

REPORT REFERENCE NO.	DSFRA/18/7
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	30 APRIL 2018
SUBJECT OF REPORT	CONSULTATION ON POLICE & CRIME COMMISSIONER MEMBERSHIP OF FIRE & RESCUE AUTHORITIES – FURTHER CONSIDERATIONS
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p><i>(a). that the Authority considers the contents of this report and determines whether it would wish its initial response expressing views on the proposals in the previous Home Office consultation (particularly in relation to the proposed right for a PCC to nominate a speaking, non-voting, representative to attend any Authority meeting the PCC is unable to attend) to be considered as a formal objection to the proposed amendment to the Combination Scheme Order, requiring the Secretary of State to hold a formal inquiry; and</i></p> <p><i>(b). authorises the Clerk to the Authority to respond to the Home Office confirming the Authority position.</i></p>
EXECUTIVE SUMMARY	<p>This report updates the Authority on developments since submission of its response to the consultation on enabling regulations for Police & Crime Commissioners to become members of fire and rescue authorities.</p> <p>Specifically, the Authority is asked to consider whether it would wish its initial response to the consultation to be treated as a formal objection to the proposed amendment to the Combination Scheme Order.</p>
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and human rights legislation.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Report DSFRA/17/39 (Appointment of Police & Crime Commissioners to the Authority – Consultation on Enabling Regulations) and the Minutes of that meeting.

1. BACKGROUND

- 1.1 At its meeting on 18 December 2017, the Authority considered a consultation on enabling regulations for Police & Crime Commissioners (PCCs) to become members of a combined fire and rescue authority (the “representation model”). At its ordinary meeting on 12 June 2017, the Authority had been advised of the representation model as it was understood at that time, i.e. in those instances where a PCC did not assume responsibility for a fire and rescue authority, allowing a PCC to request membership of a fire and rescue authority and become, subject to the request being approved, a member with speaking and voting rights. At that time, the Authority had approved requests from the PCCs of both Avon & Somerset and Devon & Cornwall for such membership, to take effect immediately on the relevant amending Regulations coming into force.
- 1.2 On 27 November 2017 the Home Office issued a consultation on proposed amending Regulations seeking “...views on the proposal to vary the combination schemes of Fire and Rescue Authorities (FRAs)...to implement the “representation model” of the Policing and Crime Act 2017”. The consultation introduced a new element, however, in proposing that for instances where a PCC was unable to attend a meeting in person, they should have a right to nominate a representative to attend the meeting and be able to speak at the meeting but not vote. Such a representative would not to be treated as a member of Authority for any purpose.
- 1.3 The Authority authorised the Chief Fire Officer, following consultation with the Chair, to respond to this consultation on the basis of:
- that, whilst it had no objection to a Police & Crime Commissioner becoming a member of the Authority, with speaking and voting rights, it would not wish the PCC to have a right to nominate a representative, with speaking **but not** voting rights, to attend any Authority meeting that the PCC was not able to attend in person; but
 - that if the government was minded to allow the PCC to nominate a representative to attend meetings, this should be on the basis of a fixed, named representative from the Office of the PCC, who should have speaking rights only.

(Minute DSFRA/55 refers).

2. CURRENT POSITION

- 2.1 The consultation was duly responded to on the basis indicated above. Subsequently, an e-mail was received from the Home Office on 16 February 2018 inviting the Authority to reconsider its position. The rationale from the Home Office in inviting this reconsideration did little other than to repeat the position as outlined in the initial consultation document, which had already been considered by the Authority. On this basis (and because Officers had not been able to take the question to the Authority at that time) a response to the Home Office was sent indicating that the Authority’s original position had not changed.

- 2.2 The Home Office has subsequently responded again, via e-mail, on 1 March 2018. The contents of this are reproduced below:
- “Thank you for your response and confirming the authority’s position.
- Where a FRA does not agree with the proposed amendments to their combination scheme, but the Secretary of State wishes to continue with the proposal, she will be under a duty to hold an inquiry (Fire and Rescue Services Act 2004). Therefore, in terms of next steps, it is likely that the Home Office will be referring the objection received from the Authority to an independent person to carry out such an inquiry.”
- 2.3 The provisions of the Fire & Rescue Services Act 2004 referred to are contained in Section 2 of the Act. Specifically, Section 2(6) requires the Secretary of State to consult with a combined fire & rescue authority before making any variation to its Combination Scheme Order, with Section 8 requiring the Secretary of State to cause an inquiry to be held before varying such a Scheme in instances where the combined fire & rescue authority does not agree with the proposed variation.
- 2.4 A further response was sent to the Home Office e-mail of 1 March 2018 advising that, in making its initial response, the Authority was simply expressing a general view on the proposals as contained in the Home Office consultation paper and would not wish this consultation response to be regarded as any formal objection to any proposal the Secretary of State may wish to put forward specifically to amend its Combination Scheme Order.
- 2.5 The Home Office was further advised that a view would be sought from the Authority specifically as to whether it wished its initial response to the consultation to be treated as formal objection to the proposed amendment to the Combination Scheme Order. The Home Office has indicated that, although the initial consultation period has now closed, it will await the outcome of this further consideration by the Authority.
- 2.6 The Authority is therefore asked to consider the position further and to authorise the Clerk to respond, on its behalf, to the Home Office.

MIKE PEARSON
Director of Corporate Services