

# Local Government Association briefing

## Policing and Crime Bill, House of Commons

### Committee Stage

### Tuesday 22 and Thursday 24 March, 2016



#### KEY MESSAGES

- The fire and rescue service already works closely with the other emergency services on a daily basis to save lives<sup>1</sup>. Local initiatives and innovation are driving increasing cooperation, which is extensive, and current governance arrangements have not hampered or delayed this.
- For example, effective joint working was vital in the emergency services responding to the recent flooding and extreme weather to protect communities. In particular, firefighters worked tirelessly with the armed forces, local authorities and others in Cumbria, Lancashire, Yorkshire and Northumberland to safeguard vulnerable people. 25 out of 46 English fire authorities were involved.
- The enabling provisions in clauses 1 to 5 of the Bill to allow the three 'bluelight' services to enter collaboration agreements will assist areas in building on the arrangements already in place across the country. However any new duty should not limit the ability of Fire and Rescue Authorities (FRAs) to collaborate on a wider basis, such as with the health service.
- The provision of incentives, like transformation funding, is more likely to produce greater collaboration between the emergency services, and also between FRAs and other public services like health and social care.
- It is vital that any changes to fire governance should only take place where there is a clear and undivided local wish for a Police and Crime Commissioner (PCC) to take on the responsibility for fire services. **The LGA supports amendments 170, 171, 172 and 173.** It should be a requirement in paragraph 11, Schedule 1 of the Bill, that any proposals to the Secretary of State for the transfer of fire governance are supported by the relevant local authorities and local people following comprehensive consultation.
- Any proposals from a PCC as set out in paragraph 11, Schedule 1 to transfer the governance of the local fire and rescue service must also be supported by a comprehensive, evidence based and well tested business case that demonstrates how the governance change improves the fire and rescue service, and increases public safety. Each proposal and its supporting business case must be subject to independent assessment by appropriate academic and financial experts from outside Whitehall **and the LGA supports amendment 180 that if passed would ensure this.**
- Allowing a PCC to take on governance of the fire service where there is not local support would undermine existing collaboration arrangements. It could also make working arrangements between the police and the fire service more problematic, and could undermine the trusting and good relationships which have been built up so far.
- As the fire service in the 15 county FRAs is integrated with the wide range of other services the counties deliver the opportunities to find efficiencies and savings from collaboration will be limited. The transfer of governance would also impact for example on their ability to deliver improvements in adult social care and public health.
- Further consideration should be given to the provisions in clause 7 that would allow a

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# Briefing

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<sup>1</sup>The LGA's response to the Government's Enabling Closer Working between the Emergency Services consultation [is available online](#).

PCC to attend, speak and vote in council meetings when fire related business is being considered. In the 15 county fire and rescue authorities it may not be so easy to distinguish between what is purely fire related business and other service issues, especially when budgets are being set. **The LGA supports amendment 185 that if passed would mean where there is a dispute over whether business relates to the functions of the council as a fire and rescue authority then the decision of the council's monitoring officer would be final as to whether it was.**

- The provision of incentives, like transformation funding, is more likely to produce greater collaboration between the emergency services and also between them and other public services, like health and social care, than a new statutory duty.
- The LGA welcomes the extension of the power to suspend or revoke personal licences to councils in clause 85. Extending the power of revocation to councils will enable them to take prompt action to ensure that people convicted of relevant criminal activity are unable to authorise the sale of alcohol.
- Cllr Jeremy Hilton, Chair of the LGA Fire Services Management Committee (which represents all 46 fire authorities in England) [said in January 2016](#): "The Government should not impose change for change's sake. However, we do support improved collaboration between the three emergency services. The LGA would only support changes to the governance of fire and rescue authorities if there is an agreement between the Police and Crime Commissioner and the local fire and rescue authority, underwritten by a watertight business plan that also has the support of the local community."

## **AMENDMENT STATEMENTS**

### **Schedule 1, amendment 3, the Rt. Hon. Mike Penning MP**

- The LGA supports amendment 3 that would, if passed, create a fire fund as a separate account to pay for the fire service. This would mean there would be a separate account for the fire service where it is transferred to a Police and Crime Commissioner. This would provide some protection for fire budgets as it would ensure it would be open and transparent what the budgets are, and if money was being transferred from the fire service to the police.

### **Schedule 1, amendment 170, Lyn Brown MP**

- The LGA supports amendment 170 that would, if passed, require a Police and Crime Commissioner to consult local residents about the proposal to transfer governance of the fire and rescue service to the police and crime commissioner.

### **Schedule 1, amendment 171, Lyn Brown MP**

- The LGA supports amendment 171 that would, if passed, mean that Police and Crime Commissioners need only seek the views of people living in the affected fire and rescue authority rather than across the whole of the police force area. In an area like the Thames Valley, where there are three fire and rescue authorities, if the Police and Crime Commissioner was proposing to only take on the responsibilities of one fire and rescue authority then this amendment would ensure that only the residents in that authority's area would need to be consulted.

### **Schedule 1, amendment 172, Lyn Brown MP**

- The LGA supports amendment 172 that would, if passed, mean the consultation process a Police and Crime Commissioner has to conduct ahead of a proposed transfer of governance mirrors the existing arrangements in the Fire and Rescue Services Act 2004 for the merger of two or more existing fire and rescue authorities.

### **Schedule 1, amendment 173, Lyn Brown MP**

- The LGA supports amendment 173 that would, if passed, mean the Secretary of State could only make an order transferring governance of the fire service to a Police and Crime Commissioner where the relevant local authorities were in agreement with the proposal.

### **Schedule 1, amendment 174, Lyn Brown MP**

- The LGA supports amendment 174 that would, if passed, mean that a Police and Crime Commissioner's proposal to take over governance of the fire and rescue service could only take place where it would be in the interests of efficiency, effectiveness and public safety (in the Bill it is in either the interests of efficiency and effectiveness or in the interests of public safety). This would mean any business case for the transfer of the governance would have to clearly articulate the benefits of such a change.

### **Schedule 1, amendments 177 and 178, Lyn Brown MP**

- The LGA supports amendments 177 and 178 that would, if passed, require a Police and Crime Commissioner's proposals to take over fire governance to have either the consent of the relevant local authority or fire and rescue authority, or a vote by a majority of local people in a referendum. Amendment 177 sets out who would be able to vote.

### **Schedule 1, amendment 180, Lyn Brown MP**

- The LGA supports amendment 180 that would, if passed, mean the independent assessment of a proposal to transfer governance to a Police and Crime Commissioner would be carried out by a panel of experts agreed locally. In the explanatory notes to the Bill it is suggested that Her Majesty's Inspectorate of Constabulary or the Chief Fire and Rescue Adviser would provide an independent assessment of a proposal from a Police and Crime Commissioner where this was not supported by all the relevant councils. The appointment of a panel of experts agreed locally would ensure that any assessment is completely independent in its views of the proposal.

### **Schedule 1, amendment 181, Lyn Brown MP**

- The LGA supports amendment 181 that would, if passed, require a Police and Crime Commissioner to pay any costs the fire and rescue authority would incur in providing the Police and Crime Commissioner with the information needed to prepare a proposal to transfer governance.

### **Clause 7, amendment 185, Lyn Brown MP**

- The LGA supports amendment 185 that would, if passed, deal with any disputes in county or unitary fire and rescue authorities about what matters a Police and Crime Commissioner could vote on. The provisions in Clause 7 allow a Police and Crime Commissioner to attend, speak and vote at meetings of county or unitary fire and rescue authorities where the business relates to the functions of the council as a fire and rescue authority. It will not always be clear whether or not an item of business relates to the functions of the council as a fire authority. Where there is a dispute over whether business relates to the functions of the council as a fire and rescue authority this amendment would mean the decision of the council's monitoring officer would be final as to whether it was.

## **BACKGROUND INFORMATION**

### **National and local initiatives**

FRAs, supported by the LGA, have been at the forefront of driving collaborative arrangements between emergency services. Closer joint working has also been facilitated by the fire service transformation programme. This has enabled FRAs to explore a range of collaborative arrangements, with a number of partners, wherever it makes economic

and operational sense. The ability of the emergency services to work together has also been strengthened in recent years through initiatives like the Joint Emergency Services Interoperability Programme (JESIP) to help improve multi-agency responses to major incidents. In addition to national programmes, like JESIP, there is increasing collaboration between the services as a result of local initiatives and innovation. These measures have improved the quality of response from the emergency services and improved efficiencies.

### **The Policing and Crime Bill**

The Policing and Crime Bill would require a police force, ambulance service or fire and rescue service to collaborate where it would be in the interests of their own efficiency and effectiveness, and one or more of the other services take the same view. If a collaboration agreement would improve efficiency but adversely impact effectiveness, or vice versa, then the services would not be required to collaborate (although they may choose to). A service would be given an option to withdraw from a collaboration agreement if it is no longer in the interests of efficiency and effectiveness.

Fire and Rescue Services (FRSs) already work closely with the other emergency services on a daily basis to save lives. During the recent flooding and extreme weather FRSs worked alongside the other emergency services to protect communities. Firefighters worked tirelessly with a range of other partners as well including the armed forces, local authorities and others in Cumbria, Lancashire, Yorkshire and Northumberland to safeguard vulnerable people.

FRAs have been at the forefront of driving a range of local initiatives and innovation to increase cooperation and collaboration. This includes co-responding arrangements (some of which have been in place for nearly 20 years) with the ambulance service where firefighters are called out to medical emergencies and will provide initial medical treatment and care until an ambulance arrives. Increasingly FRAs are collaborating with wider health partners, and FRSs around the country using the 670,000 annual fire home safety checks<sup>2</sup> to support wider early intervention and prevention objectives.

The enabling provisions in clauses 1 to 5 of the Bill to allow the three 'bluelight' services to enter collaboration agreements will assist areas in building on the arrangements already in place across the country. However any new duty should not limit the ability of FRAs to collaborate on a wider basis, such as with the health service. In our view the provision of incentives, like transformation funding, is more likely to produce greater collaboration between the emergency services, and also between FRAs and other public services like health and social care.

The legislation also makes provision for a PCC to take responsibility for the FRSs in their area where a proposal is made to the Secretary of State, which includes an assessment of why it is in the interests of economy, efficiency and effectiveness or in the interest of public safety for the order to be made. The Bill requires the relevant FRA to cooperate with the PCC in preparation of the proposal and provide any information the PCC might reasonably require. **We support amendment 181 that if passed would require the PCC to pay any costs the FRA incurs in providing the information needed to prepare a proposal to transfer governance.** The PCC would then be required to consult each relevant upper tier council, as well as seeking the views of the public in the PCC's area, before they submit a proposal to the Secretary of State. If a combined authority is the FRA then it also has to be consulted.

Changes to fire governance should only take place where there is a clear and undivided local wish for a PCC to take on the responsibility for fire services. Allowing a PCC to take on governance of the fire service where there is not local support would undermine existing collaboration arrangements. It could also make working arrangements between the police and the fire service more problematic, and could undermine the trusting and good relationships which have been built up so far. The provisions in paragraph 11, Schedule 1, that amend the Fire and Rescue Services Act should ensure therefore that any proposals to the Secretary of State for the transfer of fire governance have the support of the relevant local authorities, and also of local people following a comprehensive consultation process.

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<sup>2</sup> CFOA, LGA, 2015, A Service for the Future, p8

These provisions should also ensure that the assessment of why the proposals to transfer governance are in the interests of economy, efficiency and effectiveness or are in the interests of public safety provide a comprehensive, evidence based and well tested business case. This business case should consider the impact of the governance changes on the individual FRS and police force. Further, it should consider the range of partners the FRS is collaborating and cooperating with, including local authorities and the health service, as well as the ambulance service.

Where a relevant council does not support the proposal of a PCC then the Bill requires the Secretary of State to obtain and have regard to an independent assessment of the proposal. Every proposal to transfer governance should be independently assessed to ensure that it is properly tested and all the impacts and risks fully assessed. We are calling for this independent assessment to be carried out by appropriate academic and financial experts from outside Whitehall.

In the 15 county FRAs the fire service is an integral part of the range of services provided by the council. It will receive payroll, human resources, IT, and legal support from the same teams that support other departments in the council, and the senior fire officers will also have wider responsibilities within the county. There will be little or no scope to deliver savings and efficiencies through changes to the fire service's back office functions; and any transfer of governance may have a significant impact on the county's budget and service provision, as the fire service may be playing a significant role in reducing the public health and social care demands placed on the council.

With PCCs having expanded responsibilities, the Bill proposes the police and crime panel (PCP) supports the effective exercise of the fire and rescue functions of the PCC (as the FRA) by reviewing and scrutinising their plans, decisions and actions. These changes would also require the PCC to provide the PCP with any information it may require to carry out its functions with reference to fire and rescue. One of the challenges that panels have struggled with is fulfilling their existing responsibilities within the limited funding available from the Home Office. It is not clear from the Bill or explanatory notes how this additional burden on panels would be resourced by the Home Office.

Clause 7 of the Bill enables a PCC to be represented on an FRA (outside London) with voting rights, where the FRA agrees. An appointing authority or committee must consider a request made by a PCC to be represented on a FRA, give reasons for either accepting or refusing and then publish their decision. If an FRA agrees to the request, the PCC may attend, speak and vote at FRA committee meetings. In the case of a county authority, the PCC, if invited to be represented, can only speak and vote on issues relating to the functions of the FRA. Where the FRA crosses the boundaries of two PCCs, then both can request to be represented on the FRA, and where the PCC's force covers more than one FRA they can have a place on each.

The 15 county FRAs will be in a difficult position when considering a proposal from the PCC to sit on the FRA. In these FRAs the county council as a whole is usually the FRA, and the provisions in the Bill would allow the PCC to attend, speak and vote on issues relating to the function of the FRA. In some instances it may be easy to make the distinction between what is and what is not a function of the FRA. In particular there may be difficulties in doing this in relation to budgets where funding levels in one part of the authority may have implications for the FRA. Ahead of the legislation coming into force the Home Office should discuss with the LGA and the 15 affected county FRAs what circumstances it would see the PCC being able to vote, in order to minimise the scope for disputes between the counties and their PCCs in the future.

### **Examples of joint working**

FRAs are increasingly collaborating with wider health partners, beyond just the ambulance service, and following the transfer of public health responsibilities to local government the prevention work done by fire and rescue services is welcome.

- A growing number of FRSs, including Kent and Humberside, are supporting health and social care interventions by providing, for example, comprehensive checks in the home to identify, in particular, elderly or vulnerable people. FRS teams working in this way are installing cold alarms alongside smoke alarms in the homes of elderly people living alone so they can be supported if the temperature dips below a certain level.

- Other FRSs like Greater Manchester, Norfolk and Suffolk and Merseyside are involved in early preventative work, often by working in schools. They are helping children and young people to lead more active lives by educating them about the benefits of fitness, healthy eating and an active lifestyle. This work saves lives, helps to keep people healthy, tackles obesity and reduces hospital admissions.
- Firefighters in Wigan have become ‘health champions’ in their local community. Equipped with specialist training, they are able to use their contact with residents to promote good health, provide advice and point people towards further information. In total they work with 20 different agencies. Including Age UK, hospitals and social housing providers, to support the local community.
- Fire crews in Norfolk and Suffolk are working in partnership with local NHS teams to help overweight teenagers become more active. The teenagers take part in eight week activity and nutrition courses at two local fire stations with the firefighters acting as role models. Those who have taken part reported that the programme has helped them to change their lifestyles.
- The Gloucester Fire and Rescue Service (GFRS) is playing a role in a Public Health England pilot, aimed at reducing the winter pressure on the NHS and local council services. John Beard, GFRS head of community safety, said: “Rather than just carry out traditional home fire safety checks, we started working more closely with colleagues in safeguarding teams and adult social care, exploring how the interactions our staff were having could deliver benefits across a much wider section of the public sector.”

This collaboration between FRAs and the NHS and Public Health England will increase. The LGA [recently signed a consensus statement](#) with the Chief Fire Officers Association, NHS England, Public Health England and Age UK. The statement sets out the intention of these bodies to work together to encourage joint strategies for early intervention and prevention to support people with complex needs so they can lead full lives and sustain their independence for longer, while reducing preventable hospital admissions and avoidable winter deaths.

Fire authorities are also working with ambulance services to help meet growing demand for services. In a number of cases ambulance services have been very happy to have the support of local FRSs to respond to health related emergencies, particularly in rural areas, which present ambulance services with a particular challenge.

### **Part 7 - Alcohol Licensing**

The LGA welcomes the extension of the power to suspend or revoke personal licences to councils in clause 85. This will enable them to take prompt action to ensure that people convicted of relevant criminal activity are unable to authorise the sale of alcohol. The existing system, limited to magistrates, has proven to have limited impact and is infrequently used, which has allowed some individuals to continue to hold a licence long after it is appropriate for them to. Licences should be suspended or revoked if the holder has been convicted of a relevant offence under the Licensing Act 2003, which includes offences of drink-driving, serious violence, or sexual assault.

We would expect that councils will make use of the existing hearing process to provide personal licence holders with a fair and transparent chance to put their case. This is not spelled out in the Bill, and does not need to be, but we would expect the guidance issued under section 182 of the Licensing Act 2003 to reflect this approach.