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STATUTORY INSTRUMENTS

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**2020 No. 641**

**The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020**

**Insertion of Schedule 1**

9. Before Schedule 2 (as renumbered), insert—

“SCHEDULE 1

Article 5A

Modification of enactments in their application to the GMCA as fire and rescue authority: oversight functions of the Police, Fire and Crime Panel

**PART 1**

Primary legislation

**Local Government Finance Act 1988**

1.—(1) The Local Government Finance Act 1988(1) is modified as follows.

(2) Section 114(2) (functions of responsible officer as regards reports) applies, in any case where the report prepared under subsection (2) or (3) of that section relates to the fire and rescue functions of the GMCA, as if subsection (4) included a requirement to provide a copy of the report to each member of the Police, Fire and Crime Panel.

(3) Section 115(3) (authority’s duties as regards reports) applies, in any case where a report prepared by the Mayor of the GMCA under subsection (1E) of that section relates to the fire and rescue functions of the GMCA, as if it included a requirement to provide a copy of the report to each member of the Police, Fire and Crime Panel.

**Local Government and Housing Act 1989**

2.—(1) The Local Government and Housing Act 1989 is modified as follows.

(2) Section 4(4) (designation and reports of head of paid service) applies, in any case where the report prepared under subsection (2) of that section relates to the fire and rescue functions

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(1) 1988 c. 41.

(2) Section 114 was amended by paragraph 66 of Schedule 5 to the Local Government and Housing Act 1989 (c.42), by paragraph 34 of Schedule 4 to the Police and Magistrates’ Courts Act 1994 (c. 29), by section 130 of the Greater London Authority Act 1999 (c. 29), by Part 5 of Schedule 7 to the Criminal Justice and Police Act 2001 (c. 16), by paragraph 188 of Schedule 16 to the PRSR Act 2011, by paragraph 1 of Schedule 25 to the Localism Act 2011 (c. 20), and by S.I. 2002/808 and 2018/226.

(3) Section 115 was amended by section 131 of the Greater London Authority Act 1999, by section 30 of the Local Government Act 2003 (c. 26), by paragraph 189 of Schedule 16 to the PRSR Act 2011, by paragraph 2 of Schedule 20 and paragraph 1 of Schedule 25 to the Localism Act 2011, and by S.I. 2018/226.

(4) Section 4 was amended by paragraph 161(3) of Schedule 13, and Schedule 14, to the Local Government etc. (Scotland) Act 1994 (c. 39), by paragraph 201 of Schedule 16 to the PRSR Act 2011, by paragraph 12(2) of Schedule 5 to the CLGD Act 2016, by paragraph 62(2) of Schedule 1, and paragraph 87(2) of Schedule 2, to the Policing and Crime Act 2017, and by S.I. 1995/789.

of the GMCA, as if subsection (4) included a requirement to provide a copy of the report to the Police, Fire and Crime Panel.

(3) Section 5(5) (designation and reports of monitoring officer) applies, in any case where the report prepared under that section relates to the fire and rescue functions of the GMCA, as if subsection (3)(b) included a requirement to provide a copy of the report to the Police, Fire and Crime Panel.

#### **Fire and Rescue Services Act 2004**

3. Section 28 (inspectors) of the FRS Act 2004(6) applies as if for subsections (A6) to (A8) there were substituted—

“(A6) When carrying out an inspection under subsection (A3) of the Greater Manchester Combined Authority as fire and rescue authority, an English inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.

(A7) For the purposes of subsection (A6), the following are excluded functions—

- (a) the function of preparing the priorities and objectives of the local risk plan and the fire and rescue declaration;
- (b) the function of allocating budget for fire and rescue functions;
- (c) any function specified in article 26 of the Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017(7).

(A8) In subsection (A7), “local risk plan” has the meaning given in article 2 of the Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017.”.

#### **Local Democracy, Economic Development and Construction Act 2009**

4. Paragraph 1(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009(8) applies as if, at the end of each of paragraphs (a) and (b), there were inserted “other than fire and rescue functions of the Greater Manchester Combined Authority in respect of which the police and crime panel has oversight functions”.

#### **Police Reform and Social Responsibility Act 2011**

5.—(1) The PRSR Act 2011 is modified as follows.

(2) Section 12(2) to (5) (annual reports) applies as if—

- (a) references to an elected local policing body in subsections (2) and (4) were references to the GMCA as fire and rescue authority;
- (b) the reference to the elected local policing body in subsection (3) were to the Mayor;

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- (5) Section 5 was amended by paragraph 35(b) and (c) of Schedule 4 to the Police and Magistrates’ Courts Act 1994; by Schedule 14 of the Local Government etc. (Scotland) Act 1994; by section 132(2) of the Greater London Authority Act 1999 (c. 29); by paragraph 24 of Schedule 5 to the Local Government Act 2000 (c. 22); by section 113(3) of the Local Government Act 2003; by paragraph 24 of Schedule 6 to the Public Services Ombudsman (Wales) Act 2005 (c. 10); by paragraph 14 of Schedule 12 and paragraph 1 of Schedule 18 to the Local Government and Public Involvement in Health Act 2007 (c. 28); by paragraph 13 of Schedule 14, and paragraph 1 of Schedule 22(4), to the Marine and Coastal Access Act 2009 (c. 23); by paragraph 202 of Schedule 16 to the PRSR Act 2011; by section 95(2) of the Local Government (Wales) Measure 2011 (c. 04); by paragraph 63 of Schedule 1, and paragraph 88 of Schedule 2, to the Policing and Crime Act 2017; by paragraph 11 of Schedule 5 to the Public Services Ombudsman (Wales) Act 2019 (anaw. 3); and by S.I. 2001/2237 and 2002/808.
  - (6) 2004 c. 21. Section 28 was amended by section 11 of the Policing and Crime Act 2017 which inserted subsections (A1) to (A9), and also inserted sections 28A and 28B.
  - (7) S.I. 2017/863.
  - (8) Schedule 5A was inserted by Schedule 3 to the CLGD Act 2016.

- (c) references to an annual report were to a fire and rescue declaration;
- (d) reference to the relevant police and crime panel (within the meaning of that Act) were to the Police, Fire and Crime Panel.
- (3) Section 13 (information for police and crime panels) applies as if—
  - (a) references to an elected local policing body were to the GMCA as fire and rescue authority;
  - (b) references to the relevant police and crime panel (within the meaning of that Act) were to the Police, Fire and Crime Panel.
- (4) Section 17(2), (3) and (4) (duties when carrying out functions) applies as if—
  - (a) in subsection (2)—
    - (i) the reference to an elected local policing body were to the GMCA as fire and rescue authority;
    - (ii) the reference to the relevant police and crime panel (within the meaning of that Act) were to the Police, Fire and Crime Panel;
    - (iii) the reference to any report or recommendations made by the panel on the annual report for the previous financial year were to any report or recommendations made by the Police, Fire and Crime Panel for the previous financial year with respect to the fire and rescue declaration;
  - (b) in subsection (3) and (4), references to an elected local policing body were to the GMCA as fire and rescue authority.
- (5) Section 28(9) (police and crime panels outside London) applies as if—
  - (a) subsection (1) were omitted;
  - (b) references to—
    - (i) a police and crime panel (within the meaning of that Act);
    - (ii) a police and crime panel for a police area; or
    - (iii) the police and crime panel for a police area in England,were to the Police, Fire and Crime Panel;
  - (c) after subsection (1), there were inserted—
    - “(1C) Subsection (1D) applies if the person who is the mayor for a police area also exercises for that area—
      - (a) the functions of a police and crime commissioner, and
      - (b) fire and rescue functions.
    - (1D) The police and crime panel for the police area is to be known as “the Police, Fire and Crime Panel”.”;
  - (d) in subsection (2), the reference to the functions of the police and crime commissioner for that police area were to the fire and rescue functions of the GMCA;
  - (e) for subsection (3) there were substituted—
    - “(3) The Police, Fire and Crime Panel must—
      - (a) review any draft priorities and objectives, or the draft variation of the priorities and objectives, given to the panel by the Mayor in accordance with

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(9) Section 28 was amended by paragraph 89 of Schedule 1 to the Policing and Crime Act 2017 which inserted subsections (1A) and (1B); but those subsections do not apply in relation to the mayor of the GMCA by virtue of the modifications made by paragraph 23 of Schedule 1 to [S.I. 2017/470](#).

article 5B of the Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017, and

- (b) make a report or recommendations to the Mayor on the draft priorities and objectives, or the draft variation of the priorities and objectives.

(3A) For the purposes of subsection (3)—

- (a) “priorities and objectives” means the Greater Manchester Combined Authority’s priorities and objectives in connection with the discharge of that authority’s functions as a fire and rescue authority, as required to be set out in that authority’s local risk plan, and

- (b) “local risk plan” has the meaning given in article 2 of the Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017.”;

(f) in subsection (4)—

- (i) references to an annual report were to a fire and rescue declaration;  
(ii) references to the police and crime commissioner were to the Mayor;

(g) subsection (5) were omitted;

(h) in subsection (6)—

- (i) for paragraph (a) there were substituted

“(a) review or scrutinise decisions made, or other action taken, by the Greater Manchester Combined Authority, the Mayor or the deputy mayor for policing and crime of the Greater Manchester Combined Authority, or any other person in the exercise of fire and rescue functions pursuant to arrangements made under section 107D(3) of the Act in connection with the discharge of those fire and rescue functions.”;

- (ii) in paragraph (b), references to the relevant police and crime commissioner were to whichever of the Greater Manchester Combined Authority, the Mayor, and the deputy mayor for policing and crime of the Greater Manchester Combined Authority exercises fire and rescue functions;

(iii) in the words following paragraph (b), “or by Schedule 1, 5 or 8” were omitted;

- (i) in subsection (7), references to the relevant police and crime commissioner were to whichever of the Greater Manchester Combined Authority, the Mayor, and the deputy mayor for policing and crime exercises fire and rescue functions;

(j) in subsection (8), reference to the police area were to the Area;

(k) subsection (10) were omitted.

(6) Section 29(10) (power to require attendance and information) applies as if the modifications made by paragraph 24 of Schedule 1 to the Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 did not apply, and as if—

(a) for subsection (1) there were substituted—

“(1) The Police, Fire and Crime Panel of the Greater Manchester Combined Authority (“the GMCA”) may require the following to attend before it (at reasonable notice) to answer any question which appears to the Police, Fire and Crime Panel to be necessary in order for it to carry out its oversight functions—

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(10) The application of section 29(1), (2), (5) and (6) in relation to the Mayor of the GMCA is modified by paragraph 24 of Schedule 1 to [S.I. 2017/470](#).

- (a) the Mayor of the GMCA,
  - (b) the deputy mayor for policing and crime for the GMCA,
  - (c) staff of the GMCA deployed wholly or partly in relation to the GMCA's fire and rescue functions,
  - (d) any member of the GMCA who exercises fire and rescue functions by virtue of arrangements made under section 107D(3) of the Local Democracy, Economic Development and Construction Act 2009.”;
- (b) for subsection (2) there were substituted—
- “(2) Nothing in subsection (1) requires a person mentioned paragraphs (a) to (d) of that subsection to give any evidence, or produce any document, which discloses advice given by them to any other person mentioned in paragraphs (a), (b) or (d).”;
- (c) in subsection (3)—
- (i) references to a police and crime panel (within the meaning of that Act) were to the Police, Fire and Crime Panel;
  - (ii) references to the relevant police and crime commissioner were to the Mayor;
- (d) for subsections (4) and (5) there were substituted—
- “(4) A person mentioned in paragraph (a), (b), (c) or (d) of subsection (1) must comply with any requirement imposed on them in accordance with subsection (1) or (3).”;
- (e) in subsection (6)—
- (i) references to a police and crime panel were to the Police, Fire and Crime Panel;
  - (ii) reference to the relevant police and crime commissioner were to the Mayor or the deputy mayor for policing and crime;
  - (iii) reference to the relevant chief constable were to the chief fire officer for the Area.
- (7) In Schedule 1, paragraph 9(11) (scrutiny of senior appointments) applies as if the modification made by paragraph 32(e) of Schedule 1 to the Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 did not apply, and as if—
- (a) references to the police and crime commissioner were to the Mayor;
  - (b) references to the police and crime panel, or to the relevant police and crime panel, were to the Police, Fire and Crime Panel;
  - (c) the reference to criteria in sub-paragraph (2)(b) included criteria relevant to the exercise, by the candidate, of fire and rescue functions.
- (8) In Schedule 6—
- (a) paragraph 4(6) (membership and status)(12) applies as if the reference to functions included functions conferred by, or by virtue of, this Order;
  - (b) paragraph 27 (special functions) applies as if the special functions mentioned in sub-paragraph (2) of that paragraph included the following functions conferred on the Police, Fire and Crime Panel by, or by virtue of, this Order—
    - (i) scrutiny of the priorities and objectives of the local risk plan;
    - (ii) scrutiny of the fire and rescue declaration;

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(11) The application of paragraph 9 is modified in relation to the GMCA by paragraph 32 of Schedule 1 to [S.I. 2017/470](#).

(12) And see also the modifications of paragraphs 21 and 22 of that Schedule in their application to the GMCA made by Schedule 1 to [S.I. 2017/470](#).

- (iii) scrutiny of the allocation of budget;
- (iv) scrutiny of the appointment of a chief fire officer;
- (c) in paragraph 32A(13) (duty to produce panel with fire and rescue expertise), sub-paragraphs (2) to (4) apply in relation to the Police, Fire and Crime Panel.

## PART 2

### Secondary legislation

#### **Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017**

6.—(1) Articles 3 to 23 of the Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017 apply as if—

- (a) references to “the Authority”, other than the reference in article 21(3)(c), were to the Mayor in the exercise of the fire and rescue functions;
- (b) references to the police and crime panel (within the meaning of that Order) were to the Police, Fire and Crime Panel;
- (c) in article 6(8) (panel to review and report on proposed appointment of chief fire officer)
  - (i) in sub-paragraph (a) for “ordinary election of a police and crime commissioner under section 50 of the Police Reform and Social Responsibility Act 2011” there were substituted “election for the return of the Mayor”;
  - (ii) in sub-paragraph (b), for “police and crime commissioner” there were substituted “Mayor”, and for “that Act” there were substituted “the Police Reform and Social Responsibility Act 2011”;
- (d) in article 21(3)(c) (response to representations regarding proposal to dismiss chief fire officer) the reference to the head of the Authority’s paid service were reference to the GMCA’s head of paid service.”.