

# **WILTSHIRE POLICE AND CRIME PANEL**

## **DRAFT PROTOCOL FOR JOINT WORKING WITH THE PCC**

### **1. Introduction**

The Police Reform and Social Responsibility Act 2011 brings in new structural arrangements for strategic police decision making, neighbourhood policing and policing accountability. Principal among these changes is the election of the Police and Crime Commissioner (PCC) and the appointment of the Wiltshire Police and Crime Panel (PCP). The Police and Crime Panel will hold the Police and Crime Commissioner to account. In turn the Police and Crime Commissioner will hold the Chief Constable to account.

In addition the Act makes it clear that the PCP is also there to support the PCC in the effective discharge of his/her functions. This is being delivered in a changing and challenging environment which requiring flexibility and pragmatism in our approach, high levels of cooperation and joint working, as well as a commitment to support each other in the delivery of shared and individual responsibilities.

This Protocol is a statement of our commitment to build and nurture an effective partnership.

### **2. Purpose**

The protocol sets out the broad principles and processes which will guide our work together. It sets out our expectations to support a positive and constructive relationship. It also provides a framework for the development and agreement of additional protocols/procedures to deal with specific issues.

We will use the Agreement as a means of:

- promoting and encouraging appropriate values and behaviours in partnership working
- holding each other to account and
- reviewing progress

### **3. Our key statutory roles and responsibilities**

The PCC is responsible for setting priorities for the Wiltshire police force, having regard to needs and demands of communities and ensuring that local and national priorities are suitably funded by setting a budget and for the local performance of the force. He or she will do this by, inter alia:

- Securing an efficient and effective police force for Wiltshire
- In conjunction with the Chief Constable producing, and consulting on, a five year police and crime plan which sets the police and crime objectives for the area.
- Holding to account the chief constable including the power to appoint and dismiss
- Publishing information/datasets including an annual report
- Setting the annual force budget and police precept
- Requiring the chief constable to prepare reports on police matters

The PCP is responsible for:

- Scrutinising the PCC, to promote openness in the transaction of police business and also to support the PCC in the effective exercise of their functions
- Contributing to the development of the PCC's police and crime plan

- Reviewing the PCC's proposed precept
- Reviewing the proposed appointments of chief constable, chief executive, chief finance officer and deputy police and crime commissioner and holding public confirmation hearings for these posts
- Making reports and recommendations to the PCC
- Investigating complaints about the non criminal behaviour of the PCC

#### 4. Our principles for successful partnership working

Given the common aims of both the Commissioner and the Panel to ensure the effectiveness of measures aimed at reducing crime and disorder and enhancing public safety in Wiltshire, 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.
- (v) Recognise the desire of the panel that their work will be a balance between proactively assisting the PCC with the development of policy and reactively holding the PCC to account.

Whilst recognising the common aims and the need for closer working, it is important to remember that the Office of the PCC and the PCP 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.

#### 5. Shared objectives

Our shared objective is to tackle local crime and disorder, creating safer communities throughout all of Wiltshire and increasing public confidence.

Community safety is the protection of everyone's right to live without fear for their own or other peoples safety. It is about impacting on crime, fear of crime and victimisation. It means the empowerment and involvement of all in the community to – tackle inequalities, address the underlying causes of crime and create environments in which all people feel safe. It is about quality of life.

We will co-operate with each other, and the other responsible authorities, to reduce crime and anti social behaviour and support an efficient and effective criminal justice system.

#### 6. Shared values and behaviours

At the heart of successful partnership working is **trust**, building trust takes time, but it only takes an instance to damage it. Agreeing shared values and behaviours, which are interrelated and impact on each other, is critical to successful partnership working and developing trust. We have set out below our shared values and how we will behave to demonstrate them. We will hold each other to account and measure ourselves against these principles.

## **7. Taking an evidence led approach**

Priorities are evidence based and decision making transparent. Effective action is reality based and solution focussed.

We will:

- Ensure that decision making is informed, consistent and transparent
- Be committed to continuous improvement
- Ensure that claims about performance are evidence based
- Actively encourage ideas and innovation
- Manage risk
- Monitor, evaluate and review our work to ensure we respond to changing needs and can demonstrate we are making a difference

## **8. Valuing and respecting each other**

We will:

- Respect each other's mandates, obligations and independence
- Recognize each other's constraints and commitments
- Build effective working relationships with each other
- Recognize the value of everyone's contribution
- Make accountability real in a constructive way

## **9. Public interest**

We will:

- Take a balanced and multi-faceted approach to issues
- Focus on long term as well as short term problems, responses and solutions
- Act in the interests of the public good over individual interests
- Demonstrate to the community how we are achieving publicly valued outcomes
- Carry out our work responsibly, with integrity and in a relevant and appropriate way

## **10. Building capacity in our partnership**

We will:

- Develop skills, knowledge and experience in order to carry out our roles and responsibilities effectively
- Ensure meaningful dialogue through early consultation and early information sharing of data and analysis
- Tackle difficult and controversial issues

## **11. Acting ethically**

We will:

- Ensure that our dialogue is open and transparent
- Agree how we will achieve democratic accountability
- Declare conflicts of interest and address them
- Use appropriate and simple language
- Be honest and objective
- Encourage questions and constructive challenges
- Agree a mechanism for whistleblowing

## **12. Aligning objectives**

We will:

- Allow sufficient time and capacity to be given to understand an issue and to reflect on its impact
- Establish accountability and give each other constructive feedback
- Make sure that actions are clear, time limited and task oriented
- Ensure that agreed actions are carried out
- Build on our comparative advantages and complement each other's contributions
- Share a collective understanding of our partnership and promote the values of our partnership

## **12. Specific protocols and procedures**

It may be necessary, over time, to develop and agree additional protocols and procedures to deal with specific issues. Such protocols and procedures might include:-

Complaints Procedure

Information Sharing Protocol

Confirmation Hearings Procedure

Whistleblowing Procedure

Monitoring Officer and Section 151 Officer Protocol

Good Governance Protocol

Media Protocol

Principles for Engagement with Other Stakeholders Protocol

## **13. Work Programming/Information Sharing**

The Secretariat of the Panel will work with the PCC (and his staff) to co-ordinate and align the draft work programme of the Panel with that of the PCC. This will include regular reports on finance and performance as well as items relating to the statutory functions that the Panel has to discharge.

The PCC will be at liberty to request that a particular item is considered by the Panel and subject to the agreement of the Chairman of the PCP, the item will be included on the agenda for an appropriate meeting of the PCP.

The Panel will notify the PCC of the Panel's final work programme and associated meeting dates. In setting the work programme, the Panel should identify what information is required and if any support staff from the PCC's staff need to attend.

In accordance with Section 13(1) of the Act the Panel has a statutory right to any information that it reasonably requires to carry out its functions. However there are safeguards attached to this right whereby this will not apply in cases of national security, where it would jeopardise safety or prevent detection of crime or apprehension or prosecution of offenders.

Where the PCC 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 PCC and Chairman of the Panel, shorter notice may be given for either attendance or information.

Care will need to be taken that any information provided to the Panel by the PCC will be caught by the Access to Information provisions and therefore unless falling within the exempt or confidential categories contained therein, will be public documents.

Where the Panel requires the PCC to attend it may also request 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.

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

The Panel may chose to discharge some of its workload, other than the special functions referred to earlier, through sub committees or task groups. The PCC will be informed of these and will only be expected to attend under mutually agreed terms.

#### **14. Holding the Police and Crime Commissioner to Account**

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

Whilst the PCP will not want access to all decisions made by the PCC they will want to be aware of in year decisions that are likely to be publicly sensitive, or involve a departure from the policy objectives contained in the Police and Crime Plan. A process of capturing such decisions will be agreed with the PCC.

The presumption shall be that the PCC will be required to attend all meetings of the Panel (the expectation is that there will be 6-8 Panel meetings per year) unless advised to the contrary. If this is impractical then the PCC may send a deputy to attend the meeting.

#### **15. 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 PCC 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 PCC and Chairman of the PCP these timescales may be amended having regard to particular circumstances. The expectation shall be that the Chief Executive Officer of the PCC 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.

The format and style of the set piece events to discharge the “special functions” referred to above and below, will be agreed with the PCC to ensure that the outcomes of these sessions add value and achieve their dual objective of holding the PCC to account but also supporting them in the effective discharge of their functions.

#### **A. Police and Crime Plan**

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

The PCP 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, Crime and Disorder Partnerships and other relevant bodies in the formulation of the key priorities to be reflected in the Plan.]***

#### **Process**

In relation to the consideration of the Police and Crime Plan this shall be a two stage process. Initially the PCC shall ensure that the Panel is provided with a draft copy of the Police and Crime Plan or variation thereto at the earliest opportunity to enable early consideration.

The second stage is where the PCP formally considers the final draft of the plan (by 31 March ) and makes comments or recommendations to the PCC. The process will be as follows:-

- the PCC 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.
- For the formal stage of the process the Panel shall convene a meeting within 15 working days to consider and comment on the Plan.
- The PCC 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 PCC. Such report should normally be prepared and submitted to the PCC no later than five days following the meeting.
- Where such report suggests amendments to the Plan, the PCC shall be required to consider such recommendation and advise the Panel of his/her decision. Where

the PCC decides not to accept the recommendation of the Panel he/she shall provide reasons to the Panel.

### **Monitoring and Reviewing the 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 there shall be regular reviews of the Plan. Where this results in variations to the Plan the consultation process outlined above shall be followed.

*[Note: The review of the Plan may be triggered as a consequence of the PCC's Annual Report, which will need to outline the exercise of his/her functions during the financial year and progress in meeting the objectives in the Plan.]*

### **Monitoring the Commissioner's Performance**

As the Police and Crime Plan will be the key document by which the performance of the PCC is to be measured there is 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 PCC shall provide an explanation together with any proposals he/she intends to take to rectify the position.

### **B. Annual Report**

The PCC 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**

The PCC shall provide the Panel with a copy of his annual report.

The Panel will be required to convene a public meeting as soon as practicable thereafter and, in any event, no later than 15 working days of receipt of the report.

The PCC shall 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 PCC no later than five days following the meeting.

The PCC shall consider any report or recommendation and advise the Panel of his decision. Where the report or recommendations are not accepted by the PCC, he/she shall provide reasons.

## C. Precept

***[Note: There is an expectation that there will be informal discussions involving the PCC, the PCP and other relevant bodies in the development of the budget and any proposed precept.]***

The PCC 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 PCP 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.

Having considered the proposed precept, together with any supporting documentation, the Panel 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 total membership of the Panel – ie not simply a two thirds majority of the members of the Panel present at the time of the decision ):

and will make a report to the PCC (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 PCC by no later than five days following the meeting. The PCC shall consider such recommendations/ comments and advise the Panel of his/her decision. Where the comments/recommendations are not accepted, the PCC shall provide reasons.

Where the Panel exercises its veto it will provide a report to the PCC which will include a statement that the Panel has vetoed the proposed precept and giving reasons and indication as to whether it considered the proposed precept to be too high or too low. The PCC 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 PCC 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.



## **D. Senior Officer Appointments (other than the Chief Constable)**

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

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

The PCC 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 (or make arrangements to enable the candidate to participate in the 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 PCC 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.

## **E. Chief Constable – Appointment and Removal**

### **Appointment of Chief Constable**

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 PCC 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 PCC. Following the confirmation hearing, the Panel will make a report to the PCC, which will include a recommendation as to whether or not the reserve candidate should be appointed (there is no second veto). The PCC 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 PCC that he/she has suspended the Chief Constable.

The PCC shall notify the Panel if he/she intends to ask the Chief Constable to resign or retire, together with the reasons and a copy of the written explanation provided to the Chief Constable. The PCC 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 PCC, the Panel must make a recommendation in writing to the PCC. 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 PCC and Chief Constable shall be entitled to attend and make representations.

The PCC cannot call upon the Chief Constable to resign or retire until he/she has had and considered the report of the Panel. The PCC 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.]*

## **16. 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 PCC (see later section of this Protocol).

### **A. Suspension of the PCC**

The Panel may suspend the PCC if he/she is charged with an offence which carries a maximum term of imprisonment exceeding two years.

The PCC will inform the PCP 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 PCC will be entitled to attend for the purpose of making representations.

Any suspension of the PCC shall cease if:

- The charge is dropped
- The PCC is acquitted of the offence
- The PCC is convicted but is not disqualified because of the conviction
- The Panel agrees to terminate the suspension.

The Panel shall therefore keep the suspension under review and will, should circumstances change, convene a further meeting to consider whether the suspension should continue.

## **B. Appointment of an Acting PCC**

The Panel must meet to appoint an Acting PCC if:

- the PCC is incapacitated and cannot carry out the functions of the office; or
- the PCC is suspended.

The Office of the PCC shall inform the Panel immediately on learning that the PCC is incapacitated. The Panel will be required to convene a meeting as soon as practicable thereafter to appoint an Acting PCC, to be drawn from the PCC's staff at the time. The Panel will have regard to any views submitted by the PCC.

The appointment of an Acting PCC shall cease:

- When a new PCC is elected as a result of a vacancy arising
- If the PCC is no longer incapacitated
- If the suspension of the PCC has been lifted.

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

## **17. Complaints**

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 PCP will establish a complaints process for the initial consideration of all complaints.

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.

The Panel shall make appropriate arrangements for the initial investigation of any complaint and, having regard to any representations from the PCC.

The Panel 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.

## **18. Resolving Differences**

In any new arrangements there will inevitably be differences of opinion on issues. We will take a positive and constructive approach to resolving any issues in accordance with the arrangements set out in the relevant Protocol or Procedure. In general officers will attempt to resolve an issue in consultation with the Chair of the PCP and the PCC before referring the matter to the full PCP.

## **19. Summary**

This protocol reflects work in progress. We recognise that these are new and different arrangements and there will be issues to work through and resolve. The quality of our relationship will be more important than any written agreements. If we invest time and energy in maintaining a good partnership working relationship, together we can make a huge difference. We are committed to doing that in a constructive and positive way, remembering always that our shared priority and the reason why we exist is to serve the people of Wiltshire by creating safer communities.

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