

Policing and Crime Bill

Purpose

For discussion and direction.

Summary

The Government published its response to the autumn consultation on Enabling Closer Working between the Emergency Services at the end of January 2016 and this was followed some two weeks later by the publication of the Policing and Crime Bill providing the enabling legislation for the changes the Government is proposing following the consultation.

Recommendations

Members are asked to confirm the LGA's approach to the Bill by:

1. Adopting the lobbying strategy set out in paragraphs 7 and 8.
2. Agreeing to the LGA's engagement with the group established by the Association of Police and Crime Chief Executives to develop a model business case.
3. Encouraging local discussion between Fire and Rescue Authorities, combined authorities and Police and Crime Commissioners on how collaboration and cooperation could be increased.

Action

Officers to note members' comments and decisions and take action accordingly.

Contact officer:

Mark Norris / John Wright

Position:

Principal Policy Adviser / Senior Adviser

Phone no:

020 7664 3241 / 020 7664 3146

Email:

mark.norris@local.gov.uk / john.wright@local.gov.uk

Policing and Crime Bill

Background

1. Following a commitment in the Conservative party manifesto to enable fire and police services to work more closely together and develop the role of Police and Crime Commissioners, the Government undertook a consultation on *Enabling closer working between the Emergency Services*, which closed on 23 October 2015. [A summary of responses to the consultation and next steps](#) was published by the Government on 26 January 2016. This was followed by the first reading of the [Policing and Crime Bill](#) on 10 February 2016. Second reading of the Bill is due to take place on 7 March, and we are advised that the committee stage will be reached in mid-March.

Responses to the Consultation

2. There were 318 full or partial responses to the consultation from a wide range of national, regional and local organisations, police forces, police and crime commissioners (PCCs), fire and rescue authorities (FRAs), councils, ambulance trusts, practitioners, as well as interested groups and individuals.
3. There was significant support in these responses for the introduction of a new duty to collaborate. While some responses suggested there was no need for a duty given the range of collaboration arrangements already in place, other responses suggested the duty should be extended, for example to local authorities. There was also good support for enabling PCCs to take on fire governance, but there were a broad spectrum of views about how that might work.
4. Having considered the consultations responses the Government indicated it would be introducing legislation that only applied in England to:
 - 4.1. Introduce a high level duty to collaborate.
 - 4.2. Enable PCCs to take on the functions of FRAs where a local case is made.
 - 4.3. In areas where a PCC has not become responsible for fire and rescue services, enabling them to have representation on their local FRA with voting rights, where the local FRA agrees.
 - 4.4. Abolish the London Fire and Emergency Planning Authority and give the Mayor of London direct responsibility for the fire and rescue service in London.
5. In addition the Government stated an intention to implement a range of measures designed to facilitate these changes including allowing senior fire officers to apply to be chief constables, developing career pathways between policing and fire, and making provision for a single employer for both services.

Policing and Crime Bill

6. The Bill carries forward the Government's stated intention in the consultation response of legislating to implement their proposals. In broad terms the Bill:

- 6.1. Requires an emergency service (for the purposes of the Bill emergency services are ambulance, police and fire) to collaborate, where the proposed collaboration 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, the service would not be required to collaborate, although they may choose to. The Bill also allows for a service to withdraw from a collaboration agreement if it is no longer in the interests of efficiency and effectiveness.
- 6.2. Makes provision for a PCC to take responsibility for the FRS in their area where a local case is made, as well as to take the additional step to create a single employer for police and fire.
- 6.3. Sets out the process by which a PCC can make a proposal to take on responsibility for fire in their local area. A proposal can only be agreed by the Secretary of State where 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. The PCC will 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 it to the Secretary of State. If a combined authority is the FRA it also has to be consulted.
- 6.4. Stipulates that the Secretary of State must seek an independent assessment of the PCC's proposal where a relevant upper tier council does not agree with the PCC's proposal, and have regard to that assessment in making any decision whether or not to authorise the establishment of a PCC led FRA. The explanatory notes to the bill suggest that the independent assessment may be secured either from HM Inspector of Constabulary, the Chief Fire and Rescue Adviser or any other independent person that the Secretary of State deems appropriate.
- 6.5. Requires the boundaries of the PCC's police area to be coterminous with the boundaries of the proposed FRA to be created. As such the Bill provides for changes to the boundaries of existing FRAs to be made where they are necessary to achieve coterminous police and fire boundaries.
- 6.6. Enables the new single employer model to be implemented, where a case is made, whereby the Chief Constable would be able to employ all police and fire personnel, while at the same time preserving the operational distinction between police and fire.
- 6.7. Enables the Home Secretary, where the single employer model is implemented, to make an order for the FRS complaints procedure to be broadly similar to that for dealing with complaints against police officers.
- 6.8. Sets out the powers of police and crime panels (PCPs) in relation to a PCC exercising fire and rescue functions together with the obligation on a PCC type FRA to provide the PCP with any information it may require to carry out its functions with reference to fire and rescue. The effect is that the PCP must support the effective

exercise of the fire and rescue functions of the PCC as the FRA by reviewing and scrutinising his/her plans, decisions and actions.

- 6.9. 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 advice from the Home Office is that it will be up to local areas to resolve issues such as a PCC altering the balance of power on an FRA, or how county authorities can integrate a PCC into council structures.
- 6.10. Removes the requirement for a Chief Constable to have held the office of constable. This opens the door for fire officers with fire experience at a senior level to be appointed as Chief Constable (or Chief Officer) provided they have met the standards set for the role by the College of Policing. The onus on selecting and appointing the best person sits with the PCC.
- 6.11. Brings fire and rescue services in London under the direct responsibility of the Mayor of London by abolishing the London Fire and Emergency Planning Authority and transferring its functions to the London Fire Commissioner, to be appointed by the Mayor; providing for the appointment of a Deputy Mayor for Fire; and requiring the London Assembly to appoint a committee, to be known as the fire and emergency committee, to carry out a range of functions on its behalf. The role of the committee will be to support the effective exercise of the functions of the London Fire Commissioner.

LGA response to the Bill

7. Both the Committee and Fire Commission were clear that they had significant concerns about the ability of PCCs to take over fire governance where this was not supported locally, which would be unpopular and undermine co-operation to date. Members were also clear that any transfer of governance responsibilities to PCCs should have the support of local people. Although the Bill contains provisions that require the PCC to consult each relevant local authority and seek the views of people living in their force area about the proposal, none of the provisions would prevent the transfer of the fire service to the PCC as this is the decision of the Home Secretary. It is therefore proposed that the LGA lobbies for change on two matters: to ensure the transfer is only possible with agreement of all local parties; and that this includes comprehensive consultation with a clear outcome from the public. This will mean engaging with Parliamentarians in both houses at various stages of the Bill's passage through the Commons and the Lords.
8. As currently drafted the Bill states that in judging whether to approve a proposal from a PCC which does not have local support, the Home Secretary has to obtain an independent assessment of the proposal and have regard to it in making their decision. Members may wish to consider the independence of the appointed bodies such as HMIC and the Chief Fire and Rescue Adviser in providing this advice and whether there is a

further level of independence it might be prudent for us to lobby for, such as academic experts. Members may also wish to consider whether even where a PCC's proposals to take on governance of the fire service have local support, the business case should also be subject to independent assessment.

The practical implementation of the legislation

9. In addition to briefing parliamentarians and proposing amendments to the legislation, it would also be prudent to shape the practical implementation of the Bill should it proceed in its current form. The Association of Police and Crime Chief Executives (APACE) has formed a group consisting of senior officers from police forces, PCCs, and FRs to develop a model business case, acceptable to all parties, which PCCs can adapt for their own use when compiling a local business case. Although this is a negotiation process, we would expect our strategy in paragraph 7 to form our baseline. The fire and rescue service is equally represented and the LGA has been invited to join the group. An invitation to the Home Office to participate is currently being considered.
10. FRAs would wish to ensure that any business case for the transfer of fire governance to PCCs is comprehensive, evidence based and well tested so the impacts of such a proposal are fully explored. It would be helpful to have a steer from members on what the business case should include. As the work of the group progresses regular reports will be made to the Committee's Lead Members, and if at any point it appeared that the business case being developed did not meet the criteria set out by this Committee, the LGA would withdraw its involvement with the group.
11. There is also the question about elected members in these discussions and FSMC may wish to consider proposing a FSMC/Association of Police and Crime Commissioner forum to ensure the voice of fire and rescue is being heard at the political level too.

Wider governance changes

12. The devolution agenda will also have an impact on fire governance. FRAs will undoubtedly be exploring with relevant combined authorities what opportunities there might be for fire and rescue from devolution deals and Greater Manchester provides a model for this. It may, in fact, make more sense for the police to be incorporated into these arrangements.

Next steps

13. Members are already proactively talking to their local PCC, including prospective PCC candidates, about what areas there are for further local collaboration and cooperation between fire and police, which of course do not necessarily require changes in governance. This is already suggesting a mixed model across the country.
14. Members are asked to confirm the LGA's approach to the Bill by:
 - 14.1. Adopting the lobbying strategy set out in paragraphs 7 and 8;
 - 14.2. Agreeing to the LGA's engagement with the group established by APACE to develop a model business case; and

7 March 2016

- 14.3. Encouraging local discussion between FRAs, combined authorities and PCCs on how collaboration and cooperation could be increased.

Financial Implications

15. Any work identified as a result of this paper will be met from existing resources.