

Professor **Pete Murphy** and Research Associate **Katarzyna Lakoma**, Nottingham Trent University, report on the areas to be covered under the review of PCCs



# Picking apart the PCCs: Two-part review of the role of police, fire and crime commissioners

**A**s might be expected, the government's plans to bring individual fire and rescue services under the control of police and crime commissioners has been met with a certain level of resistance.

On the day that parliament recessed for the Summer, Kit Malthouse, the Minister of State for Crime, Policing and the Fire Service, deposited a ministerial statement (2020) announcing a two-part internal review of police and crime commissioners (PCCs) and police, fire and crime commissioners (PFCCs). The first part is to report by October, thus allowing only the minimum 12 weeks for consideration under the government's Code of Practice on Consultation. The statement informed us that an advisory group will support part one of the review, comprising senior external stakeholders with expertise in the policing and fire sectors. To elicit the public's views the review team will 'seek to engage a sample of citizens and local and national victims' groups as appropriate.'

This hardly matches the spirit of the government's own code of practice which states that consultations:

'should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible... Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.'

Malthouse claimed that the Conservative manifesto committed them to strengthening the accountability of

PCCs and expanding their role. It must be Theresa May's manifesto in 2017 that he must be referring to as neither PCCs nor PFCCs are mentioned in the 2019 Johnson version.

Notwithstanding these procedural inadequacies what is being proposed?

## **A two-part Internal Review**

Part one commenced in July and is to report to the Home Secretary and Malthouse by the end of this month. It is focussed on changes required to strengthen the Commissioner model can be delivered ahead of the 2021 PCC elections. In particular, it will consider how to strengthen the accountability, resilience, legitimacy and scrutiny mechanisms of the existing model and these are the focus of our interest in this article.

The government will also use part one of the review to articulate a longer-term ambition for the expansion of the PCC role. Part two will commence after the 2021 elections and will consider further ways to strengthen and expand the role of PCCs. 'It will focus on longer-term reforms and the potential for wider efficiencies to be made within the system' with a view to implementation ahead of the 2024 elections.

## **Fire and Rescue Services**

The statement acknowledges that further reform of fire and rescue services is required in order to respond to the recommendations from Phase 1 of the Grenfell Tower Inquiry and to build on the findings from Sir Tom Winsor's *State of Fire* report, both of which 'demonstrate the clear

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challenges and improvements required in professionalism, people and governance.’

The review will also draw ‘lessons from the first cycle of fire governance transfers to PCCs’ and align with the government’s commitment to expand the benefits of devolution across England suggesting mayors of combined authorities should have ‘the ability to drive public safety, as well as economic growth and local recovery’. The government plan to develop the role of PCCs ‘with this longer-term trajectory in mind, building on the models in London and Greater Manchester’, although neither part of the review will consider a wholly new governance model nor examine the 43 police force model. Although there was no assurance given on the Fire Service model, given that closer collaboration is a statutory requirement in Chapter 1 of the 2017 Act and the advantages of coterminous boundaries, this arrangement looks secure, at least in the short-term.

What could they do to strengthen accountability, resilience, legitimacy and scrutiny and which are feasible in the short-term?

All these issues are clearly interrelated and any changes in one often affects one or more of the others and they could all be affected by the recommendations in the *State of Fire* report.

We will try to unpick them individually before addressing some issues that affect them all.

### Accountability

The key question to ask with accountability is always: accountability to whom? Is it to the public, to the government or to key stakeholders, collaborators, and/or partners? The 2017 Act made accountability to central government, collaborators and partners stronger than the previous regime and on balance also enhanced accountability to the public, primarily through the creation of HMICFRS. But accountability was at a very low base and it is generally accepted that the PCC/PFCC model is still one of the weakest governance models in terms of accountability. It needs further strengthening.

In terms of accountability to government, there are direct and indirect mechanisms available. Malthouse recently announced that the Police Reform and Transformation Board intended to implement the 2025 Vision, which was chaired by a PCC on behalf of the APCC and will be replaced with a ‘Strategic Change and Investment Board’ to be chaired by himself in order to take a tighter grip on resources. The APCC has not been seen to be as robust in standing up to the Home Office as the local government-based Association of Police Authorities which it replaced in the high level tripartite arrangements operating prior to 2010 (Murphy et al. 2019).

Indirectly, Sir Tom Winsor’s four high level recommendations in the *State of Fire* report will help accountability to government as well as to the public and stakeholders, although none of his proposals are likely to be fully delivered before the 2021 election, and the devil

may be in the detail which is still to be revealed.

The government clearly want to see more PFCCs, but from the ‘local cases’ approved to date it is difficult to see how this ‘benchmark’ could be lower. They could grant powers for ministers to approve new PFCCs without a local case (but this would take time and be an act of political nepotism) or they could adopt the strong-arm tactics and coerce proposals much as MHCLG ministers are taking to the two-tier local government arrangements. The Home Office is probably tempted but either way they are not likely to be able to do either in time for 2021 elections.

More realistically short-term improvements in accountability are more likely to come from stronger scrutiny and improving financial and organisational resilience.

### Resilience

There are also various types of resilience. There is organisational and sectoral resilience, community resilience, financial resilience and the resilience of individuals and groups of firefighters doing their day job.

Winsor’s recommendations that the Home Office clarify the roles of the Service and of firefighters, and that the sector reviews the case for ‘fundamental reform’ of the pay negotiating machinery should help – providing, as the NFCC say, the former is risk and evidence-based rather than merely a lists of activities. Giving chief fire officers operational independence should also help the Service, but like the fundamental reform of pay negotiations, other than making announcements these are not likely to be implemented prior to May 2021.

CIPFA have recently started to develop a definition of ‘financial resilience’ but the concept needs to be operationalised in the new public audit and assurance regime emerging from the Redmond Review while following the 2020 Code of Local Audit Practice (NAO 2020). In our view, an opinion on financial ‘sustainability’ and an assessment of financial resilience is likely to be in the new audit and assurance arrangements and in the value for money assessments following Redmond.

Although Covid-19 has forced the government to announce the end of ‘austerity’, are fire services likely to get more resources, be relieved of some current responsibilities and given the discretion to respond to local priorities?

Medium- and longer-term financial resilience is dependent on both a multi-year Spending Review and reform of local authority financial support to allow resource allocations to respond to local circumstances, changing risk patterns and priorities. The autumn Spending Review has been delayed and although it cannot be postponed indefinitely, all the indications are that it will be short-term and responsive with fundamental reform kicked into the long grass of Covid-19 and Brexit. Recent spending announcements have also seen increased use of ‘special’ rather than more general revenue grant. This reduces local discretion and the flexibility of authorities to

respond to local priorities. It increases the proportion of hypothecation in local spending.

### Legitimacy

Legitimacy is the result of the relationship between the fire and rescue authorities and the public. In a democracy it is arbitrated through the law and the representational government at national and local levels.

In England, directly elected politicians (central government), following appropriate consultation, determine the regime that guides the Fire and Rescue Service provision. It is currently articulated in the 2018 National Framework for Fire and Rescue Services. The framework is implemented by a combination of directly and indirectly elected representatives (PFCCs and fire authorities respectively) and key stakeholders, such as HMICFRS, the NFCC and the National Standards Board, in addition to fire and rescue services.

There are four potential ways of improving legitimacy. One is improving democratic legitimacy and the woefully low electoral turnout, particularly for PCCs. Another is to improve the diversity of the Service so that it better reflects the diversity of the community it serves.

A third would be to improve the existing national framework, eg with the findings from the Grenfell Tower Inquiry Phase 1 and recommendations from the *State of Fire* report, which the government has already acknowledged it will do. Some of the latter could be addressed if a new framework is published prior to the PFCC elections in May 2021.

The fourth would be to improve the damaged reputation of the government, employees and employers by revisiting pay negotiations following recent bad publicity. This though would require reform of employment arrangements with potentially a new independent pay body. Winsor would also like a code of ethics, to establish exemplary standards of behaviour for staff by December 2020. Neither now seems realistic in the short-term.

It may be possible to incorporate some improvements from Grenfell and the *State of Fire* before May 2021 as these reports have been out for some time, and the Home Office will have been working on them, but recent experience suggests that improving democratic legitimacy, equality and diversity, and industrial relations within the sector are going to be a much tougher ask.

### Scrutiny

Effective internal and external scrutiny plays a vital role in securing the efficient delivery of fire and rescue services and driving improvement within the Service. Organisational awareness and self-assessment are the foundation of effective improvement. They require robust internal scrutiny and effective performance management. Neither was evident from the recent round of inspections.

External scrutiny is now primarily delivered through HMICFRS service inspections and public audit arrangements. Fire Service audit arrangements are part of the wider Review of Local Authority Financial Reporting and External Audit which has just been published (Redmond 2020).

Redmond proposes radical changes to the public audit arrangements and organisational responsibilities and the

assessments of financial resilience and organisational sustainability. If implemented, it would significantly improve public audit, accountability and transparency, but key areas require primary and/or secondary legislation and will not be in place by May 2021.

We have previously advocated more comprehensive and sophisticated external inspection to embrace governance, strategy and external collaborations. We have also called for thematic or cross cutting inspections by HMICFRS to complement service inspection and facilitate sectoral improvement.

It is, however, also evident that internal scrutiny arrangements, particularly for PCCs and PFCCs, should be strengthened as part of the governance arrangements.

The PFCCs and fire authorities must ensure that police and fire and rescue services are adequately resourced. This means scrutiny must be adequately resourced. Police, fire and crime panels either need strengthening with fire expertise or a specialist panel established (with or without external independent representation). Each fire service should have a strategic collaboration board to periodically review work between the police and fire services and which should be included within the inspection arrangements. Changes to the inspection regime can come from the Secretary of State or directly from HMICFRS and external scrutiny expertise is available from CIPFA, the Centre for Public Scrutiny and specialist management consultants.

We have mentioned that accountability, resilience, legitimacy and scrutiny all overlap and are interdependent of each other. They are all underpinned by transparency and should be founded on data and intelligence. All parties now seem to accept these need to be continuously improved.

The first phase of the review could see the translation of some of the much-needed lessons from Grenfell and Winsor into action. If relatively small amounts of additional resources are made available, it could see the welcome acceleration of the NFCC programme on community risks and the work of the Standards Board. It might see a new national framework and minor amendments to the second round of inspections. However, its most significant contribution is more likely to be what it reveals about the government's ambitions for the longer-term and more fundamental reforms of the Service.

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