



**A joint protocol
for the working relationship between the
Police and Crime Commissioner for Hampshire and
the Isle of Wight
and the
Hampshire and Isle of Wight Police and Crime Panel**

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Protocol defining the relationship between the Hampshire and Isle of Wight Police and Crime Panel and the Police and Crime Commissioner for Hampshire and the Isle of Wight

Introduction to the protocol

This protocol concerns the relationship between the Hampshire and Isle of Wight Police and Crime Panel (“the Panel”) and the Police and Crime Commissioner for Hampshire and Isle of Wight (“the Commissioner”). The protocol aims to provide clarity of role and expectations of the Panel and the Commissioner for the benefit of all involved in the process of policing and crime accountability.

The public accountability for the delivery and performance of the police service is placed into the hands of the Commissioner on behalf of his electorate. The Commissioner draws on his mandate to set and shape the strategic objectives of Hampshire and Isle of Wight Constabulary (the Hampshire and Isle of Wight Policing Area covers the geographical area of Hampshire, Isle of Wight, Portsmouth and Southampton) in consultation with the Chief Constable. The Commissioner is accountable to the electorate; the Chief Constable is accountable to the Commissioner. The Panel is empowered to maintain a regular check and balance on the performance of the Commissioner in that context, and its members are accountable as elected members of the authorities participating in the Panel or as co-opted members, under the applicable code of conduct, and its independent members are accountable under the Panel terms of reference.

The roles, responsibilities and functions of the Commissioner and the Panel are defined in legislation (please see appendix A)¹. This document is not a statement of the formal jurisdiction and powers of either party. Nothing in this document is intended to restrict the statutory rights or vary the legal duties and requirements of those involved. It does not take precedent over any actual legislation.

The Panel and Commissioner will strive to:

- work in a climate of mutual respect and courtesy;
- have an appreciation and understanding of the respective roles, responsibilities and priorities of each other;
- promote and foster an open relationship where issues of common interest and concern are shared in a constructive and mutually supportive way;
- share work programmes, appropriate information or data obtained to avoid the unnecessary duplication of effort.

The establishment and maintenance of an effective working relationship between the Panel and Commissioner is essential. It is expected principles of goodwill, professionalism, openness and trust will underpin the relationship

¹ As defined within the Policing Protocol Order 2011

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between them and all will do their utmost to make the relationship work.

The Panel and the Commissioner shall abide by the seven Nolan Principles²:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

Chairman of the Hampshire and Isle
of Wight Police and Crime Panel

Date:

Police and Crime Commissioner for
Hampshire and Isle of Wight

Date:

² First Report of the Committee on Standards in Public Life and for a fuller explanation please see appendix B

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An open dialogue:

The Chairman and/or vice-chairman shall discuss matters of relevance to the Panel with the Commissioner. This dialogue will enable the Panel to set its agenda and plan its work programme. It is anticipated an informal meeting will be held in advance of each Panel meeting to enable the Chairman and Commissioner to discuss matters to be raised at the Panel meeting.

Time to prepare:

Where possible the programme of meetings, both formal and informal, should be established for the following year in consultation with the Commissioner. Some items should be able to be scheduled in with as much notice as possible, for example the precept or annual report.

Where a report is required from the Commissioner, the Panel will endeavour to give sufficient notice to the Commissioner to enable the preparation of an accurate and complete report, such notice being in general, at least 30 working days in advance of the date for submission of the report (i.e. 6 working days before the Panel meeting), but less by agreement or in cases of urgency.

Access to information and supporting evidence:

The Commissioner shall provide such supporting information as may be reasonably required, or specified, by the Panel (who may seek information from any other appropriate sources) to enable the functions of the Panel to be effective, and conducted in an open and transparent manner. Where the Commissioner supplies information, he shall do so on the terms of the information sharing agreement at appendix C. Each party shall support the functions of the other by sharing information and reports as appropriate, and note that their websites contain information the other might find of use, for example decisions taken and documents published.

The Commissioner's website can be found at: <https://www.hampshire-pcc.gov.uk/>

The Panel's website can be found at:
<https://www.hants.gov.uk/aboutthecouncil/governmentinhampshire/police-crime-panel>

Publication of information:

There are requirements to publish reports and responses. To avoid duplication, links will be provided from the Commissioner's website to the Panel's and vice versa.

Where reasonably practicable, before the Commissioner or the Panel publishes a press release affecting the other, the Commissioner or the Panel will provide the other with a copy of the proposed press release sufficiently in advance to allow time for any issues to be raised.

Meetings

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The Panel may scrutinise and review decisions made or actions taken by the Commissioner in connection with the discharge of the Commissioner's functions. As well as reviewing documentation, in fulfilling its scrutiny role the Panel may require the 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.

Attendance at meetings:

The Commissioner

The Commissioner will normally attend all meetings of the Panel.

- The Commissioner shall be invited to all Panel meetings
- The Commissioner is required to attend the meeting at which the Panel receives the annual report
- Where required by the Panel, the Commissioner must attend a meeting of the Panel to answer questions.

Member of the Commissioner's staff

Where a member of the Commissioner's staff is required to attend the Panel, the Chairman will inform them in writing giving, as far as practicable, 20 working days notice of the meeting. The notice will state the nature of the item on which the member of staff 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.

The Chief Constable

The Chief Constable retains responsibility for operational matters. If the Panel seeks to scrutinise the Commissioner on a matter which may have operational implications, the Chief Constable may be invited to attend alongside the Commissioner to offer factual accounts and clarity (if needed) of the Chief Constable's actions and decisions. The accountability of the Chief Constable remains firmly to the Commissioner and not to the Panel.

If the Panel wishes to invite the Chief Constable the Panel shall inform the Commissioner of its intention in advance.

Post meeting actions

Reports and recommendations

Where it has formed recommendations on a particular matter, the Panel Chairman will report them to the Commissioner. The Panel must publish these recommendations in an appropriate format.

The Panel may require the Commissioner to respond in writing usually within fourteen days of the date of receipt (unless, in the circumstances, the Panel determines an alternative timeframe), in full to any report or recommendations

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made by the Panel to the Commissioner.

The Panel must ensure that copies of any such reports or recommendations are provided to, or accessible by, each local authority whose area falls wholly or partly within the policing area³.

Where possible the Panel shall provide the Commissioner within five working days, starting from the first working day after the Panel has met, with any written report or recommendations the Panel intends to issue.

Generally the Commissioner shall respond in writing as to whether the report and/or recommendations has been accepted or rejected. When the Commissioner chooses to reject a recommendation of the Panel the Commissioner will normally provide his reasons, except where it would be inappropriate to do so, for example on an operational matter.

Panel special functions (which may not be delegated):

(1) Police and Crime Plan

The Commissioner is required to produce a Police and Crime Plan ("Plan"), following consultation. There is an expectation there will be informal discussions between the Commissioner and members of the Panel prior to sending the draft plan to the Panel for their consideration.

Process

The Commissioner shall ensure the Panel is provided with a copy of the draft Plan or variation thereto at an early opportunity so as to enable adequate time for consideration.

The Commissioner shall provide the Panel with details of any public consultation on the Plan or consultation with other partners that has informed the priorities within the Plan.

The Panel shall convene a meeting within 15 working days of the receipt of the draft plan to consider and comment on the draft Plan. Where possible this meeting will be pre-arranged to allow effective interaction between the Panel and the Commissioner.

The Commissioner shall attend the meeting of the Panel to present the Plan and answer questions.

The Panel, having considered the matter at a meeting, may make a report or recommendation to the Commissioner. Such report should normally be prepared and submitted to the Commissioner no later than five working days following the meeting. Where such report suggests amendments to the Plan,

³ The Hampshire and Isle of Wight policing area covers 15 local authority areas: Hampshire County Council; Isle of Wight Council; Portsmouth City Council; Southampton City Council; Basingstoke & Deane Borough Council; East Hampshire District Council; Eastleigh Borough Council; Fareham Borough Council; Gosport Borough Council; Hart District Council; Havant Borough Council; New Forest District Council; Rushmoor Borough Council; Winchester City Council; and , Test Valley Borough Council.

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the Commissioner is required to have regard to such recommendation and advise the Panel. Where the Commissioner decides not to accept the recommendation of the Panel the Commissioner will provide reasons.

Monitoring and Review of Plan

Recognising the Plan will need to be a 'living document' and responsive to changing demands and the environment, the plan shall be reviewed from time to time. Where a review results in variations to the Plan the consultation process outlined above shall be followed.

Monitoring of Performance of the Commissioner

The Plan will be the key document by which the performance of the Commissioner is to be measured. There will be an expectation for the Panel to be provided with regular reports on the performance against the objectives of the Plan.

Where Performance Monitoring reports identify areas of underperformance, the Commissioner shall provide an explanation together with any proposals the Commissioner intends to take to rectify the position.

(2) Annual Report

The Commissioner is required to publish an Annual Report after the end of the financial year. The Annual Report shall demonstrate progress in meeting the objectives set out in the Plan.

The Panel is required to review the Annual Report and may make recommendations upon it.

Process

Generally in July each year, the Commissioner shall provide the Panel with a copy of the Commissioner's Annual Report.

The Panel will be required to convene a meeting as soon as practicable thereafter and, in any event, no later than 15 working days of receipt of the report.

Where possible this meeting will be prearranged to allow effective interaction between the Panel and the Commissioner. The Commissioner is required to attend the Panel meeting to present the report and answer questions.

The Panel may accept the Annual Report and/or make a report or make recommendations. Reports/recommendations from the Panel should normally be prepared and submitted to the Commissioner no later than five working days following the meeting.

The Commissioner shall consider any report or recommendation and advise the Panel. Where the report or recommendations are not accepted by the Commissioner, the Commissioner shall provide reasons.

(3) Precept

The Commissioner shall notify the Panel of the proposed precept for the

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coming financial year. The latest this must be received by the Panel is 1 February of the relevant financial year.

The proposed precept level shall be accompanied by information setting out how the precept was arrived at, the level of revenue to be generated and how such revenue is to be applied.

The Panel shall convene a meeting as soon as practicable and no later than 15 working days following receipt of the notification of the proposed precept, bearing in mind, the Panel must have considered it before 8 February of the relevant financial year.

Where possible this meeting will be pre arranged to allow effective interaction between the Panel and the Commissioner.

The Panel will seek information and views as to the appropriateness of the Precept from any sources it deems suitable.

The Panel, having considered the proposed precept, together with any supporting documentation, may:

- a) agree the precept without qualification or comment;
- b) support the precept and make comments or recommendations concerning the application of the revenues generated;
- c) veto the proposed precept - (which requires at least two-thirds of the persons who are members of the panel at the time the decision is made vote in favour of that decision and will make a report to the Commissioner (to include, if the veto is exercised, a statement to that effect)).

Where the Panel supports the precept but makes comments or recommendations these should normally be prepared and submitted to the Commissioner by no later than five working days following the meeting. The Commissioner shall consider such recommendations/ comments and advise the Panel of the Commissioner's view. Where the comments or recommendations are not accepted, the Commissioner shall provide reasons.

Where the Panel exercises its veto it will provide a report to the Commissioner which will include a statement that the Panel has vetoed the proposed precept, giving reasons and an indication as to whether it considered the proposed precept to be too high or too low. The Commissioner will consider the report and must issue a response, which will include a revised precept (which, if the Panel considered the proposed precept to be too high, will be lower and, if the Panel considered the proposed precept to be too low, will be higher). The Panel will review the revised precept (at the latest by 22 February of the relevant financial year) and make a report to the Commissioner, which may indicate whether or not the Panel accepts or rejects the revised precept (there is no further veto). The Commissioner will have regard to this second report and will issue a response by 1 March of the relevant financial year. The Panel accepts that a rejection of the revised precept on its part does not prevent the Commissioner from issuing a revised precept as the precept for the financial year.

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(4) Senior Officer Appointments, Including the Chief Constable

Notification

When the Commissioner commences a recruitment exercise (in whatever form that may take) with a view to making:

(a) a Schedule 1 appointment i.e. that of the Commissioner's Chief Executive, Chief Finance Officer or a Deputy Police and Crime Commissioner; or

(b) a Chief Constable appointment,

the Commissioner will inform the Panel's scrutiny officer such steps are being taken, and the likely timeframe involved, so that preliminary arrangements can be made to schedule a confirmation hearing.

When, in accordance with the Police Reform and Social Responsibility Act 2011 (the Act), the Commissioner notifies the Panel of a proposed Schedule 1 or Chief Constable appointment, the Commissioner must provide the Panel with the following information:

- the name of the person whom the Commissioner is proposing to appoint (the candidate);
- the criteria used to assess the suitability of the candidate for the appointment;
- why the candidate satisfies those criteria; and
- the terms and conditions on which the candidate is to be appointed.

At the same time as he notifies the Panel of the proposed appointment, the Commissioner will (except where the Chairman of the Panel has agreed otherwise) provide the Panel with the background information that the Commissioner has had access to during the rest of the appointment process e.g. the role profile, the candidate's CV and/or personal statement, any references etc. The Commissioner will advise the candidate's referees the references they submit will be put on public deposit to assist the Panel in the performance of its duties.

Immediate steps following notification

The Panel must within three weeks of receiving the Commissioner's notification hold a confirmation hearing for the Panel to review the proposed appointment and make a report on it to the Commissioner. Therefore, on receipt of the Commissioner's notification, the Panel's scrutiny officer will by the end of the next working day after receiving the Commissioner's notification:

- convene a public meeting of the Panel to be held within 19 days of receiving the Commissioner's notification (this meeting will not normally be used for any other business) and confirm the date of the confirmation hearing to the Members of the Panel;
- arrange a private pre-meeting for the Chairman and Vice-Chairman of the Panel normally to take place at least six working days before the

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confirmation hearing (not normally to be held immediately before the confirmation hearing to allow sufficient time for any unexpected issues, or gaps in information provided, to be addressed) and confirm the date of the pre-meeting to the Chairman and Vice-Chairman. The Panel's scrutiny officer will notify the Panel's legal adviser and a senior HR representative (from the lead authority) of the date of the pre-meeting so that specialist and technical advice will be available to the Panel; and

- prepare a letter to the candidate for the Chairman of the Panel to send which:
 - (a) requests him/her to appear at the confirmation hearing for the purpose of answering questions relating to the appointment;
 - (b) advises him/her of the date of the hearing;
 - (c) notifies him/her of the principles on which the Panel will normally evaluate the candidate (see below);
 - (d) refers to the relevant statutory provisions; and
 - (e) advises him/her that the information provided by the candidate will normally need to be put on public deposit (as if it were a standard report going to the Panel).

Preparing for the confirmation hearing

At the private pre-meeting, the Panel's scrutiny officer, together with the Chairman and Vice-Chairman of the Panel, will draw together a list of relevant issues for the Panel to consider, in particular highlighting possible question topics and themes, and background information on which Members might wish to focus.

Following the pre-meeting, the Panel's scrutiny officer will circulate this information electronically to all Members of the Panel for their consideration and comment. The aim of this process is to enable the necessary preparatory work to be undertaken as efficiently as possible within the tight timescale but to ensure that all Members of the Panel have the opportunity to consider the relevant issues and lines of questioning, and raise any queries, prior to the confirmation hearing itself. The Panel's scrutiny officer will also remind Members of the process taken at the hearing.

At the confirmation hearing

The Chairman will open the meeting and will outline the key themes that the Panel hopes to explore. The Chairman will explain the process for approval, refusal or, where the proposed appointment is that of Chief Constable, veto of appointments and will allow the candidate to ask any procedural questions.

The Panel will normally focus on issues of professional competence (this relates to the candidate's ability to carry out the role, his/her professional judgment and insight) and personal independence (this relates to the need for a candidate to act in a manner that is operationally independent of the Commissioner, the ability to advise the Commissioner effectively and to

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understand the need to respond constructively in situations where they might be asked to provide factual information to the Panel).

At the end of the session, the candidate will be given the opportunity to clarify any answers given and ask any questions of the Panel. Immediately following the hearing, the Panel will go into closed session to decide on its recommendations, taking legal and HR advice as necessary.

Decision-making by the Panel

The Panel's decision-making process, will normally comprise two linked steps:

- Taking account of the minimum standards of professional competence and personal independence, does the candidate meet the criteria set out in the role profile?
 - (a) do they have the professional competence to carry out the role?
 - (b) do they have the personal independence to carry out the role?
- Should, consequently, the Panel:
 - (a) recommend that the candidate should be appointed; or
 - (b) recommend that the candidate should not be appointed; or
 - (c) in the case of a Chief Constable appointment, use its power of veto

Where a candidate does not meet the minimum standards, it will normally be self-evident (thus indicating a failure in the appointments process to date) and, in the case of a Chief Constable appointment, the Panel may decide to exercise its power of veto. Where the candidate meets these standards, but there is still cause for concern about his/her suitability, the Panel may outline these concerns in its response to the Commissioner. Where a Schedule 1 candidate does not meet the minimum standards, the Panel has no power of veto but may provide advice to the Commissioner in the form of a letter.

Making recommendations on Schedule 1 and Chief Constable appointments

The Panel may decide to recommend to the Commissioner that the appointment be made, or that it not be made. A recommendation that an appointment is not made is not, in the case of a Chief Constable appointment, the same as a veto (see below) and the Commissioner can still choose to appoint the candidate.

On the next working day after the Panel has made its decision, the Panel's scrutiny officer will, in consultation with the Chairman of the Panel, send a report on the proposed appointment to the Commissioner confirming the Panel's recommendation as to whether or not the candidate should be appointed. The report will be copied to the candidate. Where the Panel is recommending refusal, a summary of the principal reasons will be included.

The Panel shall determine the form and timing of the public notice of recommendation which shall be no less than three working days after the decision.

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In response to the Panel's report, the Commissioner must notify the Panel whether he will accept or reject the Panel's recommendation. Where the Panel has recommended refusal and the Commissioner continues with the appointment, he will normally make a response at the same time as the publication of the Panel's report, focusing on why he felt the candidate did in fact meet the minimum standards for the post. If, before the result of the appointments process is made public, the candidate withdraws from the process only the Panel's report, and no other information from either the Commissioner or the Panel, will be published. Where the Commissioner decides not to appoint, the Panel's report will normally be published alongside a statement by the Commissioner setting out a timetable and process to make a new appointment.

The Panel will not liaise with the candidate, either directly or through any officer.

The veto (for Chief Constable appointment only)

The veto will normally only be exercised in exceptional circumstances; for example where it is clear to the Panel there has been a significant failure of the 'due diligence' checks carried out earlier in the appointments process, to the extent that the candidate is not 'appointable'.

The Panel has the power to veto a Chief Constable appointment only in the three week period starting with receipt of the Commissioner's notification.

Where the Panel decides (on a two-thirds majority) to veto the proposed appointment, on the next working day after the Panel has made its decision, the Panel's scrutiny officer will, in consultation with the Chairman of the Panel, send a report on the proposed appointment to the Commissioner confirming the Panel's decision to veto the appointment and including a summary of the Panel's principal reasons for its decision. Following this, the Commissioner must not appoint the candidate. The Commissioner will be responsible for notifying the candidate. The parties will liaise with each other over the issue of public communication of the Panel's decision. At the same time as the publication of the Panel's report, the Commissioner will normally publish information setting out the steps that will be taken to make another appointment.

Following a veto of the proposed appointment, the Commissioner must propose another individual for appointment as Chief Constable. The Panel must, within three weeks of receiving a notification by the Commissioner, review the proposed appointment. The process is the same for an initial candidate and any reserve candidate following a veto; however, the Panel's power of veto only applies to the first candidate.

Other Functions:

Suspension/Removal of Chief Constable

Where the Commissioner proposes to suspend the Chief Constable, he shall alert the Panel Chairman of his intentions so that preliminary arrangements

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may be made in relation to a meeting of the Panel. Upon a suspension, the Commissioner will notify the Panel the Chief Constable. The Commissioner shall notify the Panel if his intention is to ask the Chief Constable to resign or retire, together with a copy of the written explanation of the reasons provided to the Chief Constable. The Commissioner shall provide the Panel with a copy of any representations the Commissioner may have received from the Chief Constable in response.

After giving the Chief Constable an opportunity to make representations, the Commissioner will send further notification to the Chief Constable and the Panel if he still proposes to call upon the Chief Constable to resign or retire.

Within six weeks of receiving the notification from the Commissioner, of an intention to call upon the Chief Constable to resign or retire, the Panel must make a recommendation in writing to the Commissioner. Before making any recommendation the Panel may consult with the Her Majesty's Inspector of Constabulary.

Before making any recommendation, the Panel shall hold a meeting, in private, at which the Commissioner and Chief Constable shall be entitled to attend and make representations.

The Commissioner may accept or reject the recommendation of the Panel and will notify the Panel of his decision. This will be the end of the process and until either this has taken place or no recommendation has been given by the Panel within the six week period the Commissioner cannot call upon the Chief Constable to resign or retire.

Suspension of the Police and Crime Commissioner and appointment of an Acting Police and Crime Commissioner.

The Panel is responsible for dealing with complaints against the Commissioner.

Suspension of the Commissioner

The Panel may suspend the Commissioner if the Commissioner is charged with an offence which carries a maximum term of imprisonment exceeding two years.

The Commissioner will inform the Panel immediately on being charged with any such offence. The Panel will be required to convene a meeting as soon as practicable thereafter, as the decision to suspend must be taken at a meeting of the Panel and voted upon. The Commissioner will be entitled to attend for the purpose of making representations.

Any suspension of the Commissioner shall cease if the:

- charge is dropped
- Commissioner is acquitted of the offence
- Commissioner is convicted but is not disqualified because of the conviction

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- Panel agrees to terminate the suspension.

The Panel shall keep any suspension under review and will, should circumstances change, convene a further meeting to consider whether the suspension should continue.

Appointment of an Acting Commissioner

The Panel must meet to appoint an Acting Commissioner if:

- The Commissioner is incapacitated and cannot carry out the functions of the office; or
- The Commissioner is suspended.

The Office of the Commissioner shall inform the Panel immediately on learning that the Commissioner is incapacitated. The Panel will be required to convene a meeting as soon as practicable thereafter to appoint an Acting Commissioner, to be drawn from the Commissioner's staff at the time. The Panel will have regard to any views submitted by the Commissioner.

The appointment of an Acting Commissioner shall cease:

- When a new Commissioner is elected as a result of a vacancy arising;
- If the Commissioner is no longer incapacitated
- If the suspension of the Commissioner has been lifted
- On the termination by the Panel, or by the Acting Commissioner, of the appointment of the Acting Commissioner
- If the acting commissioner learns that tenure will elapse, the acting commissioner will inform the Panel as soon as possible.

Protocol for the informal resolution procedure regarding complaints made against the Commissioner

When the decision has been made to record a complaint that will not subsequently be referred to the Independent Police Complaints Commission (the IPCC), the Commissioner's Chief Executive will:

- send a record of the complaint to the complainant and to the person complained about (in the latter case, subject to any decision taken not to supply a copy of the complaint or to supply the complaint in a form which keeps anonymous the identity of the complainant or of any other person) and will include the contact details of the Panel's scrutiny officer; and
- refer the record, and copies of all the associated paperwork, to the Panel's scrutiny officer. This will be no later than two working days after the complaint has been recorded.

On receipt of the complaint, the Panel's scrutiny officer will:

- convene a meeting of the Complaints Sub-Committee, normally to be held within three weeks of the referral of the complaint,

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- write to the complainant, setting out timescales and providing details about the informal resolution procedure; and giving the complainant an opportunity to make further comments in support of his/her complaint (allowing him/her two weeks to respond). Where the Panel's scrutiny officer believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been resolved, the complainant will be asked to provide his/her representations in this regard for the Complaints Sub-Committee to take into account; and
- write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her an opportunity to make comments in response to the complaint (allowing him/her two weeks to respond).

The Panel's scrutiny officer will compile a brief report for the Complaints Sub-Committee, setting out the pertinent details of complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.

The Complaints Sub-Committee will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved.

In such a case, the Complaints Sub-Committee's reasons will be recorded and notified to the parties.

If, on considering the report, the Complaints Sub-Committee feels that the matter needs to be formally resolved, it will decide its course of action. In accordance with regulations⁴ (the regulations), the Complaints Sub-Committee may not conduct an investigation. The Complaints Sub-Committee may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation.

The Complaints Sub-Committee will consider whether to devise an action plan (to be drawn up by the Panel's scrutiny officer) and in so doing will take into account any applicable guidance issued by the Secretary of State and may also consider any guidance issued by the IPCC pursuant to section 22 of the Police Reform Act 2002 on local resolution. Any such action plan will include an indicative timeframe.

Any such action plan may include (for example):

⁴ The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and any amending legislation

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- An explanatory letter being written by an officer of the Panel (or on behalf of the Complaints Sub-Committee),
- An explanatory letter being written by an officer of the OPCC,
- A suggested change to OPCC policy; or
- A request that an apology is tendered (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).

The Complaints Sub-Committee will also decide whether it wishes to:

- reconvene to take any steps identified in the action plan,
- authorise any named individual (who may not be a Commissioner, a Deputy Commissioner or the Chief Executive of the OPCC) to take any steps in accordance with the action plan; or
- refer the matter to the Panel recommending that the identified action be taken.

Once the actions from the plan have been completed, the matter may be referred back to the Complaints Sub-Committee or an authorised individual may determine that the matter has been resolved. The Panel's scrutiny officer must make a record of the outcome of the informal resolution as soon as practicable, normally within three working days, after the process is completed and provide copies to the complainant and the person complained against. The matter will then be closed.

No part of the record may be published by the Complaints Sub-Committee unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Complaints Sub-Committee considers that publication is in the public interest.

The Panel's scrutiny officer will prepare an update report to each quarterly scheduled meeting of the Panel about all complaints considered in the preceding quarter by the Complaints Sub-Committee, the action taken (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not yet been complied with or have been contravened) and the outcome of the process.

If, at any stage, the IPCC informs the Panel that they require the complaint to be referred to them, or if the Complaints Sub-Committee decides that the complaint should be referred to the IPCC, the informal resolution process must be discontinued. The Complaints Sub-Committee should only decide that the complaint should be so referred if matters come to light during the informal resolution process which indicate the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed.

At any stage, the Panel's scrutiny officer may seek legal advice from the Panel's legal adviser.

**Protocol defining the relationship between the
Hampshire and Isle of Wight Police and Crime Panel and the
Police and Crime Commissioner for Hampshire and the Isle of Wight**

Appendix A – Roles and Responsibilities

The Commissioner

The Commissioner has a statutory duty and electoral mandate to hold the police to account on behalf of the public.

The Commissioner is the recipient of all funding, including the government grant and precept and other sources of income, related to policing and crime reduction and all funding for a force must come via the Commissioner. How this money is allocated is a matter for the Commissioner in consultation with the Chief Constable, or in accordance with any grant terms. The Chief Constable will provide professional advice and recommendations.

The Commissioner has the legal power and duty to:

- (a) set the strategic direction and objectives of the force through the Police and Crime Plan (“the Plan”), which must have regard to the Strategic Policing Requirement set by the Home Secretary
- (b) scrutinise, support and challenge the overall performance of the force including against the priorities agreed within the Plan
- (c) hold the Chief Constable to account for the performance of the force’s officers and staff
- (d) decide the budget, allocating assets and funds to the Chief Constable; and set the precept
- (e) appoint the Chief Constable
- (f) remove the Chief Constable subject to following the process set out in Part 2 of Schedule 8 to the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) and regulations made under section 50 of the Police Act 1996
- (g) maintain an efficient and effective police force for the police area⁵
- (h) enter into collaboration agreements with other Commissioners, other policing bodies and partners that improve the efficiency or effectiveness of policing for one or more policing bodies or police forces in consultation with the Chief Constable (where this relates to the functions of the police force, then it must be with the agreement of the Chief Constable)
- (i) provide the local link between the police and communities, working to translate the legitimate desires and aspirations of the public into action
- (j) hold the Chief Constable to account for the totality of policing across the Hampshire and Isle of Wight Police Area and for the exercise of the functions of the office of Chief Constable and the functions of the persons under the direction and control of the Chief Constable;
- (k) publish information specified by the Secretary of State and information that the Commissioner considers necessary to enable the people who live in the force area to assess the performance of the Commissioner and Chief Constable
- (l) comply with all reasonable formal requests from the Panel to attend their meetings
- (m) prepare and issue an annual report to the Panel on the Commissioner’s delivery against the objectives set within the Plan
- (n) monitor all complaints made against officers and staff, whilst having responsibility

⁵ The Hampshire and Isle of Wight Police Area, covers: Hampshire (with its 11 districts and boroughs); Isle of Wight; Portsmouth; and, Southampton

Appendix A – Roles and Responsibilities

for complaints against the Chief Constable

In addition, the Commissioner must not fetter the operational independence of the Chief Constable or Hampshire and Isle of Wight Constabulary.

In order to enable the Commissioner to exercise the functions of office effectively, the Commissioner will need access to information and officers and staff within the force area. Such access to any information must not be unreasonably withheld or obstructed by the Chief Constable and/or fetter the Chief Constable's direction and control of the force.

The Commissioner has wider responsibilities than those relating solely to Hampshire and Isle of Wight Constabulary, namely:

- (a) a specific responsibility for the delivery of community safety and crime reduction
- (b) the ability to bring together Community Safety Partnerships at the force level
- (c) the ability to make crime and disorder reduction grants within the force area
- (d) a duty to ensure all collaboration agreements with other Local Policing Bodies and forces deliver better value for money or enhance the effectiveness of policing capabilities and resilience
- (e) a wider responsibility for the enhancement of the delivery of criminal justice in the force area

The Panel

The Panel provides checks and balances in relation to the performance of the Commissioner. The Panel does not scrutinise the Chief Constable – it scrutinises the Commissioner's exercise of statutory functions. While the Panel is there to challenge the Commissioner, it must also exercise its functions with a view to supporting the effective exercise of the Commissioner's functions. This includes:

- (a) the power of veto, by a two-thirds majority of the total Panel membership, over the level of the Commissioner's proposed precept;
- (b) the power of veto, by a two-thirds majority of the total Panel membership, over the Commissioner's proposed candidate for Chief Constable;
- (c) the power to ask Her Majesty's Inspector's of Constabulary ("HMIC") for a professional view when the Commissioner intends to dismiss a Chief Constable;
- (d) the power to review the draft Plan and make recommendations to the Commissioner who must have regard to them;
- (e) the power to review the Commissioner's Annual Report and make reports and recommendations at a public meeting, which the Commissioner must attend;
- (f) the power to require relevant reports and information in the Commissioner's possession (except those which are operationally sensitive) to enable them to fulfil their statutory obligations;
- (g) the power to require the Commissioner to attend the Panel to answer questions;
- (h) the power to appoint an acting Police and Crime Commissioner where the incumbent Commissioner is incapacitated, resigns or is disqualified; and
- (i) responsibility for complaints about the Commissioner, although serious complaints and conduct matters must be passed to the IPCC in line with legislation.

Appendix B – Nolan Principles

Selflessness: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.

Appendix C - Information Sharing Agreement

Information Sharing Agreement: Police and Crime Commissioner for Hampshire and Isle of Wight and Hampshire and Isle of Wight Police and Crime Panel

1. Introduction

This Information Sharing Agreement (ISA) has been developed between the Police and Crime Commissioner for Hampshire and Isle of Wight, Office of the Police and Crime Commissioner, The Long Barn, Dean Estate, Wickham Road, Fareham, PO17 5BN (the 'Commissioner'⁶) and the Hampshire and Isle of Wight Police & Crime Panel, c/o Democratic and Member Services, Corporate Services Department, Hampshire County Council, The Castle, Winchester, Hampshire SO23 8UJ (the 'Panel'⁷) hereafter termed 'parties' to explain:

- why the parties have agreed to share information;
- the legal justification behind the sharing;
- who, within each party, has managerial oversight and responsibility for the information sharing;
- which information may be shared;
- the processes for sharing;
- the use of shared information;
- how miscellaneous matters will be managed.

For the purposes of this ISA the term 'sharing' information means providing or disclosing information to the other party by any means.

This ISA is designed to provide clarity and reassurance to both parties by setting out the administrative processes by which sharing will occur.

Information shared under this ISA may comprise of some information that is defined as 'personal data' under Section 1 of the Data Protection Act 1998 and the ISA helps support both parties' compliance with that Act.

2. Why the parties have agreed to share information

The Police Reform and Social Responsibility Act 2011 set out the functions that the Commissioner and the Panel must discharge.

For the Panel to discharge those functions there is a requirement for some information in the possession of the Commissioner to be shared with the Panel. A reciprocal sharing of some information from the Panel to the Commissioner may also be required to assist in the discharge of the Commissioner's functions.

⁶ For the purposes of this ISA the term Commissioner is used to encompass the person elected as the Police and Crime Commissioner for Hampshire and Isle of Wight and any staff authorised to work for or on his behalf or under his direction and control.

⁷ For the purposes of this ISA the term Panel is used to encompass the Hampshire and Isle of Wight Police & Crime Panel and any staff authorised to work for or on its behalf or under its direction and control.

Appendix C - Information Sharing Agreement

This ISA is not intended to cover information sharing between the Panel and Hampshire and Isle of Wight Constabulary. As it is unlikely to be necessary (except in one specific case⁸).

3. How the sharing can be legally justified

The legal justification for the sharing of information between the Commissioner and the Panel is derived from the Police Reform and Social Responsibility Act 2011 and Statutory Instrument 2011 No. 2744, 'The Policing Protocol Order 2011'.

Paragraph 24 of that Statutory Instrument relates to Police and Crime Panels and states:

'The Panel provides checks and balances in relation to the performance of the Commissioner. The Panel does not scrutinise the Chief Constable- it scrutinises the Commissioner's exercise of their statutory functions. While the Panel is there to challenge the Commissioner, it must a/so exercise its functions with a view to supporting the effective exercise of the Commissioner's functions. This includes-

(d) the power to require relevant reports and information in the Commissioner's possession (except those which are operationally sensitive) to enable them to fulfil their statutory obligations

The instrument is an outcome of Section 79 of the Police Reform and Social Responsibility Act 2011 which required the Secretary of State to issue a Policing Protocol, namely a document setting out, or otherwise making provision about, the ways in which relevant persons should exercise or refrain from exercising functions so as to encourage, maintain or improve working relationships or limit or prevent the overlapping or conflicting exercise of functions.

"Relevant persons" for these purposes are the Secretary of State (in the exercise of her policing functions), elected local policing bodies (namely police and crime commissioners and the Mayor's Office for Policing and Crime), chief officers of police forces maintained by elected local policing bodies, and police and crime panels. These persons must have regard to the Policing Protocol in exercising their functions.

In order for the Commissioner to provide information to the Panel the Panel will, on occasions, need to make requests for information and those requests themselves may be considered information sharing.

4. Managerial Oversight for the Information Sharing

Managerial Oversight of the information sharing under this ISA will be conducted by the individuals identified in the following paragraphs.

In the case of the Commissioner, Lou Parker-Jones will perform the role. For the Panel that role will be conducted by Katie Benton. Both individuals will be

⁸ 89(3) The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 states "Where a complaint is made to a chief officer of police that relates to the conduct of a relevant office holder, he shall give notification of the complaint to the police and crime panel."

Appendix C - Information Sharing Agreement

responsible for the management of this ISA and ensuring compliance with it. They will be responsible for the initial revision of this ISA which may be necessary once initial working practices have 'bedded down'.

5. Information that may be shared

As a broad principle any information within the possession of the Commissioner may be considered for sharing with the Panel.

However, information will only be shared by the Commissioner with the Panel where all of the following apply:

- the sharing is reasonably required to assist the Panel in the exercising of its functions (as legally defined) effectively;
- the sharing would not contradict any legal or contractual obligation upon the Commissioner that precluded sharing;
- the sharing would not in the view of the Commissioner, fetter, restrict or restrain the Chief Constable's direction and/or control of Hampshire and Isle of Wight Constabulary, nor prejudice ongoing or potential investigations or prosecutions by Hampshire and Isle of Wight Constabulary or other parties.

Information will be shared by the Panel with the Commissioner where necessary to exercise the Commissioner or Panel's functions.

6. Processes for sharing

The detailed processes for sharing information between the Commissioner and the Panel will be developed by both parties over the initial period of the existence of the Commissioner and Panel and may be documented in a further iteration of this ISA.

Although that detail is not yet available it is apparent that information will be shared in accordance with any of the following basic process models, with the most appropriate option used according to the circumstances:

Request and Respond - the Panel will approach the Commissioner to request information it believes the latter does, or may, hold. This could be via telephone, email, letter, arising from a meeting, or by use of a form. The Commissioner would then respond to the Panel by any of those means.

At a Meeting - a formal meeting (with terms of reference, agenda etc.) will be held by the Panel to which the Commissioner (and on occasions the Chief Constable) will be invited. The parties will attend with their information likely to be of interest to parties.

As a part of this agreement all parties accept that confidentiality is implicit. During the course of the meeting parties disclose relevant information as necessary.

Information shared will be provided in any of the following formats, with the most appropriate option used according to the circumstances:

- Verbally (e.g. either face to face meetings or via the telephone).
- Digitally (e.g. via email, text, through access to an IT System, via digital media, via screen etc).

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- Hard copy (e.g. via completed forms, print outs, other documents).

The sharing will be undertaken by either of the individuals identified in section four and any other individuals nominated by them as being permitted to do so. The parties will provide each other with the names and contact details of such individuals and will revise those lists as necessary.

7. Use of Shared Information

Any information shared under this ISA may only be used by:

- 1) the Panel for the purposes of the effective exercise of the Panel's functions (as legally defined) or as otherwise required by, or under, any rule of law.
- 2) The Commissioner in support of the Panel's functions, or for 'the policing purpose' or as otherwise required by, or under, any rule of law.

Any information shared under this ISA will not be used in a manner that contradicts any prohibition on further disclosure including, where applicable, the common law duty of confidence. Shared information will be accessed by individuals on a 'need to know' basis.

As separate 'data controllers' both parties are individually obliged to ensure information received from the other party which is 'personal data' is 'processed'⁹ in accordance with the requirements of the Data Protection Act 1998.

8. Miscellaneous Matters

Both parties:

- Agree that this ISA will come into effect on **[INSERT DATE]**.
- Agree that they may withdraw from the ISA upon giving written notice to the other signatories. A party who withdraws must continue to comply with the terms of this ISA in respect of any information that the party has obtained through being a signatory. Information which is no longer relevant should be returned or destroyed in an appropriate manner.
- Agree to review the ISA within six months from the date it comes into effect and thereafter as necessary. The review will be initiated by either of the individuals listed in section 4. They will consider whether the ISA is still useful and fit for purpose, identify any emerging issues and determine whether the ISA should be extended for a further period or whether to terminate it. The decision to extend or terminate the ISA, and the reasons, will be recorded.
- Agree to respect any handling requirements, for example those arising from the use of the Government Protective Marking Scheme (GPMS)¹⁰.

⁹ As defined in the Data Protection Act 1998

¹⁰ The Protective Marking System comprises five markings. In descending order of sensitivity they are: TOP SECRET; SECRET; CONFIDENTIAL; RESTRICTED; and PROTECT. Unmarked material is considered 'unclassified'. The term 'UNCLASSIFIED' or 'NON' or 'NOT PROTECTIVELY MARKED' may be used to indicate positively that a protective marking is not

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Any item which is classified as protected or above may only be shared with .pnn or .gsi electronic mail addresses.

- Agree that should they receive any request for information, such as a Freedom of Information request, Data Protection Subject Access request, or under any other rule of law that encompasses information provided by the other party they will advise the providing party as soon as possible. In any case communication between the parties should be prior to disclosure of the information, so that the potential implications of responding to the request can be fully assessed and any necessary remedial actions initiated.
- Agree that should they receive any complaint concerning information provided by the other party they will advise the other party as soon as possible and in any case prior to responding to the complaint.
- Agree to provide all staff involved with information sharing under this ISA with sufficient training and guidance to enable them to comply with this ISA
- Agree that this ISA may be made available to the public in its entirety.

9. Signatories of this agreement

By signing this agreement, all signatories acknowledge and accept the requirements placed upon them and others within their organisations by the agreement.

Name:

Title:

Signed on behalf of the Hampshire and Isle of Wight Police and Crime Panel

Date:

Name:

Title:

Signed on behalf of the Police and Crime Commissioner for Hampshire and Isle of Wight

Date:

needed. These markings can be applied to assets, although they are most commonly applied to information held electronically or in paper documents.