

**DERBYSHIRE POLICE AND CRIME PANEL****27 June 2019****Report to the Director of Legal & Democratic Services of Derbyshire  
County Council****RULES OF PROCEDURE and TERMS OF REFERENCE****1. Purpose of the Report**

To note the Rules of Procedure and Terms of Reference adopted by the Panel in 2013.

**2. Information and Analysis****Rules of Procedure**

The Police Reform and Social Responsibility Act 2011 states that a Police and Crime Panel must adopt rules of procedure. A panel's rules should include provisions about the appointment, resignation and removal of the chairman of the panel, the method of making decisions and the formation of sub-committees.

The Rules of Procedure attached at Appendix 1 are those adopted by the Panel in January 2013.

**Terms of Reference**

The Terms of Reference (Appendix 2) for the Panel outline the duties and powers given to the Panel by the Police Reform and Social Responsibility Act 2011. The terms of Reference attached at Appendix 2 were adopted by the Panel in 2013.

At the Panel meeting, on the 22<sup>nd</sup> of March 2018, the Panel indicated that it would be helpful to reconsider the Rules of Procedure and Terms of Reference in order to enable the Panel to consider and develop more

effective methods of scrutiny and to bring them to the attention of new Members to the Panel appointed following the local elections in May 2018.

**3. Other Considerations**

In preparing this report, the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health and transport considerations.

**4. Background Papers**

The file is currently held by the Director of Legal Services.

**5. Officer's Recommendation**

That the Committee notes the attached Rules of Procedure and Terms of Reference.

**Janie Berry**  
**Director of Legal & Democratic Services**

**Derbyshire Police and Crime Panel  
Rules of Procedure**

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

- 1.1 The Chairman and Vice-Chairman of the Police and Crime Panel will be appointed by the Panel Members at the beginning of the municipal year.
- 1.2 The Chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman in the following municipal year.
- 1.3 In the event of the resignation or disqualification of the Chairman, a new Chairman will be appointed at the next meeting.

**2. Meetings of the Police and Crime Panel**

- 2.1 There shall be a minimum of four ordinary meetings of the Police and Crime Panel held in public in each municipal year to carry out the functions of the Panel. In addition, extraordinary meetings may be called from time to time.
- 2.2 An extraordinary meeting may be called by the Chairman, by four members of the Panel or by the Director of Legal Services of the host authority.

**3. Quorum**

- 3. A meeting of the Police and Crime Panel cannot take place unless at least one quarter the whole number of its members is present.

**4. Substitutes**

- 4. A nominated substitute will be appointed for each Councillor Member by their authority.

**5. Voting**

- 5.1 All Panel Members (or their nominated substitutes) may vote in proceedings of the Panel. Voting will be by show of hands and by simple majority unless otherwise required.
- 5.2 If there are equal numbers of votes for or against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman may choose to exercise a casting vote.

## **6. Disorderly Conduct**

6. The Chairman may, in the event of a disturbance interfering with the orderly despatch of business, adjourn or suspend a meeting for such period as the Chairman considers appropriate.

## **7. Work Programme**

- 7.1 The Police and Crime Panel will be responsible for setting its own work programme taking into account the priorities defined by the Police and Crime Commissioner.
- 7.2 The work programme must, as appropriate, reflect the responsibilities set out in the Terms of Reference for the Panel.

## **8. Agenda Items**

- 8.1 The agenda for a meeting of the Police and Crime Panel shall include consideration of any item requested by a member of the Panel, subject to the Director of Legal Services of the host authority receiving written notice at least 10 working days before the date of the meeting.
- 8.2 The Panel's agenda will be issued to Panel members at least five clear working days before the meeting (unless the Chairman is satisfied that there is good reason to consider an urgent item). It will also be published on the host authority's website and by sending copies to each of the authorities and by any other means the Panel considers appropriate.

## **9. Notice of Meetings**

- 9.1 Ordinary meetings will take place in accordance with a programme decided by the Panel, and will start at the time decided by the Panel.
- 9.2 Members of the Police and Crime Panel will be given at least 5 clear working days' notice of a meeting of the Panel (unless the Chairman is satisfied that there is good reason to hold an urgent meeting).

## **10. Reports from the Police and Crime Panel**

- 10.1 Where the Police and Crime Panel makes a report to the Police and Crime Commissioner, it will publish the report or recommendations.
- 10.2 The Police and Crime Commissioner (within such timescale as the Panel may determine) must:
  - (a) consider the report or recommendations;
  - (b) respond to the Police and Crime Panel indicating what (if any) action the Police and Crime Commissioner proposes to take; and
  - (c) publish the response.
- 10.3 The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).

- 10.4 If the Police and Crime Panel cannot unanimously agree on one single final report to the Police and Crime Commissioner then one separate report may be prepared and submitted for consideration along with the majority report.

## **11. Police and Crime Commissioner and Officers Giving Account**

- 11.1 The Police and Crime Panel may scrutinise and review decisions made or actions taken in connection with the Police and Crime Commissioner's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the Police and Crime Commissioner, and members of the Commissioner's staff, to attend before the Panel (at reasonable notice) to answer any questions which appear to the Panel to be necessary in order to carry out its functions.
- 11.2 Where the Police and Crime Commissioner, or a member of the Commissioner's staff, is required to attend the Panel under this provision the Chairman will inform them in writing giving, where practical, 15 days' notice of the meeting. The notice will state the nature of the item in respect of which he or she is required to attend to give account and whether any papers are required for production for the Panel. Where it is necessary to produce a report, sufficient time will be given to allow preparation of that report.
- 11.3 Where, in exceptional circumstances, the Police and Crime Commissioner is unable to attend on the required date, then an alternative date for attendance may be arranged following consultation with the Chairman of the Panel.
- 11.4 If the Police and Crime Panel requires the Police and Crime Commissioner to attend before the Panel, the Panel may (at reasonable notice) request the Chief Constable to attend before the Panel on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.

## **12 Attendance by Others**

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

## **13 Sub-Committees and Task Groups**

- 13.1 Time limited task groups may be established from time to time by the Police and Crime Panel to undertake specific task based work.
- 13.2 The special functions of the Police and Crime Panel may not be discharged by a sub-committee of the Panel or a task group.<sup>4</sup>
- 13.3 'Special functions' means the functions conferred on a Police and Crime Panel by

- (a) Section 28(3) of the Police Reform and Social Responsibility Act 2011 (scrutiny of police and crime plan).
  - (b) Section 28(4) of the Police Reform and Social Responsibility Act 2011 (scrutiny of annual report).
  - (c) Paragraphs 10 and 11 of Schedule 1 of the Police Reform and Social Responsibility Act 2011 (review of senior appointments).
  - (d) Schedule 5 of the Police Reform and Social Responsibility Act 2011 (issuing precepts).
  - (e) Part 1 of Schedule 8 of the Police Reform and Social Responsibility Act 2011 (scrutiny of appointment of the Chief Constable).
- 13.4 The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

#### **14.1 Carrying Out ‘Special Functions’**

[N.B. The procedure in relation to the making of reports and recommendations is set out in paragraph 10 above.]

##### **14.1 Police and Crime Plan**

- 14.1.1 Before issuing or varying a police and crime plan, the Police and Crime Commissioner must send a draft of the plan or variation to the Police and Crime Panel.
- 14.1.2 The Panel must review the draft police and crime plan or draft variation and make a report or recommendations.
- 14.1.3 The Commissioner must have regard to any report or recommendations made by the Panel in relation to the draft plan or variation.
- 14.1.4 The Commissioner must give the Panel a response to any such report or recommendations and publish any such response.

#### **14.2 Annual Report**

- 14.2.1 The Police and Crime Commissioner must produce a report (annual report) on the exercise of the body’s functions in each financial year and the progress which has been made in the financial year in meeting the police and crime objectives in the police and crime plan.<sup>5</sup>
- 14.2.2 The Panel must arrange for a public meeting of the Panel to be held as soon as practicable after the Panel is sent an annual report from the Commissioner’s office.
- 14.2.3 The Police and Crime Commissioner must attend before the Panel at a public meeting arranged by the Panel to present the report and answer the Panel’s questions on the report.
- 14.2.4 The Panel is to review the annual report and make a report or recommendations on the annual report to the Commissioner.
- 14.2.5 The Commissioner must give the Panel a response to any report or recommendations on the annual report and publish any such response.

#### **14.3 Senior appointments**

- 14.3.1 The Panel is required by the Police Reform and Social Responsibility Act 2011 to review the Police and Crime Commissioner's proposed appointments of the Chief Constable, the Chief Executive, the Chief Finance Officer and the Deputy Police and Crime Commissioner. The Panel is required to hold confirmation hearings in public in relation to these posts.
- 14.3.2 The Panel will be notified by the Police and Crime Commissioner of the need for a confirmation hearing in respect of proposed senior appointments. The Panel must review the proposed senior appointment, make a report and include a recommendation as to whether or not the candidate should be appointed.
- 14.3.3 The Panel is required to report on senior appointments within a period of three weeks, beginning with the day on which the Panel receives the notification from the Commissioner of the proposed senior appointment.
- 14.3.4 In calculating the period of three weeks any relevant post-election period is ignored. This begins with the day of the poll at an ordinary election of the Police and Crime Commissioner and ends with the day on which the person elected as Commissioner delivers a declaration of acceptance of office.
- 14.3.5 Confirmation hearings will be held in public, where the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the Panel is required to review the proposed appointment and make a report to the Commissioner on the appointment.

#### **14.4 Appointment of Chief Constable**

- 14.4.1 For a confirmation hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the Panel has the requirement to publish the report and make a recommendation on the appointment and the power to veto the appointment.
- 14.4.2 Having considered the appointment, the Panel will be asked to either:-6
  - (a) support the appointment without qualification or comment;
  - (b) support the appointment with associated recommendations; or
  - (c) veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 14.4.3 If the Panel vetoes the appointment of the candidate, the report to the Commissioner must include a statement that the Panel has vetoed the appointment with reasons.
- 14.4.4 Where the Panel exercises the power to veto the proposed appointment, the Commissioner shall propose another person for appointment as Chief Constable (a reserve candidate).
- 14.4.5 The Commissioner proposes a reserve candidate by notifying the Panel of the following information:
  - (a) the name of the reserve candidate;
  - (b) the criteria used to assess the suitability of the reserve candidate for the appointment;
  - (c) why the reserve candidate satisfies those criteria; and
  - (d) the terms of conditions on which the reserve candidate would be appointed.

- 14.4.6 Within the period of three weeks, beginning on the day on which the Panel receives notification of the proposal of the reserve candidate, the Panel shall:
- (a) review the proposed appointment; and
  - (b) make a report to the Police and Crime Commissioner on the proposed appointment.
- The report must include a recommendation to the Commissioner on whether or not the reserve candidate should be appointed.
- 14.4.7 The Commissioner should have regard for the report detailed at 14.4.6(b), and notify the Panel of his decision as to whether he accepts or rejects the recommendation.
- 14.4.8 The Police and Crime Commissioner may then appoint the reserve candidate as Chief Constable or propose another person for appointment as Chief Constable (who would then be treated as a reserve candidate as at 14.4.6).

### **14.5 Suspension and removal of the Chief Constable**

- 14.5.1 If the Police and Crime Commissioner suspends the Chief Constable the Panel must be notified.
- 14.5.2 The Panel must be given written notification if the Commissioner is proposing to call upon the Chief Constable to retire or resign. In addition, the Panel must be provided with a copy of the reasons given to the Chief Constable for the proposal.
- 14.5.3 The Panel will consider any representations made by the Chief Constable as soon as practicable after the Commissioner has provided the Panel with them.
- 14.5.4 The Panel must make recommendation to the Police and Crime Commissioner as to whether or not the Commissioner should call for retirement or resignation.
- 14.5.5 The recommendation must be given to the Police and Crime Commissioner in writing before the end of the period of six weeks beginning with the day on which the Panel receives the written notification of the Commissioner's proposal.
- 14.5.6 In calculating the period of six weeks any relevant post-election period is ignored. This begins with the day of the poll at an ordinary election of the Police and Crime Commissioner and ends with the day on which the person elected as Commissioner delivers a declaration of acceptance of office.
- 14.5.7 Before making the recommendation, the Panel may consult with the Chief Inspector of Constabulary and must hold a scrutiny hearing in private. The Police and Crime Commissioner and the Chief Constable are both entitled to attend.
- 14.5.8 The recommendation must be published and the Police and Crime Commissioner must consider the recommendation and notify the Panel as to whether or not it has been accepted.

### **14.6 Appointment of an Acting Police and Crime Commissioner**

- 14.6.1 The Police and Crime Panel must appoint a person to act as Police and Crime Commissioner if:
- (a) no person holds the office of Police and Crime Commissioner;

- (b) the Police and Crime Commissioner is incapacitated; or
  - (c) the Police and Crime Commissioner is suspended.<sup>8</sup>
- 14.6.2 The Police and Crime Panel may appoint a person as Acting Commissioner only if the person is a member of the Police and Crime Commissioner's staff at the time of the appointment.
- 14.6.3 In appointing a person as Acting Commissioner in a case where the Police and Crime Commissioner is incapacitated, the Police and Crime Panel must have regard to any representations made by the Commissioner in relation to the appointment.
- 14.6.4 The appointment of an Acting Commissioner ceases to have effect upon the occurrence of the earliest of these events:
- (a) the election of a person as Police and Crime Commissioner;
  - (b) the termination by the Police and Crime Panel, or by the Acting Commissioner, of the appointment of the Acting Commissioner;
  - (c) in a case where the Acting Commissioner is appointed because the Police and Crime Commissioner is incapacitated, the Commissioner ceasing to be incapacitated; or
  - (d) in a case where the Acting Commissioner is appointed because the Police and Crime Commissioner is suspended, the Commissioner ceasing to be suspended.

#### **14.7 Proposed precept**

- 14.7.1 The Police and Crime Commissioner will notify the Police and Crime Panel by 1<sup>st</sup> February of the relevant financial year of the precept which the Commissioner is proposing to issue for the financial year. The Panel must review the proposed precept by 8<sup>th</sup> February of the relevant financial year and make a report including recommendations.
- 14.7.2 Having considered the precept, the Police and Crime Panel will either:
- (a) support the precept without qualification or comment;
  - (b) support the precept and make recommendations; or
  - (c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 14.7.3 If the Panel vetoes the proposed precept, the report to the Commissioner must include a statement that the Panel has vetoed the proposed precept with reasons. The Panel will require a response to the report and any such recommendations.
- 14.7.4 Where the Panel exercises the power of veto, the Police and Crime Commissioner shall, by 15<sup>th</sup> February of the relevant financial year, notify the Police and Crime Panel of the precept he/she now proposes to issue subject to the following:
- (a) where the Panel report indicates that the Panel vetoes the proposed precept because it is too high, the revised precept shall be lower than the proposed precept;

- (b) where the Panel report indicates that the Panel vetoes the proposed precept because it is too low, the revised precept shall be higher than the proposed precept.
- 14.7.5 On receiving a response containing notification of a revised precept under the regulation the Panel shall, by 22 February of the relevant financial year:
- (a) review the revised precept; and
  - (b) make a report (second report) to the Commissioner on the revised precept.
- 14.7.6 The Commissioner shall, by 1<sup>st</sup> March of the relevant financial year, have regard to the second report, give the Panel a response and publish the response.
- 14.7.7 The Commissioner may then issue the revised precept for the financial year or issue a different precept still subject to the requirements noted at 14.7.4.

## **14.8 Complaints**

- 14.8.1 The Police and Crime Panel will establish and maintain arrangements for the consideration of complaints against the Police and Crime Commissioner and his/her Deputy in accordance with The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.
- 14.9 Suspension of the Police and Crime Commissioner
- 14.9.1 The Police and Crime Panel may suspend the Police and Crime Commissioner if it appears to the Panel that:
- (a) the Commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
  - (b) the offence is one which carries a maximum term of imprisonment exceeding two years.
- 14.9.2 The suspension of the Police and Crime Commissioner ceases to have effect upon the occurrence of the earliest of these events:
- (a) the charge being dropped;
  - (b) the Police and Crime Commissioner being acquitted of the offence;10
  - (c) the Police and Crime Commissioner being convicted of the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act 2011 by virtue of the conviction; or
  - (d) the termination of the suspension by the Police and Crime Panel.
- 14.9.3 In this paragraph references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
- (a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
  - (b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

## **15. Interpretation**

The ruling of the Chairman as to the application and meaning of any of these Procedure Rules shall not be challenged at any meeting of the Panel.

**Derbyshire Police and Crime Panel**

**Terms of Reference**

1. To review the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner. The Panel must make a report or recommendations on the draft plan or variation to the Commissioner.
2. To review the annual report and make a report or recommendations on the report to the Commissioner. The Panel is to arrange a public meeting at which they ask the Commissioner questions, as appropriate, on the annual report.
3. To hold a confirmation hearing and review, make a report, and recommendation in respect of proposed senior appointments made by the Police and Crime Commissioner. This includes:-
  - (a) the Commissioner's Chief Executive;
  - (b) the Commissioner's Chief Finance Officer;
  - (c) a Deputy Police and Crime Commissioner; and
  - (d) the Chief Constable.The Panel has the power to veto the appointment of the Chief Constable.
4. To review and make a report and recommendations (as necessary) on the proposed precept. The Panel has the power to veto the proposed precept.
5. To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the Commissioner's functions.
6. To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the Commissioner's functions.
7. To support the effective exercise of the functions of the Police and Crime Commissioner.
8. To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the Panel by the Police Reform and Social Responsibility Act 2011 (the Act).
9. To appoint an Acting Police and Crime Commissioner if necessary.
10. To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged with a relevant offence (as defined by the Act).
11. To exercise any other functions delegated to the Police and Crime Panel under the Act, as required.