

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	30 April 2012
Title:	Police and Crime Panel – Panel Arrangements
Reference:	3876
Report From:	Chief Executive

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1. Executive Summary

1.1. The Police Reform and Social Responsibility Act 2011 (“the Act”) introduces changes to the arrangements for governance of the Policing Service. In November 2012, police authorities will be abolished and replaced by a Police and Crime Commissioner (“the Commissioner”) for each policing area. The Commissioner will be responsible for securing the maintenance of an efficient and effective police force for the area, and hold the Chief Constable to account for the exercise of his/her functions. The Commissioner will also be responsible for issuing and keeping under review a Police and Crime Plan, setting out local policing priorities and how policing is to be resourced. The Act also requires the local authorities for each policing area to establish a Police and Crime Panel to review and scrutinise the Commissioner’s actions and decisions, with a view to supporting the work of the Commissioner.

1.2. This paper outlines the statutory role of a Police and Crime Panel, and recommends the basis on which it is proposed that a Panel should be established for the Hampshire Policing Area (i.e. Hampshire County Council, the 11 district councils in Hampshire, and the unitary authorities for Isle of Wight, Portsmouth and Southampton). The development of these terms has been the subject of discussion and agreement at HLOWLA leaders’ meeting on 27 January 2012, and with the other 14 constituent authorities.

2. Contextual information - Statutory Functions of a Police and Crime Panel

2.1. These comprise duties and powers. All functions are to be exercised with a view to supporting the effective exercise of the Commissioner’s functions.

2.2. Duties

- To review the draft Police and Crime Plan, or draft variation, and make a report or recommendations on it to the Commissioner
- On receipt of the Commissioner's annual report, to meet in public to ask the Commissioner questions on the report, to review the report and make a report or recommendations on it to the Commissioner
- To review or scrutinise decisions made, or other action taken, by the Commissioner in the discharge of his/her functions, and make reports or recommendations thereon to the Commissioner (Note: the Panel's role therefore is to scrutinise the Commissioner in the discharge of his/her functions – not the Chief Constable)
- To review and make recommendations to the Commissioner on proposals to appoint senior staff and Chief Constable
- To make a recommendation to the Commissioner on any proposal to remove the Chief Constable
- To review and report to the Commissioner on his/her proposed precept
- To publish any reports or recommendations made to the Commissioner, and send copies to local authorities in the Panel's area
- To appoint an Acting Commissioner (from amongst the Commissioner's staff) where the Commissioner is incapacitated or suspended

2.3. Powers

- To require the Commissioner and members of his/her staff to attend before the Panel (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- Where it requires the Commissioner to attend before the Panel, it may also request the Chief Constable to attend on the same occasion (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- To require the Commissioner to respond in writing (within a reasonable period determined by the Panel) to any of the Panel's reports or recommendations
- NB. The Commissioner and his/her staff are under a duty to comply with the above requirements

- To suspend the Commissioner where s/he is charged with an offence punishable by a maximum term of imprisonment of more than two years
- To veto the proposed appointment of Chief Constable (subject to two thirds of members voting in support)
- To veto the Commissioner's proposed precept (subject to two thirds of members voting in support)
- Note: Secondary legislation makes provision for the involvement of the Panel in the handling of complaints against the Commissioner. Serious complaints will be handled by the Independent Police Complaints Commission, and other complaints dealt with by the Panel via local resolution

3. Membership

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

- 15 members each appointed by their local authority. Authorities are free to determine whether they are represented by their Leader, executive member or non-executive member (except where an authority has an elected mayor, in which case they must be appointed)
- A minimum of 2 co-opted members appointed by the Panel. These cannot be members of local authorities within the Hampshire Policing Area
- Up to 3 additional co-opted members may be appointed by the Panel, subject to the agreement of the Secretary of State. These may be, but do not have to be, members of local authorities within the Hampshire Policing Area
- All Panel members are equal voting members
- In the unlikely event that an authority fails to appoint a member, there are provisions enabling appointment of a member of that authority by the Secretary of State
- The Panel is established as a "joint committee" and there is provision for the Secretary of State to apply (by statutory instrument) existing local government legislation to its business. This will mean that well-established and familiar provisions in the Local Government Act 1972 on the holding of meetings in public, advance publication of agendas etc are applied

3.2 Although appointment of co-opted members is a matter for the Panel, authorities may wish to bring to the attention of the Panel any potential

candidates with relevant skills, knowledge and experience, for their consideration.

4. The Balanced Appointment Objective

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

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

5. Duty to Produce a Balanced Panel

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

6. Panel Arrangements

- In establishing the Panel, the local authorities have a duty to make “Panel Arrangements”
- This will be a joint agreement in writing setting out the position on various aspects of how the Panel carries out its business. It will require approval by all 15 local authorities
- Note that although the Panel Arrangements must make provision about the co-option of, and holding of office by, the co-opted members, actual decisions as to the co-option of members, including the appointment of an initial two co-opted members, and a decision as to whether up to three additional members should be co-opted (subject to Secretary of State consent), are decisions for the Panel to make once constituted
- In co-opting members who are not members of relevant local authorities, a Panel must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively
- The draft Panel Arrangements proposed by the Hampshire authorities are set out in Appendix 1. These have been the subject of wide consultation and discussion. The main provisions are summarised below

7. Panel Rules of Procedure

The Act distinguishes between matters to be agreed by the 15 local authorities in the Panel Arrangements, and those matters that are to be determined by the Panel itself, once constituted. The following matters will not therefore be predetermined in the Panel Arrangements, but would be agreed at the inaugural meeting of the Panel:

- Appointment, resignation and removal of the Panel Chair
- The method of making decisions (e.g. adoption of standing orders on meeting procedures)
- Formation of Sub-committees

8. Panel Arrangements – Term of Office

- 8.1. The Act requires that Panel Arrangements include provision about the term of office of appointed members and co-opted members, and about the conditions for re-appointment.
- 8.2. **It is proposed that** all Members are appointed to the Panel for a four year term, and are eligible for re-appointment on the expiry of that term. This is

subject to the rules on change of membership summarised at paragraph 9 below. There would be no restriction on the number of terms of office that could be served.

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

9. Panel Arrangements – Resignation and Removal of Members

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

9.2. It is proposed that:

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

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

10. Panel Arrangements – the Costs of the Panel

- 10.1. The Act requires that Panel Arrangements make provision about how the relevant local authorities are to meet the costs of the Panel, and how any funds paid by the Secretary of State to meet the costs of the Panel are to be distributed between the authorities.
- 10.2. The Home Secretary has confirmed that the Government is making available £53,300 per annum for the costs of supporting and maintaining the Panel, and a further £920 per annum per member, to fund necessary expenses. This will provide an overall budget for the panel of around £72k in a full year, and around £36k in 2012-13.
- 10.3. The Government has asked that one authority in the police area acts as Lead Authority for the receipt of the funding and co-ordination of the establishment of the Panel. It was agreed at HLOWLA Leaders meeting on 27th January 2012 that Hampshire County Council would act in this capacity.

10.4. **It is proposed that:**

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

11. Panel Arrangements – Payment of Members’ Allowances

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

11.2. **It is proposed that:**

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

- The Lead Authority will explore amending its scheme of allowances to provide for the payment of a Co-optee's allowance to any of the Panel's co-opted members who is not also an authority member

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

12. Panel Arrangements – Promotion of the Work of the Panel

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

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

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

13. Panel Arrangements – Administrative and Other Support to the Panel and Members

13.1. The Act requires that Panel Arrangements must make provision for administrative and other support to the Panel and its Members and for support and guidance to members and officers of local authorities in the Panel's area in relation to the Panel's functions. This includes support with arranging meetings and minute-taking, communications, policy advice and support with scrutiny functions, legal and financial advice.

13.2. **It is proposed that** an interim arrangement is put in place for the Panel's first year of operation, pending the carrying out of a commissioning process. This would meet the immediate needs of the Panel while allowing it to consider, specify and commission the support it requires for the longer term.

13.3. Other options considered and rejected: sharing policy advice with the Commissioner's Office is not considered tenable due to the need for objectivity in scrutiny of the Commissioner. Further, there is the possibility that members of the Commissioner's staff may be required to attend before the Panel to answer questions.

14. Panel Arrangements – Date of Commencement

14.1. The minimum legal requirement is for the Panel to be in operation by November 2012 when the Commissioner is elected.

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

15. Next Steps

- 15.1. To enable a Panel to be established from June 2012, all 15 constituent authorities are being asked to approve the Panel Arrangements at their annual meetings in May 2012, and to appoint a Panel Member. Following the local elections on 3rd May 2012, updated information as to the political make-up of the 15 authorities (when taken together) will be made available, so that authorities can appoint their member in line with the political balance requirements of the balanced appointment objective. The date set provisionally for the first meeting of the Panel is **29th June 2012**.
- 15.2. At the date of preparing this report, the Home Secretary has not yet published regulations and guidance on the establishment of police and crime panels, which was previously stated to be due for publication in March. However, relevant Home Office staff have had sight of the draft Panel Arrangements for Hampshire, and have indicated that the regulations and guidance, when they are published, will be "light touch". It is unlikely therefore that these will give rise to any need for fundamental change of the proposed Panel Arrangements.
- 15.3. Nevertheless, it is felt advisable for each authority to grant delegated authority to its Chief Executive to agree any further minor amendments to the draft Panel Arrangements that may be necessary to ensure statutory compliance, once the regulations and guidance have been published.

16. Conclusion

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

17. Recommendations

That it be recommended to full Council that:

- 17.1. The recommended terms on which the Police and Crime Panel should be established are endorsed.
- 17.2. Subject to 17.3, the Panel Arrangements in Appendix 1 to this report are approved.
- 17.3. The Chief Executive be authorised to agree any further minor amendments to the Panel Arrangements necessary to ensure statutory compliance, once the Home Secretary's regulations and guidance have been published.
- 17.4. A member be appointed as the Council's Appointed Member to the Panel.
- 17.5. A member be identified to act as "Deputy Member" and, where the Appointed Member is temporarily unable to attend a Panel meeting or otherwise undertake Panel business, the Chief Executive be authorised to give notice of temporary change of membership for a period of up to 28 days, to enable the Deputy Member to deputise in the Appointed Member's absence.

Unique number:
2831116

Appendix 1

DATED

2012

**Basingstoke and Deane Borough Council
East Hampshire District Council
Eastleigh Borough Council
Fareham Borough Council
Gosport Borough Council
Hampshire County Council
Hart District Council
Havant District Council
Isle of Wight Council
New Forest District Council
Portsmouth City Council
Rushmoor Borough Council
Southampton City Council
Test Valley Borough Council
and
Winchester City Council**

**Panel Arrangements for the
Police and Crime Panel for the
Hampshire Police Area**

Kevin Gardner
Head of Legal Services
Hampshire County Council
Winchester
Hants
SO23 8UJ

RECITALS

1. Section 28(1) of the Police Reform and Social Responsibility Act 2011 (“the Act”) provides that each police area is to have a police and crime panel established and maintained in accordance with Schedule 6 to the Act. Paragraph 3(2) of Schedule 6 to the Act provides that the local authorities for a police area must (a) establish and maintain a police and crime panel for their police area, and (b) make the panel arrangements for the police and crime panel. Paragraph 3(3) provides that in the case of a multi-authority police area, all the relevant local authorities must agree to the making or modification of the panel arrangements.
2. Further to the abovementioned provisions, the Parties to this Agreement, being all the relevant local authorities for the Hampshire Police Area, wish to make and record the panel arrangements for the police and crime panel for that area.

NOW IT IS AGREED:

PART A: Commencement and Establishment of Panel

1. Commencement

This Agreement shall commence on the 1st June 2012.

2. Parties

- a. Basingstoke and Deane Borough Council of Civic Offices, London Road, Basingstoke RG21 4AH
- b. East Hampshire District Council of Penns Place, Petersfield, Hampshire, GU31 4EX
- c. Eastleigh Borough Council of Civic Offices, Leigh Road, Eastleigh, Hampshire SO50 9YN
- d. Fareham Borough Council of Civic Offices, Civic Way, Fareham, Hampshire, PO16 7PP
- e. Gosport Borough Council of Town Hall, High Street, Gosport, Hampshire. PO12 1EB.
- f. Hampshire County Council of The Castle, Winchester, Hampshire, SO23 8UJ
- g. Hart District Council of Civic Offices, Harlington Way, Fleet, Hampshire GU51 4AE

- h. Havant Borough Council of, Civic Centre Road, Havant, Hampshire PO9 2AX
- i. Isle of Wight Council of County Hall, High Street, Newport, Isle of Wight PO30 1UD
- j. New Forest District Council of Appletree Court, Lyndhurst, Hampshire, SO43 7PA
- k. Portsmouth City Council of Civic Offices, Guildhall Square, Portsmouth, Hampshire, PO1 2BG
- l. Rushmoor Borough Council of Council Offices, Farnborough Road, Farnborough, Hampshire GU14 7JU
- m. Southampton City Council of Civic Centre, Southampton, Hampshire S014 7LY
- n. Test Valley Borough Council of Beech Hurst, Weyhill Road, Andover, Hampshire, SP10 3AJ
- o. Winchester City Council Colebrook Street, Winchester, Hampshire, SO23 9LJ

3. Definitions

- “the Act” means the Police Reform and Social Responsibility Act 2011
- “Agreement” means this written agreement
- “Appointed Member” means an elected member appointed to the Panel by an Authority under clause 7
- “Appointing Authority” means the Authority that has appointed an Appointed Member
- “The Authorities” means the parties to this Agreement set out in clause 2
- “Balanced Appointment Objective” has the meaning given in Paragraph 31(5) of Schedule 6 to the Act (summarised for ease of reference in Part 3 of the Schedule)

“Central Government Grant”	means the funds made available by the Secretary of State to assist with the costs of establishing and maintaining the Panel
“Chair”	means the Chair of the Panel elected initially under clause 11.1 and thereafter in accordance with the Panel’s rules of procedure
“Chief Constable”	means the chief constable for the police force for the Hampshire Police Area further to S.2 of the Act
“Chief Executive”	means the officer of an Authority designated as its chief executive or, where none exists, its head of paid service for the purposes of S.4 local Government and Housing Act 1989
“Commissioner”	means the police and crime commissioner for the Hampshire Police Area further to S.1 of the Act
“Co-opted Member”	means a person co-opted to the Panel under clause 12.1
“Deputy Commissioner”	means a deputy police and crime commissioner appointed by the Commissioner further to S.18(1) of the Act
“Deputy Member”	has the meaning given in clause 8.6
“Financial Year”	means any period from 1 st April to 31 st March next following
“Hampshire Police Area”	means the police area of Hampshire for the purposes of S. 1 of and Schedule 1 to the Police Act 1996
“Lead Authority”	means the local authority appointed by the Authorities as lead authority in accordance with Clause 6.

“Leader”	means the executive leader of an Authority, where that Authority operates a leader and cabinet executive, or the elected mayor of an Authority, where that Authority operates a mayor and cabinet executive, and in other cases, the person nominated by an Authority further to clause 21.3
“the Panel”	means the Hampshire Police and Crime Panel
“the Panel Competencies”	has the meaning in clause 9.3
“the Political Balance Information”	has the meaning in clause 9.2
“Presiding Officer”	has the meaning in clause 11.1
“Representative”	means a person appointed under clause 21.2
“Schedule”	means the schedule to this Agreement
“Secretary of State”	means the Home Secretary

4. Interpretation

- 4.1 The headings for each section throughout this Agreement are provided for ease of reference only and shall not affect its construction or interpretation.
- 4.2 References to the singular include references to the plural and vice versa.
- 4.3 Where any provision is founded on or refers to a legislative requirement that is modified or re-enacted by virtue of subsequent legislation, that provision shall be interpreted and applied so far as practicable in such way as to give effect to and ensure compliance with that amendment.

5. Establishment of Police and Crime Panel

- 5.1 Further to Paragraph 3(2) and 3(3) of Schedule 6 to the Act, the parties hereby establish a police and crime panel for the Hampshire Police Area, on the terms set out in this Agreement. The panel shall be known as “The Hampshire Police and Crime Panel” and for ease

of reference is referred to hereafter in this Agreement as “the Panel”.

- 5.2 The Panel shall carry out the statutory functions of a police and crime panel under the Act, subject to any modification or re-enactment thereof. For ease of reference only, a summary of the statutory provisions of main relevance as of the date of this Agreement, are set out in the Schedule hereto.
- 5.3 Insofar as any action is required to be taken by the Authorities in establishing the Panel prior to relevant provisions of the Act being brought into force by the Secretary of State, such actions are taken further to the Authorities’ general subsidiary powers under Section 111 of the Local Government Act 1972 to do anything calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.

6. Lead Authority

- 6.1 The Parties shall appoint a lead authority to act on their behalf in making and co-ordinating all such arrangements as are reasonably necessary to ensure the effective setting-up and maintenance of the Panel in accordance with the provisions of the Act and this Agreement (“Lead Authority”). The Parties shall provide the Lead Authority with all such assistance as it may reasonably require in this respect.
- 6.2 Upon the commencement of this Agreement, Hampshire County Council is appointed as Lead Authority.
- 6.3 The appointment of Lead Authority may be varied from time to time by the written agreement of all the Authorities.
- 6.4 The Authorities hereby authorise the Secretary of State to pay the Central Government Grant to the Lead Authority on their behalf, and further authorise the Lead Authority to make any payments from such funds as may be required in connection with the Panel’s functions, having regard to the budget approved by the Panel further to clause 15.

7. Membership

- 7.1 Each Authority shall nominate and, subject to the nominee accepting the nomination, appoint one of its elected members to the Panel, referred to as that Authority’s “Appointed Member”.
- 7.2 As soon as reasonably practicable after the commencement of this Agreement, and by 15 June 2012 at the latest, each Authority shall nominate and appoint its first Appointed Member. Thereafter, where

an Authority's Appointed Member's term of office expires under clause 8.1, where they resign under clause 8.2, or where they are removed further to clause 8.3, the Authority shall make a further nomination and appointment.

- 7.3 Decisions about the nomination and appointment of an Appointed Member shall be made in accordance with clauses 9 and 10.
- 7.4 As soon as reasonably practicable after appointing its Appointed Member, the Authority shall give notice to the Lead Authority of the name, contact telephone number, postal and email address of the Appointed Member, and the date of their appointment. Except in cases of urgency, such notice shall be given at least 10 working days before any scheduled meeting of the Panel, to enable sufficient time for the newly Appointed Member to receive and consider agenda papers for that meeting.
- 7.5 An Authority may not make a nomination of an Appointed Member if, and for as long as, a notice given to that Authority by the Secretary of State under Paragraph 10(8) of Schedule 6 to the Act is in force.
- 7.6 Where appointment of a member of an Authority is made not by the Authority, but by the Secretary of State further to Paragraph 10(4) of Schedule 6 to the Act, that appointee shall be regarded as that Authority's Appointed Member for the purposes of this Agreement.
- 7.7 Where, in accordance with the Local Government Act 2000, an Authority has a mayor and cabinet executive, it must appoint its elected mayor as its Appointed Member, subject to Paragraphs 33 and 34 of Schedule 6 to the Act.

8. Term of Office, Resignation, and Change (including Temporary Change) of Members

- 8.1 Subject to this clause 8, the term of office of an Appointed Member is four years commencing with the date of appointment.
- 8.2 Any Appointed Member may resign by notification to the Lead Authority, such resignation taking effect upon receipt.
- 8.3 Subject to clause 8.4, any Authority may remove its Appointed Member and appoint a new Appointed Member in their place. Notification of the removal and further appointment shall be provided to the Lead Authority as soon as reasonably practicable following such change, taking effect upon receipt. Any decision to remove an Appointed Member shall be made in accordance with the provisions of clause 10.

- 8.4 An Authority may not remove its Appointed Member where that appointment has been made by the Secretary of State further to Paragraph 10(4) of Schedule 6 to the Act, or where it has a mayor and cabinet executive and its Appointed Member is its elected mayor.
- 8.5 An Appointed Member whose term of office expires further to clause 8.1 is eligible for immediate re-appointment. An Appointed Member who resigns further to clause 8.2, or who is removed further to clause 8.3 is eligible for re-appointment to the Panel at a future date.
- 8.6 Where an Appointed Member is temporarily unable to attend a meeting of the Panel or to otherwise undertake Panel business, the power under clause 8.3 shall be used flexibly by that Member's Appointing Authority to enable the temporary removal of that Appointed Member and the temporary appointment of another of that Authority's members to deputise in their absence ("Deputy Member"). The notification of such change provided to the Lead Authority under clause 8.3 shall specify the duration of such temporary appointment (which shall not exceed 28 days), and that with effect from the end of the period specified the first Appointed Member shall be reappointed. Upon receipt of such notification, the Deputy Member shall be regarded as the Authority's Appointed Member for all purposes during the temporary period so specified. Decisions about the nomination and appointment of a Deputy Member shall be made in accordance with clause 10.

9. The Balanced Appointment Objective – Initial Arrangements

- 9.1 In nominating and appointing an Appointed Member, an Authority is required by the Act to secure that (as far as reasonably practicable) the Balanced Appointment Objective is met. This clause 9 and clause 10 set out the arrangements that will be operated by the Authorities to ensure that this requirement is observed.
- 9.2 By the 10th May 2012, each Authority will notify the Lead Authority of (1) the total number of members of that Authority and (2) the division of those members into political groups for the purposes of S.15 of the Local Government and Housing Act 1989 and Part 3 of the Local Government (Committees and Political Groups) Regulations 1990 (or, where the Authority has no such formal political groups, the numbers of its members it regards as affiliated to recognised political parties) and (3) the number of independent members who are not affiliated to any political group or party. The Lead Authority shall then give notice to the other Authorities of the aggregate number of members in the Authorities and their overall division by reference to political parties and independent members ("the Political Balance Information").

- 9.3 For the purposes of the initial appointment of Appointed Members, the skills, knowledge and experience necessary for the Panel to discharge its functions effectively shall include:
- **Skills:** investigative; taking a strategic view; communications; chairing
 - **Knowledge:** policing policy; community safety; licensing; tackling anti-social behaviour; equality and diversity
 - **Experience:** overview and scrutiny; holding decision makers to account; political engagement

(“the Panel Competencies”)

- 9.4 The Authorities shall make their nomination and appointment of their initial Appointed Member having regard to the Political Balance Information and the Panel Competencies, and following such consultation and discussion as may take place between the Leaders of the Authorities to secure that overall, and as far as reasonably practicable, the Balanced Appointment Objective is met. In so doing, the Authorities may take into account the fact that, subject to the agreement of the Secretary of State, the Panel has the power to co-opt members in due course to secure that the Balanced Appointment Objective is met.
- 9.5 The Authorities intend that the element of the Balanced Appointment Objective that requires local authority members of the Panel to represent all parts of the police area will be met by each Authority appointing a member elected for its administrative area as its Appointed Member.

10. The Balanced Appointment Objective – Ongoing Arrangements

- 10.1 Each Authority shall notify the Lead Authority within 14 days of any change in the Political Balance Information for that Authority following a review of the representation of political groups on that Authority further to section 15(1) of the Local Government and Housing Act 1989.
- 10.2 The Lead Authority shall maintain the Political Balance Information and, within 14 days of receipt of notification under clause 10.1, notify the Authorities of any change arising as a result of that notification. The Lead Authority shall also report the updated Political Balance Information to the meeting of the Panel next following the change.
- 10.3 The Panel shall keep the Panel Competencies under review and advise the Lead Authority of any gaps in, or additional areas of, skills, knowledge or experience it considers necessary to enable it to

carry out its functions effectively. The Lead Authority shall notify any such information to any Authority that is due to consider nominating and appointing its Appointed Member.

- 10.4 Each Authority shall continue to make decisions from time to time about the nomination, appointment and (where necessary) removal of its Appointed Member, having regard to the Political Balance Information (updated as necessary in accordance with clause 10.2), and the Panel Competencies (together with such further information as is notified further to clause 10.3), and following such consultation and discussion as may take place between the Leaders of the Authorities to secure that overall, and as far as reasonably practicable, the Balanced Appointment Objective is met. In so doing, the Authority may take into account the fact that, subject to the agreement of the Secretary of State, the Panel has the power to co-opt members and, where necessary, to change the appointment of co-opted members, to secure that the Balanced Appointment Objective is met.

11. Appointment of Chair and Rules of Procedure

- 11.1 The election of the Chair of the Panel shall be the first item of business at the Panel's first meeting. The Lead Authority's Chief Executive, or their authorised representative ("the Presiding Officer") shall preside for this first item of business.
- 11.2 The Presiding Officer shall call for nominations for Chair. Any Appointed Member is eligible for appointment as Chair, subject to their nomination being proposed and seconded by two other Appointed Members.
- 11.3 If only one nomination is received, the Presiding Officer shall declare that Appointed Member duly elected and shall install them as Chair of the Panel. If more than one nomination is received, the Presiding Officer shall read out the name of each candidate, following which those Appointed Members voting for that candidate shall indicate this by show of hands. The candidate securing most votes shall be declared duly elected by the Presiding Officer and installed as Chair of the Panel.
- 11.4 In the event of a tie, the Presiding Officer shall not have a casting vote. Further discussions shall take place following which the procedure in clause 11.3 shall be repeated until a Chair is elected.
- 11.5 At its first meeting, the Panel shall adopt its own rules of procedure at meetings. The election of Chair of the Panel on any future occasion shall be carried out in accordance with those rules.

12. Co-option of Members

- 12.1 The Panel shall appoint a minimum of two Co-opted Members who may not be members of the Authorities. Subject to the agreement of the Secretary of State, the Panel may resolve further to Paragraph 4(4) of Schedule 6 to the Act to appoint up to three additional Co-opted Members, who may be members of the Authorities.
- 12.2 The provisions of clauses 8.1 – 8.5 apply to Co-opted Members as they apply to Appointed Members, and with the reference to “Authority” in clause 8.3 being read as a reference to the Panel.

13. Members’ Allowances and Expenses

- 13.1 Subject to compliance with the Local Authorities (Members Allowances) (England) Regulations 2003, where an Appointed Member who is elected as Chair is not already in receipt of a special responsibility allowance under the scheme of members’ allowances of their Appointing Authority, their Appointing Authority shall explore making an amendment to that scheme to provide for the payment of a special responsibility allowance to that Appointed Member, in consideration of their responsibilities as Chair. Any allowance so paid shall be reimbursed to that Authority by the Lead Authority from the Central Government Grant. Where the Chair is the Appointed Member of the Lead Authority, any allowance so paid shall be met from the Central Government Grant.
- 13.2 Subject to compliance with the Local Authorities (Members Allowances) (England) Regulations 2003, travel and subsistence allowance in relation to attendance at Panel meetings by an Appointed Member shall be claimed from and paid by the Authority appointing them, in accordance with that Authority’s own procedures.
- 13.3 Subject to compliance with the Local Authorities (Members Allowances) (England) Regulations 2003, the Lead Authority shall explore the making of an amendment to its scheme of members’ allowances to provide for the payment of a co-optee’s allowance and travel and subsistence allowance to any Co-opted Member of the Panel who is not also a member of an Authority.
- 13.4 Sums paid further to clause 13.2 shall be reimbursed to the Appointing Authority by the Lead Authority from the Central Government Grant, subject to the total amount payable not exceeding the element of the Central Government Grant paid in respect of the expenses of a member. In 2012-13 this limit is £460 per Appointed Member and in 2013-14 £920 per Appointed Member. Any variation in this limit in future years shall be notified by the Lead

Authority to the other Authorities.

- 13.5 Sums paid further to clause 13.3 shall be met by the Lead Authority from the Central Government Grant, subject to the total amount payable in respect of travel and subsistence allowance not exceeding the element of the Central Government Grant paid in respect of the expenses of a member. In 2012-13 this limit is £460 per Co-opted Member and in 2013-14 £920 per Co-opted Member.

14. Members' Code of Conduct

- 14.1 In attending Panel meetings and undertaking Panel business, an Appointed Member is acting in the capacity of a member of the Authority appointing them, and is therefore subject to the members' code of conduct adopted by that Authority further to Section 27(2) of the Localism Act 2011.
- 14.2 Co-opted members of the Panel shall be regarded as co-opted members of the Lead Authority, further to Section 27(4) of the Localism Act 2011, and subject therefore to the Lead Authority's members' code of conduct when acting in that capacity.

15. Budget and Costs

- 15.1 The Authorities' objective is that the total costs incurred in connection with the establishment and maintenance of the Panel (including allowances paid further to clause 13) shall be contained within the Central Government Grant. In 2012-13 this sum is approximately £36k, and in 2013-14 approximately £72k.
- 15.2 At the first meeting of the Panel, the Lead Authority shall present a draft budget for the Panel, setting out how it is proposed to manage its expenditure on Panel business for the 2012-13 Financial Year. Subject to any variations agreed, the Panel shall adopt the budget and monitor expenditure against it.
- 15.3 Prior to the start of the 2013-14 Financial Year, and thereafter on an annual basis prior to each subsequent Financial Year, the Lead Authority shall present a draft budget for the Panel, setting out how it is proposed to manage its expenditure on Panel business for the coming Financial Year. Subject to any variations agreed, the Panel shall adopt the budget and monitor expenditure against it.
- 15.4 Where for any reason actual expenditure in any Financial Year exceeds the Central Government Grant, the excess shall be borne by the Authorities in equal shares, unless otherwise agreed by the Authorities. Each Authority shall be liable to reimburse the Lead Authority the sum due.

16. Promotion of the Panel's Role

- 16.1 The Panel shall be responsible for considering and agreeing arrangements for promotion of its role and its work amongst relevant stakeholders.

17. Professional Advice and Administrative Support

- 17.1 The Lead Authority shall be responsible for providing, or commissioning, appropriate professional advice and administrative support to ensure the efficient and effective discharge of the Panel's functions, including:

- Policy advice
- Scrutiny support
- Democratic services and member support
- Legal advice
- Financial advice
- Communications, website and media relations support

- 17.2 The Lead Authority shall be responsible for providing support and guidance to members, including executive members, and officers, of the Authorities in relation to the functions of the Panel.

- 17.3 The Lead Authority's proposals for fulfilling its responsibilities under clauses 17.1 and 17.2, and how the costs of this are to be met, shall be presented to the Panel for agreement along with the budget further to clause 15.

- 17.4 Any change in appointment of Lead Authority further to clause 6.3 shall be effected in such a way as to maximise the transfer of relevant staff and to minimise any liabilities arising. To the extent that such liabilities do arise as a result of the change of appointment, these shall be met from the budget agreed under clause 15.

18. Legal Requirements

- 18.1 Requests under the Freedom of Information Act in relation to Panel business shall be received and handled by the Lead Authority in accordance with its usual procedures.

- 18.2 So far as is applicable, personal data handled in the course of managing Panel business shall be managed by the Lead Authority as data controller in accordance with its data protection registration.

- 18.3 So far as is applicable, any intellectual property rights arising from the management of Panel business shall be held by the Lead Authority on behalf of the Authorities and the Lead Authority shall

have full power to make decisions in connection with those rights.

19. Amendment

19.1 This Agreement may only be amended by a further agreement in writing executed by all of the Authorities.

20. Legal Liabilities

20.1 Each Authority remains solely responsible for any liability it may incur arising as a result of the acts or omissions of its members, officers or representatives in connection with the business of the Panel, except where, and to the extent that, a contributory factor to such liability arising is the act or omission of another Authority, its members, officers or representatives.

20.2 Each Authority undertakes to effect and maintain appropriate indemnity and insurance arrangements (which may include self-insurance arrangements) in respect of such liabilities as it reasonably considers may arise from the operation of this Agreement.

20.3 Liabilities incurred by the Lead Authority as a result of the responsible and diligent discharge of the functions of Lead Authority shall be met from the budget agreed under clause 15.

21. Notice

21.1 Where under this Agreement the giving of any notification is required, subject to clause 21.2, it shall be given in writing by or on behalf of the Chief Executive of one Authority to the Chief Executive of the other Authority, at the address for that Authority stated in clause 2. Notice shall be sent by first class post and deemed received on the second normal business day after posting.

21.2 Notice may be given to the Lead Authority, by or on behalf of an Authority's Chief Executive, of a name of an officer of that Authority who is their Representative for the purposes of this Agreement, with an email address by and to which any notifications may be made and received by their Representative by email for the purposes of this Agreement. A list of all such Representatives and their email addresses shall be maintained and updated by the Lead Authority and circulated to the Authorities' Chief Executives or, as the case may be, their nominated Representatives.

21.3 Where at any time an Authority does not operate either a leader and cabinet executive, or a mayor and cabinet executive for the purposes of the Local Government Act 2000 (as amended), it shall

notify the Lead Authority of the person to be regarded as its Leader for the purposes of this Agreement.

22. Severability

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

23. Waiver

No term or provision of this Agreement shall be considered as waived by any of the Authorities unless a waiver is given in writing by that Authority to the other Authorities.

24. Governing Law

This Agreement shall be governed by and construed in accordance with English Law and the Authorities hereby submit to the exclusive jurisdiction of the English Courts.

25. Suspension

The continued operation of this Agreement is subject to the provisions of any order made by the Secretary of State to establish a police and crime panel under Part 3 of Schedule 6 to the Act, further to Paragraph 1(2) of the said Schedule 6.

25. Counterparts

This agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

26. Exclusion of Third Party Rights

Save to the extent as expressly provided for in this Agreement no person who is not an Authority shall have any right to enforce any term of this Agreement and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

Schedule

Summary of Main Statutory Provisions Relevant to the Panel

Part 1: Functions

Police and Crime Plan (S.28(3) of the Act)

1. The Panel shall review the draft Police and Crime Plan, or draft variation, given to it by the Commissioner in accordance with Section 5(6)(c) of the Act and make a report or recommendations on the draft plan or variation to the Commissioner.

Annual Report (S.28(4) of the Act)

The Panel shall:

- 1 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;
- 2 Ask the Commissioner, at that meeting, such questions about the annual report as the members of the Panel think appropriate;
- 3 Review the annual report, and
- 4 Make a report or recommendations on the annual report to the Commissioner.

Appointment of Senior Staff (Paragraphs 9 – 12 of Schedule 1 to the Act)

- 1 Subject to paragraph 3 below, on receipt of notification from the Commissioner of a proposed appointment to the position of the Commissioner's chief executive, chief finance officer, or Deputy Commissioner, the Panel shall, within a period of three weeks beginning with the day the Panel receives notification of the proposed appointment:
 - 1.1 Review that proposed appointment;
 - 1.2 Hold a confirmation hearing; and
 - 1.3 Make a report to the Commissioner upon the proposed appointment. The report shall include a recommendation to the Commissioner as to whether or not the candidate should be appointed.

- 2 The Panel shall publish, in such manner as it may determine, its report to the Commissioner.
- 3 In calculating the period of three weeks referred to in paragraph 1 above, any relevant post-election period, as defined in Paragraph 10(5) of Schedule 6 to the Act, shall be ignored.

Issuing Precepts (Paragraphs 3 – 5 of Schedule 5 to the Act)

- 1 On receipt of notification from the Commissioner of a proposed precept for a financial year, the Panel shall:
 - 1.1 Review that proposed precept; and
 - 1.2 Make a report to the Commissioner on the proposed precept, which may include recommendations, including recommendations as to the precept that should be issued for the financial year.
- 2 The Panel may, having reviewed the proposed precept, veto the proposed precept, by a majority of at least two-thirds of the persons who are members of the Panel at the time the decision is made voting in favour of making that decision.

Appointments by the Commissioner (Paragraphs 3 - 6 of Schedule 8 to the Act)

- 1 Subject to paragraph 3 below, on receipt of notification from the commissioner of a proposed appointment of a chief constable, the Panel shall, within a period of three weeks beginning with the day the Panel receives notification of the proposed appointment:
 - 1.1 Review the proposed appointment;
 - 1.2 Hold a confirmation hearing; and
 - 1.3 Subject to paragraph 4 below, make a report to the Commissioner on the proposed appointment, which must include a recommendation as to whether or not the candidate should be appointed.
- 2 The Panel shall publish, in such manner as it may determine, its report to the Commissioner.
- 3 In calculating the period of three weeks referred to in paragraph 1 above, any relevant post-election period, as defined in Paragraph 4(10) of Schedule 8 to the Act, shall be ignored.

- 4 The Panel may, having reviewed the proposed appointment, veto the appointment of the candidate by a majority of at least two-thirds of the persons who are members of the Panel at the time the decision is made voting in favour of making that decision. Where the Panel vetoes the appointment, it shall include in its report to the Commissioner a statement that it has vetoed it.
- 5 The power to veto an appointment shall be exercised within a period of three weeks beginning with the day the Panel receives notification of the proposed appointment.

Scrutiny (S.28(6) of the Act)

- 1 The Panel must:
 - 1.1 Review or scrutinise decisions made, or other action taken, by the Commissioner in connection with the discharge of the Commissioner's functions; and
 - 1.2 Make reports or recommendations to the Commissioner in connection with the discharge of the Commissioner's functions

insofar as the Panel is not otherwise required to do by subsection 28(3) or (4) of or Schedules 1, 5 or 8 to the Act

Publication of Reports (S.28(7) of the Act)

- 1 The Panel must publish, in such manner as it may determine, any reports or recommendations made to the Commissioner, and send copies of such reports or recommendations to each of the Authorities.

Appointment of Acting Commissioner (S.62 of the Act)

1. The Panel must appoint a member of the Commissioner's staff as acting commissioner where no one holds the office of Commissioner, or they are incapacitated or suspended. The Panel shall have regard to any representations made by the Commissioner in relation to the appointment.

Conduct and Complaints(S.31 and Schedule 7 to the Act; Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

1. The Panel has certain responsibilities in respect of the making and handling of complaints about the Commissioner or Deputy Commissioner, and the recording of matters where there is an

indication that either may have committed a criminal offence.

Policing Protocol Order 2011

1. The Panel has a responsibility to exercise its functions in accordance with the Policing Protocol Order 2011.

Part 2: Powers

Power to Require Attendance and Information (S.29 of the Act)

- 1 The Panel may require the Commissioner, and members of the Commissioner's staff, to attend before the Panel (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions. Such a requirement must be complied with. However, this does not require any member of the Commissioner's staff to give any evidence, or produce any document, which discloses advice given to the Commissioner by that person.
- 2 The Panel may require the Commissioner to respond in writing (within a reasonable period determined by the Panel) to any report or recommendation made by the Panel to the Commissioner. Such a requirement must be complied with.
- 3 Where the Panel requires the Commissioner to attend before it, 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.

Suspension of Commissioner (S.30 of the Act)

- 1 The Panel may suspend the Commissioner if it appears to the Panel that the Commissioner has been charged in the UK, Channel Islands or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years. The suspension ceases to have effect upon the charge being dropped, the Commissioner being acquitted, the Commissioner being convicted but not being disqualified under S.66 of the Act by virtue of the conviction, or the termination of the suspension by the Panel (whichever is the earliest).

Part 3: The Balanced Appointment Objective (Paragraph 31 of Schedule 6 to the Act)

- 1 In nominating and appointing an Appointed Member, each Authority must secure that (as far as reasonably practicable) the balanced

appointment objective is met.

2. In co-opting persons who are members of the Authorities, the Panel must secure that (as far as reasonably practicable) the balanced appointment objective is met.
3. The Panel must, from time to time, decide whether the Panel's exercise of the power to change the number of Co-opted Members of the Panel would enable the balanced appointment objective to be, or would contribute to that objective being, met or more effectively met, and if it decides that the exercise of the power would do so, must exercise that power accordingly.
4. The balanced appointment objective is the objective that the members of the Panel who are members of the Authorities (when taken together):
 - 4.1 represent all parts of the police area;
 - 4.2 represent the political make-up the Authorities (when taken together); and
 - 4.3 have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively
5. In co-opting members who are not members of the Authorities, the Panel must secure that (as far as reasonably practicable) the Appointed Members and Co-opted Members (when taken together) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.

**THE COMMON SEAL OF THE PARTIES IS
HEREUNDER AFFIXED IN THE PRESENCE OF:**

Authorised Signatory
Basingstoke and Deane Borough Council

Authorised Signatory
East Hampshire District Council

Authorised Signatory
Eastleigh Borough Council

Authorised Signatory
Fareham Borough Council

Authorised Signatory
Gosport Borough Council

Authorised Signatory
Hampshire County Council

Authorised Signatory
Hart District Council

Authorised Signatory
Havant District Council

Authorised Signatory
Isle of Wight Council

Authorised Signatory
New Forest District Council

Authorised Signatory
Portsmouth City Council

Authorised Signatory
Rushmoor Borough Council

Authorised Signatory
Southampton City Council

Authorised Signatory
Test Valley Borough Council

Authorised Signatory _____
Winchester City Council

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> None	<u>Reference</u>	<u>Date</u>
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. The duty to secure a balanced panel requires authorities to consider the skills, experience and backgrounds of potential members so that the Panel discharges its functions effectively

2. Impact on Crime and Disorder:

- 2.1. The Panel will have a vital role in holding the newly elected Police and Crime Commissioner to account in matters to do with police and crime planning and policy

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

No material impact

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

It will be for the Panel to determine number and location of meetings, travel impact, and ease of access for the public