

COMBINED FIRE AUTHORITY

27 SEPTEMBER 2017

County Durham and Darlington
Fire and Rescue Authority



INDEPENDENT ASSESSMENT PROCESS FOR POLICE AND CRIME COMMISSIONERS PROPOSALS TO TAKE ON RESPONSIBILITY FOR LOCAL FIRE AND RESCUE SERVICES

REPORT OF DEPUTY CHIEF FIRE OFFICER

PURPOSE OF REPORT

1. This report provides members with information issued by the Home Office (HO) on the independent assessment process that will be used when a relevant local authority objects to a Police and Crime Commissioners (PCC) proposal to take over the governance of their local fire and rescue service.

BACKGROUND

2. Members have received previous reports relating to the Policing and Crime Act 2017 (The Act) which provides the legislation through which a PCC can exercise a number of options in relation to the governance arrangements of a fire and rescue service. These options are:
 - The PCC may request to have representation on the Fire Authority;
 - The PCC can take on the responsibility for the governance of the fire service and become the Police, Fire and Crime Commissioner;
 - The PCC can consolidate the Police and Fire Service in to one organisation to create a single employer.
3. Where the PCC wishes to take on the responsibilities of a Fire and Rescue Authority and if required, create a single employer, they must develop a business case that demonstrates it is in the interests of economy, efficiency and effectiveness, or in the interests of public safety. The Fire Authority must cooperate in the preparation of the business case through the provision of relevant information.
4. The Act requires the PCC to consult on their proposal with the relevant local authorities (for this Authority; Durham County Council (DCC) and Darlington Borough Council (DBC)), the residents who the PCC would represent and employees from the fire service and police force who may be affected.
5. Where there is agreement to the proposal from the relevant local authorities, the proposal will be considered by the Secretary of State who may make an order to give effect to the proposal.
6. Where local agreement does not exist, the Secretary of State must obtain an independent assessment of the proposal. The Secretary of State must have regard to that independent assessment, any representations made by the relevant local authorities and the summary of views expressed by the local communities before making an order to give effect to the proposal.

INDEPENDENT ASSESSMENT PROCESS

7. To consider how the independent assessment process would operate the HO formed a working group with representation from the Local Government Association (LGA), the Association of Police and Crime Commissioners (APCC) and the Association of Policing and Crime Chief Executives (APACE). The information on how the process would operate was published by the HO on 18 August 2017 (Appendix A).
8. The objective of the assessment is to ensure that the business case put forward by the PCC is robustly scrutinised and an assessment external to government is provided on the merits of the business case. When commissioned to carry out the independent assessment the assessor (which may be an organisation) will have clear guidance to review the proposal in its entirety, to advise on specific elements of the business case where appropriate and provide an opinion on whether they consider it to be in the interests of economy, efficiency and effectiveness, or public safety.
9. When commissioning an independent assessor the Secretary of State's decision will take into account potential conflict of interest to ensure the assessment is independent. The chosen assessor may come from the list below (although the HO may seek to add to this list where necessary); the list also includes potential experts the appointed assessor may consult with.
 - 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 the nature of the objection/s: Society of Local Authority Chief Executives (SOLACE) or Association of Police and Crime Chief Executives (APACE)
10. The intention when appointing the independent assessor is that they are not acting in a political capacity and that they will have the relevant skills and expertise to carry out the role.
11. The assessment process will apply to all types of FRAs where a relevant local authority has objected to the proposal.
12. Where a local authority objects to a business case submitted by a PCC the independent assessment process begins. It is envisaged that from the point when the HO determine the nature of the objection, the appointment of an assessor and the assessment being carried out and reported back to Ministers, will take approximately two months; although this may be extended.
13. The Secretary of State must publish the independent assessment as soon as is reasonably practicable after making a determination in response to the proposal. However, the guidance is clear in that the independent assessment is not a substitute for the Secretary of State decision making process and that whilst they will take into account the conclusions from the assessment it will be the Secretary of State who will decide whether the business case meets the statutory tests; i.e. is it in the interests of economy, efficiency and effectiveness, or public safety.

14. After considering the assessment there are three options for the Secretary of State to consider:
- Approve the proposal;
 - Approve the proposal with minor modifications, whereby the Secretary of State would be required to consult with the PCC and relevant local authority; or
 - Reject the proposal.

FURTHER CORRESPONDENCE RECEIVED SUBSEQUENT TO PUBLICATION OF INDEPENDENT ASSESSMENT PROCESS INFORMATION

15. On 31 August 2017 Nick Hurd MP, Minister of State for Policing and the Fire Service wrote a letter to all Fire and Rescue Authority Chairs and PCCs in England (Appendix B). The letter states how he is encouraged by the progress made by some PCCs in developing local business cases, but also highlights particular issues where a fire authority is part of a county council. However, the Minister is clear that he does not see the challenges as insurmountable and they should not prevent local leaders from seeking to develop a business case for transfer of governance. He goes on to state how his officials will engage in local areas and continue to provide support on the governance transfer process.
16. On 8 September 2017 the LGA wrote to all Fire Authority Chairs (Appendix C) informing them that they do not support the independent assessment process as outlined by the HO. The concern raised by the LGA is that for the assessment process to be credible and independent; as a minimum it must seek a view from those with fire, police, local government and financial expertise rather than the HO view that the decision to engage with one or more of these experts is at the discretion of the assessor.
17. The LGA point out in their letter that they are disappointed that the HO make no reference to their strong objections to the process and they are seeking a meeting with the Minister to see how best to move this forward.

RECOMMENDATIONS

13. Members are requested to:
- (a) **note** the contents of the report; and
 - (b) **agree** to receive further updates on the outcome of discussions between the LGA and the HO.

DCFO Colin Bage

Tel: 0191 3755585