

**Policing and Crime Act 2017 ('the Act')**

1. At its June 2017 Meeting the Authority considered a proposal from the Thames Valley Deputy Police & Crime Commissioner ('TVDPCC').
2. The proposal from the TVDPCC was for the Authority to commit itself to contribute an equal quarter share of the costs of engaging consultants (split between the three Thames Valley fire and rescue authorities and the Police and Crime Commissioner) for "scoping work" for potential fire and rescue authority (FRA): Police and Crime Commissioner governance.
3. The proposed (uncosted) scoping work did not predetermine a governance model from the four options that the TVDPCC stated were to be considered:
  - i. The establishment of a Collaboration Board for the Thames Valley to provide a forum for discussion and agreement in areas of collaboration. As an informal body it would not exercise formal joint decision making;
  - ii. To formally merge the three existing fire and rescue services into one Thames Valley Fire & Rescue Service (and authority) and to establish bi-lateral collaboration with Thames Valley Police (and PCC);
  - iii. For the Police & Crime Commissioner to become the Police, Fire and Crime Commissioner (PFCC), taking on the responsibilities of the three fire and rescue authorities. The Chief Constable and Chief Fire Officer to be separately accountable to the PFCC; or
  - iv. For the PCC to become the PFCC as above (c) and to create a single employer organisation under the command and control of the Chief Constable.
4. Members were concerned that the proposal had been received in the financial year; no budget had been allocated for this work; and it did not take into account the budgets for each Authority when it suggested that they each paid an equal share.
5. The Authority resolved that the CFO be delegated to respond in writing to the Office of the Thames Valley Police & Crime Commissioner in consultation with the Chairman, taking into account the views of the Authority Members. A copy of this letter is attached. (**Appendix A**)

**Provision for a police and crime commissioner to be a fire and rescue authority**

6. A Member had asked if the Police & Crime Commissioner (PCC) could impose a change of governance on the Authority and was advised that the

legislation was drafted in such a way that imposition was not the approach; it would be necessary for the PCC to prepare a business case with the assistance<sup>1</sup> of the three fire and rescue authorities and the final arbiter of the business case would be the Home Secretary.

7. In respect of the latter, further detail is now available in the form of guidance published in August 2017 by the Home Office as to the 'Independent Assessment Process' that the Home Secretary would adopt. This is attached (**Appendix B**).
8. Further reference to the guidance was made in the letter from Nick Hurd MP, Minister of State for Policing and the Fire Service in his letter of 31 August 2017 to all FRA Chairmen and PCCs. (**Appendix C**).
9. The 'statutory tests' (referred to in paragraph 5 of the Home Office guidance) are those that are set out in amendments made by the Act to the Fire and Rescue Services Act 2004 ('FRSA').
10. The inserted section 4A(5) of the FRSA provides that the Home Secretary can only make an order creating a PCC-style FRA if it appears to him or her that the PCC's proposal would be in the interests of either a) economy, efficiency and effectiveness, or b) public safety. The test of economy, efficiency and effectiveness applies not just to the transferring FRA(s) but to the wider impact of the proposed transfer.
11. New section 4A(6) of the FRSA further provides that the Home Secretary cannot make an order on the grounds of economy, efficiency and effectiveness if it would have an adverse impact public safety. The Home Secretary could make an order on the basis of public safety alone (including where it might have a negative impact on efficiency, effectiveness or economy) where such a transfer were necessary; for example, in the case of a failing authority.
12. Paragraph 2(1) of the new Schedule A1 to the FRSA requires that the relevant FRA(s) must cooperate with the PCC and to provide any information that the PCC might reasonably require in order for an interested PCC to prepare his or her business case. Such information could include details on FRA budgets, spending commitments, liabilities and assets etc. Paragraph 2(3) provides that an FRA is not required to provide information if it would breach any restrictions on the disclosure of information, for example commercial confidentiality.
13. It should be noted in these regards that the Thames Valley Police and Crime Commissioner released an announcement on 16 August 2017 that "Following a meeting [...] between [him]self, the Deputy Police and Crime Commissioner and representatives from the fire and rescue authorities we

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<sup>1</sup> Explained in more detail at paragraph 12 of this report.

have agreed that we will not be actively pursuing any governance changes in the foreseeable future” (**Appendix D**)

14.The proposal from the TVDPCC made reference that “Regulations are awaited to allow the PCC to become a member of Fire & Rescue Authorities.” It continued, “This is not considered to be of significant benefit in itself and is therefore not included as one of the governance models to be considered, notwithstanding it could be used as an enabler to bring about one of the options outlined.”

15.The Chief Fire Officer has been in recent correspondence with the Home Office with regard to the proposed consultation period in advance of the regulations required to make the necessary amendments to the Authority’s combination scheme. A copy of his letter is attached (**Appendix E**), together with a copy of the response (**Appendix F**).

### **Emergency services collaboration**

16.At the June meeting of the Authority a Member asked if the PCC was under a statutory duty to undertake the business case preparation and was advised that this was not the case. The PCC was given an enabling power to undertake the preparation of a business case. A separate duty does arise, although related, and that was the duty on blue light services to consider if it is in the interests of efficiency and effectiveness and public safety to collaborate with other blue light services.

17.The Authority already collaborates with all the fire and rescue authorities adjoining its area for operational incidents.

18.Section 13 of the FRSA requires FRAs to enter into mutual assistance schemes with other FRAs and sections 15 and 16 enable FRAs to enter into agreements with other such authorities or other persons for that other authority or person to discharge certain of their statutory functions. Amendments made to the FRSA by the Localism Act 2011 give a broader discretion to consider collaboration if it were thought likely to be able to contribute to the Authority being able to discharge its functions.

19.The Thames Valley Fire Control Service is an example of FRA:FRA collaboration across the three Thames Valley FRAs<sup>2</sup>. However it is the wider collaboration across and between the blue light services that is one of the features of the Act.

20.Section 2(1) of the Act imposes on each of the three emergency services a new **duty to keep collaboration opportunities under review** where it

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<sup>2</sup> 1. Sections 22A to 23I of the Police Act 1996 make provision for collaboration agreements entered into either by two or more police services. Ambulance services can collaborate between themselves under, section 47 of, and paragraph 14 of Schedule 4 to, the National Health Service Act 2006.

would be in the interests of efficiency or effectiveness of at least two of the services, for those services to give effect to such collaboration.

21. Section 2(2) requires that where an emergency service identifies an opportunity to collaborate it has **a duty to notify** the other relevant emergency services of the proposed collaboration.
22. Section 2(3) then imposes **a duty to consider** whether the proposed collaboration would be in the interests of the efficiency or effectiveness of the proposed parties.
23. Where two or more of the emergency services consider it would be in the interests of their efficiency or effectiveness to collaborate, section 2(5) gives rise to **a duty to enter into a collaboration agreement**.
24. Section 2 does not require a relevant emergency service to enter into a collaboration agreement if the service is of the view that the proposed collaboration would have an adverse effect on public safety or otherwise have an adverse effect on its efficiency or effectiveness.
25. Specifically an ambulance trust is not required to enter into a collaboration agreement if the collaboration would, in its view, have a negative impact on its other wider functions, or the NHS more generally, even if the collaboration would improve the efficiency or effectiveness of the delivery of its emergency functions.<sup>3</sup>
26. Each of the services involved in collaboration is able to make payments for the purposes of the agreement.

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<sup>3</sup> Ambulance trusts have multiple functions and only one of these functions relates to emergency provision. For instance, ambulance services could provide other services such as non-emergency patient transport and NHS 111, which are separate from responding to 999 calls. This does not prevent the ambulance trust from voluntarily entering into a collaboration agreement in such a scenario, but it would not be required to do so.