

**Wiltshire Council  
Constitution  
Protocol 12  
Police and Crime Panel  
Arrangements and  
Procedure Rules**

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# PROTOCOL 12A

## WILTSHIRE POLICE AND CRIME PANEL

### ARRANGEMENTS

#### 1. Purpose

- 1.1 Wiltshire Council and Swindon Borough Council have agreed the following arrangements to establish and maintain a Police and Crime Panel ('the Panel') for their police force area as per the requirements of The Police Reform and Social Responsibility Act 2011 ('The Act')<sup>1</sup>
- 1.2 The purpose of this arrangement is to support the functions of the Panel as specified in the Act and as agreed by respective Full Council meetings of both Authorities. These functions are outlined in Part 3 Section 5 of Wiltshire Council's Constitution.
- 1.3 Both Authorities and each Member of the Panel must comply with these Panel arrangements.
- 1.4 Both Authorities must agree to any modification to the Panel arrangements.<sup>2</sup>
- 1.5 The Panel is a joint committee of the Authorities.<sup>3</sup> The Panel may not exercise any functions other than those conferred to it by the Police Reform and Social Responsibility Act 2011.<sup>4</sup>
- 1.6 The Panel has been given authority by the Act to review and scrutinise the decisions and actions taken by the Police and Crime Commissioner for Wiltshire ('the Commissioner') in connection with the discharge of the Commissioner's functions. These give it certain powers including:
  - 1.6.1 To review the draft Police and Crime Plan and make recommendations to the Commissioner, who must consider them.
  - 1.6.2 To review the Commissioner's annual report, on the progress made towards their plan, and make recommendations at a public meeting, which the Commissioner must attend.
  - 1.6.3 Responsibility for complaints about the Commissioner, although serious complaints and conduct matters must be passed to the Independent Office for Police Conduct in line with legislation.
  - 1.6.4 To require the Commissioner to attend the Panel to answer questions.
  - 1.6.5 To veto the Commissioner's proposed precept, the amount people pay through their council tax for policing, by a two-thirds majority of its total Membership.
  - 1.6.6 To veto by a two-third's majority of its total Membership the Commissioner's proposed candidate for Chief Constable

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<sup>1</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 2, Para 3 (2)

<sup>2</sup> Ibid Schedule 6, Part 2, Para 3 (3)

<sup>3</sup> Ibid, Schedule 6, Part 2, Para 4 (5b)

<sup>4</sup> Ibid, Schedule 6, Part 2, Para 4 (6)

- 1.6.7 To appoint an acting Commissioner where the incumbent Commissioner is incapacitated, resigns or is disqualified.
  - 1.6.8 To make recommendations about the appointment of the Deputy Commissioner as well as the Chief Executive and Chief Financial Officer of the Commissioner's Office.
  - 1.6.9 To support the effective exercise of the functions of the Commissioner.
- 1.7 The Panel is not responsible for the scrutiny of operational police matters.
- 1.8 The Panel must have regard to the Policing Protocol Order 2011, or any successor Protocol, which sets out the ways in which the Home Secretary, the Commissioner, the Chief Constable and the Panel should exercise, or refrain from exercising, functions.
- 1.9 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Act, and any Regulations made in accordance with it, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

## **2. Membership and Political Balance**

- 2.1 A person may not be a Member of the Panel if they are the following:
- 2.1.1 The Commissioner.<sup>5</sup>
- 2.2 A person may not be a Co-opted Member if they are also any of the following:
- 2.2.1 A Member of Parliament.
  - 2.2.2 A Member of the National Assembly for Wales.
  - 2.2.3 A Member of the Scottish Parliament.
  - 2.2.4 A Member of the Office of the Commissioner.
  - 2.2.5 A Member of the civilian staff of Wiltshire Police.
  - 2.2.6 A Member of the European Parliament.<sup>6</sup>
- 2.3 The balanced appointment objective requires that the Local Authority Members of the Panel (which includes Members appointed by the Authorities and Co-opted Members who are elected Members of any of the Authorities) should:
- 2.3.1 represent all parts of the police force area;
  - 2.3.2 represent the political make-up of the Authorities; and,
  - 2.3.3 taken together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.<sup>7</sup>
- 2.4 The Panel shall consist of 11 Members appointed by the Authorities in accordance with the requirements of the balanced appointment objective contained within the Act, as follows:
- 2.4.1 Wiltshire Council - seven Members

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<sup>5</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4 (21)

<sup>6</sup> Ibid, Schedule 6, Part 4 (22)

<sup>7</sup> Ibid, Schedule 6, Part 4, Para 31 (5)

## 2.4.2 Swindon Borough Council - four Members

- 2.5 The Panel shall also include a minimum of two independent Members Co-opted by the Panel.
- 2.6 Co-opted Members shall serve for a period of four years on the Panel. There is no restriction on the number of terms that any Co-opted Member can serve.
- 2.7 The validity of the proceedings of the Panel is not affected by a vacancy in the Membership of the Panel or a defect in appointment.<sup>8</sup>
- 2.8 All Members shall observe the Code of Conduct of the host authority. Swindon Borough Council Members are also bound by their own Code.

### 3. Appointment, Resignation and Removal of Members

#### Appointment

- 3.1 The Panel shall put in place arrangements to ensure that appointments of Co-opted Members are undertaken following public advertisement in accordance with the following principles:
  - 3.1.1 The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
  - 3.1.2 The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre-determined criteria; and,
  - 3.1.3 The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
- 3.2 Appointments of elected Members to the Panel shall be made by each of the Authorities in accordance with their own procedures and with a view to ensuring that the balanced appointment objective of the Act is met so far as is reasonably practicable. All Members of the Authorities are eligible to be Members of the Panel. The Host Authority shall take steps to coordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved.<sup>9</sup>
- 3.3 The Authorities shall both nominate elected Members to be Members of the Panel. If a nominated Member agrees to the appointment the Authority may appoint the Member as a Member of the Panel.

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<sup>8</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 30

<sup>9</sup> Ibid, Schedule 6, Part 2, Para 4a and  
Ibid, Schedule 6, Part 3, Para 13 (2)

- 3.4 If an Authority fails to nominate a Member within 21 days of either their annual Full Council, or after the first meeting of the Authority to be held after the power to nominate arose, they must notify the Home Office.<sup>10</sup>
- 3.5 The relevant Authority must notify the Home Office where they fail to appoint a Councillor to the Panel within 14 days of the Councillor accepting nomination to the Panel.<sup>11</sup>
- 3.6 In the event that an Authority does not appoint a Member or Members in accordance with their procedures, and there are fewer than 10 Members on the Panel appointed by the Authorities the Secretary of State must appoint a Member to the Panel from the defaulting Authority/Authorities in accordance with the provisions in the Act.<sup>12</sup>
- 3.7 In the event that an Authority does not appoint a Member in accordance with their procedures, and there are 10 Members on the Panel appointed by the Authorities the Secretary of State may appoint a Member to the Panel to achieve the balance appointment objective.
- 3.8 The Panel must from time to time decide whether the Panel should exercise its power to change the number of Co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.<sup>13</sup>
- 3.9 The Panel may resolve to have more than two Co-opted Members, subject to the agreement of the Secretary of State and as long as the total Membership of the Panel, including Co-opted Members, would not exceed 20.<sup>14</sup>
- 3.10 An elected Member of any of the Authorities may not be a Co-opted Member of the Panel where the number of Co-opted Members is two. If the Panel has three or more Co-opted Members an elected Member of any of the Authorities may be a Co-opted Member of the Panel provided that at least two of the other Co-opted Members are not elected Members of any of the Authorities.<sup>15</sup>
- 3.11 Additional elected Members may be requested to ensure the Panel represents all parts of the relevant police area and the political make-up of the relevant local authorities.<sup>16</sup> Co-optation of individual additional Local Authority Members must be unanimously agreed by the Panel.<sup>17</sup> An increase in Membership from 11 elected Members would also require agreement by both Authorities to the amendment to these Panel Arrangements to reflect the new total.

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<sup>10</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.1

<sup>11</sup> Ibid, pg.2

<sup>12</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 3, Para 18

<sup>13</sup> Ibid, Schedule 6, Part 4, Para 31 (4a)

<sup>14</sup> Ibid, Schedule 6, Part 2, Para 4 (4)

<sup>15</sup> Ibid, Schedule 6, Part 4, Para 23 (2)

<sup>16</sup> Ibid, Schedule 6, Part 2, Para 5 and

<https://www.gov.uk/government/publications/police-and-crime-Panels/police-fire-and-crime-Panels-guidance#Panels-in-england>

<sup>17</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.1

### Resignation and Removal

- 3.12 A Member may resign from the Panel by giving written notice to the Proper Officer at Wiltshire Council.
- 3.13 In the event that an appointed Member resigns or is removed from the Panel, the relevant Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel.
- 3.14 Where a Co-opted Panel Member fails to attend at least two meetings of the Panel over a six-month period then the Lead authority shall recommend that due consideration is given to removing the Member from the Panel and to the appointment of a replacement Member.
- 3.15 If they are a Co-opted Member, then the Panel shall make arrangements to appoint a replacement. The only exception to this would be if the Panel were to have more than two Co-opted Members and wished to reduce the number of Co-opted Members. Should the Panel wish to change the number of Co-opted Members it must notify the Home Office.<sup>18</sup>
- 3.16 An Authority may decide in accordance with their procedures to remove their appointed Member from the Panel at any point and on doing so shall give notice to the Proper Officer at Wiltshire Council.
- 3.17 The Panel may decide to terminate the appointment of a Co-opted Member of the Panel if at least two-thirds of the persons, present and voting, who are Members of the Panel at the time when the decision is made, vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the Co-opted Member:
- 3.17.1 if the Co-opted Member has been absent from the Panel for more than six months, missing at least two meetings during that time, without the consent of the Panel;
  - 3.17.2 if the Co-opted Member has been convicted of a criminal offence but not automatically disqualified;
  - 3.17.3 if the Co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a Co-opted Member of the Panel; or,
  - 3.17.4 if the Co-opted Member's Membership of the Panel no longer achieves the meeting of the balanced appointment objective.

## **4. The Host Authority**

- 4.1 Wiltshire Council shall be the host authority for the Panel and shall provide such administrative and other support as will be necessary to enable the Panel to undertake its functions.

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<sup>18</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.2)

4.2 Support and guidance will be provided to Members and Officers at both Authorities as well as Co-opted Members of the Panel in relation to the Panel's functions.<sup>19</sup>

## **5. Promotion of the Panel**

5.1 The Panel shall take measures to promote its role including through the publication of its minutes and agendas on the host Authority's website.

5.2 A copy of the Panel Arrangements and Procedure Rules is to be made available on the part of the host Authority's website relating to the Panel.

## **6. Budget and Costs of the Panel**

6.1 The annual costs of the Panel shall be contained within the Home Office grant.

6.2 The payment of a responsibility allowance to Panel Members shall be considered and a recommendation sought from the Independent Remuneration Panel of each council as to whether the payment of such an allowance is appropriate.

6.3 Reasonable expenses will be reimbursed by each authority with the host Authority reimbursing the expenses of the Co-opted independent Members.

## **7. Modification of the Procedure Rules**

7.1 The Rules of Procedure shall not be amended unless notification of a proposed amendment is received by the Proper Officer Wiltshire Council at least 10 working days prior to a Panel meeting.

7.2 A report on the implications of the proposed amendment shall be considered by the Panel and the amendment shall require the agreement of at least two thirds of the persons who are Members of the Panel at the time when the decision is made.

7.3 No amendment may be considered by the Panel which does not comply with the Act, relevant Regulations or Panel Arrangements.

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<sup>19</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 29



# **PROTOCOL 12B**

## **WILTSHIRE POLICE AND CRIME PANEL**

### **RULES OF PROCEDURE**

#### **1. Meetings of the Police and Crime Panel**

- 1.1 The Police and Crime Panel (The Panel) will follow the procedure rules of the Host Authority, found in Part 4 of Wiltshire Council's Constitution.
- 1.2 Where the Procedure Rules differ from those of the Host Authority then the Panel's Procedure Rules shall apply in place of those of the Host.
- 1.3 The Panel's agendas and minutes will be published in accordance with the statutory requirements set out in Section 100 Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as reflected in Part 5 of Wiltshire Council's Constitution).
- 1.4 The Panel shall hold a minimum of four meetings per year.
- 1.5 An extraordinary meeting may be called by the Chairman or by four Members of the Panel, or the Monitoring Officer of Wiltshire Council.
- 1.6 Any Member of the Panel shall be entitled to give notice to the Director, Legal and Governance, Wiltshire Council, that they wish an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.
- 1.7 Items will be rejected where they do not relate to a matter for which the Panel has a responsibility for, require confidential information to be disclosed or are deemed improper or inappropriate for the meeting.
- 1.8 The Chairman's ruling will be final.

#### **2. The Chairman**

- 2.1 The Chairman and Vice-Chairman of the Panel will be appointed at the first meeting of the Panel following the annual confirmation of Members to the Panel by the constituent councils. Any Member of the Panel, including Co-opted Members, may be elected as Chairman or Vice-Chairman.
- 2.2 In the event of the resignation of the Chairman or removal of the Chairman, a new Chairman will be appointed.
- 2.3 The Chairman may be removed by a majority vote of the Panel. In the event the Chairman is removed, the Panel will vote to appoint a replacement.

2.4 The Panel will elect a person to preside at a meeting if the Chairman and Vice-Chairman are not present.

### **3. Public Participation**

3.1 Members of the public are able to ask questions or make a statement in relation to the responsibilities and functions of the Panel at each meeting.

3.2 A question will be rejected where it:

3.2.1 does not relate to the responsibilities and functions of the Panel;

3.2.2 directly relates to operational Police matters;

3.2.3 is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;

3.2.4 relates to any non-determined planning or licensing application;

3.2.5 requires the disclosure of confidential or exempt information;

3.2.6 names or identifies individual service users, Members of staff or Members of staff of partner agencies, other than the Police and Crime Commissioner ('the Commissioner') or Chief Constable;

3.2.7 is considered by the Chairman to be inappropriate for the particular meeting.

3.3 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.

3.4 The rules and deadlines relating to public participation contained within Part 4 of Wiltshire Council's Constitution will apply.

3.5 The Chairman may reject a supplementary question on the grounds listed in paragraph 3.2 above (reasons for rejection). A supplementary question may not include an additional preceding statement.

3.6 Ordinarily, no debate shall be allowed on questions presented or responses given. In exceptional circumstances only, the Chairman may allow discussion.

### **4. Decision Making**

4.1 All Panel Members may vote in the proceedings of the Panel.<sup>20</sup>

4.2 The rules of debate of the Panel shall be governed by the rules relating to meetings of Wiltshire Council committees in Part 4 of Wiltshire Council's constitution.

### **5. Special Functions of the Panel**

5.1 The Panel has the below special functions derived from the Police Reform and Social Responsibility Act 2011:<sup>21</sup>

5.1.1 Scrutiny of the Commissioner's draft Police and Crime Plan.<sup>22</sup>

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<sup>20</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 26

<sup>21</sup> Ibid, Schedule 6, Part 4, Para 27 (2)

<sup>22</sup> Ibid, Part 1, Chapter 4, Section 28 (3)

- 5.1.2 Scrutiny of the Commissioner's annual report.<sup>23</sup>
- 5.1.3 Scrutiny of senior appointments in the Office of the Commissioner.<sup>24</sup>
- 5.1.4 Scrutiny of Precepts.<sup>25</sup>
- 5.1.5 Scrutiny of the appointment of the Chief Constable.<sup>26</sup>

## **6. Police and Crime Plan**

- 6.1 The Panel must review the draft Police and Crime Plan, or draft variation, given to the Panel by the Commissioner and make a report or recommendations on the draft plan or variation to them.<sup>27</sup>

## **7. Annual Report**

- 7.1 The Commissioner 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.<sup>28</sup>
- 7.2 The Panel must comment upon the annual report of the Commissioner, and for that purpose must:
  - 7.2.1 Arrange for a public meeting of the Panel to be held as soon as practicable after the Panel receives the annual report.
  - 7.2.2 require the Commissioner to attend the meeting to present the annual report and answer questions about the annual report as the Members of the Panel think appropriate.
  - 7.2.3 make a report or recommendations on the annual report to the Commissioner.<sup>29</sup>

## **8. Senior Appointments**

- 8.1 The Panel must review the Commissioner's proposed appointments of the:
  - 8.1.1 Chief Constable
  - 8.1.2 Deputy Commissioner
  - 8.1.3 Chief Executive of the Commissioner's Office
  - 8.1.4 Chief Finance Officer of the Commissioner's Office<sup>30</sup>
- 8.2 In each case, the Panel is required, within three weeks of notification of the proposed appointment by the Commissioner, to hold a confirmation hearing in public. It will be

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<sup>23</sup> Ibid, Part 1, Chapter 4, Section 28 (4)

<sup>24</sup> Ibid, Schedule 1, Paras 10 and 11

<sup>25</sup> Police Reform and Social Responsibility Act 2011, Schedule 5

<sup>26</sup> Ibid, Schedule 8, Part 1

<sup>27</sup> Ibid, Chapter 4, Section 28 (3)

<sup>28</sup> Ibid, Chapter 3, Section 12 (2)

<sup>29</sup> Ibid, Part 1, Chapter 4, Section 28 (4)

<sup>30</sup> Ibid, Part 1, Chapter 4, Section 28 (5)

requested that the candidate appears, either virtually or in person, for the purposes of answering questions relating to their employment.<sup>31</sup>

- 8.3 After holding the confirmation hearing, but still within three weeks of notification of the proposed appointment by the Commissioner, the Panel must make a report on the proposed senior appointment including a recommendation as to whether the candidate should be appointed.<sup>32</sup> The Panel must publish its report to the Commissioner.
- 8.4 For the purposes of calculating three weeks any relevant post-election period is to be ignored. For that purpose, “relevant post-election period” means the period that begins with the day of the poll at an ordinary Commissioner’s election and ends with the day on which the person elected as Commissioner delivers their declaration of acceptance of office.<sup>33</sup>
- 8.5 In the cases of the appointment of the Deputy Commissioner, Chief Executive of the Commissioner’s Office or Chief Finance Officer of the Commissioner’s Office the Commissioner may accept or reject the Panel’s recommendation as to whether the candidate should be appointed. The Commissioner must notify the Panel of their decision whether to accept or reject the recommendation.<sup>34</sup>

#### Veto of the Chief Constable’s Appointment

- 8.6 In the case of the Chief Constable the Panel may, having reviewed the proposed appointment, veto the appointment of the candidate if at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision. The Panel will lose its veto if it fails to make a recommendation within three weeks of notification of the proposed appointment (excluding any relevant post-election period).<sup>35</sup>
- 8.7 Where the Panel exercises its veto within the required timeframe, the Commissioner shall propose another person for appointment as chief constable (“a reserve candidate”).<sup>36</sup> Within the period of three weeks, beginning with the day on which the Panel receives notification of the proposed reserve candidate, the Panel shall review the proposed appointment following the same procedure as for the original candidate.
- 8.8 The Panel must hold a confirmation hearing and make a report to the Commissioner containing a recommendation as to whether the reserve candidate should be appointed.<sup>37</sup>

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<sup>31</sup> Ibid, Schedule 8, Part 1, Paragraph 6 (3) for the Chief Constable and Ibid, Schedule 1, Part 11 for other senior appointments

<sup>32</sup> Police Reform and Social Responsibility Act 2011, Schedule 8, Part 1, Paragraph 4 (6) for the Chief Constable and Ibid, Schedule 1, Part 10 (2:5) for other senior appointments

<sup>33</sup> Ibid, Schedule 8, Part 1, Paragraph 4 (10) for the Chief Constable and Ibid, Schedule 1, Part 10 (9) for other senior appointments

<sup>34</sup> Ibid, Schedule 1, Part 12

<sup>35</sup> Ibid, Schedule 8, Part 1, Paragraph 5

<sup>36</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 3, Paragraph 9

<sup>37</sup> Ibid, Part 3, Paragraph 10, pg. 2 [Police and crime Panel scrutiny of chief constable appointments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244842/police-and-crime-panel-scrutiny-of-chief-constable-appointments.pdf)

8.9 The Panel does not have authority to veto a reserve candidate for Chief Constable.<sup>38</sup> However, the Commissioner must have regard to the Panel's report and notify the Panel of their decision as to whether they accept or reject their recommendation.<sup>39</sup>

## 9. Precepts

9.1 The Commissioner will notify the Panel of the precept which the Commissioner is proposing to issue for the forthcoming financial year by 1 February.<sup>40</sup> The Panel must review the proposed precept and make a report on whether to accept the proposals by 8 February.<sup>41</sup>

9.2 Having considered the precept, the Panel will do one of the following:

- 9.2.1 support the precept without qualification or comment;
- 9.2.2 support the precept and make recommendations, or
- 9.2.3 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).

9.3 If the Panel fails to report to the Commissioner by 8 February the scrutiny process comes to an end, even if the Panel have voted to veto the proposed precept, and the Commissioner may issue the proposed precept.

### If the Panel Does Not Use its Veto

9.4 The Commissioner will have regard to the Panel's report and publish their response. The Commissioner may then issue to proposed precept as the precept for the financial year. Alternatively, the Commissioner may issue a different precept but only if it is in accordance with the recommendation/s made in the Panel's report.<sup>42</sup>

### If the Panel Vetoes the Precept

9.5 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 reasons. The Panel will require a response to its report, which the Commissioner must publish by 15 February.<sup>43</sup> The Commissioner's response shall include details of a revised proposed precept.<sup>44</sup> It is for the Panel to determine the manner in which the response to its report or recommendations is to be published.<sup>45</sup>

<sup>38</sup> Police and Crime Panels – Scrutiny of Chief Constable Appointments Guidance

<sup>39</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 3, Paragraph 11

<sup>40</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2 Paragraph 3

<sup>41</sup> Ibid, Part 2, Paragraph 4 (1)

<sup>42</sup> Police Reform and Social Responsibility Act 2011, Schedule 5, Para 5 (3)

<sup>43</sup> Scrutiny of Precept Guidance [Police and crime Panel scrutiny of the precept - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/police-and-crime-panel-scrutiny-of-the-precept) pg.1

<sup>44</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2, Para 5(2)

<sup>45</sup> Police Reform and Social Responsibility Act 2011, Schedule 5, Part 6(4)

## 9.6 Where the Panel's report:

- 9.6.1 indicates that the Panel vetoes the proposed precept because it is too high, the revised precept shall be lower than the proposed precept;
- 9.6.2 indicates that the Panel vetoes the proposed precept because it is too low, the revised precept shall be higher than the proposed precept.<sup>46</sup>

9.7 Upon receiving the Commissioner's revised precept, the Panel shall, by 22 February, review it and make a report which may indicate whether the Panel accepts or rejects the revised precept and make recommendations about whether the precept should be issued for the forthcoming financial year.<sup>47</sup>

9.8 The Panel is not able to veto the revised precept, but the Commissioner must have regard to their report, and any recommendations they make, and publish a response to it as long as the Panel's report is published by 22 February. The Commissioner should publish their response by 1 March.<sup>48</sup>

## 10. Complaints

10.1 Criminal and non-criminal complaints in relation to the Commissioner or other office holders will be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and Policing and Crime Act 2017.

10.2 The process for dealing with complaints about the Commissioner shall be undertaken in accordance with the arrangements published on Wiltshire Council's website, with the implementation of the complaints process delegated to the Monitoring Officer at Wiltshire Council.

10.3 The Panel will maintain oversight of and retain ultimate responsibility for the complaints procedure.

## 11. Suspensions

### The Commissioner

11.1 Panel may suspend the Commissioner if it appears to the Panel that:

11.1.1 the Commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and

11.1.2 the offence is one which carries a maximum term of imprisonment exceeding two years.<sup>49</sup>

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<sup>46</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2, Para 5 (3)

<sup>47</sup> Ibid, Part 2, Para 6 (2)

<sup>48</sup> Ibid, Part 2, Para 7

<sup>49</sup> Police Reform and Social Responsibility Act 2011, Part 1, Chapter 4, Section 30 (1)

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

11.2.1 the charge being dropped;

11.2.2 the Commissioner being acquitted of the offence;

11.2.3 the Commissioner being convicted of the offence but not being disqualified under section 66 by virtue of the conviction;

11.2.4 the termination of the suspension by the Panel.<sup>50</sup>

### Chief Constable

11.3 If the Commissioner proposes to call upon the Chief Constable to retire or resign they must also notify the Panel in writing of their proposal together with a copy of the reasons given to the Chief Constable in relation to that proposal.<sup>51</sup>

11.4 The Commissioner must provide the Panel with a copy of any representations from the Chief Constable about the proposal to call for their resignation or retirement.<sup>52</sup>

11.5 If the Commissioner is still proposing to call upon the Chief Constable to resign, they must notify the Panel accordingly (the 'further notification').<sup>53</sup>

11.6 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 they 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 meeting.<sup>54</sup> The Panel must publish its recommendation.

11.7 For the purposes of calculating six weeks any relevant post-election period is to be ignored. For that purpose, "relevant post-election period" means the period that begins with the day of the poll at an ordinary Commissioner's election and ends with the day on which the person elected as Commissioner delivers their declaration of acceptance of office.<sup>55</sup>

11.8 The scrutiny hearing which must be held by the Panel is a Panel meeting in private to which the Commissioner and Chief Constable are entitled to attend to make representations.<sup>56</sup>

11.9 The Commissioner must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.

11.10 The Commissioner may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:

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<sup>50</sup> Police Reform and Social Responsibility Act 2011, Part 1, Chapter 4, Section 30 (2)

<sup>51</sup> Ibid, Schedule 8, Part 2, Para 13 (3)

<sup>52</sup> Ibid, Schedule 8, Part 2, Para 13 (5b)

<sup>53</sup> Ibid, Schedule 8, Part 2, Para 14

<sup>54</sup> Ibid, Schedule 8, Part 2, Para 15

<sup>55</sup> Ibid, Schedule 8, Part 2, Para 15 (8)

<sup>56</sup> Ibid, Schedule 8, Part 2, Para 15

- 11.10.1 at the end of six weeks (excluding the relevant post-election period) from the Panel having received notification if the Panel has not by then given the Commissioner a recommendation as to whether they should call for the retirement or resignation, or
- 11.10.2 the Commissioner notifies the Panel of a decision about whether they accept the Panel's recommendations in relation to the Chief Constable's resignation or retirement.<sup>57</sup>
- 11.10.3

## **12. Appointment of an Acting Commissioner**

- 12.1 The Panel must appoint a Member of the Commissioner's staff to act as Commissioner if:
  - 12.1.1 no person holds the office of Commissioner
  - 12.1.2 the Commissioner is incapacitated, or
  - 12.1.3 the Commissioner is suspended.<sup>58</sup>
- 12.2 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.
- 12.3 The appointment of an acting Commissioner ceases to have effect upon the occurrence of the earliest of these events:
  - 12.3.1 the election of a person as Commissioner;
  - 12.3.2 the termination by the Panel, or by the acting Commissioner, of the appointment of the acting Commissioner;
  - 12.3.3 in a case where the acting Commissioner is appointed because the Commissioner is incapacitated, the Commissioner ceasing to be incapacitated, or
  - 12.3.4 in a case where the acting Commissioner is appointed because the P Commissioner is suspended, the Commissioner ceasing to be suspended.<sup>59</sup>
- 12.4 There is a six-month time limit on how long the Commissioner can be incapacitated before their role becomes vacant. Once the six-month limit has been reached, a by-election would need to be conducted to fill the vacancy.<sup>60</sup>

## **13. Sub Committees and Task Groups**

- 13.1 Sub-committees or time limited task groups may be established from time to time by the Panel to undertake specific task-based work.

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<sup>57</sup> Police Reform and Social Responsibility Act 2011, Schedule 8, Part 2, Para 15

<sup>58</sup> Ibid, Chapter 6, Section 62 (1)

<sup>59</sup> Ibid, Chapter 6, Section 62 (6)

<sup>60</sup> [Police, fire and crime Panels guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612232/Police_fire_and_crime_Panels_guidance_-_GOV.UK_(www.gov.uk).pdf)



- 13.2 The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.
- 13.3 The special functions of the Panel, as defined in Section 5, may not be discharged by a sub-committee or a task group, of the Panel.<sup>61</sup>

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<sup>61</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 27 (1)