

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

19 FEBRUARY 2018

1. REPRESENTATION OF THE WEST MIDLANDS POLICE AND CRIME COMMISSIONER ON WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Report of the Clerk.

RECOMMENDED

- 1.1 THAT the Authority consider the request from the West Midlands Police and Crime Commissioner (WMPCC) to nominate a second deputy to attend Authority meetings.
- 1.2 THAT the Authority determine whether to approve the representation of the WMPCC at Authority meetings can be made to a second deputy.

2. PURPOSE OF REPORT

This report is submitted for the Authority to consider the WMPCC's request to delegate his Authority role, where required, to a second deputy, in the event that the first nominated deputy cannot attend.

3. BACKGROUND

- 3.1 On 20 November 2017 the Authority considered a formal request from the WMPCC received on 1 September 2017 to take up a representative position on the Fire Authority aligned to the representation model as set out in the Policing and Crime Act 2017.
- 3.2 This request highlighted that the WMPCC's role on the Authority would be delegated to an officer on behalf of the WMPCC.
- 3.3 The Authority approved the request on 20 November 2017 for a position on the Fire Authority on the basis that:
 - A full member voting position would only be provided if the PCC as an elected member attends.

- The WMPCC's nominated deputy would be the deputy PCC, but this would not provide full member voting rights.
- There would be consistency from the PCC's representative for continuity purposes.
- The WMPCC would not be paid expenses for undertaking this position.

- 3.4 Following this approval, the Authority received a further letter from the WMPCC on 23 November 2017 (the letter being written prior to the Authority decision on 20 November 2017) stating that the WMPCC would, when the deputy PCC was not available, want to delegate his position further to an officer of the WMPCC's office. This letter is detailed in Appendix 1. Our response to this letter is set out in Appendix 2.
- 3.5 Section 18 of the Policing and Social Responsibility Act 2011 enables, under the representation model defined by the Policing and Crime Act 2017, a PCC to delegate functions. There are no definitions within these Acts as to who the PCC should delegate functions.
- 3.6 Advice received from the Home Office states that whilst there is no provision for the Deputy PCC or a deputy of the Office of the PCC to be a member of the Authority, this wouldn't prevent this. The arrangement of interchangeable representatives sitting on the Authority would be for the Authority and PCC to consider.
- 3.7 The Authority may also want to take into account the consultation that has recently taken place with Combined Fire and Rescue Authorities. Due to different legislative frameworks, the Home Office have been consulting on provisions to enable a PCC to delegate to a deputy the ability to attend and speak at Fire Authority meetings. This deputy does not have any voting rights and will not be treated as a member of the Authority for any purpose. This is owing to Fire Authorities comprising of elected individuals, who do not themselves have similar rights to delegate to an unelected official as exists for PCCs. Consultation outcomes have yet to be released.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out as the matters contained in this report will not lead to a policy change.

5. **LEGAL IMPLICATIONS**

There are no direct legal implications arising out of this report. However, consideration of the Home Office advice provided and the Home Office consultation with Combined Fire and Rescue Authorities is relevant.

6. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

Route to Future Governance – A Reformed Fire Authority, 11 April 2017
Route to Future Governance – Representation of the West Midlands
Police and Crime Commissioner on WMFRA, 20 November 2017

The contact name and telephone number for this report are:

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KAREN GOWREESUNKER
CLERK TO THE AUTHORITY

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**west midlands
police and crime
commissioner**

Our reference: 2017-01138

Councillor John Edwards
Chair
West Midlands Fire and Rescue Authority
Fire Service Headquarters
99 Vauxhall Road
Birmingham
B7 4HW

15 November 2017

Dear 

Thank you for your letter in September and subsequent communications. I would be pleased to reinstate our regular meetings, and will ask colleagues in my Office to make the necessary arrangements.

I remain committed to seeing progress in operational collaboration between fire and police services. While reformed Fire Service governance would probably assist in this regard, it is not essential. As you will be aware, Deputy Chief Constable Rolfe and Deputy Chief Fire Officer Hales have been working on a paper setting out areas for operational collaboration between West Midlands Police and West Midlands Fire Service. I understand that this paper will be available shortly, and I would propose that we bring it as a joint report - from the Chief Fire Officer and Chief Constable - to both the Fire Authority and the Strategic Policing and Crime Board. This is an important step in demonstrating our shared commitment to the "duty to collaborate". The report will set out progress on some operational matters, and sharing of our collective estate. As you and I know, there are further opportunities beyond this, and together we can push for these.

To answer the question you asked on 4 September, I have sought advice, which has confirmed that a Police and Crime Commissioner can delegate membership of a Fire Authority. As a directly elected individual, I would be publicly and democratically accountable for this decision to the entire electorate of the West Midlands, and I, while recognising the conventions of the Fire Authority, do not feel bound by your preference for an "elected Councillor", and this has not been a factor in my decision-making. I therefore propose to delegate my membership of the Fire Authority to Assistant Police and Crime Commissioner, Cllr Dr Lynnette Kelly. In the event that Cllr Dr Lynnette Kelly is not available to attend a meeting of the Fire Authority, I delegate my membership to my Strategic Adviser, Tom McNeil whose portfolio includes matters concerning fire governance. It remains regrettable that you do not see membership of the Fire Authority as requiring any additional resource by my Office. I should be grateful if you would reconsider your position on this, so that we can more easily manage the addition to our administration.

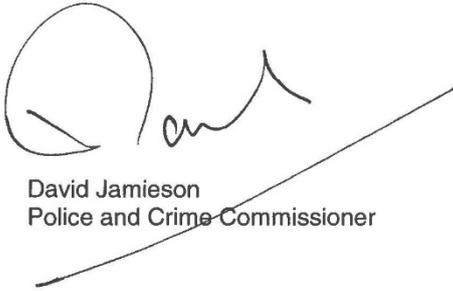
It would be helpful if you would clarify to which Fire Authority committees you understand I would be offered membership, were the Authority to accept my request. I assume this would include the Executive Committee. I note, for the sake of clarity, that if I were to become a member, the activities and decisions of the Fire Authority do not supersede my statutory duties and responsibilities as Police and Crime Commissioner.

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I remain of the view that the proposals put forward by the Fire Authority and Combined Authority for the future governance of West Midlands Fire Service are unlikely to further the economy, efficiency and effectiveness of the Service. Accountabilities are confused, reporting lines muddled, statutory responsibilities impinged and blurred, and the proposal is unworkably complex and expensive. I would hope that as a member of the Authority, we would be able to work to develop proposals that offer the sort of focused strategic direction, clear accountability and statutory protection that the public of the West Midlands expects.

I therefore await the Authority's decision regarding my request for membership.

Yours sincerely



David Jamieson
Police and Crime Commissioner



Fire Service Headquarters,
99 Vauxhall Road, Birmingham B7 4HW

Mr. David Jamieson,
West Midlands Police and Crime Commissioner,
Lloyd House,
Colmore Circus Queensway,
Birmingham B4 6NQ

Date: 29 November 2017
Your Ref:
Our Ref: A2911171/JE/JAC
Tel No: 0121 380 6906
Please ask for: John Edwards

Dear David,

Thank you for your letter dated 15th November which was not received until 23rd November, 3-days after West Midlands Fire and Rescue Authority considered your request for membership. The Authority specifically referred to the need for consistency in any delegation you may choose to make in connection with your membership. Your letter is at odds with that. Nor do I believe it to be appropriate or within the spirit of the Act for you to delegate your role on the Fire Authority to a paid employee in your office who has no elected accountability. The Clerk to the Authority will respond to you on these matters once we have taken further advice.

I note that you again raise the request for payment to your office in connection with your membership. The Authority at its meeting on 20th November welcomed the fact that there would be no financial implications arising from your membership. If you would like further consideration of this then it would be useful to understand the cost implications. Could I ask that you outline the numbers and roles of staff currently within your office and its total annual costs, along with your estimate of any extra resources you will require and the cost. This will help the Authority to put your request into context should we decide to reconsider.

In connection with your reference to membership of Authority Committees, there is no requirement for this in the Act and no consideration has been given to it by the Authority. The establishment and membership of Committees is decided at the Authority AGM in June of each year. Your membership therefore will be limited to Authority meetings and to the all-member Policy Planning Forum.

I note and disagree with your views on the current arrangements that are being progressed for future WMCA/Mayoral governance of West Midlands Fire Service. The proposals quite clearly set out that the Mayor has overall accountability for

setting the strategy for the West Midlands Fire Service and approving the budget. The Chief Fire Officer is directly accountable to the Mayor for leading and managing the fire service.

The Chief Fire Officer is responsible and will be held accountable for planned and robust decision making around workforce, fleet and finance to enable the effective delivery of the 3 year rolling corporate strategy and Integrated Risk Management Plan/Community Safety Strategy

The Mayoral Fire Advisory Committee will provide a scrutiny role around decisions taken by the Mayor in the exercising of fire functions, represents the priorities and strategy of the Mayor and WMFS locally, regionally and nationally, works to influence the government on behalf of the Mayor with respect to the funding and delivery of fire and rescue service functions and enables the development and delivery of partnerships to local communities.

There is clear support and local agreement for the above proposals from each of the constituent councils and each have sought to enhance this further through ensuring the ring fencing of funding for WMFS under the Mayor and the composition of the committee. It's a model that could well lend itself to governance of policing after 2020 following the abolition of the role of the PCC.

As you will know from our previous conversations, I fully agree with your comments on the need to continue developing collaborative opportunities between WMFS and WMP.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Edwards', written in a cursive style.

Councillor John Edwards, Chair
West Midlands Fire and Rescue Authority

Copies to: Phil Loach, CFO, WMFS
Karen Gowreesunker, Clerk, WMFRA