

REPORT REFERENCE NO.	DSFRA/17/39
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	18 DECEMBER 2017
SUBJECT OF REPORT	APPOINTMENT OF POLICE & CRIME COMMISSIONERS TO THE AUTHORITY – CONSULTATION ON ENABLING REGULATIONS
LEAD OFFICER	Director of Corporate Services (Clerk to the Authority)
RECOMMENDATIONS	<i>That the Authority considers the contents of this report – specifically Options A and B as set out at paragraph 2.4 - and determines what response it would wish to make to the Home Office consultation on enabling Police & Crime Commissioners to sit and vote on combined fire and rescue authorities.</i>
EXECUTIVE SUMMARY	<p>This report advises on the Home Office consultation issued on 27 November on proposed enabling Regulations to amend the Combination Schemes of combined fire and rescue authorities to enable Police and Crime Commissioners to become members, with voting rights, on such authorities (the “representation model”) as introduced by the Policing & Crime Act 2017.</p> <p>Responses to the consultation are invited by 15 January 2018.</p>
RESOURCE IMPLICATIONS	Nil
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and diversity legislation.
APPENDICES	A. Home Office Consultation Document “Enabling Police & Crime Commissioners (PCCs) to sit and vote on Combined Fire & Rescue Authorities (CFRAs).
LIST OF BACKGROUND PAPERS	<p>The Policing and Crime Act 2017</p> <p>Report DSFRA/17/16 (Policing & Crime Act – Appointment of Police & Crime Commissioners to the Authority) to the Authority Ordinary meeting held on 12 June 2017 (and the minutes of that meeting).</p> <p>Report DSFRA/16/24 (Policing and Crime Bill – Involvement of Police and Crime Commissioners with Fire & Rescue Authorities) to the Authority meeting held on 19 December 2016 (and the minutes of that meeting).</p>

1. BACKGROUND

- 1.1. The Authority has previously been advised of the provisions in the Policing & Crime Act 2017 (“the Act”) to:
- a. introduce a new statutory duty for collaboration by the emergency services (Sections 1 – 5);
 - b. enable a Police and Crime Commissioner to assume responsibility for fire and rescue functions where, in the view of the Secretary of State and following submission of an appropriate business case, it is considered to be in the interests of economy, efficiency and effectiveness and public safety (Section 6 and Schedule 1);
 - c. enable a Police and Crime Commissioner did not wish to assume responsibility for fire and rescue functions in an area to nonetheless request appointment to the fire and rescue authority concerned. On receipt of such a request, the authority is required either to approve or reject it. If the request is rejected, the authority is required to publish the reasons for doing so. Where the request is approved, then the Police and Crime Commissioner would be duly appointed to the authority with speaking and voting rights (Section 7).
- 1.2. At its Ordinary Meeting on 12 June 2017 the Authority was advised that, whilst the relevant provisions in the Act were in force, to give effect to (c) above (“the representation model”) on combined fire and rescue authorities would also need amending Regulations to the Combination Schemes establishing such authorities.
- 1.3. The Authority also considered at that meeting a request from the Police & Crime Commissioners for both Avon & Somerset and Devon & Cornwall (Sue Mounstevens and Alison Hernandez respectively) and resolved (Minute DSFRA/11 refers):
- “that the appointment to the Authority of the Police & Crime Commissioners for both Devon & Cornwall and Avon & Somerset be approved, to take effect immediately upon the relevant amending Regulations coming into force.”

2. CURRENT POSITION

- 2.1 On 27 November 2017 the Home Office issued a consultation on proposals to amend Combination Scheme Orders. A copy of the consultation document is attached at Appendix A. Responses to the consultation are required by 15 January 2018.
- 2.2 In terms of the ability for Police & Crime Commissioners to become voting Members on combined fire and rescue authorities, the proposals align with what was initially envisaged in the Act (see paragraph 1.1 (c) above) with one exception. The proposals, if implemented, would also allow for a Police & Crime Commissioner unable to attend a fire and rescue authority meeting to delegate attendance to someone else, albeit with speaking rights only (not voting rights) and who is not to be treated as an authority member for any other purposes (e.g. counting towards quorum). This aspect is derived from Section 18 of the Police Reform and Social Responsibility Act 2011 (as amended) which provides (subject to certain conditions not applicable in the context of fire and rescue authority membership) for Police & Crime Commissioners to delegate their functions. The implication is that this would allow a Police & Crime Commissioner to be represented at an authority meeting by a non-elected individual.

- 2.3 The consultation poses the following questions:
- Q1 Do you agree with the proposed amendments to the combination schemes of Fire and Rescue Authorities (FRAs) established or continued in existence under sections 2 and 4 of the 2004 Fire and Rescue Services Act as stated in the proposal above to implement the 'representation model' of the 2017 Act?
 - Q2 If you disagree with proposal at Q1, please give your reasons
 - Q3 Please state below if you have any other comments.

- 2.4 Given the issue raised at paragraph 2.2 above (proposed ability of the Police & Crime Commissioner to delegate meeting attendance, with speaking but not voting rights), the Authority may wish to consider one of the following responses:

Option A

Simple agreement with Question 1 as posed, with any additional comments/points the Authority may wish to make included in response to Question 3.

Option B

Disagreement with Question 1, with Question 2 indicating as a rationale that, while the Authority is fully in agreement with the proposals to enable Police & Crime Commissioners in their own right to become full speaking and voting members of fire and rescue authorities (i.e. paragraphs A, B and C of the proposals), it would not be in favour of the proposals as set out at paragraphs D and E as these would, in effect, convey an extra right for a Police & Crime Commissioner that would not otherwise be available to any other Member of the Authority. Q 3 could be responded to if the Authority was minded to express any other views on the proposals.

- 2.5 The Authority is now invited to consider this report and attached consultation document and determine what response it would wish to make.

MIKE PEARSON
Director of Corporate Services
(Clerk to the Authority)