

**AVON AND SOMERSET POLICE AND CRIME PANEL**

**31 OCTOBER 2012**

**Title:** Procedural Issues - Update

**Report of:** Lead Officer for PCP, Bristol City Council

**RECOMMENDATIONS**

- (1) That the Panel agrees proposed amendments to the Panel Arrangements and the Panel Procedure Rules;
- (2) That the Panel notes the situation regarding applying the host authority member code of conduct to independent co-opted members and the intention to progress matters as soon as changes to local government legislation permit it;
- (3) That officers continue with preparation for PCC appointment confirmatory hearings, identify appropriate training for Panel members and arrange an induction session;
- (4) That as soon as formal guidance is available, officers draw up a protocol for the hearing of complaints, in collaboration with the PCC monitoring officer, for consideration at the next available meeting of the Panel, and
- (5) That in preparation for complaints hearings, the Panel agrees arrangements for a Complaints Sub-Committee.

**Summary**

This report discusses proposed changes to a Panel Arrangements and Procedure Rules, the situation regarding application of a code of conduct to co-opted independent members, work necessary in relation to PCP confirmatory hearings and initial proposals in relation to setting up a complaints process.

**The significant issues in the report are:**

Set out in the sections below.

## Context

1. This report provides a brief update in relation to developments and changes to procedural arrangements since the last meeting. Unfortunately, further guidance on a range of issues has yet to be received from the Home Office so a further report will need to be submitted to the next meeting, assuming that information is available in time.

## Panel Arrangements

2. The latest iteration of the Panel Arrangements is attached at Appendix A. These have been updated as follows :
  - 3.4/5 : Arrangements for appointing co-opted members updated in line with the requirements of the **Police and Crime Panel (Nominations, Appointments and Notifications) Regulations 2012 (No 1433)** as reported at the last meeting.
  - 3.7 : Note to explain that whilst substitutes on the Panel are not permitted, councillors who cannot attend may nominate a colleague to attend on their behalf. Such individuals can participate in discussions; they may report the views of the absent member on specific agenda items and report back to them afterwards, but they may not vote.
  - 5.5 : Misconduct of Independent Co-opted Members. At the last meeting members expressed the view that the grounds for terminating the appointment of an Independent Co-opted Member required tightening in order that inappropriate conduct in the role, could be a ground for terminating an appointment.

Having considered this issue your officer is of the view that requiring Co-opted Independent Members to sign up to the members code of conduct for the host authority should meet this requirement. Such an arrangement would also then include provision for any alleged breach of the code to be properly investigated by the Monitoring Officer of the host council in the first instance, and their findings would provide a basis for the PCP to consider what action to take.

There are currently issues about whether a host authority code can be applied to Independent Co-optees at the present time – see separate paragraph below. Subject to these being satisfactorily resolved the wording in italics in 5.5 is proposed.

## Panel Procedure Rules

3. The latest iteration of the Panel procedure rules is attached at Appendix B. These have also been updated as follows:

- 2.1 : Clarity around when the AGM should take place in an election year when there have been changes in political proportionality amongst councils. Emphasising the role of the Leaders Joint Selection Committee in agreeing adjustments to political representation of authorities to ensure balance across the force area so far as is practicable;
- 3.2/3 : Tying down arrangements for calling extraordinary meetings with deadlines which reflect the difficulty in agreeing a mutually acceptable date with 14 councillors from 10 authorities and 3 Independent Co-optees. 3.4 has been changed to give flexibility regarding the number of informal sessions that are held;
- 3.7 : Clarification that PCP meetings are public meetings which are governed by local authority Access to Information rules;
- 4.1 : Attendance register;
- 5.1 : Arrangements for minutes of PCP meetings;
- 6 : Public forum rules have been developed and expanded broadly along the lines of the host authority model. Further refinement will likely be necessary in the light of experience (and volume). In particular, we may need to define the type of business which will be referred automatically to the PCC for a response;
- 9.2 : Tightened arrangements for agenda items which PCP members submit;
- 10 : Rules governing the conduct of meetings, including the arrangements for motions, amendments, speeches, action in the event of a disturbance and disclosure of members interests etc. This will provide a formal structure for debates should it be required. The arrangements have been drawn from the Avon & Somerset Police Authority standing orders, with appropriate amendments;
- 12.3 : Expectation that the PCC will attend the PCP's meetings;
- 15.16 : The Panel should establish a procedure for complaint handling.

## **Conduct of Independent Co-opted Members**

4. Following a realisation that certain aspects of local government legislation regarding committees does not currently apply to Police and Crime Panels, the Government have started work on regulations which will clarify and resolve certain issues. It is understood through contacts at the LGA that this will include arrangements for applying the new standards regime under the Localism Act to Independent Co-optees.
5. As a result of representations from various host authorities including Bristol, the LGA have informed the Home Office that in their view, the standards regime of the host council should apply rather than the alternative, which would be for each Panel to invent its own arrangements .
6. In the event of this matter being resolved, it is intended that Independent Co-optees will be signed up to the Bristol code and the host authority lead officer will make the necessary arrangements.

## **Confirmatory hearings for PCC appointments**

7. As members may be aware, the PCP is responsible for conducting confirmatory hearings in relation to the senior appointments which the PCC intends to make. This is a whole Panel function (it cannot be delegated) and the hearing needs to take place within 3 weeks of notification by the PCC of an intended appointment. A first meeting of the Panel as a confirmatory hearing forum could be needed as soon as December, to consider and PCC proposals for the appointment of a Deputy Commissioner plus possible further hearings in January, should there be any changes in the senior staff who report to the Commissioner.
8. The LGA have produced a guidance booklet on confirmation hearings and how these should be organised and conducted. Officers will work through this during the coming weeks with a view to setting up the necessary arrangements for handling hearings. It is envisaged that some preparatory training for Panel members will also be necessary and arrangements for this will be circulated in due course and a date canvassed.

## **Complaints procedure**

9. The procedure for dealing with complaints is covered by **The Elected Policing Bodies (Complaints and Misconduct) Regulations 2012**. At the time of writing, publication of the awaited Home Office guidance on these arrangements is imminent. In association with this publication, the

LGA will be producing a more detailed guide for Panel practitioners which will be available at the end of October.

10. There are two related issues in terms of the administration of a complaints process;
  - (a) avoiding the PCP from being “swamped” with a vast range of complaints with consequent impacts on Panel members time and the Panel’s budget, and the need for an officer level filtering system; and
  - (b) the offer by the Chief Executive of the current Police Authority to undertake that role, and how far that could be seen to be impartial by complainants.
11. The Panel has responsibility for handling all complaints directed against the PCC, including conduct matters. To facilitate the expeditious handling of complaints, the Regulations allow for some aspects of the handling of the complaints within the Panel's remit, to be delegated to the PCC's Chief Executive. The powers of delegation include administrative functions, such as making decisions on the recording or non-recording of complaints and referral of matters to the Independent Police Complaints Commission (any complaints or matters raised which allege criminal misconduct on the part of the PCC must be referred to the IPCC for them to consider and deal with appropriately).
12. However the Panel may not delegate the functions set out at Part 4 of the Regulations, which provides for the resolution of “other” complaints. These complaints must be informally resolved and the Panel must do this, but clearly it is not practicable to deal with the consideration of complaints at full meetings of the Panel. Given the consideration of complaints is not a whole Panel function and may be delegated to a sub-committee, members may wish to consider at this meeting, whether to establish a Complaints Sub-Committee, and the size/composition of that body.

### **Appendices:**

Appendices A and B – Revised Panel Arrangements and Procedure Rules

### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 Background Papers:**

None

## **APPENDIX A**

### **AVON & SOMERSET POLICE AND CRIME PANEL**

#### **ARRANGEMENTS**

##### **FUNCTIONS**

1.1 The Panel can only exercise functions conferred by the Police Reform and Social Responsibility Act 2011 Act ('the Act').

1.2 The functions of the Panel set out in 1.2.1 to 1.2.5 below may not be discharged by a Committee or Sub-Committee of the Panel.

1.2.1 The Panel must review and make a report or recommendation to the PCC on the PCC's draft police and crime plan, or any draft variation. The PCC must have regard to any Panel report or recommendations.

1.2.2 The Panel must comment upon the annual report of the PCC and for that purpose must put questions to the PCC at a public meeting, and make a report or recommendation (as necessary) to the Commissioner on the annual report.

1.2.3 The Panel must review and make a report and recommendation (as necessary) on the PCC's proposed precept. The Panel will have a right of veto in respect of the precept in accordance with the Act and any related regulations.

1.2.4 To review and make a report on the proposed appointment of the Chief Constable by the PCC. The Panel will have a right of veto over this appointment in accordance with the Act and any related regulations.

1.2.5 To hold a confirmation hearing, and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the PCC.

1.2.6 The Panel must be notified by the PCC of any suspension of the Chief Constable, or on any proposal for a Chief Constable to retire or resign. In the case of the latter the Panel must make a recommendation to the PCC in respect of the proposed retirement or resignation.

1.2.7 To review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of his / her functions. The Panel may carry out investigations into the decisions of the PCC, and into matters of particular interest or public concern.

1.2.8 To make reports or recommendation to the PCC with respect to the discharge of his/her functions.

1.2.9 To support the effective exercise of the functions of the PCC.

1.2.10 The Panel must publish any reports or recommendations made to it by the PCC and send copies to the Authorities.

1.2.11 The Panel may require the PCC or a member of his/her staff to attend the Panel to answer questions in certain circumstances.

1.2.12 The Panel may require the PCC to respond in writing to a report or recommendation of the Panel to the PCC.

1.2.13 The Panel may consider non-criminal complaints in relation to the PCC and his/her key officer holders and can suspend the PCC if he/she is charged with an offence carrying out a maximum term of imprisonment exceeding two years.

1.2.14 The Panel has the power to appoint an Acting Police and Crime Commissioner, if necessary.

1.2.15 The Panel will have any other powers and duties set out in the Act or Regulations made under the Act.

**NOTE: The detail behind how the Panel will carry out the key functions listed above is contained in the PCP Procedural Rules**

## **2 OPERATING ARRANGEMENTS**

2.1 The Act requires the local authorities in each police force area to establish and maintain a Police and Crime Panel ('the Panel') for the police force area (Avon and Somerset). It is the responsibility of the Authorities for the police force area to agree the Panel arrangements.

2.2 The Panel is a scrutiny body with responsibility for supporting and scrutinising the PCC and promoting openness in the transaction of police business in the police force area.

2.3 The Panel is a joint committee of the Authorities.

2.4 Each Authority and each Member of the Panel must comply with the Panel arrangements.

2.5 The Panel must have regard, in addition to any statutory requirements, to any advice and protocols issued by the Home Secretary in respect of the work of the PCC, the Chief Constable and the Panel.

2.6 Bristol City Council shall act as the lead Authority on behalf of the 10 councils in establishing the Police and Crime Panel and provide / organise the necessary support arrangements to enable the Panel to fulfil its statutory responsibilities.

2.7 The lead Authority shall prepare a statement for the agreement / information of all of the councils setting out details of how the Government funding in support of the lead authority role will be allocated and how the Panel will be supported. A proposed budget for the operation of the Panel shall be drawn up by the Lead Authority in January of the preceding year for approval by the Authorities. It is intended that all direct costs of the Panel will be contained within the Government's funding allocation. However, in the event that the government funding ceases at any time or in the event that the Panel's direct support costs exceed the available funding, any shortfall will be met by the 10 councils through a mechanism to be agreed.

### **3 MEMBERSHIP**

#### General:

3.1 The Panel shall be made up of a minimum of 10 councillors as 'Appointed Members' and two Co-opted Non-elected Members. The Appointed Members shall comprise 4 unitary authority councillors, 5 district authority councillors, and 1 county councillor (one elected member from each Authority as appointed by the relevant Authority in accordance with a process agreed by the 10 Authorities). The Authorities and the Panel shall, so far as is reasonably practical, ensure at all times that the Panel membership meets the 'balanced appointment objective' requirements of the legislation and that the members appointed together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.

3.2 All unitary, district and county councillors within the Avon and Somerset area are eligible to be Appointed Members and (if appropriate) Co-opted Elected Members of the Panel. The 10 councils are responsible for the appointment of the local authority members to the Panel including any Co-opted Elected Members.

3.3 The Panel may co-opt members onto the Panel with the agreement of the Secretary of State provided that the number of Co-opted Members (including Elected and Non-elected Members) included in the membership does not exceed 10.

3.4 The Panel shall not co-opt a person who is a member of a local authority unless all of the members of the Panel agree to the co-option.

3.5 Where the Panel agrees by resolution to request the Secretary of State to increase the number of independent or councillor co-optees that the Panel can co-opt, it will provide reasons as to how the appointment(s) will contribute to the balanced appointment objective being met or being better met.

3.6 In the event that an Authority does not appoint a Member or Members in accordance with these requirements, the Secretary of State must appoint a Member to the Panel from the defaulting Authority in accordance with the Act.

3.7 No formal substitution of Panel members is allowed, although in the event of an elected member being unable to attend a specific meeting, they

may send a representative who can participate in debates but in a non-voting capacity.

3.8 The term of office of all Panel members shall be the same as that of the PCC – normally a four year term of office unless in the case of elected members s/he ceases to be an elected Member, or is removed from the Panel by their Authority. Members of the Panel are entitled to be re-appointed for a maximum of two consecutive 4 year terms of office provided that the balanced appointment objective is met by that re-appointment.

3.9 In the event that an Appointed Member resigns from the Panel, or is removed from the Panel by the relevant Authority, the Authority shall immediately take steps to nominate and appoint an alternative member to the Panel.

3.10 In the event that a Co-opted Member resigns from the Panel or is removed from the Panel by the relevant Authority (in the case of elected Members), then the Panel shall immediately take steps to fill this vacancy including seeking a nomination from the relevant Authority where appropriate.

3.11 The councils will maintain a mechanism at all times to enable the Appointed Membership to be reviewed (and any Co-opted Elected Membership) following any change in the co-opted elected membership agreed by the Panel and following any significant change in the political balance on the councils following relevant elections.

3.10 All members of the Panel may vote in its proceedings.

#### **4. APPOINTED MEMBERS**

4.1 The Authorities shall nominate elected members to be Members of the Panel in accordance with the legislation, any process agreed by the 10 councils to agree appointments, and any decisions taken by the Panel in respect of additional Co-opted Member appointments. If a nominated member agrees to the appointment, the Authority may appoint the Member as a member of the Panel.

4.2 In the event that an Authority does not appoint a Member (s) in accordance with 4.1 above, the Secretary of State must appoint a Member to the Panel from the defaulting Authority in accordance with the Act.

#### **5 CO-OPTED MEMBERS**

5.1 The following may not be a Co-opted Member of the Panel:

- A member of staff of the PCC for the area
- A member of the civilian staff of the Police Force for the area
- A Member of Parliament / National Assembly for Wales/Scottish Parliament/European Parliament

5.2 An elected Member of the Authorities may not be co-opted to the Panel unless two Co-opted Non-elected Members have been appointed to the Panel.

5.3 The selection process for co-opting non-elected Members will include public advertisement and a recruitment and selection process. The applications will be considered against an agreed eligibility criteria and then the Chairman and Vice-Chairman of the Panel and representative council Leaders will consider applications and interview candidates. Following the interviews, the interviewing panel will make recommendations to the Panel about the appointments. Final decisions on the appointment of Co-opted Non-Elected Members rest with the Panel. Such appointments will be made on merit and with due regard to the requirements set out in 3 above and the legislation.

5.4 In the event that a Co-opted Non-elected Member resigns from the Panel, the Panel shall take immediate steps to fill the vacancy in accordance with the requirements of these Panel Arrangements.

5.5 The Panel may decide to terminate the appointment of a Co-opted **non-elected** Member of the Panel if at least two-thirds of the persons who are Members of the Panel vote in favour of the decision for the reasons set out below:

- If the Member has been absent from the Panel for more than 3 formal meetings without the consent of the Panel
- If the Member has been convicted of a criminal offence but not automatically disqualified
- If the Member is deemed to be incapacitated by physical or mental illness or is otherwise unable to unfit to discharge his or her functions as a co-opted member
- If the Members' membership of the Panel no longer achieves the balanced appointment objective.
- *If, following an investigation by the Monitoring Officer of the host authority, a Member has been found to have acted contrary to any of the provisions of the members code of conduct of that authority.*

5.6 The Panel shall ensure that there are always at least two Co-opted Non-elected Members appointed to the Panel.

## **6. RULES OF PROCEDURE**

6.1 The Panel shall determine its Rules of Procedure which shall include arrangements in relation to the:-

- Appointment and removal of the Chairman
- The formation of sub-committees
- The making of decisions
- Arrangements for convening meetings

- The circulation of information.

## **7. ALLOWANCES FOR MEMBERS OF THE PANEL**

7.1 The Home Office will pay **via the host authority**, expenses to each Appointed and Co-opted Member of the Panel up to the level per member as agreed at that time by the Secretary of State and these arrangements assume that the sum made available at any one time by the Home Office shall be sufficient to meet the basic costs of Panel members attending meetings etc. Costs to be covered to be travel, ~~subsistence~~ and carers allowance. In the event that this Home Office funding ceases or if the funding doesn't cover the costs of the Panel members, any shortfall will be met by the 10 councils through a mechanism to be agreed.

~~7.2 No Special Responsibility Allowances shall be paid to PCP member. or any other allowances to Panel Members shall be agreed by the 10 councils through a mechanism to be agreed, in accordance with a recommendation sought from the Independent Remuneration Panel supporting the Lead Authority.~~

**The Panel have agreed that ;**

- (i) No special responsibility allowance shall be paid to any PCP member**
- (ii) Independent co-opted members shall receive an annual allowance of £250, in addition to travel and carers allowance.**
- (iii) Travel and carers allowances will be paid to all Panel members at the rates applicable to the councillors and co-optees of the host authority.**

## **COMPLAINTS AGAINST PANEL MEMBERS**

**Formal complaints against councillors whilst carrying out their role of Panel member, will be referred to the monitoring officer of the Council of which they are a member. *Complaints about independent co-opted Panel members will be referred to the monitoring officer of the host authority***

## **8 PROMOTION OF THE PANEL**

8.1 The Panel shall be promoted through:

- a) a dedicated web-page within the website of the Lead Authority (with appropriate links to other relevant websites) including information about the role and work of the Panel, Panel Membership, all non-confidential Panel and sub-committee meeting papers, press releases and other publications;

- b) the issuing of regular press releases about the Panel and its work; and,
- c) the Authorities each including information about the Panel on their websites, and linking to the Panel's web-page.

8.2 Support and guidance including training and specialist expertise as necessary shall be provided to the Panel members in support of the functions listed in 1. This shall be organised by the Lead Authority, and will include briefing / training sessions and written briefing notes.

8.3 Similarly, information about the functions and work of the Panel shall be provided to members and officers of the constituent Authorities through briefings and written briefing notes.

8.4 The Lead Authority shall prepare in consultation with the constituent Authorities, protocols detailing the relationships between the Panel, local community safety partnerships and partners and the local authority scrutiny committees.

## **9 VALIDITY OF PROCEEDINGS**

9.1 The validity of the proceedings of the Panel shall not be affected by a vacancy in the Membership of the Panel or a defect in appointment.

9.2 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Police Reform and Social Responsibility Act 2011, and any Regulations made in accordance with that Act, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

## APPENDIX B

### AVON & SOMERSET POLICE AND CRIME PANEL

#### PROCEDURE RULES

##### 1. GENERAL

- 1.1 These Rules of Procedure (the Rules) are made by the Police and Crime Panel ('the Panel') pursuant to Schedule 6 paragraph 25 of the Police Reform and Social Responsibility Act 2011 (the 'Act').
- 1.2 All activities of the Panel will be conducted in accordance with the Rules. The Rules should be read having regard to the Panel Arrangements.
- 1.3 The Rules shall not be amended unless notification of a proposed amendment is received by the Chairman and the Host Authority not less than fifteen working days prior to a Panel meeting, a report on the implications of the amendment has been considered by the Panel and the amendment has been agreed by three quarters of the voting Membership of the panel.
- 1.4 If there is any conflict in interpretation between these Rules and the Act, or Regulations made under the Act, the Act and Regulations will prevail.

##### 2 CHAIRMAN AND VICE CHAIRMAN OF THE PANEL

- 2.1 ~~Once the Panel is formally and fully established, The Chairman of the Panel will be appoint~~ **elect**ed at the Panel's AGM, normally in June of each year **or in an election year and where there have been changes in political proportionality on component councils, at the first meeting of the Panel following the appointment of members to it by the Joint Selection Committee of council leaders.** ~~the Panel by and The~~ **Chairman** will be drawn from amongst the elected members sitting on the Panel
- 2.2 ~~Once the Panel is formally and fully established, The Vice-Chairman will be appoint~~ **elect**ed **also at the AGM** ~~in June of each year~~ and will be drawn from amongst the elected members sitting on the Panel.
- 2.3 In the event of the resignation of the Chairman or removal of the Chairman, a new Chairman will be appointed at the next meeting and will be drawn from amongst the elected members sitting on the Panel. The same provision will apply to the post of Vice-Chairman.
- 2.4 The Chairman may be removed by agreement of a majority of the whole Membership of the Panel and in that event the Panel will appoint a replacement Chairman from the Appointed Members.

### **3 MEETINGS OF THE PANEL**

- 3.1 There shall be a minimum of four ordinary meetings of the Panel held in public in each municipal year. In addition, extraordinary meetings may be called on an ad-hoc basis.
- 3.2 An extraordinary meeting may be called by the Chairman **or by** four members of the panel **by giving notice in writing to the host authority lead officer. The Monitoring Officer of the PCC, host authority may also call an extraordinary meeting.**
- 3.3 **Any request for an extraordinary meeting must specify the particular item of business for which the extraordinary meeting of the Panel is being called. After receipt of such a request, the host authority lead officer will arrange for the extraordinary meeting to take place not less than 21 days and not more than 35 days after the receipt of the request.**
- 3.4 In addition to formal meetings, **appropriate** ~~there will be at least four~~ training / briefing sessions **will be arranged** for Panel members **as necessary.** ~~each municipal year.~~
- 3.5 The Panel shall decide the dates, times and venues for its meetings.
- 3.6 Ordinary meetings of the panel will:
- (i) receive any declarations of interest from members
  - (ii) approve the minutes of the last meeting
  - (iii) consider reports from officers and panel members
- 3.7 **All meetings of the panel will be held in public unless otherwise specified elsewhere in these procedure rules, and unless the reports or recommendations within the reports are marked as “confidential” or “exempt” and “not for publication” as defined in Part 1 of Schedule 12A of the Local Government Act 1972.**

### **4. ATTENDANCE REGISTER**

- 4.1 **An attendance sheet shall be circulated at every meeting of the Panel and any sub-committees that are established by it, on which all members present will enter their name. The sheet will constitute the register of attendance .**

### **5. MINUTES**

- 5.1 **The minutes of the business considered and decisions reached at each meeting of the Panel shall be printed and a copy sent to each member with the summons to attend the next meeting of the Panel.**
- 5.2 **No motion or discussion shall take place upon the minutes, except upon their accuracy and any question of their accuracy shall be raised**

by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.

## **6. PUBLIC FORUM**

~~6.1 Members of the Public shall be able to ask questions or make a statement to the Panel at each meeting, provided that the total time allowed for public questions shall not exceed 30 minutes, and no question or statement shall be allowed more than two minutes.~~

6.1 Members of the public may ask a question or make a statement in relation to matters which are the function and responsibility of the Panel, at each meeting.

6.2 A maximum of 30 minutes will be allocated for this purpose (called public forum), at the start of each meeting of the Panel and each question or statement shall be allowed a maximum of 3 minutes .

6.3 Depending on the volume of public forum items, the time allocated on the agenda for consideration may be increased by the Chairman, with the Panel's consent. Alternatively the time allocated for hearing each item may have to be rationed

6.4 Statements must be received by the PCP host authority no later than 12.00 noon on the working day prior to the Panel's meeting.

6.5 Questions must be received by the PCP host authority no later than 5 clear working days before the meeting. This is to allow time for a response to be formulated. Questions will be limited to 2 per person/organisation. A response will be given either as a direct oral answer or a written reply at the meeting.

6.6 A questioner will be entitled to ask one supplementary question per question submitted after receiving a response

## **7. QUORUM**

7.1 A formal meeting of the Panel cannot take place unless at least one third of the whole number of its members is present.

## **8 WORK PROGRAMME**

8.1 The Panel will be responsible for setting its own work programme taking into account the priorities defined by the PCC. In setting the work programme the Panel will also take into account the wishes of its members

8.2 The work programme must cover the functions described in the terms of reference for the Panel.

## **9 AGENDA ITEMS**

- 9.1 The Panel agenda will be issued to Panel Members at least 5 clear days before the meeting. It will also be published on the Panel's web site and by sending copies to each of the authorities and by other means as the Panel considers appropriate.
- 9.2 Any member of the Panel shall be entitled to place items on Panel agendas which are relevant to the Panel's functions. **Members' requests for matters to be included shall be submitted in writing/e-mail and received by the host authority lead officer at least 15 working days before the next ordinary meeting of the Panel, failing which they shall not be submitted to such meeting without the express direction of the Chairman.**
- 9.3 **Items requested by members of the Panel should not have been considered previously by the Panel, in the last 6 months.**

## **10. CONDUCT OF MEETINGS**

### **Motions**

- 10.1 **No motion or amendment other than a motion for the reception or adoption of a report, or for the adoption of a recommendation contained in a report, shall, after the proposer has spoken in support be discussed or proceeded with unless it has been seconded. Such motion or amendment shall, if required by the Chairman, be reduced to writing and handed to the Chairman before it is further discussed or put to the meeting.**

### **Motions During Debate**

- 10.2 **When a motion is under debate, no other motion shall be moved except for the following:**
- a. to amend the motion
  - b. to postpone consideration of the motion
  - c. to adjourn the meeting
  - d. to adjourn the debate
  - e. to proceed to the next business
  - f. that the question be now put
  - g. that a member be not further heard
  - h. that a member do leave the meeting
  - i. that the subject of debate be referred back for further consideration.

### **Motion For Closure, Adjournment, Etc.**

- 10.3 **Where a motion is moved or seconded `that the question be now put', `that the debate now be adjourned', `that the Panel proceed to the next business', or `that the Panel be now adjourned', the Chairman if, of the opinion, that the question before the meeting has been sufficiently**

discussed, will put that motion to the vote. If it is carried, the question before the meeting shall be put to the vote, or the subject of debate shall be deemed to be disposed of for the day or the meeting shall stand adjourned, as the case may be.

- 10.4 A second motion concerning the same question before the meeting `that the question be now put', `that the debate be now adjourned', `that the Panel proceed to the next business' or `that the Panel be now adjourned' shall not be made within a period of fifteen minutes unless it be made by the Chairman.

### **Amendments**

- 10.5 An amendment shall be relevant to the motion and shall be either:

- (a) to leave out words;
- (b) to leave out words and insert or add others;
- (c) to insert or add words;

- 10.6 But such omission or insertion of words shall not have the effect of introducing a new proposal into or of negating the motion before the Panel.

- 10.7 If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall be the motion upon which any further amendment may be moved.

- 10.8 A further amendment shall not be moved until the Panel has disposed of every amendment previously moved.

### **Alterations Or Withdrawal Of Motion Or Amendment**

- 10.9 A proposer of a motion may, with the concurrence of the seconder and the consent of the Panel, alter the motion if the alteration is such that it could properly be effected by an amendment of the motion. A proposer of an amendment may, with the like concurrence and consent, alter the amendment if the amendment as altered could properly have been moved in that form as an amendment. The altered motion or amendment shall if required by the Chairman be reduced in writing and handed to the Chairman before the consent of the Panel to the alteration is sought.

- 10.10 A proposer of a motion or of an amendment may, with the concurrence of the seconder and the consent of the Panel, withdraw the motion or amendment which he or she has proposed, and no member shall speak upon it after the proposer has thus asked permission for its withdrawal, unless such permission shall have been refused.

- 10.11 The giving or refusal of consent by the Panel to the alteration or withdrawal of a motion or amendment shall be signified without discussion.

### **Speech By Seconder**

- 10.12 A member, when seconding a motion or amendment, may if then declaring the intention to do so, reserve their speech until a later period of the debate.

### **Members To Address The Chair**

- 10.13 A member when speaking shall address the Chairman. If two or more members wish to speak, the Chairman shall decide the order in which they shall speak.
- 10.14 Whenever the Chairman rises during a debate, a member then speaking and the Panel shall be silent.

### **Rights Of Speech**

- 10.15 A member may speak on any motion or amendment or on any report at such time as it is actually before the Panel, but Member's remarks shall be strictly confined to the subject matter under discussion or to an explanation or a question of order.
- 10.16 Where a report contains a recommendation that has been moved, a member may speak for or against such recommendation or move either an amendment to such recommendation or that the paragraph be referred back for further consideration.
- 10.17 Where a report does not contain a recommendation, a member may move that the paragraph be referred back for further consideration provided that the decision, as reported in the paragraph, has not been finally implemented.

### **Length Of Speeches**

- 10.18 No speech shall exceed five minutes except by consent of the Panel.

### **Conduct Of Members**

- 10.19 A member shall not impute motives or use offensive expressions to or about any other member.
- 10.20 If any member, in the opinion of the Chairman, persistently disregards the ruling of the Chairman, or behaves irregularly, improperly, or offensively, or wilfully obstructs the business of the Panel, or uses tedious repetition or unbecoming language, the Chairman or any other member may move "that the member named be not further heard", and

such motion if seconded shall be put and determined without discussion.

- 10.21 If the member named continues the misconduct after a motion under paragraph 11.21 has been carried, the Chairman shall either:(a) move "that the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or (b) adjourn the meeting of the Panel for such a period as the Chairman shall consider expedient.

### **Points Of Order And Explanations**

- 10.22 A point of order shall relate only to an alleged breach of these Procedure Rules or statutory provision, and the member raising it shall specify the Procedure Rule or statutory provision and the way in which it has been broken. A personal explanation shall be confined to some material part of a former speech by the member which may appear to have been misunderstood in the present debate.
- 10.23 The ruling of the Chairman on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

### **Voting**

- 10.24 Voting will be by show of hands and by simple majority.
- 10.25 The Chairman will have a casting vote.
- 10.26 All Panel Members may vote in proceedings of the Panel.

### **General Disturbances**

- 10.27 If a member of the public interrupts the proceedings at any meeting, the Chairman shall give a warning. If the interruption continues the Chairman shall order the person's removal from the room. In case of general disturbance in any part of the room open to the public, the Chairman shall order that part to be cleared.
- 10.28 If, in the opinion of the Chairman, misconduct or obstruction renders the due and orderly dispatch of business impossible, the Chairman, in addition to any other power vested in the Chairman, may without the question being put suspend the meeting for a period not exceeding 30 minutes.

### **Disclosure of interests**

- 10.29 If a member has any disclosable pecuniary interest in relation to any business to be considered at the meeting, then they must declare that interest and must not :

- participate in any discussion of the business at the meeting, or if they become aware of a disclosable pecuniary interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

## **11. REPORTS FROM POLICE AND CRIME PANEL**

- 11.1 Where the Panel makes a report to the PCC, it will publish the report or recommendations on its web site and by sending copies to each of the Authorities, and by any other means the Panel considers appropriate
- 11.2 The Panel must by notice in writing require the PCC, as appropriate, within one month of the date on which it receives the report or recommendations to
- Consider the report or recommendations.
  - Respond to the Panel indicating what (if any) action the PCC proposes to take.
  - Where the Panel have published the report or recommendations, publish the response.
  - Where the Panel have provided a copy of the report or recommendations to a member, provide a copy of the response to the member.
- 11.3 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).
- 11.4 If the Panel cannot unanimously agree on one single final report to the PCC then one separate (minority) report may be prepared and submitted for consideration along with the majority report.

## **12. PCC AND OFFICERS GIVING ACCOUNT**

- 12.1 The Panel may scrutinise and review decisions made or actions taken in connection with the PCC's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the PCC, and members of that commissioner's staff, to attend before the Panel (at reasonable notice) to answer any questions which appear to the Panel to be necessary in order to carry out its functions provided that such questions shall not:
- Relate to advice provided to the PCC by his/her staff
  - In the view of the PCC
    - Be against the interests of national safety
    - Jeopardise the safety of any person; or,

- Prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or
- (c) Be prohibited by any other enactment.

12.2 Where the PCC, or a member of the commissioner's staff, is required to attend the Panel under this provision the chairman will inform them in writing giving notice of the item, and where practical, 15 working days notice of the meeting. The will detail whether any supporting information is necessary for the Panel. Where it is necessary to provide such information, sufficient time will be given to allow the information to be provided.

12.3 **The Police and Crime Commissioner will normally attend all meetings of the Panel in line with their legal responsibilities unless notified otherwise.** Where, in exceptional circumstances, they are unable to attend on the required date, an alternative date for attendance may be arranged following consultation with the chairman of the Panel.

12.4 If the Panel require the PCC to attend their meeting, the Panel may (at reasonable notice) request the Chief Constable or the Chief Executive (as appropriate) to attend on the same occasion to answer any questions which appears to the Panel to be necessary in order for it to carry out its functions.

### **13. ATTENDANCE BY OTHERS**

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

### **14. SUB-COMMITTEES AND TASK GROUPS**

14.1 Sub-Committees or time limited task groups may be established from time to time by the Panel to undertake specific functions or task based work.

14.2 The 'special functions' of the Panel may not be discharged by a sub-committee of the Panel or a task group. In this paragraph 'special functions' means the functions conferred on a Panel by:

- a) Section 28(3) of Police Reform and Social Responsibility Act (scrutiny of Police and Crime Plan).
- b) Section 28 (4) of Police Reform and Social Responsibility Act (scrutiny of annual report).
- c) Paragraphs 10 and 11 of Schedule 1 of Police Reform and Social Responsibility Act (review of senior appointments).
- d) Schedule 5 of Police Reform and Social Responsibility Act (issuing precepts).

- e) Part 1 of Schedule 8 of Police Reform and Social Responsibility Act (scrutiny of appointment of the Chief Constable).

14.3 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.

14.4 A sub-committee may not co-opt additional members.

## **15. CARRYING OUT 'SPECIAL FUNCTIONS'**

Reports and recommendations made in relation to the special functions outlined in the terms of reference will be carried out in accordance with the procedure outlined at 8 above.

### **Senior appointments**

- 15.1. The Panel has powers to review the PCC's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner. The Panel is required to hold public confirmation hearings for these posts.
- 15.2 Any such hearing will be held at the next available meeting of the Panel or at an extraordinary meeting if timescales require it.
- 15.3 With regards to the appointment of the Chief Constable, the Panel is required to hold a hearing within the period of three weeks from the day on which the Panel receives notification from the PCC.
- 15.4 Confirmatory hearings will be held in public, where the candidate is requested to appear for the purpose of answering questions relating to the appointment.
- 15.5 Following this hearing, the Panel is required to review the proposed appointment and make a report to the PCC on the appointment.
- 15.6 For a confirmatory hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the Panel is required to make a recommendation on the appointment and has the power to veto the appointment.
- 15.7 Having considered the appointment of a Chief Constable, the Panel will be asked to either:
  - a) support the appointment without qualification or comment;
  - b) support the appointment with associated recommendations, or
  - c) veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).

- 15.8 If the Panel vetoes the appointment of the candidate, the report to the PCC must confirm the veto and the reasons for it.

### **Appointment of an Acting PCC**

- 15.9 The Panel must appoint a person to act as PCC if:
- a) no person holds the office of PCC
  - b) the PCC incapacitated, or
  - c) the PCC is suspended.
- 15.10 The Panel may appoint a person as acting commissioner only if the person is a member of the PCC's staff at the time of the appointment.
- 15.11 In appointing a person as acting commissioner in a case where the PCC is incapacitated, the Panel must have regard to any representations made by the commissioner in relation to the appointment.
- 15.12 The appointment of an acting commissioner ceases to have effect upon the occurrence of the earliest of these events:
- a) the election of a person as PCC;
  - b) the termination by the Panel, or by the acting commissioner, of the appointment of the acting commissioner;
  - c) in a case where the acting commissioner is appointed because the PCC is incapacitated, the commissioner ceasing to be incapacitated, or
  - d) in a case where the acting commissioner is appointed because the PCC is suspended, the commissioner ceasing to be suspended.

### **Proposed precept**

- 15.13 The PCC will notify the Panel of the precept which the commissioner is proposing to issue for the financial year. The Panel must review the proposed precept and make a report including recommendations.
- 15.14 Having considered the precept, the Panel will either:
- a) support the precept without qualification or comment;
  - b) support the precept and make recommendations, or
  - c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 15.15 If the Panel vetoes the proposed precept, the report to the commissioner must the report to the PCC must confirm the veto and the reasons for it. The Panel will require a response to the report and any such recommendations.

## **Complaints**

- 15.16 The Panel shall have a complaints procedure for complaint handling that shall be set out in a protocol to be developed and agreed by the Panel on receipt of appropriate guidance
- 15.17 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')
- 15.18 Non-criminal complaints in relation to the PCC or other office holders can be considered by the Panel through a hearing. The Panel can examine this through a sub-committee following the procedure rules at 10. with a view to seeking informal resolution of a complaint otherwise than by legal proceedings.
- 15.19 A Panel may suspend the PCC if it appears to the Panel that
- a) the commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
  - b) the offence is one which carries a maximum term of imprisonment exceeding two years.
- 15.20 The suspension of the PCC ceases to have effect upon the occurrence of the earliest 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 Police Reform and Social Responsibility Act by virtue of the conviction, or
  - d) the termination of the suspension by the Panel.
- 15.21 In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
- a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
  - b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

## **Police and Crime Plan**

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

## **Annual Report**

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

### **Police and Crime Plan**

- 15.25 The Panel is a statutory consultee on the development of the PCC's Police and Crime Plan and will receive a copy of the draft Police and Crime Plan, or a draft of any variation to it, from the PCC.
- 15.26 The Panel must:
- a) hold a public meeting to review the draft Police and Crime Plan (or a variation to it), and
  - b) report or make recommendations on the draft Plan which the PCC must take into account.

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

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

- 15.32 The scrutiny hearing which must be held by the Panel is a Panel meeting in private to which the PCC and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign.
- 15.33 The Panel must publish the recommendation it makes on its web site and by sending copies to each of the Authorities, and by any other means the Panel considers appropriate.
- 15.34 The PCC may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:
- (a) at the end of six weeks from the Panel having received notification if the Panel has not by then given the PCC a recommendation as to whether or not she/he should call for the retirement or resignation; or
  - (b) the PCC notifies the Panel of a decision about whether she/he accepts the Panel's recommendations in relation to resignation or retirement.
- 15.35 The PCC must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.
- 15.36 In calculating the six week period, the post election period is ignored.