



DECISION RECORD

Decision Record Number 92

This document records a decision taken by the Police, Fire and Crime Commissioner, together with details of the advice he received prior to taking the decision.

Decision taken

The Police, Fire and Crime Commissioner has taken the decision to:

Agree to enter an indemnity agreement with Northamptonshire County Council (or their successors) to ensure that any liabilities related to staff from before the date of transfer of the Fire and Rescue Service to the PFCC are indemnified by the County Council to ensure that, in effect, liabilities remain with the County Council.

Details of advice taken

Advice has been taken from the statutory officers of the OPFCC, the legal department, the Chief Fire Officer and the Home Office.

Stephen Mold
Police, Fire and Crime Commissioner
08/01/2019

END



Northamptonshire Police, Fire and Crime Commission

Supporting Report to the Police, Fire and Crime Commissioner

Date of Report	1 st January 2019
Subject	Overage Agreement for the Fire and Rescue Authority properties
Report Author	Paul Bullen, Director for Delivery

1. Purpose of Report

1.1 To outline the Indemnity Agreement which has been attached to the Statutory Staff Transfer Scheme to provide indemnity to the PFCC for liabilities that pre-date the transfer of the Fire and Rescue Authority to the PFCC.

2. Decision(s) Recommended:

2.1 To formally agree the Indemnity Agreement for staff that transferred to the PFCC on becoming the Fire and Rescue Authority.

3. Relevant background / Chronology of Key Events:

3.1 The PFCC became the Fire and Rescue Authority for Northamptonshire on 1st January 2019.

3.2 The business case that was submitted to the Home Secretary (and subsequently agreed) included that liabilities will not transfer from Northamptonshire County Council to the Police and Crime Commissioner on becoming the Fire and Rescue Authority. This was agreed to recognise the fact that no reserves were transferring from the County Council to the PCC.

3.3 In discussion with the Home Office, it was agreed that legally the transfer scheme could not easily provide for this scenario. However, an Indemnity Agreement could be entered into between the parties. The agreement was drafted by the Home Office and agreed by both parties, following legal advice. This provides the same policy

intent, i.e. that the new PFCC does not have to provide for liabilities that pre-date the responsibilities of the Fire and Rescue Authority transferring.

4. Consultation:

4.1 Prior to the transfer date, negotiations have taken place between the PFCC and Northamptonshire County Council. The PFCC has consulted with legal.

4.2 The business case that the PFCC submitted to government to take on governance of the fire and rescue service was consulted on with the public in the summer 2017.

5. Compliance Issues:

5.1 Is this a decision of 'significant public interest?'

5.1.1 Yes, there are potential significant financial implications of this, should any currently unknown liability arise

5.2 Is the recommended decision consistent with the priorities set out in the Northamptonshire Police and Crime Plan 2017/21?

5.2.1 The Fire and Rescue Plan has yet to be developed. However the decision is consistent with the desire for the governance of fire and rescue to transfer that is included in the Police and Crime Plan.

5.3 What are the financial and procurement implications of this decision?

5.3.1 Financially this ensures that reserves can be built up without having to find a way to provide for the unknown risks that could arise from liabilities that pre-date the transfer date.

5.4 Will further decisions be required?

5.4.1 None are currently envisaged.

5.5 Legal Implications

5.5.1 The Home Office legal team drafted the agreement alongside the statutory transfer scheme. Legal for the PFCC has reviewed and agreed the document.

5.6 Risk Management

5.6.1 This avoids the risk of unknown liabilities pre-dating the transfer from having to be funded from the PFCC.

5.7 Has an Equality Impact Assessment been undertaken?

5.7.1 No specific assessment has been undertaken.

6. Evaluation of alternative option(s):

6.1 This was the only option that the Home Office were able to provide to match the agreement in the business case.

7. List of background reports used to compile this report:

Fire Governance Transfer Business Case (August 2017)

8. List of appendices accompanying this report (if any):

Indemnity Agreement

9. Approvals

Date

Has this report been approved by the author's line manager?

Has this report been approved by the Chief Executive?

Has this report been approved by the Chief Fire Officer?