

2018 No. 970

FIRE AND RESCUE SERVICES, ENGLAND

POLICE, ENGLAND

**The Police, Fire and Crime Commissioner for North Yorkshire
(Fire and Rescue Authority) Order 2018**

<i>Made</i>	- - - -	<i>4th September 2018</i>
<i>Laid before Parliament</i>		<i>6th September 2018</i>
<i>Coming into force</i>	- -	<i>15th November 2018</i>

The Secretary of State in exercise of the powers conferred by sections 4A(1), 4B(3)(c), 4D(10), (13) and (14), 4M(2)(b) and 60(2) of the Fire and Rescue Services Act 2004^(a), makes the following Order.

A proposal has been submitted to the Secretary of State in accordance with section 4A(4) of that Act. It appears to the Secretary of State in accordance with section 4A(5)(a) of that Act 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^(b).

PART 1

General

Citation and commencement

1. This Order may be cited as the Police, Fire and Crime Commissioner for North Yorkshire (Fire and Rescue Authority) Order 2018 and comes into force on 15th November 2018.

Interpretation

2. In this Order—

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

“Authority” means the fire and rescue authority created in accordance with article 3;

(a) 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).

(b) 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.

“chief fire officer” means the person with responsibility for managing the fire and rescue service;

“DPCC” means the deputy police and crime commissioner for North Yorkshire;

“fire and rescue service” means the personnel, services and equipment secured by the Authority for the purposes of carrying out the Authority’s 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 the Authority;
- (e) section 2 of the Civil Contingencies Act 2004 (duty to assess, plan and advise)(a) and any subordinate legislation made under that Act applying to the Authority;
- (f) any other provision of, or made under, an enactment which confers functions on a fire and rescue authority;

“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(b), and
- (b) sets out for the period covered by the plan—
 - (i) an assessment of all 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) staff transferred to the Authority under a transfer scheme made under section 4C of the FRS Act 2004, and
- (b) 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)(c)—

- (a) the commissioner’s chief executive;
- (b) the commissioner’s chief finance officer;
- (c) other staff;

“PCC” means the police and crime commissioner for North Yorkshire.

PART 2

Creation of Fire and Rescue Authority

Provision for PCC to be fire and rescue authority

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

(a) 2004 c. 36; there are amendments to section 2 and Schedule 1 which are not relevant to this Order.
(b) 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.
(c) 2011 c. 13.

(2) The person who is for the time being the police and crime commissioner for North Yorkshire is for the time being to be that fire and rescue authority^(a).

(3) The area specified in this paragraph is the area of the council of the City of York and the area of the council of the county of North Yorkshire taken together.

(4) The corporation sole created under paragraph (1) is to be known as the North Yorkshire Police, Fire and Crime 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 an Authority delegates functions to the DPCC, the DPCC may be known as the Deputy Police, Fire and Crime Commissioner for North Yorkshire.

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^(b));
- (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)^(c);
- (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 purposes of section 38 of the Localism Act 2011 (pay policy statements)^(d);
- (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);

(a) This person will be known as the Police, Fire and Crime Commissioner for North Yorkshire; 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.

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

(c) 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”.

(d) 2011 c. 20.

- (j) the function of approving plans, modifications to plans and additions to plans for the purpose of ensuring that—
 - (i) so far as is reasonably practicable, the Authority is able to perform its fire and rescue functions if an emergency occurs, and
 - (ii) the Authority is able to perform its fire and rescue 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;
 - (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(a) responders 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 this article—
- (a) in paragraph (1)(j) “emergency” has the meaning given in section 1 of the Civil Contingencies Act 2004 (meaning of emergency) for Part 1 of that Act, and
 - (b) in paragraph (1)(j) and (k) “fire and rescue functions” means functions conferred on an Authority by, or by virtue of, any enactment.

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 relevant Police, Fire and Crime Panel in compliance with a requirement by the Panel to do so(b);
- (c) the function of appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (appointment of local auditor)(c);
- (d) the function of deciding whether to enter into 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) “relevant Police, Fire and Crime Panel” means the police and crime panel established in accordance with Schedule 6 to the Police Reform and Social Responsibility Act 2011 for the North Yorkshire 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 the function to—

- (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.

(a) 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.
 (b) See section 29 of the Police Reform and Social Responsibility Act 2011 as applied with modifications by paragraph 9 of Schedule A2 to the FRS Act 2004.
 (c) 2014 c. 2.

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 the 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

Modification, Abolition, and Revocation

Modification of the Local Government Pension Scheme Regulations 2013

11.—(1) The Local Government Pension Scheme Regulations 2013(a) are modified as follows.

(2) Regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained) is to be read as if after paragraph (8) there were inserted—

“(8A) Paragraph (8B) applies where the exiting employer is the North Yorkshire Fire and Rescue Authority and the liabilities of the fund in respect of benefits due to that Authority's current and former employees (or those of any predecessor authority) have been or are to be transferred to the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority under a transfer scheme made under section 4C of the Fire and Rescue Service Act 2004.

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

Abolition of the North Yorkshire Fire and Rescue Authority

12. The North Yorkshire Fire and Rescue Authority(b) is abolished.

Provision for continuity in the exercise of functions

13. Anything done on or before 14th November 2018 by or in relation to the North Yorkshire Fire and Rescue Authority shall be deemed to have been done by or in relation to the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority.

(a) S.I. 2013/2356; regulation 64(1) is substituted by regulation 22 of S.I. 2015/755.

(b) Established by the North Yorkshire Fire Services (Combination Scheme) Order 1995 S.I. 1995/3133.

Revocation

14. The North Yorkshire Fire Services (Combination Scheme) Order 1995(a) is revoked.

4th September 2018

Nick Hurd
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision (see article 3) for the creation of a new fire and rescue authority under section 4A of the Fire and Rescue Services Act 2004 (c. 21) for the areas of the City of York Council and North Yorkshire County Council. The person who is for the time being the police and crime commissioner for North Yorkshire is to be for the time being that new fire and rescue authority. The new authority will be known as the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority. The North Yorkshire Fire and Rescue Authority is abolished by article 12 of the Order.

Articles 4 to 9 of the Order set out the framework for how the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority may exercise its functions. In particular article 5 sets out the functions that must be retained by the Authority and articles 6 and 8 set out functions that the Authority may delegate only to their deputy police and crime commissioner or chief fire officer.

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

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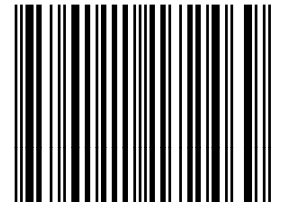
(a) S.I. 1995/3133.

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