

DRAFT

Information Sharing Agreement

between the

Kent Police and Crime Commissioner

and the

Kent and Medway Police and Crime Panel

Version 1

October 2012

1. Purpose of the Agreement

This agreement has been developed to formalise what information the Kent Police and Crime Commissioner will pass to the Kent and Medway Police and Crime Panel, and how this sharing of information will take place. It:

- Defines the specific purposes for which the Police and Crime Commissioner and Police and Crime Panel have agreed to share information.
- Describes the roles and structures that will support the exchange of information between the two bodies.
- Sets out the legislative arrangements which underpin the sharing of information.
- Describes the statutory reasons why information may not be shared, and the processes for ensuring the protection of sensitive data and information.

The signatories to this agreement are:

..... Kent Police and Crime Commissioner

And

..... Chair of the Kent and Medway Police and Crime Panel

2. Statutory underpinning of this agreement

Police and Crime Commissioners and Police and Crime Panels were established under the Police Reform and Social Responsibility Act 2011. Under this Act, Police and Crime Panels are given powers to hold the Police and Crime Commissioner to account for the discharge of their functions. These include the power to:

- Require the Police and Crime Commissioner to attend meetings of the Police and Crime Panel
- Review and make recommendations on the Commissioner's Police and Crime Plan and Annual Report
- Review the Police and Crime Commissioner's expenditure proposals
- Deal with non-criminal complaints about the conduct of the Police and Crime Commissioner
- Hold a confirmation hearing for the Commissioner's Senior Appointments
- Review or scrutinise any decisions made or other action taken, by the PCC in connection with the discharge of their functions.

The Panel also has the power of veto over:

- The Commissioner's proposed precept
- The appointment of the Chief Constable

To undertake these statutory duties effectively and with full possession of the facts, the Panel is also given powers to require information held by the Police and Crime Commissioner and their office. In particular, the Police Reform and Social Responsibility Act 2011 states that the Police and Crime Commissioner must provide the Police and Crime Panel with any information which it may reasonably require in order to carry out its functions.

The Police and Crime Commissioner may also provide the Police and Crime Panel with any other information, which they think appropriate.

Given that the Police and Crime Panel may consequently require information on a wide-ranging set of issues, this protocol sets out what will be shared by the Commissioner with the Panel on a regular basis, and what arrangements will exist for ad-hoc requirements for additional information.

There may be occasions where a Police and Crime Commissioner is statutorily required to withhold information due to the sensitive nature of that information. Such circumstances are dealt with under section 4 of this protocol.

3. Information to be shared

i) Information to be shared by the Kent Police and Crime Commissioner

The Kent Police and Crime Commissioner and their Office are committed to providing sufficient information to the Kent and Medway Police and Crime Panel to enable it to conduct its duties effectively. This section sets out the arrangements for sharing of documents and reports on a planned basis. A summary schedule of all information to be shared is included at Appendix A.

Information Relating to Statutory Functions

The following documents will be presented by the Police and Crime Commissioner in line with the statutory functions of the Police and Crime Panel:

- Police and Crime Plan
The Panel is a statutory consultee on the Commissioner's Police and Crime Plan. A draft of this Plan will be submitted formally to the Panel for comments and recommendations, but the Commissioner will also seek to engage the Panel on its development. Where relevant, this Plan will be submitted alongside any precept and budget proposals. The Panel will be consulted before any Plan is issued or revised by the Commissioner.
- Precept Proposals
Details of the Commissioner's precept proposal and any assumptions upon which it is built must be submitted to the Panel by the 1st February each year. The Commissioner will also provide additional information and analysis on why the proposed precept has been selected and the outcomes of any budgetary consultation.
- Budget and Medium Term Plan
As good practice, the Commissioner's full budget and Medium Term Plan will be submitted to the Panel alongside the precept proposal. The Panel has a statutory duty to review the Commissioner's expenditure proposals and can veto the proposed precept.
- Annual Report
The Commissioner will produce an Annual Report at the conclusion of each financial year. There is no statutory timeframe for the completion of this document, but it is anticipated that this will typically be submitted to the Panel for review and recommendations at its June meeting.
- Complaints to the PCC's office
The Commissioner's Office will ensure that any non-criminal complaints made against the Commissioner are properly recorded and passed to the Police and Crime Panel to deal with. On the basis of the agreed delegation, this will be completed within 3 working days of receipt of the complaint. A register of all complaints regarding the Commissioner's office will be maintained by the Chief Executive, including those complaints that are not formally 'recorded'. This register is available on request by the Panel and for IPCC returns. The protocol regarding complaints is further detailed separately in the PCC-Panel Complaints Policy.

- Details of senior appointments

The Police and Crime Panel must hold a confirmation hearing for the appointment of a Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner. The Panel also has the power of veto over the appointment of the Chief Constable. Further information on arrangements for Confirmation Hearings is included at section 6.

The Commissioner's Office will provide the Panel with as much information on the nominated candidate as possible. This will include information such as:

- The person specification and job description for the post
- The application form of the nominated candidate
- A report from the Commissioner as to why they are the most suitable candidate
- The salary and rewards package offered
- Any declared interests by the nominated candidate
- Details of any equality monitoring information on the recruitment process

- Finance Reports

Schedule 16 s188 and 189 of the Police Reform and Social Responsibility Act amends the Local Government Finance Act 1988 and requires that finance reports produced by either the Commissioner or Chief Constable's Chief Financial Officer must be sent to each individual Member of the Police and Crime Panel. The Panel may wish to liaise with the Commissioner and Chief Constable's Audit Committee in this regard.

Information shared on a programmed basis

The following information will be regularly shared with the Police and Crime Panel:

- A record of all decisions taken by the PCC

The Police and Crime Panel can choose to review any decision taken by a Police and Crime Commissioner in line with the discharge of their functions. The Commissioner's Office will therefore inform the Panel's secretariat of any decisions taken by the Commissioner. These decisions will also be published on the Commissioner's website as part of a commitment to openness and transparency.

For key decisions (Grade 1 and 2) the Panel will be informed 5 working days prior to the decision being made. This is in accordance with the Commissioner's decision-making scheme. For Grade 3 and 4 decisions, a register of all decisions will be maintained by the Office of the Police and Crime Commissioner. This will be shared with the Panel on a quarterly basis, or more regularly on request.

- Performance reports

The Commissioner will provide the Panel with information regarding the performance of both Kent Police and partner agencies on a monthly basis. These performance reports will detail progress made against strategic performance objectives set by the Commissioner and will enable the Panel to hold the Commissioner to account for delivery against the priorities set out within their Police and Crime Plan.

- Consultation Arrangements and Findings

The Police and Crime Commissioner has a statutory role in consulting and engaging members of the public, specifically victims of crime. As the Panel may wish to scrutinise

the Commissioner against this statutory requirement, the Commissioner will share their Consultation and Engagement Strategy with the Panel for comment and will also share the findings of their consultation programme on an Annual basis.

– Date of Public Meetings

The Commissioner will hold regular public meetings which form part of their governance and accountability arrangements. The dates of these meetings as well as their agendas and minutes will be shared with the Police and Crime Panel.

ii) Dealing with Requests for Information

The Panel also has the right to request information from the Commissioner on an ad-hoc and unplanned basis in order to discharge its own statutory functions as well as to scrutinise the actions of the Commissioner. It has a number of legislative powers in this area.

The Panel does not have any powers to request information from the Force (other than general rights under the Freedom of Information Act). It is agreed that the Panel will only seek information from the Office of the Commissioner not directly from the Force.

Requests for Information / Evidence

- The Panel may require the Police and Crime Commissioner to respond in writing (within a reasonable period) to any report or recommendation made by the Panel. The Panel has defined this reasonable period as being within one month of the date on which they receive the report or recommendations.
- The Panel may require the Police and Crime Commissioner or members of the Commissioner's Office to attend before the Panel to answer questions on 'reasonable' notice. This has been defined by the Panel as 15 working days notice.
- The Panel may request any information from the Commissioner which it reasonably requires in order to carry out its functions. Whilst 'reasonably require' is not defined within the legislation, the Commissioner and their Office recognise that the Panel may require wide-ranging information. This information may also take many different forms, including evidence, data or a written report to a Panel meeting. The process for dealing with general requests of this nature is set out below.

Process for dealing with general requests for information

The process for dealing with requests for information by the Panel will be as follows:

- Any request for information by the Panel (including data, reports or evidence) must be made to the Police and Crime Commissioner's *** (job title to be confirmed¹), who will act as the single point of contact for the Panel.

¹ Currently, the responsible officer is the Authority's Performance Policy Officer. Proposals for the future office of the Police and Crime Commissioner describe this role as 'Governance Manager'.

- The request for information will be considered by the ***, who will determine whether that request is reasonable. (Please see section 4 of the protocol which deals with this process in detail).
- The standard timescale for providing information will be within 15 working days from the date of receipt of the request by the ***. However, all requests for information will be dealt with promptly, and information will be provided sooner if possible.
- If the request for information is complex, or the office of the Police and Crime Commissioner may not be able to comply with a request within 15 working days, the PCC's *** will agree timescales with the Panel at the point of request.
- If the Panel is dissatisfied with the information provided by the Commissioner's Office, it may escalate its request and any concerns to the Chief Executive and failing satisfactory resolution, a discussion will be convened between the Police and Crime Commissioner and Chair of the Police and Crime Panel. Dispute resolution is dealt with in more detail in section 4.

iii) Information to be shared by the Kent and Medway Police and Crime Panel

The Police and Crime Panel also commits to sharing information relevant to the Police and Crime Commissioner on a timely basis. Such information includes, but is not limited to:

- Draft Police and Crime Panel Agendas
Agenda setting is a matter for the Police and Crime Panel. However, a draft agenda will be circulated to the Commissioner in advance of its publication to provide the Commissioner with an opportunity to comment upon proposed agenda items, and to suggest additional topics for discussion.
- Minutes of Police and Crime Panel Meetings
The Police and Crime Commissioner will be given the opportunity to review the full minutes of a Police and Crime Panel meeting before they are published. The Commissioner will be permitted to comment on these minutes for factual accuracy.
- Media Statements and Communications by the Panel
Following Panel meetings, both the Panel and Commissioner will issue their own media statements and comments. However, a separate Communications Protocol has been produced to establish strong working relationships between the two bodies. This is attached at Appendix B. A nominated representative from the Press Office that supports the Panel will meet regularly with the PCC's Communications Manager and will share any plans for external communications (e.g. planned interviews, media statements, key decisions) with the Commissioner's Office for information purposes.
- Dates of Meetings
The Police and Crime Panel will provide the Commissioner's office with the programmed dates and times of Panel meetings on an annual basis. This information will be published on both the Panel and Commissioner's website.

4. Incidences when information will not be shared

i) Refusing to provide information to the Police and Crime Panel

The Office of the Police and Crime Commissioner is committed to ensuring that it is as open and transparent as possible. This commitment to transparency includes sharing information with the Police and Crime Panel to enable it to conduct its statutory duties.

There are, however, certain instances when the Commissioner's Office may refuse to provide information to the Police and Crime Panel. This will only be in very specific circumstances, and in accordance with legislative provision. Circumstances in which requests for information may be refused are set out below:

- Under the Police Reform and Social Responsibility Act, the Police and Crime Commissioner may refuse to provide information to the Police and Crime Panel on the basis that it is operationally sensitive. The criteria for operational sensitivity, as set out within the Act, is that the information:
 - Would, in the view of the Chief Constable be against the interests of national security
 - Might, in the view of the Chief Constable, jeopardise the safety of any person
 - Might, in the view of the Chief Constable, prejudice:
 - i. The prevention or detection of crime
 - ii. The apprehension or prosecution of offenders
 - iii. The administration of justice
 - Is prohibited by or under any enactment
- Members of the Commissioner's staff are not required to disclose to the Police and Crime Panel evidence or documents containing advice given to the PCC. This also includes political and legal advice.
- i) The Commissioner has to provide any information that the Panel might 'reasonably' require. On rare occasions, this means that the Commissioner's Office may refuse a request for information on the grounds that it is 'unreasonable'. Judgements of 'reasonableness' by the Commissioners Office will be against a number of factors, including (but not limited to):
 - Whether or not the request falls within the statutory duties of the Police and Crime Panel
 - Whether or not any previous information has been provided on the same topic and whether the request is repetitious
 - The amount of time and/or cost that would be required by the Commissioner's office to gather or prepare the information that has been requested
 - Whether or not the request relates to information that is held by the Police and Crime Commissioner's Office

It is firmly expected that in the vast majority cases, requests for information will be complied with. Any refusal by the Police and Crime Commissioner to provide information will include full reasoning as to why this request falls within the criteria set out within the legislation.

Where a request for information falls partially within and partially outside these criteria, the Commissioner is committed to providing as much information to the Panel as can legally be shared.

Where information is readily available in the public domain, the Commissioner's Office may decide to direct the Police and Crime Panel to the source of this information, instead of providing the information itself.

Process for Dispute resolution

Where there is a dispute over the provision of information that cannot be resolved, a discussion will be convened between the Chair of the Police and Crime Panel and the Commissioner. This discussion will explore both the reasons for refusal, and the reasons why the information has been requested by the Panel.

As a result of such a discussion, the Commissioner and the Panel could reach an agreement that either the request for information is partially met or that the information will be shared with the Panel so that it can fulfil its statutory role, but that this information will not be published or disseminated further. This is explored further in section ii) below.

ii) Requests for information to be exempt from public disclosure

There may be instances where the Commissioner provides information to the Police and Crime Panel, but requests that this information is not published or is exempt from public disclosure. Whilst the Commissioner recognises that the Panel has a duty to operate in an open and transparent manner, there is certain information which is sensitive in nature, and which would not be appropriately released in the public domain.

Any request for information to be exempt from public disclosure would include full justification, and where possible would be based on the relevant section of the Local Government Act 1972 (as amended).

Police and Crime Panel meetings may include a closed session during which any sensitive information and material can be discussed. Requesting that information is exempt from public disclosure will, however, be the exception rather than the rule and any requests will be made with due regard to both the Commissioner and Panel's firm commitments to openness and transparency. The final decision on whether information or a particular item is exempt rests with the Panel following a recommendation by the Clerk to the Panel.

5. Attendance at Police and Crime Panel Meetings

The Police and Crime Panel can require that the Commissioner attends a meeting of the Panel to answer questions which the Panel considers necessary in order to carry out its duties. Whilst the Commissioner is required to respond to the Panel’s questions, as per section 4 above, the Commissioner may refuse to provide information on matters that fall outside of the function of the Police and Crime Panel. For instance, the Police and Crime Commissioner could not be expected to comment on operational policing.

Members of the Commissioner’s office can also be required to attend a meeting of the Panel and to answer questions posed by Panel members. In responding to questions posed by the Panel, Members of staff of the Office of the Commissioner are not required to disclose any advice provided to the Police and Crime Commissioner.

Where the Panel requires that the Commissioner and/or their staff attend a Panel meeting, they will provide the Commissioner’s Office with 15 working days notice of the requirement to attend. This notice to attend will state the nature of the item on which they are required to give account and any papers that the Panel has requested. In extraordinary circumstances, it may not be possible for the Panel to provide 15 working days notice of a requirement to attend to provide evidence. In such circumstances, the Commissioner and their office will make every effort to ensure attendance, and where necessary, a Panel’s meeting date may be altered.

Where the Panel requests that a member of the Commissioners’ staff, other than the Chief Executive or Chief Financial Officer attends a meeting of the Panel to respond to questions, that request will be discussed with the Chief Executive. Whilst senior staff of the Police and Crime Commissioner might frequently be required to attend, junior staff such as the Support Clerk and Admin Assistant would only be required to attend in exceptional circumstances.

If the Panel requires the Commissioner to attend before it, it can also request that Chief Constable attends before the Panel on the same occasion, to answer any questions relevant to the discharge of its functions. The Panel cannot require that the Chief Constable attends. In requesting that the Chief Constable attends a meeting of the Panel, the Panel is committed to having due regard to its duty to scrutinise the actions and decisions of the Police and Crime Commissioner, not those of the Chief Constable.

Summary of Panel attendance requirements:

	Require Attendance	Request Attendance
Police and Crime Commissioner	<input type="checkbox"/>	
Staff of Commissioner’s Office	<input type="checkbox"/>	
Chief Constable		<input type="checkbox"/>
Other Stakeholders (e.g. Community Safety Partners)		<input type="checkbox"/>

6. Confirmation Hearings

The Police and Crime Panel will hold a confirmation hearing for all senior appointments made by a Police and Crime Commissioner. It also has the power of veto over the Commissioner's proposed appointment of a Chief Constable.

i) Senior Appointments

A Police Crime Commissioner must notify the Police and Crime Panel of each proposed appointment of:

- The Commissioner's Chief Executive
- The Commissioner's Chief Finance Officer
- A Deputy Police and Crime Commissioner

The Police Reform and Social Responsibility Act specifies that this notification should include the name of the candidate, the criteria used to assess the suitability of the candidate, why the candidate satisfies these criteria and the terms and conditions upon which they are to be appointed.

Upon notification of a proposed appointment, the Panel must hold a public confirmation hearing to review the proposed appointment. The Panel can request that the proposed candidate appears at the confirmation hearing to answer questions. Following the confirmation hearing, the Panel must make a report to the Commissioner that includes a recommendation as to whether or not the candidate should be appointed. The Panel must comply with these requirements within three weeks of the notification of the proposed appointment.

The Commissioner's Office is committed to ensuring that the Panel has sufficient information to make a proper judgement on the proposed appointment and will therefore share additional information ahead of the confirmation hearing, including (where appropriate):

- The person specification and job description for the post
- The application form of the nominated candidate
- A report from the Commissioner as to why they are the most suitable candidate
- The salary and rewards package offered
- Any declared interests by the candidate
- Details of any equality monitoring information on the recruitment process

For each senior appointment, the Commissioner will also extend an invitation to the Police and Crime Panel for a representative to be involved in the appointment process in an observer capacity. This is both to aid the Panel's scrutiny of the proposed appointment and to provide reassurance regarding the transparency of the process.

As the appointment of a Deputy Police and Crime Commissioner is a political appointment and is not necessarily on merit, there may not be a formal appointment process. In such a case, the Commissioner will provide a full report to the Panel explaining the candidate's suitability, which addresses the statutorily required information.

ii) Chief Constable Appointments

The Police and Crime Panel has the right of veto regarding the appointment of the Chief Constable and a process of confirmation must take place for the post, similar to that for other senior appointments. The Panel has a period of three weeks from notification of an appointment of Chief Constable to hold a confirmation hearing, review the proposed appointment and report to the Police and Crime Commissioner.

The Confirmation hearing held by the Panel must be in public, and the Panel can request that the proposed candidate appears to answer questions relating to the appointment. This may either be in person or by some other means that enables the candidate to hear, and be heard in the proceedings.

Having reviewed the proposed appointment of Chief Constable, the Panel may decide to veto the appointment. In such an instance, the Panel's report to the Commissioner must include a statement to this effect.

If the Panel vetoes the appointment, the Commissioner must not appoint the proposed candidate as Chief Constable. The Commissioner must instead propose another person for appointment, referred to as the 'reserve' candidate. The Commissioner proposes this candidate by notify the Panel of:

- The name of the reserve candidate
- The criteria used to assess the suitability of the reserve candidate for the appointment
- Why the reserve candidate satisfies those criteria
- The terms and conditions on which the reserve candidate is to be appointed.

The Panel must review the proposed appointment of the 'reserve' candidate and report to the Commissioner within three weeks of notification. This report must include a recommendation to the Police and Crime Commissioner as to whether or not the reserve candidate should be appointed. The Panel does not have a second right of veto.

APPENDIX A: Schedule of Information to be shared

i) By the Kent Police and Crime Commissioner

Information to be Shared	Timescale / Date
Police and Crime Plan	By 1 st February (annually)
Annual Report	June (annually)
Proposed Policing Precept	By 1 st February (annually)
Outcomes of Budgetary Consultation	By 1 st February (annually)
Budget and Medium Term Financial Plan	By 1 st February (annually)
Recorded Complaints against the Commissioner's Office	Within 3 days of receipt
Register of all complaints	On request
Register of all decisions Taken by PCC	Quarterly or on request
Key decisions to be taken by PCC	Notice 5 days prior to decision
Performance Report	Monthly
Consultation and Engagement Strategy	Annually
Consultation Findings	Annually
Programmed dates of Public Meetings	Annually
Requests for ad-hoc information	Within 15 working days
Response to Panel report / recommendations	Within one month of receipt
Give evidence at a Panel meeting	15 working days notice
Notification of Senior Appointment	As necessary

ii) By the Kent and Medway Police and Crime Panel

Information to be Shared	Timescale / Date
Dates of Police and Crime Panel meetings	Annually
Draft Police and Crime Panel Meeting Agendas	Prior to publication
Minutes of Police and Crime Panel Meetings	Prior to publication
Significant media statements to be made by Panel	As necessary
Reports on PCC Senior Appointments	Within 3 weeks of notification

APPENDIX B: Communications Protocol

Communications Protocol for the Police and Crime Panel and the Office of the Kent Police and Crime Commissioner

Summary: This protocol has been written as a basis for all public communications between the Police and Crime Panel and the media. It also takes into consideration the sharing of information between Kent County Council and the Office of the Kent Police and Crime Commissioner.

1. Introduction

- 1.1 The Kent and Medway Police and Crime Panel (PCP) will act as a check and balance on the work of the ²Police and Crime Commissioner. The Panel is made up of one representative from each of the 14 local authorities in the force area, a further four councillor representatives from the local authorities and two independent co-opted members.
- 1.2 Kent County Council is currently the host authority for the PCP.

2. Protocol

- 2.1 The Chairman of the PCP (except in his absence in which case the Vice Chairman) is the official spokesperson for the panel. This will only change if a specific spokesperson from the panel has been identified by the Chairman.
- 2.2 If a panel member wishes to present the views of their own Council this should be in line with their own authority's protocol for communicating with the media. A copy should be sent to Kent County Council press office and the Communications Manager at the Office of the Kent Police and Crime Commissioner.
- 2.3 Kent County Council's press office will respond to day-to-day enquiries from the media by issuing statements and/or arranging interviews with members or officers as appropriate. This will take place following discussions with the Chairman and Vice Chairman of the Panel and Head of Democratic Services. Any contentious issues will be shared for information only purposes with the Commissioner's Communications Manager.
- 2.4 The media will be invited and are entitled to attend all formal public meetings of the panel unless matters of an exempt nature are to be discussed.

² Refer to the Police Reform and Social Responsibility Act 2011 and Policing Protocol.

- 2.5 A nominated representative from Kent County Council will meet regularly with the Communications Manager from the Office of the Kent Police and Crime Commissioner to discuss up and coming meetings and arrangements.
- 2.6 Both the Panel and Commissioner will issue their own statements / comments following panel meetings.

3. Publication of Agenda and Minutes

- 3.1 PCP agenda and minutes will be published on the host authority's website and a link sent to all interested parties including the Commissioner's office.
- 3.2 Dates of meetings and agenda items will be shared with the Commissioner's Office in advance including webcasting links. This information will then be publicised on the Commissioner's website and through other communications channels.
- 3.3 After the meeting any external communications will be shared in advance with the Commissioner's Communication Manager for information e.g. any planned interviews, announcement of key decisions, and timings to ensure a joined up approach.
- 3.4 The possibility of a dedicated Panel website can be explored as its role develops.

4. Recommendations

- 4.1 The Shadow Police and Crime Panel is asked to approve the communications protocol for Kent and Medway's Police and Crime Panel and the Office of the Kent Police and Crime Commissioner

5. Ownership of policy

- 5.1 This policy is jointly owned by the Office of the Kent Police and Crime Commissioner and Kent County Council. This policy is to be submitted for review in March 2013.