

Home Affairs Select Committee (HASC) Report: Police and Crime Commissioners: progress to date

Purpose

For discussion and direction.

Summary

The HASC report, Police and Crime Commissioners: Progress to Date was published on 5 May 2014. The report includes a number of recommendations aimed at the Local Government Association (LGA). This report considers those recommendations and options for how they might be addressed.

Recommendation

Members are asked to consider the recommendations aimed at the LGA together with the proposed responses set out in Table 1 and agree a set of actions.

Action

Officers will take actions as directed.

Contact officer: Eamon Lally
Position: Senior Adviser
Phone no: 020 7664 3132/07799768570
Email: eamon.lally@local.gov.uk

Home Affairs Select Committee (HASC) Report: Police and Crime Commissioners: progress to date

Background

1. HASC announced its inquiry into PCCs One Year On in November 2013. The LGA provided written and oral evidence to the inquiry.
2. The HASC report, Police and Crime Commissioners: Progress to Date was published on 5 May 2014.
3. The Report examines the work of the commissioners during their first 18 months in office. It considers their effectiveness to date and looks at the relationships they have developed with their chief constables, and Police and Crime Panels.

Overview

4. On commissioners, the view of HASC is that it is too early to say whether the introduction of police and crime commissioners has been a success, but that “a clear message from our evidence is that PCCs have provided greater clarity of leadership for policing within their areas, and are increasingly recognised by the public as accountable for the strategic direction of their police force”. However, the report also notes that “whilst the nascent work of PCCs is still to have its full effect on the public’s perception of local policing, it is inevitable that many will consider the concept of police and crime commissioners to be on probation”.
5. On panels, the view of HASC is that effective scrutiny by police and crime panels relies on creating a constructive working relationship with the commissioner in which the panel acts as a ‘critical friend’. “However, many panels have to date struggled to understand their powers and define their role”.
6. In its evidence the LGA focused on the role and effectiveness of Police and Crime Panels (PCP). HASC has agreed with the key proposals from the LGA, namely:
 - 6.1. To require commissioners to publish a forward plan of key decisions, where these are known in advance, and to publish background information on each decision when it is made.
 - 6.2. That the Home Office provide fuller guidance to panels on their role and remit, and how it relates to commissioners.
 - 6.3. The Home Office should also produce accompanying guidance for commissioners on what constitutes a decision
 - 6.4. If police and crime panels are to play a stronger role in proactively scrutinising commissioners they need to be resourced accordingly in a way that is sustainable.

7. In addition, HASC has recommended that:
- 7.1. PCPs should have powers of veto over the appointment of deputies that are not named as part of the election ticket.
 - 7.2. That police and crime panels inquire and report into the circumstances whenever a chief constable's service is brought to an end irrespective of whether the Schedule 8 scrutiny process is formally engaged.
8. The conclusions and recommendations of the report are set out in **appendix 1**. The full report can be found at: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2010/police-and-crime-commissioners1/>
9. The LGA press release can be found in **appendix 2**.

Recommendations directed at the Local Government Association

10. HASC has recommended areas where the LGA could do some further work to support panels and PCCs. The relevant recommendations are set out in Table 1 together with proposed responses and actions. Members are asked to consider the proposed responses and agree a set of actions.

Table 1

Recommendation	Proposed response
10.1. A transition period for new commissioners of one month between election and taking office. This would allow time for the Association of PCCs, College of Policing, Local Government Association, and others to provide intensive training for newly elected commissioners, and a period of transition for post-holders and their teams.	<i>The proposed period of transition would be unique within the UK electoral system. It is also not clear that the difficulties experienced by newly incumbent PCC in 2013/14 will emerge in any future election of Commissioners.</i> <i>However, the LGA will always be ready to work with other organisations across the sector to ensure the effective delivery of public services.</i>
10.2. The Local Government Association consider further ways to develop the sharing of best practice between panels.	<i>The LGA continues to support the work of panels in their scrutiny of commissioners, through the provision of a knowledge hub and national and regional events. The LGA will continue to ensure that best practice is shared throughout the sector.</i>
10.3. The Local Government Association and the Association of PCCs agree a protocol on the timely provision of information to panels generally, but with	<i>The LGA is working with the Association of Police and Crime Commissioner Treasurers to develop a better understanding of the success and</i>

<p>particular reference to the precept-setting process, to enable more effective scrutiny by panels</p>	<p><i>challenges of the precept-setting process and will use this information to help commissioners and panels improve local processes.</i></p>
<p>10.4. The Local Government Association undertake in-depth research on panels' experience to date on complaint handling, so that it can make recommendations to the Home Office on how the process should be improved.</p>	<p><i>Complaint handling is an issue that has been raised with the LGA by a number of panels. The LGA is currently gathering information from panels on the key issues as well as examples of where the system is working well. The LGA will use this information to inform best practice in the sector and future discussions with the Home Office on this issue.</i></p>
<p>10.5. The Home Office and Local Government Association undertake research to estimate the actual cost of support for panels to date to determine a more realistic level of funding. We further recommend that to provide long-term certainty, in the future, such funding should come from the police precept.</p>	<p><i>We will work with the sector to assess the feasibility of establishing an actual cost of support to panels, which will include a substantial amount of work provided pro bono by council officials.</i></p> <p><i>The LGA's response will also need to be cognisant of the Home Office's strong direction that additional funding will not be made available.</i></p>

Next Steps

11. Following discussion and agreement by members, officers will:

- 11.1. Draft a short response from the Chair of the Safer and Stronger Communities Board to the Home Affairs Select Committee welcoming HASC's support for the LGA's main proposals and outlining the action that the LGA intends to take in respect of the relevant recommendations set out in the report;
- 11.2. Continue to work with the Home Office on the scope of additional guidance for Panels and PCCs (see paragraph 6.2);
- 11.3. Carry out actions as directed by the Board; and
- 11.4. Report back to the Committee at a subsequent meeting on the progress of these actions.

Appendix 1

Conclusions and recommendations

PCCs and the public

1. One of the main aims of police and crime commissioners was to make the strategic direction of policing in England and Wales subject to democratic accountability. It is disappointing, therefore, that the turn-out for the elections in November 2012 was so low, leading some to question whether PCCs have a sufficient electoral mandate. Since their introduction, however, public awareness of commissioners has increased significantly, albeit not always for the right reasons. This, combined with the move of the next PCC elections to be in line with the May electoral cycle should ensure a greater turn-out and level of public engagement at the next elections in 2016. Until then, and whilst the nascent work of PCCs is still to have its full effect on the public's perception of local policing, it is inevitable that many will consider the concept of police and crime commissioners to be on probation. (Paragraph 9)

Training and transition

2. This Report and the Committee's previous reports on PCCs have shown that many of the difficulties that commissioners have faced could have been avoided given greater opportunity to find their feet before starting the job. For the next elections, we recommend a transition period for new commissioners of one month between election and taking office. This would allow time for the Association of PCCs, College of Policing, Local Government Association, and others to provide intensive training for newly elected commissioners, and a period of transition for post-holders and their teams. (Paragraph 11)

3. We continue to believe that there should be a national register of commissioners' disclosable interests, and reject the suggestion that such an exercise is complex and bureaucratic. It has been a perfectly straightforward exercise to produce it for this Report. In the continued absence of any such initiative by HMIC, the Home Office or the Association of PCCs, we produce the latest version of the register as an Annex to this Report. For the first time, we also include the disclosable interests of deputy commissioners. (Paragraph 13)

The work of commissioners to date

4. Collaborative working has the potential to save money as well as providing a higher standard of policing. We support the efforts of commissioners in working with their neighbours and others in fields as diverse as the provision of blue light services, mental health, community safety, organised crime and counter-terrorism. Although there has been progress in some areas, it is clear that a majority of police forces are not yet exploiting the full potential of collaboration. We recommend that, for forces delivering less than 10 per cent of their business through collaboration, commissioners and chief constables should prioritise

work in this area, seeking advice from those forces that have already demonstrated success. We will also continue to highlight examples of good practice in collaborative working in the future. (Paragraph 24)

5. We also support the alliances between Warwickshire and West Mercia, and Surrey and Sussex, the former of which has achieved the majority of their required savings over the current spending period through collaboration. Where such alliances prove successful and supported by the public, we believe there is a case for facilitating the full merger of forces under a single police and crime commissioner and chief constable. (Paragraph 25)

Transparency

6. We are deeply concerned that despite a requirement in statute, and a reminder from the Home Office, some commissioners are still failing to meet their transparency requirements. This information is vital in allowing voters to assess the effectiveness of their PCCs. We recommend that the Home Office and the Association of Policing and Crime Chief Executives continue to pursue this matter with the relevant PCC offices. Furthermore, we recommend that commissioners begin to publish a register of meetings held with external stakeholders. (Paragraph 30)

7. However, we believe this information will be more useful to the public and police and crime panels in holding PCCs to account if it is drawn together to allow meaningful comparisons. As such, we recommend that the Association of PCCs begin collating and publishing all statutory information on its website, and carry out comparative analysis where appropriate. In so doing, it should also highlight those PCC offices that are not meeting their requirements. The Home Office or HMIC should also publish a comparative analysis of the range of ways in which commissioners have approached the 2014 Stage 2 transfer of staff and assets. (Paragraph 31)

Appointment of deputy and assistant commissioners

8. The employment of assistants and deputies has raised inevitable accusations of cronyism. Whilst we do not question the right of commissioners to appoint a deputy, their appointment must be transparent and instil public confidence. We recommend that at the 2016 elections, candidates for commissioner should be able to name their intended deputies so that they are elected on the same ticket. In cases where a commissioner subsequently seeks to appoint a deputy post-election, the Home Office should set out a clear process for the conduct of their selection. The police and crime panel should also have the power to veto the appointment. (Paragraph 38)

9. We believe the status of assistant PCCs is ambiguous and risks creating public confusion about their role, and that the nomenclature should be avoided. In some cases their appointment appears to side-step the scrutiny process required by statute for deputies. In some areas the appointment of multiple assistants could be seen as an attempt by the PCCs in those areas to recreate the former police authorities. We are also concerned that such appointments do not meet the requirement for posts below the level of deputy to be politically restricted. We

recommend that the appointment of posts aside from deputy commissioner should in all cases be subject to an open and transparent recruitment process similar to that for entry to the Civil Service or local government, with that process approved by the chief executive of the office of the PCC. (Paragraph 39)

Target setting and crime statistics

10. Public confidence in the veracity of crime data has been severely undermined by recent revelations, culminating in the withdrawal of their designation as National Statistics. We welcome the work that HMIC, commissioners and chief constables are now undertaking to ensure the robustness of crime data, especially as they constitute a key indicator on which the public will assess the performance of commissioners in 2016. (Paragraph 46)

11. We note that target-setting has been cited as one of the reasons for the manipulation of crime figures. We are concerned, therefore, that a large number of commissioners have set targets or performance measures as part of their police and crime plans. Where this is the case, it is vital that PCCs ensure such targets operate as intended and do not act as incentives for the gaming of crime statistics in the future. We recommend that all such commissioners review urgently the auditing arrangements they have in place. We are mindful also that as the next elections approach many PCCs will feel under pressure to demonstrate their effectiveness. It will be the responsibility of chief constables to ensure this does not translate into pressure on forces to under or misreport crime. (Paragraph 47)

Support for victims

12. Many PCCs seem to be taking seriously the responsibility they are due to take on for commissioning victims services. There is a potential opportunity to make a significant improvement to the quality of services offered in this area. However, there are also a number of risks, particularly during the transition phase. We recommend that HMIC evaluate the approach taken after PCCs take over responsibility for commissioning victims services in October 2014 so as to inform decision-making by PCCs in the second tranche. We further recommend that before the next PCC elections, HMIC conduct a full evaluation of the move to local commissioning to inform the approach taken by the next generation of PCCs. (Paragraph 51)

Commissioner-led campaigns

13. Police and crime commissioners are increasingly using their voice to lobby Government on policies that are formed at a national level. We welcome this, and hope that they continue to do so. (Paragraph 53)

Overall effectiveness of commissioners to date

14. It is too early to say whether the introduction of police and crime commissioners has been a success. As such this inquiry should be seen as a progress report, rather than a definitive assessment of the PCC model. Indeed, even by 2016 it may be difficult to draw a national picture because of the range of different approaches being taken by commissioners, although this should be possible after the term then commencing. However, one clear message from our evidence is that PCCs have provided greater clarity of leadership for policing within their areas, and are increasingly recognised by the public as accountable for the strategic direction of their police force. (Paragraph 56)

Holding chief constables to account

15. Commissioners have developed a range of informal and formal approaches to holding their chief constables to account, both in private and in public, for the delivery of policing. The relationship between both parties has to balance an open and constructive approach with robust challenge where necessary. Commissioners must continue to guard against the inherent risks of the new governance model by ensuring decision-making is as transparent as possible, and avoid any temptation to interfere in the operational independence of chief constables in accordance with the Policing Protocol. Indeed, commissioners and chief constables should regard the Policing Protocol as the foundation on which their relationship is based, and training on it should form part of the induction period we have proposed for PCCs. Behind the new accountability framework lies the power of PCCs to fire their chief constable. Whilst the Stevens Commission concluded that this power risked having a chilling effect on the decision-making of chief constables, the evidence we received does not support this assertion. (Paragraph 67)

The process for the removal of a chief constable

16. The removal of a chief constable should follow due process. It is clear to us that there are a number of ways in which the procedure of removing a chief constable can be improved to promote greater public confidence. We recommend that the Home Office bring forward proposals to amend the powers of commissioners to suspend or remove chief constables under Section 38(2) and 38(3) of the Police Reform and Social Responsibility Act 2011 by stipulating the grounds on which they may do so. The Home Office should also provide guidance to commissioners on the use of their powers in both respects. In the case of a suspension there should also be a clear system of safeguards similar to those which guide suspension in respect of conduct. (Paragraph 75)

17. We are concerned that commissioners can side-step the statutory scrutiny process set out in Schedule 8 to the 2011 Act for the removal of a chief constable by simply threatening to use it. Accordingly, we recommend that police and crime panels inquire and report into the circumstances whenever a chief constable's service is brought to an end irrespective of whether the Schedule 8 scrutiny process is formally engaged. (Paragraph 76)

18. It is also not right that the statutory scrutiny process can be side-stepped where a chief constable is close to the end of their contract, and the commissioner chooses not to agree an extension. We recommend that the Home Office bring forward proposals to extend the Schedule 8 process to include scrutiny by the police and crime panel in such instances to bring it in line with the process for the removal of a chief constable. (Paragraph 77)

19. We have recommended earlier in this Report the need for a period of training for new commissioners before they take office. We believe that instruction in respect of their duties under the 2011 Act, the Police (Conduct) Regulations 2012, and other relevant employment law would form a useful aspect of that training period. Finally, we recommend the Home Office, HMIC, CPOSA, and the Association of PCCs work together to develop a third party mediation process that commissioners and chief constables can refer to when their relationship breaks down. Training on this process should also be included in the induction period for new commissioners. (Paragraph 78)

The developing role of police and crime panels

20. Effective scrutiny by police and crime panels relies on creating a constructive working relationship with the commissioner in which the panel acts as a ‘critical friend’. However, many panels have to date struggled to understand their powers and define their role. Indeed, one former member of a police and crime panel described it as “a crocodile with rubber teeth”. In short, they need to conduct themselves less in the style of the former police authorities, and operate more in the mode of select committees. We recommend that the Home Office provide fuller guidance to panels on their role and remit, and how it relates to commissioners. We also recommend that the Local Government Association consider further ways to develop the sharing of best practice between panels. The political balance on panels is also a concern to us, and so we recommend that, where possible in the future, if the chair of a police and crime panel is from the same party as the commissioner, then the panel should consider appointing a deputy chair who is not from that party. (Paragraph 87)

Strengthening the role of panels

21. The Government’s intention was for commissioners to be held to account by the public with police and crime panels providing ‘light touch’ scrutiny. But the low turn-out for the PCC elections and, the lack of a formal ‘Opposition’ between elections, inevitably places a greater emphasis on the role of panels in scrutinising commissioners. (Paragraph 92)

22. To allow panels to conduct more proactive scrutiny, we recommend that the Home Office brings forward proposals to amend the Elected Local Policing Bodies (Specified Information) Order 2011 to require commissioners to publish a forward plan of key decisions, where these are known in advance, and to publish background information on each decision when it is made. The Home Office should also produce accompanying guidance for commissioners on what constitutes a decision. We further recommend that the Local Government Association and the Association of PCCs agree a protocol on the timely provision of information to panels generally, but with particular

reference to the precept-setting process, to enable more effective scrutiny by panels. In this area, we also recommend that the Government does not again delay confirmation of police funding to such a late stage as last year, with the Autumn Statement not taking place until December. Finally, we recommend that the Local Government Association undertake in-depth research on panels' experience to date on complaint handling, so that it can make recommendations to the Home Office on how the process should be improved. (Paragraph 93)

Panel resources

23. If police and crime panels are to play a stronger role in proactively scrutinising commissioners they need to be resourced accordingly in a way that is sustainable. We recommend the Home Office and Local Government Association undertake research to estimate the actual cost of support for panels to date to determine a more realistic level of funding. We further recommend that to provide long-term certainty, in the future, such funding should come from the police precept. (Paragraph 95).

7 July 2014

Appendix 2: LGA press release

EMBARGO: 00.01 Monday 5 May 2014

CONTACT: Local Government Association Media Office, 020 7664 3333.

LGA RESPONDS TO HASC REPORT ON POLICE AND CRIME COMMISSIONERS

Responding to the Home Affairs Select Committee report on Police and Crime Commissioners, Cllr Joanna Spicer, Vice-Chair of the Local Government Association's Safer and Stronger Communities Board, said:

"Councils have warned that a lack of clarity about the role of Police and Crime Panels can hinder them from fully holding their PCCs to account. We are pleased the Committee has listened to our concerns and recognised the need for further guidance and funding which will strengthen the role of PCPs.

"We agree that PCCs and panels will benefit from clearer rules over what constitutes a decision of 'significant public interest' to avoid the confusion and disagreement that exists about what should be scrutinised.

"Requiring PCCs to publish their forward plans will also allow panels to engage in policy development and budgets from the outset. These changes would make it easier for panels to hold their PCCs to account and ensure they are responding to resident priorities and working with councils, the fire and health services and probation to fight crime."

ENDS