STATUTORY INSTRUMENTS

2017 No. 864

FIRE AND RESCUE SERVICES, ENGLAND
POLICE, ENGLAND

The Police, Fire and Crime Commissioner for Essex (Fire and Rescue Authority) Order 2017

Made - - - -	*6th September 2017*
Laid before Parliament	*8th September 2017*
Coming into force - -	*1st October 2017*

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(**1**), 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(**2**).

PART 1

General

Citation and commencement

1. This Order may be cited as the Police, Fire and Crime Commissioner for Essex (Fire and Rescue Authority) Order 2017 and comes into force on 1st October 2017.

Interpretation

2. In this Order—

(**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.

"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;

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

"DPCC" means the deputy police and crime commissioner for Essex;

"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)(**3**)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(**4**); and

(b) sets out for the period covered by the document—

(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)(**5**)—

(a) the commissioner's chief executive;

(b) the commissioner's chief finance officer;

(c) other staff;

"PCC" means the police and crime commissioner for Essex;

"Police, Fire and Crime Panel for Essex" 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) for the Essex police area.

(**3**) 2004 c. 36; there are amendments to section 2 and Schedule 1 which are not relevant to this Order.
(**4**) The Fire and Rescue National Framework is prepared by the Secretary of State under section 21 of the Fire and Rescue Services Act 2004.
(**5**) 2011 c. 13.

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).

(2) The person who is for the time being the PCC is for the time being to be that fire and rescue authority(**6**).

(3) The area specified in this paragraph is the areas of the councils of the boroughs of Southend-on-Sea and Thurrock and Essex County Council.

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

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(**7**));

(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)(**8**);

(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;

(**6**) This person will be known as the Police, Fire and Crime Commissioner for Essex; 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.

(**7**) 1992 c. 14. Section 42A was inserted by section 75 of the Localism Act 2011 (c. 20).

(**8**) 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.

(f) the function of approving a pay policy statement prepared for the purposes of section 38 of the Localism Act 2011 (pay policy statements)(**9**);

(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 firefighters under section 15 of the FRS Act 2004 (arrangements with other employers of firefighters);

(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) 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 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 general Category 1 responders and general Category 2 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(**10**); 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. 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 Essex in compliance with a requirement by the Panel to do so (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) the function of appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (appointment of local auditor)(**11**);

(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).

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—

(**9**) 2011 c. 20.

(**10**) 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.

(**11**) 2014 c. 2.