THE COMBINED FIRE AND RESCUE AUTHORITIES (MEMBERSHIP AND ALLOWANCES) (VARIATION) ORDER 2019 CONSULTATION: CHANGES TO THE AUTHORITY'S COMBINATION SCHEME

For Approval

1. PURPOSE OF REPORT

1.1 The purpose of this report is to:

(i) provide an update on the proposal to vary the combination schemes of Fire and Rescue Authorities (FRAs) established under section 2 or continued in existence under section 4 of the Fire and Rescue Services Act 2004 (the 2004 Act) to implement the 'representation model' of the Policing and Crime Act 2017 (the 2017 Act); and

(ii) in order for it to consider its response, seek Elected Members views on the draft Order.

2. RECOMMENDATION

2.1 It is recommended that the Chairman be authorised to respond on the Authority's behalf in respect of whether the Authority wishes to reconsider its objections in light of the clarifications provided or reaffirm the Authority's position.

3. BACKGROUND

3.1 The Policing and Crime Act 2017 made various legislative amendments to enable Police and Crime Commissioners (PCC) to be represented on their local Fire and Rescue Authority (FRA) (and/or its committees), with voting rights, subject to the consent of the FRA. It is for individual FRAs to take the decision of whether to grant membership when a PCC requests to become a member, and in interests of transparency FRAs are required to publish their decisions. This Is called the '**representation model'**.

3.2 While the Policing and Crime Act 2017 already applies these provisions to County and Metropolitan FRAs, Combined FRAs must have their combination schemes amended before the 'representation model' can apply.

3.3 A detailed report was presented to the Fire Authority on the 8th December 2017 to inform Members of the consultation issued by the Home Office on 27 November 2017 regarding the proposal to vary the combination schemes of FRAs established under section 2 or continued in existence under section 4 of the Fire and Rescue Services Act 2004 (the 2004 Act) to implement the 'representation model' of the Policing and Crime Act 2017 (the 2017 Act). A copy of the report is attached at **Appendix 1**.

3.4 The Report sought Members views on the proposed changes to each Combined FRA combination scheme to ensure that the representation model applies to all types of FRAs in England.

3.5 The proposed amendments to the FRA combination schemes would enable a PCC to have representation on their local FRA and/or its committees, with voting rights; this will be subject to PCCs making clear reasons for seeking membership and the FRA agreeing. The FRA will be required to publish their response to ensure transparency. The provisions will enable a PCC to be a member of the FRA until there is either a vacancy in the Office of the PCC or if there were to be no vacancy in the office before then, the day on which their term of office as PCC would end.

3.6 In addition, there will be some minor consequential amendments as necessary to ensure these provisions apply as intended in the context of the rest of the combined FRAs combination scheme.

3.7 At the Fire Authority's 8th December 2017 Members resolved:

(i) That the Chair be authorised to respond on the Authority's behalf in respect of the proposed amendments to its Combination Scheme as set out at page 6 of the Home Office consultation that it does not agree with the proposed amendments; and

(ii) That if the amendments are made, Members noted that there will be some minor consequential amendments to its Combination Scheme as indicated at page 7 of the Home Office consultation.

3.8 A copy of the CFA response is attached at **Appendix 2**.

3.9 In response to the Authority's submission to the proposal to vary the combination schemes of FRAs to implement the 'representation model' of the Policing and Crime Act 2017 (the 2017 Act), the Home Office provided further clarification **(Appendix 3)** to the concerns raised by the Authority in regard to the retention of the political balance, remuneration and how the arrangements for deputyship would operate should a PCC request to become a member of the FRA with voting rights.

3.10 Following the formal consultation (November 2017 to January 2018), and an independent inquiry (June to November 2018) to the objections of two FRAs, the Government decided to ***insert the relevant enabling provisions into combined FRA combination schemes (26 November 2018).*** The Order will also include provisions to remove the requirement to pay allowances to members of the FRAs who are PCCs.

4. REPRESENTATION MODEL STATUTORY INSTRUMENT

4.1 The statutory instrument for these provisions has now been drafted.

4.2 Cleveland Fire Authority, along with all other combined FRAs, are invited to provide any technical/legal comments on the draft Combined Fire and Rescue Authorities (Membership and Allowances) (Variation) Order 2019.

4.3 A copy of the Order is attached at **Appendix 4**.

4.4 All comments on the drafted Order are to be returned by **Friday, 16 August 2019.**

BACKGROUND PAPERS

- Public Consultation on Emergency Services Fire Authority – Cleveland Fire Authority Report, 12 February 2017
- The Cleveland Fire Services (Combination Scheme) Order 1995
- Enabling Police and Crime Commissioners (PCCs) to sit and vote on Combined Fire and Rescue Authorities (FRAs) Government consultation' The Home Office, 27 November 2017

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