



# Police and Crime Commissioner for Devon and Cornwall

## Police and Crime Panel Meeting 11 October 2013 Report of the Police and Crime Commissioner

### STAGE 2 TRANSFER

#### 1. Introduction

- 1.1 In November 2012 the Police Reform and Social Responsibility Act 2011 abolished Police Authorities and established Police and Crime Commissioners. It also established the Police and Crime Commissioner (PCC) and Chief Constable as two separate entities. At that point all police staff, assets and liabilities transferred to the Police and Crime Commissioner. The Act also stated that there should be a second stage transfer. To implement this second stage the PCC must decide, by 1 April 2014, which staff and assets will be retained by the PCC and those that will transfer to the Chief Constable.
- 1.2 The purpose of this report is to inform Police and Crime Panel members about Stage 2 transfer and associated implications.

#### 2. Background

- 2.1 In leading up to the change in governance Police Authorities developed transition plans, ensuring that arrangements were in place to allow an efficient handover of responsibilities. Different approaches to interim arrangements were taken across the country, particularly in terms of specifying functional requirements and the implementation of organisational designs to support new PCCs.
- 2.2 The PCC is responsible for holding the Chief Constable to account for policing in Devon, Cornwall and the Isles of Scilly as well as working with the local authorities, statutory partners such as Probation, CPS, Courts, and YOTS, and a range of voluntary and community groups. In addition to setting the precept and allocating the police budget, the PCC is also responsible for distributing community safety grants and, from 2014, commissioning victim services.
- 2.3 The creation of PCCs established a new model of governance and accountability. The PCC has broader 'and crime' responsibilities, is charged with commissioning services, to include in future and has responsibility for victims services. The PCC is publically accountable and as such, staff in his office must be more externally focused.
- 2.4 In its simplest form the PCC is responsible for:
  - Setting the strategic direction and accountability for policing – this

means being accountable to the electorate, setting strategic policing priorities, holding the force to account through the Chief Constable and involving the public in this process, and hiring, and where necessary firing, the Chief Constable;

- Working with partners to prevent and tackle crime and reoffending – this means ensuring the police respond effectively to public concerns and threats to public safety, promoting and enabling joined up working on community safety and criminal justice;
- Invoking the voice of the public, the vulnerable and victims – this means ensuring that public priorities are acted upon, victims are consulted and that the most vulnerable individuals are not overlooked, and complying with the general equality duty under the Equality Act;
- Contributing to resourcing the policing response to regional and national threats – this means ensuring an effective policing contribution, alongside other partners, to national arrangements to protect the public from other cross boundary threats in line with the Strategic Policing Requirement; and,
- Ensuring Value for Money – this means being responsible for setting the budget and the distribution of policing grants from central government, commissioning services from partners that will contribute to cutting crime.

2.5 In delivering these responsibilities, the PCC must also have adequate finance, governance and assurance functions in place to ensure all statutory functions are discharged. The PCC must do this in a way that engages and consults with all communities at both a local and strategic level.

### **3. Stage 2**

3.1 The statutory transfer that took effect at midnight on 21 November 2012 transferred all existing rights, assets and liabilities to the Police and Crime Commissioner. This included the transfer of all police staff and was referred to as the 'Stage 1' transfer.

3.2 The Act sets out a second 'Stage2' transfer which refers to the subsequent movement of certain staff, assets and liabilities from the PCC to the Chief Constable. The Stage 2 transfer is designed to allow elected PCCs freedom to make their own local arrangements about how their functions, and those of the police force will be discharged in future.

3.3 Whilst there are no hard and fast rules, the letter from the Minister for State and Criminal Justice of 12 September 2012 clearly articulated the government's policy intent which is to achieve greater clarity between those charged with governance and those charged with delivering policing. This position was reinforced in a letter dated 3 July; whilst acknowledging that the PCC is the local decision maker, it sets out clear principles that any Stage 2 transfer plan proposals need to be considered against, based on

the following criteria:

- All operational staff should pass to the employ of the Chief Constable;
- That transfer plans must adhere to the principles of the policing protocol; and,
- That plans must set out clear roles and responsibilities between PCCs and Chief Constables.

3.4 The transfer schedule, which had to be submitted to the Home Secretary by 16 September 2013, had to detail the functions and staff to transfer to the Chief Constable and those functions and staff that will be retained by the PCC. In addition the Home Office required confirmation that the Chief Constable had been consulted (and whether or not there is agreement), that a scheme of governance has been developed (including details of the financial and service delivery mechanisms) and how the proposals are consistent with the Cabinet Office Statement of Practice on Staff Transfers in the public sector.

3.5 Whilst local circumstances will prevail, the expectation is that at a very minimum the transfer scheme must be able to support:

- Efficient and effective policing;
- Operational independence of the Chief Constable;
- Delivery of the wider responsibilities of the PCC ie crime and commissioning of services; and,
- Demonstrable accountability of the Chief Constable to the PCC.

3.6 It should also be noted that because it has agreed that all staff will transfer to the employment of the CC that this may create an additional requirement for the PCC to engage some specialist staff to ensure that he has access to independent professional technical advice.

#### **4. Current Position**

4.1 The PCC and Chief Constable have been working closely together to develop a scheme that ensures the PCC is able to carry out the functions outlined at 2.4 above, ensuring that the appropriate mechanisms of financial control and the giving of consents whilst at the same time ensuring that the Chief Constable retains independence for operational policing.

4.2 To satisfy the requirements of the Policing Minister the PCC submitted to the Home Office, by the deadline of 16 September 2013, The submitted document set out the agreed transfer of all staff excluding those within the Office of the Police and Crime Commissioner (OPCC), who will remain in the direct employment of the PCC.

The submission also included an explanatory document. This submission was evaluated by the Home Office and the plan was given in principle approval in a letter dated 6<sup>th</sup> December 2013.

- 4.3 The PCC has been asked to submit a definitive transfer scheme by 3 March 2014 which will be subject to Secretary of State approval and which does not differ from the original plan
- 4.4 There is no requirement for the scheme to include any direct reference to the ownership of assets. Discussions continue on this matter but it is the PCC's intention to retain all assets (land and other resources) with appropriate delegations to the Chief Constable to facilitate day to day operations.
- 4.5 In order to ensure that the PCC and CC are prepared for transfer at the 1 April 2014 a joint transfer project is currently underway to ensure that the governance structures and scheme of consent documentation are in place. This final division of responsibilities and the development of new governance, scrutiny, public engagement and commissioning arrangements require different staff functions to those of the former Police Authority and the joint project will focus on ensuring that the OPCC is properly formed to deliver its role.

## **5. Conclusion**

- 5.1 It is intended to keep the Police and Crime Panel updated on the future progress of Stage 2 and the results of the Home Office considerations of the PCC's submitted plans.

**Andrew White**  
**Interim Chief Executive**  
**Office of the Police and Crime Commissioner for Devon and Cornwall**

[chiefexecutivesupport@devonandcornwall.pnn.police.uk](mailto:chiefexecutivesupport@devonandcornwall.pnn.police.uk)

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