

Update on Police and Crime Commissioner Elections

March 2012

The Police Reform and Social Responsibility (PRSR) Act 2011 replaces police authorities in England and Wales with directly elected Police and Crime Commissioners (PCCs). The first election for PCCs is to take place on 15 November 2012. The Commission briefed Parliament and Government extensively, during the debate on the Bill, on a number of issues that we believed needed to be addressed for the elections to be well-run.

On 16 February 2012, the Home Office formally consulted the Commission on the draft secondary legislation for PCC elections. We submitted our response today. It is available on our [website](#) and covers the issues set out below in more detail.

Throughout the debate on the PRSR Bill and since Royal Assent (September 2011), we have raised a number of concerns regarding the arrangements for PCC elections and many have not yet been addressed by the Government. We have made a number of recommendations to improve the draft secondary legislation and progress must be made on these issues if the legislation is to be approved in a workable form at least six months (15 May) before the elections so that candidates, agents, and Returning Officers are ready.

This briefing updates Parliamentarians, and others interested in PCC elections, on two significant areas of continuing concern.

- 1. Giving voters the information they need**
- 2. Making sure that the elections are properly run**

Without clear processes and rules in place in sufficient time, trust and confidence in the system may be called into question not only by those who want to stand for election but also by voters.

Giving voters the information they need

Information for voters about candidates: Government's proposal

It is important that voters have sufficient information about the voting system, the issues and the candidates that are standing in elections so they can make an informed decision.

In our briefings to Parliament during the debate on the PRSR Bill we had concerns that the Government had not properly identified the mechanisms through which all voters would be given enough information about candidates standing in the election. We recommended that the Government provide a freepost mailing from candidates or make provision for the distribution of a booklet with addresses from each candidate (as happens at Mayoral elections).

In Paragraph 51 and Schedule 8 of the draft secondary legislation, the Government has proposed that a central website will be created to host information about candidates. It is anticipated that the content will be provided by those standing and then checked and uploaded by the relevant Police Area Returning Officer (PARO).

This website will take the place of any publicly funded mailing or booklet distributed locally. Instead, we understand that voters will be offered a print on demand service via a telephone helpline if they cannot access the internet.

Commission concerns about impact on voters and candidates

The Government's proposal is a significant departure from what is provided for UK Parliamentary, European Parliament and Mayoral elections, and raises some concerns that Parliament may want to be aware of before the secondary legislation is laid.

Delivering information primarily via a website will exclude the still significant number of adults in England and Wales who do not have easy access to the internet: as many as 7 million adults in England (excluding London) and Wales are estimated not to have used the internet at all in the last 12 months¹.

Candidates for PCC elections will also need to communicate with a much larger number of voters across their 'constituencies' than usual; and there may be significant numbers of independent candidates who do not have the support of a party behind them to promote their campaign.

In addition, there may be Mayoral elections taking place in some English cities at the same time but, unlike PCC candidates, Mayoral candidates will have a locally distributed booklet including information provided by them. From a voter's perspective, it may be confusing to receive information in a booklet about one election but not the other.

None of this is to argue that a website with information from candidates is itself a bad idea – if done in the right way it could provide a useful resource for voters – it is the Government's reliance on this as the main method of communication between candidates and voters that causes us concern.

As we have made clear to Government, all of these issues would be addressed if they were to adopt our original proposal. However, we understand from the Government that they are unlikely to change their approach and have therefore

¹ Target Group Index - Q1 2012 (<http://kantarmedia-tgigb.com/tgi-surveys/gb/>)

identified a number of ways their proposal can be improved. These are also set out in more detail in our consultation response.

Recommendations to improve the Government's proposal

The Government's proposal will require Police Area Returning Officers (PAROs) to accept or reject material from candidates, check and approve that material, and then pass it to the Home Office for publication on their website. This will be an important role for the PAROs, and both they and the Commission want to be assured that the process clearly defines the role and powers of the PAROs. This will help ensure that candidates are treated equally and that, as far as is possible with this approach, voters have access to a consistent standard of information about candidates.

However, as we have said in our consultation response today, the criteria that PAROs should use needs to be explained in more detail than is currently set out in the draft secondary legislation. We are aware the Government also shares our concerns that the secondary legislation will need to include effective safeguards to ensure there is no perception of Government interference at any stage of the process.

We strongly recommend that the Government sets out publicly how this process will work to assure that trust and confidence in the system will not be called into question by potential candidates as well as the voters.

Information about the elections

Clause 53 of the PRSR Act provides that the Electoral Commission must 'take such steps as it considers appropriate' to raise public awareness for PCC elections. This provision is consistent with our public awareness role for other elections. It will be particularly important because these are new elections, taking place at an unfamiliar time of year and using the Supplementary Vote system, which most voters will not have used before.

We will, subject to funding:

- Send a booklet to every household in England (excluding London) and Wales with information on the PCC elections and will develop a multi-media public awareness campaign to support its delivery.
- The Commission's booklet will include:
 - Basic information for voters on the PCC elections
 - How to cast your vote
 - Encourage registration ahead of elections.

Making sure that the elections are properly run

Guidance for candidates, agents, campaigners and Returning Officers

The Commission has a role in providing advice and guidance to candidates, agents, other campaigners and Returning Officers in the run up to elections. This includes

information about how to stand as a candidate, and the rules on campaign spending and funding. Secondary legislation must be passed before the Commission can issue this guidance.

The Government has consulted the Commission on its draft secondary legislation which sets out the rules on the conduct of the elections and on campaign spending. Following this, the final Order will be laid in Parliament to be agreed. It should be noted that there are approximately only 30 Parliamentary sitting days before 15 May (it is an established principle that all necessary legislation should be in place six months before a poll).

We are already receiving a growing number of enquiries from potential candidates, electoral administrators, and others with an interest in these elections. We are of course making preparations and, provided that the secondary legislation is finalised in time, we expect to publish our guidance for Returning Officers no later than six months before the date of the elections, by 15 May, and our guidance for candidates and campaigners by early July, three months before the start of the regulated period. However, any further delay by the Government in finalising the draft secondary legislation would pose an increasing risk to our ability to provide timely and accurate guidance on the rules for the first PCC elections to campaigners and electoral administrators.

Spending limits for candidates

As at other elections, the Government is proposing to place limits on the amount that PCC candidates can spend during the last few weeks of the campaign. The limits in the draft secondary legislation are expressed as a formula based on the number of electors in each police area.

We have strongly recommended to the Government that, since these are new elections with constituencies made up of multiple existing electoral areas, the spending limit for each police area should be spelt out on the face of the secondary legislation. This would provide certainty for candidates and agents, and would reduce administrative burdens on them and on Electoral Registration Officers (who would have to supply the list of electors).

It would also reduce the risk of candidates miscalculating the limits, and potentially breaking the spending rules by accident. This has been a problem at previous elections, as we have explained in our response to the Government's consultation.

Combination of PCC elections with other elections

It is likely that there will be Mayoral elections in some areas of England (arising from Mayoral referendums taking place in May 2012) on the same day as PCC elections in November. While there are advantages in holding combination elections (reducing costs and minimising voter fatigue), this combination does have the potential to cause confusion for voters and increase the burden on administrators. It is therefore

essential that there is careful management across the Government departments overseeing these elections.

PCC elections and Mayoral elections are being overseen by two different Government departments. The Home Office and the Department for Communities and Local Government will need to keep the Commission and Returning Officers updated on their plans on ballot paper designs. This will be crucial to ensure voters understand in which election they are casting their vote, especially because they will be using the same voting system, Supplementary Vote, for different elections, on the same day. This planning should be run, as far as possible, in the interests of voters, and therefore voters should not be presented with two differently designed ballot papers when casting their vote.

And any voter confusion could be exacerbated if there is disparity between the mechanisms for PCC candidates (website) to communicate with voters and that for Mayoral candidates (locally distributed booklet) for elections taking place on the same day.

For further information:

We have raised a number of these concerns during the passage of the legislation, and our previous briefings to Parliament can be read online [here](#).

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