

# SHADOW KENT AND MEDWAY POLICE AND CRIME PANEL

## AGENDA

Dear Councillor

Notice is hereby given that a meeting of the **SHADOW KENT AND MEDWAY POLICE AND CRIME PANEL** will be held in the **Darent Room, Sessions House, County Hall, Maidstone** on **Thursday, 10th May, 2012, at 10.00 am** when the following business will be transacted

Members of the public who require further information are asked to contact

### Membership

Councillor Gerry Clarkson	Ashford Borough Council
Councillor Pat Todd	Canterbury City Council
Councillor Jeremy Kite	Dartford Borough Council
Councillor Sue Chandler	Dover District Council
Councillor John Burden	Gravesham Borough Council
Mr Mike Hill	Kent County Council
Councillor Annabelle Blackmore	Maidstone Borough Council
Councillor Mike O'Brien	Medway Council
Councillor Peter Fleming	Sevenoaks District Council
Councillor Hugh Barker	Shepway District Council
Councillor John Morris	Swale Borough Council
Councillor Mrs Iris Johnston	Thanet District Council
Councillor Mark Rhodes	Tonbridge and Malling Borough Council
Councillor John Cunningham	Tunbridge Wells Borough Council

- 1 Introduction by Head of Democratic Services (KCC)**
- 2 Election of Chairman**
- 3 Presentation on preparing for PCCs and PCPs by Head of Community Safety and Emergency Planning (KCC)**
- 4 Establishing a Police and Crime Panel for Kent and Medway (Pages 1 - 78)**

Peter Sass  
Head of Democratic Services  
(01622) 694002

**Tuesday, 1 May 2012**

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From: Geoff Wild – Director of Law and Governance

To: Shadow Kent and Medway Police and Crime Panel – 10 May 2012

Subject: Establishing a Police and Crime Panel for Kent and Medway

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Summary: This report invites the Shadow Police and Crime Panel to recommend proposals for the establishment of a Police and Crime Panel for Kent and Medway, including the procedure rules and panel arrangements

## Unrestricted

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### 1. Background

1.1 The Police Reform and Social Responsibility (PR & SR) Act 2011 will replace the Police Authority with a directly elected Police and Crime Commissioner (PCC), with the aim of improving police accountability. The PCC will be elected in November 2012.

1.2 Each police force area has to set up a Police and Crime Panel (PCP) to scrutinise and maintain a check and balance on the new PCC, although the PCP will not have direct control over the PCC's decisions. The PCP will have similar powers to an overview and scrutiny committee established in accordance with section 21 of the Local Government Act 2000, in that it will be able to:

- (a) require the PCC to attend public meetings
- (b) require information in the possession of the PCC
- (c) make recommendations on the draft Police and Crime Plan (for which it is a statutory consultee) and expenditure proposals
- (d) review and veto the proposed precept
- (e) review and veto the decision to appoint a Chief Constable
- (f) review but not veto the appointment of various other senior staff.

1.3 The PR & SR Act details the need for the functions for the operation of the panel to be set out in 'panel arrangements' and 'rules of procedure'.

### 2. The Shadow Police and Crime Panel

2.1 The Kent Forum agreed to establish a Shadow PCP with responsibility for discussing and refining draft procedure rules and panel arrangements for the PCP.

2.2 Attached are the draft proposed terms of reference (**Appendix 1**), panel arrangements (**Appendix 2**) and rules of procedure (**Appendix 3**).

2.3 The terms of reference detail the functions of the panel. The panel arrangements cover all aspects of the panel's operation and the rules of procedure make provision for how the panel will carry out its functions.

### **3. Proposed Membership**

3.1 PCP membership will comprise one elected representative from each local authority in the force area, two independent members and it is also possible to co-opt a further four members to make a maximum of 20 members.

3.2 In appointing PCP members, local authorities must, as far as is practicable, consider the make-up of the force area in terms of geography, politics and the requisite skills, knowledge and experience for the panel to function effectively.

3.3 The Police and Social Responsibility Act specifies that Police and Crime Panels must be balanced in terms of geography, politics, and the skills, knowledge and experience of panel members. Clarification on the specific legal position, and what this means for local partners in making their decisions on panel membership, is set out below.

3.4 Ministers have been clear that the best panel arrangements will be those that are locally determined. In many cases achieving balance will be challenging, especially where perceived inequalities cannot be redressed through the addition of co-opted members. In recognition of this, the Act specifically states that the balanced appointment objective must be secured "as far as is practicable". However, local authorities will need a robust rationale for their final membership and be able to justify their decision to the public and their peers.

- **Geographical balance – “ represent all parts of the relevant police area”**

Councillor membership of the panel should reflect the geography and population size of the force area. In the first instance, the legislation seeks to achieve this by having every local authority in the area represented on the panel.

- **Political balance – “represent the political make-up of the relevant local authorities (when taken together)”**

Councillor membership of the panel, when taken together, should reflect the political balance of the force area. Local authorities could look to achieve this, in the first instance, by considering the proportion of councillors from each political party across the force area. This approach is the closest to the spirit of the legislation and reflects the approach taken to police authority membership.

- **Skills, knowledge and experience**

All appointments to the panel, of both councillors and independents, should be made in the context of ensuring that panel has the necessary skills, knowledge and experience to discharge its functions.”

3.5 The Home Office makes it clear, however, that whilst regard must be had to the above guidance; allocation of seats on the PCP is a decision to be made locally.

3.6 The Shadow PCP is invited to consider the following questions and options in relation to the composition of the PCP for Kent and Medway:

(a) **Geographical balance** - The mid-2010 indicative population estimates produced by the Office for National Statistics give an overall population of 1,434,044 for the 12 Kent Districts and a population of 259,895 for Medway. The table below shows how seats on the PCP could be allocated between Kent and Medway in order to achieve geographical balance based on ONS population estimates. Another option for offsetting geographical imbalance would be for a Councillor appointed to the PCP by the affected area to chair the PCP. This is one option put forward in guidance on the role and composition of Police and Crime Panels produced by the Local Government Association (LGA) and Centre for Public Scrutiny (CFPS)

<b>Number of seats</b>	<b>Kent Population 84.66%</b>	<b>Medway Population 15.34%</b>
15	12.699 (13)	2.301 (2)
16	13.545 (14)	2.454 (2)
17	14.392 (14)	2.607 (3)
18	15.238 (15)	2.76 (3)

(b) **Political balance** - **Appendix 4** sets the current political make-up of councils across Kent and Medway and shows how the composition of a Kent and Medway PCP would look based on the current political proportionality with a PCP of varying sizes of between 14 and 18 seats for councillors. (Please note that Maidstone BC and Tunbridge Wells BC are holding elections on 3 May 2012 so the figures in Appendix 4 might change). The Shadow Panel will need to consider options in the context of both political proportionality and the requirement to achieve geographical balance. As electoral cycles across Kent vary (with some all-out elections and some by thirds) the political proportionality figures will change annually and it may, therefore, be advisable to reach agreement on a membership formula that can be applied annually after local elections in May. This could also be an argument for councillors who are appointed to the PCP to serve for terms of one year. Taking geographical balance into consideration, a panel with 14 seats will not allow all Kent's authorities to be represented on the PCP. Increasing the number of seats on the PCP would allow flexibility. It allows each authority to nominate a member from their majority group in addition to some nominating a member to meet the political balance objective and addresses the population element of the balanced appointment objective.

(c) **Skills, Knowledge and experience** – It will be a matter for each council in appointing their representatives to the PCP to have regard to the Home Office guidance requiring Panels to seek to ensure they have the necessary skills, knowledge and experience to discharge its functions. The Shadow PCP may wish to develop some guidelines on this to assist councils in appointing councillors to serve on the PCP.

(d) **Two independent members** –the legislation provides no restriction on who these two members might be, other than to require that as lay members they should have skills and knowledge to assist the PCP in discharging its functions effectively. The LGA/CFPS guidance suggests a number of options, including recruiting two lay members by way of open advertisement with a role profile for prospective candidates or using the opportunity to bring expertise in from, for example, one of the other community safety “responsible authorities” and suggests the NHS or local Probation Trust as possibilities. The PCP will want to ensure that the recruitment process is open and transparent and may wish to establish an Appointments Sub Committee for this purpose.

#### 4. Code of Conduct for PCP members

4.1 It is suggested that the PCP considers adopting either the LGA’s or the DCLG’s model code of conduct (attached at **Appendix 5**). This code of conduct would not be intended to contradict or supersede any other code of conduct that might still apply to individual members of the PCP.

Will need clarity about registration and declarations of interests which presumably should align with minimum requirements in Localism Act. May also be useful to address prospective conflicts of interest for PCP members who are also executive members covering community safety or members of CSPs. Also need to address issues arising if PCP members are prospective or actual candidates in future PCC elections.

4.2 It is suggested that the PCP has the option to:

- (a) determine its own procedure for dealing with complaints about the conduct of PCP members
- (b) refers complaints about the conduct of PCP members back to their own authority

The PCP will need to decide how to handle any complaints about the conduct of PCP members and what the consequences will be if a member is found to be in breach of the code of conduct.

#### 5. Recommendations

5.1 The Shadow Police and Crime Panel is asked to consider the proposed governance arrangements, procedure rules and proportionality calculations set out in the appendices to this report and suggest any amendments to Head of Democratic Services (KCC).

The following questions should be addressed:

- a) Appointment of a Chairman of the Shadow PCP
- b) The size of the PCP (including how many seats each authority will have)
- c) Code of conduct for PCP members
- d) How to handle complaints about PCP members
- e) Term of office of PCP members
- f) Decision making powers to sub-committees and task groups – will political balance/skills apply to the composition of sub committees and task groups?
- g) Agree the selection process for Independent Members
- h) Possibility of developing a communications protocol to include who will speak on behalf of the PCP in media statements, interviews etc.

5.2 That KCC, Medway Council and all District Councils in Kent be asked to obtain agreement to these arrangements and rules to enable the PCP to be formally constituted by November 2012; it being noted that, in the absence of any specific regulation to the contrary, the establishment of the panel is deemed to be a function of the executive under the Localism Act 2011.

To ensure consistency a template report setting out the recommendations of the Shadow PCP could be supplied to each authority.

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#### **Appendices:**

Appendix 1 – Terms of Reference

Appendix 2 – Panel Arrangements

Appendix 3 – Rules of Procedure

Appendix 4 – Proportionality Calculations

Appendix 5 – DCLG Code of Conduct and LGA Code of Conduct

Appendix 6 – Local Government Association – PCP Guidance on role and composition

#### **Background Documents**

Report to Kent Forum – Police and Crime Panel in Kent – 8 February 2012

## **Kent and Medway Police and Crime Panel**

### **Draft Terms of Reference**

#### **Role**

The Police Reform and Social Responsibility Act 2011 will replace the Police Authority with a directly elected Police and Crime Commissioner (PCC), with the aim of improving police accountability. The PCC will be elected in November 2012.

Each police force area will set up a Police and Crime Panel (PCP) to scrutinise and maintain a check and balance on the new PCC, although the Panel will not have direct control over the PCC's decisions. The PCP will have similar powers to an overview and scrutiny committee established in accordance with section 21 of the Local Government Act 2000, in that it will be able to require the PCC to attend public meetings; require information in the possession of the PCC; and make recommendations on the draft Police and Crime Plan (for which it is a statutory consultee) and expenditure proposals. The PCP will also have the ability to:

- (a) review and veto the proposed precept
- (b) review and veto the decision to appoint a Chief Constable
- (c) review but not veto the appointment of various other senior staff.

#### **Status**

The PCP will be established as a formal joint committee of KCC, Medway Council and all 12 District Councils in Kent. It will also include two independent members. The PCP will be bound by Schedule 12A of the Local Government Act 1972, as amended, in relation to the publication of agendas, minutes and reports.

In terms of the composition of the PCP, the guidance issued by the Local Government Association (LGA) on the role and composition of PCPs states that there is no single, right approach to composition. In particular, it states that it would be possible to take a mixed approach, with the PCP comprising both executive and non-executive members. In addition, the Home Office and LGA guidance states that the councillor membership of PCPs should reflect the geography, population size and political balance of the force area.. This is consistent with the legal requirement to meet the balanced appointment objective in the Police and Social Responsibility Act

Members of the PCP are expected to subscribe to and comply with the Code of Conduct adopted by the PCP. No code of conduct will have precedence over another.



### **Terms of Reference:**

1. To review and make a report or recommendation on the draft Police and Crime Plan
2. To hold a public meeting, question the PCC and make a report or recommendation on the annual report of the PCC.
3. To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the PCC.
4. To review and make a report and/or recommendation on the proposed appointment of the Chief Constable (the panel can veto the PCC's proposals on this with a two thirds majority vote).
5. To review and make a report and/or recommendation on the proposed precept (the panel can veto the PCC's proposals on this with a two thirds majority vote).
6. To review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the PCC's functions.
7. To make reports or recommendations to the PCC with respect to the discharge of the PCC's functions.
8. To support the effective exercise of the functions of the PCC.
9. To fulfil functions in relation to complaints against the PCC, in accordance with the responsibilities accorded to the PCP by the Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.
10. To appoint an Acting PCC if necessary.
11. To suspend the PCC if it appears to the Panel that the PCC has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

## **Kent and Medway Police and Crime Panel**

### **Panel Arrangements**

#### **1. Operating Arrangements**

1.1 Kent County Council shall act as the lead authority for the Police and Crime Panel (PCP) for the purposes of planning and delivery of the PCP's work programme, the provision of accommodation and officer support.

1.2 The lead authority will provide such administrative and other support as will be necessary to enable the Panel to undertake its functions. Home Office funding is expected for at least the first year (Panel Arrangements 6.2). Thereafter, if no funds are provided by the Home Office, or if those funds are insufficient to cover the costs of running the PCP, the Lead Authority will defray and recover from the other members the costs of administrative support. The budget for the PCP will be agreed annually and the PCP will operate within the allocated budget.

1.3 The PCP will comprise 14 local councillors (one representative from each council within the force area) and two independent members.

1.4 Additional members may be co-opted onto the PCP, as long as the two independent members are also included, the size of the PCP does not exceed 20 and the Secretary of State approves the membership arrangements

#### **2. Membership**

2.1 All county councillors and district councillors are eligible to be members of the PCP.

2.2 The Police Crime Commissioner (PCC) cannot be a member of the PCP.

2.3 Sitting MPs, MEPs, staff of the PCC and civilian police staff may not be co-opted onto the PCP.

2.4 All members of the PCP may vote in proceedings of the PCP

2.5 Appointments of elected Members to the PCP shall be made by each of the councils in accordance with their own procedures provided that the balanced appointment objective is met. The balanced appointment objective requires that the local authority members of the PCP should:

- a) represent all parts of the police force area;
- b) represent the political make-up of the councils taken together; and
- c) have the skills, knowledge and experience necessary for the PCP to discharge its functions effectively

2.6 The PCP shall also include two independent Members appointed by the PCP. The PCP might decide to seek independent members from specific organisations to address any skills/knowledge/experience gaps, or following a public advertisement.

2.7 The PCP may also resolve to co-opt further members with the agreement of the Secretary of State provided that the number of co-opted members shall not take the overall membership of the Panel above 20.

### **3. Casual Vacancies**

3.1 A vacancy arises when a member resigns from the PCP.

3.2 Each council will fill vacancies in accordance with the arrangements in their Constitution. Vacancies for independent members will be filled in accordance with the selection process outlined in section 4.

### **4. Independent Members**

4.1 The PCP shall appoint two independent Members for a term of four years starting in November 2012.

4.2 The selection process for appointing independent members is to be agreed by the Shadow Panel.

4.3 Information packs should be prepared and sent to those requesting application forms.

4.4 The applications will be considered against eligibility criteria agreed by the PCP and then it is proposed that an Appointments Sub Committee be established to consider applications and interview candidates.

4.5 Following the interviews, the Appointments Sub Committee will make recommendations to the PCP about membership.

4.6 The PCP may decide to change either Independent Member at any point and on doing so shall give notice to the Head of Democratic Services (KCC).

4.7 Where the appointed Independent Member is an expert the nominating body may change their nominee at any point and on doing so shall give notice to the Head of Democratic Services (KCC)

### **5. Appointment of Members**

5.1 The councils shall each appoint an elected Member to be a Member of the Panel. Additional nominations will be invited to positions for co-opted members in line with the membership composition agreed by the PCP and subject to approval by the Secretary of State. Named substitutes may also be appointed and notified to the Head of Democratic Services (HDS) at KCC.

5.2 In the event that a council does not appoint a Member in accordance with these requirements, the Secretary of State must appoint a member to the PCP from the defaulting council in accordance with the provisions in the Act.

### **5.3 Term of Office – TBA**

5.4 A council may decide in accordance with its procedures to remove their appointed member from the PCP at any point and on doing so shall give notice to the Head of Democratic Services (KCC).

5.5 An appointed member may resign from the PCP by giving written notice the Head of Democratic Services (KCC) and to their council.

5.6 In the event that any appointed member resigns from the PCP, or is removed by a council, the council shall immediately take steps to nominate and appoint an alternative member to the PCP. Each Council should give notice that their member has been changed.

5.7 Members appointed to the PCP may be re-appointed for a further term provided that the balanced appointment objective is met by that re-appointment.

### **Term of office to be agreed by Shadow PCP**

## **6. Support for the Panel**

6.1 Any dedicated staff employed to support the PCP will be employed by the Lead Authority, and their terms and conditions will be that of the Lead Authority.

6.2 The Home Office is expected to provide £53,330 plus up to £920 towards expenses per panel member, for at least the first year and thereafter, if no funds are provided by the Home Office, or if those funds are insufficient to cover the costs of running the PCP, all councils will contribute equally towards the actual costs incurred by the Lead Authority. The budget for the panel will be agreed annually and the PCP will operate within the allocated budget.

6.3 In the event of the PCP being wound up the Lead Authority will defray and recover from the other members any associated costs exceeding the funding provided by the Home Office.

## **7. Allowances**

7.1 Each council has the discretion to pay allowances to its representatives on the PCP. Any allowances payable to elected Members shall be determined and borne by the appointing councils.

7.2 The Lead Authority, on behalf of the PCP, may pay an allowance to co-optees if this is agreed as part of the annual budget approved by the PCP.

## **8. Promotion of the panel**

8.1 The Panel shall be promoted and supported by the Lead Authority through:

- (a) the issuing of regular press releases about the PCP and its work;
- (b) the inclusion of dedicated web pages on the work of the PCP, with the publication of meeting agendas and minutes. All reports and recommendations made, with responses from the PCC will be published. Information on member attendance will be included.

8.2 Support and guidance shall be provided to Executive and non-Executive Members and officers of the councils in relation to the functions of the PCP by the provision of initial briefing sessions before the election of the PCC, and the provision of annual briefing sessions thereafter.

8.3 The Shadow PCP might wish to consider developing a communications protocol which could include who will speak on behalf of the PCP in media statements, interviews etc.

Discussions taking place with Director Communications and Engagement (KCC) regarding promotion of Panel.

## **9. Validity of proceedings**

9.1 The validity of the proceedings of the PCP is not affected by a vacancy in the membership or a defect in the appointment of a member.

## **10 Amendments to Terms of Reference and Procedure Rules**

10.1 Any proposed amendments to the Terms of Reference or the Procedure Rules of the PCP should be submitted to the PCP for its approval. The PCP will review and re-confirm the Terms of Reference and Procedure Rules annually.

## **Kent and Medway Police and Crime Panel**

### **Procedure Rules**

#### **1. Chairman and Vice Chairman of the Police and Crime Panel**

- 1.1 The Chairman and Vice-Chairman of the PCP will be elected from its membership at the first meeting and thereafter annually.
- 1.2 The Chairman and Vice-Chairman remain in office until the election of their successors, they resign or the PCP votes their removal (in cases of misconduct or that the Chairman or Vice-Chairman do not allow the PCP to effectively deliver its functions as set out in the Terms of Reference). In the latter two cases, an election for their successor should be held as soon as possible.
- 1.3 In the absence of the Chairman, the Vice-Chairman will preside, in the absence of the Chairman and the Vice-Chairman, the meeting will elect a chairman for that meeting only.

#### **2. Meetings**

- 2.1 The PCP will meet in public at least four times per year to carry out its functions.
- 2.2 Extraordinary meetings may also be called from time to time as the PCP considers is necessary.
- 2.3 An extraordinary meeting may be called by the Chairman or by four members of the PCP.
- 2.4 In exceptional circumstances, the Chairman may cancel or rearrange a meeting of the PCP.

#### **3. Quorum**

- 3.1 The quorum for a meeting of the PCP is one third of its total membership.

#### **4. Voting**

- 4.1 All members of the PCP may vote in proceedings of the PCP subject to Code of Conduct and rules on declarations of interest
- 4.2 One-third of the voting members present may require that the way all members cast their vote or against or to abstain shall be recorded in the Minutes; such a request must be made before the vote is taken.

## **5. Work Programme**

- 5.1 The PCP will be responsible for setting its own work programme, taking into account the priorities defined by the PCC. In setting the work programme, the PCP will also take into account the wishes of its members.
- 5.2 The work programme must include the functions described in the terms of reference for the PCP.

## **6. Agenda Items**

- 6.1 Any member of the PCP shall be entitled to give notice to the Head of Democratic Services (KCC) that they wish an item relevant to the functions of the PCP to be included on the agenda for the next available meeting.
- 6.2 The PCP agenda will be issued to members at least 5 clear working days before the meeting. It will also be published on each council's website and by any other means the PCP considers appropriate.

## **7. Sub-Committees and Task Groups**

- 7.1 The PCP may establish sub-committees or task groups to undertake specific task based work.
- 7.2 The sub-committees and task groups may not undertake the Special Functions of the PCP referred to at paragraph 11.2 below.
- 7.3 A sub-committee of the PCP may not co-opt members.
- 7.4 The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

Decision making powers of sub-committees and task groups? Will political balance/skills apply to the composition of sub committees and task groups?

## **8. Reports**

- 8.1 Where the PCP makes a report to the PCC, it may publish the report or recommendations by sending copies to each of the councils, and by any other means the PCP considers appropriate.
- 8.2 The PCP must, by notice in writing, require the PCC within one month of the date on which they receive the report or recommendations to:
- a) consider the report or recommendations;
  - b) respond to the PCP indicating what (if any) action the PCC proposes to take;
  - c) where the PCP has published the report or recommendations, publish the response from the PCC in the same manner

- d) where the PCP has provided a copy of the report or recommendations to a PCP member, provide a copy of the responses to the PCP member.

8.3 The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).

8.4 If the PCP cannot unanimously agree on one single final report to the PCC, then separate reports may be prepared and submitted for consideration along with the majority report.

## **9. Police and Crime Commissioner and Officers giving account**

9.1 The PCP may scrutinise and review decisions made or actions taken in the discharge of the PCC's duties and make reports or recommendations to the PCC with respect to the discharge of those duties.

9.2 As well as reviewing documentation, in fulfilling its scrutiny role the PCP may require the PCC, and members of the PCC's staff, to attend before it (at reasonable notice) to answer questions which appear to the PCP to be necessary in order to carry out its functions.

9.3 Where the PCC, or a member of the PCC's staff, is required to attend the PCP in accordance with this provision, the PCC will be given, where practical, 15 working days notice of the requirement to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required for production for the PCP.

9.4 Where, in exceptional circumstances, the PCC is unable to attend on the required date, then an alternative date for attendance shall be arranged following consultation with the Chairman.

9.5 If the PCP requires the PCC to attend before it, the PCP may also (at reasonable notice) request the Chief Constable to attend the PCP in order for it to carry out its functions.

## **10. Attendance by others**

10.1 The PCP may invite but not require persons other than those referred to above to address it, discuss issues of local concern and/or answer questions. This may include, for example, residents, stakeholders, councillors who are not members of the PCP and officers from other parts of the public sector.

## **11. Special functions**

11.1 The special functions of a PCP may not be discharged by a committee or sub-committee of the PCP.

11.2 The Special Functions of the PCP are those functions conferred by:



- a) Section 28(3) (scrutiny of police and crime plan);
- b) Section 28(4) (scrutiny of annual report);
- c) Paragraphs 10 and 11 of Schedule 1 (scrutiny of senior appointments);
- d) Schedule 5 (issuing precepts);
- e) Part 1 of Schedule 8 (scrutiny of appointment of Chief Constables).

11.3 Reports and recommendations made in relation to the functions outlined in the terms of reference will be carried out in accordance with the procedure outlined at paragraph 8 – Panel Reports.

## **12. Police and Crime Plan**

12.1 The PCP is a statutory consultee on the development of the PCC's Police and Crime Plan and will receive a copy of the draft Plan, or a draft of any variation to it, from the PCC.

12.2 The PCP must:

- a) hold a public meeting to review the draft Police and Crime Plan (or a variation to it), and
- b) report or make recommendations on the draft Plan which the PCC must take into account.

## **13. Annual Report**

13.1 The PCC must produce an Annual Report about the exercise of their functions in the financial year and progress in meeting police and crime objectives in the year. The report must be sent to the PCP for consideration.

13.2 The PCP must comment upon the Annual Report of the PCC, and for that purpose must:

- a) arrange for a public meeting of the PCP to be held as soon as practicable after the PCP receives the Annual Report;
- b) require the PCC to attend the meeting to present the Annual Report and answer questions about the Annual Report as the Members of the PCP think appropriate;
- c) make a report or recommendations on the Annual Report to the PCC.

## **14. Appointment of the Chief Constable**

14.1 The PCP must review the proposed appointment by the PCC of the Chief Constable.

14.2 The PCP will receive notification of the proposed appointment from the PCC, which will include:

- (a) the name of the candidate;

- (b) the criteria used to assess the suitability of the candidate for the appointment;
- (c) why the candidate satisfies those criteria; and
- (d) the terms and conditions on which the candidate is to be appointed.

14.3 Within three weeks of the receipt of notification the PCP must consider and review the proposed appointment, and report to the PCC with a recommendation as to whether the candidate should be appointed. The three week period shall not include the 'post election period', being any period between the date of poll at the ordinary election of the PCC, and the date of declaration of acceptance of office of the PCC.

14.4 Before reporting and recommending on the proposed appointment, the PCP must convene a public meeting ('confirmation hearing') of the PCP where the candidate must attend for the purposes of answering questions relating to the appointment.

14.5 The PCP must publish the report by sending copies to each of the councils, and by any other means the PCP considers appropriate.

14.6 The PCC may accept or reject the PCP's recommendation and must notify the PCP accordingly.

14.7 In relation to the appointment of a candidate for the position of Chief Constable, the PCP also has the power to veto the appointment by the required majority of at least two thirds of the persons who are members of the PCP at the time when the decision is made.

14.8 A confirmation hearing as in paragraph 14.4 must be held before an appointment is vetoed.

14.9 If the PCP vetoes the appointment under paragraph 14.7, the report referred to at paragraph 14.3 above must include a statement to that effect.

14.10 If the PCP vetoes an appointment, the PCC must not appoint that candidate as Chief Constable

## **15. Senior Appointments**

15.1 The PCP must review the PCC's proposed appointments of Chief Executive, Chief Finance Officer and Deputy PCC.

15.2 The PCP shall receive notification of the proposed appointments from the PCC including:

- (a) the name of the candidate;
- (b) the criteria used to assess the suitability of the candidate for the appointment;
- (c) why the candidate satisfies those criteria; and
- (d) the terms and conditions on which the candidate is to be appointed.

- 15.3 Within three weeks of the receipt of notification, the PCP must consider and review the proposed appointment and report to the PCC with a recommendation as to whether the candidate should be appointed. The three week period shall not include the 'post election period'.
- 15.4 Before reporting and recommending on the proposed appointment, the PCP must convene a public confirmation hearing where the candidate must attend for the purposes of answering questions relating to the appointment.
- 15.5 The PCP must publish the report by sending copies to each of the councils, and by any other means the PCP considers appropriate.
- 15.6 The PCC may accept or reject the PCP's recommendation and must notify the PCP accordingly.

## **16. Proposed Precept**

- 16.1 The PCC must notify the PCP of the precept which the PCC is proposing to issue for the financial year. The PCP must review the proposed precept and make a report which may include recommendations.
- 16.2 Having considered the precept, the PCP must:
- (a) support the precept without qualification or comment; or
  - (b) support the precept and make recommendations; or
  - (c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the PCP at the time when the decision is made).
- 16.3 If the PCP vetoes the proposed precept, the report to the PCC must include a statement that gives the PCP's reasons and requires a response from the PCC to the report and any such recommendations.

## **17. Appointment of an Acting Police and Crime Commissioner**

- 17.1 The PCP must appoint a person to act as PCC if:
- (a) no person holds the office of PCC
  - (b) the PCC is incapacitated
  - (c) the PCC is suspended
- 17.2 The PCP may appoint a person as acting PCC only if the person is a member of the PCC's staff at the time of appointment.
- 17.3 In appointing a person as acting PCC in a case where the PCC is incapacitated, the PCP must have regard to any representations made by the PCC in relation to the appointment.
- 17.4 The appointment of an acting PCC ceases to have effect upon the occurrence of the earliest of these events:

- (a) the election of a person a PCC;
- (b) the termination by the PCP, or by the acting PCC, of the appointment of the acting PCC;
- (c) in a case where the acting PCC is appointed because the PCC is incapacitated, the PCC ceasing to be incapacitated, or
- (d) in a case where the acting PCC is appointed because the PCC is suspended, the PCC ceasing to be suspended

17.5 Where the acting PCC is appointed because the PCC is incapacitated or suspended, the acting PCC's appointment does not terminate because a vacancy occurs in the office of PCC.

## **18. Complaints and suspension of the PCC**

18.1 Serious complaints which involve allegations which may amount to a criminal offence by the PCC or senior office holders are dealt with by the Independent Police Complaints Commission (the 'IPCC').

18.2 Non-criminal complaints in relation to the PCC or other office holder can be considered by the PCP through a hearing. The PCP can examine this through a sub-committee following Procedure Rule 7.

18.3 The PCP may suspend the PCC if it appears to the PCP that

- (a) the PCC has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
- (b) the offence is one which carries a maximum term of imprisonment exceeding two years.

18.4 The suspension of the PCC ceases to have effect upon the occurrence of the earlier of these events:

- (a) the charge being dropped
- (b) the PCC being acquitted of the offence
- (c) the PCC being convicted of the offence but not being disqualified under Section 66 of the PR&SR Act by virtue of the conviction of
- (d) the termination of the suspension by the PCP

18.5 In this section reference to an offence which carries a maximum term of imprisonment exceeding two years are reference to:

- (a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
- (b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment

## **19. Suspension and Removal of the Chief Constable**

19.1 If a PCC suspends a Chief Constable from duty the PCC must notify the relevant PCP of the suspension

- 19.2 A PCC must not call upon a Chief Constable to retire until the end of the scrutiny process which will occur:
- (a) at the end of six weeks from the PCP having received notification if the PCP has not by then given the PCC a recommendation as to whether or not they should call for the retirement or resignation; or
  - (b) the PCC notifies the PCP of a decision about whether they accept the PCP's recommendations in relation to resignation or retirement.
- 19.3 The PCC must also notify the PCP in writing of their proposal to call upon the Chief Constable to retire or resign together with a copy of the reasons given to the Chief Constable and any representation from the Chief Constable in relation to that proposal.
- 19.4 If the PCC is still proposing to call upon the Chief Constable to resign, they must notify the PCP accordingly (the 'further notification').
- 19.5 Within six weeks from the date of receiving the further notification, the PCP must make a recommendation in writing to the PCC as to whether or not they should call for the retirement or resignation. Before making any recommendation, the PCP may consult the chief inspector of constabulary, and must hold a scrutiny meeting.
- 19.6 The scrutiny hearing which must be held by the PCP is a PCP meeting in private to which the PCC and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.
- 19.7 The PCP must publish the recommendation it makes by sending copies to each of the councils, and by any other means the PCP considers appropriate.
- 19.8 The PCC must consider the PCP's recommendation and may accept or reject it, notifying the PCP accordingly.
- 19.9 In calculating the six week period, the post election period is ignored. The post election period begins with the day of the poll at an ordinary election of a PCC under section 50 of the PR & SR Act 2011 and ends with the day on which the person elected as PCC delivers a declaration of acceptance of office under section 70 of the PR & SR Act 2011.
- 20 Any proposed amendments to the Terms of Reference or the Procedure Rules of the PCP should be submitted to the PCP for its approval. If an amendment is proposed the HDS would bring a report to the next meeting of the PCP for consideration. The PCP will review and re-confirm the Terms of Reference and Procedure Rules annually.

**Please note that Maidstone BC and Tunbridge Wells BC are holding elections on 3<sup>rd</sup> May 2012 so the below figures may change**

**Appendix 4**

**Proportionality Calculations**

The guidance issued by the Local Government Association on the role and composition of PCPs states that there is no single, right approach to composition. In particular, it states that it would be possible to take a mixed approach, with the PCP comprising both executive and non-executive members.

In appointing PCP members, local authorities must, as far as is practicable, consider the make-up of the force area including its political make-up and the requisite skills, knowledge and experience for the panel to function effectively.

**Possible configuration of Police and Crime Panel if political balance requirements apply**

Size (plus two Independent members)	Con Group	Lab Group	Lib Dem Group	Ind Group	Ashford Ind	Swanscombe & Greenhithe	People First	Other	TOTAL
	<b>71.231%</b>	<b>17.012%</b>	<b>7.607%</b>	<b>1.798%</b>	<b>0.692%</b>	<b>0.692%</b>	<b>0.277%</b>	<b>0.692%</b>	
<b>14</b>	<b>10</b> (9.972)	<b>3</b> (2.381)	<b>1</b> (1.065)	<b>0</b> (0.251)	<b>0</b> (0.096)	<b>0</b> (0.096)	<b>0</b> (0.038)	<b>0</b> (0.096)	14
<b>15</b>	<b>11</b> (10.684)	<b>3</b> (2.551)	<b>1</b> (1.141)	<b>0</b> (0.269)	<b>0</b> (0.103)	<b>0</b> (0.103)	<b>0</b> (0.041)	<b>0</b> (0.103)	15
<b>16</b>	<b>12</b> (11.396)	<b>3</b> (2.721)	<b>1</b> (1.217)	<b>0</b> (0.287)	<b>0</b> (0.110)	<b>0</b> (0.110)	<b>0</b> (0.044)	<b>0</b> (0.110)	16
<b>17</b>	<b>12</b> (12.109)	<b>3</b> (2.892)	<b>2</b> (1.293)	<b>0</b> (0.305)	<b>0</b> (0.117)	<b>0</b> (0.117)	<b>0</b> (0.047)	<b>0</b> (0.117)	17
<b>18</b>	<b>13</b> (12.821)	<b>3</b> (3.062)	<b>2</b> (1.369)	<b>0</b> (0.323)	<b>0</b> (0.124)	<b>0</b> (0.124)	<b>0</b> (0.049)	<b>0</b> (0.124)	18

**Note:** Additional Councillors may be co opted, as long as two lay co-optees are also included, the size of the PCP does not exceed 20 and the Secretary of State approves the co-options.

<b>COUNCIL</b>	<b>CON</b> 71.231%	<b>LAB</b> 17.012%	<b>LIB</b> 7.607%	<b>IND</b> 1.798%	<b>Ashford Ind</b> 0.692%	<b>Swanscombe &amp; Greenhithe Res Ass</b> 0.692%	<b>People First Party</b> 0.277%	<b>OTHER</b> 0.692%	<b>TOTAL</b>
ASHFORD	30	5	2	0	5	0	0	1	43
CANTERBURY	37	3	10	0	0	0	0	0	50
DARTFORD	31	9	0	0	0	4	0	0	44
DOVER	26	19	0	0	0	0	0	0	45
GRAVESEND	19	25	0	0	0	0	0	0	44
KENT	73	3	7	0	0	1	0	0	84
MAIDSTONE	30	0	21	4	0	0	0	0	55
MEDWAY	35	15	3	2	0	0	0	0	55
SEVENOAKS	46	4	2	0	0	0	0	2	54
SHEPWAY	44	0	0	0	0	0	2	0	46
SWALE	31	13	0	2	0	0	0	0	46
THANET	26	25	0	4	0	0	0	1	56
TONBRIDGE AND MALLING	48	1	4	0	0	0	0	0	53
TUNBRIDGE WELLS	39	1	6	1	0	0	0	1	48
<b>TOTAL</b>	<b>515</b>	<b>123</b>	<b>55</b>	<b>13</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>5</b>	<b>723</b>

Notes

Ashford Independent 5 seats, Independent 1 seat

No independent members

Swanscombe and Greenhithe Residents Association 4 seats

No independent members

No independent members

Swanscombe and Greenhithe Residents Association 1 seat

Independent group 4 members

Independent group 2 members

Other: 2 vacant seats

People first party 2 seats

Independent group 2 members

Independent group 4 members, independent 1 member

No independent members

Independent 1 member, UK Independence Party 1 member

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## Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## **Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

# Police and crime panels

## Guidance on role and composition



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# Foreword

Having produced a short guide to police and crime commissioners for local authorities, the LGA thought it would be useful for councils to have more detailed and in-depth guidance to setting up a police and crime panel. This guide therefore explores some of the technical issues around establishing a panel, ahead of the guidance the Home Office will be producing later this year.

Although November 2012 seems a long way ahead, we anticipate that the Government will expect to see police and crime panels up and running ahead of the elections for police and crime commissioners. If councils are not in a position to do that then the Home Secretary has the power to set up a panel. We all want to avoid that, so councils will want to have plans in place for their panels by the summer of 2012.

Before then there are a number of issues that councils will need to work through with their neighbours in their force area. Some areas will swiftly arrive at agreed solutions, others may take longer. We hope that this guide facilitates that work, and of course if councils need assistance then the LGA and Centre for Public Scrutiny will be only too happy to help.

## **Cllr Mehboob Khan**

Chair of the LGA's Safer and Stronger Communities Board

### **Text note**

This guidance has been drafted by CfPS and LGA and as such reflects their views on the recent policy and legislative developments in relation to police and crime panels. It is not a reflection of the views of the Government or of civil servants at the Home Office who will be issuing official guidance on police and crime panels in due course. Insofar as is possible it has been drafted so as to complement official guidance.

The guidance is not intended to be prescriptive in nature. It sets out issues that local authorities and police authorities should consider in planning for November 2012, and outlines the arguments for and against certain courses of action. However, it will be necessary for decisions on these issues to be taken locally, rather than for solutions to be asserted from the centre in a way that may not be appropriate in some areas.



# 1. Introduction

## 1.1

The Police Reform and Social Responsibility Act 2011 brings in new structural arrangements for national policing, strategic police decision-making, neighbourhood policing and policing accountability. Principal among these changes will be the election of police and crime commissioners, the first of which will take place in November 2012.

## 1.2

Other than through the ballot box by local people, police and crime commissioners (PCCs) will be held to account by a police and crime panel (PCP), which will be composed of locally elected councillors along with some lay members. The commissioner, in turn, is responsible for holding the chief constable to account. This guidance focuses on the composition and role of these panels and examines how their work will link in to the wider policing improvement agenda.

## 1.3

The Government intends that arrangements will be developed locally. This guidance reflects existing Government policy and will complement guidance to be produced by the Home Office. It is intended to provide a summary of the key issues that both local authorities and police authorities should address in establishing accountability arrangements for the PCC.





## 2. Legislative context

### 2.1

PCCs and their role are defined by Chapters 1 and 3 of the Police Reform and Social Responsibility Act. They will be directly elected by a local vote in November 2012. The term of office is four years, and it is the government's intention that subsequent elections will be held on the date of ordinary elections in the area. PCCs will be responsible for:

- securing an efficient and effective police force for their area
- producing, and consulting on, a five year police and crime plan, in consultation with the chief constable, which sets the police and crime objectives for their area. The chief constable must have regard to this plan in his or her work (the meaning of 'have regard to' is not defined in the Act)
- holding to account the chief constable, including the power to hire and fire
- publishing certain specified information/datasets including an annual report (precise contents to be confirmed in secondary legislation by the Home Secretary)
- setting the annual force budget and police precept
- requiring the chief constable to prepare reports on police matters, on request.

### 2.2

The Home Office is expected to produce regulations and guidance for PCCs around the conduct of these duties. More detail can be found in section 9 of this guidance.

### 2.3

The expectation is that PCCs will want to work closely with partners and that partnership working will be important if they are to operate effectively. Under s10 of the Act, the PCC has to co-operate with local community safety partners to achieve the objectives of the police and crime plan. The PCC must also work with criminal justice bodies (defined in s10(5)) to make arrangements for the efficient transaction of criminal justice policy in the force area. The role and functions of the PCP should be considered in the light of these important co-operation requirements.

### 2.4

The main provisions on police and crime panels can be found in Schedule 6 of the Act.



# 3. Role and functions: the law

## 3.1

The PCP is a scrutiny body. It exists to scrutinise the police and crime commissioner, to promote openness in the transaction of police business and also to support the PCC in the effective exercise of their functions (s28(2)). Some of its functions will include:

- contributing to the development of the PCC's police and crime plan (on which it is a statutory consultee – the PCC must have regard to the PCP's views on the draft plan) (s28(3) and s5(6)(c))
- scrutinising the PCC, and receiving evidence from the chief constable (by invitation), at 'set piece' events at certain points in the year (s28(3) and (4) in particular)
- reviewing the PCC's proposed precept (Schedule 5)
- receiving evidence in person from officers of the PCC's secretariat (s29(1)), although powers to require information do not extend to receiving 'advice' given by the PCC's secretariat to the PCC (s29(2)). Some other restrictions on the kind of information which can be provided to the PCP by the PCC can be found in s13
- reviewing the PCC's proposed appointments of chief constable, chief executive, chief finance officer and deputy police and crime commissioner and holding public confirmation hearings for these posts (Schedule 1)
- making reports and recommendations on matters relating to the PCC, on which the PCC is obliged to provide a response (s29(3))
- carrying out investigations into decisions made by the PCC (s28(6)), and into topics of particular interest, or public concern. This is not a statutory function (the Act does not require it), but may be necessary in order to effectively carry out the rest of the PCP's business
- an informal role in investigating complaints about non-criminal behaviour of the PCC, without any explicit powers to investigate (draft regulations)
- making comments on the PCC's annual report at a public meeting to be held as soon as possible after the publication of that report (the public meeting will also provide the PCP with an opportunity to directly question the PCC on the annual report) (s28(4)).

Some of these powers (those not designated as 'special functions' – see 5.21 below) may be delegated to a sub-committee of the PCP, at the PCP's discretion.

The functions and procedural rules for the operation of the PCP will need to be set out in 'panel arrangements' and 'rules of procedure'. These are explained in more detail in section 4.

### 3.2

The PCP will have the power to suspend the PCC if he or she is charged with an offence that carries a maximum prison term of more than two years (s30).

## 3.3 Consulting the public

The PCC has a duty to have regard to the opinion of local people in developing policy (s14), which links with the PCC's obligation to make certain kinds of information public under s11.

### 3.4

The PCP has no statutory role in consulting the public, and it is important to ensure that it does not duplicate the PCC's role. Notwithstanding these caveats the PCP could play a role in supporting the process of gathering public opinion. In the course of other investigations, for example, the PCP may have cause to speak to members of the public – and it may wish to draw on public opinion gathered elsewhere in the course of its statutory, and non-statutory, duties. The PCP could also ask the PCC for information on the methodology, approach and results of public consultations.

### 3.5

The detail of how public engagement and involvement will be managed and planned by partners across the community safety landscape could be set out in a protocol between the relevant partners (see section 5.7).

## 3.6 Information sharing

The PCP will be a formally-constituted joint committee of all the authorities in the force area, where there is more than one authority in the force area. The committee will be bound by Schedule 12A of the Local Government Act 1972, as amended by the Freedom of Information Act 2000 regarding the publication of agendas, minutes and reports. This will include information provided by the PCC and other community safety partners.

### 3.7

The PCP has the right to any information which it may reasonably require to carry out its functions, with some minor exceptions relating, for example, to safety and operational policing (s13). 'Reasonably require' is not defined, and it may be that PCPs themselves will need to come to an agreement with the PCC (possibly through the use of a protocol, discussed below) about what this will mean in practice.

### 3.8

There may, however, be instances where the PCC provides the PCP with information but requests that the information is not published by the PCP. There are long-standing rules covering councillors' consideration of exempt information. Any issues arising from the PCC's request that information is not published, set against councils' duty to operate in an open and transparent manner, will need to be resolved; either on a case-by-case basis, or through a protocol between the PCC and PCP (see below) that deals with the issue of data sharing in more detail.





3.9

In all instances the presumption should be in favour of openness and transparency.

### 3.10 Refusing to provide information

A refusal by the PCC to provide information would need to demonstrate that the request falls entirely within the bounds of the excluded classes of information identified in the Act (see 3.6 above). Where a request falls partially in, and partially outside, one of these classes, any information which can legally be published, should be.

3.11

Where there is a dispute on the law, a discussion between the chair of the PCP and the PCC about the reasons for refusal, and the reason why the PCP wishes to have the information, could produce agreement. Under such circumstances, an undertaking could be given by the PCP that the information is not disseminated further. A protocol between the PCC and PCP could help to resolve such disagreements (see section 5.7).

### 3.12 Financial reporting and audit

The PCP will have some duties around formal audit, which focus on the consideration of finance reports. Schedule 16, s189 of the Police Reform and Social Responsibility Act inserts a new s115(1B) – (1G) of the Local Government Finance Act 1988, which means that finance reports will be sent to individual members of the PCP following their preparation.

### 3.13

This provision of information to individual members does not naturally confer a right for the PCP to become directly involved in audit discussions, but it will provide useful background information for the PCP in the carrying out of its statutory functions. It may be felt appropriate, in some areas, for the PCP to formally receive certain financial or audit reports, including accounts, in the interests of openness.

### 3.14

It may, however, be felt that audit and corporate governance should stay entirely separate (other than is specifically provided for in statute), being governed by internal systems inside the PCC's own secretariat, and within the force itself, as held to account by the PCC.

### 3.15

To carry out its statutory functions, it will be important for the PCP to see certain key documents – the statement of accounts, budget reports and budget monitoring reports, for example. However, the way in which this, and wider issues around financial reporting, are dealt with in a more general sense will need to be subject to local discretion and agreement.

## 3.16 Complaints

The PCP has certain duties (under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011) relating to the recording and investigation of complaints about the PCC or other office-holders that relate to non-criminal behaviour. Complaints about criminal behaviour are managed by the Independent Police Complaints Commission, who will keep the PCP informed when investigations are being carried out.

### 3.17

Non-criminal complaints can be considered through a hearing, through the examination of relevant documents provided by either party, and/or through other informal means. Individual PCPs will probably want to work with PCCs, to put in place a simple, clear and transparent process to expedite complaints and to ensure that complaints' systems are transparent. This will also enhance efficiency. It should be noted that, where complaints need to be considered by the PCP, there will be inevitable resource implications for the lead authority. These should be considered in the context of section 5.26 onwards of this guidance, which considers resources in more detail. Generally speaking, the consideration of an individual complaint by the PCP should be a rare occurrence.

### 3.18

It could also be thought appropriate for the PCP to have oversight of the complaints process operated by the force and the PCC (but not individual complaints, and subject to the existing accountability relationship between the PCC and the chief constable).

# 4. Panel arrangements and rules of procedure

## 4.1

The authorities involved in contributing to the PCP, by virtue of being in the relevant force area, must make ‘**panel arrangements**’ and ‘**rules of procedure**’ for the PCP. These are separate documents that will need to be agreed by all the local authorities in the force area.

## 4.2

The **rules of procedure** should cover (paragraph 25 of schedule 6 of the Police Reform and Social Responsibility Act):

- chairing (including appointment, removal and resignation of the chair) (compulsory) (see 5.2 onwards)
- the formation of sub-committees (compulsory) (see 5.20 onwards)
- the making of decisions (compulsory) (see 5.20 onwards)
- arrangements for convening meetings (see 4.4 – meeting administration will, for ease of working and to reflect the fact that the PCP will be a local authority joint committee, probably closely mirror standard committee management arrangements for local authorities)
- systems for circulating information in the run up to, after, and between meetings (see 3.6 onwards)
- promotion of the work of the PCP.

## 4.3

The **panel arrangements** should cover all other aspects of the PCP’s operation. The Act sets out (principally, in paragraph 24 of schedule 6) specific requirements which **must** form part of the panel arrangements. These include:

- arrangements about the appointment of co-optees: (see section 6.1)
- how the relevant authorities will make provision for resourcing the PCP, and how such funds will, if necessary, be disbursed between the authorities (see 5.26 onwards)
- provision around co-option (see 7.12 onwards)
- terms of office, appointment, resignation and removal of members of the PCP (see 7.14 onwards)
- payment of allowances (see 7.18 onwards).

## 4.4

It is likely that both the panel arrangements, and the rules of procedure, will in most areas closely reflect existing local government practice on the running of committees. This is because panels will be formal joint committees of the councils in the force area.

## 4.5

For the purposes of this guidance, issues have been divided into two separate groups; those that will be dealt with in the panel arrangements and the rules of procedure, – **roles and functions** (covering the business

of the PCP, and how it will operate) (see section 5 of this guidance); and **composition** (covering who will sit on the PCP) (see section 6 of this guidance).

#### 4.6

Particularly relating to the role and function of the PCP, there are additional issues, not specified in the Act, which will nonetheless need to be considered as part of the panel arrangements. These are considered in more detail in section 5.

#### 4.7

There will inevitably be some crossover between the issues covered by the rules of procedure, and the more general 'panel arrangements'. It is advisable that the two separate documents should be considered together when systems are being designed and developed.





# 5. Roles and functions: issues to consider

## 5.1

Decisions on these issues should be carried out **before** any decisions are made about the composition of the panel. The role of the panel must influence its composition.

- Which authority will lead/chair?
- How will we set out the panel arrangements and rules of procedure?
- How will the panel, the PCC and other local community safety partners define their interrelationships?
- In particular, what will be the division of responsibilities between the PCP (at force level) and local crime and disorder scrutiny committees (at local level)?
- Will the panel's focus be mainly reactive scrutiny, or proactive policy development (the nature of the PCP's role suggests that both will need to be carried out, but the balance will need to be decided)?
- How will the public be involved?
- How will decisions be made?
- How will the panel be supported and resourced?

These issues will all be dealt with in the sections below, other than involving the public, and the panel arrangements which have already been discussed in sections 3 and 4 respectively.

## 5.2

### Which authority will lead/chair?

This is the first decision that needs to be made by local authorities in the force area. The police and crime panel will be a formal joint committee of all the authorities in the force area. However, a judgment will have to be made as to which council will lead, for the purposes of planning and delivery of the PCP's work programme, the selection of a chair (possibly, but not necessarily, from the lead authority) and the provision of accommodation and officer support. Home Office resourcing (see below) will go to this lead authority.

## 5.3

The most obvious solutions might be:

- in a county area with borders coterminous with the force area boundary, the county would lead
- in an area where the force is not coterminous with a single county, the largest county, or largest unitary (whether by population or geographic size) would lead
- in an area where the force covers a smaller selection of authorities, the most populous, or geographically largest, authority could lead.

These possibilities are provided as examples only – solutions adopted in each force area

will need to reflect the wishes of the individual authorities in that area.

#### 5.4

A perceived imbalance that might otherwise exist on the panel because of one geographical area, or centre of population, being ‘over-represented’ or ‘under-represented’, could be partially offset by the chair being given to another geographical area. It is also important to remember the possible impact of local elections part-way through the PCC’s term of office, and the effect that this may have on the composition of the PCP. Dealing with perceived imbalances in representation would be possible through co-option (see 7.12 onwards).

#### 5.5

There is no specific provision for the chair to ‘rotate’ between authorities, although there is nothing in the Act prohibiting this. It is for each area to decide on their own chairing arrangements (which will be set out in the rules of procedure).

## 5.6 How will the panel, the PCC and other local community safety partners define their relationships?

Information sharing will be one issue amongst many where agreement will need to be reached around common purpose and ways of working.

#### 5.7

The Act makes provision for a protocol between the chief constable and the police and crime commissioner, to define their relationship. This protocol will have a

statutory basis but in local areas it could be supplemented to encompass the PCP, and possibly even local community safety partnerships and the scrutiny committees that hold them to account. Such a protocol would help to set the ground rules for engagement, and make any difficulties or disagreements – particularly in the early months and years – easier to resolve.

#### 5.8

Some may feel that a protocol would be too bureaucratic, or that trying to plan for a number of different eventualities before the event will be difficult and time-consuming. There are benefits to a more ad hoc approach, but risks as well – including delays to time-critical work, breakdowns of relationships, ‘mission creep’ and duplication.

#### 5.9

Some issues that a protocol could clarify might include:

- indicating how the PCC will respond to the PCP’s recommendations (eg, requiring the response to be substantive, giving reasons why any recommendations are being rejected)
- the process for the PCP in consulting on an annual, or quarterly, work programme
- the way in which the performance of the force in question will be monitored by the PCC, and how the PCP’s work will link into this performance management
- the timescale for responding to requests for information
- the circumstances in which information on operational policing could be withheld from the PCP for various reasons
- arrangements for confirmation hearings, including timescales

- arrangements for non-criminal complaints about the PCC and his/her deputies.

#### 5.10

A protocol could be incorporated within the panel arrangements.

### 5.11

#### In particular, what will be the division of responsibilities between the PCP (at force level) and local crime and disorder scrutiny committees (at local level)?

Under the Police and Justice Act 2006 local authority scrutiny functions in shire districts, and unitary areas, have specific powers to hold to account work being carried out by the community safety partnership.

#### 5.12

This gives local government scrutiny the right to request information from, and require the attendance of, CSP responsible authorities. Scrutiny also has some powers to make recommendations to responsible authorities about improvements to services. It is important to recognise that these powers are limited to those services delivered by responsible authorities in partnership.

#### 5.13

The PCC is not a ‘responsible authority’ for the purposes of community safety partnerships, but there will inevitably be close joint working between PCCs and CSPs. Councils will need to consider how CSP scrutiny and PCP scrutiny will relate to each other and ensure they do not duplicate each other’s work. In particular, they will need to ensure that community safety

scrutiny committees do not seek to hold the PCC to account for an issue specific to a single community safety partnership.

Overlap of areas of interest will, however, be inevitable, and a protocol between the main partners (as discussed elsewhere) will help to define how different forms of accountability will intersect.

### 5.14

#### Will the PCP’s focus be reactive scrutiny, or proactive policy development?

Scrutiny can be carried out by the PCP in a number of different ways. The PCP’s statutory responsibilities focus on a reactive approach (see section 5.15), but a more proactive approach (5.16) could prove useful in ensuring that the PCP is making a positive contribution to the PCC’s work – particularly in the context of the development of the police and crime plan. A proactive approach expands the scope of the PCP beyond its formal statutory role, but a successful adoption of this method of working could strengthen the delivery of the PCP’s core, statutory responsibilities. It will also contribute to the statutory function of the PCP in supporting the PCC in the effective exercise of their functions.

#### 5.15

‘Reactive’ scrutiny:

- looks at how services have been delivered in the past
- learns and applies lessons from that experience to the future.





#### Advantages:

- provides an independent means of assessing problems or service failures
- provides a way of analysing successes, and spreading good practice.

#### Disadvantages:

- can duplicate the PCC's own internal systems
- could interfere with or duplicate work undertaken by HMIC (if poorly planned).

#### 5.16

##### 'Proactive' scrutiny:

- engages in current policy development, influencing decisions before they are made.

#### Advantages:

- fits closely with the PCP's responsibility to constructively assist the PCC in policy development
- helps to bring additional perspectives to the policy process.

#### Disadvantages:

- relies for success on a strong working relationship between the PCP, the PCC and other local partners, given that it goes beyond what is prescribed by law.

#### 5.17

There is a case for both approaches. PCPs will want, as a statutory consultee, to examine the PCC's business plans (including the police and crime plan) and will probably want to play a part in the improvement cycle (including the monitoring of performance, finance and risk information) to see where it could most constructively direct its work programme. Decisions here

will need to be based on discussions with the PCC and with other partners involved in tackling crime and disorder. Time limited, or standing, sub-committees could be set up to carry out investigations into specific issues, as long as such investigations do not involve the carrying-out of any of the PCP's 'special functions' (see 5.21 below). This could provide a way to carry out more proactive scrutiny, make better use of limited resources and manage a large PCP whose operation might otherwise be unwieldy.

#### 5.18

Equally, local discretion will mean that some areas may decide to adopt a more 'light touch' approach, where accountability is principally exerted through the PCC/chief constable relationship and the PCP limits itself exclusively to its statutory duties.

#### 5.19

Whatever approach is adopted, a work programme can help to manage the PCP's responsibilities, and to ensure that the PCP's time is spent on issues where it can most clearly add value by delivering against the agreed priorities which support its legal remit.



## 5.20 How will decisions be made?

Under certain circumstances the PCP can make what the Act describes as ‘decisions’ (which will usually be recommendations rather than ‘decisions’ in the conventional sense) using its statutory powers.

### 5.21

The Act refers to these as ‘special functions’, which must be carried out by the full PCP and cannot be delegated to a sub-committee. Such decisions could include those to:

- review and make recommendations on the police and crime plan
- review and make recommendations on the annual report of the PCC, at a public meeting
- review and potentially veto the proposed precept
- review and potentially veto the decision to appoint a chief constable, and review but not veto the appointment of various other senior staff (further to paragraph 9(1) of Schedule 1), following a confirmation hearing of the PCP.

### 5.22

In the instances where the power to veto exists, a two-thirds majority is required for this to take effect.

### 5.23

Rules of procedure will need to define how the PCP will carry out these special functions. These will include timescales for consultation, and detail on the way in which scrutiny is to be carried out. Regulations will be produced on the exercise of the panel’s veto, but councils will need to define the circumstances in which votes will be taken, how a formal

decision will be made and recorded, how such a decision will be notified formally to the PCC and how the PCC should respond. As well as forming an element of the rules of procedure, these principles could also form a part of the protocol discussed earlier.

### 5.24

Confirmatory hearings for chief constables and other staff (under the Act, the chief executive, chief finance officer and a deputy police and crime commissioner), will bring their own specific challenges. While the conduct of these hearings will be down to the authorities whose representatives sit on the PCP, discussion and agreement with the PCC, and with the lead authority’s monitoring officer, will be necessary to ensure that such hearings are fair, and take account of the employment, and other, rights of the PCC’s nominee. As a ‘special function’, these hearings must be carried out by the full PCP, which raises additional issues around the management of questioning and ensuring that the hearing adds value to the appointment process.

### 5.25

There are other circumstances where the PCP’s rules of procedure may need to determine how decisions will be made – for example:

- changes to the panel arrangements, or the rules of procedure themselves
- agreement of the annual work programme (if one is being prepared).





## 5.26

### How will the panel be supported and resourced?

The PCP will be a vital part of local accountability arrangements for policing. The Home Office proposes to make £30,000, plus on-costs, available to support the work of each PCP. It is not yet clear how long this funding will last, or how it will be paid. When setting up panels, councils will have to decide whether their panel should have more support, and if so how this will be provided.

#### 5.27

The support arrangements for the PCP will need to reflect the role and functions that the body takes on. A more reactive approach to scrutiny may not be so resource intensive, but may limit the PCP's effectiveness. A PCP, resourced to make a positive contribution to policy development, could render more effective the delivery of community safety and criminal justice policy across the force area, in such a way that makes the provision of additional resources easier to justify.

#### 5.28

Some resourcing issues to consider when setting up a panel:

- Should a separate member of staff be appointed to provide support to the PCP, or can this be carried out by existing committee administrators and scrutiny officers? Additional pressure on existing staff could lead to problems with the PCP delivering its work programme.
- Will separate committee administration and policy support be required?
- If councils decide to supplement the funding from the Home Office how could they do this? One possibility is that

authorities in the force area could make a joint, pooled contribution to the operational budget of the PCP. This approach is allowed for in paragraph 11(2)(a) of Schedule 6 of the Act.

- Where it is not possible to provide additional support to the panel, consideration will need to be given to whether the panel should concentrate on its core functions, how rigorous it is in setting out which issues it will and will not examine, and whether using 'task and finish' groups will allow it to look at the most important topics in a more efficient manner than might be possible at formal committees.



# 6. Composition: the law

## 6.1

The Act makes detailed provisions on PCP composition. In brief, these are:

- Where a force area consists of ten or fewer authorities, the number of members of the PCP will be ten, not including the co-opted members.
  - Where a force area consists of more than ten authorities, there will be as many members as there are local authorities in the force area, plus two co-opted members.
  - Additional councillors may be co-opted onto the PCP, as long as two lay co-optees are also included, the size of the PCP does not exceed 20 and the Secretary of State approves the co-options.
  - Composition should be carried out in accordance to the 'fair representation objective' – essentially, each authority in the force area must be represented by at least one member if the total number of authorities in the area is less than ten, and one member if the number of authorities is ten or more.
  - Where agreement cannot be reached (see below) the Secretary of State has the power to make nominations.
  - The PCC cannot be a member of the PCP.
  - Sitting MPs, Welsh AMs, MSPs, MEPs, staff of the PCC and civilian police staff may not be co-opted onto the PCP.
- By and large, beyond these principles the choice of who sits on the PCP will be down to the authorities involved. However, in Wales, and in those parts of England where agreement cannot be reached (see section 7.19 below) the Home Secretary will nominate members.

# 7. Composition: issues to consider

## 7.1

Authorities within force areas need, between them, to make swift, but sustainable, decisions on the following issues, which will need to be set out in the panel arrangements. This will need to happen after the issues in the section above, on roles and functions, have been resolved (including the question of who leads/chairs, covered in 5.2 above):

- Who will sit on the PCP, and how can we assure equity of representation?
  - How do we ensure the PCP is politically proportionate across the force area?
  - How will seats be assigned to individual authorities?
  - Will executive, or non-executive, members sit on the PCP?
  - What will happen in committee system authorities?
  - Who will the lay members/co-optees be, and what process will be used to appoint them?
- How will changes in political control in authorities within the force area, and other necessary membership changes, be dealt with?
- Will a 'special responsibility allowance' be assigned?
- What happens if a decision cannot be reached?
- What happens in Wales?

## 7.2

Once resolved, decisions on the above should form part of the panel arrangements, discussed above.

## 7.3 Who will sit on the PCP, and how can we assure equity of representation?

### General principles

Composition should take account of, as far as is practical, both political and geographical proportionality, as well as necessary skills and experience, when coming to a judgment of who sits on the body. Together, these form a 'balanced appointment' objective specifically cited in the Act. Detailed provisions on these arrangements can be found in Schedule 6.

## 7.4

This will avoid significant inequity, as well as making it easier to take account of the concerns of some authorities – particularly shire districts – that they might not otherwise be represented.

## 7.5

There are risks inherent in a body with a large membership. The size of some PCPs may approach 20 members – which will present a challenge to carrying out effective, focused business in plenary. The careful and proportionate use of smaller task groups or sub-committees could provide a partial solution (see section 5.17).

## 7.6

### How do we ensure the PCP is politically proportionate across the force area?

Panels should be politically proportionate. This means that they should be proportionate according to the total number of councillors in the force area.

## 7.7

### How will seats be assigned to individual authorities?

This is a decision that will need to be taken by those authorities involved, and the Home Office is not planning to prescribe. However, the 'balanced appointment' objectives mentioned above will need to be borne in mind.





## 7.8 Will executive, or non executive, members sit on the PCP?

There is no prescription as to who should sit on the PCP. However, if there are any executive mayors the force area, they will have a guaranteed seat (although they can delegate a councillor from the authority in their place).

### 7.9

The question is whether remaining seats should go to executive or non-executive members. This is something that authorities will have to decide themselves, but some arguments for and against each approach are listed opposite.

### 7.10

There is no single, right approach to composition. Authorities will need to properly weigh up the pros and cons. It would be possible to take a 'mixed' approach, with some executive and some non-executive members sitting on the panel – but this might prove complex.

<b>Executive</b>	<b>Non-executive</b>
An all-executive body would give the panel necessary profile and influence	With its statutory powers, the body will have significant influence anyway
It provides an opportunity for councils' leadership to exert statutory influence over the PCC (in terms of approval of the police and crime plan, etc)	Council leadership will have two other means to exert influence – through community safety partnerships and through the development of the police and crime plan
Executives (particularly cabinet members for community safety) will be in a better position to hold the PCC to account due to their expert knowledge	Having executive members sitting on the PCP will constitute a conflict of interest. As the police and crime plan will effectively be 'jointly-owned' by local authorities in the area, because of the requirement for the PCC to co-operate, local authority executives will have a stake in its delivery that could be perceived as making it impossible for them to carry out truly independent scrutiny
It is more consistent for executive members to sit on the panel, given that executive mayors will have an automatic seat	Provision does exist for the mayor to delegate his/her functions on the PCP to another member of the authority
	If the PCP is to conduct work according to its own work programme (see above) it may place an undue burden on executive members with wider duties. To conduct PCP work in another way could hinder the PCP's effectiveness
	Having a non-executive PCP will make joint working easier with non-executive scrutiny committees carrying out work with community safety partnerships



## 7.11 What will happen in committee system authorities?

Where a committee system authority has a community safety committee (or similar) taking local decisions on these matters, some of the arguments above would suggest that nobody sitting on that committee should be able to sit on the PCP, for fear of there being a conflict of interest. It could be thought most appropriate for another member, sitting on another committee, to sit on the PCP, but this raises issues about skills and knowledge. Ultimately this is something that individual committee system authorities will have to resolve themselves.

## 7.12 Who will the lay members/co-optees be, and what process will be used to appoint them?

All panels must have two lay members. The legislation provides no restriction of who these members might be, other than to require that the lay members should have the skills and knowledge to assist the PCP in discharging its functions effectively.

There are a number of options for lay membership – it can be used:

- to bring in expertise from, for example, one of the other community safety ‘responsible authorities’ (for example, a representative from the NHS or from the local Probation Trust)
- to provide particular skills, that without those lay members on the panel might be lacking

- to bring in the views and concerns of the public. Careful thought would need to go into how the lay members were selected, if this approach was followed
- to provide an explicitly ‘non-executive’ perspective, on a PCP otherwise made up of executive members.

7.13  
The process used for selection of lay members will need to be determined by each individual force area, and could form part of the panel arrangements. Selection procedures will need to be fair and transparent – a role profile could be prepared on the basis of which a public recruitment exercise could be conducted. This exercise may, on the first occasion, need to be carried out by the ‘shadow PCP’ (see below).

## 7.14 How will changes in political control in authorities within the force area, and other necessary changes to membership, be dealt with?

Panel arrangements must make provision for the appointment of members to the PCP. Where political control, and hence proportionality, in a given authority changes, they may wish to change their nominated member on the PCP. There are two approaches that could be taken, in tandem:

- set terms of office for the PCP at one year, with membership to be revised every May (at the same time as that for other council committees)
- put in place a system, where a longer term of office is proposed, for the substitution and replacement of a member.

### 7.15

One issue when deciding how long the term of office of panel members will be is the need to retain the skills and knowledge of the panel, and how changes in membership can be managed to ensure skills and knowledge are not lost. Potential approaches should be evaluated with this principle in mind.

### 7.16

Panel arrangements will also need to make provision for the change of membership through resignation for other reasons. The same principles as those outlined above should apply, except that the new member should be of the same political party as the old member (and from the same authority) to maintain balance.

### 7.17

Some areas may choose to use the powers of co-option to add supplementary councillors to the PCP. These supplementary seats could circulate around authorities in the force area, and provision could be made in the panel arrangements for this process to operate. This may, however, complicate proportionality arrangements. The approval of the Secretary of State for the Home Office will be required for these additional co-opted appointments.

## 7.18

### Will a special responsibility allowance be assigned?

It is planned that additional remuneration is made available by the Home Office, to cover the expenses and an allowance for the lay members of the panel only. Money is also being made available to cover the expenses of the local authority members, but no funding for the allowances of local authority

members is being provided. This position on remuneration has been proposed but at the time of writing (October 2011) is yet to be confirmed. Authorities may choose to provide additional allowances to members sitting on the PCP to bring allowances fully into line with figures arrived at for other committees by the relevant independent remuneration panel(s).

## 7.19

### What happens if a decision cannot be reached?

The Home Secretary has reserved powers under the Act to intervene where authorities in a force area cannot come to a decision about the format and composition of the police and crime panel. Where local agreement cannot be reached, she will appoint a panel directly, according to a set of principles developed by the Home Office that include geographical and political representation.

### 7.20

This will not be an automatic process. Intervention will be a 'last resort' measure.

## 7.21

### What happens in Wales?

The Act makes provision for the Home Secretary to nominate members of PCPs in Wales directly. It was originally intended they would be appointed by councils in Wales, but the Welsh Assembly Government refused to allow the Home Office to legislate on local government matters as this is an area of devolved responsibility in Wales. The powers and functions of Welsh PCPs will be identical to those in England in other respects.

# 8. Common issues and how to resolve them: shadow PCPs

## 8.1

In some areas, 'shadow PCPs' have been established, or are being established, by police authorities (which will be abolished) and local authorities in the area working together. The aim of these bodies is to prepare for November 2012, and to ensure a smooth transition between the work of police authorities and the operation of the new structural arrangements.

## 8.2

A number of the issues identified above, namely resourcing; agreement about role and functions between different local partners; and composition, can only be resolved by discussion and agreement at local level. This discussion could be facilitated by a shadow PCP. Initially, such a body could involve a range of members from all local authorities in the force area, between whom a decision could be made about final composition, powers and so forth.

## 8.3

It is important to recognise that the shadow PCP, if established, will have no role to carry out substantive scrutiny of any kind until the PCC is elected. Any work undertaken by the shadow PCP should focus exclusively on the development of internal and external systems to enable it to carry out its work once the PCC takes on his or her role.

## 8.4

Any planning or shadowing arrangements should be member-led. They should involve both executive and non-executive members.



# 9. Regulations and further guidance

## 9.1

The Home Secretary has relatively wide powers to make regulations, and issue guidance, further to a number of issues.

These include:

- regulations on dealing with complaints
- regulations on 'notifications' to be given by the Home Secretary if authorities fail to comply with the provisions of Schedule 6
- regulations about making nominations and appointments to the PCP
- regulations about modifying the functions of those PCPs to which the Home Secretary has directly nominated members
- 'light touch' non-statutory guidance on a number of issues relating to the operation of PCPs
- other non-statutory guidance on the PCP's links with other local structures.

## 9.2

At the moment timescales for the production of regulations and further guidance are not known.

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# Police and crime panels

Guidance on terms of reference and rules of procedure





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# Introduction

This guide should be read alongside the previous guides produced by the LGA on police and crime commissioners and police and crime panels, including guidance on the role and composition of police and crime panels dated November 2011. This guide will be complemented by further LGA guides aimed at assisting authorities establish and operate police and crime panels.

The guidance suggests some key points that panels should consider when establishing their rules of procedure. The guidance here should be read alongside Schedule 6 of the Police Reform and Social Responsibility Act 2011, particularly paragraphs 25-27.

Paragraph 25 of Schedule 6 refers to a police and crime panel's obligations concerning rules and procedures as follows:

## Rules of procedure

- 25(1) A police and crime panel must make rules of procedure for the panel.
- (2) A police and crime panel's rules of procedure must make provision about the appointment, resignation and removal of a person to chair the panel.
- (3) The police and crime panel's rules of procedure may, in particular, make provision about:
  - (a) the method of making decisions, and
  - (b) the formation of sub-committees.
- (4) A sub-committee of a police and crime panel may not co-opt members.
- (5) This paragraph is subject to paragraph 27.



Paragraph 27 refers to functions of the panel which cannot be discharged by a committee or sub-committee of the panel. Paragraph 28 allows the panel to make provision for allowances. Paragraph 26 refers to panel member voting rights.

The rules of procedure are the standing orders governing the conduct of panel meetings and any sub-committees it establishes. Any rules of procedure will have to reflect the law in the Police Reform and Social Responsibility Act, as well as other local government legislation, and should be written in plain English.

Separate LGA guidance will be provided on 'Panel Arrangements' although it is recognised that there may be an overlap and some panels might wish to present their rules and procedures together with the panel arrangements, or at least within the same document.

## Agreement of rules of procedure

Rules of procedure need to be endorsed by the panel at its first meeting, but it is strongly suggested that agreeing the text in advance should be a priority for one of the panel meetings in the lead up to November 2012.

Most authorities will have standard models for operating other joint scrutiny committees, the details of which can be copied. Ideally if locally established procedures can be used which are already familiar and common to all the authorities in the police force area, these can be easily agreed and adopted by the panel.

It is suggested that where the lead in establishing a panel is taken by local authority staff who are not normally involved in dealing with democratic services and scrutiny, consultation and liaison should take place with relevant colleagues who are involved in this kind of work.

Where there are different approaches which need discussion, time should be allocated for this at an early meeting of the panel to resolve any issues before November 2012.

# Elements which Schedule 6 states the rules of procedure must cover

## Issues concerning the panel chair

The rules of procedure **must** cover the appointment, resignation and removal of the panel chair.

There could be several options for chairing the panel meetings. The panel itself will need to choose a method which is acceptable locally. Options might include:

- the panel electing a chair from its membership at the first meeting and thereafter annually (after relevant local and police and crime commissioner (PCC) elections)
- agreement that the role of panel chair will be rotated at each meeting
- the chair might be agreed for the same period that the PCC is elected for. In such circumstances it might be arranged that the chair represents a different political party from the serving PCC so as to help the panel deliver robust and independent scrutiny.

Rules of procedure should cover securing a replacement chair in the event of the resignation of a serving chair, and also the election of a temporary chair if the chair is not available for a meeting. However, procedures to address these matters need not be any different from any other scrutiny committee. The approach to take for the removal of a chair will need more consideration.

It is suggested that the removal of a chair would be needed in cases of misconduct or if it becomes clear that the person concerned is not allowing the panel to effectively deliver its functions as set out in the panel's Terms of Reference, (see **Annex 1**). The method for taking decisions about removing a chair would be on the same basis as other work is decided by the panel.

# Elements which Schedule 6 states the rules of procedure may cover

## Methods of decision making

Rules of procedure **may** cover methods of decision making. It is suggested for example that they should specify that a meeting should be quorate before decisions can be taken. The threshold of what is quorate must be decided by the panel when endorsing the rules of procedure. Examples can be drawn from the quorums for other council committees, and consideration will need to be given to what happens if the quorum is not reached.

Paragraph 26 of the Schedule refers to all members of the panel being eligible to vote on panel business. Rules of procedure might also cover issues such as: the tabling of motions; rules of debate; casting votes for the chair and rights to request the recording of votes.

The Home Office will be setting out in regulations how the panel's power of veto over the precept and chief constable candidates is exercised and works.

Further detail might be provided in the rules of procedure if it is considered helpful. For example stating that voting would normally be by a simple show of hands at the meeting with votes clearly recorded in the minutes of meetings.

The rules of procedure might also refer to the need for occasional extraordinary meetings to cover unforeseen policing matters. This should allow the panel enough flexibility to respond to short notice decisions, announcements and actions taken by the PCC which need to be considered in-between scheduled panel meetings.

## Sub-committees

The rules of procedure may also cover the creation and operation of sub-committees. It should be highlighted that the panel would need to check carefully that any areas to be dealt with by sub-committee are not beyond the scope of the panel as specified in the Act, and are not matters specified in paragraph 27 of Schedule 6.

Paragraph 27 of Schedule 6 specifies certain functions which **must** be dealt with by the panel and **not** by a sub-committee, namely:

- (a) Section 28(3) (scrutiny of police and crime plan)
- (b) Section 28(4) (scrutiny of annual report)
- (c) Paragraphs 10 and 11 of Schedule 1 (Scrutiny of Senior Appointments)
- (d) Schedule 5 (issuing precepts), and
- (e) Part 1 of Schedule 8 (scrutiny of appointment of chief constables).

## Draft rules of procedure

An example 'rules of procedure' document, which combines matters required and suggested by Schedule 6 **and a range of other very useful optional matters** for inclusion, is provided in **Annex 2**. Most of the text in Annex 2 is taken with permission from a document drafted by Gloucestershire County Council.

## Other issues

Finally the panel, as a joint local authority committee, will be bound by legislation about public accessibility to meetings. Councils will therefore need to consider how to deal with the public's rights to see public reports and background papers and any record of decisions (except where confidential or exempt).

Thought will also have to be given to whether the public will be allowed to participate in meetings. It is suggested that the public may attend panel meetings except where confidential or exempt information is likely to be discussed.

However, the extent to which existing local authority legislation governing the operation of committees will apply to panels will be determined by the Home Office. Regulations setting out which existing provisions apply to panels will be published in the autumn. The panel's rules of procedure will have to be finalised in light of those regulations.

# Annex 1

The majority of the following text is taken, with permission, from a document drafted by Gloucestershire County Council. In each area however the text would need to be adapted and amended to reflect local circumstances as necessary.

## [Police force area name] police and crime panel Terms of Reference

- 1) To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.
- 2) To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report.
- 3) To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- 4) To review and make a report on the proposed appointment of the Chief Constable.
- 5) To review and make a report and recommendation (as necessary) on the proposed precept.
- 6) To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.
- 7) To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- 8) To support the effective exercise of the functions of the Police and Crime Commissioner.
- 9) To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
- 10) To appoint an Acting Police and Crime Commissioner if necessary.
- 11) To suspend the Police and Crime Commissioner if it appears to the panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

# Annex 2

Note: Whilst some of the rules of procedures suggested here go beyond what Schedule 6 requires as a minimum – the following may provide a good model on which local documents might be based. The majority of the following text is taken, with permission, from a document drafted by Gloucestershire County Council. In each area however the text would need to be adapted and amended to reflect local circumstances as necessary. It also needs to be noted that various functions of the panel are subject to regulations that are not yet available and the content of the rules may therefore need to change before the final version is determined.

## [Police force area name] police and crime panel Procedure Rules

### 1 Chairman of the police and crime panel

- 1.1 The chairman of the police and crime panel will be appointed in June of each year and will be drawn from amongst the councillors sitting on the panel.

- 1.2 The vice-chairman will be appointed in June of each year and will be drawn from amongst the councillors sitting on the panel.
- 1.3 In the event of the resignation of the chairman or removal of chairman, a new chairman will be appointed at the next meeting and will be drawn from amongst the councillors sitting on the panel.
- 1.4 The chairman may be removed by agreement of a majority of the whole membership of the panel and in that event the panel will appoint a replacement chairman from amongst the councillors sitting on the panel.
- 1.5 The panel will elect a person to preside at a meeting if the chair and vice chair are not present.

### 2 Meetings of the police and crime panel

- 2.1 There shall be a minimum of four ordinary meetings of the police and crime panel held in public in each municipal year to carry out the functions of the panel. In addition, extraordinary meetings may be called from time to time.
- 2.2 An extraordinary meeting may be called by the chairman or by four members of the panel.
- 2.3 An extraordinary meeting may also be called by the monitoring officer to the panel.

- 2.4 Ordinary meetings will take place in accordance with a programme decided by the panel, and will start at the time decided by the panel.
- 2.5 Ordinary meetings of the panel will:
  - a) receive any declarations of interest from members
  - b) approve the minutes of the last meeting
  - c) consider reports from officers and panel members.
- 2.6 Notice of meetings [agreed local arrangements for notice of meetings including minimum notice should be inserted here].
- 2.7 Substitutes [for councillors unable to attend the meeting. Again agreed local arrangements on substitution should be inserted here].

### **3 Quorum**

A meeting of the police and crime panel cannot take place unless [fix a figure locally for example one third] of the whole number of its members is present.

### **4 Voting**

- 4.1 Voting will be by show of hands and by simple majority unless the Act, regulations made under the Act or these rules require otherwise.
- 4.2 All panel members may vote in proceedings of the panel.

### **5 Work programme**

- 5.1 The police and crime panel will be responsible for setting its own work programme taking into account the priorities defined by the Police and Crime Commissioner. In setting the work programme the police and crime panel will also take into account the wishes of its members.
- 5.2 The work programme must include the functions described in the terms of reference for the panel.

### **6 Agenda items**

- 6.1 The panel agenda will be issued to panel members at least five clear working days before the meeting. It will also be published on the panel's website and by sending copies to each of the authorities, and by any other means the panel considers appropriate.
- 6.2 Any member of the police and crime panel shall be entitled to give notice to the Chief Executive of the host authority that he or she wishes an item relevant to the functions of the panel to be included on the agenda for the next available meeting.

### **7 Reports from the police and crime panel**

- 7.1 Where the police and crime panel makes a report to the Police and Crime Commissioner, it may publish the report or recommendations.



7.2 The police and crime panel must by notice in writing require the Police and Crime Commissioner, as appropriate, within one month of the date on which it receives the report or recommendations to:

- a) consider the report or recommendations
- b) respond to the police and crime panel indicating what (if any) action the Police and Crime Commissioner proposes to take
- c) where the police and crime panel has published the report or recommendations, publish the response
- d) where the police and crime panel has provided a copy of the report or recommendations to a member, provide a copy of the response to the member.

7.3 The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).

7.4 If the police and crime panel cannot unanimously agree on one single final report to the Police and Crime Commissioner then one separate report may be prepared and submitted for consideration along with the majority report.

## **8 Police and crime commissioner and officers giving account**

8.1 The police and crime panel may scrutinise and review decisions made or actions taken in connection with the Police and Crime Commissioner's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the Police and Crime Commissioner, and members of that commissioner's staff, to attend before the panel (at reasonable notice) to answer any questions which appear to the panel to be necessary in order to carry out its functions.

8.2 Where the Police and Crime Commissioner, or a member of that commissioner's staff, is required to attend the panel under this provision the chairman will inform them in writing giving, where practical, 15 days notice of the meeting. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required for production for the panel. Where it is necessary to produce a report, sufficient time will be given to allow preparation of that report.

8.3 Where, in exceptional circumstances, the Police and Crime Commissioner is unable to attend on the required date, then an alternative date for attendance may be arranged following consultation with the chairman of the panel.



8.4 If the police and crime panel require the Police and Crime Commissioner to attend before the panel, the panel may (at reasonable notice) request the Chief Constable to attend before the panel on the same occasion to answer any questions which appears to the panel to be necessary in order for it to carry out its functions.

## 9 Attendance by others

The police and crime panel may invite people other than those referred to above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, councillors who are not members of the panel and officers in other parts of the public sector and may invite such people to attend.

## 10 Sub-committees and task groups

10.1 Time limited task groups may be established from time to time by the police and crime panel to undertake specific task based work.

10.2 The special functions of the police and crime panel may not be discharged by a sub-committee of the panel or a task group.

10.3 In this paragraph 'special functions' means the functions conferred on a police and crime panel by:

- a) Section 28(3) of the Police Reform and Social Responsibility Act (scrutiny of Police and Crime Plan)
- b) Section 28(4) of the Police Reform and Social Responsibility Act (scrutiny of annual report)

- c) Paragraphs 10 and 11 of Schedule 1 of the Police Reform and Social Responsibility Act (review of senior appointments)
- d) Schedule 5 of the Police Reform and Social Responsibility Act (issuing precepts)
- e) Part 1 of Schedule 8 of the Police Reform and Social Responsibility Act (scrutiny of appointment of the Chief Constable).

10.4 The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

## 11 Carrying out 'special functions'

Reports and recommendations made in relation to the functions outlined in the terms of reference will be carried out in accordance with the procedure outlined at in Section 7.

### 11.1 Police and crime plan

11.1.1 The panel is a statutory consultee on the development of the PCC's police and crime plan and will receive a copy of the draft police and crime plan, or a draft of any variation to it, from the PCC.

- 11.1.2 The panel must
- a) hold a public meeting to review the draft police and crime plan (or a variation to it), and
  - b) report or make recommendations on the draft plan which the PCC must take into account.

## 11.2 Annual report

- 11.2.1 The PCC must produce an annual report about the exercise of his/her functions in the financial year and progress in meeting police and crime objectives in the year. The report must be sent to the panel for consideration.
- 11.2.2 The panel must comment upon the annual report of the PCC, and for that purpose must:
- a) arrange for a public meeting of the panel to be held as soon as practicable after the panel receives the annual report
  - b) require the PCC to attend the meeting to present the annual report and answer questions about the annual report as the members of the panel think appropriate
  - c) make a report or recommendations on the annual report to the PCC.

## 11.3 Senior appointments

- 11.3.1 The panel has powers to review the Police and Crime Commissioner's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner. The panel is required to hold public confirmation hearings for these posts.
- 11.3.2 The panel will be notified of the need for a confirmatory hearing in respect of proposed senior appointments made by the Police and Crime Commissioner. This will be held at the next available meeting of the panel unless the appointment timescale requires an earlier hearing, in which case an extraordinary meeting will be arranged.
- 11.3.3 With regards to the appointment of the Chief Constable, the panel is required to hold a hearing within the period of three weeks from the day on which the panel receives notification from the Police and Crime Commissioner.
- 11.3.4 Confirmatory hearings will be held in public, where the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the panel is required to review

- the proposed appointment and make a report to the commissioner on the appointment.
- 11.3.5 For a confirmatory hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the panel has the requirement to make a recommendation on the appointment and the power to veto the appointment.
- 11.3.6 Having considered the appointment, the panel will be asked to either:
- a) support the appointment without qualification or comment
  - b) support the appointment with associated recommendations, or
  - c) veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).<sup>1</sup>
- 11.3.7 If the panel vetoes the appointment of the candidate, the report to the commissioner must include a statement that the panel has vetoed the appointment with reasons.
- 11.4 Appointment of an Acting Police and Crime Commissioner
- 11.4.1 The police and crime panel must appoint a person to act as Police and Crime Commissioner if:
- a) no person holds the office of Police and Crime Commissioner
  - b) the Police and Crime Commissioner is incapacitated, or
  - c) the Police and Crime Commissioner is suspended.
- 11.4.2 The police and crime panel may appoint a person as acting commissioner only if the person is a member of the Police and Crime Commissioner's staff at the time of the appointment.
- 11.4.3 In appointing a person as acting commissioner in a case where the Police and Crime Commissioner is incapacitated, the police and crime panel must have regard to any representations made by the commissioner in relation to the appointment.

<sup>1</sup> Note: this section may have to be varied in the light of Home Office Regulations expected to be laid in June on the exercise of the veto.

11.4.4 The appointment of an acting commissioner ceases to have effect upon the occurrence of the earliest of these events:

- a) the election of a person as Police and Crime Commissioner
- b) the termination by the police and crime panel, or by the acting commissioner, of the appointment of the acting commissioner
- c) in a case where the acting commissioner is appointed because the Police and Crime Commissioner is incapacitated, the commissioner ceasing to be incapacitated, or
- d) in a case where the acting commissioner is appointed because the Police and Crime Commissioner is suspended, the commissioner ceasing to be suspended.

## 11.5 Proposed precept

11.5.1 The Police and Crime Commissioner will notify the police and crime panel of the precept which the commissioner is proposing to issue for the financial year. The panel must review the proposed precept and make a report including recommendations.

11.5.2 Having considered the precept, the police and crime panel will either:

- a) support the precept without qualification or comment
- b) support the precept and make recommendations, or
- c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).

11.5.3 If the panel vetoes the proposed precept<sup>2</sup>, the report to the commissioner must include a statement that the panel has vetoed the proposed precept with reasons. The panel will require a response to the report and any such recommendations.

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<sup>2</sup> Note: this section may have to be varied in the light of Home Office Regulations expected to be laid in June on the exercise of the veto.

## 11.6 Complaints

Criminal and non-criminal complaints in relation to the Police and Crime Commissioner or other office holders should be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (<http://www.legislation.gov.uk/ukxi/2012/62/part/1/made?view=plain>) [local arrangements should be clarified and specified clearly in the rules of procedure]<sup>3</sup>

## 11.7 Suspension of the Police and Crime Commissioner

11.7.1 A police and crime panel may suspend the Police and Crime Commissioner if it appears to the panel that:

- a) the commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
- b) the offence is one which carries a maximum term of imprisonment exceeding two years.

11.7.2 The suspension of the Police and Crime Commissioner ceases to have effect upon the occurrence of the earliest of these events:

- a) the charge being dropped
- b) the Police and Crime Commissioner being acquitted of the offence
- c) the Police and Crime Commissioner being convicted of the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act by virtue of the conviction, or
- d) the termination of the suspension by the police and crime panel.

11.7.3 In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:

- a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
- b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

<sup>3</sup> Further guidance is due to be published in the spring by the Independent Police Complaints Commission, and the Home Office

## 11.8 Suspension and removal of the Chief Constable

- 11.8.1 The panel will receive notification if the PCC suspends the Chief Constable.
- 11.8.2 The PCC must also notify the panel in writing of his/her proposal to call upon the Chief Constable to retire or resign together with a copy of the reasons given to the Chief Constable in relation to that proposal.
- 11.8.3 The PCC must provide the panel with a copy of any representations from the Chief Constable about the proposal to call for his/her resignation or retirement.
- 11.8.4 If the PCC is still proposing to call upon the Chief Constable to resign, she/he must notify the panel accordingly (the 'further notification').
- 11.8.5 Within six weeks from the date of receiving the further notification the panel must make a recommendation in writing to the PCC as to whether or not she/he should call for the retirement or resignation. Before making any recommendation the panel may consult the chief inspector of constabulary, and must hold a scrutiny meeting.

11.8.6 The scrutiny hearing which must be held by the panel is a panel meeting in private to which the PCC and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.

11.8.7 The panel must publish the recommendation it makes on its website and by sending copies to each of the authorities, and by any other means the panel considers appropriate.

11.8.8 The PCC may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:

- a) at the end of six weeks from the panel having received notification if the panel has not by then given the PCC a recommendation as to whether or not she/he should call for the retirement or resignation, or
- b) the PCC notifies the panel of a decision about whether she/he accepts the panel's recommendations in relation to resignation or retirement.

11.8.9 The PCC must consider the panel's recommendation and may accept or reject it, notifying the panel accordingly.

11.8.10 In calculating the six week period, the post-election period is ignored.

## **12 Rules of debate**

[To be clarified and agreed locally drawing from local authority constitutions on matters including:

- a) rules of debate and motions
- b) casting votes for chairs and
- c) rights to request recording of votes].

## **13 Public participation**

[To be clarified and agreed locally drawing from local authority constitutions on matters including:

- a) public questions
- b) situations where confidential or exempt information is likely to be discussed
- c) public reports and background papers
- d) availability of record of decisions].



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