

THE POLICE & CRIME COMMISSIONER FOR LEICESTERSHIRE

POLICE AND CRIME PANEL

Report of	POLICE AND CRIME COMMISSIONER
Date	MONDAY 22 MAY 2017 – 1:00 p.m.
Subject	POLICING AND CRIME ACT 2017
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Purpose of Report

1. To update the Police and Crime Panel on the main provisions within the Policing and Crime Act 2017 and the implications for Police and Crime Commissioners (PCC).

Recommendation

2. That members note the contents of the report and make comment as appropriate.

Background and Detail

3. The Policing and Crime Act 2017 (“the 2017 Act”) received Royal Assent on 31 January. The 2017 Act contains a wide range of measures, however, there are four main areas that impact upon PCCs:
 - “Blue Light” service collaboration
 - Fire and Rescue Service governance
 - Police complaints
 - PCCs and Police areas
4. The detailed provisions within the Act are substantial and cover a wide range of areas, also amending a number of other existing pieces of legislation to ensure that they are aligned.
5. Whilst only some of the provisions are of direct impact on a PCC, many of the others place new duties upon the Chief Constable and hence the PCC will need to expand on his assurance processes to ensure that the Chief is fulfilling these new duties.

“Blue Light” service collaboration

6. The Act places a legal duty upon the 4 legal entities involved in Blue Light Services in the Force area:

Office of Chief Constable (OCC)
 Office of PCC (OPCC)
 Leicestershire Fire and Rescue Service
 East Midlands Ambulance Service

7. Each of these entities are now required to consider collaboration with the other 3 entities in everything they do, indeed with these organisations in other Force areas. It must always be considered every time a decision is made, if "sharing" is not deemed appropriate it must be because it is neither effective nor efficient to do so.
8. Since this duty applies to all four entities the PCC must not only comply himself he must also put processes in place to assure himself that the Chief Constable is complying. As such, the report template used for reports presented to the Commissioner from the Chief Constable at his Strategic Assurance Board will include this aspect as an implication for the Chief to consider and include in future reports.
9. The new duty took effect from the beginning of April 2017.

Fire and Rescue Service Governance

10. Currently there are three corporate entities involved in Policing and Fire:
 - The OCC (which is a Corporation Sole)
 - The OPCC (which is a Corporation Sole)
 - The Fire and Rescue Authority (FRA)
11. The Act requires PCCs to select one of the following four options.
 - a) **a full merger** of all 3 entities into a single Corporation Sole under the PCC;
 - b) **a new Governance model** whereby the OCC remains but the FRA becomes a "*Corporation Sole as the fire and rescue authority for the area specified in the order, and for the person who is for the time being the police and crime commissioner for the relevant police area to be for the time being that fire and rescue authority.*"
 - c) **no change to corporate structures** but the PCC applies for membership of the Fire Authority, with full voting rights; alongside the Council membership, where Fire and Rescue Authority agree;
 - d) **do nothing**, all structures remain the same and PCC has no involvement with the Fire Service.
12. The PCC has the power to make a decision as to which option he is intending to take. If options a) or b) are taken the due process must be followed as prescribed in legislation. In the event of option c) being taken the PCC must formally request to become a member of the FRA and the FRA must consider this request in line with the process set out in legislation.

Police Complaints processes

13. Currently the PCC's responsibility in the Police Complaints process is to scrutinise that the Chief Constable is operating according to the appropriate procedures. The PCC's only direct involvement in the delivery of the processes is to handle any complaints about the personal conduct of the Chief Constable, other aspects are

delivered by the Chief Constable via his Professional Standards Department (PSD). The intention of the new legislation is to give “a stronger role for PCCs”⁵ within the complaints processes.

14. The options available to a PCC are :
 - 1) **Leave current arrangements in place** under management and employ of the Chief Constable. PSD would undertake the appeals process on behalf of the PCC.
 - 2) **Tweak current arrangements** such that PSD would continue to handle the initial complaint handling and then administer any subsequent appeal but the **PCC authorises final decision on all appeals** based on the recommendations of PSD.
 - 3) **Separate the handling of initial complaints and the appeals process.** PSD would administer the initial handling of the complaint but the PCC would receive and administer any subsequent appeal.
 - 4) **Transfer the responsibility for the whole complaints process from PSD to the PCC.**

15. There are two conceptual elements that the Act is introducing
 - That in future complaints will be considered, for recording purposes, to be against the organisation and not against individuals. Currently complaints are classified as either being against a Person or as Direction and Control.
 - That in future a complaint must be recorded as soon as it is reported; only if it subsequently found to be vexatious can the record be deleted. Currently a complaint need not be recorded whilst initial consideration takes place.

16. The Act has introduced that the PCC will be the appropriate authority to determine appeals against the outcome of an investigation into a complaint. Currently both the handling of the initial complaint and any subsequent appeal is dealt with by PSD through two separate processes. The PCC will nevertheless “*be able to delegate their complaints handling functions*”.

17. In addition the PCC will have the power to assume control of the whole of the complaints process, this is a power granted to the PCC and not a duty and he will be free to leave the initial complaints handling process to the Chief Constable if that is his desired approach.

18. Therefore the PCC will need to make a decision as to:
 - a) how to discharge his duty as the appellant authority; and
 - b) whether to assume direct management of any aspect of the complaints process himself.

19. These changes will not come into effect immediately since they require changes to Police Regulations which will need to be facilitated through Secondary Legislation.

Other Impacts

20. PCCs are granted the power to request to change the name of the Force that they have oversight over (previously only a power possessed by the Home Secretary). It should be noted that this is a new “Power” given to a PCC, there is no obligation for the PCC to actually change the name of the Force.
21. The term of Office of Deputy PCCs has been changed so that it ends on the date of a PCC election. Previously it was co-terminus with that of the PCC so that if a PCC left office early then the Deputy PCC’s term ended whenever the PCC’s term ended; this created issues in the appointment of an Acting PCC in the case of a sudden vacancy and the new legislation addresses this such that it is straightforward for a Deputy to become Acting PCC if necessary, with the approval of the Panel.

Conclusion

22. The Policing and Crime Act is wide-ranging and further updates to the Panel on matters arising will be provided to future meetings.

Background Papers

- ¹ Policing and Crime Act 2017 Schedule 1 Paragraph 5
² Explanatory Notes to the Policing and Crime Act 2017 Paragraph 325
³ Policing and Crime Act 2017 Section 7
⁴ Policing and Crime Act 2017 Annex C
⁵ Explanatory Notes to the Policing and Crime Act 2017 Paragraph 61
⁶ Explanatory Notes to the Policing and Crime Act 2017 Paragraph 501 (the power to delegate itself arises from the Police Reform and Social Responsibility Act 2011)

Implications

Financial:	Should any of the new powers available be utilised there could be financial ramifications. In that event the Panel would be notified of these.
Legal:	Act of Parliament
Equality Impact	None
Assessment:	
Risks and Impact:	None.
Link to Police and Crime	None.
Plan:	

Persons to Contact

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