

CABINET

13 JUNE 2012

HAMPSHIRE POLICE AND CRIME PANEL – JOINT ARRANGEMENTS

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848 552

RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

Under the Police Reform and Social Responsibility Act 2011 (“the Act”), police authorities are to be abolished and replaced by a Police and Crime Commissioner. The Commissioner’s role is to secure an efficient and effective police force for the area and hold the Chief Constable to account.

The Act provides for the local authorities in the police area to establish a Police and Crime Panel to review and scrutinise the work of the Commissioner.

This report outlines the arrangements for the setting up and operation of the new Panel.

At its meeting of 16 May 2012, Council has appointed Cllr Stallard as its representative (Cllr Huxstep as deputy) and also nominated Cllr Byrnes for one of the three co-optee positions on the Panel.

RECOMMENDATIONS:

That it be recommended to Council:

1. Subject to 2 below, the Panel Arrangements outlined in the report be approved and the Head of Legal Services be authorised to conclude and enter into formal arrangements with the other authorities in the Hampshire Police Area to establish the Police and Crime Panel.
2. The Head of Legal Services be authorised to agree any further minor amendments to the Panel Arrangements necessary to ensure statutory compliance, once the Home Secretary's regulations and guidance have been published.
3. Where the Council's appointed representative is temporarily unable to attend a Panel meeting or otherwise undertake Panel business, the Chief Executive be authorised to exercise any relevant powers of the Council under the formal arrangements to enable the Council's nominated deputy to act in the appointed Member's absence.
4. That travel and subsistence for the Council's representative be payable under the City Council's Members' Allowances Scheme.

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DETAIL:

1 Introduction

- 1.1 The Police Reform and Social Responsibility Act 2011 (“the Act”) introduces changes to the arrangements for governance of the Policing Service. In November 2012, police authorities will be abolished and replaced by a Police and Crime Commissioner (“the Commissioner”) for each policing area. The Commissioner will be responsible for securing the maintenance of an efficient and effective police force for the area, and hold the Chief Constable to account for the exercise of his/her functions. The Commissioner will also be responsible for issuing and keeping under review a Police and Crime Plan, setting out local policing priorities and how policing is to be resourced. The Act also requires the local authorities for each policing area to establish a Police and Crime Panel to review and scrutinise the Commissioner’s actions and decisions, with a view to supporting the work of the Commissioner.
- 1.2 This paper outlines the statutory role of a Police and Crime Panel, and recommends the basis on which it is proposed that a Panel should be established for the Hampshire Policing Area (i.e. Hampshire County Council, the 11 district councils in Hampshire, and the unitary authorities for Isle of Wight, Portsmouth and Southampton). The development of these terms has been the subject of discussion and agreement at HLOWLA leaders’ meeting on 27 January 2012, and with the other 14 constituent authorities.

2 Statutory Functions of a Police and Crime Panel

- 2.1 These comprise duties and powers. All functions are to be exercised with a view to supporting the effective exercise of the Commissioner’s functions.
- 2.2 The duties are as follows:-
- To review the draft Police and Crime Plan, or draft variation, and make a report or recommendations on it to the Commissioner
 - On receipt of the Commissioner’s annual report, to meet in public to ask the Commissioner questions on the report, to review the report and make a report or recommendations on it to the Commissioner

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

2.3 The powers of the Panel are:-

- To require the Commissioner and members of his/her staff to attend before the Panel (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- Where it requires the Commissioner to attend before the Panel, it may also request the Chief Constable to attend on the same occasion (at reasonable notice) to answer any question which appears to the Panel to be necessary in order for it to carry out its functions
- To require the Commissioner to respond in writing (within a reasonable period determined by the Panel) to any of the Panel's reports or recommendations
- NB. The Commissioner and his/her staff are under a duty to comply with the above requirements
- To suspend the Commissioner where s/he is charged with an offence punishable by a maximum term of imprisonment of more than two years
- To veto the proposed appointment of Chief Constable (subject to two thirds of members voting in support)
- To veto the Commissioner's proposed precept (subject to two thirds of members voting in support)

Note: Secondary legislation makes provision for the involvement of the Panel in the handling of complaints against the Commissioner. Serious complaints

will be handled by the Independent Police Complaints Commission, and other complaints dealt with by the Panel via local resolution.

3 Membership

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

- 15 members each appointed by their local authority (at its meeting of 16 May 2012, Council appointed Cllr Stallard as its representative (Cllr Huxstep as deputy))
- A minimum of 2 co-opted members appointed by the Panel (these cannot be members of local authorities within the Hampshire Policing Area)
- Up to 3 additional co-opted members may be appointed by the Panel, subject to the agreement of the Secretary of State (these may be, but do not have to be, members of local authorities within the Hampshire Policing Area, and Council has nominated Cllr Byrnes for one of these three co-optee positions).

3.2 All Panel members are equal voting members.

3.3 The Panel is established as a “joint committee” and there is provision for the Secretary of State to apply (by statutory instrument) existing local government legislation to its business. This will mean that well-established and familiar provisions in the Local Government Act 1972 on the holding of meetings in public, advance publication of agendas etc are applied.

4 The Balanced Appointment Objective

4.1 The legislation specifies a “Balanced Appointment Objective”. This is the objective that the local authority members of a Panel (when taken together):

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

4.2 In making appointments to the Panel, local authorities must secure that (as far as reasonably practicable) the balanced appointment objective is met. The qualification of “as far as reasonably practicable” allows some flexibility in achieving strict mathematical proportionality.

- 4.3 In co-opting persons who are members of local authorities, the Panel must secure that (as far as reasonably practicable) the “balanced appointment objective” is met.
- 4.4 The Panel must, from time to time, decide whether exercising its power to co-opt up to 3 additional members would contribute to the balanced appointment objective being met (or met more effectively).
- 4.5 This means that, once each authority has appointed its representative, the Panel has the flexibility to co-opt up to 3 further local authority members (e.g. from the minority parties) to achieve overall political balance (subject to Secretary of State consent).

5 Panel Arrangements

- 5.1 In establishing the Panel, the local authorities have a duty to make “Panel Arrangements”. This will be a joint agreement in writing setting out the position on various aspects of how the Panel carries out its business. It will require approval by all 15 local authorities.
- 5.2 Although the Panel Arrangements must make provision about the co-option of, and holding of office by, the co-opted members, actual decisions as to the co-option of members, are decisions for the Panel to make once constituted.
- 5.3 In co-opting members who are not members of relevant local authorities, a Panel must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- 5.4 A draft Panel Arrangements document has been produced, which will be finalised shortly. It is recommended that delegated authority is given to the Head of Legal Services to finalise and enter into the Panel Arrangements, but the main provisions are summarised below.

6 Panel Rules of Procedure

- 6.1 The Act distinguishes between matters to be agreed by the 15 local authorities in the Panel Arrangements, and those matters that are to be determined by the Panel itself, once constituted. The following matters will not therefore be predetermined in the Panel Arrangements, but would be agreed at the inaugural meeting of the Panel:
- Appointment, resignation and removal of the Panel Chair
 - The method of making decisions (e.g. adoption of standing orders on meeting procedures)
 - Formation of Sub-committees

7 Panel Arrangements – Term of Office

- 7.1 The Act requires that Panel Arrangements include provision about the term of office of appointed members and co-opted members, and about the conditions for re-appointment.
- 7.2 It is proposed that all Members are appointed to the Panel for a four year term, and are eligible for re-appointment on the expiry of that term. This is subject to the rules on change of membership summarised in paragraph 8 below. There would be no restriction on the number of terms of office that could be served.
- 7.3 Consideration has been given to the possibility of making appointments for different periods, to avoid all appointments expiring at the same time, which could make for a loss in continuity. The possibility of placing a restriction on number of terms has also been assessed. However, it is felt that retaining flexibility over the making of re-appointments would avoid risk of loss in continuity. The proposal accords with the current position with police authorities, where an appointment would normally be for a four year term.

8 Panel Arrangements – Resignation and Removal of Members

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

9 Panel Arrangements – the Costs of the Panel

- 9.1 The Act requires that Panel Arrangements make provision about how the relevant local authorities are to meet the costs of the Panel, and how any

funds paid by the Secretary of State to meet the costs of the Panel are to be distributed between the authorities.

- 9.2 The Home Secretary has confirmed that the Government is making available £53,300 per annum for the costs of supporting and maintaining the Panel, and a further £920 per annum per member, to fund necessary expenses. This will provide an overall budget for the panel of around £72k in a full year, and around £36k in 2012-13.
- 9.3 The Government has asked that one authority in the police area acts as Lead Authority for the receipt of the funding and co-ordination of the establishment of the Panel. It was agreed at HLOWLA Leaders meeting on 27 January 2012 that Hampshire County Council would act in this capacity.
- 9.4 It is proposed that the general objective shall be that the total costs of running the Panel are contained within the Government funding. The Panel will receive and approve a budget, and monitor expenditure against it. To the extent that the Government funding is exceeded, the excess will be borne by the authorities in equal shares, unless they agree otherwise.

10 Panel Arrangements – Payment of Members’ Allowances

- 10.1 The Act provides that Panel Arrangements may make provision about the payment of allowances to Members. As indicated above, the Government is making available £920 per annum (£460 in 2012-13) towards expenses incurred by each Panel member. No specific provision is made for payment of further allowances.
- 10.2 It is proposed that Panel members claim travel and subsistence from their own authority in accordance with that authority’s usual scheme of allowances. Actual sums claimed on Panel business would be reimbursed by the Lead Authority to the appointing authority, up to a limit of £920 per annum (£460 in 2012-13).
- 10.3 Where the member elected as Panel Chair is not already in receipt of a special responsibility allowance, it is proposed that their appointing authority shall explore amending its scheme of allowances to provide for this, in acknowledgement of the responsibilities of Panel Chair.
- 10.4 The Lead Authority will explore amending its scheme of allowances to provide for the payment of a Co-optee’s allowance to any of the Panel’s co-opted members who is not also an authority member.

11 Panel Arrangements – Promotion of the Work of the Panel

- 11.1 The Act requires that Panel Arrangements must make provision for the role of the Panel to be promoted. The Panel’s terms of reference will include the functions of promoting its work and engaging stakeholder involvement.

12 Panel Arrangements – Administrative and Other Support to the Panel and Members

- 12.1 The Act requires that Panel Arrangements must make provision for administrative and other support to the Panel and its Members and for support and guidance to members and officers of local authorities in the Panel's area in relation to the Panel's functions. This includes support with arranging meetings and minute-taking, communications, policy advice and support with scrutiny functions, legal and financial advice.
- 12.2 An interim arrangement is to be put in place for the Panel's first year of operation, pending the carrying out of a commissioning process. This would meet the immediate needs of the Panel while allowing it to consider, specify and commission the support it requires for the longer term.

13 Panel Arrangements – Date of Commencement

- 13.1 The minimum legal requirement is for the Panel to be in operation by November 2012 when the Commissioner is elected. The County Council is working towards establishing the Panel by June 2012, with a first meeting of the Panel on 29 June 2012.
- 13.2 There are some key issues for the Panel to address over the winter period of 2012-13, including scrutinising the newly-elected Commissioner's first draft Police and Crime Plan and proposed precept for the 2013-14 financial year. It is felt therefore that the Panel would benefit from having an initial period, before taking on its statutory responsibilities, to deal with items of "start-up" business, such as induction of Members in police policy issues, agreeing Panel procedures and appointing its Chair and co-opted Members. The intention would be for the Panel to be ready to operate effectively from November 2012.
- 13.3 Further, the Secretary of State retains default powers under the Act to impose a Police and Crime Panel if the authorities for the Police Area do not establish one. Indications are that the Secretary of State will wish to see evidence of action on the part of the authorities well in advance of November 2012, in order not to use her default powers.

14 Regulations and Guidance

- 14.1 Regulations and guidance on the establishment of police and crime panels are still awaited. Although it is expected that the draft Panel Arrangements will accord with these when published, it is felt advisable for each authority to grant delegated authority to agree any further minor amendments to the draft Panel Arrangements that may be necessary to ensure statutory compliance, once the regulations and guidance have been published.

OTHER CONSIDERATIONS:**15 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS
(RELEVANCE TO):**

- 15.1 The Panel's role is aligned to the Active Communities outcome in the Sustainable Community Strategy.

16 RESOURCE IMPLICATIONS:

- 16.1 As set out in Section 9 above, the aim is to keep the costs of the Panel within the funds given by Government for operating the Panel. The Panel is responsible for monitoring its budget. If the actual costs exceed these funds, the City Council would be asked to meet (with the other authorities) an equal share of the deficit.
- 16.2 The proposed Panel Arrangements envisage the Council's appointed representative claiming travel and subsistence from the City Council, but for these to then be reimbursed by the County Council as lead authority, up to the amount received per member from Government (£920 per annum).

17 RISK MANAGEMENT ISSUES

- 17.1 None other than the financial implications set out in 16. above. Officers will monitor the Panel's budgetary arrangements to ensure that if any call is made, provision can be made for this.

BACKGROUND DOCUMENTS:

None.

APPENDICES:

None