

<b>Consideration</b>	
<b>Public</b>	<b>Public</b>
<b>Report to:</b>	<b>Nottinghamshire Police and Crime Panel</b>
<b>Date of Meeting:</b>	<b>28 March 2022</b>
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<b>Agenda Item:</b>	<b>8</b>

## Home Office Review of Police and Crime Commissioners

### 1. Purpose of the Report

- 1.1 To inform members of the Nottinghamshire Police and Crime Panel of key outcomes within Part Two of Home Office's Review of Police and Crime Commissioners (PCCs), including recommendations which have synergies with the Strategic Police Review.

### 2. Recommendations

- 2.1 It is recommended that Panel members note and consider the contents of this report and ask any queries in relation to the Review that can be reasonably be answered by the Office of Police and Crime Commissioner for Nottinghamshire (OPCCN).

### 3. Reasons for Recommendations

- 3.1 The conclusion of the Home Office Review of PCCs will result in significant changes in respect of the statutory duties and powers invested into the PCC model and will therefore be of particular interest to members of the Police and Crime Panel.

### 4. Summary of Key Points

- 4.1 The Home Office Review of PCCs was initiated in July 2020. The Home Secretary stated a commitment to reviewing the PCC model to strengthen and expand the role of PCCs. At the outset of the Review, Crime and Policing Minister, Kit Malthouse, stated: "After eight years it is right to step back and consider how we can evolve the PCC model", adding it was "important that PCCs are strong, visible leaders in the fight against crime and have the legitimacy and tools to hold their police forces to account effectively".
- 4.2 The Review has been structured as a two-part exercise. Part one was conducted from summer to autumn 2020, and high-level findings were announced in March 2021. Part Two commenced in July 2021. The review has included consideration of measures to:

- raise the profile of PCCs
- give the public better access to information about the performance of their PCC
- share best practice so that PCCs are delivering consistently across the country
- review the relationship between PCCs and Chief Constables

## **Part One**

4.3. Part one of the Home Office review of PCCs was focussed on raising standards and improving accountability. The following themes were included in its scope:

- Accountability and legitimacy; through improving access to information, standards and profile of PCCs;
- Resilience; considering situations where a PCC cannot undertake their duties and the role of Deputy PCCs;
- Scrutiny mechanisms; examining the existing model to drive up standards, to identify and share best practice across the scrutiny body sector;
- The effectiveness of the relationship between PCCs and Chief Constables and the checks and balances currently in place; and,
- The mayoral PCC model, with the longer-term ambition to increase the number of mayors with PCC functions in mind.

## **Part One Recommendations**

4.4 Part One of the Review concluded that more needed to be done to explain the role of PCCs to the public and make performance on crime more transparent, to enhance PCC's accountability. The Home Office stated it would bring forward a range of measures to support the recommendations set out below.

### Strengthening PCC transparency and accountability

4.5 This included the Specified Information Order (SIO), which has since come into effect, which required PCCs to publish on their website a narrative assessment of how well their force is performing in relation to police complaints data, the Government's crime and policing outcomes framework, and HMICFRS PEEL inspections of their force area. The Home Office has also committed to replacing transferable voting systems with First Past the Post in respect of future PCC elections.

### Resilience and consistency in PCC model

4.6 This included a proposal to mandate Deputy PCCs to bolster the single elected individual model of governance. This was covered in Part One recommendations

as potential legislation to be brought forward to mandate appointment of deputies, but it is unclear if this policy will be pursued. Nevertheless, but it will be important that PCCs have local succession plans in place in the event of any abstractions that would prevent a PCC from being unable to deliver their responsibilities as an office holder. A succession plan has been developed and adopted for the Nottinghamshire OPCC.

#### Clarifying the relationship between PCCs and Chief Constables

- 4.7 Initially announced in Part One and dealt with more fully in Part Two, this included the review of the Policing Protocol 2011. The primary aim of that review is to ensure a brighter line was drawn between the responsibilities of the PCC, who has responsibility for the totality of policing, including holding the Chief to account, and ownership of Force estates and assets, and the responsibilities of the Chief Constable, who maintains operational independence and direction and control of his officers.

#### Raising professional standards

- 4.8 The issue of professional standards has spanned both parts of the review. Consideration at the outset of the PCC review was whether a recall mechanism for PCCs should be introduced as part of the checks and balances in place to respond to complaint and issues of conduct with PCCs.

### **Part Two**

- 4.9 Part Two was focussed on longer term reform of the role of PCCs, including consideration of the additional powers that they will need to ‘fight crime’ in their areas, and on the scrutiny of the PCC model. It has focussed on the potential for wider efficiencies to be made within the system with a view to implementation ahead of the 2024 elections. The Home Office established a stakeholder advisory group pertinent to the scope of Part Two.
- 4.10 The following areas will be included within the scope of the tools and levers needed by PCCs to effectively fight crime:
- the role of PCCs in offender management aligned to existing operating models, working alongside the Ministry of Justice and the probation service;
  - the role of PCCs in the partnership landscape and assess whether their current set of tools and levers are sufficient to drive and co-ordinate local activity to reduce crime, combat drugs misuse and tackle anti-social behaviour – the review will focus on Local Criminal Justice Boards, Community Safety Partnerships and Violence Reduction Units; and,
  - the role of PCCs in securing and maintaining public confidence in policing and tackling crime and anti-social behaviour: the review will focus on activities and reporting that can address the public’s priorities, help build mutual respect and greater understanding of the work that is conducted in the force area – on

tackling anti-social behaviour, this will include the PCC role in implementing an effective community trigger process.

4.11 The following areas will be included within the scope of ‘scrutiny on the PCC model’:

- the police and crime panel model, specifically the benefits of independent members, identifying and securing the right skill sets and options to strengthen panel support;
- reviewing the existing mechanisms for investigating complaints and allegations against PCCs including examining the role of the IOPC in assessing criminal wrongdoings by PCCs and issues relating to vexatious and unfounded complaints;
- considering the merits and demerits of introducing recall for PCCs for very serious breaches of behaviour, including what might be a suitable trigger mechanism;
- the Home Office will examine how PCCs use data in holding chief constables to account for the efficient and effective delivery of policing services in their respective areas, including how data is fed into centrally-held databases and is utilised by the Home Office and relevant policing partners to reduce crime; and,
- the Home Office will also be bringing forward a consultation on affording PCCs greater power of competence and will examine the arguments as to whether it should be a general power or a functional power.

## **Part Two Recommendations**

4.12 The Home Secretary announced findings from the part two of the review into the role of PCCs<sup>1</sup> on 7 March 2022. This included a series of recommendations designed to strengthen the ‘and crime’ element of the PCC role described below.

### **Offender Management**

4.13 The Home Office announced its intention to give PCCs greater involvement in the management of offenders and closer working with the Probation Service. It will:

- Legislate to introduce a new reciprocal duty for PCCs and Regional Probation Directors to collaborate and consult one another when developing priorities for their Policing and Crime Plans and Regional Reducing Reoffending Plans
- Support the development of guidance for Regional Probation Directors and PCCs on co-commissioning of services and development of a memorandum of understanding on data to support the reduction of reoffending

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<sup>1</sup> [Update on Part Two of the Police and Crime Commissioner Review](#), Written Ministerial Statement, 7 March 2022

- Work with the Ministry of Justice and HMPPS to produce guidance on the PCC role in unpaid work, including how they work with Community Safety Partnerships to canvass community views on opportunities for unpaid work.

#### Crime and Justice Partnerships

4.14 The Home Office intends to equip PCCs with the levers to bring together criminal justice partners to effectively tackle crime, ASB and drugs misuse, and will further scope feasibility in relation to:

- Develop options to put Local Criminal Justice Boards (LCJBs) on a statutory footing - defining the PCC role as Chair and setting out expected membership
- Strengthen guidance on LCJBs and update guidance on Violence Reduction Unit (VRU) governance – clarifying the leadership role of the PCC and recommending a dedicated VRU liaison officer within the office of the PCC
- Consider moving away from one-year funding cycles for VRU towards multi-year funding following the 2022/23 Spending Review
- Undertake a full review of Community Safety Partnerships (CSPs) to improve their transparency, accountability, and effectiveness, before assessing their position within the wider landscape of local partnerships
- Consider introducing a new duty for CSPs to report on local ASB strategy and delivery to PCCs and legislating to set out the PCC role in the ASB Community Trigger process
- Clarify existing legislation on PCC representation on local government committees in order to facilitate greater collaboration between PCCs, local government leaders and Local Enterprise Partnerships.

#### Public Confidence

4.15 The Home Office considers it is necessary to enable PCCs to work more closely with local communities to foster greater public confidence in the police and will:

- Encourage the College of Policing to assess what enables PCCs to build public confidence and engage communities, highlighting ‘what works’
- Amend PCC Guidance to reflect the PCC role in securing and maintaining public confidence in policing and holding the Chief Constable to account for their responsibility to understand and act to 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.

#### Data

4.16 The Home Office will work to remove barriers to sharing data and performance information between PCCs and criminal justice agencies and has stated its intention to:

- Support PCCs to secure effective policing by working with HMICFRS and wider criminal justice partners to improve the quality of and access to performance information against the National Crime and Policing Measures
- Support PCCs to secure an efficient police force by working with HMICFRS and the policing sector to develop a police efficiency data and benchmarking
- Support the College of Policing to hold regular learning and development events to support the development of analytical capability within OPCCs
- Work with the Ministry of Justice, the Information Commissioner's Office, and other criminal justice partners to develop national guidance on data sharing between criminal justice partners, including PCCs.

### Police and Crime Panels

4.17 The Home Office intend to drive up the standard of scrutiny applied to PCCs by their Police and Crime Panels and will:

- Work with the Local Government Association to improve the process for recruiting and retaining independent members, to build upon the knowledge and expertise that independent members bring to panels
- Work with the LGA to develop and assess options for how a regional panel support secretariat could work within the existing grant funding envelope, to improve professionalism, quality and consistency of support and research for panels by support officers

### Power of Competence

4.18 The Home Office also announced plans to further consider the processes for how complaints of PCC misconduct are handled and to equip PCCs with a wider functional power of competence in line with those held by fire and rescue authorities and most mayoral combined authorities. This will enable PCCs to play a stronger role in the criminal justice system and act more creatively to reduce crime and to make better use of police resources. The wider power will be enacted at 'the soonest legislative opportunity when parliamentary time allows'.

### Policing Protocol Order review

4.19 A stakeholder consultation (not public) on the Protocol was launched on 7<sup>th</sup> March 2022 and it will close on 2 May 2022. The OPCCN is currently assembling a consultation response and will further feed into the response that is being drawn together on behalf of all PCCs by the Association of Police and Crime Commissioners.

### Recall

4.20 In respect of the review's original remit to explore the possibility of introducing a recall mechanism, the Home Secretary has stated her satisfaction that the conduct bar in place for PCCs is already sufficiently high and while pursuance of a legislative

change to instate a recall mechanism has been abandoned, the matter will be kept under review.

#### Devolution, mayoralities and combined authorities

- 4.21 The Levelling Up White Paper that was published on 2 February 2022 included cross-cutting ambitions in respect of policing and crime with its stated ambitions to support community safety ('restore a sense of community, local pride and belonging') and criminal justice ('reduce homicide, serious violence and neighbourhood crime by 2030, with a focus on the worst affected areas'). It is clear that there is an interrelationship between crime, policing and a number of the powers typically devolved to such authorities, for instance health and economic regeneration. However, it is not clear at the present time how the development of local devolution deals, including that which Nottingham City Council and Nottinghamshire County Council are involved in, will impact on the Nottinghamshire OPCC.

#### Strategic Policing Review

- 4.22 The Strategic Policing Review was published on 8th March 2022 and includes a section relation to PCCs at pp154-157, with the following specific recommendations:

##### **Recommendation 44**

The Police and Crime Commissioner should retain the power to dismiss the Chief Constable, but this should be subject to a confirmatory vote of the Police and Crime Panel, requiring a majority of the total membership. The Panel may ask HMICFRS for a review of the Police and Crime Commissioner's decision prior to that confirmatory vote.

##### **Recommendation 45**

The Home Secretary should put legislation before parliament to introduce recall referenda for Police and Crime Commissioners. The possibility of a recall referendum would be triggered where the Police and Crime Panel has voted by a two thirds majority to express no confidence in the Police and Crime Commissioner (PCC) on the following grounds:

- Where the PCC has been sentenced to a custodial prison sentence.
- Where the PCC has been found following an investigation by the Independent Office for Police Conduct to have breached the Nolan Principles on Standards in Public Life.

Following such a vote by the panel there would then be a recall referendum where 10 per cent of the local electorate sign a petition to support one.

##### **Recommendation 46**

Where a police force area is coterminous with the jurisdiction of a directly elected Mayor, the Mayor should automatically become the Police and Crime Commissioner for that area. The government should also seek where possible to

promote coterminosity between police force areas and the jurisdictional boundaries of city-regional or regional Mayors.

#### **Recommendation 47**

The government should consider extending the remit of Police and Crime Commissioners (and their Mayoral equivalents) to include greater commissioning of wider criminal justice services, particularly youth custody and probation services.

#### State of Policing Report

4.23 The current Chief Inspector of Her Majesty's Inspectorate of Constabulary, Fire and Rescue (HMICFRS), Sir Thomas Winsor published his 'State of Policing Report 2022' on 10th March 2022. The report is his annual assessment of the efficiency and effectiveness of policing in England and Wales and it makes the following points in respect of PCCs (précised by author):

- Youth diversion: PCCs have considerable power and to provide funding for worthwhile activities to occupy young people and so divert them from crime and the temptations of crime.
- Prevention: PCCs, Chiefs and others should never dismiss or disregard the imperative of keeping everyone safe, especially the silent, the fearful and the weak
- Reduced average length of term for Chief Constables: in some parts of the country there was an atmosphere of mistrust and fear, especially among chief constables whose fixed term contracts did not take them to full pension entitlement. Some PCCs were abusing their powers, whether consciously or otherwise, including a perception that police and crime plans were orders for the chief.
- The Home Office should use its powers and influence to provide much greater guidance to PCCs and chiefs about the constitutional positions of each, and ideally should do so before investing PCCs with more powers.
- Police and crime commissioners have had many commendable successes when their relationships with chiefs have been good, and in these cases the public interest has been well served. These benefits need to be protected and intensified, not risked.
- To enable criminal justice system to operate as a single system, PCCs have a very significant part to play.
- Allocations to individual forces are based on a funding formula has been a persistent problem.
- Many forces told HMICFRS their PCCs had agreed to allocate them extra funding to recruit more officers beyond the numbers contemplated by the Home Office's uplift programme
- Chiefs should work with police and crime commissioners to understand what support victims of modern slavery need.



## **5 Financial Implications and Budget Provision**

- 5.1 It was identified in a previous budget report to Panel (8th February 2022) that there would be resource implications associated with the restructure of the Nottinghamshire OPCC. One of the drivers for that exercise, and the identified need for an uplift in budget, was the PCC Review.

## **6 Human Resources Implications**

- 6.1 There are human resource implications arising from the future policy and legislative changes described within the body of this report, around the reciprocal duty to cooperate with Probation Service, co-commissioning, and other collaborations in respect of offender management.
- 6.2 There are also implications in respect of delivering the policy, scrutiny, community engagement, and data insight work that will be needed to support the ambitions in respect of better coordination of local criminal justice partnerships and responding to local community safety needs.

## **7 Equality Implications**

- 7.1 There are no immediate equality implications arising from the contents of this report. The PCC Review is owned by the Home Office, and they are obliged to conduct an equality impact assessment into any recommendations they make as a result of findings.

## **8 Risk Management**

- 8.1 There are no immediate risk management issues arising from this report.

## **9 Policy Implications and links to the Police and Crime Plan Priorities**

- 9.1 The final review recommendations, detailed at paragraphs 4.12-4.21 will have a substantial effect on the policy, strategy and operating spheres of OPCCs as well as those of Chief Constables and Police and Crime Panels.
- 9.2 It is anticipated that, if brought forward, the recommendations enabling greater coordination to ensure effective local working in respect of offender management, and to ensure better crime and justice partnership working will have a positive impact that will support delivery of priorities and objectives within the current Make Notts Safe plan and future Police and Crime Plans.
- 9.2 Allied with the recommendations made following the conclusion of the PCC Review were a series made within the Strategic Policing Review, a link to which has been provided in the background papers. A paper on that review can be brought to a future Police and Crime Panel.

## **10 Changes in Legislation or other Legal Considerations**

- 10.1 The recommendations detailed at 4.5-4.8 and 4.12-4.21 give a firm indication that there will be significant legislative changes in future, which may impact on the operating spheres of PCCs, Chief Constables and Police and Crime Panels.

## **11 Details of outcome of consultation**

- 11.1 A stakeholder consultation has been launched in respect of the Policing Protocol order 2011 which the OPCC intends to respond to. That consultation is due to close 2 May 2022 and therefore the outcome of that is not available at the time of writing this report.

## **12 Appendices**

- 12.1 None included.

## **13 Background Papers (relevant for Police and Crime Panel Only)**

- 13.1 Written Ministerial Statement from Crime, Policing and Fire Minister statement regarding PCC review, 22 July 2020  
[Written statements - Written questions, answers and statements - UK Parliament](#)
- 13.2 Written Ministerial Statement from Home Secretary on Part 1, 16 March 2021  
[Written statements - Written questions, answers and statements - UK Parliament](#)
- 13.3 Written Ministerial Statement from Home Secretary on Part 2, 7 March 2022  
[Written statements - Written questions, answers and statements - UK Parliament](#)
- 13.4 Strategic Policing Review, by The Police Foundation and Sir Michael Barber, 8 March 2022  
[The Strategic Review of Policing in England and Wales - The Police Foundation \(police-foundation.org.uk\)](#)

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