

# Portfolio Holder Decision

## Response to Home Office Consultation on Powers of Competence to Police and Crime Commissioners

<b>Portfolio Holder</b>	<b>Portfolio Holder for Fire &amp; Rescue and Community Safety – Cllr Andy Crump</b>
<b>Date of decision</b>	<b>19<sup>th</sup> October 2021</b>
	<b>Signed</b>

### Decision taken

That the consultation response in relation to the powers of competence of Police and Crime Commissioners attached at Appendix 1 is approved for submission to the Home Office.

### Reasons for decision

The County Council's response (at Appendix 1) recognises that there would be benefits in giving Police and Crime Commissioners wider powers. It proposes that PCCs be given a wider functional power of competence which would give PCCs the power to undertake a range of initiatives provided they can be linked to the statutory functions of PCCs.

It is considered that a functional power of competence would be sufficient to give PCCs greater flexibility to pursue more creative and innovative initiatives, potentially collaboratively in partnership with others public sector partners, without the risk of legal challenge, whilst at the same time ensuring that those initiatives can be linked to the functions of PCCs as set out in the Police Reform and Social Responsibility Act 2011.

The more extensive general power of competence is not considered by the County Council to be necessary to deliver the objectives that appear to be sought and the granting of such a wide power would bring with it potential risks of diverting attention and/or resources away from the statutory functions of PCCs. In addition, without additional checks and balances in place on the activities undertaken by the PCC, there would be a risk that some activities undertaken in exercise of such a wide power could pose a financial/ reputational risk (particularly in relation to more commercial/ revenue

generating initiatives).

The consultation response also sets out the County Council's view of the benefits and risks of the two models proposed.

## Background information

1. In concluding Part One of a two-part Review into the role of PCCs, the Home Secretary announced in March 2021 that she would consult on giving a general power of competence to PCCs. The Home Office is now consulting on providing PCCs with greater powers of competence. These powers if enacted would minimise the risk of challenge against decisions made by PCCs on grounds of ultra vires (ie insufficient legal authority / powers to make the decision).
2. The consultation seeks views on the benefits and risks of giving PCCs (including Mayors with PCC functions) greater powers of competence to improve the levers they have to prevent and tackle crime and anti-social behaviour and give them greater flexibility to drive efficiency. The consultation seeks views on the benefits, opportunities and risks of granting PCCs either:
  - i. a wider functional power of competence as held by fire and rescue authorities (combined authorities), which will include giving the PCC the power to do anything linked to their functions; or
  - ii. a general power of competence as held by local authorities, which will give them the power to do anything that an individual can do so long as it is not prohibited by legislation.
3. The consultation paper identifies four key drivers for extending powers of PCCs;
  - Putting beyond doubt their ability to tackle crime and antisocial behaviour – allowing PCCs to invest in activity that benefits the community and gets upstream of crime e.g. services to reduce offending, tackling mental health, youth diversion schemes.
  - Collaborative working – the ability to take part in initiatives which are not current statutory responsibilities, for example with other emergency services or criminal justice partners; the opportunity to be a partner in local authority private sector commercial arrangements.
  - Property regeneration and development – the ability to borrow to invest in regeneration of existing land and property; generating long-term revenue streams (rather than one-off capital receipts).
  - Commercial ventures and initiatives – the ability to develop innovative commercial opportunities, which yield additional revenue.

4. Some PCCs have identified that the wider general powers would enable them to set up a police insurance mutual, similar to the Fire and Rescue Indemnity Company mutual established by fire services and others have indicated that they could use wider powers to make more effective use of estates, for example investing in renovation of police property to provide key worker housing and charging third parties to make use of premises, such as the police firearms range, when not in use for police purposes.
5. If approved the consultation response will be submitted to the Home Office by the deadline of 27<sup>th</sup> October 2021.

### Financial implications

There are no financial implications arising from this report

### Environmental implications

There are no environmental implications arising from this report

<b>Report Author</b>	Sarah Duxbury – Assistant Director, Governance and Policy Ben Brook – Chief Fire Officer Tel: 01926 736118
<b>Assistant Director</b>	As above
<b>Strategic Director</b>	Mark Ryder – Strategic Director for Communities Strategic Director for Communities
<b>Portfolio Holder</b>	Cllr Andy Crump Portfolio Holder for Fire & Rescue and Community Safety

<b>Urgent matter?</b>	No
<b>Confidential or exempt?</b>	No
<b>Is the decision contrary to the budget and policy framework?</b>	No

### List of background papers (If applicable)

Home Office Consultation document

## Members and officers consulted and informed

Portfolio Holder – Councillor Andy Crump

Corporate Board and Chief Fire Officer – consulted and views incorporated

Legal – Sioned Harper

Finance – Andy Felton

Democratic Services – Deb Moseley

Councillors – Chair and Party Spokes of the Resources and Fire & Rescue Overview and Scrutiny Committee (Councillors Warwick, Birdi, Boad, Phillips, and W. Roberts)

Local Member(s): N/a