

STRONG AND SUPPORTIVE COMMUNITIES SCRUTINY COMMITTEE	Agenda Item No. 6
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The roles and functions of the Police and Crime Commissioner and the Police and Crime Panel for Cambridgeshire

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1. PURPOSE

- 1.1 This report provides information about changes in police governance leading to the election of a Cambridgeshire Police and Crime Commissioner and the formation of a Cambridgeshire Police and Crime Panel.

2. RECOMMENDATIONS

- 2.1 The Committee is asked to note the significant changes in police governance arrangements and consider their impact on the Committee's statutory function as Peterborough's Crime and Disorder Scrutiny Committee. Such considerations should include how best to achieve synergy between the work of the committee and the work of the new Police and Crime Panel.

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 The new arrangements discussed in this report relate directly to the 'Creating Strong and Supportive Communities' priority of the Sustainable Community Strategy, but underpin several other aspects of that Strategy.

4. BACKGROUND

4.1 Police and Crime Commissioner

- 4.1.1 The Police Reform and Social Responsibility Act 2011 introduced significant changes in police governance and accountability, in particular replacing Police Authorities with directly elected Police and Crime Commissioners.
- 4.1.2 The public accountability for the delivery and performance of the police service within each force area will be placed into the hands of the commissioner on behalf of their electorate. The commissioner will draw on their mandate to set and shape the strategic objectives of their force area in consultation with the chief constable. The commissioner will be accountable to their electorate; the chief constable will be accountable to the commissioner. The chief constable however will retain overall responsibility for operational policing matters.
- 4.1.3 The commissioner will be appointed via an election which is taking place on 15th November 2012. The supplementary voting system will be used.

- 4.1.4 The commissioner will have the following duties and powers which must be exercised in accordance with the Act and associated Regulations:
- (i) To secure an efficient and effective police force for their area
 - (ii) To appoint the chief constable, hold them to account for the running of the force and if necessary dismiss them
 - (iii) To set the police and crime objectives for their area by producing a Police and Crime Plan (in consultation with the chief constable)
 - (iv) To set the annual force budget and police precept, and produce an annual report setting out their progress against the objectives in the Police and Crime Plan
 - (v) To contribute to the national and international policing capabilities set out by the Home Secretary in the Strategic Policing Requirement
 - (vi) To co-operate with the criminal justice system in their area
 - (vii) To work with partners and fund community safety activity to tackle crime and disorder

The commissioner must also appoint a chief of staff and a chief finance officer.

- 4.1.5 There is a statutory requirement for commissioners and the responsible authorities on community safety partnerships (in our case the Safer Peterborough Partnership) to co-operate to reduce crime, disorder and reoffending.

4.2 **Police and Crime Panels - Overview**

- 4.2.1 The Act also requires the local authorities in each police force area to establish a Police and Crime Panel, primarily to scrutinise the commissioner. This is a formerly constituted joint committee. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business.

- 4.2.2 According to the Home Office, "Panels are not a replacement for the police authority. They will fulfil an important role in scrutinising the commissioner but we need to be clear that this reform is about reconnecting the police and the people. This will be achieved through a directly elected police and crime commissioner not through the police and crime panel. The panel will have an important scrutiny role in relation to the commissioner, however it is the commissioner who is taking on the role of the police authority and who the public will hold to account for the performance of their force."

- 4.2.3 The panel will have the following duties and powers which must be exercised in accordance with the Act and associated Regulations:
- (i) The power of veto, by two-thirds majority, over the commissioner's proposed budget and precept
 - (ii) The power of veto, by two-thirds majority, over the commissioner's proposed candidate for chief constable
 - (iii) The power to ask Her Majesty's Inspectorate of Constabulary (HMIC) for a professional view when the commissioner intends to dismiss a chief constable
 - (iv) The power to review the commissioner's draft police and crime plan and make recommendations to the commissioner who must take account of them
 - (v) The power to review the commissioner's annual report and make reports and recommendations at a public meeting, which the commissioner must attend;
 - (vi) The power to require any papers in the commissioner's possession (except those which are operationally sensitive)
 - (vii) The power to require the commissioner to attend the panel to answer questions
 - (viii) The power to appoint an acting commissioner (from within the commissioner's staff) when the elected commissioner is incapacitated or suspended (until she/he is no longer incapacitated or suspended), or resigns or is disqualified (until a new commissioner is elected)
 - (ix) Responsibility for all complaints about the commissioner, although serious issues must be passed to the Independent Police Complaints Commission (IPCC)

- 4.2.4 Terms of reference for the panel are included at appendix 1. However until the commissioner takes office on 22nd November 2012, following the election on 15th November 2012, the panel's powers will be limited to those necessary to prepare itself.
- 4.2.5 We have been working with our colleagues across the rest of Cambridgeshire to develop our plans for the formation of the panel. All seven local authorities have been required to agree the panel arrangements, establishing it as a joint committee, and appoint their member(s) of the panel in accordance with the panel arrangements. The Home Office deadline for confirmation that Panels have been formed was 16th July 2012, and in Peterborough this was discussed at Cabinet on 10th July 2012.
- 4.2.6 It is intended that there will be sufficient time for the panel, before the commissioner is elected, to appoint co-opted independent members, agree the panel's rules of procedure, be briefed on relevant issues, and agree the panel's work programme for its first year.
- 4.2.7 The arrangements for the panel take the form of an agreement setting out the manner in which the authorities will provide support to the panel, and these are included at appendix 2. The terms of the panel arrangements are largely prescribed by Schedule 6 of the Police Reform and Social Responsibility Act 2011.

4.3 **Panel membership**

- 4.3.1 Discussions have been held with each of the local authorities across Cambridgeshire to enable them to fulfil their duty to secure (as far as is reasonably practicable) that the appointed members represent the political make-up of the local authorities within the police area (when taken together).
- 4.3.2 In Cambridgeshire, it has been agreed that the panel should comprise eleven councillors: one from each of the district or borough councils, and three members each from the County Council and Peterborough City Council.
- 4.3.3 The composition of Cambridgeshire's panel is as follows:

Peterborough City Council	2 x Conservative, 1 x Labour
Cambridgeshire County Council	2 x Conservative, 1 x Liberal Democrat
Cambridge City Council	1 x Liberal Democrat
East Cambridgeshire District Council	1 x Conservative
Fenland District Council	1 x Conservative
Huntingdon District Council	1 x Conservative
South Cambridgeshire District Council	1 x Conservative

- 4.3.4 Under the terms of the Act, if the panel is greater than the 10 members required, the additional member is considered to be a co-opted member and will require the approval of the Secretary of State. A joint application for consent for the additional member has therefore been made to the Secretary for State by the Cambridgeshire County Council and Peterborough City Council.
- 4.3.5 A further two independent members (not councillors) must be co-opted by the panel. When co-opting the independent members, the panel must ensure that, as far as is reasonably practicable, the appointed and co-opted members together have the skills, knowledge and experience necessary for the panel to discharge its functions effectively.

4.4 **Role of the Strong and Supportive Communities Scrutiny Committee**

- 4.4.1 The Strong and Supportive Communities Scrutiny Committee is the council's designated Crime and Disorder Scrutiny Committee, a statutory requirement as part of the Police and Justice Act 2006 with the power to review or scrutinise decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions.

- 4.4.2 The responsible authorities in this context are currently:
- Peterborough City Council
 - Cambridgeshire Constabulary
 - Cambridgeshire Police Authority
 - Cambridgeshire and Peterborough Probation Trust
 - NHS Peterborough
 - Cambridgeshire Fire Authority
- 4.4.3 Under the new arrangements, the Police Authority is abolished, and the new Police and Crime Commissioner will not be a 'responsible authority'. However, there will be a reciprocal duty on the commissioner and the responsible authorities to cooperate and have regard to one another's priorities for the purposes of reducing crime and disorder, reoffending and substance misuse.

5. KEY ISSUES

- 5.1 Relationships between the various components that make up the new structure will need to evolve and develop. In some cases the relationship is set out in the Act, whilst in others it will be determined through local discretion and negotiation.
- 5.2 There are a number of potential ways of ensuring synergy between the work of the Strong and Supportive Communities Scrutiny Committee and the new Police and Crime Panel. For example:
- The Scrutiny Committee could refer matters to the panel that relate to the responsibilities of the commissioner
 - The Scrutiny Committee could develop its work programme to support the work of the panel. For example, if the panel is conducting a review of one aspect of the commissioner's work, the scrutiny committee could conduct its own review which would add depth and breadth to the panel's review
 - Maintaining regular dialogue with members of the panel, including for example, inviting them to periodically present to the scrutiny committee on their work
- 5.3 The commissioner will take on responsibility for significant policing and crime reduction budgets from April 2013, including some that are currently managed by the local authority. Guidance is still emerging about the precise details of this, but already we are considering the impact of any potential changes in finances for our own services from April 2013 onwards.

6. IMPLICATIONS

- 6.1 Set out in this report.

7. CONSULTATION

- 7.1 Consultation with each of the councils across Cambridgeshire has been undertaken to determine the composition of the panel. Two cross-county transition boards are overseeing the transitional arrangements – one focussing on the panel arrangements and the impact on community safety partnerships (chaired by Peterborough's Head of Neighbourhoods), and the second focussing on the arrangements for the commissioner and the transition away from the Police Authority (chaired by the Police Authority Chief Executive).

8. NEXT STEPS

- 8.1 It is intended that the new panel will begin to meet in shadow form from August 2012, in advance of taking up its full duties from November 2012 when the commissioner will be elected.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

9.1 None.

10. APPENDICES

- 10.1 Appendix 1 – Terms of reference for the Cambridgeshire Police and Crime Panel
Appendix 2 – Draft Panel arrangements for the Cambridgeshire Police and Crime Panel
Appendix 3 – Police and Crime Commissioners: A Guide for Councils (LGG publication)
Appendix 4 – Police and Crime Panels: Guidance on Role and Composition (LGA publication)

Appendix 1 – Terms of reference for the Cambridgeshire Police and Crime Panel

- 1) To review and make a report or recommendation on the draft police and crime plan, or draft variation, by the Police and Crime Commissioner.
- 2) To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report.
- 3) To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- 4) To review and make a report on the proposed appointment of the Chief Constable.
- 5) To review and make a report and recommendation (as necessary) on the proposed precept.
- 6) 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.
- 7) To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- 8) To support the effective exercise of the functions of the Police and Crime Commissioner.
- 9) 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.
- 10) To appoint an Acting Police and Crime Commissioner if necessary.
- 11) To suspend the Police and Crime Commissioner if it appears to the panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

- 1.3 The Act requires the local authorities in each police force area to establish and maintain a Panel for its police force area. It is the responsibility of the Authorities for the police force area to make Panel Arrangements.
- 1.4 Cambridgeshire is a multi authority police force area. The Authorities, as the relevant local authorities within the area must agree to the making and modification of the Panel Arrangements.
- 1.5 Each Authority and each Member of the Panel must comply with the Panel Arrangements.
- 1.6 The functions of the Panel (to be known as the Cambridgeshire Police and Crime Panel) must be exercised with a view to supporting the effective exercise of the functions of the PCC for that police force area.
- 1.7 The Panel must have regard to the Policing Protocol issued by the Home Secretary, which sets out the ways in which the Home Secretary, the PCC, the Chief Constable and the Panel should exercise, or refrain from exercising, functions so as to encourage, maintain or improve working relationships (including co-operative working); and limit or prevent the overlapping or conflicting exercise of functions.
- 1.8 The Panel is a scrutiny body with responsibility for scrutinising the PCC and promoting openness in the transaction of police business in the police force area.
- 1.9 The Panel is a joint committee of the Authorities.
- 1.10 The Authorities agree the Panel Arrangements.

2.0 Functions of the Police and Crime Panel

- 2.1 The Panel may not exercise any functions other than those conferred by the Act.
- 2.2 The functions of the Panel set out at paragraphs 2.3 - 2.8 below may not be discharged by a Committee or Sub-Committee of the Panel.
- 2.3 The Panel is a statutory consultee on the development of the PCC's Police and Crime Plan and must:
 - a) review the draft Police and Crime Plan (and a variation to it); and,
 - b) report or make recommendations on the draft Plan which the PCC must take into account.
- 2.4 The Panel must comment upon the Annual Report of the PCC, and for that purpose must:
 - a) arrange for a public meeting of the Panel to be held as soon as practicable after the Panel is sent an Annual Report under Section 12 of the Act;
 - b) ask the PCC at that meeting such questions about the Annual Report as the Members of the Panel think appropriate;
 - c) review the Annual Report; and,
 - d) make a report or recommendations on the Annual Report to the PCC.
- 2.5 The Panel must undertake a review of a precept proposed by the PCC in accordance with the requirements set out in Schedule 5 of the Act, and will have a right of veto in respect of the precept in accordance with the Act and Regulations made under the Act.
- 2.6 The Panel must review, make a report to and make recommendations to the PCC in relation to the appointment of a Chief Constable by the PCC in accordance with the requirements set out in Schedule 8 of the Act and will have a right of veto in respect of the appointment in accordance with the Act and Regulations made under the Act.

- 2.7 The right of veto in paragraphs 2.5 and 2.6 will require that at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision.
- 2.8 The Panel must review, make a report to and make recommendations to the PCC in relation to the appointment of the PCC's Chief Executive, Chief Finance Officer and the Deputy Police and Crime Commissioner in accordance with the requirements set out in Schedule 1 of the Act.
- 2.9 The following functions must also be undertaken by the Panel but may be delegated to a Sub-Committee of the Panel:
 - 2.10 The Panel shall receive notification from the PCC of any suspension of the Chief Constable, or any proposal to call upon a Chief Constable to retire or resign, and in the case of the latter must make a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation in accordance with the procedures set out in Schedule 8 of the Act.
 - 2.11 The Panel must review or scrutinise the decisions or actions of the PCC in the discharge of his/her functions and make reports or recommendations to the PCC with respect to the discharge of the PCC's functions. The Panel may carry out investigations into the decisions of the PCC, and into matters of particular interest or public concern.
 - 2.12 The Panel must publish any reports or recommendations made by it to the PCC in a manner which the Panel will determine and must also send copies to the Authorities.
 - 2.13 The Panel may require the PCC or a member of his/her staff to attend the Panel to answer questions necessary for the Panel to undertake its functions, provided that such questions shall not:
 - a) relate to advice provided to the PCC by his/her staff;
 - b) in the view of the PCC:
 - i) be against the interests of national safety;
 - ii) jeopardise the safety of any person; or,
 - iii) prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or,
 - c) be prohibited by any other enactment.
 - 2.14 If the Panel requires the PCC to attend the Panel, the Panel may (at reasonable notice) request the Chief Constable to attend before the Panel on the same occasion to answer any question which appears to the Panel to be necessary in order for it to carry out its functions.
 - 2.15 The Panel may require the PCC to respond in writing to a report or recommendation from the Panel to the PCC.
 - 2.16 The Panel may suspend the PCC if he/she is charged with an offence carrying a maximum term of imprisonment exceeding two years.
 - 2.17 The Panel will have any other powers and duties set out in the Act or Regulations made in accordance with the Act.

3.0 Membership

General

- 3.1 Cambridgeshire is a police force area comprising seven (7) Authorities. The Authorities have each agreed to provide one elected member together with the Lead Authority and the Host Authority having the power to appoint the extra Members of the Panel.
- 3.2 Appointments of elected members to the Panel shall be made by each of the Authorities in accordance with their own procedures and with a view to ensuring that the balanced appointment objective is met so far as is reasonably practicable.
- 3.3 The Lead Authority has taken steps to coordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved. The balanced appointment objective requires that the local authority Members of the Panel (which includes Members appointed by the Authorities and co-opted Members who are elected Members of any of the Authorities) should:
- a) represent all parts of the police force area;
 - b) represent the political make-up of the Authorities; and,
 - c) taken together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- 3.4 The Authorities have agreed that the Panel shall consist of eleven (11) Members appointed by each of the Authorities as set out in the attached Schedule.
- 3.5 The appointment of the eleventh Member requires
- (a) the consent of the Secretary of State and
 - (b) resolution of the Panel
- 3.6 The Lead Authority and the Host Authority have jointly agreed to seek the consent of the Secretary of State to the appointment of the eleventh Member
- 3.7 The Panel shall also include two (2) independent Members co-opted by the Panel.
- 3.8 In appointing co-opted Members who are not elected members of any of the Authorities the Panel must secure, so far as is reasonably practicable that the appointed and co-opted Members of the Panel, together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- 3.9 The Panel may also resolve to co-opt further Members provided that
- (a) the further agreement of the Secretary of State is sought, and
 - (b) the number of co-opted Members included in the Membership of the Panel shall not exceed twenty (20) in total.
- 3.7 Authorities may appoint a named substitute Member for each nominated Member in the event that their Appointed Member is unable to attend a meeting.

Appointed Members

- 3.8 If a nominated Member agrees to the appointment the Authority may appoint the Member as a Member of the Panel.
- 3.9 In the event that an Authority does not appoint a Member in accordance with these requirements, the Secretary of State must appoint a Member to the panel from the defaulting authority in accordance with the provisions in the Act.

3. 10 With a view to ensuring continuity of membership as far as possible, an appointed Member shall be a Member of the Panel for four years unless s/he ceases to be an elected Member, or is removed by their Authority.
3. 11 An Authority may decide in accordance with their procedures to remove their appointed Member from the Panel at any point and on doing so shall give notice to the Solicitor to the Council at the Host Authority.
3. 14 An appointed Member may resign from the Panel by giving written notice to the Solicitor to the Council at the Host Authority on behalf of the Panel and to the proper officer at their Authority.
3. 15 In the event that any appointed Member resigns from the Panel, or is removed from the Panel by an Authority, the Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel.
3. 16 Members appointed to the Panel may be re-appointed to the Panel for a further term of four years.

3. 17 Co-opted Members

3. 18 The following may not be co-opted Members of the Panel:
 - a) the PCC for the Police Area.
 - b) a member of staff of the PCC for the area.
 - c) a member of the civilian staff of the Police Force for the area.
 - d) a Member of Parliament.
 - e) a Member of the National Assembly for Wales.
 - f) a Member of the Scottish Parliament.
 - g) a Member of the European Parliament.
3. 19 An elected member of any of the Authorities may not be a co-opted Member of the Panel where the number of co-opted Members is two.
3. 20 If the Panel has three or more co-opted Members an elected member of any of the Authorities may be a co-opted Member of the Panel provided that at least two of the other co-opted Members are not elected members of any of the Authorities.
3. 21 A co-opted Member shall be a Member of the Panel for four years.
3. 22 The Panel shall put in place arrangements to ensure that appointments of co-opted Members are undertaken following public advertisement in accordance with the following principles:
 - a) The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
 - b) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre determined criteria; and,
 - c) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
3. 23 A co-opted Member of the Panel may resign from the Panel by giving written notice to the Solicitor to the Council at the Host Authority on behalf of the Panel.

3. 24 The Panel must from time to time decide whether the Panel should exercise its power to change the number of co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.
3. 25 The Panel may decide to terminate the appointment of a co-opted Member of the Panel if at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the co-opted Member:
- a) if the co-opted Member has been absent from the Panel for more than three months without the consent of the Panel;
 - b) if the co-opted Member has been convicted of a criminal offence but not automatically disqualified;
 - c) if the co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a co-opted Member of the Panel; or,
 - d) if the co-opted Member's membership of the Panel no longer achieves the balanced appointment objective.
3. 26 In the event that a co-opted Member resigns from the Panel or is removed from the Panel following a decision of the Panel, the Panel shall ensure that at least two independent co-opted Members remain appointed to the Panel, and in the absence of two such Members shall make arrangements to ensure that two co-opted Members are appointed.
3. 27 Co-opted Members appointed to the Panel may be re-appointed for a further term of four years provided that the balanced appointment objective is met by that re-appointment.

4. 0 Budget and Costs of the Panel

4. 1 The annual costs of the Panel, reduced by the figure of any grant from the Home Office or any other source, shall be borne between the Authorities equally.
4. 2 A draft budget for the operation of the Panel shall be drawn up by the Host Authority in February each year, and shall be approved by the Authorities. All costs will be contained within the budget.

5. 0 Host Authority

5. 1 A Host Authority shall be determined by mutual agreement of the Authorities for the Panel and shall provide such administrative and other support as will be necessary to enable the Panel to undertake its functions. The Host Authority may be changed by agreement of the Authorities providing 12 months notice expiring on 31 March in any year is given.

6. 0 Rules of Procedure

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

- a) the appointment and removal of the Chairman;
- b) the formation of sub-committees;
- c) the making of decisions;
- d) the arrangements for convening meetings; and,
- e) the circulation of information.

7.0 Allowances

7.1 Members shall be entitled to claim expenses incurred as a result of membership of the Panel in accordance with the allowances appendix.

8.0 Promotion of the Panel

8.1 The Panel arrangements shall be promoted by:

- a) the establishment and maintenance of a dedicated open-access website including information about the role and work of the Panel, Panel Membership, all non-confidential Panel and sub-committee meeting papers, press releases and other publications;
- b) the issuing of regular press releases about the Panel and its work; and,
- c) the Authorities will each include information about the Panel on their websites, and will also include a link to the Panel website.

8.2 Support and guidance shall be provided to executive and non-executive elected members and officers of the Authorities in relation to the functions of the Panel as follows:

- a) by the provision of initial briefing sessions for elected members and relevant officers of the Authorities before the election of the PCC, and the provision of annual briefing sessions following the PCC's appointment; and,
- b) by the provision of written briefing notes for elected members and relevant officers of the Authorities at least three times per year.

9.0 Validity of Proceedings

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

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

SIGNED BY THE AUTHORITIES AS FOLLOWS:

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