

Committee: Cabinet

Date of meeting: 16 December 2021

Title of Report: Chronology of Fire Service Governance

Report by: John Beard, Chief Fire Officer

Cabinet Member: Janet Willis, Cabinet Member for Customers, Transformation and Fire & Rescue

What is the Report About? (Executive Summary)

1. Following the recent decision on Local Government Reform (LGR), the Police and Crime Commissioner (PCC) has signalled his intent to put together a business case to support a proposal for the governance role of Cumbria Fire and Rescue Service (CFRS) to be transferred to the PCC.
2. Any transfer of the governance of CFRS to the PCC would require an order of the Secretary of State who can only make an order if they are satisfied it would be in the interests of economy, efficiency, and effectiveness and in the interests of public safety. The PCC is under no obligation to submit a proposal and could decide at any time not to. Even if a proposal is submitted, the Secretary of State could determine not to make the relevant order.
3. To cover this eventuality, the Structural Change Order (SCO) which sets out the key elements of the LGR process should retain the flexibility for all other possible options for the future governance of CFRS to be implemented and ensure the shadow authorities have sufficient power to implement these.
4. This paper outlines the process for the PCC to take over governance of CFRS and for LGR and highlights areas of risk and concern that Elected Members should be aware of in any discussion about the future of CFRS governance.

Recommendation of the Chief Fire Officer

5. There is no decision for Cabinet to take as a direct consequence of this paper. Rather the information should be used to inform decision making in the near future in regard to future governance of CFRS.

Background to the Proposals

PCC process

6. The Fire and Rescue Services Act 2004 provides that the Secretary of State may make an order for the Fire and Rescue Authority to be transferred to the PCC. The Secretary of State can only make an order if the PCC has submitted a proposal. As part of the proposals the PCC will need to produce a business case that makes the case for them to assume responsibility for the governance of the fire and rescue Service. The County Council is required under the legislation to cooperate with the PCC in preparation of his proposal.

Before submitting a proposal to the Secretary of State the PCC must also consult with all relevant local authorities, the population of the local area and representatives of the employees of the fire and rescue service and the police in the area.

7. In the Spring / Summer of 2017 the PCC undertook an appraisal of the options available to them as part of the legislation. Those options were
 1. To maintain and enhance existing arrangements for collaboration with one another where it is in the interests of either their efficiency or effectiveness.
 2. To seek membership of the Fire & Rescue Authority.
 3. To become the Fire & Rescue Authority.
 4. To take over responsibility for the Fire and Rescue Authority and delegate the fire and rescue functions to a single chief officer for policing and fire.
8. Following consultation with key stakeholders, option one was considered by the PCC to be the most viable at the time:
9. However, in view of the recent LGR decision, the PCC has written to Lord Greenhalgh, the Minister of State, the Department for Levelling Up, Housing and Communities, to inform him of his intentions to develop a business case with a view to submitting a proposal to take on responsibility of fire governance.
10. The PCCs business case is due to be submitted to the Home Office in March 2022. Prior to this it will be presented to the Blue Light Executive Board on the 24 January 2022.
11. If there is no opposition to the case, then potentially the PCC could assume responsibility for governance of the Fire and Rescue Service in November 2022. However, if there are concerns raised about the business case, then potentially this date could be delayed until at least February 2023.
12. Any decision to transfer fire service governance to the PCC could be subject to Judicial Review. If this is the case, then it is likely that the PCC process will continue past April 2023 which creates additional uncertainty as to the final type of Fire Authority that will be established and places the Chief Fire Officer in an untenable position.
13. Appendix A identifies the possible timelines for both the LGR and PFCC processes in relation for Fire and Rescue Governance.

LGR process

14. In January 2022, the SCO which sets out the key elements of LGR in Cumbria including the establishment of the two new authorities and the dissolution of the existing authorities will be laid before Parliament. It is envisaged that the legislation will come into force in March 2022 and in May 2022 elections take place to the two shadow authorities.

15. The Fire and Rescue Services Act 2004 provides that every area must have a fire authority which will be the county council or, in an area where there is no county council, the district council unless the function is transferred to a combined authority, the PCC or a combined fire authority is established.
16. If the PCC is not appointed as the fire authority and no alternative arrangements are established there will be two separate fire authorities for Cumbria covering the East and West. This is why it is important that the SCO enables the shadow authorities to set up alternative arrangements which would allow the retention of a Cumbria wide fire authority.

Identified Issues

17. Because the two identified processes are based on different legislation, there are inevitably gaps in the timeline that must be addressed.
18. Whilst in some quarters it might be perceived that the PCC route is the easiest to achieve, there is no legal requirement for the PCC to assume governance of the fire authority.
19. The PCC is required to consult with all relevant local authorities prior to submitting a proposal to take over governance of the fire authority. If the PCC bid is submitted in March 2022 (as is currently envisaged) this would be before the SCO comes into law and before the new shadow authorities are created.
20. This would mean that the shadow authorities would not be involved in that consultation process and would be dealt a fait accompli
21. The SCO will be the centrepiece of legislation implementing the new unitary structures in Cumbria. The purpose of the SCO is to provide what certainty is possible on where Cumbrian public service functions will go.
22. Currently it is uncertain as to what form any future fire service governance may take and hence fire may not be referenced in the SCO.

Reasons for the recommendation/Key benefits

Currently there are two processes running, under two different Acts of Parliament. The ability of officers to service both these processes in an uncertain climate is limited.

Engagement of the Fire Authority in providing guidance as to the most appropriate model of governance will allow officers to shape any new fire governance model so that it is fit for purpose.

Involvement of the Fire Authority in this discussion will give some democratic eligibility to any decision taken. Ultimately unless the PCC proposal is successful, decision making as to the final Fire Authority model would rest with the shadow authorities.

Financial – What Resources will be needed and how will it be funded?

Whilst there are no financial implications in Cabinet considering this paper, each process outlined may have significant financial implications. The potential

financial implications will be communicated to Cabinet when further progress has been made on the future arrangements for Fire Service Governance.

Legal Aspects – What needs to be considered?

The Fire and Rescue Services Act 2004 provides for the establishment of a fire authority which will be the county council in an area where there is a county council and a district council in an area where there is no county council. It also provides for the creation of combined fire authorities and for the PCC of an area to submit a proposal to the Secretary of State for the fire authority to be transferred to the PCC.

If the PCC decides to submit a proposal to the Secretary of State, the existing fire authority must cooperate with the PCC in the preparation of the proposal. The PCC is also required to consult all relevant local authorities prior to the proposal being submitted. The County Council as the current fire authority will be required to cooperate in the preparation of the proposal and will be one of the consultees.

Health & Safety Implications

The Council has a responsibility under the Health & Safety at Work Act 1974 and associated legislation relevant to Fire & Rescue provision to ensure, as far as is reasonably practicable, that adequate health and safety provisions are in place for all activity that it has responsibility for. In the context of this report, those responsibilities and duties include the Cumbria Fire & Rescue Service.

Whilst there are no direct health and safety related implications arising from the report recommendation for Cabinet to note the proposed timelines for the PCC business case and options process, it should be noted that health, safety and wellbeing activity of the Cumbria Fire & Rescue service are key strategic and operational priorities of the service and any impact assessment on the options outlined in the process should follow the commitments outlined in the Council's corporate health, safety and wellbeing policy statement last agreed by Cabinet in July 2021.

Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council's Stated Objectives?

The consideration of the information in this paper, and the involvement of Elected Members in future decision making will allow for the creation of a new form of fire governance designed to meet the needs of the people of Cumbria.

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

There are no Health Inequality or Equality and Diversity issues within the paper itself, however there is a role for the Fire Authority in assuring these issues are considered in the development of any future governance models.

Appendices

Appendix 1 Combined LGR / PCC Timelines

Key Facts

Electoral Division(s): All

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so, detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Y	N	No	N/A	No	N/A	N/A

Approved by Cabinet Member on – 23/11/2021

Previous relevant Council or Executive decisions

No previous relevant decisions

Consideration by Overview & Scrutiny

Not considered by Overview and Scrutiny

Background Papers

None

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