

**Report of: The Secretary of the West Midlands Police and Crime Panel****Date: 15 July 2019****Amendment to Police and Crime Panel Rules of Procedure****1 Purpose of Report**

- 1.1 The West Midlands Police and Crime Panel is invited to consider a proposal to reduce the required quorum for Panel meetings and endorse the revised Police and Crime Panel Rules of Procedure.

**2 Recommendation**

- 2.1 **That paragraph 4 of the Panel's Rules of Procedure be amended to state that:**

***Quorum***

***A meeting of the Panel cannot take place unless one third of the whole number of its Members are present.***

- 2.2 **That the revised Police and Crime Panel Rules of Procedure, as set out in the Appendix, be approved.**

**3 Background**

- 3.1 The Panel's Rules of Procedure (appendix 1) agreed in 2012 are based on the requirements stated in the Police and Social Responsibility Act 2011 and guidance issued by the Local Government Association in relation to panel governance.
- 3.2 These guide how the Panel conducts its business and ensures the Panel meets its statutory requirements.
- 3.3 Any amendment to the Panel's Rules of Procedures requires the agreement of three quarters of the current membership (11 members).

**4 Issues for consideration**

- 4.1 The Rules of Procedure currently state a Panel meeting cannot take place unless "**one half of the whole number of its Members (7 members) are present**".
- 4.2 Some Panel meetings have been inquorate and conducted as informal meetings of the Panel. On one occasion this prevented the Panel from undertaking its statutory duty to review the Police and Crime Commissioner's precept.
- 4.3 There are no legal restrictions to setting a quorum level for Panel meetings. A survey of other Police and Crime Panels has found that over half have a quorum level of less than one half of their members.

4.4 It is suggested the quorum level is lowered to **one third** of the whole number of members (5 members).

4.5 Other suggested minor changes to the Rules of Procedure are also highlighted in the document at appendix 1.

## **5 Minimum Levels Required for Panel to Exercise Veto Powers**

5.1 The Police and Social Responsibility Act does specify a majority of at least two thirds of the total membership is required for the Panel to veto the Police and Crime Commissioner's precept, or veto the proposed appointment of the Chief Constable (See Rules of Procedure paragraphs 14.2(c) and 15.7). These statutory requirements remain unchanged.

## **Background Information**

Police and Social Responsibility Act 2011

West Midlands Police and Crime Panel Rules of Procedure 2012.

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## **West Midlands Police and Crime Panel**

### **Rules of Procedure**

#### **1.0 General**

- 1.1 These Rules of Procedure are made by the Police and Crime Panel ('the Panel') pursuant to Schedule 6 paragraph 25 of the Police Reform and Social Responsibility Act 2011 (the 'Act').
- 1.2 The Panel will be conducted in accordance with the Rules. The Rules should be read in conjunction with the Panel Arrangements.
- 1.3 The Rules shall not be amended unless notification of a proposed amendment is received by the Chairman and the Host Authority not less than fifteen working days prior to a Panel meeting. A report on the implications of the amendment shall be considered by the Panel and the amendment shall require agreement of three quarters of the current Membership of the Panel. No amendment may be considered by the Panel if it does not comply with the Act, relevant Regulations or statutory guidance.
- 1.4 If there is any conflict in interpretation between these Rules and the Act or Regulations made under the Act, the Act and Regulations will prevail.

#### **2.0 Election of the Chairman and Vice-Chairman of the Panel**

- 2.1 The Chairman of the Panel will be elected at the first meeting of the Panel in each municipal year from amongst the appointed Members of the Panel.
- 2.2 The Vice-Chairman will be elected at the first meeting of the Panel in each municipal year from amongst the appointed Members of the Panel. The Vice-Chairman will preside in the absence of the Chairman and if neither are present the Panel will appoint a Chairman from amongst the remaining appointed Members for the purposes of that meeting only.
- 2.3 The election of the Chairman and Vice-Chairman shall be on the basis of a simple majority of the appointed members present and voting at the meeting.
- 2.4 In the event of the resignation or removal of the Chairman or Vice-Chairman a new Chairman or Vice-Chairman will be appointed by the Panel at its next meeting from amongst the appointed Members.
- 2.5 The Chairman or Vice-Chairman may be removed by the agreement of a majority of the whole Membership of the Panel and in that event the Panel will appoint a replacement Chairman or Vice-Chairman from amongst the Appointed Members.

### **3.0 Panel Meetings**

- 3.1 The Panel will meet in public at least four times per year to carry out its functions.
- 3.2 Extraordinary meetings may be also called from time to time as the Panel considers necessary.
- 3.3 An extraordinary meeting may be called by:
  - a) the Chairman, or
  - b) any four Members of the Panel giving notice in writing to the Chairman and the Host Authority.
- 3.4 The Panel shall have power to determine the location of its meetings, however, these shall normally be held at the Council House, Birmingham.
- 3.5 Members of the public shall be able to ask questions or make a statement to the Panel at each meeting, provided that the total time allowed for public questions shall not exceed 30 minutes, and no question or statement shall be allowed more than three minutes. Any question submitted must meet the West Midlands Police and Crime Panel Question Criteria (see website).

### **4.0 Quorum**

- 4.1 A meeting of the Panel cannot take place unless one third of the whole number of its Members are present.

### **5.0 Voting**

- 5.1 Voting will be by show of hands and by simple majority unless the Act, Regulations made thereunder or these Rules require otherwise.
- 5.2 The Chairman (or person presiding) will have a second or casting vote in the event of a tied vote.
- 5.3 All Panel Members may vote in proceedings of the Panel.

### **6.0 Work Programme**

- 6.1 The Panel will be responsible for setting a programme for its work and in doing so shall have regard to:
  - a) the requirement to properly undertake the functions and responsibilities of the Panel as set out in the Act;
  - b) the priorities defined by the Police and Crime Commissioner ('PCC'); and

- c) the views of Panel Members and advisers as to the appropriate work to be undertaken.

## **7.0 Panel Agenda**

- 7.1 The Panel agenda will be issued to Panel Members at least 5 clear working days before the meeting. It will also be published on the Panel's web site and by sending copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.
- 7.2 Any Member of the Panel shall be entitled to give notice to the Host Authority that he or she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.

## **8.0 Sub-Committees**

- 8.1 The Panel has the option to establish Sub-Committees from its membership to undertake specified functions of the Panel.
- 8.2 Sub-Committees may not undertake the Special Functions referred to at paragraph 11 below.
- 8.3 The work to be undertaken by a Sub-Committee will be defined beforehand, together with the timeframe within which the work is to be completed and the outcome reported to the Panel.
- 8.4 A Sub-Committee of the Panel may not appoint co-opted Members.

## **9.0 Panel Reports - General**

- 9.1 Reports and recommendations made by the Panel in relation to its functions will be carried out in accordance with the procedure outlined in this paragraph.
- 9.2 Where the Panel makes a report to the PCC it will publish the report or recommendations on its web site and send copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.
- 9.3 The Panel may require the PCC within 20 working days (or within such other period as is indicated in these Rules) of the date on which s/he receives the Panel's report or recommendations to:
  - a) consider the report or recommendations;
  - b) respond to the Panel indicating what (if any) action the PCC proposes to take;
  - c) where the Panel has published the report or recommendations, publish the response from the PCC in the same manner;
  - d) where the Panel has provided a copy of the report or recommendations to a Panel Member, provide a copy of the response to the Panel Member.

9.4 The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).

#### **10.0 Scrutiny and Review**

10.1 The Panel must scrutinise and review decisions made or actions taken by the PCC in the discharge of his/her duties, and make reports or recommendations to the PCC with respect to the discharge of those duties.

10.2 The Panel will publish all reports or recommendations made in relation to the discharge of the PCC's duties on its web site and by sending copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.

10.3 The Panel may in discharging this function review documentation and require the PCC, and members of the PCC's staff, to attend before the Panel (at reasonable notice) to answer questions that appear to the Panel to be necessary in order to carry out its functions.

10.4 Where the PCC, or a member of the PCC's staff, is required to attend the Panel in accordance with this provision, the PCC will normally be given at least 15 working days written notice of the requirement to attend (subject to the urgency provisions in paragraph 10.5 below). The notice shall:

- a) state the nature of the item in respect of which s/he is required to attend;
- b) whether any papers are required to be produced to the Panel; and
- c) where it is necessary to produce a report, sufficient time will be given to allow for the preparation of that report.

10.5 In urgent circumstances the Panel may request the PCC, or a member of the PCC's staff, to attend at such shorter notice as the Chairman of the Panel considers to be appropriate or reasonable in the circumstances. Where, in exceptional circumstances, the PCC is unable to attend on the required date, then an alternative date for attendance shall be arranged following consultation with the Chairman.

10.6 A member of the PCC's staff attending a meeting of the Panel shall not be required to disclose any advice given to the PCC by that person.

10.7 The Panel may require the PCC to respond in writing to any report or recommendation of the Panel as set out in paragraph 9.2 above.

10.8 If the Panel requires the PCC to attend a meeting, the Panel may also (at reasonable notice) request the Chief Constable to attend before the Panel on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.

10.9 In undertaking its functions, the Panel may invite persons other than those referred to above to attend Panel meetings, to address the meeting, discuss issues of local concern and/or answer questions. This may, for example and not exclusively, include residents, stakeholders, councillors who are not members of the Panel and officers from other parts of the public sector.

### **11.0 Special Functions**

11.1 The Special Functions of the Panel, are those functions referred to at paragraphs 12-16 below, and which are conferred on the Panel in relation to:

- a) the review of the Police and Crime Plan as required by Section 28(3) of the Act;
- b) the review of the Annual Report as required by Section 28 (4) of the Act;
- c) the review of senior appointments in accordance with Paragraphs 10 and 11 of Schedule 1 of the Act;
- d) the review and potential veto of the proposed precept in accordance with Schedule 5 of the Act; and
- e) the review and potential veto of the appointment of the Chief Constable pursuant to Part 1 the Act.

11.2 The Special Functions shall be undertaken having regard to the requirements of the Act and Regulations in each case.

11.3 The issuing of reports and recommendations by the Panel in relation to the Special Functions outlined above will be carried out in accordance with paragraph 9 above.

### **12.0 Police and Crime Plan**

12.1 The Panel is a statutory consultee on the development of the PCC's Police and Crime Plan and will receive a copy of the draft Police and Crime Plan, or a draft of any variation to it, from the PCC.

12.2 The Panel must:

- a) hold a meeting in public to review the draft Police and Crime Plan (or a variation to it), and
- b) report or make recommendations on the draft Plan which the PCC must take into account.

### **13.0 Annual Report**

13.1 The PCC must produce an Annual Report about the exercise of his/her functions in the financial year and progress in meeting police and crime objectives in the year. The report must be sent to the Panel for consideration.

13.2 The Panel must comment upon the Annual Report of the PCC and for that purpose must:

- a) arrange for a meeting of the Panel in public to be held as soon as practicable after the Panel receives the Annual Report;
- b) require the PCC to attend the meeting to present the Annual Report and answer such questions about the Annual Report as the Members of the Panel think appropriate; and
- c) make a report or recommendations on the Annual Report to the PCC.

#### **14.0 Proposed precept**

14.1 The Panel will receive notification from the PCC of the precept which the PCC is proposing to issue for the coming financial year. The Panel must arrange for a meeting to be held in public as soon as practicable after the Panel receives the proposed precept and make a report including recommendations.

14.2 Having considered the precept, the Panel must:

- a) support the precept without qualification or comment; or
- b) support the precept and make recommendations; or
- c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).

14.3 If the Panel vetoes the proposed precept, the report to the PCC must include a statement that the Panel has vetoed the proposed precept and give reasons for that decision. The Panel will require a response to the report and any such recommendations.

[14.4 The Police and Crime Panels \(precepts and Chief Constable Appointments\) Regulations 2012 set out the procedures in the case of a veto and timescales to that must be adhered to.](#)

#### **15.0 Appointment of the Chief Constable**

15.1 The Panel must review the proposed appointment by the PCC of the Chief Constable.

15.2 The Panel will receive notification of the proposed appointment from the PCC, which will include:

- a) the name of the candidate;
- b) the criteria used to assess suitability of the candidate;
- c) why the candidate satisfies the criteria; and
- d) the terms and conditions proposed for the appointment.

15.3 Within three weeks of the receipt of notification, the Panel must consider and review the proposed appointment, and report to the PCC with a recommendation as to whether the candidate should be appointed.



- 15.4 Before reporting and recommending under paragraph 15.3 above, the Panel must convene a meeting in public ('confirmation hearing') of the Panel where the candidate must attend and answer questions relating to the appointment.
- 15.5 The Panel must publish the report on its web site and by sending copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.
- 15.6 The PCC may accept or reject the Panel's recommendation, and must notify the Panel accordingly.
- 15.7 In relation to the appointment of a candidate for the position of Chief Constable, the Panel also has the power to veto the appointment by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made.
- 15.8 A confirmation hearing as in paragraph 15.4 above must be held before an appointment is vetoed.
- 15.9 If the Panel vetoes the appointment under paragraph 15.7, the report referred to at paragraph 15.3 above must include a statement to that effect.
- 15.10 If the Panel vetoes an appointment the PCC must not appoint that candidate as Chief Constable.

[15.11 The Police and Crime Panels \(Precepts and Chief Constable Appointments\) Regulations 2012 set out the procedures in the case of a veto.](#)

**16.0 Senior Appointments**

- 16.1 The Panel must review the proposed appointments by the PCC of the PCC's Chief Executive, Chief Finance Officer and Deputy PCC.
- 16.2 The Panel shall receive notification of the proposed appointments from the PCC including:
  - a) the name of the candidate;
  - b) the criteria used to assess suitability of the candidate;
  - c) why the candidate satisfies the criteria; and
  - d) the terms and conditions proposed for the appointment.
- 16.3 Within three weeks of the receipt of notification, the Panel must consider and review the proposed appointment(s), and report to the PCC with a recommendation as to whether the candidate(s) should be appointed.
- 16.4 Before reporting and recommending under 16.3 above, the Panel must convene a public confirmation hearing of the Panel where the candidate(s) must attend and answer questions relating to the appointment(s).

- 16.5 The Panel must publish the report on its web site and by sending copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.
- 16.6 The PCC may accept or reject the Panel's recommendation, and must notify the Panel accordingly.

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

- 17.1 The Panel must appoint a person to be Acting Police and Crime Commissioner if:
- a) no person holds the office of PCC;
  - b) the PCC is incapacitated (i.e. unable to fulfil the functions of the PCC) which is a matter for the Panel to determine; or
  - c) the PCC is suspended.
- 17.2 In the event that the Panel has to appoint an Acting Commissioner, it will meet to determine the process for appointment which will comply with these Rules of Procedure and any legal requirements.
- 17.3 The Panel may appoint a person as Acting Commissioner only if the person is a member of the PCC's staff at the time of the appointment.
- 17.4 In appointing a person as Acting Commissioner in a case where the PCC is incapacitated, the Panel must have regard to any representations made by the PCC in relation to the appointment.
- 17.5 The appointment of an Acting Commissioner will cease to have effect upon the earliest of the following:
- a) the election of a person as the PCC;
  - b) the termination of the appointment of the Acting Commissioner;
  - c) in a case where the Acting Commissioner is appointed because the PCC is incapacitated, the PCC ceases to be incapacitated; or
  - d) in a case where the Acting Commissioner is appointed because the PCC is suspended, the PCC ceases to be suspended.
- 17.6 Where the Acting Commissioner is appointed because the PCC is incapacitated or suspended, the Acting Commissioner's appointment does not terminate because a vacancy occurs in the office of PCC.

### **18.0 Complaints**

- 18.1 Serious complaints which involve allegations which may amount to a criminal offence by the PCC or senior office holders are dealt with by the Independent [Office for Police Conduct \(the 'IOPC'\)](#).

- 18.2 The Panel may, however, be involved in the informal resolution of certain other complaints against the PCC and Deputy PCC, where they are not being investigated by the [IOPC](#) or cease to be investigated by the [IOPC](#).
- 18.3 On receipt of a complaint which falls within its remit the Panel will meet to consider the complaints and will seek informal resolution of a complaint by encouraging, facilitating, or otherwise assisting in the resolution of the complaint otherwise than by legal proceedings.
- [18.4 The handling of complaints by the Panel are subject to The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012.](#)

**19.0 Suspension of the Police and Crime Commissioner**

- 19.1 The Panel may suspend the PCC if it appears to the Panel that:
- a) the PCC is charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence; and
  - b) the offence is one which carries a maximum term of imprisonment exceeding two years.
- 19.2 The suspension of the PCC ceases to have effect upon the occurrence of the earliest of these events:
- a) the charge being dropped;
  - b) the PCC being acquitted of the offence;
  - c) the PCC being convicted of the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act by virtue of the conviction, or
  - d) the termination of the suspension by the Panel.
- 19.3 In this Section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
- a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
  - b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

*Deleted: Note: The handling of complaints by the Panel, may be the subject of Regulations and accordingly this paragraph may need to be changed.¶*

**20.0 Suspension and Removal of the Chief Constable**

- 20.1 The Panel will receive notification if the PCC suspends the Chief Constable.
- 20.2 The PCC must also notify the Panel in writing of his/her proposal to call upon the Chief Constable to retire or resign together with a copy of the reasons given to the Chief Constable in relation to that proposal.

- 20.3 The PCC must provide the Panel with a copy of any representations from the Chief Constable about the proposal to call for his/her resignation or retirement.
- 20.4 If the PCC is still proposing to call upon the Chief Constable to resign, she/he must notify the Panel accordingly (the 'further notification').
- 20.5 Within six weeks from the date of receiving the further notification, the Panel must make a recommendation in writing to the PCC as to whether or not s/he should call for the retirement or resignation. Before making any recommendation the Panel may consult the chief inspector of constabulary, and must hold a scrutiny hearing.
- 20.6 The scrutiny hearing, which must be held by the Panel, is a Panel meeting in private session to which the PCC and the Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign.
- 20.7 The Panel must publish the recommendation it makes on its web site and by sending copies to each of the Authorities, and by any other means the Panel or Host Authority considers appropriate.
- 20.8 The PCC may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:
  - (a) at the end of six weeks from the Panel having received notification if the Panel has not by then given the PCC a recommendation as to whether or not she/he should call for the retirement or resignation; or
  - (b) the PCC notifies the Panel of a decision about whether she/he accepts the Panel's recommendations in relation to resignation or retirement.
- 20.9 The PCC must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.

**Deleted:** *General Note: Various functions of the Panel are subject to Regulations that are not yet available and the content of the Rules may therefore need to change before the final version is determined*

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Approved by West Midlands Police and Crime Panel – 20 July 2012