

NORTH YORKSHIRE POLICE, FIRE AND CRIME PANEL

11 January 2024

Devolution Implications for the Police, Fire and Crime Panel

1.0 PURPOSE OF REPORT

- 1.1 To outline a schedule of changes required to the Panel's governance documentation, arising following Mayoral devolution; and
- 1.2 To share in outline some key provisions from the Statutory Order which creates the Mayoral Combined Authority which will impact on the legal framework around the Commissioner and the Panel.

- 2.0 In November 2023 the Statutory Order which creates the Mayoral Combined Authority for York and North Yorkshire (the MCA) was laid before Parliament and was given parliamentary approval on 19th December 2023. The MCA will formally come into being at its first meeting in late January and Mayoral elections will be held on 2nd May 2024. Under the Order, there are a number of provisions which will provide for the transfer of the police, fire and crime commissioner's functions to the Mayor (from 7th May) and which therefore have implications for the Police, Fire and Crime Panel in terms of governance and lines of accountability.
- 3.0 Following the election of Mayor and the subsequent transfer of police, fire and crime commissioner functions to the Mayor, the Panel will need to ensure that changes are made to its key governance documentation to reflect the changes in accountability. Appendix A provides a schedule of proposed changes to documentation with a summary of the changes needed. It also highlights where changes may need to be formally agreed by the constituent authorities to the Panel. The Panel are asked to agree the proposed schedule and that the constituent authorities will be requested to agree the changes highlighted in the next few months.
- 4.0 Appendix B provides a summary of some of the key provisions of the Order which relates to the Mayor's police, fire and crime functions and the Panel, along with a note of what the changes mean in terms of structures and governance. Further, more detailed, guidance will be provided to the Panel as and when it is required to discharge particular functions under the Order.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

- 6.1 The legal implications for the Police, Fire and Crime Panel arising from Mayoral devolution are relatively limited inasmuch as they do not alter the statutory purpose and function of the Panel as set out in the Police Reform and Social Responsibility Act 2011. The York and North Yorkshire Combined Authority Order 2023 provides for a transfer of police, fire and crime commissioner functions to the Mayor. This as such changes the accountability between the Panel and commissioner to becoming

Panel and Mayor (and Deputy Mayor) so it's important that the Panel's governing documents reflect the procedural changes.

7.0 EQUALITIES IMPLICATIONS

7.1 There are no significant equalities implications arising from this report.

8.0 CLIMATE CHANGE IMPLICATIONS

8.1 There are no significant climate change implications arising from this report.

9.0 RECOMMENDATIONS

9.1 That the Panel:

(a) notes the information provided on the implications of devolution; and

(b) agrees the outline schedule of governance document changes at Appendix A.

APPENDICES:

Appendix A – Proposed schedule of governance changes to Panel documentation.

Appendix B – Summary of relevant provisions of The York and North Yorkshire Combined Authority Order 2023 which have implications for the PFC Panel.

BACKGROUND DOCUMENTS:

The York and North Yorkshire Combined Authority Order 2023
<https://www.legislation.gov.uk/uksi/2023/1432/contents/made>

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Changes Required to PFC Panel Documentation Following Transfer of Commissioner Functions to Mayor

Document	Purpose	Legal	Owned by	Notes	Timescales
Panel Arrangements	Agreement between the constituent authorities regarding membership, co-options, the lead authority, allowances and promotion of the Panel.	Yes – required under the Police Reform and Social Responsibility Act 2011.	North Yorkshire Council / City of York Council	There are no significant changes to the meaning of the Arrangements but changes need to be made to highlight the change in accountability from PFCC to Mayor.	Revised document to go to the following for agreement: <ul style="list-style-type: none"> • PFC Panel in January 2024; • NYC full council 21 Feb 2024; • CoY full council 22 Feb 2024.
Panel Rules of Procedure	Sets out the rules and procedures for Panel's discharge of its statutory functions.	Yes – required under the Police Reform and Social Responsibility Act 2011.	PFC Panel	Changes required to reflect the new accountabilities and removal of Panel role in confirming senior officer appointments.	Revised document to be approved at Panel on 6 th February 2024.
Panel Complaints Policy	Details the Panel's policy for reviewing and handling of complaints made regarding the Commissioner / Deputy Commissioner.	No – good practice.	PFC Panel	Amendments required to reflect the remit for the Panel being confined to complaints regarding the Deputy Mayor's police, fire and crime functions <u>only</u> and only where they are not also a Member of the MCA. In addition, amendments needed to reflect the role of the MCA in complaints	Revised document to be approved at Panel on 6 th February 2024.

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				handling regarding the Mayor and Deputy Mayor for police, fire and crime where they are a Member of the MCA.	
Panel Complaints Handling Leaflet	Provides an accessible guide to the complaints handling policy and process for the public.	No – good practice.	PFC Panel	<p>Amendments required to reflect the remit for the Panel being confined to complaints regarding the Deputy Mayor’s police, fire and crime functions <u>only</u> and only where they are not also a Member of the MCA.</p> <p>In addition, amendments needed to reflect the role of the MCA in complaints handling regarding the Mayor and Deputy Mayor for police, fire and crime where they are a Member of the MCA.</p>	Revised document to be approved at Panel on 6 th February 2024.
Home Office Grant Agreement	Agreement in place with HO to provide a grant to maintain a Police and Crime Panel for the North Yorkshire Police force area.	Yes – legal agreement between NYC and the HO.	North Yorkshire Council / Home Office	An annual agreement and no changes are anticipated as a result of devolution.	N/A

Changes Required to PFC Panel Documentation Following Transfer of Commissioner Functions to Mayor

NY PFCP pages on the NY Partnerships site	Public-facing governance platform for the Panel.	No	PFC Panel	All sections to be reviewed and updated to reflect the changes in accountabilities.	By 7 th May 2024.
NY PFCP description on the North Yorkshire Council and City of York websites.	Public-facing platforms with links to membership, agendas and meeting papers for the Panel.	No	North Yorkshire Council / City of York Council	Introductory information/description of Panel role to be reviewed and updated as necessary.	By 7 th May 2024

Summary of relevant provisions of The York and North Yorkshire Combined Authority Order 2023 which have implications for the PFC Panel

The following summary highlights some relevant areas of the Order around changes and/or exclusions to the legislation enacting the Mayoral Combined Authority which will have implications for the work of the Panel. It does not detail all those provisions around Panel role and responsibilities which remain as now as these are taken as a given. The following abbreviations are used when referring to modifications or exclusions of enactments in relation to PCC functions under a Mayor:

- 'The 2012 Regs' - Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (set out the Panel's role in handling of complaints regarding the Commissioner)
- 'PRsRA 2011' – Police Reform and Social Responsibility Act 2011 (governing legislation for the Panel's role and functions).

1 Transfer of Commissioner functions to Mayoral office

- a. On 7th May 2024, all of the police, crime and fire functions which currently are held by the Police, Fire and Crime Commissioner will be transferred to the elected Mayor (s32)
- b. All property, rights and liabilities of the Commissioner, including contracts of employment, transfer to the Mayoral Combined Authority (MCA) on 6th May 2024. (s34)
- c. The MCA will become the Fire Authority once functions are transferred to the Mayor and the Fire and Rescue Authority is abolished. (s41)

2 Appointment of Deputy Mayor and delegation of Mayoral duties

- a. The Mayor may make arrangements for a Deputy Mayor for policing, fire and crime. (modification to s18 of the PRsRA 2011).
- b. As with the current Commissioner model, the Mayor cannot delegate certain statutory powers to be exercised by others (including the Deputy Mayor) on their behalf. These include appointing, suspending or dismissing the Chief Fire Officer/Chief Constable, proposing the Council Tax precepts and issuing the Police and Crime Plan. (modification to s18 of the PRsRA 2011).
- c. In relation to the fire and rescue functions the Mayor may choose to make arrangements for a fire committee of the MCA to exercise fire and rescue functions, rather than conferring some functions on the Deputy Mayor. (s43)

3 Scrutiny role of the Panel

- a. The Police, Fire and Crime Panel continues as a statutory panel in its current form, separate to the MCA, with scrutiny oversight for any of the policing, crime and fire

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functions exercisable by the Mayor or Deputy Mayor. As now, this includes responsibility for reviewing proposed appointments for Chief Constable/Chief Fire Officer, reviewing proposals for the Council Tax precepts for fire and policing, reviewing the draft Annual Reports for policing and fire, reviewing the draft Police and Crime Plan and Fire and Rescue Plan. (s46 and modification to s28 of the PRSRA 2011)

- b. In each financial year, the Mayor must notify the Panel of their proposed allocation of the draft budget for fire and rescue including the proposed allocation of the element of general precept attributable to fire and rescue functions. The notification must be given before the MCA determines whether to approve the Mayor's annual budget and at a time which permits the Panel a reasonable amount of time to review the budget allocation. The Panel must review any proposed allocation of budget and make a report to the Mayor. (s48/49)
- c. The Panel will no longer be required to undertake scrutiny of senior staff appointments for Chief Executive and Chief Financial Officer (currently to the Commissioner) as this element of the Commissioner functions will not be a requirement on the police, fire and crime functions of the Mayor. (modification to Sch 1 of the PRSRA 2011)
- d. Similarly to the current legal position, the Panel may require the Mayor, Deputy Mayor, members of staff of the MCA deployed in relation to policing/crime/fire or any Member of the MCA who exercises any function of the Mayor to attend its meetings to answer questions which appear necessary to carrying out its functions. (modification to s29(1) of the PRSRA 2011)
- e. The Mayor, a member of the MCA appointed by the constituent councils, or substitute members acting in place of those members may not be a member of the Panel (modification to Sch 6, s 21 of the PRSRA 2011).

4 Complaints handling

- a. Complaints made regarding the conduct of the Mayor in relation to their police, fire and crime functions will be handled by the Monitoring Officer of the MCA, in line with the MCA's Code of Conduct under s27(2) of the Localism Act 2011. The Panel has no legal remit to consider such complaints under its policy although the Monitoring Officer of the MCA will inform the Panel of the outcome of the complaint. (new Regulation 29(1) to (3) of the 2012 Regs)
- b. Complaints made regarding the conduct of the Deputy Mayor for policing, fire and crime will be considered by the Panel where the Deputy Mayor is not also a Member of the MCA. As now, complaints handling may be delegated by the Panel to a relevant officer (currently the Head of Democratic Services and Scrutiny, NYC). A Panel Sub-Committee can be called to consider whether the complaint may be dealt with via informal resolution.
- c. Where the Deputy Mayor is a Member of the MCA then any complaints regarding conduct will be dealt with by the MCA's Monitoring Officer under the MCA Code of

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Conduct. The Panel has no legal remit to consider such complaints under its policy although the Monitoring Officer of the MCA will inform the Panel of the outcome of the complaint. (new Regulation 29(1) to (3) of the 2012 Regs)

- d. The Panel retains its legal responsibility to record qualifying complaints received and also retains the legal requirement to notify complaints alleging criminal conduct of the Mayor or Deputy Mayor to the Independent Office for Police Conduct.

5 Suspension of Mayor and appointment of Acting Commissioner

- a. The Panel continues to have the power to suspend the office holder (Mayor) in relation to their policing, crime and fire functions and for appointing a person to act in these functions of the Mayor where needed. There is no longer provision to appoint if there is a vacant office or the Mayor is incapacitated as there is currently in the case of the Commissioner. Any person appointed must, however, be a member of the MCA's staff deployed wholly or partly in relation to the Mayor's policing, fire and crime functions or the Deputy Mayor for policing, fire and crime. (modification to s62 of the PRSRA 2011)
- b. The Deputy Mayor of the MCA cannot be appointed as Acting Commissioner. (as previously)

6 Administration of the Panel

- a. There remains the legal responsibility on the Panel to maintain appropriate Arrangements and Rules of Procedure outlining how it will conduct its business. The Panel must continue to make provision for appropriate support to be in place to ensure the proper administration and funding of its business. This is currently provided by North Yorkshire Council and it is anticipated that this arrangement will continue once the MCA comes into being.