



DECISION RECORD

Decision Record Number 35

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:

Enter in to an Overage Agreement for the properties that transferred to the PFCC as a result of the fire and rescue governance transfer from Northamptonshire County Council on 1st January 2019.

Details of advice taken

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

Stephen Mold
Police, Fire and Crime Commissioner
04/02/2020

END



Northamptonshire Police, Fire and Crime Commission

Supporting Report to the Police, Fire and Crime Commissioner

Date of Report	4 th February 2020
Subject	Overage Agreement for the Fire and Rescue Authority properties
Report Author	Paul Bullen, Director for Delivery

1. Purpose of Report

- 1.1 To agree the Overage Agreement for the properties that transferred to the PFCC from Northamptonshire County Council on the transfer of governance of the fire and rescue services.

2. Decision(s) Recommended:

- 2.1 To formally agree the Overage Agreement for fire properties 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 included an agreement to enter an overage agreement to ensure that the County Council benefitted from any sale of property in the way they would when they were the Fire and Rescue Authority.
- 3.3 The PFCC and the County Council Chief Executive agreed the principles of the agreement pre the transfer. This decision therefore formally records the agreement to the Overage Agreement.

3.4 The Overage Agreement is for 15 years. The Agreement states that the profit on sale for a building that the PFCC disposes of will attract overage. The County Council will receive 10% of the initial profit and then a subsequent 50% should there be any surplus following any redevelopment the PFCC may do. The full agreement is attached to this decision record.

3.5 The detail of the Agreement has taken a year to negotiate with the County Council.

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 and estates colleagues to inform the Heads of Terms.

4.2 The transfer of Walker House was included in the business case that the PFCC submitted to government to take on governance of the fire and rescue service. This was consulted on with the public in the summer 2017. Subsequent to this, the county Council decided they wished to retain this lease.

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, depending on values of properties and how quickly any properties are disposed of.

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?

Overage occurs when the base value at the date of transfer is exceeded in a subsequent sale of the property within 15 years of the date of transfer. The detail is as follows:

First Overage Payment: a sum calculated in accordance with the following formula:
In the case of an Overage Disposal where there is to be no Reinvestment Expenditure

$(H - I) \times J$

Where:

H = Disposal Value; and

I = Base Value; and

J = 50%; and

[In the case of an Overage Disposal where there has been or will be Reinvestment Expenditure
(K - L) x M

Where:

K = Disposal Value; and

L = Base Value; and

M = 10%; and

In the case of Implementation of a Relevant Planning Permission (excluding Operational Development)

(N - O) x P

Where:

N = Disposal Value; and

O = Base Value; and

P = 50%

Second Overage Payment:

In the case of an Overage Disposal where there is no Reinvestment Expenditure and a First Overage Payment has become due in accordance with the first limb of the definition of First Overage Payment there shall be no Second Overage Payment.

In the case of Implementation of a Relevant Planning Permission there shall be no Second Overage Payment.

In the case of an Overage Disposal where there has been or will be Reinvestment Expenditure a sum calculated in accordance with the following formula:

$((W - X) - Y) \times Z$

Where:

W = Disposal Value; and

X = Base Value; and

Y = the Reinvestment Expenses relating to the relevant Property; and

Z = the Overage Percentage

The full detail is in the Overage Agreement which is an appendix to this document.

5.4 Will further decisions be required?

5.4.1 None are currently envisaged.

5.5 Legal Implications

5.5.1 The PFCC is legally obliged to enter the Overage Agreement with the County Council following the statutory Property Transfer scheme being laid in parliament in late 2018.

5.5.2 Legal have been involved in the drafting of the Heads of Terms for the site and have advised on the drafting of the final agreement.

5.6 Risk Management

5.6.1 The risks in relation to this relate to not agreeing the Heads of Terms as this would mean the PFCC was not complying with the statutory transfer scheme.

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 The proposed Overage Agreement is the best negotiated position between the County Council and PFCC that had least impact on all parties and ultimately the public that both parties serves.

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):

Overage 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?