

CONFIDENTIAL

Policy Briefing: Fire and Rescue Governance and mandatory transfer to Police, Fire and Crime Commissioners

Background

In July 2020 a two-part review of the role of Police, Fire and Crime Commissioners (PFCC) was launched by Kit Malthouse, Minister of State for Crime and Policing. Part one of the review, which comprised of a consultation exercise, was completed in March this year. Following the findings of the review the Home Secretary announced that the government will be launching a consultative white paper on fire reform “...after the 2021 elections”. This will set out a number of proposals for sector-wide reform, including whether to mandate the transfer of governance to PFCCs in England, where the police and fire boundaries are coterminous.

In light of the potentially significant change in policy around fire service governance, the County Councils Network (CCN) has commissioned FutureGov to produce a briefing paper laying out the context for this proposal, and to explore the key issues likely to emerge in the forthcoming white paper. This will allow CCN’s members to consider their response to the government’s consultation and where necessary marshal arguments to form their own policy position.

Accompanying this paper within the Appendix is an overview of the varying governance arrangement currently in operation for Fire and Rescue Services across England. This gives a brief overview of the characteristics of the governance arrangements in terms of their geography and leadership. Whilst the main body of this report refers to some of the characteristics of the differing governance models, the Appendix provides a more detailed objective assessment of the advantages and disadvantages presented by each model.

This paper is a confidential briefing for CCN member councils, aimed at providing initial objective analysis and commentary in relation to the proposed reforms to inform CCN and its member councils initial response to the White Paper. The views expressed do not represent the policy position of CCN nor FutureGov.

Policy Drivers

In 2016 responsibility for fire policy transferred from the Department of Communities and Local Government to the Home Office. This heralded the closing of a localist policy approach which had prevailed since the early 2000's. This decentralisation of fire policy had underpinned the introduction of integrated risk management plans (IRMPs), removed considerable central prescription in relation to service activity, and dismantled a number national fire institutions.

Inevitably, the move to the Home Office also encouraged debate around closer police and fire collaboration now that both services sat under a single Whitehall department - A department where the inevitable focus is on law enforcement and operational response and less on collaboration with other local authority services which characterised the approach favoured by MHCLG.

Following transfer to the Home Office a fire reform programme was announced which included the establishment of a Fire Standards Board to bring professional consistency across the sector, and the reestablishment of national inspections through the newly structured Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services (HMICFRS).

At the same time there was a drive for more emergency service collaboration and, importantly, the opportunity for governance of Fire and Rescue Services to move to PCC's where a successful business case was approved. This move to a more centralised policy position to drive greater consistency across the sector continues today and we suggest this is likely to be a feature in the future white paper.

Since the transfer of responsibility to the Home Office four FRS's have been transferred to Police Fire and Crime Commissioners (PFCC) under a "governance" model. This maintains the separateness of the two organisations, but with the PFCC providing the political direction and oversight. Of the four services, one, Northamptonshire was previously under county council control; and three, North Yorkshire, Staffordshire and Essex operated under a Combined Fire Authority arrangements. A further fire authority, Hereford and Worcester, resisted the transfer to the PFCC by successfully lodging a judicial review.

Notably, this time the issue of transfer of governance to PFCC's is increasingly linked to a wider sector reform agenda in which Commissioners are seen as a driver for change. The quote from Kit Malthouse announcing the Part 1 review emphasises this connection:

"On fire, the Government is clear that further reform of fire and rescue is required in order to respond to the recommendations from Phase 1 of the Grenfell Tower Inquiry, the Kerslake Review and to build on the findings from Sir Thomas Winsor's State of Fire and Rescue Report. Our reform agenda will focus on three key areas: people; professionalism; and governance. Taken together, improvements in these areas will help deliver higher standards and greater consistency across fire and rescue services" Kit Malthouse July 2020

Similarly in the Home Secretary's pronouncement in March of this year, the phrase of "people, professionalism and governance" was repeated. It is of note that in the last two years HMICFRS inspection focus has increasingly turned to governance and its effect on performance—something that tended to be avoided by previous inspection regimes.

In light of these developments it will be important to respond to any proposed changes in governance arrangements within the wider context of sector reform rather than as a standalone issue. This is a different position from 2016 where the rationale for transfer of governance to PCC's focused more on specific financial and operational opportunities.

Now the inference is that a change in governance is an essential component of wider reform, not only to create more transparency and accountability to the public but also to oversee operational improvements. In many ways the earlier position on PCC oversight of fire was more straightforward to argue against, particularly where the FRS was part of the larger council organisation. In this case the greater economies of scale of local authorities and the proximity of fire with other departments supporting the same vulnerable groups worked in favour of maintaining the status quo. This important shift in rationale leaves those arguments still important but weakened as a defence against change.

It may be that the conclusions from the part 1 review have clearly increased resolve to address the governance issue. Significantly the Home Secretary's announcement

now includes an indication that the government might be minded to go further than previously envisaged in March 2020 and see more PCC's extend their reach over fire services. There is now an intention to *"...consult(ing) on how to address coterminosity challenges, including in the South West"*. The South West region of the country has the most complexity in overlapping police and fire boundaries.

The Home Secretary's quoting of the Grenfell Tower Inquiry and review of the Manchester Arena bombings is significant as it points to the ministerial preoccupation with the operational role of the service and perhaps also an urban bias. Whilst it is an essential function of the service, it rather ignores the preventative social role that has grown over the last decade and proved to be so successful in improving outcomes.

Both incidents also feed into a narrative that systemic problems exist across the sector, of which part is the result of poor oversight. Amongst other things, both reviews criticised elements of the fire and rescue response, decision making at senior level, as well as their approach to preplanning. These accepted failures are thus likely to play into the wider call for reform. In the latter case, the Kerslake report details specific failures in coordination - particularly between fire and police resources.

In the future this may be referenced as an argument for closer organisational arrangements between the two services driven through by a single governance structure. This tends to ignore the fact that since 2017 the Policing and Crime Act has imposed a duty on Police, Fire and Ambulance services to collaborate whatever their governance arrangements.

It is also worthy of note that both quoted incidents actually occurred under a mayoral model of fire and police governance, which as will be seen in the appendices below bears similarities to the PFCC model. This potentially weakens the improved governance argument and whether such structural arrangements materially improve operational coordination is unclear.

In relation to the issue of reform and governance it is HMICFRS's "State of Fire" reports which give the strongest signals around a growing frustration as to lack of progress across the sector. This sits alongside Sir Tom Winsor's criticism of continuing inconsistencies between FRSs in their approach to delivering services, levels of

funding and quality of leadership. The State of Fire 2019 report listed four main recommendations:

1. The need for a standardisation of practice.
2. Clarity of the role of the service
3. A consideration of the arrangements for determining terms and conditions
4. Greater operational independence of Chief Fire Officers.

In Winsor's subsequent report a year later, his recommendations become more pointed around operational independence, the role of the service and pay and conditions. There is a clear tone of frustration that there has not been more progress and for the first time there are specific observations as to the performance of fire and rescue authorities in managing local change.

The current report quotes examples of inconsistencies between FRS's in mounting their pandemic response arrangements. Some proved highly effective and flexible whilst others were mired in discussions with the Fire Brigades' Union which slowed and limited their activities.

At a national level the report is pointed in its criticism of the failure by the national employers organisation and the FBU to create a flexible and evolving national agreement that allowed trained operational staff to undertake a range of activities to assist health agencies and local authorities.

This is not the only example where national arrangements seem to be ineffective in bringing about changes in working practices. Attempts to agree a formal role for firefighters in a marauding terrorist attacks and emergency medical response have been under discussion for many years with no agreement between the two sides. This inability at a national level to drive change to address changing demands is likely to be held up as an example of the inability of the sector to reform itself.

The perception is that the existing structure which seeks to determine national pay and conditions hampers work on the ground. This leaves the more innovative authorities to seek workarounds through local agreements and creative arrangements with non-operational staff and non FBU members to fulfil important work. This plays into the arguments around inconsistencies, a lack of central

coordination and raises a question as to the efficacy of governance arrangements both locally and within the national employers' organisation.

It is quite possible that the white paper may recommend an end to this negotiating machinery. If there is desire to align more closely to police and prison officer arrangements then we may see the proposals for an independent pay review body which would take control for the settlement of pay and conditions away from employers.

This view around the influence of the FBU may betray a London centric view and is a point returned to later in considering the perspective of ministers. Whilst metropolitan services are predominantly wholetime staffed, the influence of the FBU is less evident in County FRSs where a greater proportion of the workforce is not unionised or in other unions. As the pandemic demonstrated on-call staff (who tend not to be FBU members) proved to be a valuable and very flexible resource to deploy on health-related activities.

Aligned with the above is a theme around Political and Professional Leadership, and the need for this to be driving change and improvement. Whilst the standards for professional leadership have been redefined by the Fire Standards Board, the means and investment by which these are delivered across the sector is unclear. This represents an opportunity for the CCN to take the initiative by advocating and engaging in the development of national structures for leadership development.

Operational Independence in the Fire Service

Increasingly, the topic of “operational independence” has emerged as the calls for reform have grown louder. In simple terms the concept of operational independence seeks to delineate between the responsibility of the fire authority and the purview of their Chief Fire Officer, with the former setting strategic direction and the latter implementing the technical solutions to achieve that ambition.

Whilst now in common parlance it was not an issue that drew much attention in fire prior to the transfer to the Home Office. In police circles the matter has always been topical and indeed more specifically defined in legislation. There is currently no parallel within fire service legislation. The inference is, the absence of a clear definition gives rise to inconsistencies in authorities as to where key technical decisions are made. Hence some fire authorities involve themselves in quite technical operational matters which justifiably lie with the Chief Fire Officer because they are politically contentious. For those with a clear democratic mandate this seems entirely legitimate if such technical decisions have significant implications for the communities they represent.

Some attempt was sought to clarify responsibilities of Fire Authorities and CFO's in the National Framework 2018. This detailed the various reporting requirements for different models of Fire and Rescue Authority. However, this seems not to have addressed to any great extent the delineation of professional and political leadership. Notably, the National Fire Chief's Council is a strong advocate for the introduction of formalised operational independence for their members. Therefore, should there be a move to define responsibilities along the police model this is likely to gain support from professional stakeholders.

Within this narrative is also an inference that authorities who overly involve themselves in operational decisions are at risk of being more influenced by vested interests rather than the risk analysis of their advisors. Hence the ability of some services to seemingly respond more flexibly and innovatively than others during the pandemic.

However, it is worth noting that the matter of operational independence is far from settled within the police service itself. In part 2 of the PCC review announced by the Home Secretary, reference is made to possible changes to the Policing Protocol

Order 2011 to provide a 'brighter-line' on the boundaries of operational independence within the police service. We would anticipate that the White Paper is likely to offer some definition of operational independence for the fire service. It may be a consideration that a similar protocol for the fire service could be offered.

As to whether professional independence is more clearly delineated and effectively operating within those fire services currently governed by PFCC's is a matter for future research.

Ministerial Perspective and the call for mandatory transfer

As mentioned above there are signals in the policy pronouncements that a London, or at least urban centric view, is being taken on how fire services operate and perform. Both quoted examples of the need for change, the Grenfell fire and the Manchester Arena bombings occurred in two of the largest and almost entirely whole time staffed services. Large scale flooding which tends to occur in rural areas, where arguably multiagency coordination has proved more effectively, did not warrant attention.

It is also significant that Priti Patel is MP for Witham constituency in Essex. The county in which the troubled FRS moved to PFCC control after concerns around the culture that prevailed in the organisation and the influence of the FBU. Lord Greenhalgh, currently Minister for State for Communities and Building Safety which includes fire, had previously served as Deputy Mayor in London with responsibility for Fire and Police. A position which has parallels with the PFCC role.

Such experiences are likely to contribute to particular views about fire governance which are rather limited in view and focused on the PFCC and Mayoral models, and do not consider the wider advantages and disadvantages of all models as set out in the appendix of this document at page 15. Therefore, improving awareness of ministers as to how the current models of fire governance works in much of the country outside the big cities could be usefully deployed alongside a strategy of lobbying MP's.

Perhaps the most significant change in governance policy is not the detail, but the process of enactment. Whereas previously for change to occur the business case

needed to be agreed or proved, now the intention would appear to make the change mandatory. Not only does this potentially set local and central government at odds but it also creates an internal dynamic for a government seeking to be more libertarian. As such this is likely to generate considerable resistance amongst MP's some of whom will be from the government's own backbenchers. This political reality maybe an avenue to explore in determining a future lobbying approach.

Conclusions, and determining the right response

This paper has sought to provide context to the present government pronouncements around fire governance and draw out some of the themes which appear to be influencing its thinking. This provides opportunities for challenge but also for the CCN and its members to consider taking initiative and potentially pre-empting some of the solutions the government is seeking to find. Clearly these issues will be thrown into much sharper focus once the White Paper is published.

If the government maintains its current rationale for transferring governance of FRSs to achieve greater transparency and accountability as well as achieving sector reforms; it will not be sufficient to argue against such change in the way previous business cases have been challenged. Such an approach may infer complacency and a lack of ambition. More productive will be to recognise what is being achieved by those authorities who perform well and are acknowledged as doing so. HMICFRS does find examples worthy of praise:

"We were particularly impressed with how some county council-run services worked with council departments and colleagues to increase their knowledge of, and presence and work in, the community. This showed how fire and rescue services can benefit from being part of a larger organisation, particularly being able to share information technology (IT) and IT infrastructure, and to exchange information in the current climate." (State of Fire Report 2020)

Using strong examples of how high performance can be delivered within existing structures and how that can be facilitated more consistently across the sector is likely to be a more fruitful approach. Similarly, there will be a need to consider not just changing arrangements at a local level which might impede progress but also

national structures. Offering options for sector wide change will be necessary to give credibility and authority to the network's response.

Historically, proposed changes to fire authority governance have often underestimated the resource and political appetite needed for, what is in effect, local government reform. For that reason there are a multitude of models of fire governance in what is a relatively small part of English local government.

Depending on definitions there are presently 7-8 types of fire authority across the forty-two services (a number Sir Tom Winsor has twice quoted as too many). To some extent this complexity is acknowledged in the recent review, as mention is made of focussing change on those services which have coterminous boundaries with police forces. As such one of the key issues will be arguing against a piecemeal approach which ultimately creates an additional governance arrangement, adding to the 7/8 which already exist. This has its risks but ultimately just adding to the present list of governance arrangements provides no value for the public, local authorities or the sector.

It seems the government has an appetite to go beyond coterminous services, but also take on a rationalisation in the south west. This will be complex, involving four police and four fire and rescue services none of whose boundaries align. It will also involve four PCCs and nine constituent local authorities. This alone will require considerable political energy and attention to unravel.

Currently the proposed unitarisation bids in Somerset provides some parallels for the effort that will need to be invested in any change. Whether there is the will or energy to see through a complete overhaul may well depend on the resistance the government meets and the legislative agenda it sets itself.

Finally, given the current policy thrust there is an unstated assumption that the current FRS's under PFCC's are addressing those reforms and performance issues identified above. There has been no specific mention in any of the current announcements of the performance of those four organisations under PFCCs, - although the State of Fire Report 2020 does mention Northamptonshire as having improved.

It is clear that more research into these authorities and services is likely to be revealing. Similarly, the issue of cost of transfer and on-going funding, whilst not a key argument will remain important. Understanding those costs both, direct and in-direct, that have been identified in the initial transfers will be relevant, particularly in relation to any alternative proposal.

Phase 2

This summary paper has been produced by FutureGov on behalf of the County Councils Network (CCN). It is proposed that a second phase is undertaken as a collaboration project for interested member organisations.

In phase two we will undertake both the qualitative and quantitative research necessary to generate solid arguments in response to the government's consultation. We will be closely working with those authorities which have put themselves forward to develop both the broad themes of response but also the specific contentions which relate their particular circumstances.

Appendix - Governance Models

Governance Arrangement: Combined Fire Authority FRS

These will be coterminous with the constituent upper tier authorities. Constituent Authorities may be City, County or Unitary authorities. FRA representation is based on population.

CFA's operate in a committee structure with a leader of the FRA. All representatives are appointed by their home authorities. CFA's have precepting powers.

Dedicated audit and scrutiny committees operate within the authority.

Advantages

- Tend to have more autonomy as to their strategic approach
- Funding and spending as well as precepting is more transparent
- Financial management is more self-contained.
- Local members tend to have more direct involvement in decision making because of committee structure.
- Single focus authority has fewer competing priorities.
- More masters of own destiny
- Often more business-like approach to financial management
- Leader of the FRA visible political representative to the public
- Independent officer support to governance provides check and balance, clerk to authority, treasurer, 151 officer
- Scrutiny arrangements will have single focus on the work of the FRS

Disadvantages

- Reserves may be disproportionate because of limited size and access to funding sources constrained.
- Diseconomies of scale
- Size means often unable to directly employ specialist and may rely on constituent authorities for services. ICT, HR, pensions
- Required to work harder to build local authority relationships given separate entity.
- Governance structure can be unwieldy with weight of members
- Data sharing with LA partners maybe encounter more barriers
- Can be dominated by largest and most powerful constituent authority- potential for conflicting interests

Governance Arrangement : Integrated Fire Authority

These will be coterminous with the upper tier local authority of which they will be a service department. This might be a county council or a unitary in the case of Cornwall. Fire may often sit within a wider directorate of regulatory or community safety services. CFO may have wider responsibilities beyond fire and occupy a Director role in the authority. In cabinet arrangements a portfolio holder will have day to day oversight for fire and is the main political interface with the Chief Fire Officer. The portfolio holder usually holds a number of other responsibilities. Scrutiny of the function is usually through normal council scrutiny arrangements although exceptionally there maybe a dedicated scrutiny panel.

Advantages

- Sits within a wider public service organisation with complementary community safety and regulatory services.
- Better opportunities for a seamless service to those most vulnerable
- Data sharing should be easier across all council services.
- Can capitalise of back office economies of scale and call on specialist functions HR, Finance etc
- Well placed in relation to future regulatory changes to built environment
- Governance structure may have dedicated portfolio holder- clear transparency and accountability
- Governance allows for local representation by individual councillors representing specific geographic areas.
- Well-developed scrutiny arrangements part of the wider CC
- Portfolio holder for function provides main political point of contact

Disadvantages

- Revenue and Capital needs of Fire may be crowded out by other council priorities.
- Role of CFO can be relegated to 3rd tier officer with little corporate influence
- Funding levels can be opaque and transparency to tax payers poor.
- As a risk based service rather than demand led may not be well understood in context of other council services.
- May be constrained by other council priorities and values set which don't align to FRS Core Code of Ethics
- Scrutiny maybe through generic arrangements and hence insight on function limited

Governance Arrangement : Police, Fire and Crime Commissioner

Under previous government arrangements there are three models of PFCC allowable

- **Representation:** PFCC takes a seat on the existing FRA- effectively little change in governance
- **Governance:** Police and Fire remain separate entities with separate Chief Officer/Constable, operational independence and budgets
- **Single Employer:** Single Chief Officer for policing and fire- single entities but increasingly integrated support services.
- Scrutiny of PFCC through Police and Crime Panels

The only model currently in use is Governance, existing transfers based on business cases which were predicated on Operational Benefits and Financial Savings

Advantages

- Benefit of a combined asset base with complementary building requirements
- Single person governance - more visibility (not always means more accountable)
- May gain economies of scale where fire partner previously provided most back office internally
- Governance tends to be streamlined and cost effective.
- Opportunities for closer operational response collaboration between police and fire

Disadvantages

- Political and financial priorities of law enforcement may crowd out attention on fire
- Community vulnerability to fire may not align with law enforcement target groups
- Less localised political representation as a single PFCC covers an entire area.
- May lose economies of scale if moving from LA control or bought in back office services.
- Data sharing with existing partners may become more difficult because of partner perceptions.
- Focus moves from a health and well-being role
- Partnerships with built environment stakeholders potentially weakened.
- Oversight and scrutiny role of police and crime panels limited

Governance Arrangement : Mayoral Arrangements

Mayoral arrangements vary. Greater Manchester operates as a Mayoral Combined Fire Authority. Chaired by the Mayor, the Combined Fire Authority is responsible for FRS functions with those functions exercised by the elected Mayor. As such the advantages and disadvantages largely mirror those of other CFA's with the added political presence brought by the mayoral role. A Police, Fire and Crime Committee, made up of members from the constituent councils, support the Mayor in exercising non-strategic fire and rescue functions.

In London the Mayor appoints the London Fire Commissioner who acts as the fire and rescue authority as a function of the Greater London Authority. The Mayor of London sets the budget, approves the London Safety Plan (IRMP), and can direct the commissioner to act. A Deputy Mayor for Fire and Resilience supports the Mayor. Whilst formal decisions about London Fire Brigade are approved by the London Fire Commissioner some may be consulted on with the Mayor or Deputy Mayor. A London Assembly Fire, Resilience and Emergency Planning (FREP) Committee also exists to hold the Commissioner and Mayoral arrangements to account for priorities, performance and budget.

HMICFRS 2019/20 inspections looked at all fire services in England across the headline areas of Effectiveness, Efficiency and People. Both Manchester and London received judgments of 'Requires Improvement' across all three headline areas with London receiving a written letter identifying specific causes for concern. The expectation is that Services should achieve a 'Good' assessment.

Recognising the Mayoral Combined Fire Authority will be similar to other Combined Fire Authorities the following advantages and disadvantages are framed against the London Mayor and Commissioner model.

Advantages	Disadvantages
<ul style="list-style-type: none">• Corporate sole and fire authority through the commissioner may simplify decision making and clarify accountability• Direct political link to Mayor and Deputy Mayor.• Separate scrutiny through the London Assembly providing some accountability and transparency• Revenue and Capital needs planned clearly through Mayor's budget• Organisation size means can support recruitment, training and maintenance of significant specialised teams (such as Fire Engineering specialist)• Well placed in relation to future regulatory changes to the built environment.	<ul style="list-style-type: none">• Whilst the service links to boroughs for risk management and operational planning and delivery there may be less direct local political representation from across the boroughs of London at the Authority/Corporate leadership level.• Having to work with 33 London Boroughs will impact information and data exchange• Funding provision may be competing with Mayors other priorities – such as policing and transport.• Proximity to the national political centre may allow for a louder voice creating a London centric view that may at times differ from wider national FRS challenges. For example, London is 100% whole time staffing (Manchester 99%) whilst other services have a far greater reliance on on-call staff).• Size and scale of organisation may make it slow to react and adapt.