

# Police and crime panels

Guidance on terms of reference and rules of procedure





# Contents

Introduction	4
Elements which Schedule 6 states the rules of procedure must cover	6
Elements which Schedule 6 states the rules of procedure may cover	7
Annex 1 – Draft Terms of Reference based on text from Gloucestershire County Council	9
Annex 2 – Draft Rules of Procedure based on text from Gloucestershire County Council	10

# 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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