

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

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

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)

Number of seats	Kent Population 84.66%	Medway Population 15.34%
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.

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 3rd 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
	71.231%	17.012%	7.607%	1.798%	0.692%	0.692%	0.277%	0.692%	
14	10 (9.972)	3 (2.381)	1 (1.065)	0 (0.251)	0 (0.096)	0 (0.096)	0 (0.038)	0 (0.096)	14
15	11 (10.684)	3 (2.551)	1 (1.141)	0 (0.269)	0 (0.103)	0 (0.103)	0 (0.041)	0 (0.103)	15
16	12 (11.396)	3 (2.721)	1 (1.217)	0 (0.287)	0 (0.110)	0 (0.110)	0 (0.044)	0 (0.110)	16
17	12 (12.109)	3 (2.892)	2 (1.293)	0 (0.305)	0 (0.117)	0 (0.117)	0 (0.047)	0 (0.117)	17
18	13 (12.821)	3 (3.062)	2 (1.369)	0 (0.323)	0 (0.124)	0 (0.124)	0 (0.049)	0 (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.

COUNCIL	CON 71.231%	LAB 17.012%	LIB 7.607%	IND 1.798%	Ashford Ind 0.692%	Swanscombe & Greenhithe Res Ass 0.692%	People First Party 0.277%	OTHER 0.692%	TOTAL
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
GRAVESHAM	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
TOTAL	515	123	55	13	5	5	2	5	723

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