

Protocol between the Police and Crime Panel and the Police and Crime Commissioner for Cumbria

This protocol concerns the relationship between the Police and Crime Panel (the Panel) and the Police and Crime Commissioner (the Commissioner).

Given the common aims of both the Commissioner and the Panel to ensure effectiveness of measures aimed at reducing crime and disorder and enhancing public safety , it is vital that they:

- (i) work in a climate of mutual respect and courtesy;
- (ii) have a shared understanding of their respective roles, responsibilities and priorities;
- (iii) promote and foster an open relationship where issues of common interest and concern are shared in a constructive and mutually supportive way;
- (iv) share work programmes, information or data they have obtained to avoid the unnecessary duplication of effort.

Whilst recognising the common aims and the need for closer working, it is important to remember that the Office of the Commissioner and the Panel are independent bodies and have autonomy over their work programmes, methods of working and any views or conclusions they may reach. This protocol will not preclude either body from working with any other local, regional or national organisation to deliver their aims.



The Police and Crime Commissioner and the Police and Crime Panel are creatures of statute only recently established. Clearly they will need time to establish themselves and their modus operandi. The proposals now outlined below will need to be revisited in 12 months' time to assess how these are working and to consider whether the scope now identified is appropriate.

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**Chairman of the
Police and Crime Panel**

.....
**Police and Crime
Commissioner**

Date



Role of the Police and Crime Commissioner

Police and Crime Panels (The Panel) and directly elected Police and Crime Commissioners (The Commissioner) were introduced by the Police Reform and Social Responsibility Act 2011. The role of the Commissioner is to be the voice of the people and to hold the Chief Constable to account.

The Commissioner is responsible for setting priorities for the police force within their area, having regard to needs and demands of communities and ensuring that local and national priorities are suitably funded by setting a budget. The Commissioner is also responsible for holding the Chief Constable to account for the local performance of the force. He or she will do this by

1. Representing all those who live and work in the communities in Cumbria and identifying their policing needs.
2. Setting priorities that meet those needs by agreeing a Police and Crime Plan for Cumbria
3. Holding the Chief Constable to account for delivering an efficient and effective police service, ensuring that value for money is achieved.
4. Agreeing a budget for policing and setting the precept.
5. Hiring the Chief Constable and, if necessary, calling upon the Chief Constable to retire, resign or dismiss them.
6. Having regard to reports and recommendations made by the Police and Crime Panel.

Role of the Police and Crime Panel

The Police and Crime Panel will be responsible for supporting and challenging the Commissioner in the exercise of his or her functions, including by publicly scrutinising the actions and decisions of the Commissioner and in doing so will:

1. Review and make a report or recommendation on the draft Police and Crime Plan.
2. Hold public meetings to consider the annual report from the Commissioner.
3. Review and scrutinise decisions, or other action taken, by the Commissioner in connection with the discharge of his/her functions including confirmation hearings for senior staff.
4. Publish all reports and recommendations the Panel makes and send copies to the constituent local authorities.
5. Receive and record complaints made against the Commissioner and Deputy Police and Crime Commissioner, if appointed, and investigate and promote informal resolution for complaints not of a criminal nature. Complaints of a criminal nature will be referred to the Independent Police Complaints Commission.

Working Arrangements

The detailed working arrangements outlined in the next part of this protocol relate to the 'Special Functions' of the Panel, the general role of the Panel to scrutinise the activities of the Commissioner and its role to investigate complaints against him/her.

The 'Special Functions' of the Panel, which may not be delegated, are:-

- a) Review the Police and Crime Plan (Section 28(3) of the Act);
- b) Review the Annual Report (Section 28(4) of the Act);
- c) Review the Precept (Schedule 5 of the Act)
- d) Review Senior Appointments (Paragraphs 10 and 11 Schedule 1 of the Act);
- e) Review the Appointment of the Chief Constable (Part 1 of Schedule 8 of the Act);

The proposed timescales for responding to proposals put forward are aimed at ensuring that matters are dealt with promptly. With the agreement of the Commissioner and Chairman of the Panel these timescales may be amended having regard to particular circumstances. The expectation shall be that the Chief Executive Officer of the Commissioner should inform the Panel Secretariat, at the earliest opportunity, of indicative timescales of matters likely to be referred to the Panel to enable meetings to be scheduled accordingly.

Police and Crime Plan

The Commissioner is required to produce a Police and Crime Plan, following consultation.

The Panel is a statutory consultee in relation to the Police and Crime Plan.

[Note: There is an expectation that there will be informal discussions involving the PCC, the PCP, responsible authorities under the crime and disorder act 1998 and criminal justice partners in the formulation of the key priorities to be reflected in the Plan.]

Process

The Commissioner shall ensure that the Panel is provided with a copy of the draft Police and Crime Plan or variation thereto at the earliest opportunity.

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, the Commissioner shall be required to consider such recommendation and advise the Panel of his/her decision. Where the Commissioner decides not to accept the recommendation of the Panel he/she shall provide reasons to the Panel.

Monitoring and Review of Plan

Recognising the Police and Crime Plan will need to be a 'living document' and responsive to changing demands and the environment, there is an expectation that the plan shall be reviewed from time to time. Where this results in variations to the Plan the consultation process outlined above shall be followed.

Monitoring of Performance of the Commissioner

As the Police and Crime Plan will be the key document by which the performance of the Commissioner is to be measured there will be an expectation that the Panel will be provided with regular reports on the performance against the objectives of the Plan. Such reports would normally be quarterly in line with best practice.

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



Annual Report

The Commissioner is required to publish an Annual Report on the exercise of his/her functions during the financial year and progress in meeting the objectives set out in the Police and Crime Plan.

The Panel is required by statute to review the Annual Report.

Process

By July each year, the PCC shall provide the Panel with a copy of his/her 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 pre arranged to allow effective interaction between the panel and the commissioner

The Commissioner shall be 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 of his decision. Where the report or recommendations are not accepted by the Commissioner, he/she shall provide reasons.



Precept

As part of the development of the budget the Commissioner will engage with a variety of partners, and this will be undertaken in parallel to engaging with the Panel,

The Commissioner shall notify the Panel of the precept he/she is proposing to levy for the coming financial year. *[Note 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 relevant budget papers (the Medium Term Financial Plan, Budget Requirement and Precept Analysis) 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, that 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 - (this will require a majority of at least two-thirds of the full membership of the Panel at the time, not of those present) 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/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 his/her decision. Where the comments/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 that revised precept as the precept for the financial year.

Senior Officer Appointments and Removal

The Panel is required to review proposed new appointments by the Commissioner of:

- The Chief Constable
- Chief Executive
- Chief Finance Officer
- Any Deputy Police and Crime Commissioner

Senior Appointments (other than the Chief Constable)

The Commissioner shall advise the Panel of any proposed appointment, providing the following information:

- (a) The name of the candidate;
- (b) The criteria used to assess the suitability of the candidate;
- (c) How the candidate satisfies the criteria in (b) above;
- (d) The terms and conditions of the proposed appointment.

The Panel shall then hold a public confirmation hearing within 15 working days of the notification.

Candidates shall be required to attend the confirmation hearing and may be questioned by the Panel in relation to their appointment.

Following the hearing, the Panel will make a report/recommendation on the proposed appointment. The Commissioner shall consider the recommendation and report back on whether the recommendation has been accepted or not. Where the recommendation is not accepted, reasons should be provided.



Chief Constable – Appointment and Removal

In relation to the Chief Constable, following the confirmation hearing, the Panel will make a report to the Commissioner, indicating whether it:

- a) supports the proposed appointment without any comment or recommendation;
- b) Supports the appointment with some comment or recommendation;
- c) Vetoes the proposed candidate for the post of Chief Constable - (this will require a majority of at least two-thirds of the members of the Panel at the time).

Where the Panel exercises its veto, the report will include a statement that it has done so and give reasons. The Commissioner will then propose a 'reserve candidate' for appointment as Chief Constable and the Panel will conduct a confirmation hearing for this candidate, within three weeks from the day it receives notification from the Commissioner. Following the confirmation hearing, the Panel will make a report to the Commissioner, which will include a recommendation as to whether or not the reserve candidate should be appointed (there is no second veto). The Commissioner will have regard to the report and will notify the Panel as to whether or not he/she accepts or rejects the recommendation.

Suspension/Removal of Chief Constable

The process will commence with a notification from the Commissioner that he/she has suspended the Chief Constable.

The Commissioner shall notify the Panel if he/she intends to ask the Chief Constable to resign, retire or he/she intends to dismiss the Chief Constable, together with the reasons and a copy of the written explanation provided to the Chief

Constable. The Commissioner shall provide the Panel with a copy of any representations he/she may have received from the Chief Constable in response.

Within 30 working days of receiving the notification from the Commissioner, the Panel must make a recommendation in writing to the Commissioner. Before making any recommendation the Panel may consult with the Chief 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 cannot call upon the Chief Constable to resign or retire until he/she has had and considered the report of the Panel. The Commissioner may accept or reject the report of the Panel.

[Note: A longer timescale is proposed as the Panel will need to consult the Chief Inspector of Constabulary.]



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 (see later section of this Protocol).

Suspension of the Commissioner

The Panel may suspend the Commissioner if he/she 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
- The Commissioner is acquitted of the offence
- The Commissioner is convicted but is not disqualified because of the conviction
- The Panel agrees to terminate the suspension.

The Panel shall thereafter keep the 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 PCC has been lifted.

The Acting Commissioner will inform the Panel as soon as he/she learns that his/her tenure will be ending.



Complaints – Potential to change after first panel meeting

The Commissioner will ensure that anyone who wishes to make a complaint against him/her, or any Deputy Police and Crime Commissioner, is aware that the complaint should be notified to the Panel in the first instance. The Panel will establish a corporate complaints process for the initial consideration of all complaints. Following this initial consideration all pertinent complaints will be dealt with by the monitoring officer of the host authority.

The Panel will record all such complaints and refer those involving suspicion of the commission of a criminal offence to the Independent Police Complaints Commission within 24 hours of receiving them.

The Panel will notify the Commissioner (or Deputy Commissioner) at the earliest suitable opportunity of the receipt of any complaint against him or her, whether criminal or not

The Monitoring Officer of the Host Authority to the Panel shall undertake the initial investigation into any non criminal complaint and, having regard to any representations from the Commissioner, shall make a recommendation to the Panel.

The Panel, having considered the report of the advice of the Monitoring Officer, shall come to a conclusion on the matter. The Panel may decide to establish a subcommittee to consider the findings of the initial investigation and consider whether to undertake a more detailed investigation. The Commissioner (or Deputy Commissioner) will be given a further opportunity to present written and/or oral evidence in relation to the complaint. The subcommittee will give appropriate notice of any meeting to consider such complaints.

The Commissioner (or Deputy Commissioner) will, if required, make him or herself available to attend a hearing into a complaint.



The outcome of any hearing will be communicated to the Commissioner (or Deputy Commissioner) in writing within 5 working days of the hearing. The Commissioner (or Deputy Commissioner) will respond to any such communication within 10 working days.



Holding the Police and Crime Commissioner to Account

The Panel is responsible for reviewing and scrutinising decisions or actions taken by the Commissioner in discharging his/her responsibilities. Whilst an element of this will be undertaken through scrutiny of the Police and Crime Plan and the Commissioner's Annual Report, there may be other matters that the Panel may consider merit scrutiny.

The presumption shall be that the Commissioner will be required to attend all meetings of the Panel (the expectation is that there will be four panel meetings per year) unless advised to the contrary.

The OPCC will provide the Panel with regular updates against the Commissioner's work program, including decisions made and decisions to be taken in the near future.

The Secretariat of the Panel shall notify the Commissioner of the Panel's work programme and meeting dates. In setting the work programme, the Panel should identify what information is required and consult with the Commissioner if any support staff from their office is required. , request their presence via the Commissioner.

Where the Commissioner is required to provide information to the Panel, the Panel should aim to give 15 working days' notice of the date of the meeting and set out the nature of the agenda item and the information required. In exceptional circumstances and when there is agreement between the Commissioner and Chairman of the Panel, shorter notice may be given for either attendance or information.

Where the Panel requires the Commissioner to attend it may also request, via the Commissioner, the attendance of the Chief Constable to answer questions which appear to the Panel may be necessary to enable it to carry out its functions. The

final decision as to whether or not the Chief Constable will attend rests with the Commissioner.

In discharging its functions the Panel may invite persons other than those referred to above, to assist it in its deliberations.

Where, as a result of its deliberations, the Panel makes a report to the Commissioner, it will publish such report on its website and send copies to the constituent local authorities, except where the information is exempt or confidential as defined in the Local Government Act 1972 (as amended).

The Panel may require the PCC to consider the report and respond to the Panel at its next meeting (or a particular specified meeting) to advise what action, if any, the Commissioner proposes to take in response. The response of the Commissioner shall also be published on the website.

