

**Meeting of the Blackburn with Darwen B.C Council Forum
27th June 2013**

Report submitted by the Chief Executive

**Police and Crime Panel for Lancashire
Constitution, Terms of Reference, Panel Arrangements and Operational
Procedure.**

(Appendices 'A', 'B' and 'C' refer)

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Executive Summary

To consider potential amendments to the constitution, Panel arrangements and Operational Procedural of the Police and Crime Panel in the light of the outcome of the County Council election and experience gained during the first year of operation.

Recommendation

Council Forum is asked to:

- i. confirm the constitution of the Police and Crime Panel for Lancashire on the basis as set out in this report;
- ii. appoint a member to the Police and Crime Panel for 2013/14, on the basis as set out in this report;
- iii. note the Terms of Reference of the Panel and the arrangements/operational procedure as set out in this report;
- iv. reaffirm the appointment of Ian Fisher, County Secretary and Solicitor, as the Secretary to the Panel.

Background and Advice

The Police Reform and Social Responsibility Act 2011 introduced Police and Crime Panels (PCP) as formal joint committees of all the local authorities in a police force area, with the following main responsibilities.

- making recommendations on the Police and Crime Commissioners (PCC) Police and Crime Plan and Annual Reports.

- consider the PCCs appointment of a Chief Constable with the Panel having power of veto over the appointment
- consider the level of precept to be set by the PCC, again with a power of veto,
- review certain senior appointments by the PCC,
- scrutinise and support the activities of the PCC,

For Lancashire the police force area includes the County Council, 12 District Councils and the two Unitary Councils. The first meeting of the Police and Crime Panel for Lancashire was held on the 31st July 2012.

Constitution of the PCP

In Lancashire, the Panel was initially made up of 15 elected members, one from each Authority. Up to an additional 3 elected members can be added in order to achieve the 'balanced appointment objective' so that when taken together the members of the Panel represented the political make up of all the relevant local authorities for the police area and had the skills, knowledge and experience necessary for it to discharge its functions effectively. Having considered the provisions in legislation and options available for applying a political balance to the Panel, it was agreed that the constitution of the PCP should be based on a calculation of current political balances across the whole membership of authorities, with the Independent members being grouped together as a whole. It was subsequently agreed to appoint an additional three elected members to achieve political balance at that time. The Home Secretary subsequently approved this basis in order to achieve the political balance objective.

In addition to the above members the Panel also agreed to appoint 2 independent co-opted members, who are not elected representatives, to serve on the Panel until July 2016.

The Panel's make up for 2012/13 was accordingly -

18 Elected Members

Labour 8	Conservative 8	Lib Dem 1	Independent Member 1
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plus 2 Independent persons

It has previously been agreed that Council members of the Panel will serve a 12 month term on the Panel, and that the political balance of the Panel will be reviewed after local elections each May.

Following the County Council elections on the 2nd May the political balance has been recalculated, and the revised balance that now best achieves political balance across the 15 local authorities is:

17 Elected Members

Labour 8	Conservative 7	Lib Dem 1	Independent Member 1
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plus 2 Independent persons

Each Local Authority is therefore asked to agree to the balance of the Panel for 2013/14 as above and to appoint a member to the Panel (two local Authorities by agreement will be asked to appoint an additional member). The Home Secretary will be notified of the revised Panel arrangements to satisfy political balance requirements.

As reported previously local authorities combined must 'agree' to the balance of the Panel and the Home Office has powers to intervene and make appointments if agreement cannot be reached locally, though it has been made clear that the best Panel arrangements are those which are locally determined. .

Terms of Reference, Arrangements and Roles and Responsibilities

A copy of the current Terms of Reference of the Panel is set out at Appendix 'A' to this report.

The arrangements for the Panel are set out at Appendix 'B' and the Operational Procedure at Appendix 'C'. Both documents are based on legislation, guidance and regulations which were available and updated to reflect further government guidance and decisions taken by the Panel during 2012/13. It should be noted that at the next scheduled meeting in July the Panel will be asked to consider the rules of debate to apply at meetings and what, if any, public participation should be permitted in the future.

Programme of Meetings for the Panel

During its first year of operation the PCP met six times with the next scheduled meeting due to be held at 10.00am on the 8th July 2013 in Committee Room 'A' at the Town Hall, Corporation Street, Blackpool.

With the agreement of the Panel meetings have rotated between Preston, Blackburn and Blackpool and in the light of experience the following suggested programme of meetings for 2013/14 is to be put to the PCP in July for consideration.

- Tuesday 15th October, 2013, at the Town Hall, King William Street, Blackburn.
- Monday 27th January 2014 at County Hall, Preston.
- Tuesday 11th February 2014 at the Town Hall, King William Street, Blackburn.
- Monday 7th April 2014 at County Hall, Preston
- Monday 7th July 2014 at the Town Hall, Corporation Street, Blackpool.

Host Authority

Lancashire County Council has previously been appointed as the Host Authority for the administration and support to the PCP, and the County Secretary and Solicitor appointed as Secretary to the Panel.

Allowances

The Home Secretary has previously indicated that members of PCPs will be entitled to an annual allowance of £920 (£460 pro rata for 2012/13). Confirmation of the payment for 2012/13 for members of the panel is awaited from the Home Office.

Decisions Required

Full Council is asked to:

- i. confirm the constitution of the Police and Crime Panel for Lancashire as a formal Joint Committee of the 15 local authorities for the Lancashire police force area, on the basis of 18 elected representatives plus 2 independent coopted members as set out in this report;
- ii. appoint a member to serve on the Police and Crime Panel for 2013/14, on the basis set out in this report;
- iii. note the Terms of Reference of the Panel and the arrangements/procedural rules as set out in this report
- iv. reaffirm the appointment of Ian Fisher, County Secretary and Solicitor, as the Secretary to the Panel.

Consultations

All local authorities represented on the PCP were previously consulted and agreed to the basis of the political balance on the Panel.

Implications:

This item has the following implications, as indicated:

Risk management

The requirement for an independent Police and Crime Panel for Lancashire is in accordance with the provisions of the Police Reform and Social Responsibility Act 2011.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact
Report to Full Council	May 2012	M Neville, Office of the Chief Executive 01772 533431
2013/14 local election results	May 2013	533431

Reason for inclusion in Part II, if appropriate N/A

**Lancashire Police and Crime Panel
Terms of Reference**

The Panel will exercise the following powers under the Police Reform and Social Responsibility Act 2011, and all other enabling powers, discharging its functions in accordance with the Policing Protocol Order 2011.

- 1) To review and make a report or recommendation(s) on the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner (the Commissioner).
- 2) To review, put questions to the Commissioner at a public meeting, and make a report or recommendation (as necessary) on the Commissioner's annual report.
- 3) To hold a confirmation hearing in public and review, make a report and recommendation (as necessary) in respect of proposed appointments by the Commissioner of Chief Constable, Chief Executive, Chief Finance Officer, and Deputy Police and Crime Commissioner.
- 4) To hold a scrutiny meeting in private and make a recommendation to the Commissioner on a proposal by the Commissioner to call upon the Chief Constable to retire or resign.
- 5) To review and make a report and recommendation (as necessary) on the proposed precept.
- 6) To review or scrutinise decisions made, or other action taken, by the Commissioner in connection with the discharge of his/her functions.
- 7) To make reports or recommendations to the Commissioner with respect to the discharge of the Commissioner's functions.
- 8) To support the effective exercise of the Commissioner's functions.
- 9) To fulfil functions in relation to complaints about conduct matters, in accordance with the Panel's responsibilities as provided for by the Police Reform and Social Responsibility Act 2011.
- 10) To appoint, if necessary, an Acting Police and Crime Commissioner.
- 11) To suspend the Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

**Lancashire Police and Crime Panel
Panel Arrangements**

1 General Principles

- 1.1 Lancashire County Council shall act as the host authority for the Police and Crime Panel. The County Council will act as Secretary to the Panel and shall be responsible for ensuring that the necessary officer support is provided and that any necessary arrangements are made to promote the role of the Panel.
- 1.2 The Panel must be made up of a minimum of 15 councillors and 2 independent co-opted members.
- 1.3 The constitution of the Panel should take account of, as far as is practical, both political and geographical proportionality, as well as the necessary knowledge, skills and experience to discharge its functions effectively – “the balanced appointment” objective.
- 1.4 Additional members may be co-opted on to the Panel to enable the balanced appointment objective to be met, as long as the size does not exceed 20 and the Secretary of State approves the co-options. Additional Members may or may not be councillors.

2 Membership

- 2.1 The constituent councils on the Panel are the County Council, the two unitary authority councils and the twelve district councils in Lancashire.
- 2.2 The Panel’s membership will be made up of one councillor from each constituent Council and the 2 independent co-opted members, plus any additional Councillors from specific authorities in order to achieve the “balanced appointment” objective.
- 2.3 All County Councillors and District Councillors are eligible to be members of the Panel.
- 2.4 All Councillors on the Panel will serve a term of 12 months.
- 2.5 Each constituent council may send a substitute member to meetings, as notified to the Secretary to the Panel, and this substitute member will be permitted to act as a substitute member with full voting rights at meetings of the Panel and any Task Groups appointed by the Panel. A substitute member must be from the same party as the member appointed by the constituent council. If the panel member is an independent councillor then any substitute must also be an independent councillor.

3. Independent Members

- 3.1 The Panel has previously agreed to co-opt two independent members onto the Panel for a term of four years (July 2016).

~~Any additional independent members co-opted onto the Panel shall serve a term of four years.~~

- 3.2 The lead authority will undertake the selection process on behalf of the Panel for co-opting independent members which will include a reasonable period of public advertisement for the positions. The closing date for the receipt of applications will not be less than two weeks from the date the advertisement is first placed.
- 3.3 Information packs will be prepared and sent to those requesting application forms.
- 3.4 The applications will be considered against agreed eligibility criteria and then the Chairman and Deputy Chairman of the Panel and three other Panel members will be invited to meet to consider applications and interview candidates, in accordance with the "balanced appointment objective".
- 3.5 Following the interviews, the five members will make recommendations to the Panel about the appointments.
- 3.6 Additional members who are councillors will be appointed by the Panel for a 12 month term.

4 Vacancies

- 4.1 A vacancy on the Panel arises when a County Councillor, District Councillor or an independent member ceases to be a member of the Panel for any reason.
- 4.2 Each council will fill vacancies for elected members in accordance with the arrangements in their constitution. Vacancies for independent members will be filled in accordance with the selection process outlined in section 3.

5 Resignation and Removal of Members

Arrangements to be decided

6. Conditions for reappointment of members

- 6.1 Councillors may serve more than one 12 month term.

6.2 Co-opted members may be eligible to apply for a subsequent four year term but may not serve more than two consecutive four year terms.

7. Costs of the Panel

7.1 The costs of the Panel will be borne by the constituent councils. The Home Office has agreed to provide funding for administrative costs.

7.2 An annual lump sum allowance will be paid to each member of the Panel in recognition of their personal commitment and expenses arising in undertaking their role on the Panel. The allowance will be agreed annually by the Panel.

7.3 The lead authority will have responsibility for the financial arrangements to support the operation of the Panel, including the receipt of funds (whether paid by the Home secretary or otherwise) and the making of payments between the constituent councils and to panel members.

**Lancashire Police and Crime Panel
Operational Procedure**

1 Chairman of the Police and Crime Panel

- 1.1 The Chairman will be appointed by the Panel at its Annual meeting each year and will be drawn from amongst the councillors sitting on the Panel.
- 1.2 The Deputy Chairman will be appointed by the Panel at its Annual meeting each year and will be drawn from amongst the councillors sitting on the Panel.
- 1.3 In the event of the resignation of the Chairman or Deputy Chairman or the removal of the Chairman/Deputy Chairman, a new Chairman/Deputy Chairman will be appointed at the next meeting and will be drawn from amongst the councillors sitting on the Panel.
- 1.4 The Panel will elect a councillor member to preside at a meeting if the Chairman and Deputy Chairman are not present
- 1.5 The Panel may consider the removal of the Chairman during the year if it is satisfied that he/she:
 - a) has, without reasonable excuse, failed to carry out the duties for a continuous period of six months;
 - b) has acted improperly, recklessly or negligently in relation to his/her duties;
 - c) is otherwise unable or unfit to perform his/her duties;
 - d) or that the circumstances are such that they are exceptional and would warrant the removal of the Chairman eg. a conviction or caution in respect of a relevant criminal offence.

2 Meetings of the Police and Crime Panel

- 2.1 There shall be a minimum of four ordinary meetings of the Panel held in public in each municipal year in order to carry out the functions of the Panel. The Panel will determine the schedule of dates and times of its ordinary meetings each year, including a date for its Annual Meeting.
- 2.2 Extraordinary meetings of the Panel may also be called from time to time by the Chairman or by four members of the Panel giving notice to the Secretary to the Panel.
- 2.3 An extraordinary meeting may also be called by the Secretary to the Panel if he/she considers it to be necessary.

- 2.4 Ordinary meetings of the Panel will:
- Receive any declarations of interest from members.
 - Approve the minutes of the last meeting.
 - Consider reports from officers and Panel members.
- 2.5 The Secretary to the Panel will give notice to the public of the time and place of any meeting in accordance with Access to Information requirements. At least five clear working days before a meeting, the Secretary shall send notice of the meeting to every Panel member. The notice shall give the date, time and place of each meeting and specify the business to be transacted, and shall be accompanied by such reports as are available.
- 2.6 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).

3 Quorum

- 3.1 A meeting of the Panel cannot take place unless not less than one third of the whole number of its members is present.
- 3.2 In the event of a meeting being inquorate, it shall stand temporarily adjourned for 15 minutes and if, thereafter, there is still not a quorum the meeting shall stand finally adjourned. At the point of adjournment, or subsequently, the Chairman may agree arrangements for the meeting to be reconvened.

4 Work Programme

- 4.1 The Panel will set its own work programme and, in doing so, may wish to take into account the priorities defined by the Commissioner and the wishes of its members.
- 4.2 The work programme must include the functions described in the Terms of Reference for the Panel.

5 Agenda Items

Any member of the Panel shall be entitled to give notice to the Secretary of the Panel 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.

6 Reports from Police and Crime Panel

- 6.1 Where the Panel makes a report to the Commissioner on the discharge of its functions, it must choose to publish the report or recommendations

- 6.2 The Panel must by notice in writing require the Commissioner, as appropriate, within one month of the date on which the Commissioner receives the report or recommendations to:
- a) Consider the report or recommendations;
 - b) Respond to the Panel indicating what (if any) action the Commissioner proposes to take;
 - c) Where the Panel has published the report or recommendations, publish the response;
 - d) Where the Panel has provided a copy of the report; or recommendations to a member, provide a copy of the response to the member.
- 6.3 If the Panel cannot unanimously agree on the terms of any report to the Commissioner then a report agreed by the majority of the Panel will be submitted for consideration together with a separate report prepared by the minority.

7. Police and Crime Commissioner and Officers Giving Account

- 7.1 The Panel may scrutinise and review decisions made or actions taken in connection with the Commissioner's role.

As well as reviewing documentation, in fulfilling its scrutiny role it 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.

- 7.2 Where the Commissioner, or a member of the Commissioner's staff, is required to attend the Panel under this provision the Secretary will inform them in writing giving, where practicable, reasonable notice of the meeting. The notice will state the nature of the item on which he or she 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.
- 7.3 Where, in exceptional circumstances, the Commissioner is unable to attend on the required date an alternative date for attendance may be arranged, following consultation with the Chairman of the Panel.
- 7.4 If the Panel require the Commissioner to attend a meeting, the Panel may (at reasonable notice) request the Chief Constable to attend 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.

8 Attendance by Others

The Panel may invite people other than those referred to in Paragraph 7

above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, councillors who are not members of the Panel and officers in other parts of the public sector.

9 Task Groups

- 9.1 Time limited task groups may be established from time to time by the Panel to undertake specific, task-based work.
- 9.2 Task groups may not co-opt other persons.
- 9.3 The special functions of the Panel specified in paragraph 9.4 below may not be discharged by a task group of the Panel.
- 9.4 In this paragraph 'special functions' means the functions conferred on the Panel by:
- a) Section 28(3) of Police Reform and Social Responsibility Act (the Act) (scrutiny of Police and Crime Plan).
 - b) Section 28 (4) of the Act (scrutiny of annual report).
 - c) Paragraphs 10 and 11 of Schedule 1 of the Act (review of senior appointments).
 - d) Schedule 5 of the Act (issuing precepts) Part 1 of Schedule 8 of the Act (scrutiny of appointment of the Chief Constable).
- 9.5 The work undertaken by a task group will be scoped and defined by the Panel beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

10 Carrying out 'Special Functions'

Reports and recommendations made in relation to the functions outlined in the Terms of Reference will be carried out in accordance with the procedure outlined at section 7 above.

10.1 Senior appointments

- 10.1.1 Where the Panel exercises its powers to review the Commissioner's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner, the meetings held to confirm these appointments must be held in public.
- 10.1.2 The Panel will be notified by the Commissioner of the need for a confirmatory hearing in respect of proposed senior appointments. This will be held at the next available meeting of the Panel unless the appointment timescale requires an earlier hearing, in which case an extraordinary meeting will be arranged.

10.1.3 In relation to the appointment of the Chief Constable, the Panel is required to hold a hearing within the period of three weeks from the day on which it receives notification from the Commissioner.

10.1.4 At a confirmatory hearing the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the Panel is required to review the proposed appointment and make a report to the Commissioner.

10.1.5 For a confirmatory hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the Panel must make a recommendation on the appointment and has the power to veto the appointment.

10.1.6 Having considered the appointment, the Panel will be asked to either:

- a) support the appointment without qualification or comment;
- b) support the appointment with associated recommendations, or
- c) veto the appointment of the Chief Constable (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).

10.1.7 If the Panel vetoes the appointment of the candidate, the report to the Commissioner must include a statement that the Panel has vetoed the appointment with reasons.

10.2 Appointment of an Acting Police and Crime Commissioner

10.2.1 The Panel must appoint a person to act as Commissioner if:

- a) no person holds the office of Commissioner;
- b) the Commissioner is incapacitated; or
- c) the Commissioner is suspended.

10.2.2 The person appointed as acting Commissioner must at the time of the appointment be a member of the Commissioner's staff.

10.2.3 In appointing a person as acting Commissioner in a case where the Commissioner is incapacitated, the Panel must have regard to any representations made by the Commissioner in relation to the appointment.

10.2.4 The appointment of an acting Commissioner ceases to have effect upon the occurrence of the earliest of these events:

- a) the election of a person as Commissioner;
- b) the termination by the Panel, or by the acting Commissioner, of the appointment of the acting Commissioner;
- c) in a case where the acting Commissioner is appointed because the Commissioner is incapacitated, the Commissioner ceasing to be incapacitated, or

- d) in a case where the acting Commissioner is appointed because the Commissioner is suspended, the Commissioner ceasing to be suspended.

10.3 Proposed precept

10.3.1 The Commissioner will notify the Panel of the precept which he/she is proposing to issue for the financial year. The Panel must review the proposed precept and make a report to the Commissioner including recommendations.

10.3.2 Having considered the precept, the Panel will either:

- a) support the precept without qualification or comment;
- 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).

10.3.3 If the Panel vetoes the proposed precept the report to the Commissioner must include a statement that the Panel has vetoed the proposed precept with reason and the Panel will require a response to the report and any such recommendations.

10.4 Complaints

10.4.1 Non-criminal complaints in relation to the Commissioner or other office holders should be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 .

10.5 Suspension of the Police and Crime Commissioner

10.5.1 The Panel may suspend the Commissioner if it appears to the Panel that:

- a) the Commissioner has been 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.

10.5.2 The suspension of the Commissioner ceases to have effect upon the occurrence of the earliest of these events:

- a) the charge being dropped;
- b) the Commissioner being acquitted of the offence;
- c) the Commissioner being convicted of the offence but not being disqualified under Section 66 of the Act by virtue of the conviction; or
- d) the termination of the suspension by the Panel.

10.5.3 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.

10.6 Suspension and Removal of the Chief Constable

- 10.6.1 The Panel will receive notification from the Commissioner if he/she suspends the Chief Constable.
- 10.6.2 The Commissioner must 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.
- 10.6.3 The Commissioner 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.
- 10.6.4 If the Commissioner is still proposing to call upon the Chief Constable to resign, he/she must notify the panel accordingly (the 'further notification').
- 10.6.5 Within six weeks from the date of receiving the further notification the Panel must make a recommendation in writing to the Commissioner as to whether or not he/she should call for the retirement or resignation. Before making any recommendation the Panel may consult Her Majesty's Chief Inspector of Constabulary and must hold a scrutiny hearing.
- 10.6.6 The scrutiny hearing is a Panel meeting held in private to which the Commissioner and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.
- 10.6.7 The Panel must publish the recommendation it makes at 10.6.5 by any means the Panel considers appropriate and must send a copy to each of the constituent councils.

11. Rules of debate

The Panel to determine.

12. Public participation

The Panel to determine.

