

Police and Crime Commissioner for Surrey – Decision Making Record

Report Title: Stage 2: New Scheme of Corporate Governance
Decision number: 055/2014
Author and Job Role: Alison Bolton, Chief Executive
Protective Marking: Part One

Executive 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 sees a movement of the majority of staff from the employment of the PCC to the employment of 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 have submitted a formal Scheme of Transfer by 3rd March 2014.

Implementation of Stage 2 arrangements on 1st April 2014 requires a set of revised governance documents to reflect the new employment arrangements and expectations of the two corporations sole. Collectively, these documents are known as the 'Scheme of Corporate Governance'. The scheme covers both legal entities (PCC and CC) and sets out the governance arrangements between the two. It is based on current established good practice and takes into account national advice.

Background

In Surrey, Stage 2 will see a transfer of the majority of police staff from the employment of the PCC to the employment of the Chief Constable (CC). This is the first time that the CC has been able to employ staff in her own right. The exceptions to this transfer are the small team of staff who directly support the PCC's office and two members of police finance staff who will be undertaking treasury management functions on behalf of the PCC, but who remain under the management of the Force finance department.

Some force areas will also use Stage 2 as an opportunity to divide assets and/or estate between the two corporations sole. For reasons primarily of cost effectiveness and simplicity in accounting arrangements, Surrey has agreed that all estate and assets will remain in the name of the PCC.

Scheme of Corporate Governance

The Scheme comprises a number of different elements. These are:

- **Code of Corporate Governance**
This sets out how the PCC/CC will achieve the core principles of 'good governance'.
- **Framework of Decision-Making and Accountability**
This describes how the PCC will make/publish key decisions and fulfil his responsibilities to hold the CC to account. It also sets out the role of the Audit Committee.
- **Scheme of Delegation for the PCC and CC**
This sets out the key roles of the PCC/CC and those functions they delegate to others.
- **Memorandum of Understanding**
This new document sets out the cooperative arrangements between the PCC and CC for the provision of business support and administration. The CC has a requirement under section 2(5) of the PRSR Act 2011 to exercise her powers in such ways as are reasonable to assist the PCC in the exercise of his functions. The Office of the PCC will necessarily be reliant (as at present) on the Force for on-going support. However it is important to articulate the expectations of both parties in this regard.

The MOU attempts to describe how, in an arrangement where the CC employs the majority of the staff and the PCC owns all assets, the two parties will work together and ensure sufficient support in areas such as estates management, procurement, finance, HR, communications and corporate development.

- **Financial Regulations**
This sets out the framework for managing the PCC's financial affairs.
- **Contract Standing Orders**
This describes the rules for the procurement of goods, works and services. Contracts will continue to be issued in the name of the PCC and the CC will operate within the parameters of Contract Standing Orders. This avoids a potentially complex arrangement where contracts are procured and issued for multiple parties, operating to different rules for the different bodies, and increasing operating costs.

Working with Sussex

Surrey's Office of the PCC (OPCC) and Force leads have been working closely with their Sussex counterparts to ensure that, as far as is possible, we share a common scheme of governance. There will necessarily be some differences to reflect the different structures of the Forces/OPCCs, but in broad terms, we have been able to draw up documents which suit all parties, thus reducing cost and resource required.

Legal Issues

Progress on new arrangements has been hampered by a lack of clarity in respect of what is permissible around the provision of 'services' from the CC to the PCC and whether we are at risk of operating unlawfully given there can be no delegation of 'functions' between the two parties. The Home Office has not been forthcoming with guidance.

Equally, it has taken a considerable amount of time to establish that the Force procurement team can indeed lawfully be employed by the CC, yet issue contracts up to a certain value in the name of the PCC.

We have sought Counsel's opinion on these issues and have received assurances from other areas as well as from the Home Office, that our proposed ways of working are legally compliant. We are therefore confident that the new governance structures and supporting documents represent a lawful approach around delegation, provision of 'services' and procurement issues..

Next Steps

The new Scheme will need to be in place by 1st April 2014 following approval of the Surrey and Sussex PCCs. Both Audit Committees have been consulted.

We have agreed with Sussex colleagues to hold a joint workshop post April for senior staff across both Forces/OPCCs to ensure they are sighted and understand on the new arrangements. Copies of the relevant documents will also be sent to relevant senior staff across the Force/OPCC.

Recommendation

- That the PCC approves the new Scheme of Corporate Governance

Police and Crime Commissioner Approval

I approve the recommendation(s):

Signature:



Date: 1st April 2014

All decisions must be added to the decision register.

Areas of consideration

Consultation

Surrey PCC and his senior officers
Surrey Police Chief Officers
Sussex PCC and her senior officers
Sussex Police Chief Officers
Audit Committees of Surrey and Sussex

Financial implications

None arising.

Legal

Legal advice has been sought on various elements of the new scheme.

Risks

None arising.

Equality and diversity

No issues.

Risks to human rights

None arising.