

Power Down



A plan for a cheaper, more effective justice system

Max Chambers,
Ruth Davis
and Charlotte McLeod



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About the Authors

Max Chambers is Head of Crime and Justice at Policy Exchange. He leads the research team and manages all crime and justice projects.

Before joining Policy Exchange, Max worked for a leading welfare-to-work provider, where he was recruited to help establish and grow a new justice services division. As Commercial Development Manager, he led bids for payment-by-results contracts with the Ministry of Justice and as part of a major prison competition programme.

Prior to this, Max worked for Policy Exchange as Senior Research Fellow, authoring seven influential reports on police reform and criminal justice, and regularly appearing as a commentator in the national media.

Max has also worked in Parliament for the Shadow Justice and Home Affairs teams. He read law at the University of Nottingham.

Ruth Davis is a Research Fellow in the Crime and Justice Unit. She joined Policy Exchange from the Home Affairs Select Committee where she managed the Committee's work on borders and immigration, cyber crime and counter terrorism.

Prior to her role with the Committee she worked as a strategy consultant for Deloitte. She advised major public and private sector clients across a range of industries but specialised in defence and security. Ruth worked as an adviser to the Shadow Minister for Home Affairs and Counter Terrorism, Crispin Blunt MP. Ruth holds a Masters in international development and security from the University of Bristol and a BA in theology.

Charlotte McLeod was called to the Bar by The Honourable Society of the Inner Temple in November 2012, following completion of the Bar Professional Training Course at City Law School and LLB at Cardiff University.

Charlotte was previously the Development Assistant at Policy Exchange having joined the Development Unit in July 2012.

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Executive Summary

Despite the cutbacks of recent years, England and Wales still has one of the most expensive criminal justice systems in the world. Our overly-centralised agencies are too often run in silos, causing fragmentation at the local level and, in turn, generating high-cost and ineffective services. Many of the ‘customers’ of the criminal justice system are touched by a plethora of different agencies and government departments, but there is no clear strategic leadership locally that can cut through the duplication and solve the social problems that contribute to such high demand.

To tackle these issues, and deliver a cheaper and more effective response to crime, this paper proposes a strategy for a deliberate, steady decentralisation of the criminal justice system. It aims to offer a vision of a reformed landscape at the local level with stronger leadership and ownership, greater flexibility and innovation, and justice that is more efficient, effective and joined-up.

There are some who appear to suggest that the solution to our uniquely centralised and expensive criminal justice system (CJS) is simply to give away all powers to the local level now, regardless of practicality, local capacity or the risks to public safety. We do not agree.

However, we do believe that the election of Police and Crime Commissioners (PCCs) is a once-in-a-generation opportunity to change the balance of power in a system currently almost bereft of local control, financial responsibility or democratic accountability – and in doing so, reduce the costs of doing justice and deliver a better service too.

It is an opportunity that, despite November’s inaugural elections of PCCs, is yet to be sufficiently grasped by key government departments and agencies, many of which have struggled to meaningfully engage with PCCs so far. In many ways, this is understandable: PCCs are new, incongruent beasts and the temptation to simply revert to business as usual must be strong. But to miss the chance over the next few years to decentralise certain elements of the justice system by further developing the PCC role would, we argue, be a mistake.

The instinct to ‘loosen the reins’ does not always come naturally to the centre. So we are convinced that the Government must form a strategic view about how to consciously develop and expand the role of the PCC in the CJS over the medium term. It should be shared and agreed across departments – especially the Home Office and the Ministry of Justice – and it should inform all key policy decisions taken from now on.

In developing this suggested strategy, we have tried to give shape to various aspects of government policy, including on prisons, youth justice, probation, and reforming the operating model of the criminal justice system. Our recommendations build on the significant potential of emerging policies to set out a new vision for local justice systems that are more self-contained, coherent and effective.

Our strategy is based around a ‘tight/loose model’, whereby there is tight control over major government objectives, complemented by much looser or decentralised discretion over the ways in which those objectives are achieved. In this way, the measures we propose are intended to command the confidence of those at the centre, as well as the local recipients of new responsibilities.

We are not calling for wholesale change overnight. Instead, we set out a steady process that would mean that, as PPCs become more experienced, they would, over time, become:

- More influential and dynamic in national policy-making.
- Afforded greater discretion to shape national initiatives.
- Offered the opportunity to opt-out of national contracts at an appropriate juncture.
- More able to define and lead key local criminal justice pilots and initiatives.
- Empowered to define stronger local, strategic relationships and drive effective partnership working.
- Given the power to set local criminal justice strategy and performance-manage CJS agencies.
- Able to directly commission some key services to cut crime, informed by local needs.
- Offered the flexibility to invest in new services by raising local revenue.

We end the paper by asking bigger, longer-term questions about the development of PCCs, including examining their potential expansion into other areas of social policy and the public safety sphere.

Our proposals

While PCCs have a valuable suite of powers in the policing realm, they do not yet have the requisite tools for effecting change in the wider criminal justice system. In considering how they might be given a set of formal levers to do so, we have considered a range of financial, accountability, partnership, performance management, procurement and leadership mechanisms.

The ultimate ambition for our proposals is not that PCCs become executives or ‘managers’ of services, but instead increasingly assume a role similar to that of a ‘Minister for the local criminal justice system’ – with the political power to set the agenda, hold agencies within his/her purview to account for performance and enact reforms to ensure a more efficient and effective system at the local level.

Instead of local leaders looking upwards and inwards to Whitehall for direction and validation, they should increasingly look outwards to each other and downwards to the citizens they serve. In doing so, the system will see reduced duplication, stronger coordination and the administration of cheaper, better justice.

The three stage process of decentralisation we envisage starts with giving PCCs the power to influence the people, agendas, performance and coordination of the criminal justice system at both a national and local level.

Once PCCs are given the tools to allow them to work effectively within the wider ecosystem (and have successfully got to grips with their new powers), the second stage of the strategy would see them becoming more financially

responsible for the wider system – both for holding and commissioning with certain criminal justice budgets, and perhaps having greater ability to alter the levels of demand created within their local areas.

In the long term, this could be buttressed by a new revenue-raising power to allow PCCs to invest in or expand key elements of their local justice systems.

1. More power to PCCs

We outline a series of steps that in the short to medium term would give PCCs the power to:

- Play a role in appointing the local leaders within the various criminal justice agencies.
- Set a joined-up strategy for local criminal justice agencies.
- Performance manage certain aspects of agencies' activities, driving locally joined-up justice.
- Hold key criminal justice agencies to account for performance in a variety of public and private settings.
- Lead the coordination of criminal justice and wider community safety partnership activity.
- Introduce direct financial incentives to reduce criminal justice demand, helping to compel local agencies to take action.

These local steps would be complemented by a stronger collective role for PCCs in influencing national policy-making and procurement exercises.

2. Greater budgetary control and financial responsibility

The second, medium term stage of the decentralisation strategy includes steps to give PCCs:

- More choice in determining the shape of local services, including the ability to buy services on a call-off basis, coupled with greater use of central framework contracts.
- Fuller responsibility for playing a commissioning role within certain criminal justice services, including youth justice.

3. More control of revenues

Finally, the Government might, in the long term, look to expand the remit of the Police Precept, so that it becomes a Police and Justice Precept, offering local areas the flexibility to invest in new services or expand specific elements of criminal justice.

At the same time, local areas might be afforded greater ability to generate income and maximise revenue, which could be retained locally – for example, through funds recovered via the Proceeds of Crime Act or by charging offenders for the use of courts or other elements of criminal justice or policing provision.

Realising the vision

The steps we outline in this report should happen over a period of years, as PCCs develop the necessary experience, capability and infrastructure for taking on

additional responsibilities. Primarily, they are (and should remain) politicians, not administrators or managers. They should remember that their principal role is to identify and meet the policing and public safety needs of the local community. Given this, we recognise that realising the vision of an expanded role will depend very much on the support that PCCs are able to create for themselves at the local level.

This means that PCCs must not be squeamish about hiring the experts in policy, finance, commissioning and operations that they will need to do a good job, and allow them to focus on translating those public priorities into reality.

It also means Government taking steps to reset the terms of debate over PCCs. PCCs are not Police Authorities, so comparing PCC office costs with Police Authority costs to defend the policy is likely to constrain PCC development and perpetuate a misunderstanding of the new role.

While the changes we outline should happen progressively, the selection of a number of 'Trailblazer' PCC sites – in which the implementation of these steps can be accelerated – would be very valuable. So we recommend that the Government initiate a process to allow a number of 'Super' PCCs to put themselves forward, and be selected, to become Trailblazers with a new suite of powers in the CJS and public safety arena.

At the same time, the Government should begin to ask wider questions about how best to take advantage of the creation of increasingly powerful, directly-elected local officials with large budgets, significant powers, and stronger clout at the national level.

The possible long-term evolution of PCCs

We outline a series of possible areas of wider business into which PCCs might expand, as part of a considered plan to further develop their role. This includes:

- New responsibilities for areas of social policy that impact on crime, including problem families, early intervention work and mental health services.
- Additional responsibilities for other parts of the public safety sphere, including fire and ambulance services, and civil contingencies coordination.

Why this matters now

It is a crucial time to be considering the future of PCCs. Over the next two years, every major political party will want to consider their approach to police accountability and criminal justice reform ahead of the next election. When it comes to PCCs, policymakers can either choose to reverse, stand still or go forward.

Going backwards and recreating the old Police Authorities (or anything that looks or feels like them) would be a retrograde step. Standing still – and leaving the PCC simply 'man-marking' the Chief Constable and police force – would prevent PCCs from fulfilling their promise or realise the potential of the 'and crime' part of their role. The further development of PCCs is the right option and now is the right time for government to begin shaping an ambitious and well-

designed strategy for the deliberate decentralisation of the criminal justice system – with the PCC as the focal point.

In the wake of recent failures to expand significantly the number of City Mayors, it is also a good moment to begin asking questions about the future of the localism agenda. In ten years' time, perhaps PCCs could have evolved into Public Safety Commissioners, or even local Mayors themselves. To achieve this, and build on the local democratically-elected roots that have been laid down, will require government to be clear-eyed about the shared vision and then to act strategically and with purpose to make it a reality.

1

Introduction

This paper aims to do three simple things:

- Argue that the reforms which created the role of the Police and Crime Commissioner (PCC) are not yet complete, and that a second stage of reform is required if they are to fulfil their potential.
- Outline a coherent strategy for reforming our over-centralised criminal justice system (CJS), with the PCC as the focal point for a more locally-integrated and accountable system.
- Initiate a wider debate about how the role of the PCC may evolve beyond the criminal justice system in the future, and how government might begin to make it happen.

In drafting the report, we have consulted with Police and Crime Commissioners and their advisers, and have had a series of conversations with various officials, academics and other stakeholders.

2

Why We Need Further PCC Reform

Background

Police and Crime Commissioners have had a difficult birth. Elections held on a dark day in November produced a national turnout of just 15% – lower than for European or council elections – compounding the Government’s failure in the run-up to properly explain and promote the new roles.

Almost nine months later, the national narrative remains negative. Many problems with PCCs have been self-inflicted, including a number of embarrassing expenses revelations,¹ criticisms of perceived political cronyism² and a high-profile blunder when one PCC appointed, and subsequently sacked, a teenaged adviser.³

Most recently, the PCC in Gwent has been criticized for allegedly demanding the resignation of his Chief Constable. Despite the fact that under the old system an invisible Police Authority would have made such decisions without comparable public scrutiny, the Home Affairs Select Committee has since announced that it will conduct a “full inquiry” into PCCs’ roles later this year.⁴

Policy Exchange has long advocated the introduction of direct, democratic accountability for police forces – with reports calling for the introduction of Police Commissioners in 2003,⁵ 2007⁶ and 2009,⁷ and a 2005 report which successfully called for greater powers for the Mayor of London over policing and public safety.⁸

It is worth repeating why we have done so. Local policing in England and Wales was in desperate need of democratic renewal. Two decades of Home Office micromanagement had undermined public confidence in the service and weakened the historic bonds between the police and the communities they served, placing severe strain on the Peelian principle that “the police are the public, and the public are the police.” And a generation of officers had entered the service working towards centrally-imposed targets rather than community priorities.

Despite the early personnel and expenses focus of the media, many PCCs are already making a real difference on the ground – taking important decisions about the future of policing and renewing the relationship between the police and the public.

It is far too early to make definitive judgments about the quality or record of particular PCCs, or indeed the policy overall. Inevitably, there will be success stories as well as failures. However, it is not too early to begin to ask questions about the future evolution of the PCC role.

1 www.bbc.co.uk/news/uk-northern-ireland-22220707

2 www.telegraph.co.uk/news/uknews/law-and-order/9728959/Fears-of-cronyism-as-police-commissioners-appoint-deputies.html

3 www.bbc.co.uk/news/uk-england-kent-22636806

4 www.guardian.co.uk/uk/2013/jun/14/police-crime-commissioners-role-gwent

5 *Going Local*, Barry Loveday & Anna Reid, Policy Exchange 2003

6 *Fitting the Crime*, Jonathan McLory & Gavin Lockhart, Policy Exchange, 2007

7 *Partners in Crime*, Max Chambers, Policy Exchange, 2009

8 *Manifesto for the Met*, Mark MacGregor, Policy Exchange, 2005

PCC powers

PCCs were conceived as locally-elected representatives responsible for setting the strategy and objectives for the police force in their local area, holding the police to account for their performance and maintaining efficient and effective forces. They have the power to:

- Decide on the budget for the force and set the police precept
- Appoint the Chief Constable
- Hold the Chief Constable to account for the performance of the force and behaviour of its police officers; and
- Remove the Chief Constable subject to due process

They also act as the link between communities and the police, and are required to publish all data they believe is important for local communities to assess the performance of police in their area.⁹

PCCs have also been given new commissioning responsibilities for specific areas of community safety and criminal justice services. This includes the victims' services budget, some elements of crime prevention within the youth offending services' budget, and responsibility for commissioning drug and alcohol treatment services.

The original vision for PCCs in the criminal justice system

PCCs were deliberately called Police and Crime Commissioners, not Police Commissioners. Accordingly, the Government had set out a strong vision of the role it saw PCCs playing in the wider criminal justice system. In its White Paper, *Swift and Sure Justice*, published in 2012, the Ministry of Justice said:

“The introduction of Police and Crime Commissioners will transform not just policing, but also the landscape of the wider criminal justice system. Critically, Police and Commissioners will be locally elected and, given the size of the force areas at which they are elected, they will have a sizeable public mandate. Police and Crime Commissioners provide an opportunity to galvanise joint working across the criminal justice agencies and to increase the transparency of criminal justice services.

We will be encouraging Police and Crime Commissioners, the police and their partners in the other criminal justice agencies to work together to reduce crime and reoffending.”¹⁰

But while PCCs were bestowed with a suite of policing powers, they do not yet hold meaningful levers for effecting change in the criminal justice arena. While criminal justice agencies have a duty in law to cooperate with the PCC, and PCCs theoretically have a mandate for implementing their manifestos, PCCs have no formal levers for compelling agencies to act. In other words, there is somewhat of a mismatch between their remit and their powers.

In practice, their role in the criminal justice arena is limited to a potentially powerful, but essentially nebulous, convening power. As a result, their success in the local criminal justice space will depend very much on force of personality, the vagaries of local politics and the willingness of local partners to engage with – and be influenced by – the PCC.

⁹ The Policing Protocol, p3

¹⁰ *Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System*

The interviews we have conducted with PCCs as part of this report reveal that there is a perception that the Government is not yet doing enough to make a reality of the ‘and crime’ aspect of their role – and that a lack of wholehearted support from the centre is compounding local barriers to PCCs’ involvement in the criminal justice system.

The impatience that PCCs are showing in wanting to become more heavily involved in the criminal justice system is encouraging – and as time goes on, they will be keen to demonstrate to government that they are capable, able experienced and experienced enough to do so.

At the moment, however, there are barriers to even building up PCCs’ experience in the CJS. For example, we are aware of a number of PCCs who are being prevented from even being part of, let alone leading, their local criminal justice boards (LCJBs) – the key forum for coordinating action between the different agencies at a local level. This appears to be largely due to a mixture of local politics and/or territoriality, and is exacerbated by a lack of compulsion from the centre for key agencies to include PCCs in these partnerships.

Part 2 of this report will outline the potentially crucial role PCCs could play in integrating criminal justice delivery, but also in addressing the local accountability deficit.

“The impatience that PCCs are showing in wanting to become more heavily involved in the criminal justice system is encouraging”

PCCs as part of the national landscape

Policing and justice agencies will always exist in a state of relative conflict, given the demands placed by each on the other; some agencies are charged with locking criminals up, whereas the others let them out. But in addition to this inherent structural issue, a number of government policies appear to be at odds with each other.

On the one hand, the Home Office has taken steps to significantly strengthen the local leadership of policing. The creation of PCCs and the abolition of central policing targets has, at a stroke, localised the management oversight of and strategic responsibility for police forces.

However, at the same time, the Ministry of Justice remains a centralised government department, with the agencies it governs still overwhelmingly directed from the centre, with little infrastructure or capacity for local leadership or governance.

There are early signs that, despite the introduction of PCCs, their role as local criminal justice leaders is in danger of being constrained:

Procurement of Electronic Monitoring: This national tender, valued at £3 billion, will be let imminently and is due to run for the next nine years. Many PCCs would have preferred a more local approach to the provision of electronic monitoring, allowing for greater flexibility and choice over its use. For example, many PCCs want to exploit the potential of GPS tagging for specific crime reduction purposes, as well as the conventional enforcement-centred approach dictated by judge-issued curfews and restrictions.¹¹

Criticising the lack of PCC involvement in its design, Olly Martins, the PCC for Bedfordshire, wrote a letter signed by 26 other PCCs calling for “greater use of

¹¹ See Policy Exchange’s report *Future of Corrections* for more detail

compulsory GPS tagging but within a localised PCC-led framework.”¹² Martins cited Policy Exchange research that had called for a more localised approach as part of creating a more competitive and diverse marketplace.¹³

This procurement process had begun long before PCCs were elected and had already been delayed for a year, so a dramatic about-turn and new approach to competition could fairly be said to have been impractical. But the dispute does illustrate that PCCs could, in future, be afforded much greater discretion over this sort of procurement exercise and be able to choose their own approaches locally where they have a credible plan to do so.

Outsourcing of probation: The Government is about to begin the process of outsourcing around 80% of probation work to the private sector, as part of bold reforms to introduce payment-by-results to rehabilitative services and to extend supervision of prisoners to offenders sentenced to fewer than 12 months in custody.¹⁴

The plans, which also involve centralising the remaining public-sector element of probation which is not being outsourced (creating a new National Probation Service), were drawn up in the months prior to the election of PCCs. Substantial early consultation with PCCs was therefore not feasible. However, during the consultation process, a number of PCCs have raised concerns about the plans.

The proposals have been much improved in respect of the PCC role since the consultation. Not only have the number of proposed contract package areas been increased, ensuring co-terminosity with police force boundaries (and by extension, PCC boundaries), but PCCs have also been given greater influence in the competition process, a role in helping to integrate services locally and afforded the chance for proper engagement with payment-by-results providers throughout the reform process.¹⁵

Whether the reforms would have been designed in quite this way if PCCs had already been settled in post, and had been spent a number of years demonstrating their potential, is unclear. And while the Government’s updated probation strategy makes clear that PCCs could play a future role in commissioning these services themselves, in the meantime long contracts are being negotiated which will ‘lock-in’ the new provision for around seven years.

Both the electronic procurement and probation reforms indicate that in the coming months and years, as PCCs establish themselves, a less cautious approach to PCC involvement in key initiatives would be very beneficial.

The need for a clear and shared vision in government

These tactical issues can largely be explained by the fact that PCCs are new. But they are driven, in part, by a strategic problem. It is apparent that there is not yet any real clarity within the Government as a whole about the importance to attach to the PCC role, nor how its relationship within the criminal justice system (and more widely) should evolve over time.

Of course it is early days, but PCCs’ inability to compel action or influence strategy at the local level is in danger of being compounded by developments nationally if, in future, policy is made without proper reference to or consultation with PCCs and national contracts are negotiated without their full involvement.

12 www.bedfordshire.pcc.police.uk/wp-content/uploads/2013/05/049-Tagging-Overcharging-Scandal-.pdf

13 *Fitting the Crime*, Policy Exchange, 2012

14 *Transforming Rehabilitation: A revolution in how we manage offenders*, Ministry of Justice, January 2013

15 *Transforming Rehabilitation: A strategy for reform*, Ministry of Justice, May 2013

Government departments have so far struggled to engage meaningfully with PCCs – perhaps mostly because they are such a recent innovation, but also perhaps because they are not yet able as institutions to come to terms with the incursion into its territory that they represent.

At the moment, departments can be forgiven for continuing as if it was ‘business as usual’, because PCCs have only been in office for six months, and they are relatively incongruent figures with a range of different priorities and policies.

However, it is critical that the Government – and particularly the Home Office and the Ministry of Justice – set out a shared vision and strategy for the future of PCCs. Without it, the PCC reform may come to drift aimlessly, threatening not only the expectations surrounding the transformative potential of the role, but also the future existence of a strong leadership and local accountability mechanism within the policing and justice landscape.

PCCs should be seen as an opportunity, not a threat; while their creation certainly represents a challenge to the hegemony of some agencies within the Ministry of Justice and the Home Office, the potential for PCCs to integrate criminal justice services at the local level represents a huge prize for making the system cheaper and more effective.

A deliberate decentralization of power

A central part of any shared vision for the future development of PCCs should be a deliberate plan for the short, medium and long-term decentralization of the criminal justice system.

We do not propose an unrealistic wholesale or immediate devolution of power and resources, but have a rather more modest, hard-headed ambition to shift the balance of power in a system that is currently skewed too far in favour of central government.

Such a change in the balance of power should be achieved steadily – especially given that PCCs are still maturing and developing their capability, infrastructure and experience. So the strategy we set out in the next chapter has been designed to give confidence to the centre – especially in relation to its ability to set broad outcomes and retain tight control of certain elements of policy and delivery.

Academic evidence indicates that there are three key dimensions of decentralization:

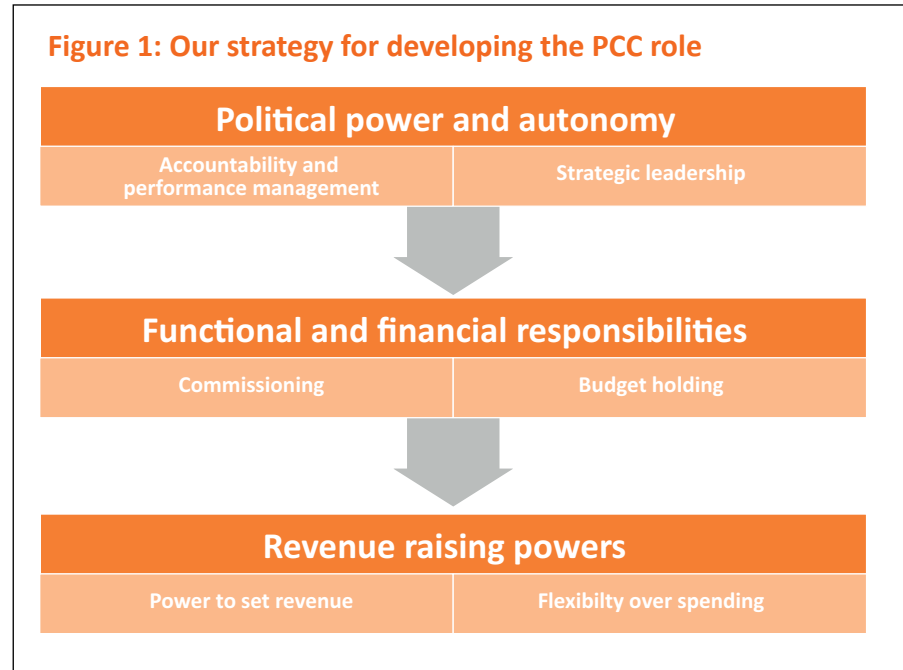
- Accountability and political autonomy
- Functional and financial responsibility
- Access to revenues¹⁶

In our proposed strategy, we address each of these in turn. The first, shorter-term stage of the strategy focuses on the power relationships at a national and local level, with specific reference to accountability, autonomy and performance management. Until PCCs are afforded the power to hold local criminal justice leaders to account, influence strategy and play a leadership and integration role within local partnerships, there can be no sense in devolution of financial or budget-holding responsibilities.

Once PCCs are given the tools to allow them to work effectively within the wider ecosystem and have successfully got to grips with their new powers,

¹⁶ Decentralisation Strategy
Design: Complementary
perspectives on a common
theme, Ronald W Johnson,
Research Triangle Institute, 1995

the second part of the strategy would see them becoming more financially responsible for the wider system – both for holding and commissioning with specific criminal justice budgets, and for the levels of demand created within their local areas. The third stage of the strategy would see these additional financial responsibilities buttressed by a new revenue-raising power to allow PCCs to invest in or expand key elements of their local justice systems.



At the end of the process, every PCC would:

- Be more influential decision-makers, with a stronger collective voice.
- Have the discretion to choose solutions that best accord with local priorities and needs.
- Be able to drive more effective partnership working at the local level.
- Have the power to set joined-up local criminal justice strategies.
- Be able to tackle poor performance by criminal justice agencies.
- Be more accountable for levels of criminal justice demand.
- Have greater flexibility to invest in new services and pioneer successful crime reduction initiatives.

3

A Strategy for Decentralising the Criminal Justice System

Why decentralised power?

Whether one examines the accountability mechanisms, management structures or performance management regimes of the Crown Prosecution Service, Prison Service, Probation Service, or Courts and Tribunals Service, it is hard not to conclude the same thing: there is too little control or discretion at the local level, and too much direction and compulsion from the centre.

Although there are a number of financial and operational benefits to centralisation, the negative consequences – from the erosion of professional discretion and autonomy to the lack of transparency and fragmentation of services – are significant. Numerous efforts to create a genuinely ‘joined-up’ justice system are failing because government departments have been trying to integrate services at the centre, rather than at the local level where it would make a real difference to operational decisions and working practices.

Centralised versus decentralised systems

There are clearly many situations where centralised decision-making can deliver real benefits. It was, in fact, the penal reform lobby who pushed for centralising the prison system in the 19th century, arguing that only greater coordination and management at a national level could drive up standards and make prisons more decent, humane places.¹⁷

Equally, there can be little doubt that having 35 Probation Trusts is far more efficient than the 478 probation areas that were operating in 1936.¹⁸ And it is clear that in recent decades, a degree of central coordination and direction has made a positive impact on key issues of public concern, such as prison escapes, serious offences committed by people under probation supervision and miscarriages of justice.

¹⁷ The English Prison Officer since 1950: A study in conflict, JE Thomas, 1972

¹⁸ Jarvis (1972), Morrison Committee, Annual Probation Reports

Figure 2: Factors leading to centralisation, with criminal justice examples¹⁹

Factor	Example
Decisions requiring knowledge of central information, that it is not practical to transfer, an understanding of the needs of the system overall, or knowledge of a number of different organisations and non-localised tradeoffs	Resource allocation such as setting the overall prison budget and planning for future prison capacity requirements
The need for accountability for key judgements to remain clearly with the democratically elected government	Whether people should be prosecuted for assisting others to commit suicide
The need for the government to manage processes closely in order to manage risk more directly	Standardising measures to prevent prisoner escapes or respond to prison riots
Decisions where it is possible to achieve economies of scale	Rationalising key back-office functions such as HR, Finance and IT
Decisions where it is possible to achieve economies of scope	Spreading best practice for reducing reoffending
The need for coherence and coordination across the public sector	The ability to lead key policy initiatives and take strategic decisions
The need for uniform and consistent national standards and guidelines	The humane and decent treatment of prisoners

However, while there are some benefits to centralised decision-making, there is evidence that *over-centralised* systems can stifle innovation and flexibility, result in a lack of awareness of local needs and priorities, and can lead to the creation of silo-ed agencies with conflicting or competing objectives. Sucking up power to the centre also leaves a chasm of local leadership and a loss of local capacity which reinforces itself over time.

It is this report’s contention that the balance of power in the criminal justice system is currently skewed too far towards the centre, and that a rebalancing of power would reap a range of benefits, including:

- creating a more responsive criminal justice system, better attuned to local needs;
- driving joined-up justice through the integration of working practices;
- reducing costs by enabling the various criminal justice agencies to shed central bureaucracy;
- giving front-line practitioners more room for manoeuvre, leading to better job satisfaction and higher rates of staff retention; and
- ensuring local politicians are more responsive and accountable to local people.

The Government’s 2012 White Paper, *Swift and Sure Justice*, summed up the consequences of our overly-centralised criminal justice system, as described by the professionals working in it:

19 Adapted from *Striking a Balance: Centralised and Decentralised Decisions in Government*, Natalie Brady, New Zealand Treasury Working Paper, 2002

- “No one is accountable for the end-to-end outcomes. The agencies operate in silos, each with their own objectives, priorities and internal accountabilities;
- The agencies have focused on meeting the expectations of Whitehall, chasing central targets, and they do not properly engage with or reflect local priorities; and
- Heavy-handed targets, and centralised management and reform programmes have stripped professionals of their discretion, and have turned criminal justice into a box-ticking exercise.”²⁰

These problems run deeply through the culture, incentives and organisational structures of each of our criminal justice agencies. Policy Exchange believes that the PCC can play a key role locally in integrating services and ensuring that the focus is shifted towards outcomes that matter for the citizen, rather than outputs that matter just to the bureaucracy.

There are a number of components to decentralising the criminal justice system by enhancing PCCs’ powers. There is a clear need to generate greater long-term, strategic clarity around the PCC role at a national level, but there are also a number of more tactical ways that PCCs’ perspectives and interests could be injected into national policymaking and procurement processes.

Locally, there are a number of crucial avenues for rearranging the hierarchy of local relationships, cutting through the plethora of partnership structures and allowing PCCs to expand their influence over key criminal justice agencies and agendas. This is all part of ensuring that PCCs can help to integrate the existing fragmented agencies and make a reality of ‘joined-up justice’.

Phase 1: Accountability and leadership

National: Strategy, policymaking and procurement

Strategy

We are convinced that it will require sustained dialogue and strong leadership from both the Ministry of Justice and the Home Office to ensure that the PCC role is properly protected, promoted and developed. To that end, we recommend that the Government forms a permanent “PCC Strategy Board”, made up of the relevant Directors in the Home Office and Ministry of Justice, a Treasury Director, a Cabinet Office Director, a number of PCCs and a small number of outside experts.

The Board would have a small secretariat, meet monthly and report directly to Ministers, including the Policing and Criminal Justice Minister, the Secretary of State for Justice and the Home Secretary. The Board would need to be far more than a discussion forum – actively devising, recommending and then implementing a range of steps for developing the PCC role. The PCC Strategy Board would:

- Coordinate a cross-government strategy for the evolution of PCCs
- Review emerging and existing policies and their effect on PCCs
- Plan and oversee a staged devolution of power to PCCs and their offices; and
- Maximise PCCs’ role in driving down costs in the criminal justice system

Before the Board is formed, the Government should publish a joint document that sets out a vision for the evolution of PCCs, primarily focused on the criminal

20 Swift and Sure Justice: The Government’s Plans for Reform of the Criminal Justice System

justice arena, but also encompassing public safety and health services. It should be drafted with the input of PCCs and agreed between the Ministry of Justice, Home Office, Treasury and Cabinet Office.

The successful implementation of the PCC Strategy Board's agenda would be enhanced by a facilitated process allowing a small number of PCCs to act as outriders for the further devolution of powers outlined in the rest of this paper.

PCCs who wish to 'blaze a trail' and receive new responsibilities more quickly would be afforded the opportunity to volunteer themselves and these sites would become test-beds for the future development of their role. We therefore recommend that the Government enable the creation of a small number (perhaps around 10) of Trailblazer PCCs.

At the forefront should be the Mayor's Office for Policing and Crime (MOPAC) in London, which is by far the most mature infrastructure for police governance and criminal justice coordination in existence, by virtue of the Mayor of London's more established role in holding the Metropolitan Police Service to account.

There are immediate opportunities for MOPAC. For example, the Government has recently announced that it will be investing £160 million to digitise the country's courtrooms.²¹ This will include providing:

- Wifi in the majority of 500 court houses so the prosecution, defence, judiciary and court staff can access all necessary court documents at the touch of a button and also access office systems from the courtroom, helping to prevent adjournments caused by missing information.
- Digital Evidence Screens so the defence and prosecution can present evidence digitally rather than relying on paper copies which can cause huge delays if lost or misplaced. The screens also allow CCTV footage and other video and audio evidence to be presented easily in court.
- New Court Presentation and Collaboration Software allowing prosecution, defence, and judiciary to navigate complex Crown court cases with ease.
- New funding for IT where needed, to increase digital working and reduce the use of paper in the system by the police and court system.

This money could be co-commissioned with MOPAC in London, which will enable it to take a more localised and tailored approach.

Co-terminosity

Many of the proposals outlined in the rest of this report would be more easily implemented if there was greater co-terminosity between police force areas and the structures of the wider criminal justice system. At the moment, there are 42 PCCs and police force areas, 21 planned probation and prison areas, 13 Crown Prosecution Service (CPS) Areas, and Her Majesty's Courts and Tribunals Service (HMCTS) is divided into seven regions.

A medium term aim for the Government should be to ensure that the structures of the criminal justice system more closely align with the number of PCCs. For example, between 1999 and 2011 there were 42 CPS areas, each with their own Chief Crown Prosecutor.²² If this system was in place today, PCCs would be in a much better position to meaningfully engage with the CPS on a 1-2-1 basis.

²¹ www.gov.uk/government/news/damian-green-digital-courtrooms-to-be-rolled-out-nationally

²² *In the Public Interest: Reforming the Crown Prosecution Service*, Karen Sosa, Policy Exchange 2012

An intermediate step might be for the Ministry of Justice, Home Office and Attorney General's office to issue joint Memoranda of Understanding (MOUs) to PCCs and local criminal justice leaders, setting out how they should work together – and in particular how best to deal with a situation where multiple PCCs will be seeking to influence the performance and responsiveness of a single leadership figure.

As the only area which currently has co-terminosity between police force, CPS, HMCTS, prison and probation areas, London and the Mayor's Office has a prime opportunity to showcase what can be achieved how local, joined-up leadership can deliver substantial benefits for communities.

Policymaking

It is also clear that the Government needs to do more to inject PCCs' perspectives into the policymaking process. While the PCC Strategy Board will be charged with identifying threats and opportunities in respect of existing and emerging policies, there is also a need for government departments to formalise a process of PCC consultation as policy is developed internally. PCCs should not be treated as just another stakeholder to be consulted with after the event, but instead should be 'front and centre' in the minds, processes and activity of policymaking teams.

We therefore recommend that key departments – especially the Ministry of Justice – direct officials involved with policymaking to formally consult with PCCs and the Association of Police and Crime Commissioners (APCC) as they undertake any work which may impact on PCCs, cut across their Police and Crime Plans, or otherwise constrain the future development of PCCs' role. This would clearly need to be take place at the appropriate juncture in the process, so as to prevent the political leaking of confidential material.

To help create the right environment for closer consultation, we recommend that a small number of PCCs should be selected by their peers (perhaps via a ballot) to become 'Privy PCCs', who would commit to engaging with Government on a confidential basis and help them to understand the PCC perspective.

In addition, we propose that a formal PCC Impact Assessment be produced (and routinely published) in conjunction with the Association of Police and Crime Commissioners (APCCs) for all major policy changes and legislation which may impact on PCCs.

Procurement

The recent tender for the electronic monitoring service illustrates both a potential future problem for the relationship between the centre and PCCs, but also an opportunity. When Government procures large national contracts in the criminal justice arena, or indeed contracts which are nationally procured but with a multitude of providers, these are likely to be relatively inflexible and prescriptive – amounting to an imposition of a solution without the involvement of PCCs

Just as PCCs must be involved in early and meaningful engagement as part of the policymaking process, they also need to be afforded the chance to shape national tendering exercises – especially those which could lock in inflexible arrangements for many years.

However, the Government could go further. Not only could PCCs be involved with decisions about procurement at a very early stage, but when the Government is still considering its competition strategy for a given service, they should also be

given the freedom to opt-out of the contract altogether at an appropriate juncture.

Our discussions with PCCs strongly suggest that they would benefit from having the ability to opt out of national procurement processes where they believe they can secure a more cost effective service or one that would be more beneficial to their community. We therefore recommend that an 'Opt-Out Option' becomes a mandatory design feature of all future national procurement exercises for the Home Office and Ministry of Justice.

Increasingly, in order to offer PCCs greater choice in the provision of local services, and to increase competitive pressures in the criminal justice marketplace, we also recommend that government departments should, where appropriate, make greater use of Framework Agreements. Framework Agreements would allow PCCs to commission services on a call-off basis, choosing from any qualified provider to provide the service.

Actions

1. Ministers to resolve to protect, promote and develop the position of the PCC.
2. Government to set up inter-departmental PCC Strategy Board.
3. Government to publish shared vision for evolution of PCCs.
4. Government to enable the creation of Trailblazer PCCs to act as outriders for future development of the role.
5. MOPAC to become a Trailblazer site, reflecting the maturity of the office, working relationships and associated infrastructure.
6. Ministry of Justice and Home Office to establish medium term aim of ensuring more co-terminous police and criminal justice structures and management.
7. Ministry of Justice, Home Office and Attorney General's Office to issue MOU to PCCs and criminal justice agencies to suggest ways of working together where there is no co-terminosity.
8. Ministry of Justice and Home Office to introduce formal consultations with PCCs as part of policy development.
9. PCCs to select 'Privy PCCs' to enable earlier and more regular dialogue with policymakers.
10. Ministry of Justice and Home Office to produce PCC Impact Assessments for significant policy changes in conjunction with the APCCs.
11. Ministry of Justice and Home Office to Introduce formal opt-out mechanisms for national contracts.
12. Ministry of Justice and Home Office to consider greater use of Framework Agreements and call-off contracts.

Local: Accountability and Performance Management

Accountability

Without exception, the accountability and organisational structures of the four key criminal justice agencies are highly centralised, with little or no room for local accountability. This inevitably results in key local actors, (e.g. Prison Governors, Chief Crown Prosecutors, Probation Chief Executives and Court Area Managers) looking upwards to the centre for direction and validation, instead of outwards and downwards to local people and their elected politicians.

Box 1: Accountability in key criminal justice agencies

Crown Prosecution Service (CPS)

The formal accountability arrangements of the primary prosecution agency in England and Wales are extremely centralised, with no local line of accountability to communities.

CPS staff are held to account internally by the oversight of their local Chief Crown Prosecutor and ultimately the Director of Public Prosecutions (DPP), and CPS leadership is subject to the indirect ministerial accountability provided by the ‘superintendence’ of the Attorney General.

There are 13 Chief Crown Prosecutors accountable to the Chief Executive of the CPS and DPP for the functioning of their local areas. Currently, this accountability is achieved primarily through quarterly Area performance reviews and biannual reviews of individual CCP performance. The DPP hosts combined meetings with all 13 CCPs, and he also hosts individual meetings with CCPs either at Headquarters or locally.

HM Prison Service

The accountability arrangements of the Prison Service are also highly-centralised, with no line of accountability to communities.

The Prison Service has been a nationalised service since 1878, when the Prisons Act brought all prisons under the control of the Prisons Commission and required it to submit annual reports to Parliament.²³ It became part of the ‘super-agency’, the National Offender Management Service (NOMS) which governs prisons and probation, in 2004.

At the local level, each prison, or cluster of prisons, is run by a Prison Governor (now known as a Governing Governor), accountable to the Chief Executive of NOMS, who in turn reports to the Secretary of State for Justice.

HM Courts and Tribunals Service (HMCTS)

Crown courts, magistrates’ courts, civil courts and tribunals are all governed by a central agency, HMCTS, with very little local accountability.

The administration of magistrates’ courts was carried out by local authorities until 1949 and by the Magistrates Courts Committee (MCC) thereafter. However, this changed with the introduction of the Courts Act 2003 which amalgamated the administration of the whole courts service into one central agency, HM Courts Service.

Local Courts Boards were also created as part of the Act, preserving an element of local accountability, but these were subsequently abolished in 2010 on cost grounds. In 2011 the management of tribunals was also given to the agency which then became HM Courts and Tribunal Service (HMCTS).

The Probation Service

Probation is a more decentralised service, with 35 Probation Trusts operating with a degree of autonomy from NOMS. However, all Probation Trust Chief Executives report directly to NOMS, with no local accountability structures.

All 35 Trusts are set to be abolished in the next twelve months, with the Ministry of Justice planning to re-centralise the Probation Service, while outsourcing the supervision of low and medium risk offenders.

²³ <http://news.bbc.co.uk/1/hi/uk/4887704.stm>

PCCs are already responsible for hiring and firing the Chief Constable of their police force. One very good way to establish the right kind of relationships with local criminal justice leaders would be for PCCs to also play a role in appointing, or approving the appointment of, other key criminal justice personnel.

A stronger role for PCCs in appointments would ensure that local leaders were fully aware of the needs of the local people they would be serving and the priorities of the PCC. It would also help to establish strong relationships from the outset.

An Approval Committee should be introduced in each area to oversee the appointment of local criminal justice leaders. The Committee would consist of all PCCs whose area the agency leader would be responsible for. With the power of veto, it would oversee the appointment of prison governors, Her Majesty’s Courts and Tribunal Service (HMCTS) area managers, and the new Deputy Directors who will oversee the local delivery units of the new national probation service. We do not consider it appropriate for this appointments role to be extended to the Crown Prosecution Service but, as we mooted in a recent report, *In the Public Interest*, we do believe that PCCs could be included in interview panels.

We acknowledge that, because of the lack of co-terminosity between different agencies’ structures, the number of PCCs would vary between areas and would differ according to the agency involved. Some Boards may have up to ten members for certain appointments. However, this is no different to an approvals process for a House of Commons Select Committee which, despite containing different members from different political parties, has been shown to operate effectively in similar circumstances.

Figure 3 illustrates which PCCs might sit on an Approval Committee for which appointment.

Figure 3: An example Approval Committee

Appointment	Approval Committee
HMP Norwich Governor	PCC for Suffolk PCC for Norfolk
HMCTS Regional Manager for South East Region	PCC for Suffolk PCC for Norfolk PCC for Essex PCC for Cambridge PCC for Bedfordshire PCC for Hertfordshire PCC for Thames Valley PCC for Kent PCC for Surrey PCC for Sussex
Deputy Director, Norfolk and Suffolk Probation Delivery Unit	PCC for Suffolk PCC for Norfolk
Head of Norfolk Youth Offending Team	PCC for Norfolk

Actions

13. PCCs to set up Approval Committees for future appointments of local leaders in the CJS.

Performance management

The introduction of strong local accountability for the police in the shape of PCCs (democratic accountability) coincided with the stripping away of central policing targets and performance management regimes (bureaucratic accountability). However, many of the same targets and suffocating central prescription remain in place in the wider criminal justice system, governed by the Ministry of Justice.

The Policing and Criminal Justice Minister has recently stated that, at a national level, the Government is seeking:

- to reduce crime
- to reduce reoffending
- to punish offenders
- to protect the public
- to provide victims with reparation
- to improve public confidence, and crucially that of victims and witnesses
- to ensure that the system is fair and just

All of these outcomes require the contribution of every agency in the criminal justice system, as well as the input of other parts of the public, private and voluntary sectors. However, the Government is continuing to performance manage CJS agencies at a national level and on an individual basis.

Crown Prosecution Service

CPS decisions are governed by The Code for Crown Prosecutors, which sets out the general principles Prosecutors should follow in making decisions about a case, including considerations of the admissible evidence and whether prosecution would be in the public interest. The DPP also issues one-off guidance on specific issues, e.g. assisted dying.

The headline performance statistics for the CPS relates to the outcome of a case, e.g. a conviction, or an unsuccessful outcome. It would be unfair to argue that the CPS is particularly heavily performance-managed, especially compared to the other agencies.

“It would be unfair to argue that the CPS is particularly heavily performance-managed, especially compared to the other agencies.”

HMP Prison Service

Performance management and decision-making in the Prison Service is extremely tightly controlled by NOMS.

Every prison has a 60–100 page Service Level Agreement with NOMS, which specifies the activities that NOMS requires the prison to carry out, including specifying things such as the precise volumes of prisoners who must attend every different kind of workshop or education class.

Every prison also has more than 30 Key Performance Indicators to meet, with targets set individually according to past performance. The targets are grouped into four categories: Public Protection; Reducing Reoffending; Decency; and Resource Management and Operational Effectiveness.

Box 2: The Settled Accommodation KPI

NOMS charges individual prisons with meeting targets such as achieving a specified percentage of people leaving prison who are released into settled accommodation. Our discussions with prison Heads of Resettlement indicate that this is not a useful target because it:

- requires no proof from the offender that the accommodation actually exists;
- only applies to the first few nights following release (and therefore could simply be temporary accommodation such as sofa-surfing or a bed and breakfast); and
- takes no account of the much more important issue of whether someone becomes homeless in the days and weeks following custody.

Nevertheless, prisons across the country continue to be set targets by NOMS for 'settled accommodation'. These targets are often in the region of 90%. Looked at another way, this might be described as a 10% homelessness target.

Until 2009, prison policies were set through prescriptive Prison Service Orders (PSOs), which subsequently became consolidated Prison Service Instructions (PSIs). These instruct prisons on how to perform a wide range of activities: from resettling prisoners and tackling staff corruption to organising a visit from local magistrates and preventing the spread of animal diseases that can be transmitted to humans.

There were 82 Prison Service Orders in force in 2009, amounting to 2,368 pages of guidance. There are now 38 PSIs made up of 867 pages.

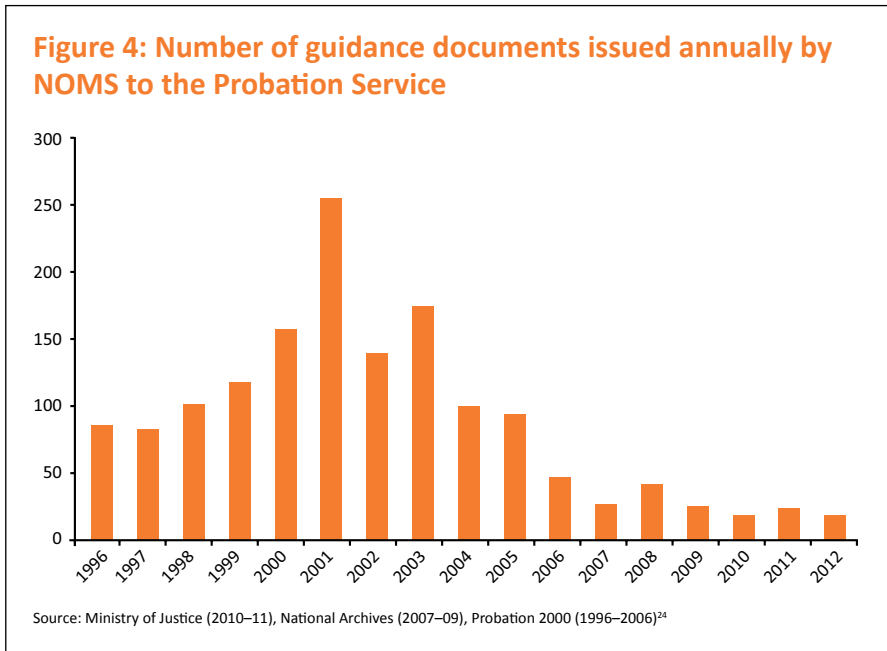
HM Courts and Tribunals Service

Courts are not performance-managed in quite the same way as prisons or probation, and judicial independence means that decision-making is not so tightly-controlled. However, there are a number of Key Performance Indicators for courts to hit, largely focused around reducing delays and the efficient calling of witnesses. Developments such as the introduction of the Sentencing Guidelines Council (now the Sentencing Council) have also sought to more prescriptively set the parameters of judicial decisions, with a view to making sentencing more consistent.

The Probation Service

Each Probation Trust works to a Service Level Agreement (SLA) determined by NOMS. As with the Prison Service, these are prescriptive documents which set out the activity, metrics and performance required by the Trust. Trusts are also required to meet various KPIs by NOMS, in a similar way to the Prison Service.

The number of guidance documents issued centrally rose from around 75 circulars per year in the late 1990s, peaking at more than 250 in 2001, and not returning to the original level until 2006.



The end result of this kind of central prescription may be one reason why figures published by the National Association of Probation Officers (NAPO) show that probation officers now spend just 24% of their time actually in contact with offenders.

Reforming Performance Management Regimes

Not only does excessive national performance management drive additional bureaucracy and a lack of local ownership and innovation, it can also cause the different components of the criminal justice system to work against each other. The Policing and Criminal Justice Minister recently highlighted the pernicious effects of targets in the CPS and the police:

“Both the police and CPS have complained that their old performance measures were not aligned. The police were focused on detections. The CPS were focused on successful prosecutions. But that meant that a whole pile of cases with no realistic prospect of conviction were getting all the way to court, and then being dropped by the CPS, rather than being stopped earlier in the process.”

Many of these targets and much of this prescription could be entirely replaced by stronger local accountability mechanisms and a ‘tight/loose’ model for performance management. A tight/loose model would allow central government to set the overall outcomes it wanted to achieve, but allow greater local discretion over how the outcomes would be delivered. Instead of complex SLAs governing every aspect of activity, local leaders should be freed to deliver the outcomes and be held to account jointly by the relevant department and the PCC.

Joint outcomes should be set nationally by the National Criminal Justice Board, with the PCC driving their delivery locally by ensuring the effective integration of services and the efficient use of resources across agencies.

²⁴ www.probation2000.co.uk/pit/circulars/circmaster.xls

Such joint outcomes, with the PCC helping to define the strategy for achieving results and holding agencies account for their own individual contributions, would drive a step-change in performance through integrated working and could also facilitate innovations such as pooled budgets, shared services and shared staff.

Actions

14. Ministry of Justice to review all performance management and SLAs of prisons, probation and courts.
15. Ministry of Justice to remove significant degree of existing performance management regime and replace this with local accountability and answerability to the PCC.
16. Ministry of Justice to produce document summarizing the new approach to performance management, based on a 'tight/loose' model.
17. PCCs to set joint outcomes for the CJS at a local level and coordinate production of joint local CJS strategies with input from local agencies.
18. PCCs to hold local agencies to account for contribution towards these outcomes.
19. PCCs to encourage pooling of budgets and resources between agencies.

Inspection regimes

Each criminal justice agency has its own independent inspectorate (except for the courts, which had an inspectorate up until 2012):

- Her Majesty's Inspectorate of Prisons (HMIP)
- Her Majesty's Inspectorate of Constabulary (HMIC)
- Her Majesty's Inspectorate of Probation (HMI Probation)
- Her Majesty's Inspectorate of the Crown Prosecution Service (HMCPSI)

Some of these Inspectorates undertake joint work, looking at the criminal justice process as a system, rather than simply in its constituent parts. A recent example – *Stop the Drift* – looked at the process of preparing cases for court and was jointly undertaken by HMIC and HMCPSI.

However, while inspections take place locally on an agency-by-agency basis, there are very rarely local inspections which look at the criminal justice system from a cross-cutting, system perspective. If, as we suggest, PCCs should be playing a much bigger role in holding agencies to account locally, it would make sense for a local inspectorate to be carrying out investigatory work to assess the potential for greater join-up and sharing of resources and expertise locally.

We recommend that the Home Office and Ministry of Justice set up small teams of local Police and Crime Inspectorates, who would help to shine a light on local practice and encourage greater integration. PCCs may wish to fund such teams out of the policing budget, should funds from national government fail to materialise.

Actions

20. Ministry of Justice and Home Office to set up Police and Crime Inspectorates with local and cross-cutting remit.
21. Funding options for the Police and Crime Inspectorates to be identified, including the use of the policing budget through PCCs.
22. PCCs able to call for local inspections within their area around particular themes.

Working in partnership

The Government has set out its intention for PCCs to bring greater clarity to the way that partners work together across the criminal justice system.²⁵

Commissioners are already developing partnerships with local criminal justice bodies such as Local Criminal Justice Boards. Some of these are developing on a voluntary basis and some are a statutory requirement under the Police Reform and Social Responsibility Act which introduced the system of elected commissioners and requires the following from them:

- PCCs must have regard to the relevant priorities of each responsible authority
- PCCs and responsible authorities to have a duty to co-operate with each other
- PCCs and criminal justice bodies must make arrangements for the exercise of functions so as to provide an efficient and effective criminal justice system for their area.²⁶

In its latest strategy for criminal justice reform, the Government stated that “it is essential for local CJS partnerships to respond effectively to PCC priorities so the whole system plays its part in tackling crime.”²⁷

Local criminal justice boards

Local criminal justice boards (LCBJs) could be a vital vehicle through which PCCs could integrate criminal justice services at the local level and ensure a cross-agency focus on joint outcomes, as described in the previous section.

LCJBs were introduced in 2003, but central government funding ended in March 2011. Since then, a number of LCJBs continue to work (and fund themselves), bringing together senior figures from all criminal justice agencies in each area. One example is the North Yorkshire Criminal Justice Board which brings together representatives from the relevant bodies.

25 Swift and Sure Justice paper para 175

26 s10(3) Police Reform and Social Responsibility Act 2011

27 Transforming the CJS: A strategy and action plan to reform the criminal justice system, June 2013

Figure 5: North Yorkshire Criminal Justice Board²⁸

Representative	Criminal Justice Organisation
Chief Executive	York and North Yorkshire Probation Trust (Chair of the NYCJB)
Deputy Chief Crown Prosecutor	CPS
Temporary Chief Constable and Head of Administration of Justice	North Yorkshire Police
Head of Integrated Youth Support Services	York Youth Offending Team
Head of Service	North Yorkshire Youth Justice Services
Governor	HMP and YOI Allerton
Representative	Victim Support
Representative	HMCTS
Representative	Legal Services Commission

There is some evidence that some PCCs are developing important relationships with other local criminal justice agencies such as the HMCTS and HM Prison Service through LCJBs. These collaborations are, however, currently wholly dependent on each agency’s willingness to co-operate and communicate – and attitudes naturally differ according to local politics, relationships and goodwill.

“The lack of guidance from central government to the agencies that make up these forums has meant that there is no consistency of structure”

Our discussions with PCCs demonstrate that a far more consistent approach is required to make a reality of the PCC’s role in the criminal justice system. A number of PCCs are not even being allowed to sit on their LCJB, whereas others are actively chairing the Boards and driving strategic join-up of criminal justice activity.²⁹ The lack of guidance from central government to

the agencies that make up these forums has meant that there is no consistency of structure – and thus huge inconsistencies in approach.

One of the key barriers to PCCs’ full involvement in the LCJBs is that the new figures were not cast as ‘responsible authorities’ under the Police Reform and Social Responsibility Act. Some PCCs have indicated that CJS agencies are using this as a reason to bar PCCs from involvement in this key coordination and integration vehicle.

It is clear that for the ‘and crime’ part of the PCC role to be maximised, LCJBs need to be recast and reinvigorated, becoming the key cross agency forum for local justice partners, led by the PCC as the figure with the mandate, strategy and tools for compelling action.

The Ministry of Justice and Home Office need to make it very clear to their agencies that they must cooperate with their local PCC and should mandate that PCCs should chair LCJBs where they are still running. In areas in which LCJBs have been discontinued, they should be reintroduced. PCCs should fund the administration and secretariat costs of the Boards out of the police budget.

PCCs should also be made a Responsible Authority for the purposes of the Police Reform and Social Responsibility Act 2011 – responsible for providing an efficient and effective criminal justice system.

²⁸ www.ynyprobation.co.uk/files/CJS_Business_Plan_2012-13.pdf

²⁹ CoPacc Report, May 2013

Actions

23. LCJBs to be reintroduced in all police force areas.
24. Justice Secretary and Home Secretary to send joint letters to heads of Prison Service, Probation Trusts, Chief Crown Prosecutors and court managers communicating the shape of new partnership arrangements, with PCC as chair of LCJB.
25. Each CJS agency directed by Ministers to input into and cooperate with the strategy of the PCC on local matters.
26. National CJS agencies to communicate these instructions to their local leaders.
27. Government to legislate to make the PCC a Responsible Authority – responsible for providing an efficient and effective criminal justice system.

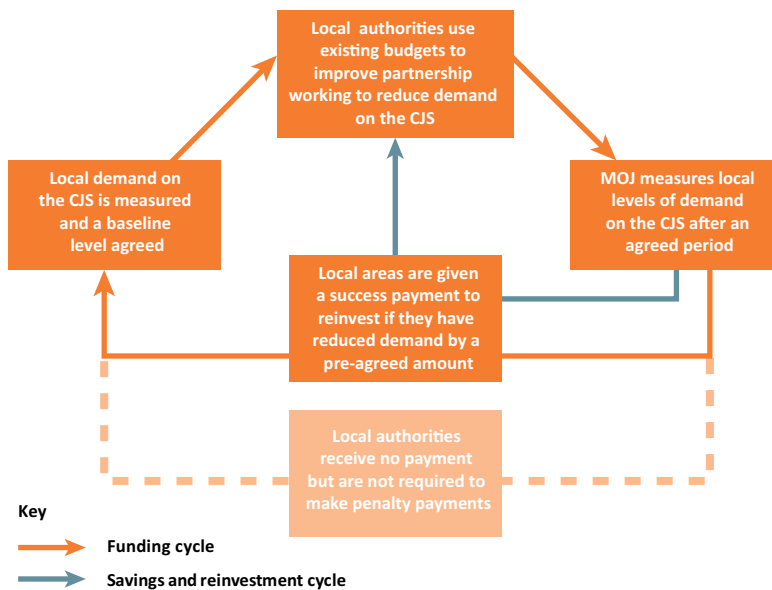
Financial incentives

One way to help PCCs to compel the cooperation and action of local partners would be to introduce a system of financial incentives that would encourage integrated working and joined-up justice.

Box 3: Case Study – Local Justice Reinvestment Pilots

These pilots were introduced in 2011 to try and reduce offending in local areas through closer partnership working. The pilots were carried out in Greater Manchester and the London areas of Southwark, Lewisham, Hackney, Croydon and Lambeth.³⁰

They are focused on encouraging local agencies to work more closely together with their existing funding to improve prevention activities and reduce crime. Fluctuation in the level of demand on the criminal justice system is measured from an agreed baseline. If demand decreased by 5% for adults and 10% for youth offenders then the authorities received a success payment. There is no penalty for increased demand but no success payment is received. The pilots are due to end in June.



30 www.gov.uk/government/uploads/system/uploads/attachment_data/file/198090/year-one-local-justice-reinvestment-pilot.pdf

Results to date

In the first year of the pilot four areas received a total of £3.6m in success payments. The majority of this, 74%, went to Greater Manchester. Two areas however: Croydon and Lambeth, saw an increase in demand and so did not receive a success payments. A recent government evaluation has found the discrepancy to be due to:

- The extraordinary events of the London riots in the summer of 2011.
- Strong strategic leadership in Greater Manchester including a clear articulation of the vision of the pilot and the involvement of all key local stakeholders.
- Co-terminosity between the key criminal justice agencies in Greater Manchester and a pilot area large enough to achieve savings in the roll out of services.

Expanding and adapting the reinvestment model

A reinvestment model could be expanded to cover police force areas, enabling PCCs to lead local efforts to integrate services, save money and invest in successful preventative services. Adopting such an approach could help to:

- **Drive partnership working:** As incentives would be better aligned, all agencies would be encouraged to collaborate – gearing themselves towards reducing demand at a time of shrinking national criminal justice budgets. Collaboration efforts would be driven by the strategic leadership of the PCC.
- **Foster innovation and flexibility:** local areas would be able to pilot new, innovative approaches including the use of services outside of the criminal justice sector to reduce crime.
- **Create a cycle of reinvestment:** where demand is reduced, the savings can be reinvested to expand successful crime reduction initiatives. A strong evidential base can be gathered against which performance can be measured.

In order to achieve these and drawing from lessons learnt from re-investment pilots we recommend:

- **A national roll-out of the pilots, following evaluation, incorporating the relevant learning:** a roll-out should see PCCs wielding the financial incentives in their local area – their leadership and the introduction of financial incentives will provide the ‘glue’ to hold the local partnerships together.
- **PCCs to take reinvestment decisions** – accountable for reducing crime and with new responsibilities for strategy and objective setting, PCCs should be able to decide how to re-invest savings from crime reduction. PCCs are local community leaders and their knowledge of local communities will help them to commission appropriate services.
- **Financial rewards and penalties** – financial rewards for success are important, but so are penalty mechanisms where demand increases. As shown by the recent evaluation of the Justice Re-investment pilots, when the cost of the failure is felt locally, financial incentives have been shown to work more effectively.³¹ A system of penalties, administered by the PCC, will help to incentivise cooperation and the pooling of resources around a shared outcome.

³¹ Above

Actions

28. Ministry of Justice to roll-out the Financial Incentive pilot model to any willing PCC who would find incentives useful in strengthening partnership working.

Phase 2: Commissioning

The previous section outlined a number of steps which would increase the local and national influence of PCCs, with a specific focus on power, accountability and partnerships. The next stage of the decentralization strategy suggests steps which would give PCCs greater functional and financial responsibilities within the criminal justice system.

PCCs are called ‘commissioners’, though their true commissioning role is currently relatively limited. PCCs are starting to take on responsibility for a number of criminal justice budgets, beginning with community safety and victim services. The Home Office has set up a new Community Safety Fund which is worth approximately £90m. It will replace nine existing Home Office funding streams, allocated to combating drugs and crime. The new Fund is intended to give PCCs more flexibility to improve crime prevention work. They will be free to invest in existing schemes or to work with new providers, they will also be able to pool funding with partners.³²

Last year, the Government also announced that it would devolve the commissioning of the bulk of victim and witness services to PCCs because it believes that local commissioners are best placed to judge the needs of victims and communities. The Ministry of Justice has taken steps to support PCCs in making the transition to commissioning victim services as shown in the case study below.

Box 4: Case study – Steps to devolve the victim services budget**Which services will be devolved?**

PCCs will commission all services with the exception of services for victims of the most harmful crimes, such as those bereaved by homicide, and victims who have complex needs.

What are the benefits of devolving such services?

As locally elected representatives, PCCs are best placed to evaluate the needs of victims in their communities and to commission services accordingly. PCCs are also directly accountable to the public through the ballot box for the quality of the services which they provide.

What support is available to Police and Crime Commissioners?

The Ministry of Justice is developing a Framework to help PCCs. This will be completed and disseminated to them this year. During this time, the Department also intends to provide PCCs with an indicative budget for 2014/15.

Two reference groups have been set up to help develop and shape this work. One of the groups will include representatives from PCC’s offices alongside the Association

³² Home Office, Written Statement, Community Safety Fund Communication, 19 February 2013

of Policing and Crime Chief Executives. This group will also include officials from across Whitehall with expertise and knowledge of commissioning. The second group will involve representatives from the voluntary sector.

As a further source of information for new commissioners the Department has also published an Evidence and Practice Review that looks at current practice and existing evidence on victims’ support needs, outcome measurement and quality assurance in the victim support sector.

There are a number of additional budgets where it may make sense for the PCC to take on additional responsibilities. However, we do not believe that it should be a default position to devolve budgets – especially while PCCs are a new incarnation and still developing their capacity locally and getting to grips with their current responsibilities. We have developed a suggested set of criteria for devolution that might be used as a starting point for government in deciding whether and when to give PCCs greater budget-holding and commissioning responsibilities.

Figure 6: Criteria for devolving budgets to PCCs

Criteria	Consideration
Knowledge and relationships	Will understanding the local area and needs help to identify the most effective solutions and pioneer new approaches?
Visibility of effects	Are local commissioners best placed to analyse performance and results?
Flexibility	Will local commissioners be able to respond quicker and more flexibly to changing demands?
Accountability and influence	Can a local figure ensure stronger accountability and be better able to tackle poor performance?
Cost of services	Will the benefits of devolution outweigh economies of scale?
Cost of commissioning	Is there sufficient local capacity for commissioning or will devolution involve further bureaucracy and cost?
Commercial and procurement expertise	Is there sufficient commercial and procurement expertise locally to make an informed decision?
Minimum standards	Will it be possible to agree minimum standards to mitigate the risk of a diminution of service?

Youth Justice

We believe that youth justice represents the next natural evolution of PCCs’ commissioning responsibilities. This is an area of business where sustained efforts have already been made to decentralise commissioning and financial responsibilities.

Youth justice is an area where the provision, investment decisions and behaviours of local authorities and agencies have a direct and critical bearing on the quality of prevention, custodial and aftercare services for young people in the youth justice system, or at risk of entering it.

Policy Exchange has previously made the case that the fact that central government alone bears the cost of imprisoning young people has created a cycle of failure in the youth justice system.³³ It means that local authorities have

33 *Arrested Development: Reducing the number of young people in custody while reducing crime*, Max Chambers, July 2009

nothing to lose financially when a young person is sent to prison. In fact, they can actually gain, no longer having to provide expensive services such as foster care, special educational provision or community sentences for the most difficult and at-risk young people. This creates a perverse incentive, because custody acts as a kind of ‘respite care’ for local authorities and their agencies, thereby discouraging both short and long term efforts to prevent youth crime and keep young people out of prison.

We have consistently advocated the devolution of youth custody budgets, along with youth offending teams’ budgets, to the local level – to deal with these perverse incentives and ensure that local areas feel the costs of failure to prevent crime and reoffending more directly. The Government is currently experimenting with a pathfinder project which is testing the impact of budget devolution:

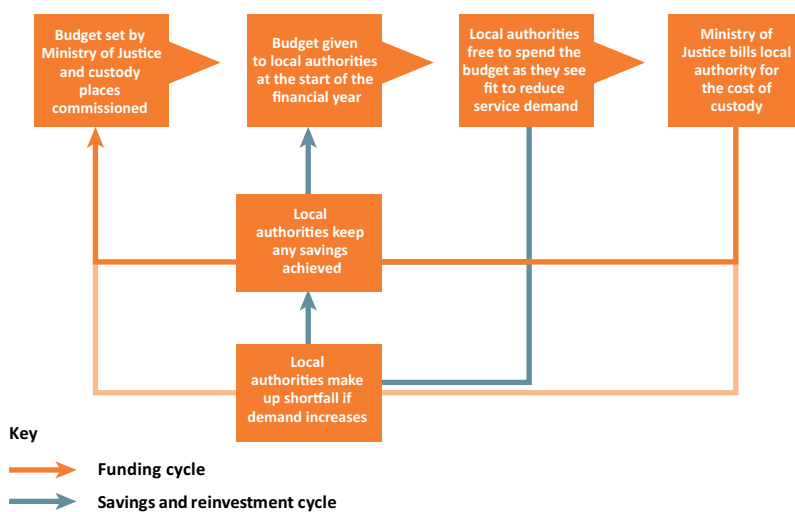
Box 5: Case study – The Youth Justice Reinvestment Pathfinder Initiative

The Youth Justice Reinvestment Pathfinder Initiative was set up to:

- reduce demand on custody.
- encourage better use of prevention activities.
- promote robust alternatives to custody.³⁴

It works as follows:

- The YJB/MoJ set a target rate for the use of custody with a pilot area.
- The MoJ provides a grant, funded by the YJB custody budget, to the local authority or consortium that will help them achieve the agreed target.
- The pathfinder has the flexibility to use the grant to invest in community alternatives to custody that reduce the demand for custody.
- The grant awarded will be based on the cost of community alternatives to custody.
- At the end of the two-years, if the pathfinder falls short of its custody target it must pay back.
- a proportion of the grant based on the average weighted bed price of that shortfall .
- If the pathfinder meets or exceeds their target for reducing numbers in custody, they will keep the grant funding.



34 www.justice.gov.uk/downloads/youth-justice/reducing-re-offending/YouthJusticeReinvestmentPathfinderInitiativeinformation.pdf

The pilots give authorities the freedom and flexibility to use the funding to commission and deliver their own responses to reduce levels of youth custody and youth reoffending in their area. Pathfinderers will share the financial risks if the custody rate increases and keep the funding if custody numbers are kept low. This will reduce the financial burden of custody provision for children and young people.

Results to date

A pathfinder pilot in West Yorkshire has been extremely successful, local agencies have exceeded their reduction target of 10% achieving a 33% reduction in demand overall.³⁵

In addition to these Pathfinder pilots, the Government has also legislated to devolve the remand element of the youth custody budget. However, this is a very small element of the entire youth justice pot and is likely to be insufficient as a lever to generate behaviour change.

We recommend that the Government go further and explore the further devolution of all youth justice budgets to PCCs, so that PCCs can commission a coherent and integrated set of local services aiming to reduce demand on the criminal justice system through reduced youth crime.

Working with councils, PCCs will be in a position to influence and change behaviour to advance the rehabilitation revolution for young people. We believe that PCCs are best placed to provide strategic oversight of youth justice and custody budgets in a way that will encourage youth offending teams (YOTs) to focus meaningfully on alternatives to custody.

Further, we recommend that the Ministry of Justice should examine the potential for further local commissioning of services, including the public sector element of the new national probation service and elements of the courts budget.

Actions

- 29. Ministry of Justice to examine the case for devolving the youth justice budget – including for youth offending teams and latterly for youth custody – to PCCs.
- 30. Any PCC willing to take on this new commissioning responsibility able to make a business case for receiving this budget to the Ministry of Justice.
- 31. Ministry of Justice to undertake feasibility study exploring further devolution of probation, courts and other budgets to PCCs according to a clear set of criteria.

Creating a culture of innovation

Top-slicing budgets

As previous sections have outlined, one of the key barriers to embedding a more innovative culture in the criminal justice system is the centralised nature of its key agencies. As well as the cultural knock-on effects, the pernicious consequences for innovation actually extend to the planned process of innovation itself.

In the criminal justice system, innovations are too often centrally conceived and tested, rolled-out from the centre in local areas and then often abandoned

³⁵ www.russellwebster.com/shock-horror-payment-by-results-works/

because the personalities or priorities of the centre change so quickly from one year to the next. Local areas often do not understand the innovation, buy into its potential, or have the resources to make it work – and understandably often feel solutions are simply being imposed on them from Whitehall.

Policy Exchange has outlined in a number of previous reports how, in a number of areas, ineffective piloting and attempts to impose innovative solutions from the centre have caused exciting and potentially transformative developments to fail to gain traction, or be abandoned altogether.

For example, in the mid 2000s, the Ministry of Justice attempted to implement a new approach – problem-solving justice – in the country’s courtrooms. Problem-solving justice is a model which seeks to solve offenders’ problems as part of their engagement with a judge and the criminal justice system, rather than simply dispense a sentence. But as Policy Exchange warned in 2008, “the development of problem-solving in the magistrates’ courts has some of the hallmarks of top-down policy change. For some ground-level practitioners, there is a feeling that problem-solving reform is the ‘flavour-of-the-month’ being forced upon them from above.”

Although England and Wales now has a number of specialized courts, including drug courts, domestic violence courts and mental health courts, which stemmed from these policy initiatives, problem-solving has not yet been properly understood by practitioners, nor mainstreamed into the criminal justice system. The title of Policy Exchange’s report on the subject – ‘Lasting Change or Passing Fad’ – has unfortunately been answered in the negative, at least for now.

Another example of poor piloting – in this case so misconceived that it would have almost guaranteed that the innovation would fail – can be seen in the Ministry of Justice’s pilot programme for payment-by-results, whereby providers would be rewarded for cutting reoffending rates.

Piloting payment-by-results was fundamentally a very good idea, but as we detailed in a report earlier this year, there was never a clear strategy for the pilot programme.³⁶ There were many planned pilots, each with such a myriad of different ways of doing payment-by-results, but with no clarity about what was being tested and to what end. Officials now concede that it would have been almost impossible to identify anything new or useful by waiting for the results, except to what extent one provider had outperformed another.

There were a number of other problems with the pilot programme, including unrealistic commercial models, unnecessarily complex commissioning models and a host of procurement challenges. Importantly, the majority of the projects would not have delivered any reoffending results until 2016/17 at the earliest, with full results not available until at least 2020. This presented a clear risk that the PbR agenda – a reform with the potential to transform the criminal justice system – could drift, or even disappear altogether.

“There were many planned pilots, each with such a myriad of different ways of doing payment-by-results, but with no clarity about what was being tested and to what end”

³⁶ Expanding payment-by-results: Strategic choices and recommendations, Max Chambers, Policy Exchange, January 2013

PCCs and piloting

One of the most exciting opportunities of the PCC reforms is the prospect of policing and the criminal justice system becoming, over time, a wellspring of fresh ideas and innovation.

National government will inevitably retain its prerogative to embed national policy changes and to promote innovations that have caught the eye of policymakers or politicians. But in the future, it would be far better if innovation became increasingly ‘bottom-up’, with more ideas being put forward, tested and funded at the local level. Where national pilots did exist, it would make sense for them to be far more strategically-conceived, co-designed with local practitioners and owned locally by the PCC. We recommend that, in future criminal justice experiments, the PCC should be given greater ownership of pilot programmes, with the power to shape them, foster local commitment and buy-in, and see them through beyond the next reshuffle or shift in priorities within central government.

More radically, we suggest that a defined innovation budget, held by the PCC, could play an important part in kick-starting the bottom-up, locally-driven innovation that is so badly lacking. This could be funded by top-slicing the budgets of the local criminal justice agencies (and health services), with a view to making the money go further when it is joined-up and strategically allocated.

Actions

32. PCCs to be given formal joint ownership over future CJS pilots, including in design, delivery and evaluation stages.
33. Government to examine the creation of a defined Innovation Budget, top-sliced from a range of different government agencies, to be managed by the PCC.

Phase 3: Revenue raising powers

A key part of decentralization in the long-term is about shifting the balance of funding, away from total reliance on the centre. PCCs raise revenue for policing through the Police Precept, but at present lack a separate direct mechanism to generate funding for new or improved criminal justice services in their area.

The Police Precept is levied as a separate charge on top of existing council tax and is collected through the council tax bill. Local councils are incentivized by central government to keep council tax rises below 2%, of which the Police Precept is a part. This limits the amount of revenue that can be raised for policing without a referendum.

Increasing or expanding the Precept to fund services additional to policing would therefore lead to an increase in the precept. However, despite the inevitable resistance to any rise in taxation there are considerable political arguments for giving PCCs the flexibility to increase their precept in this way:

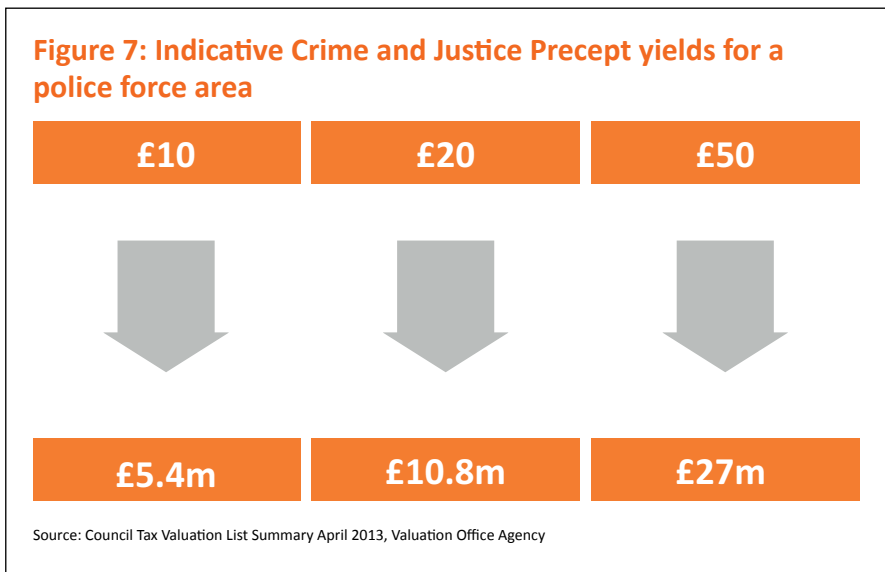
- The public overwhelmingly support a robust criminal justice response to crime. But we are likely to have a shrinking criminal justice system for many years to come. An expanded precept offers a potential expansion route for PCCs who want to direct resources towards particular prevention or enforcement priorities.

- New, locally raised income will give greater flexibility to PCCs’ ability to tackle crime as they will have discretion to invest in new services and approaches.
- There will be greater local accountability for how effectively money is spent and voters can judge the value for money attained and deliver their verdict at the ballot box. This could be further enhanced by the use of local referenda for large rises in an expanded Precept.
- Voters will have a say in the size of the precept they pay. If they did not wish to pay for a higher local precept they can elect a candidate who pledges not to increase the charge. Levels of funding from central government would be unaffected either way.

Our model would see the Police Precept expanded to become a Police and Justice Precept which could be used to fund work across the criminal justice sector. This will give PCCs the flexibility they need to invest in crime prevention.

The Police and Justice Precept in action

An expanded local precept would not be a large financial burden on individual households. We have modeled an indicative amount that could be raised per police area with a £10, £20 and £50 Precept charge per Band D household. An extra £10 a year would raise over £5m for crime reduction work in an average local area, whereas an increase of £50 a year, less than £1 a week, would raise in the region of £27m.



PCCs would be under no obligation to levy an increased precept and we anticipate their decisions would be guided by local crime rates and priorities.

Below are some illustrative examples of how a PCC may choose to invest the sums raised by an expanded Precept to cut crime and help victims of crime. A Police and Justice Precept would give PCCs flexibility to provide:

- preventative initiatives based around health, troubled families and addiction
- increased capacity for punitive measures such as additional prison places and electronic tagging

- through the gate support to reduce re-offending
- enhanced services for victims and witnesses

Figure 8: Illustrative spending plans for Precept revenue

Illustrative spending plans				
Annual Precept per Band D household	£10	£20	£50	
Indicative local sum raised	£5.4m	£10.8m	£27m	
St Giles Trust Through the Gates per place	£872	100	300	500
Alcohol treatment per place	£2,200	100	200	500
Drug treatment per place	£3,000	100	200	500
Mental health day care per day	£34	1,000	2,000	10,000
Local Authority mental health care home package per resident per week	£733	800	1,000	2,000
Electronic tag/curfew per 90 days	£1,500	40 packages	200 packages	90 packages
Family Intervention Project per family	£14,000	40	100	310
Prison custody per place	£40,000	50	200	300
Sexual Assault Referral Centre Place per case	£1,000	10	50	100

Source material: please see footnotes³⁷

Actions

34. Government to legislate introduce new Police and Justice Precept, or distinct ‘Justice Precept’, with PCCs able to introduce it subject to local referendum

37 St Giles Trust Through the Gates per place: valuation based on 2009 prison support and mentoring pilot by ex-offenders: www.frontier-economics.com/_library/pdfs/frontier%20news%20-%20through%20the%20gates.pdf
 Alcohol Treatment valuation: www.alcoholconcern.org.uk/assets/files/Publications/AlcoholTreatReport.pdf
 Drug Treatment valuation: www.nao.org.uk/idoc.ashx?docId=dc466c1f-6ad3-4163-bd33-4a8facce1899&version=-
 Mental health day care and care home valuations: www.pssru.ac.uk/pdf/uc/uc2011/uc2011.pdf P36 – 4
 Electronic tag / curfew per 90 days: www.nao.org.uk/idoc.ashx?docId=16d92eab-b94c-4704-b8d9-16277262f81d&version=-
 Family Intervention Project: Costs range from £8,000 to £20,000 per year per family. The average is taken from: www.crimeandjustice.org.uk/opus1786/Family_intervention_projects.pdf
 Sexual Assault Referral Centre Place: www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/@sta/@perf/documents/digitalasset/dh_108350.pdf – on the basis that it costs £1 million per thousand cases per annum

4

The Future for PCCs

So far, this report has focused on a number of reforms that would provide PCCs with greater levers and tools within the criminal justice system to enable them to cut crime by influencing the strategies, performance and working practices of key criminal justice agencies.

In this section, we will explore wider questions about the future evolution of PCCs. For example, we will examine the possibility for PCCs to play a bigger role in a number of areas of social policy outside of, but closely connected to, the criminal justice system. We will also explore the potential for PCCs to grow into the public safety arena, coordinating emergency services and local resilience.

Finally, we will pose bigger questions about how political parties might wish, in the long term, to build on the local democratically-elected infrastructure created by the introduction of PCCs.

Social policy

A wide range of policy areas outside of the criminal justice sphere impact on the level of crime and reoffending within communities – not least the welfare system, housing, mental health and family policy.

The need for an holistic, cross-sector approach to tackling crime is illustrated by the Government's commitment to initiatives that support families, communities and early interventions in the lives of vulnerable children as a means of reducing and preventing crime.

Troubled families

The Government has placed a huge amount of emphasis on dealing with troubled families, defined as households whose members: are involved in crime and anti-social behaviour; have children not in school; have an adult on out of work benefits; and cause high costs to the public purse.³⁸ Official estimates put the cost of troubled families to the taxpayer at £9bn a year, 90% of which is spent in dealing with the results of their problems instead of working to help tackle them. The link between these families and crime is strong; one in five young offenders comes from a troubled family.

The Prime Minister has stated that he wants 120,000 troubled families to have their lives turned around by the end of this Parliament and, to that end, has set up a Troubled Families Programme operating out of the Department for Communities and Local Government (DCLG). The team works to join up efforts across government and support local authorities in their work to help troubled families.

38 www.gov.uk/government/uploads/system/uploads/attachment_data/file/11469/2117840.pdf

This is a £448m scheme, for which an additional £200m of funding was earmarked in the 2013 Spending Review. Given the clear overlaps between the work of the Troubled Families Programme and the work of the PCC in cutting crime and commissioning key services, there may well be a stronger role the PCC can play in helping to deliver on the Government's ambition.

Early Intervention

Improving early intervention to tackle social problems and crime has been a key aim of the current government. The Early Intervention Foundation, established in April 2013, was set up to tackle root causes of social problems amongst children and young people by providing advice and thought leadership on early intervention and establishing a strong evidence base.³⁹

Mental health

The Home Secretary has recently recognised the huge amount of police time that is ploughed into dealing with people who are suffering from mental illness. A recent survey by Matthew Ellis, the PCC for Staffordshire estimated that between 15 and 25% of police time was spent dealing with such cases. In her recent speech to the Police Federation Conference the Home Secretary listed a number of steps that will be taken to alleviate the problem such as ensuring that all local areas have a health based place of safety and expanding the use of street triage services.⁴⁰

The key forum for PCC involvement in mental health services is the local Health and Wellbeing Board. These were created to ensure stronger democratic legitimacy and involvement of all relevant agencies, to strengthen working relationships between health and social care, and to encourage the development of more integrated commissioning of services. The Boards contain a representative of a local Healthwatch organisation, a representative of each local clinical commissioning group, the local authority director for adult social service, the local authority director for children's services and the director of public health for the local authority.

However, just as with local criminal justice boards, many PCCs are currently being prevented from having a role on Health and Wellbeing Boards due to a mixture of local politics and territorial battles.

A role for PCCs

The Government has already recognised the key role PCCs can play in leading these wider initiatives at a local level. For example, PCCs have been called on to team up with the Early Intervention Fund to support work in their local areas, a number of PCCs are already doing so, including bidding for some of the Early Intervention pilots.⁴¹ However, PCCs could be given a far more pivotal role in drawing together these different strands of work:

- Lead government departments such as DWP, DCLG and The Department for Health could give PCCs a lead role in setting local strategy for helping troubled families and managing early interventions, including the management of related budgets.

³⁹ www.earlyinterventionfoundation.org.uk/media-centre/press-releases/41-prime-minister-launches-the-early-intervention-foundation

⁴⁰ Home Secretary, speech to the Police Federation Conference, 15 May 2013.

⁴¹ Example Dorset PCC www.dorset.pcc.police.uk/Your-PCC/Martyns-Blog/Early-Intervention.aspx

- PCCs should be able to use the Crime and Justice precept to invest in wider community services.
- Disparate central and local funding streams could be rolled into a single 'Justice Re-investment Budget' to be invested in social and community services which help to reduce demand on the criminal justice system. These would operate in a similar way to the Criminal Justice Re-investment budgets discussed in the previous chapter but be targeted at services outside of the criminal justice system.
- All PCCs should have a seat on Health and Wellbeing Boards so that they have input into issues that affect demand on police time and crime rates.
- PCCs should have joint responsibility, along with local health leaders, for improving the provision of out-of-hours health and mental health services.

These steps would:

- Enable a coherent, joined-up local approach to helping troubled families and communities which eliminates overlap and ensures the best use of resources.
- Provide a single, larger, pot of funding for upfront investment in local initiatives.
- Enable PCCs to become more fully responsible for reducing crime by being able to tackle the root causes of it.
- Ensure that police forces had a powerful say in tackling non-criminal calls on their time which would free them up to focus on preventing and cutting crime.

Actions

35. DWP, DCLG and Department of Health to examine a more prominent role for PCCs in the Troubled Families and Early Intervention agendas.
36. DWP, DCLG and Department of Health to examine potential roll-up of disparate budgets into single pot to be administered by PCC.
37. Ministers to write to all Health and Wellbeing Boards to recommend that the local PCC is given a seat on the forum.
38. PCCs to be given joint responsibility for improving the treatment of mentally-ill offenders.

Public safety

Complex emergencies such as the 2012 Christmas floods, the Buncefield oil refinery fire or the 7/7 bombings require a coordinated response across two or more emergency services as well as input from other bodies such as local authorities and providers of utilities or local infrastructure.

The police are most often responsible for coordinating the cross-service response to such emergencies. Given this, PCCs are ideally placed to take on an expanded public safety role, leading work to ensure strong cross service planning and preparation for emergencies.

Currently, Local Resilience Forums (LRFs) identify local risks and prepare for incidents accordingly. LRFs are made up of Category 1 Responders (the blue light services) and Category 2 Responders such as local authorities, utilities companies and the Highways Agency.

LRFs are usually run by an Executive Group made up of local heads of services and liaison officers from Category 2 responders, military and the Resilience and Emergency Division in Department for Communities and Local Government.

In the event of a local emergency the cross force response is coordinated through a Strategic Coordination Group. This has a membership similar to the Executive Group of the Local Resilience Forums and is chaired by the Gold Commander (responsible for the strategic direction of an operation).

Recent work by Finmeccanica, which monitored Dorset's Local Resilience Forum as it prepared for the Olympic Games, has uncovered a number of problems with the Forums in their current setup.

- Forums were perceived as being a separate organisation rather than a coordinating body.
- There are no clear national standards against which an LRF can benchmark its performance or 'test' its plans.
- Different participating agencies had completed their own individual risk assessments in isolation from others.
- Many plans were not sufficiently tested through joint exercises.
- Attendance was inconsistent and LRF activities were not considered to be a high priority.
- Existing technology for enabling cross force communication (in particular the National Resilience Extranet) was not seen as being useful.
- Forums were constrained in what they delivered by the lack of a defined budget.

A role for PCCs

PCCs could become the local lead for improving the effectiveness of emergency planning and response by building on the existing model of Local Resilience Forums:

- In consultation with service chiefs, PCCs could take responsibility for setting budgetary contributions for the financial year at a level that would enable the forum to undertake all necessary planning and preparedness activities.
- PCCs could take on a similar role to Directors in the Office for Security and Counter Terrorism, to whom government departments are accountable for delivering their part of the CONTEST strategy. In this way local service chiefs would be accountable to PCCs for their involvement in resilience planning and the success of operational outcomes.
- PCCs could set requirements in their area for cross service training to be undertaken by all first responders at the Emergency Planning College.
- PCCs could take on responsibility for ensuring that all services operating in their area were using communications technology that adhered to national interoperability standards.
- To reflect their local leadership and to ensure strong coordination between local areas and central government PCCs should become the point of contact between the Resilience and Emergency Directorate in the Department for Communities and Local Government which acts as the liaison mechanism between local and national emergency planning.

Operational responsibility for leading response to emergencies would remain under the jurisdiction of those leading area Strategic Coordination Groups, although PCCs should have an observer position within them.

Closer coordination of the emergency services

The government is already examining ways in which the emergency services could work together to improve coordination and to share resources. Through their leadership of the Local Resilience Forums PCCs could drive local strategy in this area by considering measures such as:

- The introduction of tri-service control rooms
- Co-location of emergency service agencies in their area, following the work of the Tri-Service Emergency Centre in Gloucestershire

The Government could also consider the case for amalgamating the Fire and Rescue and Ambulance services to form a united Emergency Response Service.

Actions

39. PCCs to consult with local service chiefs to decide Local Resilience Forum annual programme of resilience planning and training.
40. PCCs to set member contributions to the Local Resilience Forum budget accordingly.
41. Local service chiefs to be accountable to PCCs for their contribution to resilience planning and training and for the success of operational outcomes.
42. PCCs to set requirements for cross service training to be undertaken by their local emergency services at the Emergency Planning College.
43. PCCs to review the interoperability of communications technology used by local emergency services.
44. PCCs to take responsibility for ensuring that local emergency services use interoperable communications technology that adheres to any national requirements.
45. PCCs to become the point of contact between local agencies and national policy makers – the Resilience and Emergency Directorate in the Department for Communities and Local Government.
46. PCCs to have an observer position within local Strategic Coordination Groups which lead the operational response to emergencies.
47. Government to review options for closer working between emergency services and of the options for creating a unified Emergency Response Service.

Inventing the future

We have so far highlighted a range of areas in the criminal justice, social policy and public safety space in which a more significant role could be played by Police and Crime Commissioners.

The proposals we outline would go some way to decentralising the criminal justice system, reducing the local democratic deficit, improving the integration of key services and providing strategic clarity to important partnerships. These are necessary changes if PCCs are to live up to the ‘and crime’ part of their role and to develop capabilities in areas of public services critical to keeping people safe.

On their own, they are small steps – but as a package, they represent a plan for a significant shift in the balance of power between central and local government. The result would be local leaders and services which look out to each other and down to the citizen, instead of upwards and inwards to Whitehall.

Upcoming reports by the Home Affairs Select Committee and the National Audit Office, timed to coincide with November 2013 anniversary of the PCC elections, will likely be critical of the introduction of PCCs. Perhaps they will again highlight the small increase in administration costs of some PCCs' offices, when compared with their predecessor Police Authorities. But to quibble about a few thousand pounds is to miss the point entirely: PCCs' roles are already very different to the weak and invisible bodies they replaced, and arguably PCCs now need far better support and additional capacity in their offices as a result.

Above all, PCCs need more support from Central Government. Ministers and key government departments can unblock the local barriers PCCs are facing. They can corral and instruct their agencies to cooperate, consciously strip away the central targets that crowd out the room for proper local accountability and chart a course towards a more decentralised set of services that provides for stronger local leadership, has more join-up locally and is far more effective in cutting crime.

In the next elections, of course, PCCs can expect higher turnout and stronger mandates simply because they will be more visible and will have had the time to demonstrate their impact and potential. But an important part of developing the PCC role over time will be ensuring there is even greater democratic legitimacy for the PCC role. A small element of government funding for publicity for all PCC candidates should form a key part of this. We recommend that the Home Office and Electoral Commission should ensure this in place for the May 2016 set of elections.

To further strengthen the democratic element of the PCC role, there may also be merit in the Government legislating to create a recall mechanism, whereby a PCCs' constituents could trigger a by-election with a petition signed by a significant portion of their electorate (e.g. 10%).

As PCCs develop, the Government might also begin to ask questions about the longer-term future for PCCs. Their policing reforms have created a new set of local politicians with considerable powers (over the police, at least) – a new infrastructure for local democracy. In this report, we are recommending that Government should build on this and deliberately facilitate the expansion of PCCs' powers and remit. But it is not impossible that future governments might decide to go even further. In the wake of the rejection of City Mayors in last year's referenda, where attempts were made to introduce powerful Mayors in a 'big bang' fashion, it may make sense for PCCs to be reformed more fundamentally over time – gradually accruing powers over other areas such as transport, planning and the environment.

In ten years' time, perhaps PCCs could have evolved into Public Safety Commissioners, or even morphed into local Mayors themselves. To achieve this long-term evolution, and build on the local democratically-elected roots that the Government has now laid down, will require government to be clear-eyed about the shared vision, and then to act strategically and with purpose to make it a reality.

“PCCs can expect higher turnout and stronger mandates simply because they will be more visible and will have had the time to demonstrate their impact and potential”

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Summary of Actions

1. Ministers to resolve to protect, promote and develop the position of the PCC.
2. Government to set up inter-departmental PCC Strategy Board.
3. Government to publish shared vision for evolution of PCCs.
4. Government to enable the creation of Trailblazer PCCs to act as outriders for future PCC development.
5. MOPAC to become a Trailblazer site, reflecting the maturity of the office, working relationships and associated infrastructure.
6. Ministry of Justice to introduce formal consultations with PCCs as part of policy development.
7. Ministry of Justice and Home Office to establish medium-term aim of ensuring greater co-terminosity within police and criminal justice structures and management.
8. Ministry of Justice, Home Office and Attorney General's Office to issue MOUs to PCCs and criminal justice agencies to suggest ways of working together where there is no co-terminosity.
9. Ministry of Justice and Home Office to produce PCC Impact Assessments for significant policy changes in conjunction with APCCs.
10. PCCs to select 'Privy PCCs' to enable earlier and more regular confidential dialogue with policymakers.
11. Government to introduce formal opt-out mechanisms for Ministry of Justice and Home Office contracts.
12. Ministry of Justice and Home Office to consider greater use of Framework Agreements and call-off contracts.
13. PCCs to set up Approval Committee for future appointments of local leaders in the CJS.
14. Ministry of Justice to review all performance management and SLAs of prisons, probation and courts.
15. Ministry of Justice to remove significant degree of existing performance management regime and replace this with local accountability and answerability to the PCC.
16. Ministry of Justice to produce document summarizing the new approach to performance management, based on a 'tight/loose' model.
17. PCCs to set joint outcomes for the CJS at a local level and coordinate production of joint local CJS strategies with input from local agencies.
18. PCCs to hold local agencies to account for contribution towards these outcomes.

19. PCCs to encourage pooling of budgets and resources between agencies.
20. Ministry of Justice and Home Office to set up Police and Crime Inspectorates with local and cross-cutting remit.
21. Funding options for the Police and Crime Inspectorates to be identified by the Home Office and Ministry of Justice, including the use of the policing budget through PCCs.
22. PCCs able to call for local inspections within their area around particular themes.
23. LCJBs to be reintroduced in all police force areas, with a strategic membership and focus.
24. Justice Secretary and Home Secretary to send joint letters to heads of Prison Service, Probation Trusts, Chief Crown Prosecutors and court managers communicating the shape of new partnership arrangements, with PCC as chair of LCJB.
25. Each CJS agency directed by Ministers to input into and cooperate with the strategy of the PCC on local matters.
26. National CJS agencies to communicate these instructions to their local leaders.
27. Government to legislate to make the PCC a Responsible Authority – responsible for providing an efficient and effective criminal justice system.
28. Ministry of Justice to roll-out the Financial Incentive pilot model to willing PCC who would find incentives useful in strengthening partnership working.
29. Ministry of Justice to examine the case for devolving the youth justice budget – including for youth offending teams and youth custody – to PCCs.
30. Any PCC willing to take on this new commissioning responsibility able to make a business case for receiving this budget to the Ministry of Justice.
31. Ministry of Justice to undertake feasibility study exploring further devolution of probation, courts and other budgets to PCCs according to a clear set of criteria.
32. PCCs to be given formal joint ownership over future CJS pilots, including in design, delivery and evaluation stages.
33. Government to examine the creation of a defined Innovation Budget, top-sliced from a range of different government agencies, to be managed by the PCC.
34. Government to legislate introduce new Police and Justice Precept with PCCs able to introduce it subject to local referendum.
35. DWP, DCLG and Department of Health to examine a more prominent role for PCCs in the Troubled Families and Early Intervention agendas.
36. DWP, DCLG and Department of Health to examine potential roll-up of disparate budgets into single pot to be administered by PCC.
37. Ministers to write to all Health and Wellbeing Boards to recommend that the local PCC is given a seat on the forum.
38. PCCs to be given joint responsibility for improving the treatment of mentally-ill offenders.
39. PCCs to consult with local service chiefs to decide Local Resilience Forum annual programme of resilience planning and training.
40. PCCs to set member contributions to the Local Resilience Forum budget accordingly.

41. Local service chiefs to be accountable to PCCs for their contribution to resilience planning and training and for the success of operational outcomes.
42. PCCs to set requirements for cross service training to be undertaken by their local emergency services at the Emergency Planning College.
43. PCCs to review the interoperability of communications technology used by local emergency services.
44. PCCs to take responsibility for ensuring that local emergency services use interoperable communications technology that adheres to any national requirements.
45. PCCs to become the point of contact between local agencies and national policy makers – the Resilience and Emergency Directorate in the Department for Communities and Local Government.
46. PCCs to have an observer position within local Strategic Coordination Groups which lead the operational response to emergencies.
47. Government to review options for closer working between emergency services and of the options for creating a unified Emergency Response Service.
48. Home Office and Electoral Commission to ensure funded publicity for all candidates in the next set of PCCs elections.
49. Government to legislate to create recall mechanism for PCCs, triggered by a petition of PCCs' constituents.

The election of Police and Crime Commissioners (PCCs) is a once-in-a-generation opportunity to change the balance of power in a system currently almost bereft of local control, financial responsibility or democratic accountability – and in doing so, reduce the costs of doing justice and deliver a better service too.

This report proposes a strategy for a deliberate, steady decentralisation of the criminal justice system. It offers a vision of a reformed landscape at the local level with stronger leadership and ownership, greater flexibility and innovation, and justice that is more efficient, effective and joined-up.

Instead of local leaders looking upwards and inwards to Whitehall for direction and validation, they should increasingly look outwards to each other and downwards to the citizens they serve. In doing so, the system will see reduced duplication, stronger coordination and the administration of cheaper, better justice.

Our strategy is based around a ‘tight/loose model’, whereby there is control over major government objectives, complemented by much looser or decentralised discretion over the ways in which those objectives are achieved. In this way, the measures we propose are intended to command the confidence of those at the centre, as well as the local recipients of new responsibilities.

We are not calling for wholesale change overnight. Instead, we set out a steady process that would mean that, as PCCs become more experienced and develop their infrastructure locally, they would, over time, become:

- More influential and dynamic in national policy-making
- Afforded greater discretion to shape national initiatives
- Offered the opportunity to opt-out of national contracts at an appropriate juncture
- More able to define and lead key local criminal justice pilots and initiatives
- Empowered to define stronger local, strategic relationships and drive effective partnership working
- Given the power to set local criminal justice strategy and performance-manage CJS agencies
- Able to directly commission some key services to cut crime, informed by local needs
- Offered the flexibility to invest in new services by raising local revenue

While the changes we outline should happen progressively, the selection of a number of Trailblazer PCC sites – in which the implementation of these steps can be accelerated – would be very valuable. So we recommend that the Government initiate a process to allow a number of ‘Super’ PCCs to put themselves forward, and be selected, to become Trailblazers with a new set of powers in the CJS and public safety arena.

At the same time, the Government should begin to ask wider questions about how best to take advantage of the creation of increasingly powerful, directly-elected local officials with large budgets, significant powers, and stronger clout at the national level. So we end the paper by asking bigger, longer-term questions about the development of PCCs, including examining their potential expansion into other areas of public policy in the long term.