

POLICE & CRIME PANEL FOR HAMPSHIRE POLICE AREA

1. INTRODUCTION

- 1.1. The Police Reform and Social Responsibility Act 2011 (“the Act”) introduces changes to the arrangements for governance of the Policing Service. In November 2012, police authorities will be abolished and replaced by a Police and Crime Commissioner (“the Commissioner”) for each policing area. The Commissioner will be responsible for securing the maintenance of an efficient and effective police force for the area, and hold the Chief Constable to account for the exercise of his/her functions. The Commissioner will also be responsible for issuing and keeping under review a Police and Crime Plan, setting out local policing priorities and how policing is to be resourced. The Act also requires the local authorities for each policing area to establish a Police and Crime Panel to review and scrutinise the Commissioner’s actions and decisions, with a view to supporting the work of the Commissioner.
- 1.2. This paper outlines the statutory role of a Police and Crime Panel, and recommends the basis on which it is proposed that a Panel should be established for the Hampshire Policing Area (i.e. Hampshire County Council, the 11 district councils in Hampshire, and the unitary authorities for Isle of Wight, Portsmouth and Southampton). The development of these terms has been the subject of discussion and agreement at HLOWLA and with the other 14 constituent authorities.

2. BACKGROUND – STATUTORY FUNCTIONS OF A POLICE AND CRIME PANEL

- 2.1. These comprise duties and powers. All functions are to be exercised with a view to supporting the effective exercise of the Commissioner’s functions.
- 2.2. **Duties**
 - To review the draft Police and Crime Plan, or draft variation, and make a report or recommendations on it to the Commissioner
 - On receipt of the Commissioner’s annual report, to meet in public to ask the Commissioner questions on the report, to review the report and make a report or recommendations on it to the Commissioner
 - To review or scrutinise decisions made, or other action taken, by the Commissioner in the discharge of his/her functions, and make reports or recommendations thereon to the Commissioner (Note: the Panel’s role therefore is to scrutinise the Commissioner in the discharge of his/her functions – not the Chief Constable)
 - To review and make recommendations to the Commissioner on proposals to appoint senior staff and Chief Constable
 - To make a recommendation to the Commissioner on any proposal to remove the Chief Constable
 - To review and report to the Commissioner on his/her proposed precept

- To publish any reports or recommendations made to the Commissioner, and send copies to local authorities in the Panel's area
- To appoint an Acting Commissioner (from amongst the Commissioner's staff) where the Commissioner is incapacitated or suspended

2.3. Powers

- To require the Commissioner and members of his/her staff to attend before the Panel (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- Where it requires the Commissioner to attend before the Panel, it may also request the Chief Constable to attend on the same occasion (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- To require the Commissioner to respond in writing (within a reasonable period determined by the Panel) to any of the Panel's reports or recommendations
- NB: The Commissioner and his/her staff are under a duty to comply with the above requirements
- To suspend the Commissioner where s/he is charged with an offence punishable by a maximum term of imprisonment of more than two years
- To veto the proposed appointment of Chief Constable (subject to two thirds of members voting in support)
- To veto the Commissioner's proposed precept (subject to two thirds of members voting in support)
- Note: Secondary legislation makes provision for the involvement of the Panel in the handling of complaints against the Commissioner. Serious complaints will be handled by the Independent Police Complaints Commission, and other complaints dealt with by the Panel via local resolution

3. MEMBERSHIP OF THE PANEL

3.1 The Panel for the Hampshire Policing Area must consist of:

- 15 members each appointed by their local authority. Authorities are free to determine whether they are represented by their Leader, executive member or non-executive member (except where an authority has an elected mayor, in which case they must be appointed)
- A minimum of 2 co-opted members appointed by the Panel. These cannot be members of local authorities within the Hampshire Policing Area
- Up to 3 additional co-opted members may be appointed by the Panel, subject to the agreement of the Secretary of State. These may be, but do not have to be, members of local authorities within the Hampshire Policing Area
- All Panel members are equal voting members

- In the unlikely event that an authority fails to appoint a member, there are provisions enabling appointment of a member of that authority by the Secretary of State
- The Panel is established as a “joint committee” and there is provision for the Secretary of State to apply (by statutory instrument) existing local government legislation to its business. This will mean that well-established and familiar provisions in the Local Government Act 1972 on the holding of meetings in public, advance publication of agendas etc are applied

3.2 Although appointment of co-opted members is a matter for the Panel, authorities may wish to bring to the attention of the Panel any potential candidates with relevant skills, knowledge and experience, for their consideration.

4. THE BALANCED APPOINTMENT OBJECTIVE

4.1 This is the objective that the local authority members of a Panel (when taken together):

- Represent all parts of the Police Area
- Represent the political make-up of the local authorities in the Police Area (when taken together)
- Have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively

5. DUTY TO PRODUCE A BALANCED PANEL

- In making appointments to the Panel, local authorities must secure that (as far as reasonably practicable) the balanced appointment objective is met. The qualification of “as far as reasonably practicable” allows some flexibility in achieving strict mathematical proportionality
- In co-opting persons who are members of local authorities, the Panel must secure that (as far as reasonably practicable) the “balanced appointment objective” is met
- The Panel must, from time to time, decide whether exercising its power to co-opt up to 3 additional members would contribute to the balanced appointment objective being met (or met more effectively)
- This means that, once each authority has appointed its representative, the Panel has the flexibility to co-opt up to 3 further local authority members (e.g. from the minority parties) to achieve overall political balance (subject to Secretary of State consent)
- Local authorities may rely on the Panel exercising its co-option power to ensure the balanced appointment objective is achieved i.e. on this basis an authority may not normally be required to appoint other than its preferred member
- Following elections in May 2012, information on political balance across the 15 local authorities will be circulated to the authorities to enable appointments to be made in line with the balanced appointment objective

6. PANEL ARRANGEMENTS

- In establishing the Panel, the local authorities have a duty to make “Panel Arrangements”
- This will be a joint agreement in writing setting out the position on various aspects of how the Panel carries out its business. It will require approval by all 15 local authorities
- Note that although the Panel Arrangements must make provision about the co-option of, and holding of office by, the co-opted members, actual decisions as to the co-option of members, including the appointment of an initial two co-opted members, and a decision as to whether up to three additional members should be co-opted (subject to Secretary of State consent), are decisions for the Panel to make once constituted
- In co-opting members who are not members of relevant local authorities, a Panel must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively
- The draft Panel Arrangements proposed by the Hampshire authorities were appended to Report E to the Cabinet on 2 May and can be found at: <http://www.newforest.gov.uk/committeedocs/cab/CDR07541.pdf> . These have been the subject of wide consultation and discussion. The main provisions are summarised below.

7. PANEL RULES OF PROCEDURE

- 7.1 The Act distinguishes between matters to be agreed by the 15 local authorities in the Panel Arrangements, and those matters that are to be determined by the Panel itself, once constituted. The following matters will not therefore be predetermined in the Panel Arrangements, but would be agreed at the inaugural meeting of the Panel:
- Appointment, resignation and removal of the Panel Chair
 - The method of making decisions (e.g. adoption of standing orders on meeting procedures)
 - Formation of Sub-committees

8. PANEL ARRANGEMENTS – TERM OF OFFICE

- 8.1. The Act requires that Panel Arrangements include provision about the term of office of appointed members and co-opted members, and about the conditions for re-appointment.
- 8.2. **It is proposed that** all Members are appointed to the Panel for a four year term, and are eligible for re-appointment on the expiry of that term. This is subject to the rules on change of membership summarised at paragraph 9 below. There would be no restriction on the number of terms of office that could be served.

- 8.3. Other options considered and rejected: consideration has been given to the possibility of making appointments for different periods, to avoid all appointments expiring at the same time, which could make for a loss in continuity. The possibility of placing a restriction on number of terms has also been assessed. However, it is felt that retaining flexibility over the making of re-appointments would avoid risk of loss in continuity. The proposal accords with the current position with police authorities, where an appointment would normally be for a four year term.

9. PANEL ARRANGEMENTS – RESIGNATION AND REMOVAL OF MEMBERS

- 9.1. The Act requires that Panel Arrangements include provision about the resignation and removal of appointed members and co-opted members.

9.2. **It is proposed that:**

- any member may resign at any time, by notice in writing to the Panel Chair and their appointing authority
- any appointed member may be removed by their appointing authority at any time
- an authority may authorise another of its members to deputise for their appointed member, where the appointed member is unable to attend a Panel meeting or otherwise undertake Panel business, for a period of up to 28 days. As the Act makes no reference to “deputy members”, this is achieved by the relevant authority’s Chief Executive having delegated authority to give notice of temporary change of appointed member. This is intended to provide a quick and flexible way of ensuring that the element of the balanced appointment objective, that requires all local authority members (when taken together) to represent all parts of the police area, remains met in the event that an authority’s normal representative is temporarily unavailable

- 9.3. Other options considered and rejected: consideration has been given to having less flexibility in the removal of Members, to avoid loss of skills and experience at short notice, and to protect the independence of a Member to act and vote as they consider appropriate. However, it was felt that flexibility was necessary to enable membership to be reviewed as required to ensure that the balanced appointment objective (see paragraphs 5 and 6 above) remained met (for example, following change in political control of an authority).

10. PANEL ARRANGEMENTS – THE COSTS OF THE PANEL

- 10.1. The Act requires that Panel Arrangements make provision about how the relevant local authorities are to meet the costs of the Panel, and how any funds paid by the Secretary of State to meet the costs of the Panel are to be distributed between the authorities.

- 10.2. The Home Secretary has confirmed that the Government is making available £53,300 per annum for the costs of supporting and maintaining the Panel, and a further £920 per annum per member, to fund necessary expenses. This will provide an overall budget for the panel of around £72k in a full year, and around £36k in 2012-13.

10.3. The Government has asked that one authority in the police area acts as Lead Authority for the receipt of the funding and co-ordination of the establishment of the Panel. It was agreed at HLOWLA Leaders meeting on 27th January 2012 that Hampshire County Council would act in this capacity.

10.4. **It is proposed that:**

- The general objective shall be that the total costs of running the Panel are contained within the Government funding. The Panel will receive and approve a budget, and monitor expenditure against it
- To the extent that the Government funding is exceeded, the excess will be borne by the authorities in equal shares, unless they agree otherwise

11. PANEL ARRANGEMENTS – PAYMENT OF MEMBERS’ ALLOWANCES

11.1. The Act provides that Panel Arrangements may make provision about the payment of allowances to Members. As indicated above, the Government is making available £920 per annum (£460 in 2012-13) towards expenses incurred by each Panel member. No specific provision is made for payment of further allowances.

11.2. **It is proposed that:**

- Panel members claim travel and subsistence from their own authority in accordance with that authority’s usual scheme of allowances. Actual sums claimed on Panel business would be reimbursed by the Lead Authority to the appointing authority, up to a limit of £920 per annum (£460 in 2012-13)
- Where the member elected as Panel Chair is not already in receipt of a special responsibility allowance, their appointing authority shall explore amending its scheme of allowances to provide for this, in acknowledgement of the responsibilities of Panel Chair
- The Lead Authority will explore amending its scheme of allowances to provide for the payment of a Co-optee’s allowance to any of the Panel’s co-opted members who is not also an authority member

11.3 Other options considered and rejected: the payment of further allowances is not proposed due to the impact this would have on the Panel’s ability to contain its costs within the funding provided by the Government. Further, all local authority members of the Panel will already be in receipt of a basic allowance from their own authority.

12. PANEL ARRANGEMENTS – PROMOTION OF THE WORK OF THE PANEL

12.1. The Act requires that Panel Arrangements must make provision for the role of the Panel to be promoted.

12.2. **It is proposed that** the Panel’s terms of reference include the functions of promoting its work and engaging stakeholder involvement.

12.3. No other options have been considered. The recommended way forward leaves it for the Panel to decide in detail how it wishes these functions to be performed.

13. PANEL ARRANGEMENTS – ADMINISTRATIVE AND OTHER SUPPORT TO THE PANEL AND MEMBERS

- 13.1. The Act requires that Panel Arrangements must make provision for administrative and other support to the Panel and its Members and for support and guidance to members and officers of local authorities in the Panel's area in relation to the Panel's functions. This includes support with arranging meetings and minute-taking, communications, policy advice and support with scrutiny functions, legal and financial advice.
- 13.2. **It is proposed that** an interim arrangement is put in place for the Panel's first year of operation, pending the carrying out of a commissioning process. This would meet the immediate needs of the Panel while allowing it to consider, specify and commission the support it requires for the longer term.
- 13.3. Other options considered and rejected: sharing policy advice with the Commissioner's Office is not considered tenable due to the need for objectivity in scrutiny of the Commissioner. Further, there is the possibility that members of the Commissioner's staff may be required to attend before the Panel to answer questions.

14. PANEL ARRANGEMENTS – DATE OF COMMENCEMENT

- 14.1. The minimum legal requirement is for the Panel to be in operation by November 2012 when the Commissioner is elected.
- 14.2. **It is proposed that** the Panel be established by June 2012.
- 14.3. There are some key issues for the Panel to address over the winter period of 2012-13, including scrutinising the newly-elected Commissioner's first draft Police and Crime Plan and proposed precept for the 2013-14 financial year. It is felt therefore that the Panel would benefit from having an initial period, before taking on its statutory responsibilities, to deal with items of "start-up" business, such as induction of Members in police policy issues, agreeing Panel procedures and appointing its Chair and co-opted Members. The intention would be for the Panel to be ready to operate effectively from November 2012.
- 14.4. Further, the Secretary of State retains default powers under the Act to impose a Police and Crime Panel if the authorities for the Police Area do not establish one. Indications are that the Secretary of State will wish to see evidence of action on the part of the authorities well in advance of November 2012, in order not to use her default powers.

15. NEXT STEPS

- 15.1. To enable a Panel to be established from June 2012, all 15 constituent authorities are being asked to approve the Panel Arrangements at their annual meetings in May 2012, and to appoint a Panel Member. Following the local elections on 3 May 2012, updated information as to the political make-up of the 15 authorities (when taken together) will be made available, so that authorities can appoint their member in line with the political balance requirements of the balanced appointment objective. The date set provisionally for the first meeting of the Panel is **29th June 2012**.

- 15.2. At the date of preparing this report, the Home Secretary has not yet published regulations and guidance on the establishment of police and crime panels, which was previously stated to be due for publication in March. However, relevant Home Office staff have had sight of the draft Panel Arrangements for Hampshire, and have indicated that the regulations and guidance, when they are published, will be “light touch”. It is unlikely therefore that these will give rise to any need for fundamental change of the proposed Panel Arrangements.
- 15.3. Nevertheless, it is felt advisable for each authority to grant delegated authority to its Chief Executive to agree any further minor amendments to the draft Panel Arrangements that may be necessary to ensure statutory compliance, once the regulations and guidance have been published.

16. FINANCIAL IMPLICATIONS

- 16.1 There are none at this stage. Costs of the Council’s nominated member attending Panel meetings will be met by the Council in the first instance, but will be reclaimed.

17. ENVIRONMENTAL IMPLICATIONS

- 17.1 Extra travel will be involved in the Council’s nominated member attending meetings of the Panel, which are likely to be in Winchester.

18. CRIME & DISORDER IMPLICATIONS

- 18.1 The proposals in this paper are proposed to meet the statutory requirements to review and scrutinise the Police & Crime Commissioner’s actions and decisions, with a view to supporting the work of the Commissioner in securing and maintaining an efficient and effective police force.

19. CABINET’S COMMENTS

- 19.1 The Cabinet on 2 May 2012 welcomed the early formation of the Hampshire Police and Crime Panel. They acknowledged that the Panel and individual members serving on the Panel will have an important role in providing a check and balance to the work of the elected Police Commissioner and supporting him or her. They noted that the Panel will help set and shape the strategic objectives of the Force area. Membership of the Panel will enable involvement at a local level from the start of new and very different arrangements for Police governance and accountability.

20. CONCLUSION

- 20.1 This report summarises the legal framework relevant to the new police and crime panels and sets out the terms on which it is recommended a Panel be established for the Hampshire Policing Area.

21. RECOMMENDATIONS

- 21.1 That the recommended terms on which the Police and Crime Panel is established be endorsed.
- 21.2 That, subject to 21.3, the Panel Arrangements, as described above and as more fully set out in the Agreement attached to Report E to the Cabinet on 2 May 2012, be approved.
- 21.3 That the Chief Executive be authorised to agree any further minor amendments to the Panel Arrangements necessary to ensure statutory compliance, once the Home Secretary's regulations and guidance have been published.
- 21.4 That a member be appointed as the Council's Appointed Member to the Panel.
(The Conservative Group has nominated Cllr Goff Beck.)
- 21.5 That a member be identified to act as "Deputy Member" and, where the Appointed Member is temporarily unable to attend a Panel meeting or otherwise undertake Panel business, the Chief Executive be authorised to give notice of temporary change of membership for a period of up to 28 days, to enable the Deputy Member to deputise in the Appointed Member's absence.
(The Conservative Group has nominated Cllr Jill Cleary.)

Further information:

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Background Papers:

Police & Social Responsibility
Act 2011
Report to HIOWLA meeting 17
January 2012
Notes of meeting of Hampshire
Council leaders – 30 March 2012