

SURREY POLICE AND CRIME PANEL

“STAGE 2 TRANSFER” – SURREY PCC’S PROPOSALS

10TH SEPTEMBER 2013

Purpose

To advise the panel on the PCC’s proposals for ‘Stage 2 Transfer’, which must be submitted to the Home Secretary for consideration by 16th September 2013.

SUMMARY

The Police Reform and Social Responsibility Act 2011 established each Police Crime & Crime Commissioner (PCC) and Chief Constable as separate legal entities or ‘corporations sole’. Previously, there was just one legal entity – the Police Authority – which employed staff, entered into contracts and held other legal liabilities, as Chief Constables were unable to do so. After the PCC elections in November 2012, the Police Authority was abolished and a ‘Stage 1’ transfer saw all existing rights, assets and liabilities transfer automatically, by operation of statute, from the Authority to PCCs. This included the transfer of all police staff to the employment of the PCC.

The Act stipulates that a second ‘Stage 2’ transfer should take place which would see a movement of certain staff, property, rights and liabilities from the PCC to the Chief Constable. The Home Secretary has instructed that this Stage 2 transfer must take place by 1st April 2014 and that all PCCs must submit their plans for Stage 2 by 16th September 2013.

Chief Constables as legal entities will, following Stage 2 transfer, be capable of holding assets and liabilities and employing staff for the first time. It is a matter for the PCC and Chief Constable to make local arrangements to divide staff and assets between the two parties in a way which allows them to best discharge their respective functions.

This paper advises the Panel of the broad principles for Stage 2 transfer arrangements in Surrey.

RECOMMENDATIONS

Members of the Police and Crime Panel are asked to note the report.

EQUALITIES AND DIVERSITY IMPLICATIONS

None arising.

Why Stage 2 Transfer?

The Government's policy intent behind Stage 2 transfers is to ensure that there is a clear division between those charged with the governance of policing (i.e. the PCC) and those responsible for operational delivery (the Chief Constable).

The Stage 2 Transfer Scheme

PCCs must draw up their proposals for Stage 2 in a transfer scheme and must reach agreement with the Chief Constable before the scheme is submitted to the Home Secretary. In broad terms, the transfer scheme will outline how the PCC and Chief Constable see policing and support services being structured in a way that allows both parties to discharge their responsibilities effectively. It will set out arrangements for who will employ which staff, who will own property and other assets, and who holds associated rights and liabilities. The scheme will give details of any transfers needed to implement the new arrangements.

Timing

The transfer scheme must be submitted to the Home Secretary (who can approve, modify or reject it) by 16th September 2013. Implementation of the transfers must be completed by 1st April 2014.

Government Guidance on Stage 2 Transfer

Government has not issued detailed guidance to PCCs or Chief Constables about how staff and assets should be divided as this is a matter for local determination. Government has said that operational staff (e.g. PCSOs, forensic staff, call handlers etc) will pass to the employment of the Chief Constable. Any discussion on those staff remaining with the PCC will focus on non-operational roles (e.g. HR, finance, ICT, communications, corporate planning staff etc).

This is likely to result in a variation in approach across England and Wales. Some PCCs, for example, are considering retaining employment of support staff so that the Chief Constable concentrates solely on the delivery of operational policing. Others believe that the Chief Constable must control support services as these staff are inextricably linked to running an effective Force. Some PCCs are of the view that they are unable to properly discharge their functions with the staffing structure they have inherited from the old police authority and that functions such as corporate planning and finance should be under the employment and management of the PCC.

The Home Office has defined three key principles that should underpin local arrangements for Stage 2. These are:

- Maintaining the operational independence of the Chief Constable
- Upholding the Policing Protocol (which gives PCCs responsibility for the 'totality of policing' within their force area)
- Ensuring clearly defined roles and responsibilities (i.e. 'governance' rests with the PCC whilst operational delivery sits with the Chief Constable).

Locally, Surrey's PCC is also keen to ensure that his Stage 2 arrangements are not costly, minimise upheaval for staff and do not impede future collaborative arrangements between forces, especially with Sussex.

Surrey's proposals for the Stage 2 Scheme of Transfer

Set out below are the PCC's proposals for dividing staff and assets between him and the Chief Constable.

Staffing

In Surrey, around 2,000 police staff work alongside warranted officers carrying out a diverse range of roles: those who work on the frontline, those who support the delivery of operational policing and those working in business support roles. All these staff are currently employed by the PCC but are under the 'direction and control' (i.e. management) of the Chief Constable. Police officers are not affected by the stage 2 transfer as they are Crown Servants, not employees.

The PCC currently employs a small team of staff (around 8.5 full-time equivalents) who help him deliver his statutory responsibilities and run an effective office. This team supports the PCC's governance arrangements, provides independent policy advice, runs a custody visiting scheme, liaises with partners, arranges consultation, deals with quasi-judicial functions, administers grants, commissions community safety services, handles complaints, correspondence and media. Staff in this team work directly for the PCC and are not under the direction and control of the Chief Constable.

Staffing: PCC's proposal

The majority of police staff should transfer to the employment of the Chief Constable, with the PCC retaining the small team which supports his office.

The Chief Constable is responsible for the delivery of policing and the PCC will hold the Chief Constable to account for the *totality* of that delivery. The PCC's focus should remain on his strategic and representative role, whilst the Chief Constable should focus on the delivery of operational policing with responsibility for the back office services that support this delivery.

Related rights and liabilities would transfer with the staff in question.

Given that the PCC is retaining only a small team of staff, the proposed model will rely on the continued cooperative working relationship between the Office of the PCC and the Chief Constable and her staff, particularly on issues such as strategic planning, performance, communications and finance.

Estate, Assets, Procurement and Contracts

At Stage 1 transfer, all assets, land, property and contracts transferred automatically from the Police Authority to the PCC. Day to day management (e.g. facilities management, contractual arrangements etc) is undertaken by the Force. At Stage 2 transfer, Chief Constables can enter into contracts and acquire or dispose of property (except land) but only with the consent of the PCC.

Estate and Assets: PCC's proposal

That the PCC retains ownership of all estate and allocates sufficient budget to the Chief Constable to allow her to continue with day-to-day management.

This avoids the need for a potentially complex and expensive transfer of estate and licenses allows the PCC to maintain strategic control and gives the Chief Constable the ability to ensure the estate and assets meet operational requirements.

Procurement and Contracts

The Chief Constable can now enter into contracts, with the consent of the PCC. At present, all contracts are issued in the name of the PCC and the Chief Constable operates within the parameters of Contract Standing Orders which set out the rules for procurement of goods, works and services. In Surrey, the joint Surrey/Sussex contracts and procurement function is responsible for the legal tendering, negotiation and contract management for all services to the Force and PCC.

Procurement and Contracts: PCC's proposal

That contracts continue to be issued in the name of the PCC, not the Chief Constable, and that Contract Standing Orders are retained to define the parameters within which the PCC and Chief Constable operate.

This will avoid a potentially complex arrangement where the Surrey/Sussex Joint Procurement team are procuring and issuing contracts for multiple parties and operating to different rules for the two force areas.

Next Steps

The principles for Stage 2 as set out in this paper have been discussed and agreed by the PCC and the Chief Constable and will form the basis of the Scheme of Transfer that is submitted to the Home Secretary by 16th September. The Home Secretary is then expected to consider the PCC's proposals and advise the PCC by January 2014 whether she approves or rejects his plans. We then have until April 2014 to implement the transfer of staff from the PCC to the Chief Constable. The PCC and Chief Constable have already engaged with staff and Unison and will ensure that proper consultation takes place with staff prior to transfer.

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