

Independent Assessment Process

This note seeks to provide Police and Crime Commissioners (PCCs) and Fire and Rescue Authorities (FRAs) with further information about how the independent assessment process for PCC proposals to take on responsibility for local fire and rescue services will operate.

Policing & Crime Act 2017 provisions

1. The 2017 Act amends the Fire and Rescue Services Act 2004 and enables PCCs to take on governance of their local fire and rescue service where a local case is made. It is for individual PCCs to consider whether to bring forward such a proposal demonstrating how a transfer of governance would be in the interests of economy, efficiency and effectiveness, or public safety to do so (the “statutory tests”).
2. The legislation requires PCCs to consult on their proposal with the following parties; each relevant local authority¹, those who appear to the PCC to represent (i) employees who may be affected by the proposal and (ii) members of the police forces who may be affected by the proposal and seek the views of local people on that business case. If in response to a consultation a relevant local authority indicates an objection to the PCC’s proposal, the PCC can still submit their proposal, but the Secretary of State would be required to obtain an independent assessment of the proposal, and the PCC would be required to provide copies of the views expressed by the statutory consultees and their responses to them².
3. The Secretary of State must publish the independent assessment as soon as is reasonably practicable after making a determination in response to the proposal, and in such manner as the Secretary of State thinks appropriate.
4. For the avoidance of doubt, the independent assessment is not a substitute for the Secretary of State decision making process. The Secretary of State would not be properly discharging their duties by simply adopting the conclusions of an independent assessment, and anyone undertaking the independent assessment function is not discharging the role of Secretary of State in assessing whether the statutory tests have been met.
5. On considering whether a proposal meets the statutory tests, there are three options for the Secretary of State to decide:
 - i. approve proposal;

¹ “relevant local authority” is defined as the local authority whose area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created, or the local authority where all or part of whose area falls within the area of that fire and rescue authority. “Local authority” here means; a) a county council, b) a district council for an area for which there is no county council, c) the Council of the Isles of Scilly, or d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 which exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of that Act.

² This includes; copies of each representation made by a relevant local authority, consultation materials; a summary of the views expressed by people in the commissioner’s police area and other statutory consultees and the commissioner’s response to those representations and views.

- ii. approve proposal with minor modifications, whereby the Secretary of State would be required to consult with the PCC and relevant local authority; or
- iii. reject proposal.

The Working Group

- 6. The Home Office formed a working group with representatives from the Local Government Association (LGA), Association of Police and Crime Commissioners (APCC) and Association of Policing and Crime Chief Executives (APACE) to consider how the independent assessment process could operate.
- 7. The objective has been to ensure that a PCC's local proposal is robustly and independently scrutinised and an assessment external to government is provided on the merits of the proposed transfer. As agreed by the working group, the process will be: robust and transparent; politically neutral; draw on professional expertise; be flexible, proportionate and timely; and provide value for money.

The Process

- 8. The process outlined below is a result of Home Office decisions following discussions at the working group.
- 9. The Secretary of State will decide who to approach as the independent assessor, taking into account the nature of the objections by the relevant local authority. In doing so, the Secretary of State will formally commission an organisation (see paragraph 16), setting out that they are being asked to review the proposal in its entirety, to advise on specific elements of the case where appropriate, and whether they consider it to be in the interests of economy, efficiency and effectiveness, or public safety, in so far as they think it possible to make that assessment.
- 10. If an independent assessor expresses there is a potential conflict of interest in undertaking an assessment, the Home Office will take this into account in considering whether to approach a different independent assessor. The organisation appointed as an independent assessor must provide assurance that they can identify an expert who is neutral to the proposal. The intention is that any independent assessor would need to be independent of the Home Office, not be acting in a political role, and have the relevant skills and expertise to carry out the role.
- 11. The independent assessment process outlined above will apply to any proposal where the relevant local authority has objected to the proposal and to all types of FRAs. This includes where fire is integrated in a county council (a County FRA transfer).
- 12. In the case of a County FRA transfer, an independent assessor with appropriate expertise may, depending on the nature of the objection, both

comment on the proposed split of assets, liabilities, budget and precept, and if appropriate and required, suggest an alternative split following engagement with both the PCC and county council.

13. Where a formal objection to a proposal is not received, no independent assessment will be undertaken, though Home Office officials will seek assurances from the PCC that they are not aware of any objection to the proposal from the relevant local authority.

Potential experts

14. Home Office officials have engaged with a number of organisations that the Secretary of State could seek an independent assessment from and each has expressed a willingness to be involved with the independent assessment process.

15. The Home Office will identify the appropriate assessor to carry out the assessment as described at paragraph 16, but will not fetter the discretion of the assessor in how they carry out their role.

16. The independent assessor may be an organisation listed below – Home Office officials may seek to add to this list where necessary and appropriate. In commissioning the assessor, the Secretary of State will provide details of other potential experts they can consult (should they wish) from the following areas to support them in making their assessment if necessary:

- Operational fire expertise: National Fire Chiefs Council (NFCC)
- Operational police expertise: National Police Chiefs' Council (NPCC)
- Public finance experts: The Chartered Institute of Public Finance and Accountancy (CIPFA)
- Others, dependent on nature of the objection/s: Society of Local Authority Chief Executives (SOLACE) or Association of Police and Crime Chief Executives (APACE)

17. The independent assessor may wish to speak to other experts to support them in coming to a view. This is for the assessor to determine themselves.

Independent Assessment Timeline

18. Where a proposal has been received by the Home Office, where the relevant local authority objects to the proposal, the independent assessment is triggered:

- Weeks 1 and 2 – Home Office determines the nature of the objection/s and approach assessor to lead an independent assessment
- Weeks 3 to 5+ – Appointed independent assessor carries out assessment and engages with other experts as they see necessary – followed by submission to Ministers.

19. It is envisaged that the overall process may take at least 2 months, though this might need to be elongated depending upon the complexity of the proposal and the nature of the objection. To allow for this, an element of flexibility has been factored into the proposed timeframe to allow the independent assessor additional time to undertake their role as they see fit.

Home Office
August 2017