

Lancashire Police and Crime Panel

Monday, 26th November, 2012 at 10.00 am in Conference Room 1, Town Hall, Blackburn

Agenda

Part 1 (Open to Press and Public)

No.	Item	
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| 1. | Apologies | |
| 2. | Minutes of the last meeting. | (Pages 1 - 6) |
| 3. | Update on the Constitution of the Police and Crime Panel | (Pages 7 - 8) |
| 4. | Programme of Meetings | (Pages 9 - 10) |
| 5. | Police and Crime Commissioner
Following their election on the 15 th November 2012 it is anticipated that the Police and Crime Commissioner for Lancashire will attend the meeting and address the Panel. | |
| 6. | Procedure for dealing with Confirmation Hearings. | (Pages 11 - 14) |
| 7. | Procedure for dealing with Complaints about the Police and Crime Commissioner | (Pages 15 - 22) |
| 8. | The Scrutiny Function of the PCP | (Pages 23 - 48) |
| 9. | Urgent Business
An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Secretary to the Panel should be given advance warning of any Member's intention to raise a matter under this heading. | |

No. Item

10. Date of Next Meeting

Subject to the agreement of the Panel under a previous item the next scheduled meeting will be held at **10.00am** on the 17th December 2012 in Cabinet Room 'C' at County Hall, Preston.

I M Fisher
Secretary to the Police and Crime Panel

County Hall
Preston

Lancashire Police and Crime Panel

Minutes of the Meeting held on Monday, 1st October, 2012 at 10.00 am in Cabinet Room 'C' - County Hall, Preston

Present:

Chair

Councillor K Hollern (Blackburn with Darwen Borough Council)

Committee Members

Councillor P Barton, Hyndburn Borough Council
County Councillor G Driver, Lancashire County Council
Councillor D Eaves, Fylde Borough Council
Councillor M Foxley, Pendle Borough Council
Councillor P Gibson, Wyre Borough Council
Councillor I Grant, West Lancs Borough Council
Councillor L Oades, Fylde Borough Council
Councillor P Rankin, Preston City Council
Councillor M Ranson, Ribble Valley Borough Council
Councillor M Smith, South Ribble Borough Council
Councillor M Thomas, Lancaster City Council

Officers in attendance:

- Ian Fisher, County Secretary and Solicitor - Lancashire County Council
- Roy Jones, Assistant County Secretary - Lancashire County Council
- Mike Neville, Senior Committee Support Officer - Lancashire County Council
- Miranda Carruthers-Watt, Chief Executive - Lancashire Police Authority
- Christopher Long, Deputy Chief Crown Prosecutor and Chair of the Lancashire Local Criminal Justice Board.

1. Apologies

Apologies for absence were presented on behalf of Councillor S Blackburn (Deputy Chair), Councillor J Cooper and Councillor D Smith.

2. Minutes of the last meeting

It was noted that since the papers for the meeting had been circulated the Minutes had been amended to show that Councillor P Barton from Hyndburn had attended the first meeting.

Resolved:- That, subject to the above amendment the Minutes of the meeting held on the 31st July 2012 be confirmed as an accurate record and signed by the Chair.

3. Update on the Constitution of the Police and Crime Panel

Roy Jones, Assistant County Secretary, informed the Panel that following the meeting in July formal notification of the establishment and membership of the Police and Crime Panel for Lancashire had been sent to the Home Office as required by the regulations.

With regard to the requirement for the 3 additional co-opted elected members to the Panel Mr Jones reported that the necessary formal approval by the Home Secretary was still awaited. However, the Home Office had indicated that the submission for Lancashire would be included in the next tranche of requests to be put to the Home Secretary for consideration once ministers returned to Parliament after Recess and a formal response was expected in mid October.

Resolved: That the response from the Home Office regarding the approval of the three additional co-opted elected members be noted and an update presented to the next meeting of the Panel.

4. The appointment of two independent co-opted members to the Panel

The Chair informed the meeting that in accordance with the decision of the Panel at the last meeting a Selection Panel had been established to consider applications for the positions of two co-opted independent members of the Police and Crime Panel who would serve on the Panel for a four year term.

It was reported that following a shortlisting process of the applications received six successful candidates were interviewed and following the interviews Mr P Richardson and Mr S Vali were recommended for the positions of independent co-opted members as it was felt they had the necessary knowledge/experience that would help satisfy the balanced appointment objective.

In response to a query regarding any political affiliation the independent members may have it was reported that the Selection Panel had not felt that to be an issue and Mr Jones advised that in any event the guidance regarding the appointment of independent co-opted members did not exclude people who were affiliated with a particular political party.

Resolved: That the recommendations of the Selection Panel be approved and Mr Paul Richardson and Mr Shiraj Vali appointed to serve on the Police and Crime Panel until July 2016.

5. Presentation by Miranda Carruthers-Watt, Chief Executive of the Lancashire Police Authority

Ms Carruthers-Watt, the Chief Executive of the Lancashire Police Authority, gave a presentation regarding the transfer of policing governance to the Police and Crime Commissioner for Lancashire and the potential future working relationship between the Police Commissioner and the Panel.

The following points were discussed.

- Following elections in mid November the Police and Crime Commissioner (PCC) would formally take office on the 22nd November 2012.

- If the PCC were to appoint a Deputy Commissioner the Panel would be required to hold a confirmation hearing regarding the appointment.
- The PCC would need to establish decision making arrangements and formulate a Police and Crime Plan which sets out their police and crime objectives along with the resources to be provided to the Chief Constable.
- It was noted that funding previously allocated to community safety partnerships would be redirected to the PCC.
- The Police and Crime Plan would be informed by a public consultation regarding the priorities across Lancashire and take account of the priorities of other bodies and partner organisations including the Health and Wellbeing Board.
- There was general agreement amongst the members of the Panel that in the future it would be beneficial if the PCC were to regularly attend meetings so that a dialogue could be established. It was also suggested that the Chief Constable could be invited to attend if it was felt necessary.

Resolved:

1. That the Police and Crime Commissioner be invited to attend the next meeting of the Panel in order to discuss their initial thoughts regarding potential priorities.
 2. That a report regarding the potential working arrangements between the Panel and the PCC be brought to a future meeting.
- 6. Presentation by Mr C Long, Deputy Chief Crown Prosecutor and Chair of the Lancashire Local Criminal Justice Board**

Mr Long, the Chair of the Lancashire Local Criminal Justice Board (LCJB) gave a presentation on the role and responsibilities of the Board and how it could work with the Panel in the future. A copy of the Board's current strategy document was circulated to the members of the Panel, a copy of which is set out in the Minute Book.

The following points were covered in the presentation.

The LCJB is made up of the Police, Crown Prosecution Service, Her Majesty Courts and Tribunal Service, the Probation Service, Prison Service, Youth Offending Team, Legal Services Commission and Victim Support working together to deliver improvements across the whole criminal justice system.

The Board operates at a strategic level and aims to encourage joint working within the criminal justice system in order to:

- a) Continuously improve joint working to make the criminal justice system in Lancashire more effective and efficient that meets the needs of victims and witnesses and brings offenders to justice;
- b) Reduce crime and prevent re-offending
- c) Improve the confidence of the communities we serve in the Criminal Justice System

The Board could assist the Panel when considering strategic issues by providing a wealth of knowledge/information regarding the criminal justice system.

In noting the presentation the Panel expressed concern that in seeking information about services in the future the Panel could become involved in more operational matters and it was recognised that care would need to be taken to ensure that the Panel maintained its strategic role.

There was general agreement amongst the members of the Panel that in the future information regarding particular issues or aspects of the criminal justice system would be required and support from the LCJB would be beneficial.

Finally it was noted that the Centre for Public Scrutiny and the Local Government Association was due to publish a paper on a Guide to Scrutiny for Police and Crime Panels which would be presented to the next meeting for discussion.

Resolved: That the presentation be noted.

7. Programme of future meetings for the Police and Crime Panel

A report was presented regarding potential dates for future meetings of the Panel which would rotate between County Hall, Preston and the Town Hall at Blackburn.

In noting the proposed dates it was suggested that some meetings be held in the evenings and Mr Jones informed the meeting that in finalising the programme of meetings consideration would be given to evening meetings and that a further report would be presented to the next meeting.

Resolved:

1. That the next meeting of the Police and Crime Panel for Lancashire be held at 10.00am on the 26th November 2012 at the Town Hall, Blackburn.
2. That future meetings of the Panel be held on the following dates.

17 th December 2012	- County Hall, Preston
29 th January 2013	- Town hall, Blackburn
12 th February 2013	- County Hall, Preston
13 th March 2013	- Town Hall, Blackburn
8 th July 2013	- County Hall, Preston.
3. That consideration be given to some meetings being held in the evenings and proposed start times for all future meetings be reported to the next meeting.

8. Complaints Handling Process

Resolved: That consideration of the PCC complaints handling arrangements be deferred the next meeting of the Panel.

9. Urgent Business

There were no items of urgent business for discussion at the meeting.

10. Date of Next Meeting

In accordance with an earlier decision of the Panel the next schedule meeting will be held at 10.00am on the 26th November 2012 at the Town Hall, Blackburn.

Ian Fisher
Secretary to the Police and Crime Panel

Lancashire County Council
County Hall
Preston

Agenda Item 3

Police and Crime Panel

Meeting to be held on 26th November 2012

Update on the constitution of the Police and Crime Panel

Contact for further information: Mike Neville 01772 533431, Office of the Chief Executive mike.neville@lancashire.gov.uk

Executive Summary

An update regarding the formal approval by the Home Secretary regarding the establishment and membership of the Panel and the requirement for an additional three co-opted elected members.

Recommendation

The Panel is asked to note the Home Secretary's approval to the appointment to the Panel of the three co-opted elected representatives.

Background and Advice

At the Police and Crime Panel in October it was reported that following the initial meeting formal notification of the establishment and membership of the Panel for Lancashire had been sent to the Home Office as required by the Regulations.

With regard to the appointment of an additional three co-opted elected members to satisfy the political balance requirements it was reported that the necessary formal approval by the Home Secretary was still awaited. At that time the Home Office had indicated that the submission for Lancashire would be included in the next tranche of requests to be put to the Home Secretary for consideration once ministers returned to Parliament after Recess and a formal response was expected.

On the 2nd November 2012 the Director General of the Home Office (Crime and Policing Group) wrote to the Chief Executive of the County Council to confirm that the Home Secretary had formally approved the co-option of the following three additional elected representatives to the Panel.

Councillor N Mottershead (Burnley)
Councillor I Oades (Fylde)
Councillor M Thomas (Lancaster)

A copy of the letter was circulated to all members of the Panel and the three additional co-opted members were also informed individually.

Recently Burnley Borough Council have confirmed that Councillor Mottershead has been replaced on the Panel by Councillor Kennedy

Confirmation of the appointments completes the full membership of the panel with 18 elected representatives and 2 independent co-opted members all of whom have full voting rights.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

The provision of an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Letter from the Director General (Crime and Policing Group) Home Office	2 nd November 2012	M Neville, Office of the Chief Executive 01772 533431

Reason for inclusion in Part II, if appropriate

N/A

Agenda Item 4

Police and Crime Panel

Meeting to be held on 26th November 2012

2012/13 Programme of Meetings for the Police and Crime Panel

Contact for further information: Mike Neville 01772 533431, Office of the Chief Executive mike.neville@lancashire.gov.uk

Executive Summary

This report sets out proposed start times for the programme of future meetings which was agreed at the last Police and Crime Panel.

Recommendation

The Panel is asked to consider the suggested start times for future meetings and finalise the programme of meetings.

Background and Advice

At the Police and Crime Panel on the 1st October 2012 a programme of meetings was agreed for 2012/13 with future meetings alternating between venues in Blackburn and Preston. However, in agreeing the programme it was suggested that further consideration should be given to the start time of meetings with a view to some being held in the evenings. As a result further consultations have taken place and suggested start times in relation to the agreed future meetings are set out in the table below.

Meeting	Work Plan
17 th December 2012 10am Cabinet Room 'C' County Hall, Preston.	<ul style="list-style-type: none">• Potential Confirmation hearing for Deputy Police and Crime Commissioner• Contextual briefing on budget/precept process.• Contextual briefing on Police and Crime Plan.
29 th January 2013 10.00am Meeting Room 'A' Blackburn Town Hall	<ul style="list-style-type: none">• Proposed PCC precept.• Update report on draft Police and Crime Plan.
12 th February 2013 6.30pm Cabinet Room 'C' County Hall, Preston	<ul style="list-style-type: none">• Final meeting in connection with the PCC precept if previously vetoed.• Draft Police and Crime Plan.

Meeting	Work Plan
13 th March 2013 10.00am Meeting Room 'A' Blackburn Town Hall	<ul style="list-style-type: none"> • Opportunity to meet with PCC to discuss performance to 31st December 2012.
8 th July 2013 6.30pm Cabinet Room 'D' County Hall, Preston	<ul style="list-style-type: none"> • Annual General Meeting. • Opportunity to meet with PCC to discuss performance to March 2013.

Consultations

Implications:

This item has the following implications, as indicated:

Risk management

The provision of an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Report and Minutes from PCP	1 st October 2012	M Neville, Office of the Chief Executive 01772 533431

Reason for inclusion in Part II, if appropriate
 N/A

Agenda Item 6

Police and Crime Panel

Meeting to be held on 26th November 2012

Procedure for dealing with Confirmation Hearings.

Contact for information: Roy Jones 01772 5336199, Office of the Chief Executive
roy.jones@lancashire.gov.uk

Executive Summary

This report sets out the Panel's responsibilities and processes concerning the appointment of a Deputy Police and Crime Commissioner for Lancashire

Recommendation

The Panel is recommended to agree to make arrangements to hold a public confirmation hearing, if required, in relation to the incoming PCC's proposed appointment of Deputy Police and Crime Commissioner.

Background and Advice

Under the Police Reform and Social Responsibility Act 2011 (the Act), one of the key functions of the Police and Crime Panel is to conduct confirmation hearings with candidates whom the Police and Crime Commissioner (PCC) proposes to appoint as Deputy Police and Crime Commissioner (DPCC), Chief Constable, Chief Executive and Chief Finance Officer, before they are confirmed in post. Accordingly, included in the Panel's Terms of Reference is the power to hold a confirmation hearing in public and review, make a report and recommendation (as necessary) to the PCC in respect of proposed appointments to these senior posts.

There is no requirement, at this time, for the Panel to hold confirmation hearings for the PCC's Chief Executive and Chief Finance Officer because, under the Act, the current post holders within the Police Authority will transfer to the PCC's office on 22 November 2012 and the Chief Constable will continue in post. However, the Panel will be required to hold confirmation hearings for subsequent appointments to these three senior posts and if the newly elected PCC wishes to appoint a DPCC, it will be necessary for the Panel to hold a confirmation hearing before the appointment can be confirmed.

At the time of writing, the outcome of the PCC elections for Lancashire is not known, though some candidates have indicated their intention to appoint a DPCC. The incoming PCC will be asked if they wish to give early consideration to the appointment of a DPCC.

When a PCC gives notice of an intention to make an appointment, the Panel must hold a confirmation hearing within three weeks and this report proposes

arrangements for the Panel to hold such a hearing in relation to the appointment of a DPCC following the election of the first Police and Crime Commissioner for Lancashire in November 2012.

Deputy Police and Crime Commissioner

A PCC may appoint a person as the DPCC for their police area who may (but does not necessarily have to be) their principal political adviser. The DPCC is the only member of the PCC's staff appointed at the discretion of the PCC and not on merit. It is a statutory office that is not politically restricted. The office is held by one person only and it is not possible to create multiple DPCCs through job-share or other contractual arrangements. There may be specific terms and conditions, including a notice period and the term of appointment must end not later than the day when the PCC's current term of office ends.

It will be for the incoming PCC to decide if they wish to make a formal appointment of DPCC. If so, they will need to consider and determine the role and day to day responsibilities, reporting arrangements and remuneration for the DPCC. The PCC may delegate some statutory functions to the DPCC, including determining the PCC's policing and crime objectives, preparing an annual report to the Police and Crime Panel and attending meetings when required to do so by the Panel. The Act places some restrictions on delegations to the DPCC.

Confirmation Hearing Process

The Act sets out the key elements of the confirmation hearing process.

If the PCC for Lancashire does wish to appoint a DPCC, he must formally notify the Panel of the name of the proposed appointee, the criteria used to assess his/her suitability, why the candidate satisfies those criteria, and the terms and conditions on which he/she is to be appointed. The PCC may also provide other information about the candidate such as a CV or a personal statement.

Within three weeks of receiving this notice, the Panel must review the proposed appointment by holding a confirmation hearing. The purpose of the confirmation hearing is to enable the candidate to appear before the Panel to answer questions relating to the appointment. The Panel should provide details of the confirmation hearing process to the proposed candidate and give notice to attend.

The hearing should focus on assessing the suitability of the candidate for the role as measured against the principles of professional competence (a candidate's ability to carry out the role) and personal independence (the need for the candidate to act in a manner which is operationally independent of the PCC). In relation to the DPCC, if this is to be a political appointment to assist the PCC to drive their vision and priorities, consideration of their independence will be different to that of the chief officer appointments. However, the DPCC will need to understand the separation of political and operational responsibilities for policing.

The confirmation hearing should be framed to allow the Panel to make an informed decision about the candidate's suitability for the post. Having regard to the

information provided by the PCC, members of the Panel may put questions to assess whether the candidate:-

- has relevant knowledge, skills and experience to enable them to carry out that role;
- has the personal independence to exercise the role as set out in the role profile;
- has the time and capacity to carry out the position.

The presumption is that the hearing will be held in public. However, the Panel has discretion to exclude the press and public from the meeting if it is to consider exempt information, as defined under Schedule 12A of the Local Government Act 1972, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

After the hearing the Panel must report and make a recommendation to the PCC as to whether or not the candidate should be appointed. The Panel must publish its report in the manner it considers appropriate. The Chair of the Police and Crime Panel will inform the PCC in writing of the Panel's views on the candidate's suitability for the post and the recommendation as to whether or not the candidate should be appointed. The Panel should publish its report as soon as possible.

The PCC may accept or reject the Panel's recommendation as to whether or not the candidate should be appointed and the PCC must notify the Panel of the decision whether to accept or reject the Panel's recommendation. The PCC does not have to give reasons for their decision.

Next Steps

In the first instance it will be for the PCC after taking up office to consider whether he wishes to make an appointment of a DPCC.

The Panel's next scheduled meeting is on 17 December 2012. Dependent upon how the PCC wishes to proceed, this may or may not be a suitable date to hold a confirmation hearing for a DPCC.

An update on the PCC wishes concerning the appointment of a Deputy will be provided at the meeting.

Legal Implications

These are included in the report.

Financial Implications

There are no direct financial implications arising from the recommendations set out.

Consultations

Report prepared by Officers from the Office of the PCC in consultation with the Secretariat for the PCP.

Implications:

This item has the following implications, as indicated:

Risk management

The provision of an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985**List of Background Papers**

Paper	Date	Contact/Directorate/Tel
LGA Police and Crime Panel Guidance on Confirmation hearings	November 2012	Christine Durber, Lancashire Police Authority 01772 533415

Reason for inclusion in Part II, if appropriate
N/A

Agenda Item 7

Police and Crime Panel

Meeting to be held on 26th November 2012

Procedure for dealing with Complaints about the Police and Crime Commissioner

Contact for further information: Roy Jones, 01772 533619, Office of the Chief Executive, roy.jones@lancashire.gov.uk

Executive Summary

This report presents options for consideration on how the Police and Crime Panel will fulfil its statutory duty for the handling of complaints against the Police and Crime Commissioner, and the Deputy Police and Crime Commissioner if appointed.

Recommendation

The Panel is asked to consider the options set out in the report for the handling and resolution of complaints made against the Police and Crime Commissioner, and to

- a) agree the model it wants to adopt for the initial handling and administration of complaints (option A 1, 2 or 3);
- b) agree the model it wants to adopt for the informal resolution of complaints (option B 1, 2 or 3);
- c) agree arrangements for the review and monitoring of complaints received.

Background and Advice

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations") set out the processes by which complaints against a Police and Crime Commissioner (PCC) and a Deputy Police and Crime Commissioner (DPCC) are to be dealt with. The Regulations are based upon the Police Reform Act 2002 and the Police (Complaints and Misconduct) Regulations 2004 for handling complaints against Chief Constables and Senior Police Officers.

Under the Regulations, the Independent Police Complaints Commission (IPCC), the Office of the Police and Crime Commissioner (OPCC), the Police and Crime Panel (the Panel) and the Chief Executive for the PCC (the Chief Executive) all have some responsibility for dealing with complaints, depending on their nature and seriousness.

The Police and Crime Panel has responsibility for handling all complaints (including conduct matters) directed against the PCC and DPCC. The Panel must consider each complaint that is made and determine what action should be taken, in

accordance with the Regulations. Any complaints or matters raised which indicate that the PCC or DPCC has, or may have, committed a criminal offence must be referred to the IPCC for them to consider and deal with appropriately.

The Regulations provide that the Panel may delegate all or any of its powers or duties under the Regulations, with the exception of Part 4 (informal resolution of complaints), to the Chief Executive of the Office of the PCC. This includes the process for the handling of complaints.

Very recently, the Home Office have issued guidance, to support the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 that confirms that this process can now be delegated also to the Monitoring Officer of the host authority.

A. Options for Handling Complaints

At the meeting in October a report was presented regarding the responsibility of the Panel to handle complaints made against the PCC. The report included the possible delegation of responsibility for handling complaints to the PCC's Chief Executive. However, as a detailed report on the processes involved was due to be presented to the next meeting it was agreed that consideration of the report should be deferred to await the more detailed report.

The recently made Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 selectively apply some existing local authority enactments to Police and Crime Panels. The selected provisions include the power under Section 101(2) of the Local Government Act 1972, which allows a committee or joint committee discharging functions to arrange for those functions to be discharged by a Sub Committee or an officer, in the absence of a contrary direction from the authority or authorities.

Under these provisions the Panel could delegate functions around the initial handling and administration of complaints to the Monitoring Officer of Lancashire County Council as the lead/host local authority and/or to a Sub Committee of the Panel.

The Regulations also require the Panel to identify a contact point for the IPCC for initial complaint handling. The contact point is required to be available at the weekends and out of hours.

Set out below are various options for the Panel to consider.

Option 1. Consideration of complaints by the Panel

The Panel has the statutory role of overseeing all complaints against the PCC and DPCC and informally resolving non-criminal complaints, as well as complaints or conduct matters that are referred back to the Panel by the IPCC.

Some of the actions which are necessary to fulfil the Panel's duties regarding complaints are required to be taken within (more or less) a 24 hour period and there

are a number of other administrative actions that should also be undertaken promptly.

Whilst at this stage, the nature or volume of complaints that might arise is unknown, in view of the size and composition of the Panel and the frequency of meetings, it is not considered practicable to deal with the consideration of all complaints at full meetings of the Panel.

Option 2. Delegated Authority to the Chief Executive of the PCC

In relation to those matters that cannot wait for the Panel as a whole to meet to consider and those administrative actions that should be undertaken promptly, the Panel has the option in legislation, and as provided for in the Regulations, of naming the PCC's Chief Executive as the first point of contact for all complaints made against the PCC, and a DPCC if appointed.

The PCC's Chief Executive must also be the Monitoring Officer and will, therefore, already have the function of assessing the lawfulness and propriety of the PCC's actions, and for doing so in an effective and impartial manner.

In many ways, this arrangement reflects current police authority arrangements where staff would handle complaints against members. The handling of member complaints by the Chief Executive/Monitoring Officer of the same authority also reflects normal practice in local government.

The Chief Executive's staff at Lancashire Police Authority have considerable experience of dealing with complaints made against senior police officers under the police legislation referred to above, which has been used as a model for developing the suggested PCC complaints handling procedure below.

The recently published Home Office Guidance considers that this delegation arrangement reflects current police practice where police authority staff handle complaints against members, and does not suggest that this task is currently not carried out effectively and impartially.

The following is the proposed model should the Panel decide to delegate responsibility for the handling of complaints against the PCC to the PCC's Chief Executive:

Initial Handling

- a) All incoming complaints which appear to relate to the conduct of the PCC or DPCC will immediately on receipt be forwarded to the Chief Executive who will, within 5 working days of receipt, express a view as to the process for the handling of the complaint (in whole or in part).
- b) The view of the Chief Executive as to the process for the handling of the complaint (in whole or in part) will be shared with the Secretary to the Panel.

- c) The view expressed by the Chief Executive on any complaint received will be whether:
- (i) The complaint is one to which the Regulations relate and which is required to be recorded and whether the complaint may require referral to the IPCC.
 - (ii) The complaint relates to a member of staff from the Office of the PCC and should be referred to the PCC's Chief Executive to deal with.
 - (iii) The complaint relates to the Chief Constable and is a matter to be dealt with by the PCC.
 - (iv) The complaint relates to a police officer and should be referred to the Chief Constable (Professional Standards Department) to deal with.
 - (v) The complaint should be handled otherwise than in accordance with Part 4 of the regulations (informal resolution) on the grounds set out in Regulation 15(3).
 - (vi) The complaint is more than 12 months old, a matter already subject to a complaint, is anonymous, repetitious, vexatious, oppressive or an abuse of procedure, in which case no action will be taken.
- d) If a situation arose where the Chief Executive considered that there was either an actual or perceived conflict of interest in relation to an individual complaint, the Chief Executive would refer the matter back to the Panel. The Panel would delegate the consideration of matters so referred to the Lead Authority's Monitoring Officer or a Sub Committee of the Panel.
- e) The Panel reserves the right to reverse the delegation to the Chief Executive both generally and in relation to any particular complaint.

Assistance

- f) The Chief Executive will provide assistance, information and access to premises to the IPCC or its appointed investigator in relation to any investigation of a Serious Complaint or Conduct Matter by the IPCC.
- g) The Chief Executive will notify the complainant and keep them informed of progress in accordance with the Regulations and as agreed with the complainant.
- h) All requests for a complaint to be withdrawn which appear to relate to the conduct of the PCC or DPCC will immediately on receipt be forwarded to the Chief Executive and, within 5 working days of receipt, the Chief Executive shall express a view as to process for the handling of the request in accordance with the provisions of the Regulations and Guidance. The view of the Chief Executive as to the process for the handling of the request will be shared with the Secretary to the Panel.

Option 3. Delegation to the Host Authority Monitoring Officer or a Sub Committee

As stated above the recently published Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 allows the panel to delegate the process for the handling of complaints against the PCC to the Monitoring Officer of the lead/host authority or a Sub Committee. This would include the detailed recording and referral of complaints to the IPCC described at Option 2 above.

The recent Guidance published by the Home Office confirms that the resources to be made available to the Host Authority for the support of the PCP's scrutiny function includes the handling of complaints and points to the ability to delegate this function to the PCC's Chief Executive to 'minimise this administrative burden'.

B. Informal Resolution

Informal resolution is the process provided for the PCP in legislation for the resolution of complaints against the PCC and is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant without an investigation or formal proceedings. It does not involve the imposition of any sanction and is a flexible process that may be adapted to the needs of the complainant and the individual complaint. It may involve the person complained against explaining their conduct and, if appropriate, apologising for it either by correspondence or in a face to face meeting.

The method of informal resolution is for the Panel to determine, provided that it is in accordance with the Regulations and guidance issued by the Secretary of State.

Using the informal resolution procedure, the Panel may deal with the matter itself or by appointing one of the following to secure the informal resolution of the complaint and then report back to the Panel at the conclusion of the process:

- A single member of the Panel,
- A person who is not a member of the Panel (but not the PCC or DPCC nor the PCC's Chief Executive) or
- A Sub Committee

Option 1. Consideration of Informal Resolution by the Panel

The Panel may consider matters of informal resolution at its meetings. Whilst, at this stage, the nature or volume of complaints that might arise is unknown, in view of the size and composition of the Panel and the frequency of meetings, it is not considered practicable to deal with the consideration of the informal resolution of all complaints matters at full meetings of the Panel.

Option 2. Appointment of an Individual

The Regulations allow for delegation of the informal resolution procedure to a single member of the Panel or a person who is not a member of the Panel, although not the PCC or DPCC or the PCC's Chief Executive. This would place responsibility for

decision making on one independent individual and in view of the lack of knowledge of the volume and nature of such complaints, it is recommended that this option is not pursued at this time.

Option 3. Proposed Delegated Authority to a Complaints Sub-Committee

Some of the actions required to be taken to fulfil the Panel's duties may not be delegated to the PCC's Chief Executive (Part 4 – Informal Resolution of Complaints see below). It might be necessary to convene the Panel at fairly short notice to consider the handling or informal resolution of complaints.

In order to facilitate the timely consideration of matters which are referred to the Panel, it is recommended that, initially, the Panel would establish a Complaints Sub Committee comprising five Panel Members for this purpose. The Sub Committee could either be a standing sub committee (which will enable experience amongst a group of members to be gained over time) or a drawn from the full membership each time it needs to meet (which may provide greater flexibility).

It is recommended that the following powers and duties should be delegated to the Sub Committee to act on the Panel's behalf:

- a) To consider complaints which appear to relate to the conduct of the PCC or DPCC where the Chief Executive considers that either there is an actual or perceived, conflict of interest or possible negative public perception in respect of her taking the decision whether to record a Complaint or Conduct Matter, or in respect of her identifying a Serious Complaint for subsequent referral to the IPCC;
- b) To consider any matters referred back to the Panel by the IPCC (including a Serious Complaint that has been referred to the IPCC and then referred back to the Panel);
- c) To consider any complaint referred to the Panel by the Chief Executive in accordance with Part 4 of the Complaints Regulations relating to informal resolution.

In accordance with the Regulations, any matter being handled in accordance with Part 4 may be remitted at any time to the Panel as a whole (whether at the request of the Sub Committee, the complainant or the person complained against, or otherwise) if the Panel is of the opinion that this will lead to a more satisfactory resolution of the complaint.

The Panel may wish to delegate authority to the Secretary to the Panel, in consultation with the Chair of the Panel, to convene a meeting of the Sub Committee when required.

C Monitoring and Review

Regular Reporting

Ultimate responsibility for handling any complaint remains with the Panel. However, if it nominated the PCC's Chief Executive to handle any complaints matters, it would wish to satisfy itself that the Chief Executive could deal with any complaint impartially. This would be done by regular reporting to the Panel and liaison with the host authority on matters in between meetings.

The Chief Executive would provide an update report to each scheduled meeting of the Panel about all complaints and other matters concerning the conduct of the PCC and DPCC covered by the Regulations.

Monitoring – Dip Sampling

As part of any reporting mechanism, the Panel could choose to adopt a process of regular 'dip sampling' of all completed complaints files in order to monitor that complaints are being considered in an appropriate manner.

Review

It is proposed that the arrangements adopted by the Panel for the handling and resolution of complaints will be reviewed after 6 months' operation and a report on the findings of the review will be presented to the Panel in July 2013

Complaints Made Against the Panel

So far, no provision has been made in legislation or guidance regarding who should handle any complaint made against the Panel. The position on this will be reviewed when such provision is made. Each member will be subject to their respective appointing Authority's Codes of Conduct

Consultations

Report prepared in consultation with officers at Lancashire Police Authority.

Implications:

This item has the following implications, as indicated:

Risk management

The provision of an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
Guidance on Police and Crime Panel handling of complaints and conduct matters about the PCC	November 2012	Home Office Website http://www.homeoffice.gov.uk/publications/police/pcc/pcp-complaints-handling-process

Police and Crime Panel

Meeting to be held on 26th November 2012

The Scrutiny Function of the Police and Crime Panel.

(Appendix 'A' refers)

Contact for further information: Mike Neville 01772 533431, Office of the Chief Executive mike.neville@lancashire.gov.uk

Executive Summary

This report sets out the latest guidance in relation to the scrutiny role of the Police and Crime Panel.

Recommendation

The Panel is asked to consider the guidance set out at Appendix 'A' in relation to its role in scrutinising the PCC.

Background and Advice

At the last meeting there was some discussion in relation to the scrutiny role of the Panel and it was reported that the Centre for Public scrutiny and the Local Government Association was due to publish Guidance in relation to scrutiny for Police and Crime Panels.

A copy of the recently published Guidance is attached as Appendix 'A'. The Guidance outlines the scrutiny landscape in the new police governance arrangements; links to other scrutiny bodies; and processes for scrutiny work. The Panel is asked to consider the Guidance in relation to its role in scrutinising and supporting the PCC and relationships with other bodies.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

The provision of an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Directorate/Tel
LGA/CfPS Guidance for PCPs on Scrutiny	November 2012	M Neville, Office of the Chief Executive 01772 533431
Reason for inclusion in Part II, if appropriate		
N/A		

Police and crime panels

A guide to scrutiny





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Introduction

Police and crime panels (referred to as Panels in this guidance), will from November 2012 be responsible for supporting, and scrutinising the police and crime commissioner (referred to as the PCC, in this guidance)¹ in each police force area in England and Wales. Panels will be scrutiny bodies with a range of statutory duties, and the responsibility for scrutinising² and supporting³ the PCC's activities over a range of policy areas.

The role of panels, and the work carried out by local authority overview and scrutiny committees that oversee community safety partnerships (CSPs), will inevitably cover some of the same ground, and there will be some areas of potential synergy which is explored in this advice.

Ensuring the panel provides effective scrutiny of the PCC could be a challenge given the limited resources available to fund panels even where a panel limits itself to carrying out just the functions provided for in legislation. This is explored in the section below, on “supporting set-piece events”. In this guidance, we use the term “set piece events” as shorthand for the formal, statutory functions of the panel that must be conducted “in committee”, which we set out in more detail below.

This guidance is intended to assist in the planning and operation of panels established by local authorities (Part 2 panels)⁴. Those established by the Secretary of State (Part 3 panels) have identical powers but may operate differently. Care would therefore be needed in applying this guidance in relation to Part 3 panels.

All references in this guidance to ‘the Act’ relate to the Police Reform and Social Responsibility Act 2011.

Text note

This guidance has been drafted by CfPS and LGA and as such reflects their views on the recent policy and legislative developments in relation to police and crime panels. It is not a reflection of the views of the Government or of civil servants at the Home Office who will be issuing official guidance on police and crime panels in due course. As far as is possible the following advice has been drafted so as to complement official guidance.

¹ Local Government Association/Centre for Public Scrutiny. (2011) Police and crime panels: guidance on role and composition, para 3.1, p7; see also subtitle preceding section 28 of the Act, and s28(6).

² s28(3) onwards

³ s28(2)

⁴ Under Schedule 6 of the Act a Part 2 panel operates as a local government joint committee set up by the councils in the force area. Under Part 3 the Home Office establishes the panel. All Welsh panels will be Part 3 panels.

The local accountability landscape

Different bodies involved

There are a number of different bodies carrying out a range of roles in local accountability around policing and community safety, reflecting the different and overlapping structures that have grown up. As crime and disorder are best tackled by multi-agency partnerships it is important these bodies are brought together. This is recognised in s10 of the Act, which refers to the need for the PCC to work in partnership with other agencies, and people, to deliver his or her priorities.

The panel will also need to understand that to carry out its scrutiny role, it too will need to work in partnership with others including the PCC and other relevant bodies and organisations that deal with police and crime matters locally and may work with the PCC. Principally, this will be community safety partners (CSPs), which might receive funding from their PCC after April 2013.



Overview and scrutiny committees

CSPs are scrutinised by crime and disorder overview and scrutiny committees. Under the 2006 Police and Justice Act, councils are under an obligation to allocate this function to one of their committees⁵. The work they carry out is an important part of the landscape and the outcomes from their scrutiny should be shared, and passed between relevant bodies (particularly where matters of concern arise). This should help to make sure that scrutiny happens in the right place, at the right time and involves the right people.

The panel should have a good overview of how resources might be effectively spent locally by CSP partners and others. Good links with CSP scrutiny committees of local authorities will help the panel advise the PCC accordingly. This is further explored later in this guidance.

Other scrutiny bodies

Scrutiny and accountability will be exerted in other ways too. Her Majesty's Inspectorate of Constabularies (HMIC) has an inspection role to which the panel will need to have regard, in considering how the PCC addresses potential performance concerns within the local force. The local press, and the public, will also seek to exert influence, sometimes through consultation processes operated by the PCC or the local force.

⁵ This is a power that relates to the partnership as a whole rather than the individual partners. However, it should be noted that, through other mechanisms, scrutiny applies to some of these partners individually (local authorities and NHS bodies, for example).

As part of the landscape, there may also need to be links with local authorities' health scrutiny powers under the Health and Social Care Act 2012, given that joint or co-commissioning between the PCC and directors of public health may prove important both in reducing re-offending, and with early intervention on various matters relating to criminal justice and community safety.

Such areas will provide further opportunities for the panel to work together with local authority scrutiny functions. Additionally panels may need to consider how they work with other panels given the joint working and collaboration already existing between forces and the desire by the government for this to increase.

All these different engagement and scrutiny mechanisms form a part of what CfPS refers to as a 'web of accountability'.⁶

Within this landscape it will be important for the panel to remember its own specific role – that of holding the PCC to account. It will need to work with these other people, agencies and organisations to make sure that its work complements, rather than duplicates, their own.

Policing protocol

The Home Office has produced a national protocol to define the relationship between the PCC, the panel and the chief constable, which emphasises these issues⁷. In brief, the protocol affirms that:

- the PCC will have responsibility for setting the 'strategic direction and objectives of the force', and monitoring performance including against the priorities in the police and crime plan
- the PCC will be responsible for holding the chief constable to account (but not fettering the chief constable's operational independence, or that of the force)
- the PCC will provide the 'local link' between the police and the public, working to 'translate the legitimate desires and aspirations of the public into action'
- the PCC must comply with all formal requests from the panel to attend their meetings
- the PCC must prepare and issue an annual report to the panel on delivery against the objectives in the police and crime plan
- the PCC has wider responsibilities as well – making crime and disorder reduction grants, delivery of community safety, enhancement of the delivery of criminal justice in the area and bringing together CSPs at force level, and, importantly, the 'ability to enter into collaboration agreements between other PCCs and force'.

⁶ Centre for Public Scrutiny (2010) Accountability works

⁷ Policing Protocol Order 2011 (SI No. 2744)

The panel's role in the accountability landscape sits within this framework. The protocol, like the legislation, makes clear that it is not the responsibility of the panel to scrutinise the chief constable, but instead the way that the PCC exercises his or her statutory function of providing strategic direction in local policing. This separation is fundamental to policing governance.

Participants in the process may wish to supplement the protocol with more practical detail about how accountability will be exercised, in doing so including the scrutiny arrangements for CSPs, and health, in the area as well. Some force areas are planning to prepare a 'memorandum of understanding' to ensure that shared expectations between the PCC, and other partners, are promoted. Where such memoranda are proposed, the role of panels should be considered. Where shadow panels are in operation the members of those panels should be involved in the production of memoranda.



Panel links with overview and scrutiny

Under the Police and Justice Act 2006, local authorities must scrutinise their area's community safety partnership (CSP). Under the 2006 Act they are only able to hold the partnership as a whole to account, rather than the individual partners. However councils can scrutinise some of the individual bodies, such as the NHS, within the partnership through other scrutiny legislation. These powers of scrutiny will remain under the new arrangements for policing, and as such CSP scrutiny and the panel will need to work to avoid duplication in their work.

The PCC will not be a 'responsible authority' for the purposes of community safety partnerships. We have, however, noted above that PCCs will have the power to make grants to CSPs, and so there is the potential for CSP scrutiny to cut across areas of the panel's responsibility.

To avoid duplication, CSP scrutiny and the panel should therefore work together in:

- Identifying issues of mutual interest and concern and selecting the best forum to investigate those issues. It may even be worthwhile under certain circumstances to consider joint panel/CSP scrutiny investigations into certain issues. This reflects the concept of 'layered scrutiny' that CfPS has developed for use in relation to health scrutiny⁸.

⁸ Centre for Public Scrutiny. (2012) Health scrutiny: exploiting opportunities at a time of change

- Ensuring that the panel is plugged in to local-level issues within the force area, which will be impacted by PCC decision-making. The panel will need some means to connect their work down to neighbourhood level. CSP scrutiny provides them with a means to do this.
- Sharing evidence. Joint working will mean a better use of resources, as the panel is able to draw on evidence collected by CSP scrutiny, and vice versa.

Where the panel includes non-executive councillors, some may also sit on CSP scrutiny committees, making joint working between the two more straightforward. Where the panel is composed predominantly or entirely by executive-side members, the authorities in the force area will need to identify ways – relevant to each area – to achieve effective liaison between the panel and CSP scrutiny committees. This could involve CSP scrutiny committees being brought into local protocols or memoranda of understanding between the PCC and key partners.

Potential conflict of interest

Where panels include councillors who sit on CSPs, there could be a conflict of interest which might arise where particular items of business relate to actual or potential funded work carried out by CSPs on behalf of the PCC. Where CSPs have a provider/funder relationship with the PCC, it may be difficult for them to effectively scrutinise the PCC's work.

Assuming that the panel will be subject to the same rules on interests as other local government committees, such a conflict will relate not to a personal or prejudicial interest, but it does relate to conflicting roles carried out by the councillor in question owing to their official position. As such, there is no legal bar on such councillors sitting on panels, or participating in discussions where such conflicts may arise. However, monitoring officers and councillors themselves should be aware of the risks that may arise when the panel's composition makes such circumstances likely to occur, and to recur.



Work programming

Set piece events for statutory functions

The panel has certain statutory functions, set out in the Police Reform and Social Responsibility Act. Each newly established panel will need to focus on these ongoing key functions:

- reviewing the police and crime plan⁹
- reviewing the PCC's annual report¹⁰
- reviewing the policing precept¹¹;
- carrying out confirmation hearings for certain senior appointments (on which separate guidance is available)¹²
- carrying out confirmation hearings for the chief constable (on which separate guidance is available)¹³
- investigating complaints about non-criminal behaviour of the PCC¹⁴.

Some of these functions are specified as 'special' functions, which cannot be delegated to a sub-committee of the panel¹⁵.

Parts of this guidance refer to such "special" functions as 'set-piece events', to highlight the fact that they will be carried out by the panel, in the context of a formal committee meeting, often requiring fairly substantial prior preparation, and usually the attendance of the PCC.

There are wider duties in the Act for the panel to make reports and recommendations on matters relating to the PCC¹⁶, and to carry out investigations into decisions made by the PCC¹⁷.

In order to carry out its statutory functions, the panel will need to have a good understanding of policing priorities and community safety issues in the area. It will not be possible for the panel to acquire this understanding solely by carrying out its 'special functions'; it will need to carry out additional work, and investigations as well.

Additional work

Additional work, complementing the set-piece events being carried out to deliver the statutory functions above, will be necessary to help the panel support to the PCC. It is suggested that both areas of activity should be regarded as integrated facets of the panel's operations.

9 s28(3)

10 s28(4)

11 Schedule 5

12 Schedule 1, Paragraphs 10 and 11

13 Schedule 8

14 Schedule 7, paragraph 3(2)(b)

15 Schedule 6, paragraph 27(1). See also R&C, paragraph 5.21

16 s28(6)(b)

17 s28(6)(a)

The panel will not be able to carry out its statutory responsibilities without having a detailed understanding of a range of issues connected to policing and crime in the local area. Some panel members may have knowledge relevant to their own areas already; for example, by being a cabinet member with a portfolio including community safety, or being the chair of an overview and scrutiny committee with responsibility for looking at community safety issues.

However, other than councillors who have previously served on police authorities it is unlikely members of the panel will have the general, strategic overview of policing issues within the force area that will be vital to carrying out the scrutiny role.

One way that members of the panel could get a strategic overview would be to carry out work in-year that goes beyond the panel's 'statutory duties'. This would enable members build up their knowledge of complex, cross-cutting issues, in a way that would be difficult to achieve through either a report submitted by the PCC, or background research carried out by an officer. A panel attempting to operate on this basis would then be better placed to carry out effective scrutiny.

In-year work, such as task groups, will therefore need to be considered as supportive and complementary of, rather than supplementary to, these set-piece events. This is why we believe it may be difficult to effectively scrutinise the PCC where the panel only carries out its 'statutory functions'.

However, it is important that such work is not planned and delivered in such a way that seeks to set the panel's role as a local government 'partnership board', making decisions jointly with the PCC like a 'mini-police authority'.

The panel should instead act as a critical friend; a supportive, but independent, voice seeking to investigate the PCC in the interests of recommending – not directing, or seeking to co-ordinate – changes and improvements.

This demarcation is explained in more detail below.

Comprehensive work programming

Like overview and scrutiny committees in local government, as a scrutiny body the panel will need to develop a work programme to guide its work in holding scrutinising and supporting, the PCC, encompassing both the 'set piece' events we discussed above, and its wider, additional work (hence, 'comprehensive' work programming).

Scrutiny committees in local government usually put together a relatively detailed work programme at the beginning of every municipal year. In a recent publication on this subject¹⁸, CfPS suggested that, alongside such an annual process, an in-year flexible approach to the work programme would need to be adopted, to ensure that a given committee remains responsive to events.

18 Centre for Public Scrutiny. (2012) A cunning plan

Proper work programming will enable the panel to manage its time and resources effectively. It will allow it to prepare for its set-piece, statutory functions by identifying and scheduling other work such as task group activity and research. As has already been suggested, such work will be invaluable in terms of informing the panel's statutory work, and making the panel effective.

Given that the panel is an independent joint committee, work programming will also be important for the following reasons:

- it will ensure that the panel keeps to strategic issues, and links up to PCC activities
- it will provide the PCC with a level of certainty and assurance, as he or she will know which issues the panel will be likely to investigate, how and when
- it will allow the panel to manage its own resources more effectively
- it is sensible in the interests of openness and transparency to be able to demonstrate what the panel is likely to be doing, to allow others to engage in that process
- it will make it easier for the panel and other scrutiny bodies (such as CSP scrutiny, as discussed in the section above) to work together, minimising the duplication of work.

The work programme will need to be properly managed, by the chair of the panel. For matters which arise during the year, the chair will (as is standard practice in local government) decide whether topics raised for discussion by members of the panel, and others, should go on the agenda. These decisions should be clear and transparent.

For example, the chair might use the following considerations to help decide whether a given issue is worth discussing:

- would the suggested item contribute to informing public debate on an issue?
- or could the debate lead to recommendations to the PCC about actions that would lead to tangible improvements to services?

Towards the beginning of the next municipal year a more formal process would be needed to decide on the dates and main substantive items for committee meetings, and the possible topics of more in-depth reviews. Local scheduling of discussions and local engagement on the police and crime plan, and the PCC's annual report, will help the panel to come to a judgment on its work programme.

At the outset the panel should communicate with the PCC to find out if there are any particular areas where assistance and support in policy development might be required. The PCC should then be consulted about the draft work programme. Where the panel is carrying out work that the PCC has suggested, this should be carried out in an independent and constructively critical manner.

Different methodologies

There will be a number of different ways for the panel to carry out its scrutiny work. The two main techniques will be to use **formal committee meetings**, and to use informal **task and finish groups**. Both methodologies are (or should be) interlinked and are explored further in the rest of this document.

Scrutiny by formal committee meetings

Public involvement

Some scrutiny will be carried out 'in committee'. This will provide an opportunity for the panel to receive written evidence in the form of a report (usually a report from the PCC), or sometimes to receive oral evidence from the PCC or their staff.

Because committee meetings must be held in public, they provide good opportunities for public engagement. While some meetings may be treated as 'business' meetings – with members receiving and discussing technical reports, for example on performance – from time to time it will be appropriate for meetings of the panel to be more obviously public-facing.

These kind of meetings might be held away from their traditional formal setting to encourage members of the public to play an active part, either through making comments, directly questioning witnesses on certain points or giving their own personal reflections on issues of local concern. These might be particularly useful in the consideration of the police and crime plan and/or the PCC's annual report. Public engagement activities carried out by the panel should always be arranged and planned in consultation with the PCC, who has a wider statutory responsibility to engage with the public.

Inviting witnesses

Under the Act, the panel has the power to call in the PCC, and the PCC's staff, to give evidence at panel meetings, and to invite the chief constable to give evidence¹⁹. Other than the PCC and his/her staff, the panel cannot require any other person to attend to give evidence. This reflects the fact that the panel exists to scrutinise and support the PCC, not the police or any other person or body.

The panel will be a joint committee of two or more councils²⁰, but the Home Office have stated that it will not be a joint committee for the purposes of the Local Government Act 1972. They plan to introduce regulations in autumn 2012 which will set out the extent to which existing local government legislation will apply to them. LGA and CfPS assume that it will.

As such, it is expected that (in line with other forms of joint committee) the panel has the power to call in other witnesses too. However, others should be invited to give evidence only where their evidence is required to assist in the scrutiny of the PCC.

¹⁹ s29

²⁰ Schedule 6, paragraph 4(5) (for Part 2 panels). Under paragraph 13(5), Part 3 authorities (including Welsh authorities) will not be local authority committees but the provisions of the 1972 Act relating to local authority committees are likely to still apply to them. See the forthcoming Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012

While it may be appropriate, in the course of an in-depth investigation (see below) to draw in evidence from a wide range of people in order to more effectively hold the PCC to account, care should be exercised when such evidence is to be taken from other partners formally, at the panel itself, for fear of the perception developing that the panel is purporting to hold those partners to account rather than the PCC.

A partner therefore might be asked to give evidence on:

- how they are helping the PCC to secure his or her strategic priorities
- how work that they are planning, or delivering, might impact (positively or negatively) on the PCC's performance
- how decisions they are making, or plan to make, on resources may impact upon future iterations of the police and crime plan, and future police precept figures
- how, if they are CSP responsible authorities, they are delivering on funding agreements made with the PCC.

In engaging with CSP partners, and with health bodies, the panel will need to work closely with committees (crime and disorder overview and scrutiny committees, and health scrutiny committees²¹) in individual local authorities that have the power to hold those partners to account.

²¹ Or whatever committees at local level are designated by the authority concerned to carry out those duties, in authorities operating under committee system arrangements

Planning formal meetings

A panel meeting formally four times a year will probably wish to use each meeting for a 'set piece' session with the PCC.

Each set piece session – whether it is considering a general policy matter, a specific performance issue, or one of the panel's statutory functions – will need to be considered in the light of the need for the panel both to make substantive recommendations on issues, and by so doing add tangible value to the delivery of the PCC's policies across the force area. This notion of adding value must be central to all the panel's activities.

It is assumed in each of the below sections that there will be occasions where it is more appropriate for the PCC's staff to attend either alongside, or instead of, the PCC.

Attendance by the PCC

PCC attendance on a substantive policy issue:

The panel may wish the PCC to speak to them about a substantive policy issues, such as:

- the prevalence of a particular crime across the force area
- the PCC's specific priorities under one or more aspects of the agreed police and crime plan
- the way that the PCC is, or is not, working together with partners to deliver a particular policy.

Members will have to be careful that discussion, particularly on the prevalence of particular crimes, focuses on the PCC's strategic response to these issues. Strategic and operational issues may overlap, but this on its own does not provide justification to 'keep the panel away' from policy issues in which they should be rightly interested. We discuss what 'operational' might mean in the section below.

PCC attendance on a performance issue

Throughout the year the panel will need to be kept updated on the PCC's performance in achieving his or her priorities under the police and crime plan. Not to do so would mean that they will be ill-prepared to properly consider the PCC's annual report at the end of the year.

The PCC will want, and need, to put in place a performance management system to ensure that the force is delivering against the police and crime plan. As part of the design of this process, the PCC and the panel could assess together the robustness of such a framework to ensure that it is fit for purpose, and will allow the panel to conduct effective scrutiny of the PCC. The force will also be subject to periodic inspections by Her Majesty's Inspectorate of Constabularies (HMIC), and the force will be obliged to publish crime data as well.

It makes most sense for performance information to be provided to members of the panel outside meetings, and for particular areas of concern to be selected by the chair for further scrutiny 'by exception'²². By doing this, the panel will be able to focus its attention on those performance issues where it can really add value, rather than carrying out superficial examination of a broad sweep of management data. Working in this way will ensure that PCC attendance to discuss performance issues will be targeted, that the PCC can prepare in advance and that substantive recommendations can come out of the session.

PCC attendance to present the annual report

The PCC and the panel may wish to work together to co-develop the annual report, to ensure that it is a robust document that can be actively used for improvement purposes.

A set-piece event should come at the end of this process, rather than being the first time that the panel sees the PCC's report.

A good session dealing with the annual report will use the report as a tool to carry out an 'annual review' of the PCC's activities, looking back at the last year, its successes and failures, and forward to the next year. The report presented at the set-piece event (in, say, March) would have enough detail in it to allow the panel to have a detailed discussion on the 'state of the force' and the state of the area.

²² See Centre for Public Scrutiny, (2010) Green Light

A less beneficial session would involve the panel highlighting apparent factual inaccuracies in the report, asking for additional narrative information on particular parts of it, or, even worse, suggesting typographical or grammatical amendments to the text. None of these things would add value to the effective scrutiny of the PCC and all of them would represent a poor use of time for everyone involved.

Consequently, the success or failure of a set-piece session looking at the PCC's annual report will very much depend on the quality of the annual report itself.

PCC attendance to discuss the policing precept

The panel has a veto over the policing precept and, as such, scrutiny of it will have to be carefully planned, and carried out in a fair and transparent manner.

The rate of the precept will be based on the priorities set out in the police and crime plan (see below). The panel will probably need to see evidence that backs up the proposed precept and, as such, it will make sense for the PCC to engage with the panel about this issue perhaps several times before the meeting.

The PCC should be invited to attend a meeting (usually a formal meeting of the panel) at which the precept is to be discussed before the final figure is formally put to the panel. Such a discussion might be carried out when a draft version of the police and crime plan is considered, or as part of a discussion about another substantive policy matter. This will allow the PCC to explore some of the potential options for the precept before a definitive proposal is put together – minimising the risk that the veto will be used and providing transparency in the policy development process.

The PCC will subsequently attend a meeting where the precept will be formally tabled and where the panel will have the opportunity to use their veto. If the PCC and panel have engaged effectively on this issue beforehand, this formal tabling can be dealt with swiftly and with minimal, if any, substantive discussion (as this discussion will have occurred beforehand). If there are still disagreements, the PCC and panel officers, and the PCC and panel themselves, will have to think carefully about how the meeting will be organised and run in such a way that will allow the panel to make a decision on whether or not to exercise the veto.

The veto will need to be exercised with care. Although regulations have yet to be issued, it could be that those regulations will only permit the veto to be exercised once. On this assumption, once the veto has been used the PCC will have to bring forward a revised precept, but the panel will not have the power of veto over this new figure.

If regulations provide an opportunity for multiple uses of the veto, the PCC and the panel will need, as part of their protocol, to define how this process of 'ping-pong' might work so as to minimise the risk of delay in setting the precept and the issuing of council tax bills.

Consequently, a veto should be accompanied by detailed reasoning, explaining why, in the view of the panel, the precept is not acceptable and suggesting another course of action in the form of recommendations. Such an approach will keep discussions focused on substantive issues, particularly where a veto is being exercised because the panel is unhappy with a specific part of the police and crime plan, delivery of which will impact upon the level of the precept.

PCC attendance to present the police and crime plan

The police and crime plan will set out the PCC's objectives for policing and reducing crime and disorder in the area. Soon after the first election of the PCC in November 2012, a plan will have to be developed. It will remain in place for five years, although the PCC may well wish to amend it every year (and does in fact have the right to fully renew it before the five year deadline). It will set out how policing resources will be allocated, and agreements for funding and reporting on the work (in the form of performance management frameworks). It should be seen in the context of the PCC's annual report (see above), the annual financial accounts and the proposed level of the policing precept.

Formal consultation on the plan will not just be carried out with the panel. A range of other partners will also be involved. In particular, the chief constable must be consulted, as well as local people and victims of crime in the area. The plan will be a key means for the PCC to hold the chief constable of the area to account, but it will also provide a mechanism for the panel to hold the PCC to account – and for the panel to understand how the PCC's priorities impact on other partners.

The panel will therefore need to understand that it sits as part of a wider consultation exercise by the PCC on the content of the plan. Like the annual report (see above), it will be more productive if a set piece session around the police and crime plan is not seen as a 'sign off' for a publication, but instead as an opportunity to talk around some key issues.

It makes sense that the police and crime plan and the PCC's annual report be taken together; the latter to allow the panel to establish performance against expenditure, and the former to allow the panel to examine performance and expenditure projections and make recommendations for improvements, both in terms of measurement and in terms of substantive policy. Being able to look at both documents at the same time (and when such scrutiny will actually add value, rather than coming late to a debate that has already concluded) will be critical to the panel's success.

Attendance by the chief constable

Care will be needed when the chief constable attends a meeting of the panel. The chief constable may attend to assist the panel in its inquiries, and is most likely to be there to assist the PCC in answering the panel's questions. However, the task of the panel is not to hold the chief constable to account. The Home Office protocol suggests that, 'if the panel seeks to scrutinise the PCC on an operational matter, the chief constable or other officers may need to attend alongside the PCC to offer factual accounts and clarity if needed for the actions and decisions of their officers and staff. The accountability of the chief constable remains firmly to the PCC and not to the police and crime panel'.

As such, it is not possible for the panel to invite the chief constable to attend if the PCC is not also being invited to attend the same meeting. It will also not be appropriate to ask questions of the chief constable which stray into holding him/her to account on operational policing.

What is an operational matter?

Knowing what is, and what is not, 'operational', will have an effect on the way that panel engage both with the PCC and with the chief constable.

The Home Office protocol provides guidance on what is, and is not, an operational matter. Under section 2 of the Act 'a police force, and the civilian staff of a police force, are under the direction and control of the chief constable of the force'.

That direction and control (ie operational management) will include:

- a decision whether, or whether not, to deploy police officers
- absolute discretion to investigate crimes and individuals as he or she sees fit
- the decision to make an arrest (subject to the arresting officer being satisfied that the grounds for an arrest are made out)
- a decision taken with the purpose of balancing competing operational needs within the framework of priorities and objectives set by the PCC
- a tactical operational decision to reallocate resource to meet immediate demand, and
- the allocation of officers' specific duties and responsibilities within the force area to meet the objectives set by the PCC.

The panel should not ask the chief constable questions on the first three of these points. The last three are slightly more fluid, as they impinge upon the strategic role of the PCC. Where the panel might wish to ask the chief constable questions on the last three issues, this must always be in the context of the strategic direction that the PCC has set.

Examples of less appropriate questions might be:

- Do you think that the strategic objectives in the police and crime plan are sensible?
- Why did you not deploy more officers to deal with the disorder experienced in the city centre at the end of last month?
- Why has the force been focusing so much of its attention on anti-social behaviour at the expense of issues such as domestic violence?

Examples of more appropriate questions would be:

- How has the force taken steps to amend the way it works to better achieve the strategic objectives in the police and crime plan?
- What resources are available to you to deal with unexpected public order demands?
- What will the impact be on the delivery against all the priorities in the police and crime plan of the decision to shift operational resources towards dealing with anti-social behaviour?

As can be demonstrated, often, asking the right question is about semantics, and recognising the fact that the chief constable will often have to defer to the PCC for all but the most straightforward, factually-based questions.

It may under some circumstances be appropriate to share broad questioning themes with the PCC and chief constable before they appear together at a panel meeting to minimise the risk of inappropriate lines of questioning being followed, and to allow the PCC and chief constable time to be fully briefed and to prepare their responses.

As the panel settles into its role, its individual members will become more attuned to where the barriers lie, and asking the right questions at the right time should become a matter of instinct.

Looking at issues together

Above, we have noted three particular set-piece events – consideration of the PCC’s annual report, consideration of the precept and consideration of the police and crime plan – that are closely linked. It could be appropriate to consider all three at the same time. As ever there are pros and cons to this approach.

Pros:

- provides a single, high profile place to tackle strategic issues on force-wide policing
- reduces the risk of duplication between meetings
- minimises the expense in convening separate meetings to consider these issues very close to each other in terms of time (as these documents/plans will mainly be developed in the January – March period).

Cons:

- risks the panel trying to look at too much, too quickly – a single meeting for three complex issues may be too ambitious
- assumes that the precept plans, the police and crime plan and the annual report will all be at a state of readiness, on the day, where the panel can add value to each document, which is unlikely without extremely careful planning
- risks confusing the statutory roles of the panel, particularly the veto over the precept. A meeting looking at all three issues may result in a veto vote being considered as a de facto veto of all three documents, leading to governance confusion.

Scrutiny by task and finish groups

Advantages

The panel will be able to establish sub-committees and informal task and finish groups²³. Members may feel that time-limited task and finish groups – convened to investigate a specific issue, and then dissolved – provide a more proportionate approach to investigations than the establishment of standing sub-committees (for which powers also exist²⁴). Task and finish groups are, like task and finish groups in local government overview and scrutiny, not formally provided for in legislation.

Task and finish groups provide an opportunity to investigate issues in depth, and to make recommendations which can be submitted to decision-makers. Such investigations will be able to help the panel to explore the policy priorities of the PCC and how those priorities will affect delivery of policing and community safety. Gathering and considering such evidence throughout the year should help the panel scrutinise the PCC effectively on the police and crime plan, the annual report, and the precept at its more formal meetings.

When carried out well, they will have the potential to play a complementary, supportive role to the development of the PCC's policies, but at the same time independent and constructively critical where necessary and appropriate. Most of all, they will assure local people that light is being shone on detailed issues around policing that affect them, and steps are being taken to scrutinize the PCC on those issues.

Task and finish groups should be relatively brief, targeted, proportionate and focused.

Contribution to the panel's statutory functions

In the section on "additional work", we highlighted the probability that the panel would need to carry out such work in order to fulfil its duties under the Act. In this section we will explore the practicalities of how this might work.

The panel may, for example, identify the rising level of domestic burglaries as an issue in certain parts of the force area. Assuming that it may have been a PCC priority (set out in the police and crime plan) to significantly reduce the number of such offences, the panel may wish to investigate further. The panel might for example analyse the figures, speak to victims of crime and to others involved in the process.

²³ Local Government Association/Centre for Public Scrutiny. (2011) Police and crime panels: guidance on role and composition, paragraph 5.17, p17

²⁴ Schedule 6, paragraph 25(3) and (4)

This might help tease out the reasons for increases in burglaries and develop recommendations to improve the situation. The panel may also wish to investigate issues that are not currently panel priorities, so as to feed into subsequent scrutiny around the police and crime plan. Task and finish groups can therefore be seen as carrying out work that will support the scrutiny of both the ‘formal’ scrutiny of the police and crime plan, and the PCC’s annual report.

Establishing a task and finish group

A task and finish group should consist, at most, of five or six members. Their number should be selected from members of the panel. Task and finish groups do not have to be politically, or otherwise, proportionate, but some thought should be given to representation. It may be appropriate to co-opt people onto such a group who do not sit on the panel, to provide specific professional or technical expertise, to represent the point of view of a particular sector of the community, or for some other reason.

The number of such people on a task group should not be higher than the number of panel members on the group. It should be noted that if the panel decides to establish a formal sub-committee to carry out a particular piece of work, it may not co-opt non-panel members onto such a committee²⁵. As such, if there is a wish to make use of people who do not sit on the panel, the establishment of an informal task and finish group would be the preferred approach.

²⁵ Schedule 6, paragraph 27(1)

Selecting the membership

The panel will, in many instances, cover a large geographical area and members of the panel may have long distances to travel to attend meetings. They will have other commitments in their home authorities which may make it difficult to commit to attending large numbers of additional sessions. The chair and all members of the panel will therefore need to think carefully about who is nominated to sit on various groups, and whether money will need to be made available either through the allowances scheme²⁶, or some other method, to deal with expenses. Such considerations will also need to be borne in mind when scoping the review.

Scoping individual pieces of work

At the outset it should be checked that the suggested work is compatible with and complements the work programming planning, and hence whether the investigation should be carried out at all. The next step should be to scope the work with members of the task group and the support officer working together to develop an agreed approach to the investigation which will be followed.

²⁶ Schedule 6, paragraph 11

Panel reviews, for logistical reasons (see above) will, most likely, be short, sharp pieces of work. A task group might only meet two or three times to consider evidence, and maybe once more to agree recommendations. As such it will be important that scoping takes account of two main points:

- that the investigation is member led – if members will not meet more than a couple of times and much work will be delegated to the support officer, member oversight over this process will need to be properly planned
- that the times when members of the task group do meet are used effectively.

Gathering evidence

Evidence can be gathered from a wide range of sources, but because task and finish reviews will focus on the role and functions of the PCC, the PCC will probably be the source for a substantial portion of the evidence.

Care will have to be taken, both when scoping a review and when carrying it out, not to place unreasonable demands for information on the PCC and the PCC's staff. Last-minute requests will probably not occur, by the very nature of task and finish working, but the volume of requests will need to be considered. The group will have limited time to consider and analyse evidence and, as such, a focused and directed approach to evidence, rather than an exploratory one, will have to be adopted.

At task and finish group meetings, evidence may be taken in person. No-one (even the PCC) is under any obligation to attend task and finish groups. As such, potential witnesses will need to be sounded out, and the task group will have to demonstrate to them that giving evidence will be a useful and constructive experience. Questioning will need to be inquisitorial, rather than combative.

Evidence can also be taken in writing. This can take a variety of forms. For local government task groups, usually a scrutiny officer will provide to members evidence collected by research; internal policy documents; papers from partners; benchmarking information from other areas; and 'best practice', and so on. This will usually be information that is publicly available, and will often be supplemented by the scrutiny officer's own analysis. This will provide members with the evidence they need to question witnesses at task group meetings, or to formulate findings.

Evidence garnered from other members' own research and other sources – public consultations, for example – can be useful. The panel will often find that a significant amount of information about public perceptions already exists, but there may be instances where the topic demands that a task group conducts its own research.

In these circumstances, gathering evidence through public meetings and targeted surveys and polls can be a good approach. However, it should be noted that the primary responsibility for engaging with the public over policing matters lies with the PCC, and as such any such work should be co-designed with the PCC to ensure that it complements rather than duplicates existing work.

Making recommendations to the PCC, and following them up

The panel has a specific power to make recommendations to the PCC. The particular detail of how the PCC should respond to these recommendations will be subject to local agreement, but, in general, the following principles should apply, based on similar principles around overview and scrutiny in local government: This will apply whether recommendations come from task and finish groups, or from more formal set-piece events at committee.

- the Panel should notify the PCC of any reports and recommendations in writing, making the process for responding to those recommendations clear
- the PCC should respond to the panel's recommendations within two months of being notified of them, unless the panel has agreed to a longer timescale
- this response should set out whether the recommendations are accepted or are rejected
- where a recommendation, or recommendations, is or are rejected, the PCC should provide reasons
- where a recommendation, or recommendations, is or are accepted, the panel should return to the topic at a pre-arranged time (usually six months or a year later) to check that the recommendations have been implemented.

Where a task and finish group comes up with recommendations of its own which relate to an investigation it carries out, these will need to be passed through the panel to be ratified before being submitted to the PCC. However, there may be some sense in liaising with the PCC on the wording of recommendations before they are agreed.

Recommendations should always be 'SMARTER' – that is, specific; measurable; achievable; realistic; timed; evaluated; and reviewed. In this sense, the panel should treat them as targets to which the PCC will be held. It goes without saying that recommendations to the PCC should only relate to issues within his or her power.

It is inherent in the nature of partnership working that the panel may wish to make recommendations that will affect other partners, or that will require those partners to take action. In those circumstances, the panel should still direct those recommendations to the PCC in the context of his or her s10 powers and responsibilities. The panel should not make recommendations directly to other people or agencies, but may consult with them as a matter of courtesy or to ensure that recommendations that might affect the way that they work with the PCC are drafted appropriately.

Resourcing and support

Officer support

£53,000 per year has been made available by the Home Office for the period of this Comprehensive Spending Review to provide support to the police and crime panel.

This has been characterised as the cost of a scrutiny officer²⁷, plus on-costs, but there is no requirement for the money to be spent in a particular way and it is not ringfenced for panel support. Money will be given to the lead authority in each force area.

It will be possible to use this money to, for example:

- 'backfill' democratic services support in the lead authority
- appoint a new scrutiny officer
- backfill support in both the community safety team (to provide policy support to the panel) and in democratic services (to provide administrative support)
- divert the money somewhere else entirely, for other purposes, and support the panel using existing resources.

We would, however, strongly recommend that the money be used for the purpose that it is being provided; to provide policy support to the panel. Research that CfPS has carried out demonstrates that scrutiny is more effective when a scrutiny body has a dedicated resource (in the form of an officer, or officers) to carry out work on its behalf²⁸.

We have noted above the fact that the panel will need to carry out work beyond just its core statutory 'special functions', and to do this a discrete officer resource will be necessary. The case for backfilling on its own is not necessarily made out.

There is provision in the Act for agreement, between local authorities, of joint funding mechanisms, to supplement this central resource²⁹. Depending on the remit and role of the panel (ie how many investigations it carries out, and in what level of depth it conducts its scrutiny) it may make sense for authorities to link together their support for the panel and their support for CSP scrutiny. This approach, being taken in Gloucestershire, will ensure that these two linked forms of scrutiny will work in concert. However, it may force a structural solution which is not appropriate for all authorities, and risk creating a community safety scrutiny 'silo' that is separate from other forms of local authority scrutiny, which could be harmful.

The panel will need to consider its resource 'envelope' before deciding what work to carry out in a given year – an issue discussed above, when considering work programming.

Member expenses

£920 is being made available for each member of the panel to support their work. This will cover attendance at meetings and travel expenses and is a continuing financial commitment from the Home Office for 2013/14 and beyond.

²⁷ By the Home Office at roadshows carried out in early 2012.

²⁸ Centre for Public Scrutiny. (2012) *Joining the dots*; see also (2011) 2010 annual survey of overview and scrutiny in local government

²⁹ Schedule 6, paragraph 11



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