

Police and Crime Commissioner for Surrey – Decision Making Record

Report Title: Stage 2 Transfer Principles
Decision number:
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Background

The Police Reform and Social Responsibility Act 2011 established each Police Crime and Crime Commissioner (PCC) and Chief Constable as 'corporations sole' (i.e. separate legal entities). Previously, there was just one legal entity – the Police Authority – and Chief Constables were technically unable to employ staff, enter into contracts or hold other legal liabilities. On 21st 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, to PCCs. This included the transfer of all police staff to the employment of the PCC.

The Act sets out a second 'Stage 2' transfer which refers to the subsequent movement of certain staff, property, rights and liabilities from the PCC to the Chief Constable. Chief Constables, as legal entities, are now capable of holding assets and liabilities and employing staff for the first time. It is a matter for the PCC and Chief Constable 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 seeks agreement between the PCC and the Chief Constable on the broad principles and 'direction of travel' for Stage 2 transfer arrangements so that a Scheme of Transfer can be progressed to meet the Home Office deadline of 16th September 2013.

Recommendation

That the PCC and Chief Constable agree the principles and direction of travel as set out in this paper.

Why Stage 2 Transfer?

The Government's policy intent behind Stage 2 transfers is contained within a letter from the Minister of State for Policing and Criminal Justice dated 12th September 2012. This highlights two characteristics of 'good governance' as defined by Her Majesty's Inspector of Constabulary in its report 'Policing in Austerity'. These are: firstly, a greater role clarity of those charged with governance and those responsible for delivery of policing and secondly, a clear division of responsibility between the Chief Constable and the governing body. The Government intends that Stage 2 transfers will facilitate better governance in policing.

The Stage 2 Transfer Scheme

PCCs must draw up their proposals for Stage 2 transfers 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 guidance to PCCs or Chief Constables about how staff and assets should be divided. A letter is expected imminently from Ministers to provide some clarity on what should be included in the Scheme of Transfer. Government has said that the overall policy intent is that operational staff will pass to the employment of the Chief Constable and any discussion on those staff remaining with the PCC will focus on non-operational roles. This could result in a variation in approach across England and Wales.

The Policing Protocol will be the benchmark against which the Home Secretary assesses and approves a transfer scheme. 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).

Principles for agreement by the PCC and Chief Constable

In drawing up their proposals for Stage 2 transfer, the PCC and Chief Constable have worked on the basis of the following principles in addition to those set by the Home Secretary:

- Despite the different roles and responsibilities, future working arrangements between the Force and PCC must be a joint endeavor, focused upon improving outcomes for local people as set out in the Police and Crime Plan
- In times of increasing budget constraint, implementation of the transfer arrangements should be as cost effective as possible and the resulting structures must represent the best value for the Surrey public
- Stage 2 transfer arrangements must, as far as is possible, minimise unnecessary change and upheaval for staff
- The Chief Constable must remain operationally independent, be seen as a provider of services have responsibility for those support services that assist with operational delivery
- The PCC must ensure he has sufficient capacity and capability to undertake his statutory responsibilities (e.g. ensuring the efficiency and effectiveness of the Force and driving value for money improvements)
- Collaborative opportunities, particularly those with Sussex, should not be impeded by the arrangements for Stage 2

Areas for consideration in the Stage 2 Scheme of Transfer

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.

The PCC currently employs a small team of staff 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 some complaints, correspondence and media. Staff in this team are not under the direction and control of the Chief Constable.

Staffing: Preferred Option

The majority of police staff should transfer to the employment of the Chief Constable, with the PCC retaining a small team to support 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.

A small number (1 or 2 posts) of finance staff charged with treasury management and banking functions will remain under the employment of the PCC (to allow them to undertake their responsibilities under delegated authority from the PCC) but for day-to-day purposes will remain under the management of existing force personnel.

Both the OPCC and Force acknowledge that, due to the PCC's requirement to be visible and accessible and the increased public accountability of his role, the OPCC's current communication function is inadequate. The PCC does not intend to retain any of communications staff who currently work under the direction and control of the Chief Constable, but may wish to retain some budget previously allocated to the Force in order to improve his capacity in this area by 1 to 2 posts.

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. Service Level Agreements may be helpful to define expectations.

Estate, Assets, Procurement and Contracts

At Stage 1 transfer, all assets, land, property and contracts transferred automatically from the Police Authority to the PCC. At Stage 2 transfer, Chief Constables can enter into contracts and acquire or dispose of property (except land) with the consent of the PCC.

Estate

The PCC currently owns all estate. Day to day management (e.g. assets management, maintenance, facilities management, contractual arrangements etc) is undertaken by the Force. The estate is a strategic resource, but must be fit for purpose to support operational delivery and be responsive to operational priorities.

Estate: Preferred Option

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 and running of the estate.

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

Assets

At the moment, all assets (e.g. ICT, fleet, uniform and supplies) are owned by the PCC. The PCC provides a budget for the Force to undertake day to day management to ensure assets are fit for purpose, safe, cost effective and properly insured.

Assets: Preferred Option

The PCC will retain ownership of all assets, with the Chief Constable retaining responsibility for day to day management.

This will ensure the Chief Constable is able to provide the Force with those assets which allow effective operational delivery. It also avoids a costly transfer of ownership or licenses.

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. These Orders 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: Preferred Option

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.