCCs to be represented on FRAs, with the agreement of the FRA, in areas where such authorities remain in place – the 'representation' model;
 - bring fire and rescue services in London under the direct responsibility of the Mayor of London by abolishing the London Fire and Emergency Planning Authority (LFEPA) and creating the London Fire Commissioner as a corporation sole.
3. In keeping with the Government's broader approach to devolving powers, the Bill does not mandate the transfer of fire and rescue services to PCCs. Instead, it introduces an enabling power which would allow a PCC to take responsibility for their local fire and rescue service where it would be in the interests of economy, efficiency and effectiveness or public safety and where a local case is made. This would be given effect by secondary legislation.
4. The Bill also provides for the mayors of combined authorities to put in place a single employer for fire and police, where they exercise both police and fire functions.

¹ On 5 January 2016, the Prime Minister announced a Machinery of Government change transferring responsibility for fire and rescue policy from the Department for Communities and Local Government to the Home Office.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/495371/6.1722_HO_Enabling_Closer_Working_Between_the_Emergency_Services_Consult....pdf

5. The measures in Part 1 of the Bill will apply to England only.

Duty to Collaborate

6. The Bill places the three emergency services under a statutory duty to keep collaboration opportunities under review and to collaborate where this would improve efficiency or effectiveness. The duty is broad to allow for local discretion in how it is implemented, so that the emergency services themselves can decide how best to collaborate for the benefit of their communities. It is intended that there should be a clear expectation that collaboration opportunities should be fully exploited.

Changes to governance

8. The Bill enables PCCs to take responsibility for the governance of fire and rescue in their local area, where a local case is made. There are two different models PCCs may adopt: the 'governance' model and the 'single employer' model. Where the PCC has not taken on responsibility for fire and rescue services but wishes to enhance collaboration opportunities between police and fire, the Bill enables them to seek representation on their local FRA under the 'representation' model.

The 'Governance' Model

9. The governance model enables PCCs to take on responsibility for the fire and rescue service(s) in their area to provide more direct accountability to the public and accelerate local collaboration.
10. Under the governance model, the PCC will take on the functions and duties of the fire and rescue service for the area. The police service and fire and rescue service will remain two distinct organisations and the person who is elected to be the PCC will occupy two separate corporation soles. The PCC in their capacity as the FRA will be the employer of all fire and rescue staff, but in practice, a chief fire officer will, under arrangements made by the PCC, continue to have operational responsibility. The chief constable will employ police staff and have direction and control over police officers.
11. Where a PCC is interested in taking on governance of the fire and rescue service, they will work with the FRA (who will be under a duty to cooperate) to prepare and publish a business case setting out why the transfer would be in the interests of economy, efficiency, effectiveness or public safety. The PCC would be required to consult locally and seek views on whether the transfer should take place.
12. Where all the relevant local authorities for the area are in agreement that the fire service should transfer to the PCC, the PCC will submit their business case to the Home Secretary. If the Home Secretary agrees that the governance change is in the interests of economy, efficiency and effectiveness or public safety she or he will be able to make an order to give effect to the transfer.

13. If any of the relevant local authorities disagree with the PCC's proposal, the PCC may still submit their business case, but would additionally be required to provide a copy of each of the representations made, a summary of their consultation, and their response to the views expressed. The Home Secretary would then additionally be required to secure an independent assessment of the PCC's business case (for instance, from Her Majesty's Inspectorate of Constabulary or the Chief Fire and Rescue Advisor). She or he would take into account the findings of this independent assessment and the results from the local consultation before taking a decision on whether to make an order giving effect to the transfer.

The 'Single Employer' Model

14. The single employer model enables a PCC who has taken on responsibility for fire and rescue services to take an additional step to delegate fire functions to a single chief officer for policing and fire. This would remove the barriers that can prevent the full potential of fire and police collaboration, including the need to draw up contracts and collaboration agreements to share back office services. It provides greater workforce flexibility and the ability to bring together the senior management teams of the police force and fire and rescue service.

15. The PCC can implement the single employer model at the same time as the governance model, or at a subsequent stage. In either instance, they would need to make a local case for why the single employer model is in the interests of economy, efficiency and effectiveness or public safety, and would be required to consult locally. The same steps in relation to their business case would be followed as for the governance model.

16. Under the single employer model, the PCC appoints a chief officer who will be accountable to the PCC for both fire and policing and will employ both police and fire personnel. In practice, the chief officer will appoint a senior fire officer to lead fire operations and a deputy chief constable to lead police operations, under their command. Legally, the chief officer would be known as the chief constable.

17. Both senior police officers and senior fire officers will be eligible for applying for the post. To achieve this, the Bill removes the requirement for senior fire officers wishing to apply for the role of chief officer to have previously held the office of constable. Applicants from either service will need to meet standards set by the College of Policing. Removing the requirement of holding the office of constable only applies to senior fire officers applying for the position of chief officer where a PCC has put in place the single employer model. It will not affect London.

18. Under the single employer model, police forces and fire and rescue services would remain distinct front line services, albeit supported by increasingly integrated HR, ICT, finance, procurement, fleet management and other support services. The important distinction between operational policing and fire-fighting will be maintained. Section 37 of the Fire and Rescue Services Act 2004 will continue to prevent a police officer from being a fire-fighter. Similarly, there is no

intention to give fire-fighters the power of arrest or any other core policing powers.

Combined Authority Mayors

19. Combined authority mayors with both policing and fire functions will be able to make a request to the Home Secretary to put in place the single employer model; that is to delegate fire functions to a single chief officer who would employ both police and fire personnel. This allows combined authority mayors to realise the full benefits of collaboration between police and fire services – for example, to bring together the senior management team and allowing rapid consolidation of back office functions.
20. The process by which a mayor would seek to implement the single employer model follows that for PCCs, taking into account the different context of the mayoral model. A mayor may make a request to the Home Secretary where they consider there is a local case for the single employer model. The mayor's proposal would need to set out why it would be in the interests of economy, efficiency and effectiveness or public safety for the order to be made and would need to include the outcomes of local consultation.
21. Where there is not local agreement, the Home Secretary would be required to secure an independent assessment of the mayor's proposal and have regard to local consultation undertaken by the mayor before making an order. Under the mayoral model, this will be triggered when 2/3 or more of the constituent members of the combined authority indicate that they do not agree with the mayor's proposal. The mayor will not be under an explicit duty to consult the public on their proposals. However, they will be required to submit evidence of any local consultation and any representations made by constituent members of the combined authority when making their request to the Home Secretary.

The 'Representation' Model

22. Where a PCC has not taken on responsibility for fire but wishes to enhance collaboration opportunities, they will be able to be represented on an FRA (or its committees) in their police area with full voting rights, subject to the consent of the FRA. This will foster closer collaborative working between PCCs and local fire and rescue services.
23. Where a county council does not have a dedicated sub-committee for fire, any voting rights extended to PCCs will be restricted only to matters affecting the fire and rescue service. Membership of the FRA may also be adjusted, as necessary, to ensure political balance is maintained.
24. In the interests of transparency, the FRA must publish their reasons for either accepting or rejecting the PCC's request to sit on the FRA. Whilst represented on the FRA, the PCC will be subject to the FRA's code of conduct and any allegations that the PCC breached such a code of conduct will be referred to the relevant police and crime panel who will be able to make reports and recommendations to the PCC and FRA.

London

25. The Bill abolishes the London Fire and Emergency Planning Authority (LFEPA), and instead provides for the Mayor to take responsibility for fire and rescue services. The functions will sit within existing Greater London Authority structures, creating a deputy mayor for fire, a statutory “London Fire Commissioner” and a new Committee of the London Assembly which will provide scrutiny and oversight.

Boundaries

26. Where a PCC wishes to take on responsibility for fire and rescue, the PCC’s area and the area of the FRA, or FRAs when taken together, must be coterminous. In England, excluding London, 28 PCCs have police areas that are coterminous with FRA boundaries, five PCCs with police areas which are coterminous with the boundaries of the FRAs in their area when taken together, and only four PCCs with police areas which do not align with FRA boundaries. Where the fire and police boundaries do not align, it would be for local areas to consider how boundaries should be changed before a PCC could take on fire and rescue responsibilities for their area.

Funding

27. Under both the ‘governance’ and ‘single employer’ models, there will continue to be two separate precepts and two separate central funding streams for policing and fire. The PCC will be required to establish and hold a fire fund, mirroring the existing arrangements for the police fund. The police and fire precepts and funding streams will be paid to the PCC separately and will form two separate budgets in order to provide clarity and transparency in funding.

28. Under the single employer model, the PCC will provide two separate budgets to the chief officer, which the chief officer would need to account for separately. Revenue streams for fire can only be used by the PCC for delivering their fire and rescue functions, and revenue streams for policing can only be used by the PCC for delivering their police functions.

29. There is still room for budget flexibility under the single employer model. As long as the chief officer can account for the money spent, they can pool funds for collaborative projects such as sharing back office functions or joint stations.