

Police and Crime Commissioner elections - postponement

On Wednesday 25 March 2020, [the Coronavirus Act 2020](#) ('the 2020 Act') came into force. It has several provisions which have a direct impact on local policing bodies across England and Wales. In broad terms, as well as postponing the elections scheduled to take place on 7 May 2020 for one year (to 6 May 2021), the 2020 Act provides Ministers with a flexible regulation making power to postpone polls that are unscheduled during this period. This will avoid the need to hold by-elections where new vacancies occur.

Section 60(12) & (13) of the Coronavirus Act: Postponement of elections due to be held on 7 May 2020

This section postpones the ordinary election for Police and Crime Commissioners (PCC) that was due to take place on Thursday 7 May 2020 to 6 May 2021. It does not affect the dates of subsequent four-yearly elections of PCCs.

Consequently, the postponement of the May 2020 elections will extend the current term of office of incumbent PCCs by one year. The Government considers that the established electoral cycle should be preserved, and section 60(13) will ensure that the 2024 PCC elections go ahead as planned, maintaining the alignment of PCC and most Mayoral elections. This section therefore shortens the term of office for those who will be elected in May 2021 from four to three years and allows subsequent elections in 2024 and 2028 to go ahead as planned.

Section 61(3)(g) of the Coronavirus Act: Vacancy in the office of Police and Crime Commissioner

This section provides a power to the Secretary of State or Minister for the Cabinet Office to make regulations to postpone any by-election that occurs between 16 March 2020 and 5 May 2021 (see s.61(2)(a)). The Coronavirus Act allows regulations to be made to ensure no poll takes place before 6 May 2021. A vacancy in the Office of the Police and Crime Commissioner may occur through disqualification, incapacity, resignation or death.

Section 61(4)(b) of the Act: Local Referendum

PCCs can trigger a local referendum on the policing (and if applicable, fire and rescue services) precept of local council tax. The Secretary of State or Minister for the Cabinet Office's power to make regulations extend to local referenda and similarly, Ministers may defer these polls if due before 5 May 2021.

The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020

These [Regulations](#) came into force on 07 April 2020. Regulation 10(2) ensures that a by-election to fill a vacancy that arises under section 51 of the 2011 Act (election to fill vacancy in office of commissioner) does not take place until the next ordinary election on 6

May 2021. For example, should a PCC leave office, for any reason, the relevant Police and Crime Panel would appoint an Acting Police and Crime Commissioner. The Acting PCC would then continue in office until the next ordinary election (6 May 2021) or until they resign, or their appointment is ended by the Police and Crime Panel. The term of office of incumbent acting PCCs similarly is extended to the next ordinary election.

Frequently asked questions

When were the Police Crime Commissioner elections scheduled to take place and when will they take place now?

The Police Crime and Commissioner elections were scheduled to take place on the 7 May 2020. On the 13 March the Prime Minister announced that all elections scheduled to take place on the 7 May 2020 would be postponed for one year. These elections will now take place on the 6 May 2021.

Why have the elections been suspended for a year? Could they not have been rescheduled for later in 2020?

Postponing the elections for a year provides certainty and clarity for the date of those polls and enables them to be held together with polls already scheduled for May 2021.

Does the Coronavirus Act 2020 enable further postponements of any election that was scheduled for after 7 May 2020?

The legislation allows for regulations to be made to postpone any election scheduled to take place between 16 March 2020 and 5 May 2021. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 prospectively postpones all by-elections to the day of the ordinary elections in 2021.

What does this mean for incumbent PCCs who were due to stand for re-election this year?

The legislation will have the effect of extending the term of office of current Police and Crime Commissioners for one year. We hope the majority of PCCs who were due to stand down in May 2020 to be willing to undertake their role for a further 12 months.

What about those PCCs who planned to stand down in May? What will happen if they resign?

The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 postpones all by-elections to the day of the ordinary elections in 2021. Where a PCC chooses to resign their position, an Acting PCC will be appointed using the process set out in the Police Reform and Social Responsibility Act 2011.

Will an Acting PCC be able to continue in post for 12 months?

The Coronavirus Act 2020 allows Ministers to make regulations concerning PCC elections. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 came into force on 7 April 2020. Regulation 10(3) confirms that the term of office of incumbent acting PCCs will continue to the next ordinary election.

Will this extension have an impact on PCCs who are elected in 2021? Will they serve a four-year term?

All PCCs who are elected in 2021 will serve a three-year term of office. Retaining a four-year cycle from 2021 would mean that PCC elections would be held in subsequent 'fallow' or standalone election years. Reducing the term to three years, for those elected in 2021, will not disturb the overall pattern of election cycles and will synchronise PCC elections with many other local polls. The next scheduled PCC elections, after 2021, will therefore take place in 2024.

Can PCCs appoint a Deputy?

Section 18(1) of the Police Reform and Social Responsibility Act 2011 allows a Police and Crime Commissioner to appoint a Deputy. The PCC must notify the Police and Crime Panel of their proposed appointment. The Panel will then hold a confirmation hearing and make a report to the PCC either accepting or rejecting the proposed appointment. Ultimately, the PCC is not under any obligation to accept the recommendation of the Police and Crime Panel.

Who is appointed Acting Police and Crime Commissioner if the PCC resigns?

If a PCC chooses to resign, the Police and Crime Panel for that force area must appoint an Acting PCC who is a member of the PCC's staff. If there is no Deputy, OPCC Chief Executives have temporarily taken on the responsibilities in the past. All the functions of a Police and Crime Commissioner are exercisable by an acting commissioner, apart from issuing or varying a police and crime plan.

Can Police and Crime Panels confirm appointments and continue their business?

While mindful of current burdens on local authority partners, we are clear that Police and Crime Panels (PCPs) deliver essential statutory functions and must be maintained. The Government has brought forward regulations under the 2020 Act providing assurance on the issue of conducting remote PCP meetings, which reflect the separate legal frameworks of Panels in England and Wales.

Does a new Police and Crime Plan need to be issued?

If an Acting PCC is appointed, they are able to discharge all the functions of an elected PCC, with the exception of issuing or making changes to a Police and Crime Plan. The

Plan set out by the elected PCC for the force area will therefore remain in place until the next ordinary elections.

Contact

If you have any questions or comments on the contents of this note, please contact:

pccelections@homeoffice.gov.uk