

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

### **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, with the aim of improving police accountability. The Police and Crime Commissioner will be elected in November 2012.

Each police force area will set up a Police and Crime Panel (Police and Crime Panel) to scrutinise and maintain a check and balance on the new Police and Crime Commissioner, although the Panel will not have direct control over the Police and Crime Commissioner's decisions. The Police and Crime Panel 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 Police and Crime Commissioner to attend public meetings; require information in the possession of the Police and Crime Commissioner; and make recommendations on the draft Police and Crime Plan (for which it is a statutory consultee) and expenditure proposals. The Police and Crime Panel 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 Police and Crime Panel 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 Police and Crime Panel 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 Police and Crime Panel, the guidance issued by the Local Government Association (LGA) on the role and composition of Police and Crime Panel 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 Police and Crime Panel comprising both executive and non-executive members. In addition, the Home Office and LGA guidance states that the councillor membership of Police and Crime Panels 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 Police and Crime Panel are expected to subscribe to and comply with the Code of Conduct adopted by their own authority. No code of conduct will have precedence over another. The Independent members will be required to comply with a Code of Conduct selected by the Panel.

## **Terms of Reference:**

*Italics refer to Police Reform and Social Responsibility Act 2011 and/or recommendation by Shadow Kent and Medway Police and Crime Panel*

1. To review and make a report or recommendation on the draft Police and Crime Plan, or draft variation. *s28 (3)(a) & (3)(b)*
2. To hold a public meeting, question the Police and Crime Commissioner and make a report or recommendation on the annual report of the Police and Crime Commissioner. *s28 (4)*
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. *s28 (5)*
4. To review and make a report and/or recommendation on the proposed appointment of the Chief Constable (the panel can veto the Police and Crime Commissioner's proposals on this with a two thirds majority vote). *s28 (5) and sch8*
5. To review and make a report and/or recommendation on the proposed precept (the panel can veto the Police and Crime Commissioner's proposals on this with a two thirds majority vote). *s28(5) and sch5*
6. To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the Police and Crime Commissioner's functions. *s28(6)*
7. To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the Police and Crime Commissioner's functions. *s28(7) to (9)*
8. To support the effective exercise of the functions of the Police and Crime Commissioner. *s28(2)*
9. To fulfil functions in relation to complaints against the Police and Crime Commissioner, in accordance with the responsibilities accorded to the Police and Crime Panel by the Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. *sch7 para3 (regs)*
10. To appoint an Acting Police and Crime Commissioner if necessary. *s62*
11. To suspend the Police and Crime Commissioner if it appears to the Panel that the Police and Crime 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. *s30*

## Kent and Medway Police and Crime Panel

### Panel Arrangements

#### 1. Operating Arrangements

- 1.1 Kent County Council shall act as the host authority for the Police and Crime Panel for the purposes of planning and delivery of the Police and Crime Panel's work programme, the provision of accommodation and officer support. *Agreed by Kent Forum 08.02.12 and sch6 para 24*
- 1.2 The host 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 Police and Crime Panel, the Host Authority will defray and recover from the other members the costs of administrative support. The budget for the Police and Crime Panel will be agreed annually and the Police and Crime Panel will operate within the allocated budget. *(to be agreed by Shadow Police and Crime Panel)*
- 1.3 The Police and Crime Panel will comprise 14 local councillors (one representative from each council within the force area) and two independent members. *sch6 para 4*
- 1.4 Four additional Councillors will be co-opted onto the Police and Crime Panel with the agreement of the Secretary of State. One co-opted councillor will be from Medway Council to meet the requirements of geographical balance. The three remaining co-opted councillor seats will meet the political balance objective.

#### 2. Membership

- 2.1 All county, unitary and district councillors are eligible to be members of the Police and Crime Panel. *sch6 para 5*
- 2.2 The Police Crime Commissioner and their deputy cannot be a member of the Police and Crime Panel. *sch6 para 21-23*
- 2.3 Sitting MPs, MEPs, staff of the Police and Crime Commissioner and civilian police staff may not be co-opted onto the Police and Crime Panel. *sch6 para 21-23*
- 2.4 All members of the Police and Crime Panel may vote in proceedings of the Police and Crime Panel *sch6 para 26*
- 2.5 Appointments of elected Members to the Police and Crime Panel 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 Police and Crime Panel 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 Police and Crime Panel to discharge its functions effectively

*sch6 para 31-32*

2.6 The Police and Crime Panel shall also include two independent Members appointed by the Police and Crime Panel. The Police and Crime Panel might decide to seek independent members from specific organisations to address any skills/knowledge/experience gaps, or following a public advertisement. *sch6 para 7*

2.7 The Police and Crime Panel will co-opt four further members with the agreement of the Secretary of State. One co-opted councillor will be from Medway Council to meet the requirements of geographical balance. Following Leader appointments to 15 seats of the Police and Crime Panel (including 2 seats from Medway Council), the appointment of three additional councillor co-optees will seek to top up the membership of the PCP to reflect the overall political balance of the membership of KCC, Medway and the 12 District Councils in Kent when taken together, insofar as this is possible. Only formally constituted political groups will be taken into account for the purposes of this calculation. The three top up seats will be sought from the relevant Councils once the Kent and Medway political associations have agreed the Councils to which these additional seats are to be allocated. However, the Leader nominations are required in the first instance before the additional 3 co-opted councillor seats can be filled

### **3. Casual Vacancies**

3.1 A vacancy arises when a member resigns from the Police and Crime Panel.

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. (*Shadow Panel*)

### **4. Independent Members *sch 6 para 4***

4.1 The Police and Crime Panel shall appoint two independent Members for a term of four years starting in November 2012. *Sch 6 para 4. (Term for Shadow Panel)*

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

4.3 The applications will be considered against eligibility criteria agreed by the Police and Crime Panel and an Appointments Sub Committee will be established to consider applications and interview candidates.

4.4 Following the interviews, the Appointments Sub Committee will make recommendations to the Police and Crime Panel about membership.

4.5 The Police and Crime Panel may decide to recommend a change to either Independent Member at any point and on doing so shall give notice to the Head of Democratic Services (KCC).

## **5. Appointment of Members** *sch6 para 4*

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 Police and Crime Panel and each of the councils 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 Police and Crime Panel from the defaulting council in accordance with the provisions in the Act. *sch6 para 4*

5.3 Police and Crime Panel member term of office should be one year but renewable and independent co-opted members should be 4 years. (*Shadow Panel 10.05.12*)

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

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

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

5.7 Members appointed to the Police and Crime Panel may be re-appointed for a further term provided that the balanced appointment objective is met by that re-appointment. (*Shadow Panel*)

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

6.1 Any dedicated staff employed to support the Police and Crime Panel will be employed by the Host Authority, and their terms and conditions will be that of the Host Authority. (*Shadow Panel*)

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 Police and Crime Panel, all councils will be

invited to contribute equally towards the actual costs incurred by the Host Authority. The budget for the panel will be agreed annually and the Police and Crime Panel will operate within the allocated budget. *Sch 6 para 11(2b)*

6.3 In the event of the Police and Crime Panel being wound up the Host Authority will be invited to defray and recover from the other members any associated costs exceeding the funding provided by the Home Office. (*Shadow Panel*)

**7. Allowances** *sch6 para 28 (must make provision about payment of allowances – for local determination)*

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

7.2 The Host Authority, on behalf of the Police and Crime Panel, may pay an allowance to co-optees if this is agreed as part of the annual budget approved by the Police and Crime Panel.

**8. Promotion of, and support for, the panel** *sch6 para 29*

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

- (a) the issuing of regular press releases about the Police and Crime Panel and its work;
- (b) the inclusion of dedicated web pages on the work of the Police and Crime Panel, with the publication of meeting agendas and minutes. All reports and recommendations made, with responses from the Police and Crime Commissioner 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 Police and Crime Panel by the provision of initial briefing sessions before the election of the Police and Crime Commissioner, and the provision of annual briefing sessions thereafter.

8.3 The Shadow Police and Crime Panel developed and agreed a communications protocol which the Police and Crime Panel may wish to adopt.

**9. Validity of proceedings** *sch6 para 30*

9.1 The validity of the proceedings of the Police and Crime Panel 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 Police and Crime Panel should be submitted to the Police and

Crime Panel and each authority for approval. The Police and Crime Panel will review and re-confirm the Terms of Reference and Procedure Rules annually. (*Shadow Panel*)

## Appendix 3

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

#### **Procedure Rules** (*sch 6 para 25 (1)*)

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

1.1 The Chairman and Vice-Chairman of the Police and Crime Panel will be elected from its membership at the first meeting and thereafter annually immediately following the Annual Council meetings of each of the fourteen local authorities. *sch6 para 25 (2) (Shadow Panel decision to elect annually)*

1.2 The Chairman and Vice-Chairman remain in office until the election of their successors, they resign or the Police and Crime Panel votes their removal (in cases of misconduct or that the Chairman or Vice-Chairman do not allow the Police and Crime Panel 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. (*Shadow Panel*)

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. (*Shadow Panel*)

#### **2. Meetings** (*Shadow Panel*)

2.1 The Police and Crime Panel 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 Police and Crime Panel considers is necessary.

2.3 An extraordinary meeting may be called by the Chairman or by four members of the Police and Crime Panel.

2.4 In exceptional circumstances, the Chairman may cancel or rearrange a meeting of the Police and Crime Panel.

#### **3. Quorum**

3.1 The quorum for a meeting of the Police and Crime Panel is one third of its total membership. (*Shadow Panel*)

#### **4. Voting**

4.1 All members of the Police and Crime Panel may vote in proceedings of the Police and Crime Panel subject to Code of Conduct and rules on declarations of interest *sch6 para 26*

4.2 One-third of the voting members present may require that the way all members cast their vote for or against or to abstain shall be recorded in the Minutes; such a request must be made before the vote is taken. (*Shadow Panel*)

## **5. Work Programme** (*Shadow Panel*)

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 Police and Crime Panel.

## **6. Agenda Items** (*Shadow Panel*)

6.1 Any member of the Police and Crime Panel shall be entitled to give 9 clear working days notice to the Head of Democratic Services (KCC) that they wish an item relevant to the functions of the Police and Crime Panel to be included on the agenda for the next available meeting. This shall then be discussed with the Chairman and Vice-Chairman.

6.2 The Police and Crime Panel 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 Police and Crime Panel considers appropriate.

## **7. Sub-Committees and Task Groups** *sch6 para 25*

7.1 The Police and Crime Panel 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 Police and Crime Panel referred to at paragraph 11.2 below. *sch6 para 27 (1)*

7.3 A sub-committee of the Police and Crime Panel may not co-opt members. *sch6 para 25(4)*

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. (*Shadow Panel*)

## **8. Reports**

8.1 Where the Police and Crime Panel makes a report to the Police and Crime Commissioner, it may publish the report or recommendations by sending copies to each of the councils, and by any other means the Police and Crime Panel considers appropriate. *s28 (7)*



8.2 The Police and Crime Panel must, by notice in writing, require the Police and Crime Commissioner 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 Police and Crime Panel in writing 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 from the Police and Crime Commissioner in the same manner
- d) where the Police and Crime Panel has provided a copy of the report or recommendations to a Police and Crime Panel member, provide a copy of the responses to the Police and Crime Panel member.

*s29 although decision of Shadow panel*

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 Police and Crime Panel cannot unanimously agree on one single final report to the Police and Crime Commissioner, then separate reports may be prepared and submitted for consideration along with the majority report.  
*(Shadow Panel)*

## **9. Police and Crime Commissioner and Officers giving account s29**

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

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

9.3 Where the Police and Crime Commissioner, or a member of the Police and Crime Commissioner's staff, is required to attend the Police and Crime Panel in accordance with this provision, the Police and Crime Commissioner 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 Police and Crime Panel.

9.4 Where, in exceptional circumstances, the Police and Crime Commissioner 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 Police and Crime Panel requires the Police and Crime Commissioner to attend before it, the Police and Crime Panel may also (at reasonable notice) request the Chief Constable to attend the Police and Crime Panel in order for it to carry out its functions.

#### **10. Attendance by others s29**

10.1 The Police and Crime Panel 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 Police and Crime Panel and officers from other parts of the public sector.

#### **11. Special functions sch6 para 27**

11.1 The special functions of a Police and Crime Panel may not be discharged by a committee or sub-committee of the Police and Crime Panel.

11.2 The Special Functions of the Police and Crime Panel 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 s28 (3)**

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

12.2 The Police and Crime 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 Police and Crime Commissioner must take into account.

#### **13. Annual Report s28 (4)**

13.1 The Police and Crime Commissioner 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 Police and Crime Panel for consideration.

13.2 The Police and Crime Panel must comment upon the Annual Report of the Police and Crime Commissioner, and for that purpose must:

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

#### **14. Appointment of the Chief Constable s28 (5) and sch8**

14.1 The Police and Crime Panel must review the proposed appointment by the Police and Crime Commissioner of the Chief Constable. *sch8 (4)(2)*

14.2 The Police and Crime Panel will receive notification of the proposed appointment from the Police and Crime Commissioner, which will include: *sch8 (3)(1-2)*

- (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 Police and Crime Panel must consider and review the proposed appointment, and report to the Police and Crime Commissioner 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 Police and Crime Commissioner, and the date of declaration of acceptance of office of the Police and Crime Commissioner. *sch8 (4)*

14.4 Before reporting and recommending on the proposed appointment, the Police and Crime Panel must convene a public meeting ('confirmation hearing') of the Police and Crime Panel where the candidate must attend for the purposes of answering questions relating to the appointment. *sch8, (6)*

14.5 The Police and Crime Panel must publish the report by sending copies to each of the councils, and by any other means the Police and Crime Panel considers appropriate. *sch8, (4)(7)*

- 14.6 The Police and Crime Commissioner may accept or reject the Police and Crime Panel's recommendation and must notify the Police and Crime Panel accordingly. *sch8 (7)(10)*
- 14.7 In relation to the appointment of a candidate for the position of Chief Constable, the Police and Crime Panel 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 Police and Crime Panel at the time when the decision is made. *sch8 (5)*
- 14.8 A confirmation hearing as in paragraph 14.4 must be held before an appointment is vetoed. *sch8 (6)*
- 14.9 If the Police and Crime Panel vetoes the appointment under paragraph 14.7, the report referred to at paragraph 14.3 above must include a statement to that effect. *sch8 (5)(2)*
- 14.10 If the Police and Crime Panel vetoes an appointment, the Police and Crime Commissioner must not appoint that candidate as Chief Constable. *sch8 (8)(2)*

#### **15. Senior Appointments** *sch1 para9-11*

- 15.1 The Police and Crime Panel must review the Police and Crime Commissioner's proposed appointments of Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner.
- 15.2 The Police and Crime Panel shall receive notification of the proposed appointments from the Police and Crime Commissioner 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 Police and Crime Panel must consider and review the proposed appointment and report to the Police and Crime Commissioner 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 Police and Crime Panel must convene a public confirmation hearing where the candidate must attend for the purposes of answering questions relating to the appointment.
- 15.5 The Police and Crime Panel must publish the report by sending copies to each of the councils, and by any other means the Police and Crime Panel considers appropriate.

15.6 The Police and Crime Commissioner may accept or reject the Police and Crime Panel's recommendation and must notify the Police and Crime Panel accordingly.

#### **16. Proposed Precept *sch 5***

16.1 The Police and Crime Commissioner must notify the Police and Crime Panel of the precept which the Police and Crime Commissioner is proposing to issue for the financial year. The Police and Crime Panel must review the proposed precept and make a report which may include recommendations.

16.2 Having considered the precept, the Police and Crime Panel 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 Police and Crime Panel at the time when the decision is made).

16.3 If the Police and Crime Panel vetoes the proposed precept, the report to the Police and Crime Commissioner must include a statement that gives the Police and Crime Panel's reasons and requires a response from the Police and Crime Commissioner to the report and any such recommendations.

#### **17. Appointment of an Acting Police and Crime Commissioner *s62***

17.1 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
- (c) the Police and Crime Commissioner is suspended *s62 (1)*

17.2 The Police and Crime Panel may appoint a person as acting Police and Crime Commissioner only if the person is a member of the Police and Crime Commissioner's staff at the time of appointment. *s62 (2)*

17.3 In appointing a person as acting Police and Crime 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 Police and Crime Commissioner in relation to the appointment. *s62 (3)*

17.4 The appointment of an acting Police and Crime Commissioner ceases to have effect upon the occurrence of the earliest of these events: *s62 (6)*

- (a) the election of a person as a Police and Crime Commissioner;
- (b) the termination by the Police and Crime Panel, or by the acting Police and Crime Commissioner, of the appointment of the acting Police and Crime Commissioner;

- (c) in a case where the acting Police and Crime Commissioner is appointed because the Police and Crime Commissioner is incapacitated, the Police and Crime Commissioner ceasing to be incapacitated, or
- (d) in a case where the acting Police and Crime Commissioner is appointed because the Police and Crime Commissioner is suspended, the Police and Crime Commissioner ceasing to be suspended

17.5 Where the acting Police and Crime Commissioner is appointed because the Police and Crime Commissioner is incapacitated or suspended, the acting Police and Crime Commissioner's appointment does not terminate because a vacancy occurs in the office of Police and Crime Commissioner.  
s62 (7)

## **18. Complaints and suspension of the Police and Crime Commissioner**

*sch 7*

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

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

18.3 The Police and Crime Panel may suspend the Police and Crime Commissioner if it appears to the Police and Crime Panel that

- (a) the Police and Crime 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.

18.4 The suspension of the Police and Crime Commissioner ceases to have effect upon the occurrence of the earlier 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 PR&SR Act by virtue of the conviction, or
- (d) the termination of the suspension by the Police and Crime Panel

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

18.6 Bankruptcy in itself is not a disqualification. If the Police and Crime Commissioner has been bankrupt he/she is not disqualified from standing for election or remaining a Police and Crime Commissioner on that basis. Only those who are subject to a bankruptcy restrictions order or interim order, a debt relief order or interim order, or a debt relief restrictions undertaking are disqualified from standing for election or remaining as a Police and Crime Commissioner.

## **19. Suspension and Removal of the Chief Constable sch 8 (11)**

19.1 If a Police and Crime Commissioner suspends a Chief Constable from duty the Police and Crime Commissioner must notify the relevant Police and Crime Panel of the suspension

19.2 A Police and Crime Commissioner 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 Police and Crime Panel having received notification if the Police and Crime Panel has not by then given the Police and Crime Commissioner a recommendation as to whether or not they should call for the retirement or resignation; or

(b) when the Police and Crime Commissioner notifies the Police and Crime Panel of a decision about whether they accept the Police and Crime Panel's recommendations in relation to resignation or retirement.

19.3 The Police and Crime Commissioner must also notify the Police and Crime Panel 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 Police and Crime Commissioner is still proposing to call upon the Chief Constable to resign, they must notify the Police and Crime Panel accordingly (the 'further notification').

19.5 Within six weeks from the date of receiving the further notification, the Police and Crime Panel must make a recommendation in writing to the Police and Crime Commissioner as to whether or not they should call for the retirement or resignation. Before making any recommendation, the Police and Crime Panel may consult the chief inspector of constabulary, and must hold a scrutiny meeting.

19.6 The scrutiny hearing which must be held by the Police and Crime Panel is a Police and Crime Panel meeting in private to which the Police and Crime Commissioner 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 Police and Crime Panel must publish the recommendation it makes by sending copies to each of the councils, and by any other means the Police and Crime Panel considers appropriate.
- 19.8 The Police and Crime Commissioner must consider the Police and Crime Panel's recommendation and may accept or reject it, notifying the Police and Crime Panel 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 Police and Crime Commissioner under section 50 of the PR & SR Act 2011 and ends with the day on which the person elected as Police and Crime Commissioner 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 Police and Crime Panel should be submitted to the Police and Crime Panel for its approval. If an amendment is proposed the Head of Democratic Services would bring a report to the next meeting of the Police and Crime Panel for consideration. The Police and Crime Panel will review and re-confirm the Terms of Reference and Procedure Rules annually.