
DRAFT STATUTORY INSTRUMENTS

2023 No.

The York and North Yorkshire Combined Authority Order 2023

PART 10

Fire and rescue functions

Transfer of functions of the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority

41.—(1) The functions of the FRA that are exercisable in relation to the Area are to be functions of the Combined Authority.

(2) The Combined Authority is the fire and rescue authority for the Area for the purposes of the 2004 Act.

(3) The FRA is abolished.

General functions of the Combined Authority exercisable only by the Mayor

42.—(1) The fire and rescue functions of the Combined Authority are exercisable only by the Mayor.

(2) For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the Combined Authority may do under section 113A of the 2009 Act (general power of EPB or combined authority).

(3) Members and officers of the Combined Authority may assist the Mayor in the exercise of the fire and rescue functions.

Arrangements for exercise of fire and rescue functions

43.—(1) The Mayor may not make arrangements under section 107D(3) of the 2009 Act (functions of mayors: general) that authorise the exercise of any of the fire and rescue functions to which article 45 applies.

(2) The Mayor may arrange under section 107D(3) of the 2009 Act for the exercise of fire and rescue functions, other than any of the functions to which article 45 applies, by—

- (a) the deputy mayor for policing and crime; or
- (b) a committee of the Combined Authority.

(3) The Mayor may not make arrangements described in paragraph (2)(a), and arrangements described in paragraph (2)(b), to have effect concurrently.

(4) Where the Mayor makes arrangements described in paragraph (2)(a), the deputy mayor for policing and crime may, for the purpose of the exercise of fire and rescue functions, do anything that the Combined Authority may do under section 113A of the 2009 Act.

(5) Where the Mayor makes arrangements described in paragraph (2)(b), the committee is to be known as the fire committee.

Members of fire committee

44.—(1) The Mayor is to appoint one member of the fire committee on the nomination of each constituent council.

(2) The constituent council is to nominate a person to be a member of the fire committee from amongst that council's constituent members.

(3) Where the Mayor decides not to appoint a person under paragraph (1) who has been nominated by a constituent council, that council may nominate a further person from that council's elected members.

(4) The Mayor may appoint a maximum of five further members of the fire committee from the elected members of one or more of the constituent councils.

(5) The Mayor and the constituent councils must, when appointing or nominating members to the fire committee, ensure that the members of the fire committee taken as a whole reflect so far as reasonably practicable the balance of the political parties for the time being prevailing among the constituent councils when taken together.

(6) The Mayor must appoint one of the members of the fire committee to serve as the chair of the committee.

(7) A member of the fire committee ceases to be a member of that committee if that person ceases to be a member of the constituent council of which that person had been a member at the time of their appointment to the Committee.

(8) A member of the fire committee may resign as a member of the fire committee by written notice served on the proper officer of the constituent council which that person had been a member of at the time of their appointment to the committee and the resignation is to take effect on receipt of the notice by the proper officer.

(9) The Mayor may at any time terminate the appointment of a member of the fire committee who has not attended a meeting of the fire committee during a period of six consecutive months beginning with the date of that member's last attendance.

(10) Where a person ceases to be a member of the fire committee by virtue of paragraph (7), (8) or (9)—

(a) where paragraph (1) applied to that person, the constituent council that nominated the member must as soon as practicable give written notice to the Mayor and nominate another person from that council's elected members;

(b) the Mayor must appoint another person to be a member of the fire committee.

(11) Where an elected member of the constituent council is appointed by the Mayor to be a member of the fire committee, that constituent council may, in accordance with its own scheme of allowances, pay a special responsibility allowance to that member and also a travelling and subsistence allowance.

(12) In this article—

“special responsibility allowance” and “travelling subsistence allowance” have the same meaning as in the Local Authorities (Members' Allowances) (England) Regulations 2003(1).

Fire and rescue functions excluded from the power to make arrangements

45.—(1) This article applies to the following fire and rescue functions—

(a) functions under the following provisions of the 2004 Act—

(i) section 13 (reinforcement schemes);

(1) [S.I. 2003/1021](#), to which there are amendments not relevant to this instrument.

- (ii) section 15 (arrangements with other employers of fire-fighters);
- (iii) section 16 (arrangements for discharge of functions by others);
- (b) the functions of—
 - (i) appointing, suspending or dismissing the chief fire officer;
 - (ii) approving the terms of appointment of the chief fire officer;
 - (iii) holding the chief fire officer to account for managing the fire and rescue service;
- (c) approving—
 - (i) the community risk management plan;
 - (ii) the fire and rescue declaration;
- (d) approving plans, modifications to plans and additions to plans for the purpose of ensuring that—
 - (i) as far as reasonably practicable, the Combined Authority is able to perform its fire and rescue functions if an emergency occurs, and
 - (ii) the Combined Authority is able to perform its functions so far as is necessary or desirable for the purpose of preventing an emergency or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it;
- (e) approving any arrangements for the co-operation of the Combined Authority in relation to its fire and rescue functions with other Category 1 responders and Category 2 responders in respect of—
 - (i) the performance of the Combined Authority’s duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004 (duty to assess, plan and advise);
 - (ii) any duties under subordinate legislation made in exercise of powers under that Act.

(2) In paragraph (1)(d) “emergency” has the meaning given in section 1 of the Civil Contingencies Act 2004 (meaning of “emergency”)(2).

(3) In paragraph (1)(e) “Category 1 responder” and “Category 2 responder” have the meanings given in section 3 of the Civil Contingencies Act 2004 (section 2: supplemental)(3).

Police, Fire and Crime Panel: oversight functions in relation to fire and rescue functions

46.—(1) The Police, Fire and Crime Panel has the oversight functions set out in articles 47 to 49, and by virtue of Schedule 7, in relation to—

- (a) any fire and rescue functions of the Mayor that are exercisable by the deputy mayor for policing and crime as a result of arrangements described in article 43(2)(a); and
- (b) fire and rescue functions exercisable by the Mayor.

(2) The modifications of enactments set out in Schedule 7 have effect for the purpose of the application of those enactments to the Combined Authority as a fire and rescue authority.

Police, Fire and Crime Panel: scrutiny of the community risk management plan

47.—(1) Before issuing a community risk management plan or varying the Combined Authority’s priorities and objectives set out in a community risk management plan, the Mayor must—

- (a) consult the chief fire officer in preparing the draft plan, or the draft variation;

(2) There are amendments to section 1 not relevant to this instrument.

(3) Section 3 was amended by [S.I. 2018/644](#). There are other amendments not relevant to this instrument.

- (b) send the draft priorities and objectives, or the draft variation of the priorities and objectives, to the Police, Fire and Crime Panel;
- (c) have regard to any report or recommendations made by the Police, Fire and Crime Panel in relation to the draft priorities and objectives, in accordance with section 28(3)(4) of the PRSR Act; and
- (d) as soon as reasonably practicable, give the Police, Fire and Crime Panel a response to any such report or recommendations, and publish the response in such manner as the Mayor considers appropriate.

(2) In complying with paragraph (1)(b), the Mayor must ensure that the Police, Fire and Crime Panel has a reasonable amount of time to consider the draft priorities and objectives, or the draft variation of the priorities and objectives, and to produce its report or recommendations.

(3) The Mayor must consult the chief fire officer before issuing or varying a community risk management plan if, and to the extent that, the priorities and objectives in the plan or variation are different from the draft prepared in accordance with paragraph (1).

(4) The Mayor must keep the priorities and objectives in the community risk management plan under review and, in particular, review them in the light of any report or recommendations made to the Mayor by the Police, Fire and Crime Panel under section 28(4) of the PRSR Act.

(5) If the Mayor issues or varies a community risk management plan, the Mayor must—

- (a) send a copy of the issued community risk management plan, or the variation, to the chief fire officer; and
- (b) publish a copy of the issued plan, or the variation, in such manner as the Mayor considers appropriate.

(6) The duty under paragraph (5) to send or publish a copy of the variation may instead be satisfied by sending or publishing a copy of the plan as varied.

(7) In this article, “priorities and objectives” means the Combined Authority’s priorities and objectives in connection with the discharge of the Combined Authority’s functions as a fire and rescue authority, as required to be set out in the community risk management plan.

Notification of proposed allocation of budget for fire and rescue functions

48.—(1) The Mayor must, in each financial year, notify the Police, Fire and Crime Panel of the Mayor’s proposed allocation of the draft budget for fire and rescue functions, including the proposed allocation of the element of the general precept attributable to fire and rescue functions, in relation to the following financial year.

(2) The notification described in paragraph (1) must be given—

- (a) before the date on which the Combined Authority determines whether to approve the Mayor’s annual budget in relation to the following financial year; and
- (b) at a time which permits the Police, Fire and Crime Panel a reasonable amount of time to review the proposed allocation of budget before the Combined Authority makes its determination.

Police, Fire and Crime Panel review of proposed budget

49.—(1) The Police, Fire and Crime Panel must review any proposed allocation of budget notified to it under article 48.

(2) The Police, Fire and Crime Panel must make a report to the Mayor in relation to the proposed allocation of budget.

(4) Section 28 was amended by paragraph 89 of Schedule 1 to the Policing and Crime Act 2017 (c. 3).

- (3) The Mayor must—
- (a) have regard to any report made under paragraph (2) and to any recommendations made in it;
 - (b) provide the Police, Fire and Crime Panel with a response to the report and any recommendations made in it;
 - (c) notify the Police, Fire and Crime Panel of any material changes to the budget for fire and rescue functions after it has been finalised; and
 - (d) publish the response mentioned in sub-paragraph (b), and any notification under sub-paragraph (c)—
 - (i) in such manner as is required by the Police, Fire and Crime Panel; and
 - (ii) in any event, in a prominent place on the website of the Combined Authority.

Transitional arrangements and asset transfers

Transfer of property, rights and liabilities

50.—(1) All property, rights and liabilities, including rights and liabilities in relation to contracts of employment, which immediately before 7th May 2024 were property, rights and liabilities of the FRA are to transfer to, and by virtue of this paragraph vest in, the Combined Authority on 6 May 2024.

(2) In relation to the property, rights and liabilities transferred by paragraph (1) and any property, rights and liabilities acquired in relation to the Combined Authority’s fire and rescue functions on or after 7th May 2024—

- (a) all functions in relation to such property, rights and liabilities are to be exercised by the Mayor;
- (b) all decisions relating to such property, rights and liabilities are to be made by the Mayor.

(3) Subject to article 45 nothing in paragraph (2) prevents the Mayor from making arrangements under section 107D(3) of the 2009 Act in relation to the matters mentioned in paragraph (2).

Secondments

51. In the case of a person who, immediately before 7th May 2024 is seconded to the FRA, the secondment is to have effect, beginning on 7th May, as a secondment to the Combined Authority.

Continuity

52.—(1) The abolition of the FRA, the transfer or abolition of the FRA’s functions and the transfer of the FRA’s property, rights and liabilities do not affect the validity of anything done before the abolition or transfer.

(2) Paragraphs (3) to (5) apply where any functions, property, rights or liabilities are transferred by or under this Part from the FRA to the Combined Authority.

(3) There may be continued by or in relation to the Combined Authority anything, including legal proceedings, which—

- (a) relates to any of the functions, property or rights transferred; and
- (b) is in the process of being done by or in relation to the FRA immediately before 7th May 2024.

(4) There has effect as if made or done by or in relation to the Combined Authority—

- (a) anything which was made or done by or in relation to the FRA for the purposes of, or otherwise in connection with, any of the functions, property, rights or liabilities transferred; and
 - (b) is in effect immediately before 7th May 2024.
- (5) The Combined Authority is to be substituted for the FRA in any instruments, contracts or legal proceedings which—
- (a) relate to any of the functions, property, rights or liabilities transferred; and
 - (b) are made or commenced before 7th May 2024.
- (6) In this article, a reference to the transfer of a function includes a reference to the abolition of a function and the conferral of a corresponding function on another person.

Transfers: supplementary provision

53.—(1) All property, rights and liabilities transferred by this Part are to be transferred, notwithstanding that they may be or include—

- (a) property, rights and liabilities that would not otherwise be capable of being transferred; or
- (b) rights and liabilities under enactments.

(2) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of this Part, whether or not any consent required to the transfer has been obtained.

(3) No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document is to operate or become exercisable or be contravened, by reason of the transfer made by this Part.

(4) Paragraphs (1) to (3) have effect in relation to—

- (a) the grant or creation of an estate or interest in, or right over, any land or other property; or
- (b) the doing of any other thing in relation to land or other property,

as they have effect in relation to the transfer made by this Part of land or other property.

(5) In paragraph (3), “relevant document” means—

- (a) any enactment, other than an enactment contained in the 2009 Act;
- (b) any subordinate legislation made otherwise than under that Act, or
- (c) any deed or other instrument.

Extension of financial year of fire and rescue authority

54.—(1) The following requirements are modified in the case of the FRA for the financial year which began on 1st April 2023.

(2) The requirement in section 3(3) of the Local Audit and Accountability Act 2014 (general requirements for accounts)⁽⁵⁾ to prepare a statement of accounts for each financial year ending on 31st March is modified so that the period ends with 6th May 2024.

(3) The requirement in regulation 15(1)(a) of the Accounts and Audit Regulations 2015 (commencement of the period for the exercise of public rights)⁽⁶⁾ is modified so that the responsible financial officer must ensure that the commencement of the period for the exercise of public rights

(5) 2014 c. 2.

(6) S.I. 2015/234. Relevant amendments were made by S.I. 2020/404, 2021/263, and 2021/565.

takes place on such a day that ensures that the period referred to in regulation 14(1) of those Regulations (period for the exercise of public rights) begins on 18th June 2024.

(4) In this article, “responsible financial officer” has the meaning given in regulation 2(2) of the Accounts and Audit Regulations 2015.

Revocation

55. The Police, Fire and Crime Commissioner for North Yorkshire (Fire and Rescue Authority) Order 2018(7) is revoked.