



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 1

#### EMERGENCY SERVICES COLLABORATION

### CHAPTER 1

#### COLLABORATION AGREEMENTS

#### **1 Collaboration agreements**

- (1) A collaboration agreement may be made by—
  - (a) one or more persons within a paragraph of subsection (2), and
  - (b) one or more persons within another paragraph of that subsection.
- (2) Those persons are—
  - (a) an ambulance trust in England,
  - (b) a fire and rescue body in England, and
  - (c) a police body in England.
- (3) A collaboration agreement is an agreement in writing that sets out how the parties to the agreement will work together in discharging their functions.
- (4) Subsection (1) does not prevent a person other than a person listed in subsection (2) from being a party to a collaboration agreement.
- (5) This section is subject to section 3 (collaboration agreements: specific restrictions).
- (6) Section 4 makes further provision about collaboration agreements.

#### **2 Duties in relation to collaboration agreements**

- (1) A relevant emergency service in England (“the relevant service”) must keep under consideration whether entering into a collaboration agreement with one or more other

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relevant emergency services in England could be in the interests of the efficiency or effectiveness of that service and those other services.

- (2) If the relevant service considers that entering into a collaboration agreement with one or more other relevant emergency services in England could be in the interests of the efficiency or effectiveness of that service and those other services (“the proposed collaboration”), the relevant service must notify those other services of the proposed collaboration.
- (3) The relevant service and the other services (“the proposed parties”) must consider whether the proposed collaboration would be in the interests of the efficiency or effectiveness of the proposed parties.
- (4) Subsection (5) applies if—
  - (a) a proposed party is of the view that the proposed collaboration would be in the interests of its efficiency or effectiveness (if it were to give effect to the proposed collaboration, or to give effect to it so far as it relates to that party), and
  - (b) at least one other proposed party is of the view that the proposed collaboration would be in the interests of its efficiency or effectiveness (if it were to give effect to the proposed collaboration, or to give effect to it so far as it relates to that party).
- (5) Each proposed party which is of that view must give effect to the proposed collaboration, or give effect to it so far as it relates to that party, by entering into a collaboration agreement (if the party has power to do so).
- (6) In the application of this section to a local policing body, references to the efficiency or effectiveness of that body include the efficiency or effectiveness of the police force it is responsible for maintaining.
- (7) This section is subject to section 3 (collaboration agreements: specific restrictions).

### **3 Collaboration agreements: specific restrictions**

- (1) Section 2 does not require a relevant emergency service in England to enter into a collaboration agreement if the service is of the view that the proposed collaboration would have an adverse effect on public safety or otherwise have an adverse effect on its efficiency or effectiveness.
- (2) Section 2 does not require an ambulance trust in England to enter into a collaboration agreement that would in the view of that trust have an adverse effect on—
  - (a) its ability to exercise any of its functions other than its functions of providing an emergency ambulance service, or
  - (b) the health service in England (within the meaning of the National Health Service Act 2006).
- (3) Section 2 applies to an ambulance trust in England only so far as it provides an emergency ambulance service.
- (4) Subsection (5) applies where an ambulance trust in England is considering whether a proposed collaboration would be in the interests of the efficiency or effectiveness of the trust for the purposes of section 2.

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- (5) The ambulance trust must have particular regard to any effect that entering into a collaboration agreement pursuant to the proposed collaboration would have on—
  - (a) its ability to exercise any of its functions other than its functions of providing an emergency ambulance service, and
  - (b) the health service in England (within the meaning of the National Health Service Act 2006).
- (6) The London Fire Commissioner must consult the Mayor of London before entering into a collaboration agreement (unless the Mayor is a party to the agreement).
- (7) A combined authority that exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the authority to which the agreement relates are functions of a fire and rescue authority that the combined authority is entitled to exercise.
- (8) An elected mayor who exercises the functions of a fire and rescue authority by virtue of section 107D of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the mayor to which the agreement relates are functions of a fire and rescue authority that the mayor is entitled to exercise.
- (9) An elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the mayor to which the agreement relates are functions of a police and crime commissioner that the mayor is entitled to exercise.
- (10) A chief officer of police of a police force may not enter into a collaboration agreement unless the local policing body responsible for maintaining that police force also enters into the agreement.
- (11) A local policing body must consult the chief officer of police of the police force which the body is responsible for maintaining before entering into a collaboration agreement (unless that chief officer is a party to the agreement).

#### **4 Collaboration agreements: supplementary**

- (1) A collaboration agreement may, in particular, make provision about the use, for the purposes of the agreement, of a power of a party to the agreement to—
  - (a) make arrangements for the exercise of the party's functions by another person, or
  - (b) exercise functions jointly with another person.
- (2) A collaboration agreement may include provision for payments to be made by the parties to the agreement for the purposes of facilitating that agreement.
- (3) A party to a collaboration agreement may do anything that is necessary or expedient for the purposes of facilitating the agreement.
- (4) Subsection (3) is subject to any restriction imposed on a party by, or by virtue of, an enactment or rule of law.
- (5) A collaboration agreement may not include provision for the delegation of a function where that function may not otherwise be delegated.

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- (6) The delegation of a function pursuant to a collaboration agreement does not affect the responsibility of any party to the agreement for the exercise of its functions.
- (7) A collaboration agreement must make provision for a party to withdraw from the agreement where in the view of that party the agreement is no longer in the interests of its efficiency or effectiveness.
- (8) A collaboration agreement may be—
  - (a) varied with the agreement of all of the parties to the agreement, or
  - (b) replaced by a subsequent collaboration agreement.

## **5 Collaboration agreements: definitions**

- (1) This section has effect for the purposes of this Chapter.
- (2) “Collaboration agreement” has the meaning given by section 1(3).
- (3) “Relevant emergency service in England” means—
  - (a) an ambulance trust in England,
  - (b) a fire and rescue body in England, or
  - (c) a police body in England.
- (4) “Ambulance trust in England” means—
  - (a) an NHS trust all or most of whose hospitals, establishments and facilities are in England and which provides ambulance services, or
  - (b) an NHS foundation trust which provides such services.
- (5) “Fire and rescue body in England” means—
  - (a) a fire and rescue authority in England,
  - (b) a combined authority that exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of the Local Democracy, Economic Development and Construction Act 2009, or
  - (c) an elected mayor who exercises the functions of a fire and rescue authority by virtue of section 107D of that Act.
- (6) “Fire and rescue authority in England” has the same meaning as in the Fire and Rescue Services Act 2004.
- (7) “Police body in England” means—
  - (a) a police and crime commissioner for a police area in England,
  - (b) a chief constable of a police force for a police area in England (see Schedule 1 to the Police Act 1996),
  - (c) the Mayor’s Office for Policing and Crime,
  - (d) the Commissioner of Police of the Metropolis,
  - (e) the Common Council of the City of London in its capacity as police authority for the City of London police area,
  - (f) the Commissioner of Police for the City of London, or
  - (g) an elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009.
- (8) “Chief officer” means—

- (a) a chief constable of a police force for a police area in England (see Schedule 1 to the Police Act 1996),
  - (b) the Commissioner of Police of the Metropolis, or
  - (c) the Commissioner of Police for the City of London.
- (9) “Local policing body” means—
- (a) a police and crime commissioner for a police area in England,
  - (b) the Mayor’s Office for Policing and Crime,
  - (c) the Common Council of the City of London in its capacity as police authority for the City of London police area, or
  - (d) an elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009.
- (10) “The City of London police area” means the City of London as defined for the purposes of the Acts relating to the City of London police force.

## CHAPTER 2

### POLICE AND CRIME COMMISSIONERS ETC: FIRE AND RESCUE FUNCTIONS

#### **6 Provision for police and crime commissioner to be fire and rescue authority**

Schedule 1 makes provision for a person who is the police and crime commissioner for an area to be the fire and rescue authority for that area.

#### **7 Involvement of police and crime commissioner in fire and rescue authority**

- (1) The Local Government Act 1972 is amended in accordance with subsections (2) to (4).
- (2) In section 102 (appointment of committees) after subsection (5) insert—
- “(6) Subsection (7) applies in relation to—
- (a) a committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority,
  - (b) a joint committee appointed by two or more local authorities in England wholly or partly for the purposes of discharging such functions, or
  - (c) a sub-committee appointed by any such committee or joint committee wholly or partly for the purposes of discharging such functions.
- (7) A relevant police and crime commissioner may only be appointed to a committee or sub-committee to which this subsection applies in response to a request made by the commissioner to the appointing authority or authorities or, in the case of a sub-committee, to the appointing committee.
- (8) If a request under subsection (7) is made to an appointing authority or authorities or an appointing committee, they must—
- (a) consider the request,
  - (b) give reasons for their decision to agree to or refuse the request, and

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- (c) publish those reasons in such manner as they think appropriate.
- (9) A relevant police and crime commissioner may attend, speak at and vote at a meeting of a committee to which the commissioner is appointed in accordance with this section only if and to the extent that the business of the meeting relates to the functions of a fire and rescue authority.
- (10) Subsection (11) defines “relevant police and crime commissioner” for the purposes of this section in relation to—
  - (a) a committee or sub-committee appointed by a local authority,
  - (b) a joint committee appointed by two or more local authorities, or
  - (c) a sub-committee appointed by a committee of a local authority or a joint committee of two or more local authorities.
- (11) For those purposes “relevant police and crime commissioner” means a police and crime commissioner—
  - (a) whose area is the same as, or contains all of, the area of that local authority or (as the case may be) one or more of those local authorities, or
  - (b) all or part of whose area falls within the area of that local authority or (as the case may be) one or more of those local authorities.”
- (3) In Part 1 of Schedule 12 (meetings and proceedings of principal councils) after paragraph 6 insert—
  - “6ZA (1) A relevant police and crime commissioner may attend, speak at and vote at a meeting of a principal council in England which is a fire and rescue authority.
  - (2) Sub-paragraph (1) applies—
    - (a) only if and to the extent that the business of the meeting relates to the functions of the principal council as a fire and rescue authority, and
    - (b) only if the council have consented to the participation of the relevant police and crime commissioner in such meetings in response to a request by the commissioner to do so.
  - (3) If a request under sub-paragraph (2)(b) is made to a principal council, the council must—
    - (a) consider the request,
    - (b) give reasons for their decision to agree to or refuse the request, and
    - (c) publish those reasons in such manner as they think appropriate.
  - (4) If the principal council agree to the request, the relevant police and crime commissioner is to be treated as a member of the council for the purposes of the following provisions of this Schedule in the case of a meeting which relates to the functions of the council as a fire and rescue authority—
    - (a) paragraph 3(2);
    - (b) paragraph 4(1A);
    - (c) paragraph 5(3);
    - (d) paragraph 6;
    - (e) paragraph 39;

- (f) paragraph 40;
  - (g) paragraph 41(3);
  - (h) paragraph 43.
- (5) In this paragraph “relevant police and crime commissioner”, in relation to a principal council, means a police and crime commissioner—
- (a) whose area is the same as, or contains all of, the area of the principal council, or
  - (b) all or part of whose area falls within the area of the principal council.”
- (4) In Part 1A of Schedule 12 (joint authorities etc) in paragraph 6B (application of Part 1) after “this Schedule” insert “other than paragraph 6ZA”.
- (5) The Local Government Act 1985 is amended in accordance with subsections (6) and (7).
- (6) In section 26 (metropolitan county fire and rescue authorities)—
- (a) in subsection (3) for “Each” substitute “Subject to subsection (5), each”, and
  - (b) after subsection (4) insert—
- “(5) A metropolitan county fire and rescue authority may appoint a relevant police and crime commissioner to be a member of the authority.
- (6) An appointment under subsection (5) may only be made in response to a request by the relevant police and crime commissioner.
- (7) If a request under subsection (6) is made to a metropolitan county fire and rescue authority, the authority must—
- (a) consider the request,
  - (b) give reasons for their decision to agree to or refuse the request, and
  - (c) publish those reasons in such manner as they think appropriate.
- (8) In this section “relevant police and crime commissioner”, in relation to a metropolitan county fire and rescue authority, means a police and crime commissioner—
- (a) whose area is the same as, or contains all of, the area of the authority, or
  - (b) all or part of whose area falls within the area of the authority.”
- (7) In section 34 (chairman, vice-chairman and clerk of metropolitan county fire and rescue authority) in subsection (7) for the “and” at the end of paragraph (b) substitute—
- “(ba) if the chairman is a police and crime commissioner and the authority and the commissioner have agreed that the commissioner should cease to be a member of the authority, the date agreed by the authority and the commissioner as the date on which the commissioner’s membership should cease; and”.
- (8) In section 13 of the Local Government and Housing Act 1989 (voting rights of members of certain committees) after subsection (5) insert—



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“(5ZA) Nothing in this section shall prevent the appointment of a police and crime commissioner as a voting member of—

- (a) any committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority,
- (b) any joint committee appointed by two or more local authorities in England wholly or partly for the purposes of discharging such functions, or
- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purposes of discharging such functions.

(5ZB) In subsection (5ZA) “local authority” does not include—

- (a) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (b) a joint authority which is a metropolitan county fire and rescue authority, or
- (c) the London Fire Commissioner.”

(9) In Schedule A1 to the Local Government Act 2000 (executive arrangements in England: further provisions) after paragraph 4 insert—

*“Attendance of police and crime commissioner at meetings*

4A (1) A relevant police and crime commissioner may attend, speak at and vote at—

- (a) a meeting of an executive of a local authority which is a fire and rescue authority, or
- (b) a meeting of a committee of such an executive.

(2) Sub-paragraph (1) applies—

- (a) only if and to the extent that the business of the meeting relates to the functions of the authority as a fire and rescue authority, and
- (b) only if the executive has consented to the participation of the relevant police and crime commissioner in such meetings in response to a request by the commissioner to do so.

(3) If a request under sub-paragraph (2)(b) is made to an executive of a local authority, the executive must—

- (a) consider the request,
- (b) give reasons for its decision to agree to or refuse the request, and
- (c) publish those reasons in such manner as it thinks appropriate.

(4) In this paragraph “relevant police and crime commissioner” means a police and crime commissioner—

- (a) whose area is the same as, or contains all of, the area of the local authority, or
- (b) all or part of whose area falls within the area of the local authority.”



- (10) Section 3 of the Fire and Rescue Services Act 2004 (creation of combined fire and rescue authority: supplementary) is amended in accordance with subsections (11) and (12).
- (11) In subsection (3)(a) for “or by the Secretary of State” substitute “, by the Secretary of State or, in the case of a combined authority for an area which is wholly within England, by the combined authority”.
- (12) After subsection (5) insert—
- “(6) The following provisions apply if a scheme under section 2 provides for members of a combined authority to be appointed by the authority.
  - (7) The scheme must provide that a relevant police and crime commissioner may only be appointed as a member of the authority in response to a request by the commissioner.
  - (8) The scheme must provide that, if such a request is made to the authority, the authority must—
    - (a) consider the request,
    - (b) give reasons for its decision to agree to or refuse the request, and
    - (c) publish those reasons in such manner as it thinks appropriate.
  - (9) In this section “relevant police and crime commissioner”, in relation to a combined authority, means a police and crime commissioner—
    - (a) whose area is the same as, or contains all of, the area of the authority, or
    - (b) all or part of whose area falls within the area of the authority.”
- (13) The Localism Act 2011 is amended in accordance with subsections (14) and (15).
- (14) In section 27 (duty to promote and maintain high standards of conduct) after subsection (4) insert—
- “(4A) In this Chapter “co-opted member” includes a police and crime commissioner who—
    - (a) is entitled to participate in meetings of a county or district council by virtue of paragraph 6ZA of Part 1 of Schedule 12 to the Local Government Act 1972, or
    - (b) is entitled to participate in meetings of an executive of a county or district council by virtue of paragraph 4A of Schedule A1 to the Local Government Act 2000.”
- (15) In section 28 (codes of conduct) after subsection (11) insert—
- “(11A) Subsections (11B) to (11D) apply if a police and crime commissioner is a member or co-opted member of a relevant authority in the commissioner’s capacity as such.
  - (11B) Arrangements put in place under subsection (6)(b) by the relevant authority must include provision for an allegation against the commissioner to be referred to the police and crime panel for the commissioner’s police area.
  - (11C) If, in response to an allegation referred to it by virtue of subsection (11B), the police and crime panel makes a report or recommendation to the police

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and crime commissioner under section 28(6) of the Police Reform and Social Responsibility Act 2011, the panel may also make a report or recommendation on the allegation to the relevant authority.

- (11D) The relevant authority must take any such report or recommendation into account in determining—
- (a) whether the police and crime commissioner has failed to comply with the authority’s code of conduct,
  - (b) whether to take action in relation to the commissioner, and
  - (c) what action to take.”

## 8 Combined authority mayors: exercise of fire and rescue functions

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended in accordance with subsections (2) to (4).
- (2) After section 107E insert—

### “107EA Exercise of fire and rescue functions

- (1) This section applies to a mayor for the area of a combined authority who—
  - (a) by virtue of section 107D(1), may exercise functions which are conferred on a fire and rescue authority in that name (“fire and rescue functions”), and
  - (b) by virtue of section 107F(1), may exercise functions of a police and crime commissioner.
- (2) The Secretary of State may by order make provision—
  - (a) authorising the mayor to arrange for the chief constable of the police force for the police area which corresponds to the area of the combined authority to exercise fire and rescue functions exercisable by the mayor;
  - (b) authorising that chief constable to arrange for a person within subsection (4) to exercise the chief constable’s fire and rescue functions.
- (3) An order under subsection (2) may provide that arrangements made under the order—
  - (a) may authorise the exercise of any functions mentioned in that subsection;
  - (b) may authorise the exercise of any functions mentioned in that subsection other than those specified or described in the order;
  - (c) may authorise the exercise of such of the functions mentioned in that subsection as are specified or described in the order.
- (4) The persons mentioned in subsection (2)(b) are—
  - (a) members of the chief constable’s police force;
  - (b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;
  - (c) members of staff transferred to the chief constable under a scheme made by virtue of section 107EC(1);

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- (d) members of staff appointed by the chief constable under section 107EC(2).
- (5) Provision in an order under section 107D(1) for a function to be exercisable only by the mayor for the area of a combined authority is subject to provision made by virtue of subsection (2).
- (6) This section is subject to—
  - (a) section 107EB (section 107EA orders: procedure), and
  - (b) section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting).
- (7) In this section “fire and rescue functions”, in relation to a chief constable, means—
  - (a) functions which are exercisable by the chief constable by virtue of provision made under subsection (2)(a), and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.

#### **107EB Section 107EA orders: procedure**

- (1) An order under section 107EA(2) may be made in relation to the mayor for the area of a combined authority only if the mayor has requested the Secretary of State to make the order.
- (2) A request under subsection (1) must be accompanied by a report which contains—
  - (a) an assessment of why—
    - (i) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
    - (ii) it is in the interests of public safety for the order to be made,
  - (b) a description of any public consultation which the mayor has carried out on the proposal for the order to be made,
  - (c) a summary of the responses to any such consultation, and
  - (d) a summary of the representations (if any) which the mayor has received about that proposal from the constituent members of the combined authority.
- (3) Before making the request the mayor must publish, in such manner as the mayor thinks appropriate, the mayor’s response to the representations made or views expressed in response to any consultations on the proposal.
- (4) Subsections (5) to (7) apply if—
  - (a) the mayor for the area of a combined authority makes a request under subsection (1) for the Secretary of State to make an order under section 107EA(2), and
  - (b) at least two thirds of the constituent members of the combined authority have indicated that they disagree with the proposal for the order to be made.
- (5) The mayor must, in providing the report under subsection (2), provide the Secretary of State with—

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- (a) copies of the representations (if any) made by the constituent members of the combined authority about that proposal, and
  - (b) the mayor’s response to those representations and to the responses to any public consultation which the mayor has carried out on that proposal.
- (6) The Secretary of State must—
- (a) obtain an independent assessment of that proposal, and
  - (b) in deciding whether to make the order, have regard to that assessment and to the material provided under subsection (5) (as well as the material provided under subsection (2)).
- (7) The Secretary of State must publish the independent assessment—
- (a) as soon as is reasonably practicable after making a determination in response to the proposal, and
  - (b) in such manner as the Secretary of State thinks appropriate.
- (8) An order under section 107EA(2) may be made only if it appears to the Secretary of State that—
- (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
  - (b) it is in the interests of public safety for the order to be made.
- (9) The Secretary of State may not make an order under section 107EA(2) in a case within subsection (8)(a) of this section if the Secretary of State thinks that the order would have an adverse effect on public safety.
- (10) The Secretary of State may, in making an order under section 107EA(2) in relation to the mayor for the area of a combined authority, give effect to the mayor’s proposal for the order with such modifications as the Secretary of State thinks appropriate.
- (11) Before making an order which gives effect to such a proposal with modifications, the Secretary of State must consult the mayor and the combined authority on the modifications.
- (12) In this section—
- “constituent council”, in relation to a combined authority, means—
    - (a) a county council the whole or any part of whose area is within the area of the combined authority, or
    - (b) a district council whose area is within the area of the combined authority;
  - “constituent member”, in relation to a combined authority, means a member of the authority appointed by a constituent council (but does not include the mayor for the area of the combined authority).

### **107EC Section 107EA orders: further provision**

- (1) An order under section 107EA(2) may make provision for the making of a scheme to transfer property, rights and liabilities (including criminal liabilities)—
- (a) from a fire and rescue authority or the combined authority to the chief constable, or

- (b) from the chief constable to the combined authority,  
(including provision corresponding to any provision made by section 17(4) to (6) of the Localism Act 2011).
- (2) A chief constable to whom an order under section 107EA(2) applies may appoint staff for the purpose of the exercise of the chief constable’s fire and rescue functions.
- (3) A chief constable to whom an order under section 107EA(2) applies may—
- (a) pay remuneration, allowances and gratuities to members of the chief constable’s fire and rescue staff;
  - (b) pay pensions to, or in respect of, persons who are or have been such members of staff;
  - (c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.
- (4) In subsection (3) “allowances”, in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (5) Subject to subsections (6) to (8), a person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (2) may not at the same time be employed pursuant to an appointment by a chief constable of the police force for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.
- (6) Where an order under section 107EA(2) is in force in relation to the chief constable of the police force for a police area, the person who is for the time being the police force’s chief finance officer is to be responsible for the proper administration of financial affairs relating to the exercise of the chief constable’s fire and rescue functions.
- (7) Subsection (5) does not prevent a person who is employed as a finance officer for fire functions from being at the same time employed as a finance officer for police functions.
- (8) In subsection (7)—
- “finance officer for fire functions” means a member of a chief constable’s fire and rescue staff who—
- (a) is not a chief finance officer of the kind mentioned in subsection (6), and
  - (b) is employed to carry out duties relating to the proper administration of financial affairs relating to the exercise of the chief constable’s fire and rescue functions;
- “finance officer for police functions” means a member of a chief constable’s civilian staff within the meaning of the Police Reform and Social Responsibility Act 2011 who—
- (a) is not a chief finance officer of the kind mentioned in subsection (6), and
  - (b) is employed to carry out duties relating to the proper administration of a police force’s financial affairs.
- (9) Where an order under section 107EA(2) is in force, the combined authority to which the order applies must pay—

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- (a) any damages or costs awarded against the chief constable to whom the order applies in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff;
  - (b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;
  - (c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff, if the settlement is approved by the authority.
- (10) Where an order under section 107EA(2) is in force, the combined authority to which the order applies may, in such cases and to such extent as appears to the authority to be appropriate, pay—
- (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the order applies in proceedings for any unlawful conduct of that member of staff;
  - (b) costs incurred and not recovered by such a member of staff in such proceedings;
  - (c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (11) In this section—
- “fire and rescue functions” has the same meaning as in section 107EA;
  - “fire and rescue staff”, in relation to a chief constable to whom an order under section 107EA(2) applies, means—
    - (a) staff transferred to the chief constable under a scheme made by virtue of subsection (1);
    - (b) staff appointed by the chief constable under subsection (2).

#### **107ED Section 107EA orders: exercise of fire and rescue functions**

- (1) This section applies if—
- (a) an order under section 107EA(2) makes provision in relation to the area of a combined authority, and
  - (b) by virtue of the order, fire and rescue functions exercisable by the mayor for the area of the combined authority are exercisable by the chief constable of the police force for the police area which corresponds to that area.
- (2) The chief constable must secure that good value for money is obtained in exercising—
- (a) functions which are exercisable by the chief constable by virtue of the order, and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.
- (3) The chief constable must secure that other persons exercising functions by virtue of the order obtain good value for money in exercising those functions.
- (4) The mayor must—

- (a) secure the exercise of the duties which are exercisable by the chief constable or another person by virtue of the order,
  - (b) secure the exercise of the duties relating to fire and rescue services which are imposed on the chief constable by or by virtue of any enactment,
  - (c) secure that functions which are exercisable by the chief constable or another person by virtue of the order are exercised efficiently and effectively, and
  - (d) secure that functions relating to fire and rescue services which are conferred or imposed on the chief constable by or by virtue of any enactment are exercised efficiently and effectively.
- (5) The mayor must hold the chief constable to account for the exercise of such functions.

#### **107EE Section 107EA orders: complaints and conduct matters etc**

- (1) If an order is made under section 107EA(2) that enables arrangements to be made for the exercise of functions by members of a police force or the civilian staff of a police force, the Secretary of State may by order amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision.
- (2) If an order is made under section 107EA(2) that enables arrangements to be made for the exercise of functions by members of staff transferred to a chief constable under a scheme made by virtue of section 107EC(1) or appointed by a chief constable under section 107EC(2), the Secretary of State may by order make provision of the type described in subsection (3) in relation to those members of staff.
- (3) The provision referred to in subsection (2) is—
  - (a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002;
  - (b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.
- (4) The Secretary of State may by order, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.
- (5) Before making an order under this section the Secretary of State must consult—
  - (a) the Police Advisory Board for England and Wales,
  - (b) the Independent Police Complaints Commission,
  - (c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
  - (d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and
  - (e) such other persons as the Secretary of State considers appropriate.

#### **107EF Section 107EA orders: application of fire and rescue provisions**

- (1) The Secretary of State may by order—



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- (a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);
  - (b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.
- (2) Those persons are—
- (a) a chief constable of a police force for a police area to whom an order under section 107EA(2) applies,
  - (b) a member of staff transferred to such a chief constable under a scheme made by virtue of section 107EC(1),
  - (c) a member of staff appointed by such a chief constable under section 107EC(2),
  - (d) a member of such a chief constable’s police force by whom functions are exercisable by virtue of section 107EA(2)(b), and
  - (e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) by whom functions are exercisable by virtue of section 107EA(2)(b).
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “fire and rescue enactment” means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.

### **107EG Section 107EA orders: application of local policing provisions**

- (1) The Secretary of State may by order—
- (a) apply (with or without modifications) any provision of a local policing enactment in relation to a person within subsection (2);
  - (b) make, in relation to such a person, provision corresponding or similar to any provision of a local policing enactment.
- (2) Those persons are—
- (a) a mayor for the area of a combined authority to whom an order under section 107EA(2) applies,
  - (b) a chief constable to whom such an order applies, and
  - (c) a panel established by virtue of an order under paragraph 4 of Schedule 5C for such an area.

- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made by or under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “local policing enactment” means an enactment relating to a police and crime commissioner.
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.”
- (3) In section 107D(6)(b) (general functions exercisable by the mayor for the area of a combined authority) after “section 107E” insert “or 107EA”.
- (4) In section 120 (interpretation) after the definition of “EPB” insert—  
““fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004;”.
- (5) In section 26 of the Fire Services Act 1947 (firefighters’ pension scheme) (as continued in force by order under section 36 of the Fire and Rescue Services Act 2004) in subsection (5A) (as inserted by paragraph 14 of Schedule 1)—  
(a) omit the “or” at the end of paragraph (a), and  
(b) after paragraph (b) insert—  
“ (c) a transfer to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or  
(d) an appointment by the chief constable under section 107EC(2) of that Act.”
- (6) In section 63 of the Police Act 1996 (Police Advisory Board for England and Wales) in subsection (4) (as inserted by paragraph 76 of Schedule 1) for “also imposes a requirement” substitute “and section 107EE of the Local Democracy, Economic Development and Construction Act 2009 also impose requirements”.
- (7) In section 38 of the Police Reform Act 2002 (police powers for civilian staff) in subsection (11A) (as inserted by paragraph 82 of Schedule 1) after paragraph (b) insert—  
“ (c) any member of staff transferred to that chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009 (transfer of property, rights and liabilities to chief constable to whom fire functions of combined authority may be delegated);  
(d) any member of staff appointed by that chief constable under section 107EC(2) of that Act (appointment of staff by chief constable to whom fire functions of combined authority may be delegated).”
- (8) In section 34 of the Fire and Rescue Services Act 2004 (pensions etc) in subsection (11) (as inserted by paragraph 11 of Schedule 1)—  
(a) omit the “or” at the end of paragraph (a), and  
(b) after paragraph (b) insert—

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- “(c) transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or
  - (d) appointed by the chief constable under section 107EC(2) of that Act.”
- (9) In section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting) (as substituted by paragraph 12 of Schedule 1) in subsection (3) —
- (a) after “whom” insert “—(a)”, and
  - (b) after paragraph (a) insert “, or
  - (b) functions of a fire and rescue authority which are exercisable by the mayor of a combined authority have been delegated under an order under section 107EA(2) of the Local Democracy, Economic Development and Construction Act 2009.”
- (10) In Schedule 8 to the Police Reform and Social Responsibility Act 2011 (appointment, suspension and removal of senior police officers) in paragraph 2 (no appointment until end of confirmation process) in sub-paragraph (1AA) (as inserted by paragraph 93 of Schedule 1) after “section 4H of the Fire and Rescue Services Act 2004” insert “or section 107EA(2) of the Local Democracy, Economic Development and Construction Act 2009”.
- (11) In Schedule 1 to the Public Service Pensions Act 2013 (persons in public service: definitions) in paragraph 6 (fire and rescue workers) in paragraph (aa) (as inserted by paragraph 95 of Schedule 1)—
- (a) omit the “or” at the end of sub-paragraph (i), and
  - (b) for the “or” at the end of sub-paragraph (ii) substitute—
    - “(iii) transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or
    - (iv) appointed by the chief constable under section 107EC(2) of that Act, or”.

### CHAPTER 3

#### LONDON FIRE COMMISSIONER

## 9 The London Fire Commissioner

- (1) The London Fire and Emergency Planning Authority is abolished.
- (2) The functions of the London Fire and Emergency Planning Authority are (subject to this Act) transferred to the London Fire Commissioner.
- (3) Schedule 2—
  - (a) amends the Greater London Authority Act 1999 in consequence of the abolition of the London Fire and Emergency Planning Authority,

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- (b) amends that Act so as to make provision about the London Fire Commissioner, and
- (c) makes consequential amendments to other Acts.

## **10 Transfer of property, rights and liabilities to the London Fire Commissioner**

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities of the London Fire and Emergency Planning Authority to the London Fire Commissioner.
- (2) The things that may be transferred under a transfer scheme include—
  - (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities.
- (3) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—
  - (a) create rights, or impose liabilities, in relation to property transferred;
  - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor, in respect of anything transferred;
  - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
  - (e) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar.
- (4) A transfer scheme may provide—
  - (a) for the scheme to be modified by agreement after it comes into effect;
  - (b) for any such modifications to have effect from the date when the original scheme came into effect.
- (5) In this section—
  - (a) references to the transfer of property include the grant of a lease;
  - (b) references to rights and liabilities include rights and liabilities under a contract of employment;
  - (c) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)).

## **CHAPTER 4**

### **INSPECTION OF FIRE AND RESCUE SERVICES**

## **11 Inspection of fire and rescue services**

- (1) The Fire and Rescue Services Act 2004 is amended as follows.
- (2) In section 28 (inspectors), before subsection (1) insert—

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- “(A1) Her Majesty may appoint such number of inspectors of fire and rescue authorities in England (the “English inspectors”) as the Secretary of State may determine.
- (A2) Of the persons appointed under subsection (A1) one is to be appointed as the chief fire and rescue inspector for England.
- (A3) The English inspectors must inspect, and report on the efficiency and effectiveness of, fire and rescue authorities in England.
- (A4) The English inspectors must carry out such other duties for the purpose of furthering the efficiency and effectiveness of fire and rescue authorities in England as the Secretary of State may from time to time direct.
- (A5) The chief fire and rescue inspector for England may appoint assistant inspectors and other officers for the purpose of assisting the English inspectors.
- (A6) When carrying out an inspection under subsection (A3) of a fire and rescue authority created by an order under section 4A, an English inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.
- (A7) For the purposes of subsection (A6), the following are excluded functions in relation to a fire and rescue authority—
- (a) the function of preparing a fire and rescue plan and a fire and rescue statement (within the meaning of Schedule A2);
  - (b) the functions that the authority has in its capacity as a major precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992;
  - (c) the function of appointing a chief finance officer under section 4D(4);
  - (d) where functions of the authority have been delegated to a chief constable under an order under section 4H, the functions conferred on the authority by section 4J(4) and (5);
  - (e) functions specified, or of a description specified, in relation to that authority in an order made by the Secretary of State.
- (A8) The power under subsection (A7)(e) may be exercised in relation to—
- (a) all fire and rescue authorities created by an order under section 4A,
  - (b) a particular fire and rescue authority created by an order under section 4A, or
  - (c) a particular description of fire and rescue authorities created by an order under section 4A.
- (A9) Schedule A3 makes further provision in relation to the English inspectors.”
- (3) In section 28, in subsection (1)(a), after “fire and rescue authorities” insert “in Wales”.
- (4) After section 28 insert—

**“28A Inspection programme and inspection framework etc: England**

- (1) The chief fire and rescue inspector for England must from time to time prepare—

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- (a) a document setting out what inspections of fire and rescue authorities in England the English inspectors propose to carry out under section 28(A3) (an “inspection programme”);
    - (b) a document setting out the manner in which the English inspectors propose to carry out the function conferred on them by section 28(A3) (an “inspection framework”).
  - (2) The chief fire and rescue inspector for England must obtain the approval of the Secretary of State to an inspection programme or inspection framework before the English inspectors act in accordance with it.
  - (3) The Secretary of State may at any time require the chief fire and rescue inspector for England to carry out, or arrange for another English inspector to carry out, an inspection under section 28(A3) of—
    - (a) a fire and rescue authority in England;
    - (b) all fire and rescue authorities in England;
    - (c) all fire and rescue authorities in England of a particular type.
  - (4) A requirement imposed under subsection (3) may limit the inspection to a particular matter.
  - (5) The chief fire and rescue inspector for England or, at the request of that inspector, any other English inspector may carry out an inspection under section 28(A3) of a fire and rescue authority in England that has not been set out in an inspection programme (and has not been required under subsection (3)).
  - (6) Before deciding to carry out, or to request another English inspector to carry out, an inspection of a fire and rescue authority in England that has not been set out in an inspection programme, the chief fire and rescue inspector for England must consult the Secretary of State.
  - (7) Nothing in an inspection programme or inspection framework is to be read as preventing an English inspector from making a visit without notice.
  - (8) In this section “English inspector” means an inspector appointed under section 28(A1).”
- (5) After section 28A (as inserted by subsection (4)) insert—

**“28B Publication of inspection reports etc: England**

- (1) The chief fire and rescue inspector for England must arrange for a report prepared under section 28(A3) to be published in such manner as appears to him or her to be appropriate.
- (2) But the chief fire and rescue inspector for England must exclude from publication under subsection (1) anything that he or she considers—
  - (a) would be against the interests of national security, or
  - (b) might jeopardise the safety of any person.
- (3) The chief fire and rescue inspector for England must—
  - (a) send a copy of the published report to the Secretary of State, and

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- (b) disclose to the Secretary of State anything excluded from publication by virtue of subsection (2).
- (4) The chief fire and rescue inspector for England must in each year submit to the Secretary of State a report on the carrying out of inspections under section 28(A3) (during the period since the last report).
- (5) A report under subsection (4) must include the chief fire and rescue inspector for England’s assessment of the efficiency and effectiveness of fire and rescue authorities in England for the period in respect of which the report is prepared.
- (6) The chief fire and rescue inspector for England must lay before Parliament a copy of a report submitted under subsection (4).
- (7) In this section “English inspector” means an inspector appointed under section 28(A1).”
- (6) In Schedule A2 (application of legislation relating to police and crime commissioners) (as inserted by Schedule 1 to this Act), in paragraph 8(2) (powers of police and crime panels: modifications of section 28 of the Police Reform and Social Responsibility Act 2011), after paragraph (d) insert—
  - “(da) the references in subsection (6) to the commissioner’s functions were to the functions of the relevant fire and rescue authority that are excluded functions for the purposes of section 28(A6) of this Act (see section 28(A7)),”.
- (7) After Schedule A2 insert the new Schedule A3 set out in Schedule 3 to this Act.
- (8) A person appointed, before the coming into force of this section, under section 28 of the Fire and Rescue Services Act 2004 for the purpose of obtaining information in relation to the functions of fire and rescue authorities in England (including a person taken to have been so appointed by virtue of subsection (3) of that section) is to be taken—
  - (a) if an inspector, to have been appointed under subsection (A1) of that section, and
  - (b) if an assistant inspector or other officer, to have been appointed under subsection (A5) of that section.

## 12 Fire safety inspections

- (1) The Regulatory Reform (Fire Safety) Order 2005 ([S.I. 2005/1541](#)) is amended as follows.
- (2) In article 2 (interpretation), in the definition of “fire inspector”—
  - (a) after “inspector” insert “, in relation to Wales,”;
  - (b) for “section 28” substitute “section 28(1)”.
- (3) In article 27 (powers of inspectors), after paragraph (4) insert—
  - “(5) This article applies to a person authorised by the Secretary of State under article 25(1)(e) in relation to premises in England as it applies to an inspector; and article 32(2)(d) to (f), with the necessary modifications, applies accordingly.”



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- (4) In article 28 (exercise on behalf of fire inspectors etc of their powers by officers of fire brigades)—
- (a) in paragraph (1)—
    - (i) omit “, or any other person authorised by the Secretary of State under article 25(e),”;
    - (ii) for “and (3)” substitute “to (4)”;
  - (b) after paragraph (1) insert—

“(1A) The powers conferred by article 27 on an authorised person (by virtue of paragraph (5) of that article) are also exercisable by an employee of a fire and rescue authority in England when authorised in writing by such an authorised person for the purpose of reporting to him or her on any matter falling within the authorised person’s functions under this Order; and articles 27(2) to (4) and 32(2)(d) to (f), with the necessary modifications, apply accordingly.”;
  - (c) in paragraph (2), for “, or other person authorised by the Secretary of State,” substitute “or authorised person”;
  - (d) after paragraph (2) insert—

“(3) In this article, “authorised person” means a person authorised by the Secretary of State under article 25(1)(e) in relation to premises in England.”