

## SURREY POLICE AND CRIME PANEL

### 30 June 2022

# Home Office Police and Crime Commissioner Review and Powers of Competence Consultation

## 1 SUMMARY

- 1.1 This report sets out details of the Home Office's recent review of Police and Crime Commissioners (PCCs), the consultation on granting them a general power of competence and the published findings.

## 2 BACKGROUND

- 2.1 The government's manifesto committed it to strengthening the accountability of PCCs and expanding their role.
- 2.2 PCCs were introduced in 2012 to give the public a direct say over policing in their area. The Government remains committed to this model and is eager to ensure that PCCs are strong, visible leaders in the fight against crime and have the legitimacy and tools to effectively hold their police force to account.
- 2.3 In July 2020, the Home Office announced a two-part review into the role of PCCs. During Part One of the review it collated views and evidence from stakeholders across policing, fire and local government as well as voluntary and community organisations. A full summary of the Part One findings can be seen in Section 3 of this report.
- 2.4 Feedback received from PCCs and their Chief Executives during Part One indicated that there was a need for greater powers of competence to help them get upstream of crime issues, and form effective partnerships with local authorities, criminal justice agencies and health bodies to reduce crime as well as to drive efficiency and make better use of the police estate.
- 2.4 PCCs originally had a functional power of competence which enabled them to do anything to facilitate - or which is conducive or incidental to the exercise of - their functions. However, the initial review suggested that PCCs felt constrained because the existing powers limited their ability to undertake innovative activity, particularly where that activity might only be indirectly linked to policing. In concluding Part One of the Review, the Home Secretary announced in March 2021 that there would be a consultation on giving a general power of competence to PCCs.

2.5 This 8-week consultation was launched on 1 September 2021. It invited comments on the opportunities, benefits, and risks of granting PCCs' wider powers to enhance their levers to tackle crime and anti-social behaviour. It sought views on giving PCCs either:

- a wider functional power of competence as held by fire and rescue authorities, which would include giving them the power to do anything indirectly incidental to their functions
- a general power of competence as held by local authorities, which would give them the power to do anything that an individual can do so long as it is not prohibited by legislation.

2.6 This consultation ran broadly in parallel with Part 2 of the Home Office's PCC Review, the results of which are detailed in Section 5 and Section 4 respectively.

### 3. REVIEW FINDINGS: PART ONE

3.1 The Review stated that the Home Office would bring forward a range of measures aimed at:

- strengthening PCC accountability;
- improving PCC transparency to the public;
- clarifying the relationship between PCCs and Chief Constables;
- bringing more consistency to the PCC role;
- raising professional standards, and
- improving the checks and balances.

#### 3.2 Transparency and accountability

3.2.1 **Specified Information Order:** Following the review the Home Office amended the Specified Information Order (SIO) to include a requirement for PCCs to publish on their website a narrative assessment of how well their force is performing in relation to (a) the National Crime and Policing Measures and (b) Her Majesty's Inspectorate of Constabulary Fire and Rescue Services (HMICFRS) PEEL inspections of their force area.

3.2.2 **First past the post:** The Review stated that the Government would make changes to the PCC voting system to introduce 'first past the post'. This would require legislative change and we expect it to be introduced for May 2024 elections.

#### 3.3 Resilience and the role of Deputy PCCs

3.3.1 **What works and good practice sharing:** The Review concluded more should be done to ensure all PCCs adopt best practice and said that there is now a need to improve the resilience of the Office of the PCC. The Review recommended the Association of Police and Crime Commissioners (APCC) work with the College of Policing to build on the policing Knowledge Hub to develop a 'what works' compendium for PCCs. The Review also recommended that the Home Office and APCC jointly develop a comprehensive set of non-statutory guidance on the core elements of the PCC role.

3.3.2 **Deputy PCCs:** To enhance resilience and capacity of PCCs and given the intention to expand the role, the Home Office committed to bringing forward legislation to mandate that each PCC must appoint a Deputy. In the interim, the Home Office is to issue guidance to PCCs' offices requesting that a formal succession plan is put into place to deal with vacancy and incapacitation.

### 3.4 **Scrutiny and the role of Police and Crime Panels**

3.4.1 **Good governance and training:** The Home Office will work with the Local Government Association (LGA) to develop a good governance training package for Police and Crime Panels. The APCC will work closely with PCCs / OPCCs, the Home Office, the LGA and panels to ensure the guidance captures and reflects the lessons learnt and best practice.

### 3.5 **PCCs and Chief Constables**

3.5.1 **Accountability Guidance:** The Home Office will work with the College of Policing, APCC and National Police Chiefs' Council (NPCC) to build on the 'Accountability Guidance' already in place, including in relation to the performance management of Chief Constables, to help to promote and embed a positive relationship between Chief Constables.

3.5.2 **Policing Protocol:** The Home Office committed to consulting on potential changes to the Policing Protocol Order 2011 to provide greater clarity on the boundaries of operational independence and reflect changes in the relationship between the parties to the Protocol which have taken place over time. The Protocol sets out how the policing governance relationships should work, including that of the Home Secretary, and clarifies the roles and responsibilities of PCCs, Chief Constables, and Police and Crime Panels.

3.5.3 **Section 38:** The Home Office will legislate to amend Section 38 of the Police Reform and Social Responsibility Act 2011, to make the Chief Constable dismissal process more rigorous and transparent. PCCs will be required to give the Chief Constable written notice (including grounds), as the first stage of the dismissal process; allowing for the Chief to provide HMCI a response to those grounds; and introducing some form of time limit or review interval on a Chief Constable's suspension from office.

3.5.4 **Mediation:** The Home Office will work with the College of Policing, NPCC and APCC to develop a framework for the use of independent mediation in appropriate circumstances.

3.5.5 **Senior Officer Recruitment:** The Home Office will seek to address the HMCIFRS recommendations included in its 'Leading Lights' (September 2019) report, looking into the role of the College of Policing in the senior recruitment process. They will work with stakeholders to address the issues raised through the review in relation to fixed term appointments.

### 3.6 **The mayoral / PCC mode**

3.6.1 **Devolution:** The Review concluded that the join-up of public safety functions under a combined authority mayor has the potential to offer wider levers to prevent crime. The Government has confirmed it will take steps to remove barriers to more mayors taking on these functions and will work with the Ministry of Housing, Communities and Local Government (MHCLG) to develop the forthcoming Devolution and Local Recovery White Paper with that longer-term trajectory in mind.

3.6.2 **Fire Governance:** The Government has confirmed further reform of fire and rescue is required in order to respond to the recommendations from Phase One of the Grenfell Tower Inquiry, the Kerslake Review, and to build on the findings from Sir Thomas Winsor's State of Fire and Rescue Report.

#### 4. REVIEW FINDINGS: PART TWO

4.1 Part Two of the Review findings were announced on 7 March 2022. Part Two aims to strengthen PCC involvement in the 'crime' part of their portfolio. To do this, PCCs will increase their role in reducing crime and re-offending by having a central role in Local Criminal Justice Boards and having more access to data which will help PCCs to see how well their police force operates within the wider criminal justice landscape.

4.2 The following outlines what the Home Office will do under each area covered by Part Two of the PCC Review.

#### 4.3 Offender management

- Legislate to introduce a new duty for PCCs and Regional Probation Directors (RPDs) to consult one another when developing priorities for their Police and Crime Plans and Regional Reducing Reoffending Plans respectively.
- Legislate to introduce a new duty for PCCs and RPDs to collaborate, where appropriate.
- Work with the APCC and HMPPS to develop guidance on the co-commissioning of services by RPDs and PCCs.
- Encourage the APCC and Her Majesty's Prison and Probation Service (HMPPS) to develop a memorandum of understanding on the relevant data to support the reduction of reoffending and improve confidence in local data sharing.
- Work with HMPPS and the Ministry of Justice (MoJ) to produce guidance on the PCC role in unpaid work.

#### 4.4 Community Safety Partnerships and Local Criminal Justice Boards

- Work to develop options for legislation to put Local Criminal Justice Boards (LCJBs) on statutory footing. This will include defining the role of the PCC as Chair and setting out the expected membership.
- Update the Violence Reduction Unit (VRU) guidance to provide greater clarity on the role of the PCC within the VRU, including chairing of the governance board and a recommendation that all OPCCs identify a dedicated VRU liaison officer
- Consider multi-year funding cycles for VRUs.
- Undertake a review of Community Safety Partnerships (CSPs) before assessing their position with the wider landscape of local partnerships across England and Wales.
- Consider introducing a new duty for CSPs to report on local anti-social behaviour strategy and delivery to PCCs and legislating to set out the PCC role in the Community Trigger process.

- Amend the core PCC guidance and share good practice to help PCCs understand how they can leverage local partnerships to tackle drugs misuse and supply.
- Clarify legislation on PCC representation on local government committees

#### 4.5 **Public confidence**

- Encourage the College of Policing to work with the APCC to assess what enables PCCs to build public confidence and engage communities.
- Amend the core PCC Guidance to reflect the role of the PCC in securing and maintaining public confidence. The guidance will outline the importance of the PCC's role in holding the Chief to account for their responsibility to understand and build public confidence.
- Set out how PCCs should reach out and engage diverse communities across their local area in order to help close the confidence gap.

#### 4.6 **Data**

- Support PCCs to work with HMICFRS and wider Criminal Justice Service (CJS) partners to improve the quality of, and access to, performance information against the National Crime and Policing Measures.
- Support PCCs to work with HMICFRS and wider policing partners to develop a police efficiency dataset and improve their ability to differences between forces to drive efficiencies. Support the College of Policing to hold regular learning events that support the development of analytical capability and data literacy within PCC offices.
- Work with the MoJ and Information Commissioner's Office (ICO) to develop national guidance on data sharing between CJS partners, including PCCs. This will be reinforced by work led by the APCC to bring together good examples of local data sharing.

#### 4.7 **Police and Crime Panels**

- Work with the LGA and Welsh LGA to improve the process for recruiting and retaining independent members.
- Work with the LGA and Welsh LGA to develop and assess options for a regional panel support secretariat.

#### 4.8 **Complaints**

- Consider the process for how complaints of criminal misconduct are handled and the scope to align a new code of conduct with the regime for mayors and councillors.
- Consider how to address the problem of vexatious and political motivated complaints against a PCC, or complaints which are nothing to do with policing.

## **5. GENERAL POWER OF COMPETENCY CONSULTATION OUTCOME**

- 5.1 Having considered the consultation responses, the government decided to give all PCCs (including Mayors with PCC functions) a wider functional power of competence in line with those that are held by fire and rescue authorities and most mayoral combined authorities and by the London Mayor.

## **6. RECOMMENDATIONS**

- 6.1 The Police and Crime Panel is asked to note the content of the report.

## **7 CONTACT INFORMATION**

**SUPPORT OFFICER:** Damian Markland, Head of Performance & Governance

**TELEPHONE NUMBER:** 01483 630200

**E-MAIL:** [damian.markland@surrey.police.uk](mailto:damian.markland@surrey.police.uk)