

SCHEDULES

SCHEDULE 7

Article 46(2)

Modification of enactments in their application to the Combined Authority as fire and rescue authority

PART 1

Primary legislation

Local Government Act 1972

1. In section 138(5) of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters)(1), the reference to “metropolitan county fire and rescue authority” is to apply as if it included the Combined Authority as a fire and rescue authority.

Local Government Finance Act 1988

2.—(1) The Local Government Finance Act 1988(2) is modified as follows.

(2) Section 114 (functions of responsible officer as regards reports)(3) applies, in any case where the report prepared under subsection (2) or (3) of that section relates to the fire and rescue functions of the Combined Authority, as if subsection (4) included a requirement to provide a copy of the report to each member of the Police, Fire and Crime Panel.

(3) Section 115 (authority’s duties as regards reports)(4) applies, in any case where a report prepared by the Mayor under subsection (1E) of that section relates to the fire and rescue functions of the Combined Authority, as if it included a requirement to provide a copy of the report to each member of the Police, Fire and Crime Panel.

Local Government and Housing Act 1989

3.—(1) The Local Government and Housing Act 1989(5) is modified as follows.

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- (1) 1972 c. 70. Section 138 was amended by Part 1 of Schedule 34 to the Local Government, Planning and Land Act 1980 (c. 65), section 156 of the Local Government and Housing Act 1989 (c. 42), paragraph 22(2) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), paragraphs 7 and 10 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36) and paragraph 40 of Schedule 2 to the Policing and Crime Act 2017.
 - (2) 1988 c. 41.
 - (3) Section 114 was amended by paragraph 66 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42), paragraph 34 of Schedule 4 to the Police and Magistrates’ Court Act 1994 (c. 29), section 130 of the Greater London Authority Act 1999 (c. 29), Part 5 of Schedule 7 to the Criminal Justice and Police Act 2001 (c. 16), paragraph 188 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13), paragraph 1 of Schedule 25 to the Localism Act 2011 (c. 20) and by S.I. 2001/2237, 2018/226 and 2021/1349.
 - (4) Section 115 was amended by section 131 of the Greater London Authority Act 1999, section 30 of the Local Government Act 2003 (c. 26), paragraph 189 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, paragraph 2 of Schedule 20 and paragraph 1 of Schedule 25 to the Localism Act 2011, and by S.I. 2018/226 and 2021/1349.
 - (5) 1989 c. 42.

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(2) Section 4 (designation and reports of head of paid service)(6) applies, in any case where the report prepared under subsection (2) of that section relates to the fire and rescue functions of the Combined Authority, as if subsection (4) included a requirement to provide a copy of the report to the Police, Fire and Crime Panel.

(3) Section 5 (designation and reports of monitoring officer)(7) applies, in any case where the report prepared under that section relates to the fire and rescue functions of the Combined Authority, as if subsection (3)(b) included a requirement to provide a copy of the report to the Police, Fire and Crime Panel.

(4) In section 67 (application of provisions about companies in which local authorities have interests) subsection (3)(k)(8) applies as if the reference to a joint authority established by Part IV of that Act” included a reference to “the Combined Authority as a fire and rescue authority”.

(5) In section 155 (emergency financial assistance to local authorities) subsection (4)(g)(9) applies as if the reference to a joint authority established by Part IV of the Local Government Act 1985” included a reference to “the Combined Authority as a fire and rescue authority”.

Crime and Disorder Act 1998

4.—(1) The Crime and Disorder Act 1998(10) is modified as follows.

(2) In the definition of “fire and rescue authority”, in section 5(5) (authorities responsible for strategies)(11), the reference in paragraph (b) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

(3) In the definition of “relevant authority” in section 115(2) (disclosure of information)(12), the reference in paragraph (j) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

Local Government Act 2003

5. In section 23(1) of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1)(13) the reference in paragraph (k) to “a joint authority established by Part IV of that Act” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

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- (6) Section 4 was amended by paragraph 161(3) of Schedule 13, and Schedule 14, to the Local Government etc. (Scotland) Act 1994 (c. 39), paragraph 201 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, paragraph 12(2) of Schedule 5 to the Cities and Local Government Devolution Act 2016 (c. 1), paragraph 62(2) of Schedule 1 and paragraph 87(2) of Schedule 2 to the Policing and Crime Act 2017 and by S.I. 1995/789 and 2021/231.
- (7) Section 5 was amended by paragraph 35(b) and (c) of Schedule 4 to the Police and Magistrates’ Courts Act 1994, Schedule 14 to the Local Government etc. (Scotland) Act 1994, section 132(2) of the Greater London Authority Act 1999, paragraph 24 of Schedule 5 to the Local Government Act 2000 (c. 22), section 113(3) of the Local Government Act 2003, paragraph 24 of Schedule 6 to the Public Services Ombudsman (Wales) Act 2005 (c. 10), paragraph 14 of Schedule 12 and paragraph 1 of Schedule 18 to the Local Government and Public Involvement in Health Act 2007 (c. 28), paragraph 13 of Schedule 14 and paragraph 1 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23), paragraph 202 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, section 95(2) of the Local Government (Wales) Measure 2011 (nawm 4), paragraph 63 of Schedule 1 and paragraph 88 of Schedule 2 to the Policing and Crime Act 2017, paragraph 11 of Schedule 5 to the Public Services Ombudsman (Wales) Act 2019 (anaw 3), paragraph 8 of Schedule 5 to the Local Government and Elections (Wales) Act 2021 (asc 1), and by S.I. 2001/2237 and 2002/808.
- (8) Subsection (3)(k) was amended by paragraph 19(3)(b) of Schedule 2 to the Civil Contingencies Act 2004.
- (9) Subsection (4)(g) was amended by paragraph 457(2) of Schedule 4 to the Local Transport Act 2008 (c. 26), and by Schedule 12 to the Natural Environment and Rural Communities Act 2006 (c. 16).
- (10) 1998 c. 37.
- (11) Section 5(5) was inserted by section 97(6) of the Police Reform Act 2002 (c. 30) and amended by paragraph 89(2)(b) of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21), paragraph 2(8)(b) of Schedule 11 to the Police Reform and Social Responsibility Act 2011 (c. 13) and paragraph 78 of Schedule 1 and paragraph 104 of Schedule 2 to the Policing and Crime Act 2017.
- (12) Section 115(2) was amended by paragraph 7(2) of Schedule 9 to the Police and Justice Act 2006 (c. 48). There are other amendments not relevant to this instrument.
- (13) 2003 c. 26. Paragraph (k) was amended by paragraph 10(3)(e) of Schedule 2 to the Civil Contingencies Act 2004. There are other amendments to section 23 not relevant to this instrument.

Fire and Rescue Services Act 2004

6.—(1) The 2004 Act is modified as follows.

(2) Section 4A (power to provide for police and crime commissioner to be fire and rescue authority)(14) has effect as if at the end of subsection (3)(b) there were inserted—

“, and

(c) outside the Area.”;

(3) Section 4B(1) (changes to existing fire and rescue authorities) has effect as if the reference to fire and rescue authorities in England outside Greater London did not include the Combined Authority.

(4) Section 28 (inspectors) of the 2004 Act applies as if for subsections (A6) to (A8)(15) there were substituted—

“(A6) When carrying out an inspection under subsection (A3) of the Combined Authority as fire and rescue authority, 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 section (A6), the following are excluded functions—

- (a) the function of preparing the priorities and objectives of the community risk management plan and the fire and rescue declaration;
- (b) the function of allocating budget for fire and rescue functions;
- (c) any function specified in article 26 of the Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017(16).

(A8) In subsection (A7), “community risk management plan” has the meaning given in article 2 of the York and North Yorkshire Combined Authority Order 2023.”.

Local Democracy, Economic Development and Construction Act 2009

7. Paragraph 1(3) of Schedule 5A (combined authorities: overview and scrutiny committees and audit committees)(17) to the 2009 Act applies as if, at the end of each of paragraphs (a) and (b), there were inserted “other than fire and rescue functions of the Combined Authority in respect of which the Police, Fire and Crime Panel has oversight functions”.

Police Reform and Social Responsibility Act 2011

8.—(1) The PRSR Act is modified as follows.

(2) Section 12(2) to (5) (annual reports) applies as if—

- (a) references to an elected local policing body in subsections (2) and (4) were references to the Combined Authority as fire and rescue authority;
- (b) the reference to the elected local policing body in subsection (3) were to the Mayor;
- (c) references to an annual report were to a fire and rescue declaration;
- (d) references to the relevant police and crime panel were to the Police, Fire and Crime Panel.

(3) Section 13 (information for police and crime panels) applies as if—

(14) Sections 4A to 4M were inserted by paragraph 5 of Schedule 1 to the Policing and Crime Act 2017.

(15) Paragraphs (A1) to (A9) of section 28 were inserted by section 11(2) of the Policing and Crime Act 2017.

(16) S.I. 2017/863.

(17) Schedule 5A was inserted by section 8 of and Schedule 3 to the Cities and Local Government Devolution Act 2016 (c. 1).

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- (a) references to an elected local policing body in subsections (2) and (4) were references to the Combined Authority as fire and rescue authority;
 - (b) references to the relevant police and crime panel were to the Police, Fire and Crime Panel.
- (4) Section 17(2), (3) and (4) (duties when carrying out functions) applies as if—
- (a) for subsection (2) there were substituted—
 - “(2) In carrying out functions in a particular financial year, the Combined Authority as fire and rescue authority must have regard to any report or recommendations made by the Police, Fire and Crime Panel for the previous financial year with respect to the fire and rescue declaration (see section 28(4)).”;
 - (b) in subsections (3) and (4), references to an elected local policing body were to the Combined Authority as fire and rescue authority.
- (5) Section 28 (police and crime panels outside London) applies as if—
- (a) subsection (1) were omitted;
 - (b) references to—
 - (i) a police and crime panel;
 - (ii) a police and crime panel for a police area, or
 - (iii) the police and crime panel for a police area in England,
 were to the Police, Fire and Crime Panel;
 - (c) after subsection (1B)(18), there were inserted—
 - “(1C) Subsection (1D) applies if the person who is the mayor for a police area also exercises for that area—
 - (a) the functions of a police and crime commissioner, and
 - (b) fire and rescue functions.
 - (1D) The police and crime panel for the police area is to be known as “the Police, Fire and Crime Panel”.”;
 - (d) in subsection (2), the reference to the functions of the police and crime commissioner for that police area were to the fire and rescue functions of the Combined Authority;
 - (e) for subsection (3) there were substituted—
 - “(3) The Police, Fire and Crime Panel must—
 - (a) review any draft priorities and objectives, or the draft variation of the priorities and objectives, given to the panel by the Mayor in accordance with article 47 (PFCP: scrutiny of the community risk management plan) of the York and North Yorkshire Combined Authority Order 2023, and
 - (b) make a report or recommendations to the Mayor on the draft priorities and objectives, or the draft variation of the priorities and objectives.
 - (3A) For the purposes of subsection (3)—
 - (a) “priorities and objectives” means the Combined Authority’s priorities and objectives in connection with the discharge of that authority’s functions as a fire and rescue authority, as required to be set out in that authority’s community risk management plan, and
 - (b) “community risk management plan” has the meaning given in article 2 of the York and North Yorkshire Combined Authority Order 2023.”;

(18) Subsections (1A) and (1B) were inserted by paragraph 89 of Schedule 1 to the Policing and Crime Act 2017.

- (f) in subsection (4)—
 - (i) references to an annual report were to a fire and rescue declaration;
 - (ii) references to the police and crime commissioner were to the Mayor;
- (g) subsection (5) were omitted;
- (h) in subsection (6)—
 - (i) for paragraph (a) there were substituted—
 - “(a) review or scrutinise decisions made, or other action taken, by the Combined Authority, the Mayor or the deputy mayor for policing and crime of the Combined Authority, or any other person in the exercise of fire and rescue functions pursuant to arrangements made under section 107D(3) of the 2009 Act in connection with the discharge of those fire and rescue functions.”;
 - (ii) in paragraph (b), references to the relevant police and fire commissioner were to whichever of the Combined Authority, the Mayor and the deputy mayor for policing and crime of the Combined Authority exercises fire and rescue functions;
 - (iii) in the words following paragraph (b), “or by Schedule 1, 5 or 8” were omitted;
 - (i) in subsection (7), references to the relevant police and crime commissioner were to whichever of the Combined Authority, the Mayor and the deputy mayor for policing and crime exercises fire and rescue functions;
 - (j) in subsection (8), reference to the police area were to the Area;
 - (k) subsection (10) were omitted.
- (6) Section 29 (power to require attendance and information) applies as if the modifications made by paragraph 24 of Schedule 5 to the York and North Yorkshire Combined Authority Order 2023 did not apply, and as if—
 - (a) for subsection (1) there were substituted—
 - “(1) The Police, Fire and Crime Panel of the Combined Authority may require the following to attend before it (at reasonable notice) to answer any question which appears to the Police, Fire and Crime Panel to be necessary in order for it to carry out its oversight functions—
 - (a) the Mayor of the Combined Authority,
 - (b) the deputy mayor for policing and crime for the Combined Authority,
 - (c) staff of the Combined Authority deployed wholly or partly in relation to the Combined Authority’s fire and rescue functions,
 - (d) any member of the Combined Authority who exercises fire and rescue functions by virtue of arrangements made under section 107D(3) of the Local Democracy, Economic Development and Construction Act 2009.”;
 - (b) for subsection (2) there were substituted—
 - “(2) Nothing in subsection (1) requires a person mentioned in paragraphs (a) to (d) of that subsection to give any evidence, or produce any document, which discloses advice given by them to any other person mentioned in paragraphs (a), (b) or (d).”;
 - (c) in subsection (3)—
 - (i) references to a police and crime panel were to the Police, Fire and Crime Panel;
 - (ii) references to the relevant police and crime commissioner were to the Mayor;
 - (d) for subsections (4) and (5) there were substituted—

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- “(4) A person mentioned in paragraph (a), (b), (c) or (d) of subsection (1) must comply with any requirement imposed on them in accordance with subsection (1) or (3).”;
- (e) for subsection (6), there were substituted—
- “(6) If the Police, Fire and Crime Panel requires the Mayor or the deputy mayor for policing and crime to attend before the Panel, the Panel may (at reasonable notice) request the chief fire officer for the Area to attend before the Panel on the same occasion to answer any question which appears to the Panel to be necessary in order for it to carry out its functions.”.
- (7) In Schedule 1, paragraph 9 (scrutiny of senior appointments) applies as if the modification made by paragraph 32(e) of Schedule 5 to the York and North Yorkshire Combined Authority Order 2023 did not apply and as if—
- (a) references to the police and crime commissioner were to the Mayor;
- (b) references to the relevant police and crime panel were to the Police, Fire and Crime Panel;
- (c) the reference to criteria in sub-paragraph (2)(b) included criteria relevant to the exercise, by the candidate, of fire and rescue functions.
- (8) In Schedule 6—
- (a) paragraph 4 (membership and status)(19) applies as if for sub-paragraph (6) there were substituted—
- “(6) The Police, Fire and Crime Panel may not exercise any functions other than those conferred by this Act, by, or by virtue of the Fire and Rescue Services Act 2004, or by, or by virtue of, the York and North Yorkshire Combined Authority Order 2023 .”;
- (b) paragraph 27 (special functions)(20) applies as if the special functions mentioned in sub-paragraph (2) of that paragraph included the following functions conferred on the Police, Fire and Crime Panel by, or by virtue of, the York and North Yorkshire Combined Authority Order 2023—
- (i) scrutiny of the priorities and objectives of the community risk management plan;
- (ii) scrutiny of the fire and rescue declaration;
- (iii) scrutiny of the allocation of budget;
- (iv) scrutiny of the appointment of a chief fire officer;
- (c) in paragraph 32A(21) (duty to produce panel with fire and rescue expertise), sub-paragraphs (2) to (4) apply in relation to the Police, Fire and Crime Panel.

PART 2

Secondary legislation

Pipelines Safety Regulations 1996

9. In the Pipelines Safety Regulations 1996(22), in paragraph (a) of the definition of “local authority” in regulation 2(1) (interpretation) the reference to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

(19) Paragraph 4(6) was amended by paragraph 92(2) of Schedule 1 to the Policing and Crime Act 2017.

(20) Paragraph 27 was amended by paragraph 92(4) of Schedule 1 to the Policing and Crime Act 2017.

(21) Paragraph 32A was inserted by paragraph 92(5) of Schedule 1 to the Policing and Crime Act 2017.

(22) S.I. 1996/825. Regulation 2 was amended by paragraph 10(1) and (2) of Schedule 2 of the Civil Contingencies Act 2004 and by S.I. 2018/269.

Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009

10. In the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009(23), in article 1(2) the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012

11. In the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012(24), in regulation 3 (relevant authorities) the reference in paragraph (a) to “a metropolitan county fire and rescue authority established under section 26 of the Local Government Act 1985” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

Local Government Pension Scheme Regulations 2013

12. The Local Government Pension Scheme Regulations 2013(25) have effect as if, after paragraph (8) of regulation 64, there were inserted—

“(8A) Paragraph (8B) applies where the exiting employer is the FRA and the liabilities of the fund in respect of benefits due to the FRA’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the Combined Authority by virtue of the York and North Yorkshire Combined Authority Order 2023.

(8B) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”.

Explosives Regulations 2014

13. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(26), in the definition of “local authority” the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to “the Combined Authority as a fire and rescue authority”.

Control of Major Accident Hazards Regulations 2015

14. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(27), paragraph (b) of the definition of “local authority” is to apply as if for sub-paragraph (ii) there were substituted—

“(ii) the Area, the Combined Authority as a fire and rescue authority;”.

Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017

15. In the Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017(28), articles 3 to 23 apply as if—

(23) S.I. 2009/2393.

(24) S.I. 2012/1647. There are amendments to regulation 3 not relevant to this instrument.

(25) S.I. 2013/2356, amended by S.I. 2014/1012, 2014/1146, 2015/755, 2016/449, 2016/653, 2017/126, 2017/251, 2017/612, 2018/103, 2018/269, 2018/493, 2018/1133, 2019/615, 2020/123, 2020/179, 2020/893, 2021/272, and 2023/187.

(26) S.I. 2014/1638. There are amendments to regulation 2 not relevant to this instrument.

(27) S.I. 2015/483. There are amendments to regulation 2 not relevant to this instrument.

(28) S.I. 2017/863.

Status: This is the original version (as it was originally made).

- (a) references to “the Authority”, other than the reference in article 21(3)(c), were to the Mayor in the exercise of the fire and rescue functions of the Combined Authority;
- (b) references to the police and crime panel were to the Police, Fire and Crime Panel;
- (c) in article 6(8) (panel to review and report on proposed appointment of chief fire officer)—
 - (i) in sub-paragraph (a), for “ordinary election of a police and crime commissioner under section 50 of the Police Reform and Social Responsibility Act 2011” there were substituted “election for the return of the Mayor”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “police and crime commissioner” there were substituted “Mayor”;
 - (bb) for “that Act” there were substituted “the Police Reform and Social Responsibility Act 2011”;
- (d) in article 21(3)(c) (response to representations regarding proposal to dismiss chief fire officer) the reference to the head of the Authority’s paid service were a reference to the Combined Authority’s head of paid service.