STATUTORY INSTRUMENTS

2017 No. 863

FIRE AND RESCUE SERVICES, ENGLAND
POLICE, ENGLAND

The Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) 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 95, 96 and 123 of the Local Government Act 2003(**1**), sections 4M(2), 28(A7)(e) of the Fire and Rescue Services Act 2004(**2**) and section 180(1) and (3) of the Policing and Crime Act 2017(**3**) makes the following Order.

PART 1

General

Citation, commencement and application

1.—(1) This Order may be cited as the Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017 and comes into force on 1st October 2017.

(2) This Order applies to England only.

(**1**) 2003 c. 26. Relevant amendments to section 95 were made by section 136(3) of, and paragraphs 3(1), 6(a) to (c) of Schedule 7 to, the Local Government and Public Involvement in Health Act 2007 (c. 28) and section 6 of, and paragraphs 83(1) and (4) of Schedule 1 to, the Policing and Crime Act 2017 (c. 3); relevant amendments to section 96 were made by section 136(3) of, and paragraphs 3(1) and 6(a) to (c) of Schedule 7 to, the Local Government and Public Involvement in Health Act 2007.

(**2**) 2004 c. 21. Section 4M was inserted by section 6 of, and paragraphs (1) and (5) of Schedule 1 to, the Policing and Crime Act 2017; section 28(A7) was inserted by section 11(1) and (2) of the Policing and Crime Act 2017.

(**3**) 2017 c. 3.

Interpretation

2. In this Order—

"the FRS Act 2004" means the Fire and Rescue Services Act 2004;

"Authority" means a fire and rescue authority created by an order under section 4A of the FRS Act 2004;

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

"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)(**4**) and any subordinate legislation 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;

"relevant police and crime panel" in relation to an Authority means the police and crime panel for the police area—

(a) which corresponds to the area of the Authority; or

(b) within which the area of the Authority falls.

PART 2

Appointment, Suspension and Dismissal of the Chief Fire Officer

CHAPTER 1

Appointment

Appointment of the chief fire officer

3. An Authority must comply with articles 4 to 14 in appointing a person to be chief fire officer(**5**).

No appointment until end of confirmation process

4.—(1) An Authority must not appoint a person to be chief fire officer unless the end of the confirmation process has been reached.

(2) The end of the confirmation process is reached in a case to which article 9 applies—

(a) where the relevant police and crime panel makes a recommendation in relation to the appointment, on the date on which the Authority notifies the panel of its decision whether or not to accept that recommendation under article 9(3); or

(**4**) 2004 c. 36. There are amendments to section 2 that are not relevant to this Order.
(**5**) The provisions in Chapter 1 of Part 2 correspond to Part 1 of Schedule 8 to the Police Reform and Social Responsibility Act 2011 and Part 3 of S.I. 2012/2271.

(b) where the relevant police and crime panel does not make a report in relation to the appointment, at the end of the period of three weeks starting with the day on which the panel receives the notification from the Authority of the proposed appointment.

(3) The end of the confirmation process is reached in a case to which article 10 applies—

(a) where the relevant police and crime panel does not make a report in relation to the appointment, at the end of the period of three weeks starting with the day on which the police and crime panel receives the notification from the Authority of the proposed appointment; or

(b) where the relevant police and crime panel makes a recommendation in relation to the appointment under article 12, the date on which the Authority notifies the panel of its decision whether or not to accept that recommendation under article 13(b).

Notification of proposed appointment

5.—(1) An Authority must notify the relevant police and crime panel of each proposed appointment of a chief fire officer by the Authority.

(2) In such a case, the Authority must also notify the relevant police and crime panel of the following information—

(a) the name of the person whom the Authority is proposing to appoint ("the candidate");

(b) the criteria used to assess the suitability of the candidate for the appointment;

(c) why the candidate satisfies those criteria; and

(d) the terms and conditions on which the candidate is to be appointed.

Panel to review and report on proposed appointment

6.—(1) This paragraph applies if a relevant police and crime panel is notified under article 5 of a proposed appointment of a chief fire officer.

(2) The panel must review the proposed appointment.

(3) The panel must make a report to the Authority on the proposed appointment.

(4) Subject to article 7(2) the report must include a recommendation to the Authority as to whether or not the candidate should be appointed.

(5) The panel must comply with paragraphs (2) to (4) within the period of three weeks beginning with the day on which the panel receives the notification from the Authority of the proposed appointment.

(6) The panel must publish the report made to the Authority under this paragraph.

(7) In calculating the period of three weeks for the purpose of paragraph (5), any relevant post-election period is to be ignored.

(8) In this article and articles 12 and 22 "relevant post-election period" means the period that—

(a) begins with the day of the poll at an ordinary election of a police and crime commissioner under section 50 of the Police Reform and Social Responsibility Act 2011(**6**); and

(b) ends with the day on which the person elected as police and crime commissioner delivers a declaration of acceptance under section 70 of that Act.

(**6**) 2011 c. 13.

Power of panel to veto proposed appointment

7.—(1) The relevant police and crime panel may, having reviewed the proposed appointment, veto the appointment of the candidate.

(2) If the panel vetoes the appointment of the candidate, the report made under article 6 must include a statement that the panel has vetoed it.

(3) References in this Part to a police and crime panel vetoing the appointment of a candidate are references to the panel making a decision, by the required majority, that the candidate should not be appointed as chief fire officer.

(4) For that purpose, the panel makes that decision by the required majority if at least two-thirds of the persons who are members of the panel at the time when the decision is made vote in favour of making that decision.

(5) The power conferred by this paragraph is exercisable in relation to a proposed appointment only during the period of three weeks mentioned in article 6(5).

Confirmation hearings

8.—(1) A relevant police and crime panel must hold a confirmation hearing—

(a) before making a report under article 6 to the Authority in relation to a proposed appointment; and

(b) before making a recommendation under article 6 (where applicable) or vetoing an appointment under article 7 (where applicable).

(2) For the purposes of this article—

(a) "confirmation hearing" is a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.

(b) references to a person appearing at a meeting of the panel are references to the person—

(i) attending the meeting in person; or

(ii) not attending the meeting in person, but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.

Next steps if no veto

9.—(1) This article applies if the relevant police and crime panel does not veto the appointment of a candidate.

(2) The Authority may accept or reject the panel's recommendation as to whether or not the candidate should be appointed.

(3) The Authority must notify the panel of the decision whether to accept or reject the recommendation.

Next steps if veto

10.—(1) This article applies if the relevant police and crime panel vetoes the appointment of a candidate.

(2) The Authority must not appoint that candidate as the chief fire officer.

Veto: proposal of reserve candidate

11.—(1) Where the relevant police and crime panel exercises the power under article 7 the Authority shall propose another person for appointment as the chief fire officer ("a reserve candidate").

(2) The Authority proposes a reserve candidate by notifying the panel of the following information—

(a) the name of the reserve candidate;

(b) the criteria used to assess the suitability of the reserve candidate for the appointment;

(c) why the reserve candidate satisfies those criteria; and

(d) the terms and conditions on which the reserve candidate is to be appointed.

Panel's consideration of reserve candidate

12.—(1) Within the period of three weeks beginning with the day on which the relevant police and crime panel receives notification under article 11(2) the panel shall—

(a) review the proposed appointment; and

(b) make a report to the Authority on the proposed appointment.

(2) Before making a report under paragraph (1)(b), the panel must hold a confirmation hearing within the meaning of article 8(2)(a).

(3) The report made under paragraph (1)(b) must include a recommendation to the Authority as to whether or not the reserve candidate should be appointed.

(4) The panel must publish the report made under paragraph (1)(b).

(5) In calculating the period of three weeks for the purpose of paragraph (1), any relevant post-election period within the meaning of article 6(8) is to be ignored.

Authority's consideration of report

13. On receiving a report under article 12(1)(b) the Authority shall—

(a) have regard to the report (including the recommendation in the report); and

(b) notify the panel of its decision as to whether it accepts or rejects the recommendation.

Appointment of the chief fire officer

14.—(1) After the Authority gives the notification mentioned in article 13(b) it may then—

(a) appoint the reserve candidate as the chief fire officer; or

(b) propose another person for such appointment.

(2) Where a proposal is made under paragraph (1)(b), articles 11 to 14 apply in relation to that person as if the proposal had been made under article 11(1) (and accordingly the person is treated for these purposes as a reserve candidate).