



## **Mid Term Vacancy in the Office of the Police and Crime Commissioner**

### **Introduction**

1. The relevant legislation is the Police Reform and Social Responsibility Act 2011 (PRSR) and Policing and Crime Act 2017 (PCA). Experience of the effectiveness of the primary legislation in the light of two PCC by-elections indicated there was a need to amend the legislation to provide additional flexibility to the arrangements.

This is a Joint Protocol between the Avon and Somerset Police and Crime Panel (the Panel) and Office of the Police and Crime Commissioner for Avon and Somerset (OPCC) to ensure processes run as effectively as possible in the event of a mid-term vacancy.

### **Key Responsibilities**

2. In the event of a by-election, the Panel has a responsibility to appoint an Acting Police and Crime Commissioner (Acting Commissioner) until a by-election is held. It is a requirement of the Act that the Panel may only appoint a person as Acting Commissioner if they are a member of the Commissioner's staff at the time of the appointment.

### **When does a vacancy occur?**

3. In the case of resignation, on receipt of the notice of resignation by the appropriate officer. In the case of death, on the date of death (other scenarios are outlined at Chapter 6 Section 59 of the PRSRA).

### **What is the Panel's duty?**

4. The PRSRA states that the Panel must appoint a person to act as Police and Crime Commissioner (Commissioner) for that area if no person holds the office of Commissioner for that area, or if the Commissioner is incapacitated or suspended.

### **What is an Acting Commissioner?**

5. An Acting Commissioner can do everything required of a substantive Commissioner, other than issuing or varying a Police and Crime Plan. The post of an Acting Commissioner

continues until the announcement of a new Commissioner following an election, or if the Acting Commissioner resigns.

### **Who can be appointed?**

6. The original legislation indicated that a Deputy Police and Crime Commissioner's (Deputy Commissioner) term of office did not extend beyond that of a Commissioner. It was therefore unclear if that person could be appointed as Acting Commissioner if a vacancy arises.

The PCA 2017 (Part 5 paras 121-123) amended the primary legislation to ensure that the Deputy Commissioner would be eligible. It extends the term of office of a Deputy Commissioner so that, in the event of a vacancy occurring (through death or resignation), their term automatically ends upon a new Commissioner taking office rather than upon the former Commissioner ceasing to hold office. This enables a Deputy Commissioner to be appointed as the Acting Commissioner.

In summary, where there is a Deputy Commissioner in post and it is appropriate to do so, the Panel may appoint the Deputy Commissioner to the role of Acting Commissioner pending the outcome of a by-election.

- 6.1 In a scenario where a Commissioner leaves office mid-term (for whatever reason), the Deputy's term of office will run until the arrival of the newly elected Commissioner, whereupon it will automatically terminate. This will remove the statutory obstacle to the Panel appointing the Deputy as Acting Commissioner. The new Commissioner will then be free to determine whether they wish to re-appoint the existing Deputy, replace them or discontinue the post entirely.
- 6.2 Should the Deputy Commissioner not be considered appointable as Acting Commissioner (for whatever reason) the OPCC Chief of Staff (CEO) or Chief Finance Officer can be appointed to the role. It should be emphasised that their statutory roles would need to be reallocated.

The option of formally appointing someone to the staff on a short-term basis in order to carry out the role would not appear to satisfy the legal requirement which states that all staff within the Commissioner's office (other than a Deputy) are to be appointed on merit. It would be arguably difficult to appoint rapidly and be able to demonstrate that this requirement has been met.

### **What timescale is required?**

7. The legislation appears silent on the issue of timescales.

## **What process does the Panel have to follow?**

8. The legislation is not prescriptive. Unlike a Confirmatory Hearing, there is no specific requirement for a meeting to be held or for the proposed Acting Commissioner to attend a meeting.

## **By-Election Process**

9. The process of setting an election date will be a concern. The PRSRA states that the date fixed must be not more than 35 days after the relevant event (working days). Notice should be given to the Police Area Returning Officer at the appropriate time but too hasty an election will inevitably mean a low turnout.

## **Best Practice**

10. An early meeting between the Chair and Vice-Chair, Chief of Staff, Panel Lead Officer, the Chief Constable, and representative of the Police Area Returning Officer (PARO) will be invaluable in understanding needs and identifying key officers.
  - 10.1 On-going communication between those officers and the Panel will be vital as options are explored and a timescale is agreed. An urgent meeting of the Panel should be called.
  - 10.2 There needs to be a swift understanding of who could be the Acting Commissioner and what their employment status will be.
  - 10.3 A press statement should be released as soon as possible.
  - 10.4 Although the election is a PARO responsibility, a collective message from all concerned may be considered useful.

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