

Nottinghamshire Police and Crime Commissioner – Notice of Decision

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DECISION OR INFORMATION:	Approval of Nottinghamshire Police and Crime Commissioner Succession Plan - effective from 28 th February 2022
DATE RECEIVED:*	17/02/2022
REF:* (to be inserted by the OPCC)	2022.018

TITLE:	Nottinghamshire Police and Crime Commissioner Succession Plan
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EXECUTIVE SUMMARY:

By letter of 9 July 2021, the Minister of State for Crime and Policing advised all Police and Crime Commissioners, following the announcement from Part One of the Review into the role of PCCs:

*“... we committed to legislating.... to mandate that all PCCs must appoint a deputy. The necessity for a deputy has been brought into sharp focus by the Covid-19 pandemic, which led to an enforced delay to the PCC elections in 2020. The Home Secretary’s statement also highlighted our plans to look at expanding the role of PCCs. Selecting a deputy not only provides the local accountability model with greater resilience in the event of incapacity, for example, but also the ability to effectively carry out the duties and responsibilities of the role by increasing the capacity of the model...
... I expect all PCCs to work with their office to put in place a formal succession plan to be followed in case of vacancy or incapacitation, where one does not already exist. I would also ask that you involve your police and crime panel in these discussions as necessary, given their statutory role in this process...”*

Since election in 2021, the Police and Crime Commissioner (the PCC) has not appointed nor considered it necessary to appoint a deputy.

This position will be kept under review by the PCC as the Home Secretary’s plans to expand the role of PCCs emerge and are enacted.

It is considered, in the interim, necessary to put in place a succession plan to be followed in the event of vacancy or incapacitation in the Office of PCC.

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INFORMATION IN SUPPORT OF DECISION: (eg report or business case)

RELEVANT LEGISLATION

The Police Reform and Social Responsibility Act 2011 sets out the legal provisions that apply regarding the appointment of a deputy and further, the steps required to be taken in the event of a PCC vacancy or incapacitation.

Under section 18 of the 2011 Act, it is currently a matter for the discretion of a PCC as to whether they appoint a person as deputy PCC. If appointed, such deputy becomes a member of the PCC's staff. Under Schedule 1 of the 2011 Act, the appointment of a deputy is required to be scrutinised by the Police and Crime Panel.

By contrast, a PCC is obliged, by statute, to appoint a chief executive under Schedule 1 to the 2011 Act. This is not optional. As a senior officer appointment, the appointment is required to be scrutinised by the Police and Crime Panel.

The 2011 Act at section 51 sets out the statutory steps that are required to be taken in the case of a vacancy in the office of PCC. Where there is a vacancy an election must be held to fill the vacancy. If the vacancy occurs within the period of six months before the next ordinary election then no election is to be held in respect of the vacancy, and the office is to be left unfilled until the ordinary election.

Section 59 of the 2011 Act provides that, briefly summarised, a vacancy can occur in the case of:

- an election irregularity;
- a notice of resignation being given;
- death;
- declaration by the High Court or appropriate officer.

More detail can be found at sections 59-61 of the 2011 Act.

Section 62 of the 2011 Act provides that in a situation where:

- no person holds the office of PCC because it is vacant;
 - the PCC is incapacitated; or
 - the PCC is suspended under section 30 of the 2011 Act,
- the Police and Crime Panel must appoint a person to act as PCC.

The Panel may appoint a person as acting commissioner but only if the person is a member of the PCC's staff at the time of the appointment. In appointing a person as acting commissioner in a case where the PCC is incapacitated, the Panel must have regard to any representations made by the PCC in relation to the appointment.

All the functions of a PCC are exercisable by an acting commissioner, apart from issuing or varying a police and crime plan.

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The appointment of an acting commissioner ceases to have effect upon the earliest of:

- the election of a person as PCC;
- the termination of the acting commissioner appointment by the Panel;
- the PCC ceases to be incapacitated;
- the PCC ceases to be suspended.

Where an acting commissioner is appointed in view of a PCC's incapacitation and such incapacitation lasts for six months from the appointment, the office of PCC becomes vacant (section 63 of the 2011 Act).

The above paragraphs are a summary of the relevant legislation. Should a case of vacancy or incapacitation occur, the legislation will require detailed consideration.

ACTING PCC IN NOTTINGHAMSHIRE

Where a statutory requirement arises for the appointment of an acting PCC under section 62 of the 2011 Act, a member of the PCC's staff will be required to be appointed as such acting PCC.

The PCC has no appointed deputy so that a member of his officer staff will be required to be appointed. No person who is not a staff member may be appointed as the acting PCC.

In order to ensure continuity in the administration and delivery of the Office of Police and Crime Commissioner for Nottinghamshire, the PCC has determined that in the event of an appointment being required, the person holding the statutory role of Chief Executive will be considered for appointment as acting commissioner in accordance with the relevant legislation.

A formal appointment decision will be required by the Panel under section 62 of the 2011 Act in respect of the person to act as PCC if the circumstances necessitate such an appointment being made. The 2011 Act has primacy over this Plan and therefore the Panel's role in scrutinising a proposed Acting PCC appointment will be unfettered by this Plan.

Unless the PCC notifies the Panel otherwise, the PCC's current intention is that the Succession Plan will be taken by the Panel as the PCC's representation to any future Acting PCC appointment process. This will ensure that the PCC's views can be fed into the process in the event that they may be incapacitated in a way that prevented her representations being made directly.

Should there be any need to backfill the Chief Executive role during the period of the appointment as acting PCC, the Chief Executive will decide how that is to be achieved having regard to all the circumstances including the likely length of the acting appointment. In any event the Scheme of Governance and Consent provides for delegations of the Chief Executive and Monitoring Officer responsibilities in their absence to ensure resilience in the performance of the statutory functions of these governance roles.

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The Chief Executive is also authorised under the Scheme to discharge the functions of the PCC (apart from those that may not statutorily be delegated to them) and which would enable the day to day functioning of the PCC role in the interim period before an acting appointment is made by the Panel.

FINANCIAL INFORMATION

Signature:
Chief Finance
Officer



Date:

18/02/2022

Is any of the supporting information classified as non-public or confidential information?**

Yes

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No

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If yes, please state under which category from the guidance**

DECISION:

To approve the formal adoption of a Succession Plan for the Nottinghamshire OPCC, in the event of a PCC vacancy or incapacitation within Nottinghamshire.

OFFICER APPROVAL:

I have been consulted about the proposal and confirm that the appropriate advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner.

Signature:
Chief Executive



Date:

18/02/2022

** See guidance on non-public information

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DECLARATION:

I confirm that I do not have any disclosable pecuniary interests in this decision and I take the decision in compliance with the Code of Conduct for the Nottinghamshire Office of the Police and Crime Commissioner. Any interests are indicated below:

The above request has my approval

Signature:
Nottinghamshire Police
& Crime Commissioner

A handwritten signature in black ink, appearing to read 'Caroline Henry', written over a horizontal line.

Date:

04/03/2022