

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

EXPLANATORY NOTES

OVERVIEW

Part 1- Police Reform

Police areas outside London

Section 1: Police and crime commissioners

21. [Section 1](#) creates a new directly elected police and crime commissioner for each police force area in England and Wales outside London.
22. [Subsection \(2\)](#) provides that the police and crime commissioner will be a corporation sole. This means that the office will have its own legal personality, distinct from that of the person holding it, and it is in this separate capacity that the police and crime commissioner will own property, employ staff, make contracts and take part in legal proceedings.
23. [Subsections \(5\) to \(7\)](#) set out the core functions of police and crime commissioners, which are to secure the maintenance of an efficient and effective police force, and to hold the chief constable to account for the exercise of his functions. These are the functions previously carried out by police authorities.
24. [Subsection \(8\)](#) sets out a number of functions in respect of which, in particular, the police and crime commissioner must hold the chief constable to account.
25. [Subsection \(9\)](#) abolishes all police authorities under section 3 of the Police Act 1996.
26. [Subsection \(10\)](#) introduces Schedule 1.

Schedule 1: Police and Crime Commissioners

27. [Schedule 1](#) deals with a number of ancillary matters in relation to police and crime commissioners such as remuneration, staff and powers.
28. [Paragraphs 2 to 5](#) provide for a police and crime commissioner to receive a salary, allowances and a pension. The amount of the salary and allowances, and the amount to be paid by the police and crime commissioner in respect of pensions, will be determined by the Secretary of State, and these determinations will be published.
29. [Paragraphs 6 and 7](#) set out the powers and duties of police and crime commissioners in respect of staff. The police and crime commissioner must appoint a person to be head of his staff (referred to in the Act as his chief executive) and a person to be responsible for the administration of his financial affairs (referred to in the Act as his chief finance officer), and may appoint other staff. Paragraphs 187 to 190 and 201 to 202 of Part 3 of Schedule 16 amend the relevant provisions in local government legislation with the effect that the chief executive and chief finance officer have the

same powers and duties as their equivalents in local authorities. In particular, the chief finance officer will automatically be designated as monitoring officer, with the duty of making a report in relation to any unlawful conduct or maladministration by the police and crime commissioner.

30. [Paragraph 8](#) contains provision about the deputy police and crime commissioner, listing persons who are disqualified from appointment to the post, specifying that the deputy's appointment will not extend beyond the tenure of the police and crime commissioner, and disapplying section 7 of the Local Government and Housing Act 1989 (which would otherwise require a deputy police and crime commissioner, as a member of the police and crime commissioner's staff, to be appointed on merit).
31. [Paragraphs 9 to 12](#) make provisions requiring a police and crime panel to hold a confirmation hearing in relation to a proposed appointment by a police and crime commissioner of a deputy police and crime commissioner, a chief executive or a chief finance officer. This provision is similar to that made in respect of the appointment of a chief constable under Part 1 of Schedule 8.
32. [Paragraph 13](#) allows the police and crime commissioner to pay his staff.
33. [Paragraph 14](#) provides a police and crime commissioner with a general power to do anything intended to allow or assist him in discharging his functions.
34. [Paragraph 15](#) protects a police and crime commissioner and any member of his staff from personal liability in respect of acts done in the course of their duties and in good faith.

Section 2: Chief constables

35. [Section 2](#) provides for each police force to have a chief constable.
36. [Subsection \(3\)](#) places the members of the police force and the force's civilian staff under the direction and control of the chief constable. This reflects the existing position for chief constables.
37. [Subsection \(6\)](#) makes [subsection \(3\)](#) subject to any provision in a collaboration agreement which may place members of the police force or civilian staff under the direction and control of the chief constable of another force.
38. [Subsection \(7\)](#) introduces Schedule 2.

Schedule 2: Chief Constables

39. [Schedule 2](#) deals with a number of ancillary matters in relation to chief constables such as the appointment of staff.
40. [Paragraph 2](#) provides for the chief constable to be a corporation sole. At present the office of chief constable is unincorporated and does not constitute a separate legal personality to the person holding it. This change is necessitated by the change in the employment arrangements for the civilian staff engaged to support the police force. Previously these staff were employed by the police authority, but under the Act they are employed by the chief constable. By allowing the chief constable to appoint these staff in his corporate rather than his personal capacity, paragraph 2 ensures that any rights and liabilities under the contracts of employment pass to the chief constable's successor when he leaves office.
41. [Paragraphs 4 and 5](#) require the chief constable to appoint a person to be responsible for the administration of the police force's financial affairs (referred to in the Act as the police force's chief finance officer), and allows him to appoint such other civilian staff as the chief constable thinks appropriate.
42. [Paragraph 6](#) allows a chief constable to pay his staff.

*These notes refer to the Police Reform and Social Responsibility
Act 2011 (c.13) which received Royal Assent on 15 September 2011*

43. **Paragraph 7** gives chief constables a general power to do anything intended to allow or assist him in discharging his functions, but he may only enter into contracts (other than those relating to the employment of a person as a member of the civilian staff of the police force), or acquire and dispose of property, with the consent of the police and crime commissioner. Paragraph 7 also prohibits the chief constable from borrowing money at all. These provisions reflect the fact that the assets of a police force are owned by the police and crime commissioner, in the same way that they were previously owned by the police authority.
44. **Paragraph 8** requires the police and crime commissioner to pay, out of the police fund, damages, costs etc awarded against the chief constable in any legal proceedings against him arising from unlawful acts by his civilian staff. Paragraph 8 also allows, but does not require, the police and crime commissioner to pay damages, costs etc awarded against members of civilian staff themselves. This replicates the position in respect of legal proceedings arising from unlawful acts by police officers under previous legislation.