

Police & Crime Commissioners - Update

No 1 – July 2011

Welcome to the first of a series of bulletins from the Home Office on the establishment of Police and Crime Commissioners (PCCs) and in particular on their potential relationship with other local leaders.

This initial bulletin provides a summary of the current position of the Police Reform and Social Responsibility Bill and details of some of the work being taken forward by the Home Office to enable an effective transition .

Introduction

The Police Reform and Social Responsibility Bill puts in place a flexible framework for partnership working between the PCC and their community safety and criminal justice partners. Whilst having regard to cross border and national issues, PCCs will be supported to work effectively with other local leaders to prioritise resources to suit local needs and priorities.

We would welcome your feedback as work progresses as well as thoughts on any issues you would like us to include in future editions; you will find contact details at end of the bulletin.

The current position – as of July 2011

The Police Reform and Social Responsibility Bill will provide that, in May 2012, 42 of the 43 Police Authorities in England and Wales will be abolished and, in 41 force areas, replaced with a PCC.

In London, the Mayor of London will act as the PCC for the Metropolitan police area through the new Mayor's Office for Policing and Crime. He may delegate the day-to-day discharge of his policing and crime functions to a Deputy Mayor for Crime and Policing. In the City of London the Common Council will remain the Police Authority.

The PCC will have responsibility for:

- Appointing the Chief Constable (CC) and holding them to account for the running of their force
- Setting out a 5 year Police and Crime Plan (in consultation with the CC) determining local policing priorities. Setting the annual local precept and annual force budget
- Making community safety grants to other organisations aside from the CC (including but not limited to Community Safety Partnerships)

The PCC will have a budget which will include the policing grant from the Home Office, various other grants (including non-ring fenced Drug Interventions Programme funding) and funds raised through local authority precepts in the force area.

PCCs will not become a responsible authority on Community Safety Partnerships. There will however be a reciprocal duty for PCCs and responsible authorities to co-operate with each other and have regard to each others priorities for the purposes of reducing crime and disorder (including antisocial behaviour), reducing reoffending and

reducing substance misuse. PCCs will also be able to require a report from a CSP where they are not content that the CSP is carrying out their duties effectively and efficiently. Any such request must be reasonable and proportionate. Regulations can be used to confer further functions on PCCs– it is intended that they will be used to allow the PCCs to call representatives of CSPs together to discuss strategic priorities.

In Wales CSPs will have devolved as well as non devolved responsibilities. There are also different requirements in respect of the links between PCCs and CSPs in Wales.

The PCC will be scrutinised by a Police and Crime Panel within each force area. In London the London Assembly will form a separate committee to act as the Police and Crime Panel. They will have the same scrutiny function as other Panels although slightly different terms of reference.

Police and Crime Panels outside of London will comprise of a representative from each local authority in the force area with a minimum of 10 councillors and 2 co-opted members. There will be an opportunity for the Panel to increase their number of co-optees, both councillors and independents, up to a maximum panel size of 20. The Secretary of State will have a role in considering the appointment of these additional members.

Where there is a city mayor, he or she will be entitled to represent their local authority area on the PCP. Mayors will be free to draw together an advisory group on police and crime issues affecting the city, to help them play their full part in the PCP in scrutinising the PCC.

The Panel will have a range of powers to maintain a regular check and balance on the performance of the PCC and will have the right of veto for the precept and Chief Constable appointment by a 2/3 majority.

In London, the Commissioner of the Metropolitan Police Service will continue to be a royal appointment on the advice of the Home Secretary. The London Assembly already has the power to veto the Mayors suggested precept.

Panels will be established in Wales but the mechanism by which this is done will be different to those in England.

PCC Transition

Across the Home Office a PCC Transition Programme has been established, overseen by Nick Herbert MP - Minister of State for Policing and Criminal Justice to support a coherent and seamless transition .

The programme cover the range of issues involved in establishing PCCs from operating principles, to establishing the local elections. Two of the most relevant projects for those who will be working with PCCs locally are a) ensuring effective partnership working and b) introducing a range of checks and balances within the new model including Police and Crime Panels.

The partnership working project aims to:

- develop and clarify the relationship with responsible authorities including local government and with other Community Safety and Criminal Justice partners and partnerships;

- enable the PCC to develop strong and enduring relationships with local partners/partnerships.
- ensure that PCCs have the tools to commission community safety services from an informed position of strength and influence; and to ensure a smooth transition of relevant Home Office funding to PCCs;

Work on the Checks and Balances aims to:

- ensure the public have appropriate information about crime as well as mechanisms to challenge performance locally
- establish police and crime panels before the first PCC elections in May 2012 in order to ensure appropriate local scrutiny and challenge to PCCs from the outset. [See current position section above in relation to arrangements in Wales]
- ensure there is appropriate independent and expert scrutiny to support the new accountability structure
- ensure that appropriate action can be taken to deliver for the public even when local mechanisms fail

What might this mean for you?

The commissioning landscape for policing, community safety, reducing reoffending will change. There will be opportunities for broader collaboration on joint priorities.

How can you start to prepare for the arrival of the PCC?

- Initiating discussion amongst partners about the forthcoming changes (where this is not already underway) and seeking their views on how best to make it work
- Considering whether you have the best possible partnership working arrangements in place and the scope for clarification, simplification or rationalisation
- Considering current partnership priorities, and the potential involvement and interests of the PCC,
- Considering whether you have evidence of the success and value for money demonstrated by existing programmes to support PCC investment decisions
- Considering which elements of commissioning might be achieved more cost effectively across a number of areas, partnerships or agencies – perhaps building on existing collaboration agreements
- Considering the way in which PCCs can deliver better outcomes for local people. Working with other partners through approaches such as Community Budgets might deliver better outcomes and savings to the police service. It could also help local areas create better public services by removing barriers to local services, matching local resources to priorities, and developing the right solutions to local issues in a new and co-ordinated way.

Next Steps: Engagement with Partners

- Deep Dives (early autumn) –Focussed work in 4 areas including detailed analysis to scope some of the issues locally. This will include mapping out the issues, the changing partnership landscape, how the PCC may operate in practice and what this might mean for them and their partners. Findings from the Deep Dives will then be fed into future events and in particular;
- Engagement Events - Following Royal Assent we will be putting on a range of events for local leaders which will set out the national changes and provide a space for partners to consider what they need to do locally to prepare. Planning for these events is currently underway and we will provide further information shortly.

We aim to send out more bulletins between now and the introduction of PCCs in May 2012 to keep you informed about what we are doing at the centre and what opportunities there are for you to get involved locally.

In the meantime, please email your comments and questions to PCCpartnersenquiries@homeoffice.gsi.gov.uk - please put “PCC Transition” as the email subject. Any questions of general interest we will feed into the latest bulletin together with our reply.

ANNEX A

POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

SUMMARY OF LORDS AMENDMENTS

INTRODUCTION- KEY POINTS

1. **This summary describes the amendments made to the Police Reform and Social Responsibility Bill. References are to the Bill as introduced in the Lords.**
2. Amendments tabled by Opposition Peers **removed the provisions making PCCs directly elected corporations sole.** The Government is committed to **re-introducing these provisions in the Commons.** This is a key Coalition agreement commitment and the Government is clear that the amendment agreed in the Lords-removing elected PCCs- should be reversed.
3. The main Government amendments are to the **checks and balances** to which the PCC will be subject- numerous amendments tabled by the Lords were aimed at securing more and stricter checks and balances for PCCs. The Government amendments seek to ensure that suitable checks are in place while allowing PCCs the freedom to fulfil their democratic mandate by not placing too many restrictions on what they can do.
4. The Government has been clear on its commitment to the preservation of operational independence and to this end the Bill ensures that direction and control of the police force remains with the Chief Constable. There is nothing in the Bill that would allow a PCC to compromise the operational independence of the Chief Constable. However, in response to concerns on this issue a Protocol setting out the nature of the relationship between chief constables and PCCs have been produced. Following discussions in the Lords, the Government has made an amendment that places the **Protocol** on a **statutory footing.**
5. Other Government amendments brought as a result of discussions during the passage of the Bill through the Lords include:
 - A requirement on PCCs or the MOPC to hold Chief Constables to account with regards to their duties under the Children Act 2004
 - Changes to the composition of Police and Crime Panels so that the necessary flexibility to achieve political and geographical balance is achieved

- Changes to the provisions relating to the appointment and dismissal of Chief Constables
 - Strengthening matters related to the handling of complaints, including that complaints regulations will cover the MOPC, Deputy Mayor for Policing and Crime and Deputy PCCs
 - Strengthening cooperative working between PCCs and CSPs
 - Removing the two-term limit for PCCs to be in office, as well as the restriction on PCCs being active members of the House of Lords
6. Where amendments have been brought to correct errors or inaccuracies that do not change the core provisions of the Bill, a commentary has not been provided.

COMMENTARY ON LORDS AMENDMENTS

PCCs- Lords Amendments 48-49

- Amendment 48 removes clause 65, which disqualifies a person from being elected as a police and crime commissioner on more than two occasions in respect of the same police area.
- Amendment 49 removes clause 73, which prevents a police and crime commissioner from sitting or voting in the House of Lords or a committee or joint committee of the House of Lords.

Checks and Balances

Deputy PCC and other key PCC staff posts- Lords Amendments 15-22, 24, 28, 52, 60, 61, 79 and 161

7. These amendments concern the appointment of deputy PCCs, in particular, amendment 15 allows a PCC to appoint a deputy. It should be noted that PCCs are not required to appoint a deputy, however, should they wish to, the Bill introduces a requirement that such appointment should be subject to a confirmation hearing by the police and crime panel (amendment 61). Amendment 60 also introduces a requirement on the panel to hold confirmation hearings for the appointment of the chief executive and the chief finance officer. Other amendments ensure that the exercise of key functions of the PCC (namely issuing a police and crime plan, appointing, suspending or dismissing the chief constable, or issuing a precept) cannot be discharged by the deputy PCC. The post of deputy PCC will not be politically restricted (amendment 161).

Strengthen the role of the London Assembly in respect of appointments made by the Mayor- Lords Amendments 25 and 26

8. These amendments strengthen the powers of the London Assembly in respect of appointments made by the Mayor. The Bill already provides for the appointment by

the MOPC of a Deputy Mayor for Policing and Crime to be subject to a confirmation hearing. The amendments have the effect that, in a case where the candidate for appointment as Deputy Mayor for Policing and Crime is not a member of the London Assembly, the London Assembly will also have the power to veto the appointment by a majority of two thirds of the members voting.

Police and Crime Panels- Lords Amendments 27, 36, 70-78, 80-84

9. Amendment 27 introduces a duty on the police and crime panel (the panel) to exercise its functions with a view to supporting the PCC. Amendment 36 replicates this provision in London.
10. Amendment 69 reduces the majority required for the panel to veto the police and crime commissioner's proposed precept from three quarters of the members of the panel to two thirds.
11. The rest of the amendments are concerned primarily with the composition of the panel. The panel will be able to co-opt additional members; existing provisions restricting the Panel to co-opt no more than two members will be removed, and instead provisions requiring a panel to co-opt at least two members and allowing the co-option, with the agreement of the Secretary of State, of further members as long as the total membership of the panel does not exceed 20 will be introduced.
12. Amendments 76 and 77 remove the provision preventing the co-option by the panel of a member of a local authority in the police area and instead require the co-option of at least two persons who were not members of those local authorities, while allowing any further co-opted members to be members of those local authorities.
13. Amendment 80 require a panel to secure that, as far as is reasonably practicable, the balanced appointment objective in paragraph 30(3) of Schedule 6 is met when co-opting persons who are members of local authorities, and also requires the panel to keep under review the extent to which co-opting additional members would contribute to the fulfilment of that objective.
14. Amendment 84 requires a local authority, when nominating a person for appointment to a police and crime panel, to nominate the elected mayor, if there is one. The amendment imposes the same requirement on the Secretary of State when making such a nomination to a panel in relation to a local authority that has an elected mayor.
15. Amendment 36 allows the London Assembly to decide the composition of its police and crime panel, and allows the panel to contain persons who were not members of the Assembly. It also allows the panel itself to decide the composition of its sub-committees, and for them to contain non-Assembly members.

Duties under the Children Act 2004- Lords Amendments 8 and 10

16. These amendments add a requirement on a PCC or the MOPC to hold the chief constable or the Commissioner of Police of the Metropolis to account, in particular, for carrying out his or her duties under sections 10 and 11 of the Children Act 2004.

Duties under the Equality Act 2010- Lords Amendment 168

17. Amendment 168 ensures that PCCs and MOPC are included in Schedule 19 of the Equality Act 2010, which lists those public bodies that are subject to the general equality duty. Since the introduction of the Bill and order has been made adding further bodies to Schedule 19, and this has necessitated this amendment to the Bill provision.

Strengthening cooperative working between PCCs and CSPs- Lords Amendments 11-14 and 102

18. These amendments to clause 10 and Schedule 11 require a PCC or the MOPC and the responsible authorities comprising the Community Safety Partnerships in the police area to have regard to each others' relevant priorities in carrying out their respective functions.

Chief Constables- Lords Amendments 30, 37-44, 63-68, 95-96, 115, 146, 153 and 154

19. Amendments 30 and 37 allow a police and crime panel (including the police and crime panel of the London Assembly) to request the chief constable or the Commissioner of Police of the Metropolis to attend before the panel and answer questions when the panel is requiring the PCC or the MOPC to attend.
20. Amendments 38-42 introduce a duty to provide information on policing matters when required to do so by the elected local policing body.
21. Amendment 43 give a PCC the same powers to suspend and dismiss a deputy or assistant chief constable who is standing in for the chief constable as the commissioner will have in relation to the chief constable.
22. Amendments 44, 95 and 96 allow a person who had previously held the office of constable to be put forward for appointment as the Commissioner of Police of the Metropolis or as a chief constable. At present the Bill restricts eligibility for these appointments to persons who hold the office of constable.
23. Amendment 98 changes the majority required for a panel to veto a PCC's proposed appointment of a chief constable from three quarters to two thirds.
24. Amendment 99 allows a PCC and chief constable to attend a scrutiny hearing held by a Panel in relation to the proposed dismissal of the chief constable, regardless of whether the panel had invited them to attend. It also allows the police and crime commissioner and chief constable to make representations at the hearing, rather than merely answering the police and crime panel's questions.

25. Amendments 63, 64, 67 and 68 limit the incidental powers of chief constables and the Commissioner of Police of the Metropolis. In particular, a chief constable or the Commissioner of Police of the Metropolis will only be able to enter into a contract or other agreement with the consent of the PCC or the MOPC, unless the contract or agreement was for or related to the employment of a person as a member of the civilian staff of the police force. The amendments also prevent a chief constable or the Commissioner of Police of the Metropolis from borrowing money.
26. Amendments 115, 146, 153 and 154 ensure that the appointment of a chief officer of police made before clause 2 of the Bill comes into force will remain valid afterwards. They also ensure that the rights and liabilities of the chief officer are not affected by the commencement of clause 2. These provisions are necessary because a chief officer under clause 2 will be a different legal entity to a chief officer under the current provisions of the Police Act 1996. Equivalent provision is not required in relation to lower-ranking officers because section 13 of the 1996 Act will continue to provide for the existence of these other ranks (although the Bill makes further provision about them).

Misconduct and Complaints- Lords Amendments 31-34, 86, 89, 91-94, 104-114, 163-167

27. Amendments 31, 33, 34, 86, 89 and 91 to clause 31 and Schedule 7 have the effect that the power of the Secretary of State to issue regulations about misconduct by PCCs applies also to the holder of the MOPC, the Deputy Mayor for Policing and Crime, and a deputy police and crime commissioner.
28. Amendments 90, 92, 93 and 94 concern the handling of complaints about the conduct of the holder of the MOPC and (if he or she is a member of the London Assembly) the Deputy Mayor for Policing and Crime, other than those being investigated by or under the management of the Independent Police Complaints Commission. The effect is that regulations have to secure that such complaints were dealt with in accordance with Part 3 of the Local Government Act 2000. The standards regime in Part 3 of the 2000 Act applies to any other allegation of misconduct against the Mayor of London or an Assembly Member. Where the Deputy Mayor for Policing and Crime is not an Assembly member, the effect is that the regulations have to secure that such complaints were resolved informally by the police and crime panel of the London Assembly.

Finance and transfer of staff and property- Lords Amendments 116-145, 147-150

29. The majority of these amendments to Schedule 15 have the effect of securing the automatic transfer of all staff, property, rights and liabilities of a police authority (including the Metropolitan Police Authority) to the new policing body when the police authority is abolished under clause 1(9). Further, they allow the Secretary of State to direct a new policing body to make schemes for the transfer of staff, property, rights and liabilities to the chief officer of police or to a local authority. Originally the Bill provided instead for the Secretary of State to direct a police authority to make such schemes, before its abolition, for the transfer of staff, property, rights and liabilities to the new policing body, the chief officer or a local authority.

30. Amendment 121 has the effect that police authority employees who are under the direction and control of the chief officer by virtue of section 15 of the Police Act 1996 when the police authority is abolished will remain under the direction and control of the chief officer while employed by the new policing body.
31. Amendment 128 allows the Secretary of State to direct a new policing body to modify a transfer scheme and for the scheme to be deemed to have come into force as modified. There was no provision in Schedule 15 for the modification of transfer schemes.
32. Amendment 140 makes it clear that interests in property, as well as other legal rights, can be included in a transfer scheme.