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STATUTORY INSTRUMENTS

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**2018 No. 1072**

**FIRE AND RESCUE SERVICES, ENGLAND  
POLICE, ENGLAND**

The Police, Fire and Crime Commissioner for  
Northamptonshire (Fire and Rescue Authority) Order 2018

<i>Made</i>	- - - -	<i>10th October 2018</i>
<i>Laid before Parliament</i>		<i>12th October 2018</i>
<i>Coming into force</i>	- -	<i>1st January 2019</i>

The Secretary of State, in exercise of the powers conferred by sections 4A(1), 4D(10), (13) and (14), 4M(2)(b) and 60(2) of the Fire and Rescue Services Act 2004<sup>(1)</sup>, makes the following Order.

A proposal has been submitted to the Secretary of State in accordance with section 4A(4) of the Fire and Rescue Services Act 2004. It appears to the Secretary of State in accordance with section 4A(5) (a) of the Fire and Rescue Services Act 2004 that it is in the interests of economy, efficiency and effectiveness for the Order to be made and the Secretary of State does not think that the Order would have an adverse effect on public safety<sup>(2)</sup>.

**PART 1**

**General**

**Citation and commencement**

1. This Order may be cited as the Police, Fire and Crime Commissioner for Northamptonshire (Fire and Rescue Authority) Order 2018 and comes into force on 1st January 2019.

**Interpretation**

2. In this Order—

“the FRS Act 2004” means the Fire and Rescue Services Act 2004;

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(1) 2004 c. 21. Sections 4A, 4B, 4D and 4M were inserted by section 6 of, and paragraphs 1 and 5 of Schedule 1 to, the Policing and Crime Act 2017 (c. 3).

(2) The Secretary of State may not make an order on the grounds that it appears to be in the interests of economy, efficiency and effectiveness if the Secretary of State thinks that the order would have an adverse effect on public safety; see section 4A(6) of the Fire and Rescue Services Act 2004.

- “Authority” means the fire and rescue authority created in accordance with article 3;
- “chief fire officer” means the person with responsibility for managing the fire and rescue service;
- “DPCC” means the deputy police and crime commissioner for Northamptonshire;
- “fire and rescue functions” means the functions under—
- (a) section 6 of the FRS Act 2004 (fire safety);
  - (b) section 7 of that Act (fire-fighting);
  - (c) section 8 of that Act (road traffic accidents);
  - (d) any order under section 9 of that Act (emergencies) which applies to a fire and rescue authority;
  - (e) section 2 of the Civil Contingencies Act 2004 (duty to assess, plan and advise)<sup>(3)</sup> and any subordinate legislation made under that Act applying to a fire and rescue authority, and
  - (f) any other provision of, or of subordinate legislation made under, an Act which confers functions on a fire and rescue authority;
- “fire and rescue service” means the personnel, services and equipment secured by the Authority for the purpose of carrying out the Authority’s fire and rescue functions;
- “integrated risk management plan” means a plan which—
- (a) is prepared and published by the Authority in accordance with the requirements of the Fire and Rescue National Framework<sup>(4)</sup>, and
  - (b) sets out for the period covered by the document—
    - (i) an assessment of all the foreseeable fire and rescue related risks that could affect the area of the Authority, and
    - (ii) proposals, including about the allocation of resources, for the mitigation of those risks;
- “member of staff of the authority” means—
- (a) a member of staff transferred to the Authority under a transfer scheme made under section 4C of the FRS Act 2004<sup>(5)</sup>, and
  - (b) a member of staff appointed by the Authority under section 4D of the FRS Act 2004;
- “member of staff of the PCC” means any of the following persons appointed by the PCC under paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011 (police and crime commissioners)<sup>(6)</sup>—
- (a) the commissioner’s chief executive;
  - (b) the commissioner’s chief finance officer, or
  - (c) another member of staff, and
- “PCC” means the police and crime commissioner for Northamptonshire.

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<sup>(3)</sup> 2004 c. 36; there are amendments to section 2 and Schedule 1 which are not relevant to this Order.

<sup>(4)</sup> The Fire and Rescue National Framework is prepared by the Secretary of State under section 21 of the Fire and Rescue Services Act 2004. The Framework is available at <https://www.gov.uk/government/publications/fire-and-rescue-national-framework-for-england>. A hard copy can be obtained by writing to the Fire Strategy and Reform Unit, Home Office, 2 Marsham Street, London, SW11 4DF.

<sup>(5)</sup> Section 4C was inserted by section 6 of, and paragraphs 1 and 5 of Schedule 1 to, the Policing and Crime Act 2017 (c. 3).

<sup>(6)</sup> 2011 c. 13.

## PART 2

### Creation and Functions of the Fire and Rescue Authority

#### Creation and functions of the Northamptonshire Commissioner Fire and Rescue Authority

3.—(1) A corporation sole is created as the fire and rescue authority with fire and rescue functions for the area specified in paragraph (3).

(2) The person who is for the time being the PCC is for the time being to be that fire and rescue authority(7).

(3) The area specified in this paragraph is the area of the County of Northamptonshire.

(4) The corporation sole created under paragraph (1) is to be known as the Northamptonshire Commissioner Fire and Rescue Authority.

## PART 3

### Arrangements for the Exercise of Functions

#### Arrangements for the exercise of functions

4.—(1) Subject to articles 5, 6 and 8 the Authority may make such arrangements as it considers appropriate for the delegation of its functions to—

- (a) the DPCC;
- (b) a member of staff of the Authority, or
- (c) a member of staff of the PCC.

(2) Where the Authority delegates functions to the DPCC, the DPCC may be known as the Deputy Police, Fire and Crime Commissioner for Northamptonshire.

#### Functions to be exercised only by the Authority

5.—(1) The Authority may not make arrangements under article 4(1) for the delegation of the following functions—

- (a) the function of calculating a council tax requirement (see section 42A of the Local Government Finance Act 1992)(8);
- (b) the function of approving the fire and rescue plan and the fire and rescue statement (within the meaning of Schedule A2 of the FRS Act 2004)(9);
- (c) the function of approving the integrated risk management plan;
- (d) the function of appointing, suspending or dismissing the chief fire officer;
- (e) the function of holding the chief fire officer to account in accordance with article 9;
- (f) the function of approving a pay policy statement prepared for the purpose of section 38 of the Localism Act 2011 (pay policy statements)(10);

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(7) This person will be known as the Police, Fire and Crime Commissioner for Northamptonshire; see section 1(3A) and (3B) of the Police Reform and Social Responsibility Act 2011 as inserted by section 6 of, and paragraphs 86, 87(1) and 87(3) of Schedule 1 to, the Policing and Crime Act 2017.

(8) 1992 c. 14. Section 42A was inserted by section 75 of the Localism Act 2011 (c. 20).

(9) Schedule A2 of the Fire and Rescue Services Act 2004 was inserted by section 6 of, and paragraphs 1 and 13 of Schedule 1 to, the Policing and Crime Act 2017; see paragraph 1(3) and (4) for the definitions of “fire and rescue plan” and “fire and rescue statement”.

(10) 2011 c. 20.

- (g) the function of approving arrangements to enter into a reinforcement scheme under section 13 of the FRS Act 2004 (reinforcement schemes);
  - (h) the function of approving arrangements with other employers of fire-fighters under section 15 of the FRS Act 2004 (arrangements with other employers of fire-fighters);
  - (i) the function of approving arrangements under section 16 of the FRS Act 2004 (arrangements for discharge of functions by others);
  - (j) the function of approving plans, modifications to plans and additions to plans for the purpose of ensuring that—
    - (i) as far as reasonably practical, the Authority is able to perform its fire and rescue functions if an emergency occurs, and
    - (ii) the Authority is able to perform its functions so far as 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, and
  - (k) the function of approving any arrangements for the co-operation of the Authority in relation to its fire and rescue functions with other Category 1 responders and Category 2 responders<sup>(11)</sup> in respect of—
    - (i) the performance of the Authority’s duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004, and
    - (ii) any duties under subordinate legislation made in exercise of powers under that Act.
- (2) In sub-paragraph (j) “emergency” has the meaning given in section 1 of the Civil Contingencies Act 2004 (meaning of emergency) for Part 1 of that Act.

### **Functions that the Authority may delegate only to the DPCC**

**6.—**(1) The Authority may not make arrangements under article 4(1) for the delegation of the following functions of the Authority to any person other than the DPCC—

- (a) the function of determining the Authority’s priorities and objectives for the purposes of the fire and rescue plan and the fire and rescue statement;
- (b) the function of attendance at a meeting of the Police, Fire and Crime Panel for Northamptonshire in compliance with a requirement of the Panel to do so<sup>(12)</sup>;
- (c) the function of appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (appointment of local auditor)<sup>(13)</sup>;
- (d) the function of deciding whether to enter a liability limitation agreement under section 14 of the Local Audit and Accountability Act 2014 (limitation of local auditor’s liability).

(2) In paragraph (1)(b) “Police, Fire and Crime Panel for Northamptonshire” means the police and crime panel established and maintained in accordance with Schedule 6 to the Police Reform and Social Responsibility Act 2011 (police and crime panels)<sup>(14)</sup> for the Northamptonshire police area.

### **Delegation of functions by the DPCC**

**7.—**(1) Subject to paragraph (2) where the Authority delegates a function to the DPCC, the DPCC may delegate functions to—

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<sup>(11)</sup> Category 1 responders general are listed in Part 1, and Category 2 responders general are listed in Part 3 of Schedule 1 to the Civil Contingencies Act 2004.

<sup>(12)</sup> See section 29 of the Police Reform and Social Responsibility Act 2011 as applied with modifications by paragraph 9 of Schedule A2 to the Fire and Rescue Services Act 2004.

<sup>(13)</sup> 2014 c. 2.

<sup>(14)</sup> 2011 c. 13; Schedule 6 to the Police Reform and Social Responsibility Act 2011 was amended by paragraph 92 of Schedule 1 to the Policing and Crime Act 2017.

- (a) a member of staff of the Authority, or
  - (b) a member of staff of the PCC.
- (2) The DPCC may not delegate a function that is specified in article 6 of this Order.

#### **Functions that the Authority may delegate only to the chief fire officer**

8. The Authority may not make arrangements under article 4(1) for the delegation of the function of preparing and publishing an integrated risk management plan to any person other than the chief fire officer.

#### **Relationship between the Authority and the chief fire officer**

9. The Authority must hold the chief fire officer to account for the exercise of—
- (a) the functions of the chief fire officer, and
  - (b) the functions of persons under the direction and control of the chief fire officer.

#### **Protection from personal liability**

10.—(1) A person who is the Authority has no personal liability for an act or omission done by the person in exercise of the Authority's functions unless it is shown to have been done otherwise than in good faith.

(2) A person who is a member of staff of the Authority has no personal liability for an act or omission done by the person in the carrying out of duties as a member of staff unless it is shown to have been done otherwise than in good faith.

## **PART 4**

### **Local Audit and Accountability**

#### **Local Audit and Accountability**

11. The requirement of section 3(3) of the Local Audit and Accountability Act 2014 for a relevant authority to prepare a statement of accounts in respect of each financial year ending on 31st March is modified in respect of the Authority for the financial year which will end on 31st March 2019, for the Authority to prepare a statement of accounts only for the period 1st January to 31st March 2019.

10th October 2018

*Nick Hurd*  
Minister of State  
Home Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the creation of a fire and rescue authority under section 4A of the Fire and Rescue Services Act 2004 (c.21) for the area of the Northamptonshire County Council. The person who is for the time being the police and crime commissioner for Northamptonshire is to be for the time being the new fire and rescue authority (article 3) and is to be known as the Police Fire and Crime Commissioner for Northamptonshire. The corporation sole created under that article is to be known as the Northamptonshire Commissioner Fire and Rescue Authority ('the Authority').

The Authority comes into being on 1st January 2019 (articles 1 and 3) and on that date the fire and rescue functions are vested in the Authority in place of the Northamptonshire County Council.

Articles 4 to 9 of the Order set out the framework for the Authority in the exercise of its functions. In particular article 5 specifies the functions that must be retained by the Authority and provision is made for the delegation of functions by the Authority to the deputy police and crime commissioner (article 6) and the chief fire officer (article 8). Provision is made for the delegation of certain functions by the deputy police and crime commissioner (article 7).

Provision is made for the protection from personal liability of a person holding the office of the Authority for the time being (article 10).

Transitional provision is made for the Authority for the financial year 2018 to 2019 (article 11).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.