THE COMBINED FIRE AND RESCUE AUTHORITIES (MEMBERSHIP AND ALLOWANCES) (AMENDMENT) REGULATIONS, 2020

REPORT OF THE LEGAL ADVISER AND MONITORING OFFICER

CLEVELAND FIRE AUTHORITY

For Information

1. PURPOSE OF REPORT

To inform Members that 'The Combined Fire and Rescue Authorities (Membership and Allowances) (Amendment) Regulations, 2020', which enable Police and Crime Commissioners to be appointed as a Member of a Combined Fire and Rescue Authority, came into force on 18 March, 2020.

2. RECOMMENDATIONS

(i) That Members note the contents of this report.
(ii) That the report be forwarded for the information of Fire Authority Members at their meeting on 27 March, 2020.

3. BACKGROUND

3.1 Members will recall that that the Policing and Crime Act, 2017, made provision which enabled a Police and Crime Commissioner (PCC) to sit (with voting rights) as a Member of a Fire and Rescue Authority (FRA). However, this enabling provision did not apply to Fire and Rescue Authorities constituted under a Combination Scheme Order, as is the case of Cleveland Fire Authority and eighteen other Combined Fire Authorities.

3.2 County and Metropolitan Fire and Rescue Authorities were allowed to make such appointments under the 2017 Act and amendments to the Hampshire Fire and Rescue Authority Combination Scheme similarly allowed for the PCC to be so appointed to that Authority under the Fire and Rescue Authority (Membership) Order, 2017.

3.3 The 2020 Regulations now amend the position to allow a PCC to apply to a Combined Fire Authority for membership. The Government have commented previously that such regulations do not "mandate" a Combined Fire Authority but allow for a process of "local determination", as to whether a PCC becomes a Member of that Authority.

3.4 A report dated 8 December, 2017, was presented to Members in relation to the then consultation exercise (November, 2017 – January, 2018) issued through the Home Office, regarding proposals to vary the Scheme Orders of Combined Authorities constituted under Section 2 or as already existing under the consolidating provisions of Section 4 of the Fire and Rescue Services Act, 2004. Such changes would enable the so-called "representation model" to become effective across the Fire Authority sector, through a PCC becoming a Member of a FRA, but subject to the procedures and the approval of a FRA, as outlined in the initial draft regulations. Members' resolved to respond to the consultation and to make objection thereon

3.5 The Authority received a further report on 26 July, 2019, in the light of clarifications provided through the Home Office, but resolved to make representations, to the effect that it did not agree with the proposed amendments to its Scheme Order. Subsequently, an Independent Inquiry, considered the representations of the Authority (and that of Dorset and Wiltshire Fire and Rescue Authority) as required under the 2004 Act.

3.6 Whilst the Government accepted the recommendations from the Inquiry to proceed with secondary legislation to bring about the changes envisaged by the 2017 Act, it also allowed the Government to "*offer further clarification*" on the issues raised; namely on 'political balance' and the appointment of a 'deputy' by the PCC. On political balance, the Government have stated that "*it is up to individual FRAs to consider the impact of a PCC's membership locally and to determine how to proceed".* On the issue of an appointment of a deputy, the Government have reiterated that "*the policy position is that a PCC should be able to appoint a deputy to attend and speak at FRA meetings, but that deputy cannot vote or be treated as an authority member".*

4. THE REGULATIONS

4.1 Explanatory notes to the Regulations state that these legislative changes "*provide that a PCC must submit a request to be represented on the FRA, and the FRA must consider the request, give reasons for their decision to agree to or refuse the request, and publish those reasons in such manner as they think appropriate".* In addition, and for the avoidance of any doubt, where a PCC is accepted as a Member of the Authority, they are "*not to receive any allowances from that FRA as a result of their representation".*

4.2 The Regulations re-state the position that a PCC appointed to a FRA can appoint a Deputy to attend and speak at meetings but that person would have no voting rights and would not be treated as an authority member.

4.3 The Cleveland Fire Services (Combination Scheme) Order, 1995, in unison with all other Combination Schemes makes provision for the number of Authority Members not to exceed twenty five. The Regulations now enables that maximum number to be exceeded "*to allow for the appointment of a PCC to a specified FRA*" where this was required.

4.4 Amendments to the Authority's Scheme Order are covered in the Second Schedule to the Regulations and this Schedule is appended to this report for the information of Members' **(Appendix 1).**

4.5 Again, for information purposes, the variations to the Scheme Orders of Combined Authorities mentioned through these Regulations, affect the following FRAs;

- Avon Fire Services.
- Humberside Fire Services.
- Leicestershire Fire Services.
- Bedfordshire Fire Services.
- Derbyshire Fire Services.
- Durham Fire Services.
- East Sussex Fire Services.
- Buckinghamshire Fire Services.
- Berkshire Fire Services.
- Cambridgeshire Fire Services.
- Cheshire Fire Services.
- Hereford and Worcester Fire Services.
- Kent Fire Services.
- Shropshire Fire Services.
- Lancashire Fire Services.
- Nottinghamshire Fire Services.
- Devon and Somerset Fire and Rescue Authority.
- Dorset and Wiltshire Fire and Rescue Authority.

5. BACKGROUND PAPERS

- Government Consultation: 'Enabling Police and Crime Commissioners (PCCs) to sit and vote on Combined Fire and Rescue Authorities (FRAs)' (Home Office – 27 November, 2017).

- Report to Cleveland Fire Authority dated 26 July, 2019.

- The Cleveland Fire Services (Combination Scheme) Order 1995.

- The Combined Fire and Rescue Authorities (Membership and Allowances) (Amendment) Regulations, 2020.

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