

From: Matthew Scott, Kent Police and Crime Commissioner
To: Kent and Medway Police and Crime Panel
Subject: Policing & Crime Act 2017 - new responsibilities for Police and Crime Commissioners
Date: 28 September 2017



INTRODUCTION:

1. The Policing and Crime Act 2017 received Royal Assent on 31 January. The Act includes provisions on:
 - Emergency services, including a duty to collaborate and opportunity for Police and Crime Commissioners (PCCs) to take on fire and rescue governance, where a local case is made.
 - Police powers, including changes to the complaints and disciplinary arrangements and whistleblowing and enhanced powers for Her Majesty's Inspectorate of Constabulary (HMIC).
 - Operational policing, including changes to pre-charge bail and amendments to the Police and Criminal Evidence Act 1984 (PACE) and Mental Health Act 1983.
 - Workforce issues, introducing more powers for police staff and volunteers, and a power for the Home Secretary to specify the rank structure in police regulations. It also updates the core purpose of the Police Federation.
 - Other matters, including deputy PCCs, firearms, alcohol licensing, financial sanctions, the National Crime Agency, pardons for certain abolished offences and amendments to forced marriage and child sexual exploitation legislation.
2. The provisions are being introduced in stages via a series of commencement orders and, at the time of writing, many have not yet been enacted.
3. At the request of the Panel, this paper focuses on two specific provisions relating to PCCs, namely:
 - the opportunity to take on fire and rescue governance; and
 - changes to the police complaints arrangements.

FIRE AND RESCUE GOVERNANCE:

4. The Government believes that closer collaboration between the emergency services can deliver significant savings and benefits for the public, as well as help each service better meet the demands and challenges they face.
5. The Act introduces a raft of measures to enable the emergency services to meet this ambition, including a new statutory duty on the police, fire and rescue and ambulance service to keep opportunities to collaborate under review and a requirement to collaborate with one another where it is in the interests of either their efficiency or effectiveness.
6. It also included provisions that enable a PCC to take on responsibility for the governance of fire and rescue in their area. However, they are locally enabling; recognising that local leaders are best placed to identify what will work best in their areas. Therefore, the government has not mandated what action PCCs should take; instead there are four options.

Option 1 - Do nothing

Continue with governance currently in place and take on the duty to collaborate within existing arrangements.

Option 2 - Representation model

Enables PCCs to request membership on their local Fire & Rescue Authority (FRA) including voting rights for issues in relation to the fire and rescue service.

- A FRA is required to consider any request from a PCC and publish the reasons for its decision to either agree or refuse the request.
- Where the FRA is a county council, the Act has made amendments to local government legislation to enable this procedure to be followed. However, in the case of a combined FRA (such as in Kent), the Government has yet to amend relevant legislation.

7. Where a PCC wishes to take on responsibility for fire and rescue, as per the remaining options, they will occupy two separate corporations sole. They retain their existing functions and duties as a PCC, but additionally become the FRA for the area - the two offices will not be merged into one. A PCC who is additionally an FRA will be known as the Police, Fire and Crime Commissioner (PFCC). The role of the Panel will also be extended to scrutinise a PCC's fire functions and will be known as the Police, Fire and Crime Panel (PFCCP).

Option 3 - Governance model

Enables PCCs to take responsibility for the governance of their local fire and rescue service and employment of its staff, but keep police and fire as separate corporate bodies.

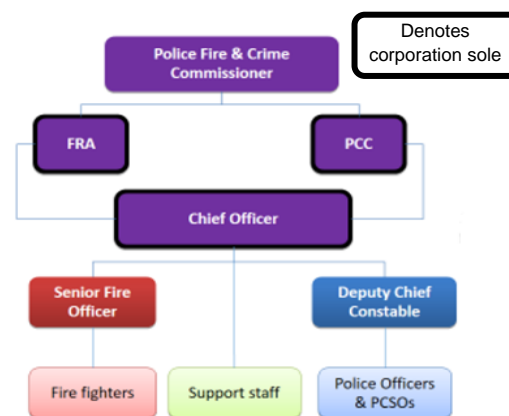
- The existing FRA is abolished and its functions transferred to the PFCC, along with fire and rescue personnel, property, rights and liabilities.
- The PFCC is the employer of all fire and rescue staff, but in practice would put in place a chief fire officer (or equivalent) with operational responsibility for the fire and rescue service.
- The chief constable would continue to employ all police staff.



Option 4 - Single Employer model

Enables PCCs to take on governance of fire and rescue and bring policing and fire together under one body, under the employment of one chief officer.

- The existing FRA is abolished and its functions transferred to the PFCC.
- The PFCC appoints a chief officer as the head of both the police and fire and rescue service and who employs both police and fire personnel.
- In practice, the chief officer may appoint a senior fire officer to lead fire operations and a deputy chief constable to lead police operations.
- The chief officer would be accountable to the PFCC for both fire and policing.



8. Under both the Governance and Single Employer models, there will continue to be two separate precepts and two separate central funding streams for policing and fire. The police and fire precepts and funding streams will be paid to the PFCC separately and will form two separate budgets in order to provide clarity and transparency in funding.
9. Should a PCC wish to pursue either the Governance or the Single Employer model, they must consult each relevant authority and local residents before preparing and submitting a business case to the Secretary of State setting out how it is in the interests of economy, efficiency and effectiveness, or public safety. Where the Secretary of State is satisfied, an order will be laid before Parliament giving effect to the chosen model of governance.
10. To date, eight PCCs nationally have proposed a change of governance in their fire and rescue service/s, with most currently preparing a local business case. Essex PCC, Roger Hirst, was the first to take the decision, and will officially become the PFCC in October 2017.
11. The majority of PCCs have decided to request a seat on the FRA or to make no changes at all.

KENT FIRE & RESCUE SERVICE:

12. The PCC has carefully considered his position in relation to the governance of Kent Fire and Rescue Service (KFRS) and, at this time, has decided to opt for the Representation model (option 2).

13. At their Annual Meeting on 15 June 2017, Kent and Medway Fire and Rescue Authority accepted the PCC's request to be appointed as an additional Member of the Authority as soon as it is permitted by legislation. In the meantime, the PCC has been invited to attend and participate in all its meetings on an informal non-voting basis.
14. Primarily the PCC's decision is based on the breadth and success of existing collaboration arrangements between Kent Police and KFRS that have improved interoperability whilst delivering the best and most efficient service.
15. Collaboration initiatives include a joint Control Room. Kent Police and KFRS were the first in the UK to share a control room and work on a truly multi-agency mobilising system providing real-time information on incident location and resources. This cost-effective solution allows the sharing of essential information, particularly during major emergencies, in order to improve interoperability and rapidly mobilise resources.
16. Other collaborative work streams include the Kent Resilience Team and the Kent Community Safety Team; Search and Rescue Collaboration Board; M25 joint response plans and demand reduction work in the use of predictive policing and geographical taskings for hotspots/red routes. There are also joint initiatives for learning and development that include areas such as training in health and safety, driving, multi-agency debriefs, Strategic Command Courses and shared training venues and facilities.
17. KFRS has the UK's first purpose built interactive road safety centre aimed at reducing the number of young people killed or seriously injured. Kent Police are integrated into this project, providing education and joint campaigns concerned with road safety.
18. The Joint Emergency Service Interoperability Principles (JESIP) are well embedded into collaborative arrangements with the development of a joint Incident Command Vehicle, joint use of a 'drone' and use of KFRS to assist in building entry for emergency calls, thereby reducing demand.
19. In addition, the Director of Corporate Services, Kent Police and Director of Operations, KFRS now chair the Emergency Services Collaboration Strategic Board. This is aimed at developing work streams further, ensuring the new statutory responsibility to collaborate is adhered to and maximising efficiency and effectiveness. South East Coast Ambulance Service will be integrated into this work stream. The Board will focus on existing, new and conceptual initiatives with an annual forum to brief the PCC, Chief Constable, KFRS Chief Executive and KCC lead.
20. In addition, the PCC will of course continue to receive regular updates on emergency services collaboration at his weekly one-to-one meetings with the Chief Constable and via the Performance and Delivery Board.

POLICE COMPLAINTS:

21. The Act introduces significant changes to the police complaints system, building on the previous years' reforms. It substantially increases a PCC's role in the complaints system, both in terms of the actual handling of complaints, and also how the Chief Constable is held to account for performance in complaints management. It also introduces a number of other changes, including reform of the Independent Police Complaints Commission (IPCC).
22. In relation to the enhanced role of PCCs, the Act introduces an explicit statutory duty to hold Chief Constables to account for complaint matters, requiring a more in depth focus and analysis of information provided by forces, and of their processes and outcomes. Locally, the PCC and the Office of the PCC (OPCC) already have in place well-established mechanisms, including:
 - A monthly file audit of both complaints and misconduct cases, with the findings (and subsequent responses) provided to the PCC, his senior officers, and the leadership of the Professional Standards Department (PSD) - the Force department that handles complaints and conduct matters.
 - Monthly meetings between the Head of PSD and the relevant officers in the OPCC.
 - Regular reviews of Force data and IPCC figures.
 - Complaints and related matters being reported at the joint PCC and Force Audit Committee and the PCC's Performance and Delivery Board.

Therefore, the PCC and the OPCC are well placed to develop this further, should it be necessary.

23. The Government has also legislated, for the first time, to give elements of operational complaints handling to an outside body, in this case PCCs. The main legal requirement is that all PCCs will take over the appellate function currently carried out by force PSDs. Currently, if someone is unhappy with the outcome of their complaint, and that matter is not defined as serious under the legislation, they appeal back to the police force. This is perceived, understandably, as not being an independent review and does not give the public confidence in complaints handling, and arguably affects confidence in policing generally. Therefore, PCCs will take on this function; it is deemed it will give greater independence, allow PCCs to have more effective oversight and scrutiny of force action, and provide increased public confidence. This is referred to as Model 1 and is mandatory.
24. There is also the option under the Act, based on a combination of other PCCs' work and a desire on the part of the Government to allow a localised approach to PCC involvement in the complaints process, for other functions of force PSDs to be taken on by OPCCs. Model 2 would see PCCs being the recording body, and also attempt to resolve very low level matters outside of the formal processes; Model 3 would, in addition to this, make PCCs responsible for keeping complainants updated and providing the final outcome.
25. However, it is extremely important to keep in mind that Chief Constables will retain responsibility for the resolution/investigation of complaints. The heart of the complaints system will remain with Kent Police, whichever model is chosen, and therefore whilst the PCC will significantly increase his involvement and oversight, the Force will retain operational independence.
26. This is not the only change to the police complaints system however; the whole system has been transformed, from how complaints are recorded, to how they are handled, and the responsibilities of the various bodies involved.
27. In summary, the definition of a complaint has been broadened to 'any expression of dissatisfaction with a police force'; it no longer has to relate to the conduct of an officer. All complaints must now be recorded, unless it is a low level issue where the complainant is content to have the matter informally resolved (and a record must be kept of this). Previously, some complaints could be 'non-recorded' or 'disapplied' if they met certain criteria. Police forces will no longer have to follow rigid processes to resolve a complaint, using obscure terminology; the only requirement is that the resolution is 'reasonable and proportionate' and that the complainant is kept updated. The number of points within the system where an individual can appeal has been reduced from five, down to one. Finally, as of January 2018, the IPCC will become the Independent Office for Police Conduct. It will have a Director General, and will be able to initiate investigations, rather than just rely on referrals, and will continue to build its focus on handling 'serious and sensitive' cases, following its expansion.
28. The next step is for PCCs to decide which model they wish to adopt. All PCCs will take on the appellate function and have to increase the level of oversight of complaints handling; the main decision is whether they wish to adopt either Model 2 or 3 (as above). Any decision will have an impact in relation to staffing and finance that will increase depending on the extent of a PCC's involvement in the complaints system.
29. It will also draw PCCs and OPCCs into an element of operational policing, that by its nature is conflict driven, and this will increase the level of contact from the public and change its nature. It is likely to increase the number of complaints against PCCs and their staff, if complainants are not satisfied with how their case has been handled, or if they are not content with the result.
30. Locally, the PCC is currently considering a business case and will be making a decision imminently.
31. It is likely that PCCs taking on the appellate function will only have a limited impact on Panels. Although they must resolve complaints about the PCC, this only relates to his personal conduct, and not the actions of OPCCs in handling appeals.