

Section 22A Agreement

Dated

2018

**STATUTORY COLLABORATION AGREEMENT
IN RELATION TO FIRE INVESTIGATION ACTIVITIES IN THE
NORTHUMBRIA POLICE AREA**

BETWEEN

- 1. THE CHIEF CONSTABLE OF NORTHUMBRIA POLICE**
- 2. THE POLICE AND CRIME COMMISSIONER FOR NORTHUMBRIA**
- 3. TYNE & WEAR FIRE AND RESCUE AUTHORITY, and**
- 4. NORTHUMBERLAND COUNTY COUNCIL**

This AGREEMENT is dated the

2018 and is made

BETWEEN:

1. The Chief Constable of Northumbria Police of Wallsend Police Station, Middle Engine Lane, Wallsend, Tyne & Wear, NE28 9NT, and
2. The Police and Crime Commissioner for Northumbria of 2nd Floor, Victory House, Balliol Business Park, Benton Lane, Newcastle upon Tyne, NE12 8EW, and
3. Tyne & Wear Fire and Rescue Authority of Nissan Way, Sunderland, Tyne & Wear, SR5 3QYP and
4. Northumberland County Council of County Hall, Morpeth, NE61 2EF

WHEREBY pursuant to the enabling statutory powers set out below the Parties have **AGREED** as follows –

1. Background

In the interests of the effectiveness and efficiency of both policing and fire and rescue services in the Northumbria Police area the Parties have agreed to collaborate in relation to Fire Investigation Activities pursuant to s.22A Police Act 1996 and ss.1& 2 Policing and Crime Act 2017 as set out in the following terms of this Agreement to establish legal entity for accreditation purposes.

2. Definitions and Interpretation

2.1 In this Agreement except where a different interpretation is clear from, or necessary in the context, the following terms shall have the following meanings:

2.1.1 “the Acts” means the Police Act 1996 and the Policing and Crime Act 2017;

2.1.2 “this/the Agreement” means this document;

2.1.3 “Business Day” means any day other than a Saturday or Sunday or public or bank holiday in England;

2.1.4 “the Commissioner” means the Police and Crime Commissioner for Northumbria;

2.1.5 “Effective Date” means the date of sign off by all parties;

2.1.6 “a Fire Authority/the Fire Authorities” means one or both of Tyne and Wear Fire and Rescue Authority and Northumberland County Council as the context may require;

2.1.7 “Fire Affected Premises” means any property at and within which Fire Investigation Activities are or will be undertaken in accordance with this Agreement

2.1.8 “Fire Investigation Activities” means the investigation of the nature and causes of fires in the Northumbria Police area where the initial cause is unexplained and criminal actions are suspected as a factor undertaken by either or both of the Fire Authorities in accordance with the Northumbria Police QMS and which support Northumbria Police investigations. For the avoidance of doubt, the statutory power of the fire and rescue service is to investigate what caused the fire or why it progressed as it did, rather than potential criminal actions, *per se*.

2.1.9 “Liability/Liabilities” means all damages, losses, liabilities, claims, actions, judgments and expenses (including legal costs and expenses, interest and any excesses payable under any relevant insurance policy), proceedings, demands and charges arising under statute, contract or common law (whether in relation to criminal law, civil law, employment claims, premises liabilities or otherwise);

2.1.10 “Northumbria Police” means the Chief Constable of Northumbria Police and/or Northumbria Police as the context may require;

2.1.11 “Party” or “Parties” means a party or the parties to this Agreement;

2.1.12 “QMS” means the Northumbria Police Quality Management Systems as accredited to ISO 17020:2012;

2.2 In this Agreement unless the context requires otherwise:

2.2.1 words importing the singular shall include the plural and vice versa;

2.2.2 words importing any particular gender shall include all other genders;

2.2.3 references to persons shall include bodies of persons whether corporate or incorporate;

2.2.4 words importing the whole shall be treated as including a reference to any part of the whole;

2.2.5 any phrase introduced by the term “include(s)”, “including”, “included”, “in particular” and “for example” shall be construed without limitation unless inconsistent with the context;

2.2.6 any reference to any statute or statutory provision shall be construed as referring to that statute or statutory provision as it may from time to time be amended, modified, extended, re-enacted or replaced (whether before or after the date of this Agreement) and including all subordinate legislation from time to time made under it;

2.2.7 any reference in this Agreement to any document, shall be construed as referring to that document as it may from time to time be amended, modified, extended or replaced (whether before or after the date of this Agreement);

2.2.8 references in this Agreement to any clause(s) are to the clause(s) of this Agreement except where otherwise expressly stated;

2.2.9 headings are used in this Agreement for convenience only and shall not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the clauses to which they relate, and

2.2.10 the Parties enter into this Agreement in respect of their statutory offices and not as individuals

3 Effective Date

This Agreement shall commence upon the Effective Date and shall continue in force indefinitely unless terminated in accordance with clause 8.

4 Scope & Purpose

Northumbria Police and the Fire Authorities shall operate the provisions of this Agreement in relation to Fire Investigation Activities as follows –

4.1. The Fire Authorities may as and when requested by Northumbria Police undertake the Fire Investigation activities.

4.2 Northumbria Police shall be the legal entity for the purposes of accreditation of the Fire Investigation Activities under ISO 17020:2012, and

4.3 Northumbria Police will undertake appropriate audits of the Fire Investigation Activities at scenes in accordance with its QMS.

5 Governance

5.1 Strategic and Operational oversight of the functioning of this Agreement will be afforded by the officer undertaking the role of Detective Chief Inspector Crime Scene Investigation.

5.2 For the purposes of implementation and management of the provisions of this Agreement, the Parties have nominated the following points of contact:

Party	Contact name	Contact e-mail	Contact telephone
Northumbria Police	DCI Crime Scene Investigation	Allocated DCI undertaking role	101 Northumbria Police Ext 45480
Northumbria Police	Detective Chief Supt, Head of Crime Dept	Allocated DCS undertaking role of Head of Crime	101 Northumbria Police Ext 45480
Tyne & Wear Fire Authority	ACO Community Safety	Allocated ACO undertaking the role	TWFRS SHQ 0191 4441500
Tyne and Wear Fire Authority	GMB Head of Fire Safety	Allocated GMB undertaking the role	TWFRS SHQ 0191 4441500
Northumberland County Council	DCFO	Allocated DCFO undertaking the role	NFRS SHQ 01670 621111
Northumberland County Council	GMB Head of Fire Safety	Allocated GMB undertaking the role	NFRS SHQ 01670 621111

6 Direction & Control

6.1 Each Party shall retain direction and control over the officers and staff of its respective organisation and nothing in this Agreement shall constitute any transfer of such direction and control;

6.2 For the avoidance of doubt the Parties agree that their respective obligations and responsibilities as to control of Fire Affected Premises shall be as follows –

6.2.1 as suspected crime scenes Northumbria Police will have control in respect of permitting/refusing access to Fire Affected Premises, and

6.2.2 as fire safety experts the Fire Authorities the fire service will risk assess any fire hazards. All other risks will be dynamically risk assessed by each attending authority member and if a hazard is identified all authorities present will be informed to reassess their current risk assessment.

6.3 in so far as a Fire Authority shall encounter difficulty in securing permission to access and/or carry out an investigation in Fire Affected Premises and/or obtain evidence therein for the purposes of Fire Investigation Activities, in accordance with this Agreement

Northumbria Police will facilitate such access by the exercise of such police powers as may be appropriate in the particular circumstances and compatible with section 45 of the Fire and Rescue Services Act 2004, including if necessary the obtaining of a warrant to enter and search the same and obtain evidence.

6.4 Without derogation from the content of this clause generally as the body responsible for the purposes of accreditation of the Fire Investigation Activities, legal liability to any non-Party to this Agreement relating to or arising from the Fire Investigation Activities shall in the first instance be dealt with by Northumbria Police but strictly subject to the provisions for liability and indemnity set out in clause 7 below.

7 Liabilities & Insurance

7.1 Where a Party is in breach of the provisions of this Agreement or has been negligent or has carried out an act or omission which has caused a Liability to occur (the "Defaulting Party") the Defaulting Party shall indemnify the other Parties against all Liabilities incurred by the other Parties (including by Northumbria Police under sub-clause 6.3 above) as a result of the Defaulting Party's negligence, acts, omissions or breach of its obligations under this Agreement;

7.2 From the date of commencement of this Agreement until the date upon which it is terminated the Parties shall take out and maintain adequate insurance in accordance with their usual insurance requirements to meet any claims inclusive of costs and interest that might arise in relation to that Party's liabilities under the terms of this Agreement;

7.3 In so far as is reasonably within their powers none of the Parties will take any action or fail to take any action or permit anything to occur in relation to that Party which would entitle any insurer to refuse to pay any claim or seek to avoid any insurance effected for the purposes of sub-clause 7.2 above

8 Termination & Suspension

8.1 Subject to the further provisions of this clause this Agreement shall continue in effect unless terminated by operation of law or statute or by the written agreement of all of the Parties.

8.2 Any Party may withdraw from this Agreement by serving 12 months written notice on the other Parties.

8.3 Northumbria Police may unilaterally suspend or terminate this Agreement in the event of the Fire Investigation Activities or any matter(s) relating to them causing or contributing to the actual or potential suspension, reduction or any other adverse impact whatsoever of/to the accreditation of the QMS. Such suspension or termination may be affected by Northumbria Police with or without notice and, if upon notice, with such notice as Northumbria Police may determine in the circumstances giving rise to such suspension or termination.

9 Consequences of Termination & Suspension

9.1 If this Agreement is suspended or terminated in accordance with Clause 8 and it is not replaced within 3 months by a new or varied agreement to discharge the functions of this collaboration the following sub-clauses of this clause shall apply

9.2 Save as may otherwise be directed by Northumbria Police unilaterally responsibility for any ongoing or outstanding Fire Investigation Activity(ies) shall remain with the Fire Authority(ies) conducting the same and such shall be completed, as far as reasonably practicable, within 3 months of the date of termination; and

9.3 Subject to sub-clause 9.2 above all rights and obligations of the Parties shall cease to have effect immediately save to the extent necessary for the completion of any ongoing and outstanding Fire Investigation Activity(ies) except that such of the provisions of this Agreement which expressly or by implication are intended to come into or remain in force on or after the termination or expiry of this Agreement (sub-clause 9.2 being one such provision) shall remain in full force and effect.

10 Disputes

10.1 The Parties undertake and agree to pursue a positive approach towards dispute resolution which seeks to identify a solution which avoids legal proceedings and maintains a strong working relationship between the Parties.

10.2 Any dispute in relation to operational aspects of this Agreement that cannot be resolved through normal management processes shall, where appropriate, be referred to the appropriate assistant chief officer or equivalent for each authority for resolution.

10.3 Any non-operational dispute shall be referred to the appropriate assistant chief officer or equivalent for each authority who shall convene a meeting for discussion and attempt to resolve the matter.

10.4 If (the persons named in 10.2 & 10.3 above) (as appropriate) is/are unable to resolve the matter, the Parties shall attempt to settle the dispute by mediation in accordance with the Centre for Dispute Resolution Model Mediation Procedure (“Model Procedure”).

10.5 To initiate a mediation; a Party must give notice in writing (“ADR Notice”) to the other Parties to the dispute requesting mediation in accordance with this Clause 9 and must send a copy of the request to the Centre for Dispute Resolution or its successor (“CEDR”).

10.6 The procedure in the Model Procedure will be amended to take account of:

10.6.1 any relevant provisions in this Agreement; and

10.6.2 any other additional agreement which the Parties may enter into in relation to the conduct of the mediation (“Mediation Agreement”).

10.7 If there is any issue relating to the conduct of the mediation (including nomination of the mediator) upon which the Parties to the dispute cannot agree within seven days from the date of the ADR Notice, CEDR will (at the request of any Party in dispute) decide that issue on behalf of the Parties (having first consulted with them).

10.8 The mediation will start no later than 21 days after the date of the ADR Notice.

10.9 No Party shall commence proceedings whilst any mediation in accordance with this clause 9 is being undertaken.

10.10 The Parties to any mediation shall share equally the cost of CEDR mediation fees

11 Information Assurance, including Freedom of Information, Confidentiality, Data Protection, Data Security and Risk

11.1 The Parties agree that:

11.1.1 Information, documents, or process created for the purposes this Agreement shall be retained by Northumbria Police in accordance with the QMS;

11.1.2 the activities of the Parties’ staff or officers in respect of the access and use of any information shall be governed by the policies of the Party that either owns, or is in possession of that information at the point of its release subject to compliance with the QMS;

11.1.3 for the purposes of the Data Protection Act 2018, each Party remains the data controller for any personal data recorded on any information systems under their control, whether electronically or in hard copy format; and

11.1.4 For the purposes of the Freedom of Information Act 2000 (“FOIA”), a Party receiving a request under the FOIA (acting in consultation with the other Parties) will be responsible for handling and responding to that request and with any compliance requirements under the FOIA. Any FOIA requests made under this Agreement must be brought to the attention of the other Parties and where required all Parties will offer each other all reasonable assistance for the purposes of responding to any FOIA request.

11.2 For the avoidance of doubt, unless expressly stated within this Agreement, this Agreement is not intended to amend or alter the terms of any existing collaboration agreement or information sharing agreement to which any of the Parties are a signatory;

11.3 The Parties to this Agreement shall share information between themselves to facilitate and allow the purpose of this Agreement to operate effectively;

11.4 Subject to the provisions of this clause generally, the Parties shall keep confidential all matters relating to or arising from this Agreement save in so far as disclosure may be (i) reasonably required for the performance of their obligations in this Agreement, and/or (ii) required by operation of law, and/or (iii) such matters are already generally available in the public domain otherwise than as a result of a breach of this clause

12 Variation & Review

This Agreement may be reviewed by the Parties at such periods as they shall agree and may be varied by agreement in writing between all of the Parties

13 Notices

Any notice to be given under this Agreement must be in writing, and may be delivered to the other Parties at their respective addresses as set out above by any of the methods set out in the left hand column below and shall be deemed to be received on the corresponding day set out in the right hand column.

Method of service	Deemed day of receipt
By hand or courier	the day of delivery
By pre-paid first class post	the second Business Day after posting
By recorded delivery post	the next Business Day after posting
By fax (provided the sender's fax machine confirms complete and error free transmission of that notice to the correct fax number)	the next Business Day after sending or, if sent before 16.00, on the Business Day it was sent
By email (provided the recipient confirms complete and error-free transmission of that notice to the correct email address)	the next Business Day after sending or, if sent before 16.00, on the Business Day it was sent

14 Assignment

Except by statutory enactment, none of the Parties may assign or transfer the benefit, responsibilities or liabilities under this Agreement as a whole, or in part, or any of its rights or obligations under it, without first obtaining the written consent of all of the other Parties. That consent may not be unreasonably withheld or delayed.

15 Binding Nature of this Agreement

This Agreement is binding upon the Parties and their respective successors and permitted assignees.

16 Illegal/Unenforceable Provisions

If the whole or any part of any provision of this Agreement is void or unenforceable, the other provisions of this Agreement, and the rest of any provision that is partly void or unenforceable, shall continue in force.

17 Waiver of Rights

17.1 If a Party fails to enforce, or delays in enforcing an obligation of any other Party, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay shall not affect its right to enforce that obligation or constitute a waiver of that right.

17.2 Any waiver by a Party of any provision of this Agreement shall not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

18 Further Assurances

Each Party shall take any action and execute any document reasonably requested by any other Party to give effect to any of its rights under this Agreement.

19 Counterparts

This Agreement may be executed in any number of counterparts, each of which, when signed shall be an original, and all the counterparts together shall constitute one and the same instrument.

20 Publicity

20.1 Subject to sub-clause 20.2, no Party shall issue any press release or other public document, or make any public statement, containing or otherwise disclose to any person who is not a party, information which relates to or is connected with or arises out of this Agreement or the matters contained in it, without the prior written approval of the other Chief Officers involved in or affected by the subject matter of the proposed press release or public statement.

20.2 For the avoidance of doubt nothing in this Clause 20 is intended to restrict any Party's statutory obligations to publicise the existence of this Agreement, and to obtain legal advice in relation to matters pertaining to this Agreement.

21 Third Parties

Except as otherwise provided by the Acts or other statutory enactment, no one except a Party has any right to prevent the amendment of this Agreement or its termination, and no one except a Party may enforce any benefit conferred by this Agreement.

22 Governing Law

This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims), shall be governed by, and construed in accordance with, English law and the Parties irrevocably agree that, subject to Clause 9, the English Courts shall have exclusive jurisdiction to deal with any such dispute or claim.

AS WITNESS the hands of the duly authorised representatives of the Parties on the date stated at the beginning of this Agreement are set out as follows:

SIGNED by)
Duly authorised to sign for and behalf of)
THE CHIEF CONSTABLE OF)
NORTHUMBRIA POLICE)
Date)

SIGNED by)
Duly authorised to sign for and behalf of)
THE POLICE AND CRIME COMMISSIONER)
FOR NORTHUMBRIA)
Date)

SIGNED by)
Duly authorised to sign for and behalf of)
TYNE & WEAR FIRE AND RESCUE AUTHORITY)
Date)

SIGNED by)
Duly authorised to sign for and behalf of)
NORTHUMBERLAND COUNTY COUNCIL)
Date)