

Police and crime panels

Guidance on role and composition



Contents

1.	Introduction	4
2.	Legislative context	5
3.	Role and functions: the law	7
4.	Panel arrangements and rules of procedure	11
5.	Role and functions: issues to consider (including resourcing)	13
6.	Composition: the law	21
7.	Composition: issues to consider	22
8.	Common issues and how to resolve them: shadow PCPs	28
9.	Regulations and further guidance	29

Contacts

Mark Norris

mark.norris@local.gov.uk
(020) 7664 3241

Ed Hammond

ed.hammond@cfps.org.uk
(020) 7187 7369

Foreword

Having produced a short guide to police and crime commissioners for local authorities, the LGA thought it would be useful for councils to have more detailed and in-depth guidance to setting up a police and crime panel.

This guide therefore explores some of the technical issues around establishing a panel, ahead of the guidance the Home Office will be producing later this year.

Although November 2012 seems a long way ahead, we anticipate that the Government will expect to see police and crime panels up and running ahead of the elections for police and crime commissioners. If councils are not in a position to do that then the Home Secretary has the power to set up a panel. We all want to avoid that, so councils will want to have plans in place for their panels by the summer of 2012.

Before then there are a number of issues that councils will need to work through with their neighbours in their force area. Some areas will swiftly arrive at agreed solutions, others may take longer. We hope that this guide facilitates that work, and of course if councils need assistance then the LGA and Centre for Public Scrutiny will be only too happy to help.

Cllr Mehboob Khan

Chair of the LGA's Safer and Stronger Communities Board

Text note

This guidance has been drafted by CfPS and LGA and as such reflects their views on the recent policy and legislative developments in relation to police and crime panels. It is not a reflection of the views of the Government or of civil servants at the Home Office who will be issuing official guidance on police and crime panels in due course. Insofar as is possible it has been drafted so as to complement official guidance.

The guidance is not intended to be prescriptive in nature. It sets out issues that local authorities and police authorities should consider in planning for November 2012, and outlines the arguments for and against certain courses of action. However, it will be necessary for decisions on these issues to be taken locally, rather than for solutions to be asserted from the centre in a way that may not be appropriate in some areas.

1. Introduction

1.1

The Police Reform and Social Responsibility Act 2011 brings in new structural arrangements for national policing, strategic police decision-making, neighbourhood policing and policing accountability. Principal among these changes will be the election of police and crime commissioners, the first of which will take place in November 2012.

1.2

Other than through the ballot box by local people, police and crime commissioners (PCCs) will be held to account by a police and crime panel (PCP), which will be composed of locally elected councillors along with some lay members. The commissioner, in turn, is responsible for holding the chief constable to account. This guidance focuses on the composition and role of these panels and examines how their work will link in to the wider policing improvement agenda.

1.3

The Government intends that arrangements will be developed locally. This guidance reflects existing Government policy and will complement guidance to be produced by the Home Office. It is intended to provide a summary of the key issues that both local authorities and police authorities should address in establishing accountability arrangements for the PCC.



2. Legislative context

2.1

PCCs and their role are defined by Chapters 1 and 3 of the Police Reform and Social Responsibility Act. They will be directly elected by a local vote in November 2012.

The term of office is four years, and it is the government's intention that subsequent elections will be held on the date of ordinary elections in the area. PCCs will be responsible for:

- securing an efficient and effective police force for their area
- producing, and consulting on, a five year police and crime plan, in consultation with the chief constable, which sets the police and crime objectives for their area. The chief constable must have regard to this plan in his or her work (the meaning of 'have regard to' is not defined in the Act)
- holding to account the chief constable, including the power to hire and fire
- publishing certain specified information/datasets including an annual report (precise contents to be confirmed in secondary legislation by the Home Secretary)
- setting the annual force budget and police precept
- requiring the chief constable to prepare reports on police matters, on request.

2.2

The Home Office is expected to produce regulations and guidance for PCCs around the conduct of these duties. More detail can be found in section 9 of this guidance.

2.3

The expectation is that PCCs will want to work closely with partners and that partnership working will be important if they are to operate effectively. Under s10 of the Act, the PCC has to co-operate with local community safety partners to achieve the objectives of the police and crime plan. The PCC must also work with criminal justice bodies (defined in s10(5)) to make arrangements for the efficient transaction of criminal justice policy in the force area. The role and functions of the PCP should be considered in the light of these important co-operation requirements.

2.4

The main provisions on police and crime panels can be found in Schedule 6 of the Act.



3. Role and functions: the law

3.1

The PCP is a scrutiny body. It exists to scrutinise the police and crime commissioner, to promote openness in the transaction of police business and also to support the PCC in the effective exercise of their functions (s28(2)). Some of its functions will include:

- contributing to the development of the PCC's police and crime plan (on which it is a statutory consultee – the PCC must have regard to the PCP's views on the draft plan) (s28(3) and s5(6)(c))
- scrutinising the PCC, and receiving evidence from the chief constable (by invitation), at 'set piece' events at certain points in the year (s28(3) and (4) in particular)
- reviewing the PCC's proposed precept (Schedule 5)
- receiving evidence in person from officers of the PCC's secretariat (s29(1)), although powers to require information do not extend to receiving 'advice' given by the PCC's secretariat to the PCC (s29(2)). Some other restrictions on the kind of information which can be provided to the PCP by the PCC can be found in s13
- reviewing the PCC's proposed appointments of chief constable, chief executive, chief finance officer and deputy police and crime commissioner and holding public confirmation hearings for these posts (Schedule 1)
- making reports and recommendations on matters relating to the PCC, on which the PCC is obliged to provide a response (s29(3))
- carrying out investigations into decisions made by the PCC (s28(6)), and into topics of particular interest, or public concern. This is not a statutory function (the Act does not require it), but may be necessary in order to effectively carry out the rest of the PCP's business
- an informal role in investigating complaints about non-criminal behaviour of the PCC, without any explicit powers to investigate (draft regulations)
- making comments on the PCC's annual report at a public meeting to be held as soon as possible after the publication of that report (the public meeting will also provide the PCP with an opportunity to directly question the PCC on the annual report) (s28(4)).

Some of these powers (those not designated as 'special functions' – see 5.21 below) may be delegated to a sub-committee of the PCP, at the PCP's discretion.

The functions and procedural rules for the operation of the PCP will need to be set out in 'panel arrangements' and 'rules of procedure'. These are explained in more detail in section 4.

3.2

The PCP will have the power to suspend the PCC if he or she is charged with an offence that carries a maximum prison term of more than two years (s30).

3.3 Consulting the public

The PCC has a duty to have regard to the opinion of local people in developing policy (s14), which links with the PCC's obligation to make certain kinds of information public under s11.

3.4

The PCP has no statutory role in consulting the public, and it is important to ensure that it does not duplicate the PCC's role. Notwithstanding these caveats the PCP could play a role in supporting the process of gathering public opinion. In the course of other investigations, for example, the PCP may have cause to speak to members of the public – and it may wish to draw on public opinion gathered elsewhere in the course of its statutory, and non-statutory, duties. The PCP could also ask the PCC for information on the methodology, approach and results of public consultations.

3.5

The detail of how public engagement and involvement will be managed and planned by partners across the community safety landscape could be set out in a protocol between the relevant partners (see section 5.7).

3.6 Information sharing

The PCP will be a formally-constituted joint committee of all the authorities in the force area, where there is more than one authority in the force area. The committee will be bound by Schedule 12A of the Local Government Act 1972, as amended by the Freedom of Information Act 2000 regarding the publication of agendas, minutes and reports. This will include information provided by the PCC and other community safety partners.

3.7

The PCP has the right to any information which it may reasonably require to carry out its functions, with some minor exceptions relating, for example, to safety and operational policing (s13). 'Reasonably require' is not defined, and it may be that PCPs themselves will need to come to an agreement with the PCC (possibly through the use of a protocol, discussed below) about what this will mean in practice.

3.8

There may, however, be instances where the PCC provides the PCP with information but requests that the information is not published by the PCP. There are long-standing rules covering councillors' consideration of exempt information. Any issues arising from the PCC's request that information is not published, set against councils' duty to operate in an open and transparent manner, will need to be resolved; either on a case-by-case basis, or through a protocol between the PCC and PCP (see below) that deals with the issue of data sharing in more detail.



3.9

In all instances the presumption should be in favour of openness and transparency.

3.10 Refusing to provide information

A refusal by the PCC to provide information would need to demonstrate that the request falls entirely within the bounds of the excluded classes of information identified in the Act (see 3.6 above). Where a request falls partially in, and partially outside, one of these classes, any information which can legally be published, should be.

3.11

Where there is a dispute on the law, a discussion between the chair of the PCP and the PCC about the reasons for refusal, and the reason why the PCP wishes to have the information, could produce agreement. Under such circumstances, an undertaking could be given by the PCP that the information is not disseminated further. A protocol between the PCC and PCP could help to resolve such disagreements (see section 5.7).

3.12 Financial reporting and audit

The PCP will have some duties around formal audit, which focus on the consideration of finance reports. Schedule 16, s189 of the Police Reform and Social Responsibility Act inserts a new s115(1B) – (1G) of the Local Government Finance Act 1988, which means that finance reports will be sent to individual members of the PCP following their preparation.

3.13

This provision of information to individual members does not naturally confer a right for the PCP to become directly involved in audit discussions, but it will provide useful background information for the PCP in the carrying out of its statutory functions. It may be felt appropriate, in some areas, for the PCP to formally receive certain financial or audit reports, including accounts, in the interests of openness.

3.14

It may, however, be felt that audit and corporate governance should stay entirely separate (other than is specifically provided for in statute), being governed by internal systems inside the PCC's own secretariat, and within the force itself, as held to account by the PCC.

3.15

To carry out its statutory functions, it will be important for the PCP to see certain key documents – the statement of accounts, budget reports and budget monitoring reports, for example. However, the way in which this, and wider issues around financial reporting, are dealt with in a more general sense will need to be subject to local discretion and agreement.

3.16 Complaints

The PCP has certain duties (under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011) relating to the recording and investigation of complaints about the PCC or other office-holders that relate to non-criminal behaviour. Complaints about criminal behaviour are managed by the Independent Police Complaints Commission, who will keep the PCP informed when investigations are being carried out.

3.17

Non-criminal complaints can be considered through a hearing, through the examination of relevant documents provided by either party, and/or through other informal means. Individual PCPs will probably want to work with PCCs, to put in place a simple, clear and transparent process to expedite complaints and to ensure that complaints' systems are transparent. This will also enhance efficiency. It should be noted that, where complaints need to be considered by the PCP, there will be inevitable resource implications for the lead authority. These should be considered in the context of section 5.26 onwards of this guidance, which considers resources in more detail. Generally speaking, the consideration of an individual complaint by the PCP should be a rare occurrence.

3.18

It could also be thought appropriate for the PCP to have oversight of the complaints process operated by the force and the PCC (but not individual complaints, and subject to the existing accountability relationship between the PCC and the chief constable).

4. Panel arrangements and rules of procedure

4.1

The authorities involved in contributing to the PCP, by virtue of being in the relevant force area, must make ‘**panel arrangements**’ and ‘**rules of procedure**’ for the PCP. These are separate documents that will need to be agreed by all the local authorities in the force area.

4.2

The **rules of procedure** should cover (paragraph 25 of schedule 6 of the Police Reform and Social Responsibility Act):

- chairing (including appointment, removal and resignation of the chair) (compulsory) (see 5.2 onwards)
- the formation of sub-committees (compulsory) (see 5.20 onwards)
- the making of decisions (compulsory) (see 5.20 onwards)
- arrangements for convening meetings (see 4.4 – meeting administration will, for ease of working and to reflect the fact that the PCP will be a local authority joint committee, probably closely mirror standard committee management arrangements for local authorities)
- systems for circulating information in the run up to, after, and between meetings (see 3.6 onwards)
- promotion of the work of the PCP.

4.3

The **panel arrangements** should cover all other aspects of the PCP’s operation. The Act sets out (principally, in paragraph 24 of schedule 6) specific requirements which **must** form part of the panel arrangements. These include:

- arrangements about the appointment of co-optees: (see section 6.1)
- how the relevant authorities will make provision for resourcing the PCP, and how such funds will, if necessary, be disbursed between the authorities (see 5.26 onwards)
- provision around co-option (see 7.12 onwards)
- terms of office, appointment, resignation and removal of members of the PCP (see 7.14 onwards)
- payment of allowances (see 7.18 onwards).

4.4

It is likely that both the panel arrangements, and the rules of procedure, will in most areas closely reflect existing local government practice on the running of committees. This is because panels will be formal joint committees of the councils in the force area.

4.5

For the purposes of this guidance, issues have been divided into two separate groups; those that will be dealt with in the panel arrangements and the rules of procedure,— **roles and functions** (covering the business

of the PCP, and how it will operate) (see section 5 of this guidance); and **composition** (covering who will sit on the PCP) (see section 6 of this guidance).

4.6

Particularly relating to the role and function of the PCP, there are additional issues, not specified in the Act, which will nonetheless need to be considered as part of the panel arrangements. These are considered in more detail in section 5.

4.7

There will inevitably be some crossover between the issues covered by the rules of procedure, and the more general 'panel arrangements'. It is advisable that the two separate documents should be considered together when systems are being designed and developed.



5. Roles and functions: issues to consider

5.1

Decisions on these issues should be carried out **before** any decisions are made about the composition of the panel. The role of the panel must influence its composition.

- Which authority will lead/chair?
- How will we set out the panel arrangements and rules of procedure?
- How will the panel, the PCC and other local community safety partners define their interrelationships?
- In particular, what will be the division of responsibilities between the PCP (at force level) and local crime and disorder scrutiny committees (at local level)?
- Will the panel's focus be mainly reactive scrutiny, or proactive policy development (the nature of the PCP's role suggests that both will need to be carried out, but the balance will need to be decided)?
- How will the public be involved?
- How will decisions be made?
- How will the panel be supported and resourced?

These issues will all be dealt with in the sections below, other than involving the public, and the panel arrangements which have already been discussed in sections 3 and 4 respectively.

5.2

Which authority will lead/chair?

This is the first decision that needs to be made by local authorities in the force area. The police and crime panel will be a formal joint committee of all the authorities in the force area. However, a judgment will have to be made as to which council will lead, for the purposes of planning and delivery of the PCP's work programme, the selection of a chair (possibly, but not necessarily, from the lead authority) and the provision of accommodation and officer support. Home Office resourcing (see below) will go to this lead authority.

5.3

The most obvious solutions might be:

- in a county area with borders coterminous with the force area boundary, the county would lead
- in an area where the force is not coterminous with a single county, the largest county, or largest unitary (whether by population or geographic size) would lead
- in an area where the force covers a smaller selection of authorities, the most populous, or geographically largest, authority could lead.

These possibilities are provided as examples only – solutions adopted in each force area

will need to reflect the wishes of the individual authorities in that area.

5.4

A perceived imbalance that might otherwise exist on the panel because of one geographical area, or centre of population, being ‘over-represented’ or ‘under-represented’, could be partially offset by the chair being given to another geographical area. It is also important to remember the possible impact of local elections part-way through the PCC’s term of office, and the effect that this may have on the composition of the PCP. Dealing with perceived imbalances in representation would be possible through co-option (see 7.12 onwards).

5.5

There is no specific provision for the chair to ‘rotate’ between authorities, although there is nothing in the Act prohibiting this. It is for each area to decide on their own chairing arrangements (which will be set out in the rules of procedure).

5.6 How will the panel, the PCC and other local community safety partners define their relationships?

Information sharing will be one issue amongst many where agreement will need to be reached around common purpose and ways of working.

5.7

The Act makes provision for a protocol between the chief constable and the police and crime commissioner, to define their relationship. This protocol will have a

statutory basis but in local areas it could be supplemented to encompass the PCP, and possibly even local community safety partnerships and the scrutiny committees that hold them to account. Such a protocol would help to set the ground rules for engagement, and make any difficulties or disagreements – particularly in the early months and years – easier to resolve.

5.8

Some may feel that a protocol would be too bureaucratic, or that trying to plan for a number of different eventualities before the event will be difficult and time-consuming. There are benefits to a more ad hoc approach, but risks as well – including delays to time-critical work, breakdowns of relationships, ‘mission creep’ and duplication.

5.9

Some issues that a protocol could clarify might include:

- indicating how the PCC will respond to the PCP’s recommendations (eg, requiring the response to be substantive, giving reasons why any recommendations are being rejected)
- the process for the PCP in consulting on an annual, or quarterly, work programme
- the way in which the performance of the force in question will be monitored by the PCC, and how the PCP’s work will link into this performance management
- the timescale for responding to requests for information
- the circumstances in which information on operational policing could be withheld from the PCP for various reasons
- arrangements for confirmation hearings, including timescales

- arrangements for non-criminal complaints about the PCC and his/her deputies.

5.10

A protocol could be incorporated within the panel arrangements.

5.11

In particular, what will be the division of responsibilities between the PCP (at force level) and local crime and disorder scrutiny committees (at local level)?

Under the Police and Justice Act 2006 local authority scrutiny functions in shire districts, and unitary areas, have specific powers to hold to account work being carried out by the community safety partnership.

5.12

This gives local government scrutiny the right to request information from, and require the attendance of, CSP responsible authorities. Scrutiny also has some powers to make recommendations to responsible authorities about improvements to services. It is important to recognise that these powers are limited to those services delivered by responsible authorities in partnership.

5.13

The PCC is not a ‘responsible authority’ for the purposes of community safety partnerships, but there will inevitably be close joint working between PCCs and CSPs. Councils will need to consider how CSP scrutiny and PCP scrutiny will relate to each other and ensure they do not duplicate each other’s work. In particular, they will need to ensure that community safety

scrutiny committees do not seek to hold the PCC to account for an issue specific to a single community safety partnership.

Overlap of areas of interest will, however, be inevitable, and a protocol between the main partners (as discussed elsewhere) will help to define how different forms of accountability will intersect.

5.14

Will the PCP’s focus be reactive scrutiny, or proactive policy development?

Scrutiny can be carried out by the PCP in a number of different ways. The PCP’s statutory responsibilities focus on a reactive approach (see section 5.15), but a more proactive approach (5.16) could prove useful in ensuring that the PCP is making a positive contribution to the PCC’s work – particularly in the context of the development of the police and crime plan. A proactive approach expands the scope of the PCP beyond its formal statutory role, but a successful adoption of this method of working could strengthen the delivery of the PCP’s core, statutory responsibilities. It will also contribute to the statutory function of the PCP in supporting the PCC in the effective exercise of their functions.

5.15

‘Reactive’ scrutiny:

- looks at how services have been delivered in the past
- learns and applies lessons from that experience to the future.



Advantages:

- provides an independent means of assessing problems or service failures
- provides a way of analysing successes, and spreading good practice.

Disadvantages:

- can duplicate the PCC's own internal systems
- could interfere with or duplicate work undertaken by HMIC (if poorly planned).

5.16

'Proactive' scrutiny:

- engages in current policy development, influencing decisions before they are made.

Advantages:

- fits closely with the PCP's responsibility to constructively assist the PCC in policy development
- helps to bring additional perspectives to the policy process.

Disadvantages:

- relies for success on a strong working relationship between the PCP, the PCC and other local partners, given that it goes beyond what is prescribed by law.

5.17

There is a case for both approaches. PCPs will want, as a statutory consultee, to examine the PCC's business plans (including the police and crime plan) and will probably want to play a part in the improvement cycle (including the monitoring of performance, finance and risk information) to see where it could most constructively direct its work programme. Decisions here

will need to be based on discussions with the PCC and with other partners involved in tackling crime and disorder. Time limited, or standing, sub-committees could be set up to carry out investigations into specific issues, as long as such investigations do not involve the carrying-out of any of the PCP's 'special functions' (see 5.21 below). This could provide a way to carry out more proactive scrutiny, make better use of limited resources and manage a large PCP whose operation might otherwise be unwieldy.

5.18

Equally, local discretion will mean that some areas may decide to adopt a more 'light touch' approach, where accountability is principally exerted through the PCC/chief constable relationship and the PCP limits itself exclusively to its statutory duties.

5.19

Whatever approach is adopted, a work programme can help to manage the PCP's responsibilities, and to ensure that the PCP's time is spent on issues where it can most clearly add value by delivering against the agreed priorities which support its legal remit.

5.20

How will decisions be made?

Under certain circumstances the PCP can make what the Act describes as ‘decisions’ (which will usually be recommendations rather than ‘decisions’ in the conventional sense) using its statutory powers.

5.21

The Act refers to these as ‘special functions’, which must be carried out by the full PCP and cannot be delegated to a sub-committee. Such decisions could include those to:

- review and make recommendations on the police and crime plan
- review and make recommendations on the annual report of the PCC, at a public meeting
- review and potentially veto the proposed precept
- review and potentially veto the decision to appoint a chief constable, and review but not veto the appointment of various other senior staff (further to paragraph 9(1) of Schedule 1), following a confirmation hearing of the PCP.

5.22

In the instances where the power to veto exists, a two-thirds majority is required for this to take effect.

5.23

Rules of procedure will need to define how the PCP will carry out these special functions. These will include timescales for consultation, and detail on the way in which scrutiny is to be carried out. Regulations will be produced on the exercise of the panel’s veto, but councils will need to define the circumstances in which votes will be taken, how a formal

decision will be made and recorded, how such a decision will be notified formally to the PCC and how the PCC should respond. As well as forming an element of the rules of procedure, these principles could also form a part of the protocol discussed earlier.

5.24

Confirmatory hearings for chief constables and other staff (under the Act, the chief executive, chief finance officer and a deputy police and crime commissioner), will bring their own specific challenges. While the conduct of these hearings will be down to the authorities whose representatives sit on the PCP, discussion and agreement with the PCC, and with the lead authority’s monitoring officer, will be necessary to ensure that such hearings are fair, and take account of the employment, and other, rights of the PCC’s nominee. As a ‘special function’, these hearings must be carried out by the full PCP, which raises additional issues around the management of questioning and ensuring that the hearing adds value to the appointment process.

5.25

There are other circumstances where the PCP’s rules of procedure may need to determine how decisions will be made – for example:

- changes to the panel arrangements, or the rules of procedure themselves
- agreement of the annual work programme (if one is being prepared).



5.26

How will the panel be supported and resourced?

The PCP will be a vital part of local accountability arrangements for policing. The Home Office proposes to make £30,000, plus on-costs, available to support the work of each PCP. It is not yet clear how long this funding will last, or how it will be paid. When setting up panels, councils will have to decide whether their panel should have more support, and if so how this will be provided.

5.27

The support arrangements for the PCP will need to reflect the role and functions that the body takes on. A more reactive approach to scrutiny may not be so resource intensive, but may limit the PCP's effectiveness. A PCP, resourced to make a positive contribution to policy development, could render more effective the delivery of community safety and criminal justice policy across the force area, in such a way that makes the provision of additional resources easier to justify.

5.28

Some resourcing issues to consider when setting up a panel:

- Should a separate member of staff be appointed to provide support to the PCP, or can this be carried out by existing committee administrators and scrutiny officers? Additional pressure on existing staff could lead to problems with the PCP delivering its work programme.
- Will separate committee administration and policy support be required?
- If councils decide to supplement the funding from the Home Office how could they do this? One possibility is that

authorities in the force area could make a joint, pooled contribution to the operational budget of the PCP. This approach is allowed for in paragraph 11(2)(a) of Schedule 6 of the Act.

- Where it is not possible to provide additional support to the panel, consideration will need to be given to whether the panel should concentrate on its core functions, how rigorous it is in setting out which issues it will and will not examine, and whether using 'task and finish' groups will allow it to look at the most important topics in a more efficient manner than might be possible at formal committees.

6. Composition: the law

6.1

The Act makes detailed provisions on PCP composition. In brief, these are:

- Where a force area consists of ten or fewer authorities, the number of members of the PCP will be ten, not including the co-opted members.
 - Where a force area consists of more than ten authorities, there will be as many members as there are local authorities in the force area, plus two co-opted members.
 - Additional councillors may be co-opted onto the PCP, as long as two lay co-optees are also included, the size of the PCP does not exceed 20 and the Secretary of State approves the co-options.
 - Composition should be carried out in accordance to the 'fair representation objective' – essentially, each authority in the force area must be represented by at least one member if the total number of authorities in the area is less than ten, and one member if the number of authorities is ten or more.
 - Where agreement cannot be reached (see below) the Secretary of State has the power to make nominations.
 - The PCC cannot be a member of the PCP.
 - Sitting MPs, Welsh AMs, MSPs, MEPs, staff of the PCC and civilian police staff may not be co-opted onto the PCP.
- By and large, beyond these principles the choice of who sits on the PCP will be down to the authorities involved. However, in Wales, and in those parts of England where agreement cannot be reached (see section 7.19 below) the Home Secretary will nominate members.

7. Composition: issues to consider

7.1

Authorities within force areas need, between them, to make swift, but sustainable, decisions on the following issues, which will need to be set out in the panel arrangements. This will need to happen after the issues in the section above, on roles and functions, have been resolved (including the question of who leads/chairs, covered in 5.2 above):

- Who will sit on the PCP, and how can we assure equity of representation?
 - How do we ensure the PCP is politically proportionate across the force area?
 - How will seats be assigned to individual authorities?
 - Will executive, or non-executive, members sit on the PCP?
 - What will happen in committee system authorities?
 - Who will the lay members/co-optees be, and what process will be used to appoint them?
- How will changes in political control in authorities within the force area, and other necessary membership changes, be dealt with?
- Will a 'special responsibility allowance' be assigned?
- What happens if a decision cannot be reached?
- What happens in Wales?

7.2

Once resolved, decisions on the above should form part of the panel arrangements, discussed above.

7.3 Who will sit on the PCP, and how can we assure equity of representation?

General principles

Composition should take account of, as far as is practical, both political and geographical proportionality, as well as necessary skills and experience, when coming to a judgment of who sits on the body. Together, these form a 'balanced appointment' objective specifically cited in the Act. Detailed provisions on these arrangements can be found in Schedule 6.

7.4

This will avoid significant inequity, as well as making it easier to take account of the concerns of some authorities – particularly shire districts – that they might not otherwise be represented.

7.5

There are risks inherent in a body with a large membership. The size of some PCPs may approach 20 members – which will present a challenge to carrying out effective, focused business in plenary. The careful and proportionate use of smaller task groups or sub-committees could provide a partial solution (see section 5.17).

7.6

How do we ensure the PCP is politically proportionate across the force area?

Panels should be politically proportionate. This means that they should be proportionate according to the total number of councillors in the force area.

7.7

How will seats be assigned to individual authorities?

This is a decision that will need to be taken by those authorities involved, and the Home Office is not planning to prescribe. However, the 'balanced appointment' objectives mentioned above will need to be borne in mind.





7.8 Will executive, or non executive, members sit on the PCP?

There is no prescription as to who should sit on the PCP. However, if there are any executive mayors the force area, they will have a guaranteed seat (although they can delegate a councillor from the authority in their place).

7.9
The question is whether remaining seats should go to executive or non-executive members. This is something that authorities will have to decide themselves, but some arguments for and against each approach are listed opposite.

7.10
There is no single, right approach to composition. Authorities will need to properly weigh up the pros and cons. It would be possible to take a 'mixed' approach, with some executive and some non-executive members sitting on the panel – but this might prove complex.

Executive	Non-executive
An all-executive body would give the panel necessary profile and influence	With its statutory powers, the body will have significant influence anyway
It provides an opportunity for councils' leadership to exert statutory influence over the PCC (in terms of approval of the police and crime plan, etc)	Council leadership will have two other means to exert influence – through community safety partnerships and through the development of the police and crime plan
Executives (particularly cabinet members for community safety) will be in a better position to hold the PCC to account due to their expert knowledge	Having executive members sitting on the PCP will constitute a conflict of interest. As the police and crime plan will effectively be 'jointly-owned' by local authorities in the area, because of the requirement for the PCC to co-operate, local authority executives will have a stake in its delivery that could be perceived as making it impossible for them to carry out truly independent scrutiny
It is more consistent for executive members to sit on the panel, given that executive mayors will have an automatic seat	Provision does exist for the mayor to delegate his/her functions on the PCP to another member of the authority
	If the PCP is to conduct work according to its own work programme (see above) it may place an undue burden on executive members with wider duties. To conduct PCP work in another way could hinder the PCP's effectiveness
	Having a non-executive PCP will make joint working easier with non-executive scrutiny committees carrying out work with community safety partnerships

7.11

What will happen in committee system authorities?

Where a committee system authority has a community safety committee (or similar) taking local decisions on these matters, some of the arguments above would suggest that nobody sitting on that committee should be able to sit on the PCP, for fear of there being a conflict of interest. It could be thought most appropriate for another member, sitting on another committee, to sit on the PCP, but this raises issues about skills and knowledge. Ultimately this is something that individual committee system authorities will have to resolve themselves.

7.12

Who will the lay members/co-optees be, and what process will be used to appoint them?

All panels must have two lay members. The legislation provides no restriction of who these members might be, other than to require that the lay members should have the skills and knowledge to assist the PCP in discharging its functions effectively.

There are a number of options for lay membership – it can be used:

- to bring in expertise from, for example, one of the other community safety ‘responsible authorities’ (for example, a representative from the NHS or from the local Probation Trust)
- to provide particular skills, that without those lay members on the panel might be lacking

- to bring in the views and concerns of the public. Careful thought would need to go into how the lay members were selected, if this approach was followed
- to provide an explicitly ‘non-executive’ perspective, on a PCP otherwise made up of executive members.

7.13

The process used for selection of lay members will need to be determined by each individual force area, and could form part of the panel arrangements. Selection procedures will need to be fair and transparent – a role profile could be prepared on the basis of which a public recruitment exercise could be conducted. This exercise may, on the first occasion, need to be carried out by the ‘shadow PCP’ (see below).

7.14

How will changes in political control in authorities within the force area, and other necessary changes to membership, be dealt with?

Panel arrangements must make provision for the appointment of members to the PCP. Where political control, and hence proportionality, in a given authority changes, they may wish to change their nominated member on the PCP. There are two approaches that could be taken, in tandem:

- set terms of office for the PCP at one year, with membership to be revised every May (at the same time as that for other council committees)
- put in place a system, where a longer term of office is proposed, for the substitution and replacement of a member.

7.15

One issue when deciding how long the term of office of panel members will be is the need to retain the skills and knowledge of the panel, and how changes in membership can be managed to ensure skills and knowledge are not lost. Potential approaches should be evaluated with this principle in mind.

7.16

Panel arrangements will also need to make provision for the change of membership through resignation for other reasons. The same principles as those outlined above should apply, except that the new member should be of the same political party as the old member (and from the same authority) to maintain balance.

7.17

Some areas may choose to use the powers of co-option to add supplementary councillors to the PCP. These supplementary seats could circulate around authorities in the force area, and provision could be made in the panel arrangements for this process to operate. This may, however, complicate proportionality arrangements. The approval of the Secretary of State for the Home Office will be required for these additional co-opted appointments.

7.18

Will a special responsibility allowance be assigned?

It is planned that additional remuneration is made available by the Home Office, to cover the expenses and an allowance for the lay members of the panel only. Money is also being made available to cover the expenses of the local authority members, but no funding for the allowances of local authority

members is being provided. This position on remuneration has been proposed but at the time of writing (October 2011) is yet to be confirmed. Authorities may choose to provide additional allowances to members sitting on the PCP to bring allowances fully into line with figures arrived at for other committees by the relevant independent remuneration panel(s).

7.19

What happens if a decision cannot be reached?

The Home Secretary has reserved powers under the Act to intervene where authorities in a force area cannot come to a decision about the format and composition of the police and crime panel. Where local agreement cannot be reached, she will appoint a panel directly, according to a set of principles developed by the Home Office that include geographical and political representation.

7.20

This will not be an automatic process. Intervention will be a 'last resort' measure.

7.21

What happens in Wales?

The Act makes provision for the Home Secretary to nominate members of PCPs in Wales directly. It was originally intended they would be appointed by councils in Wales, but the Welsh Assembly Government refused to allow the Home Office to legislate on local government matters as this is an area of devolved responsibility in Wales. The powers and functions of Welsh PCPs will be identical to those in England in other respects.

8. Common issues and how to resolve them: shadow PCPs

8.1

In some areas, 'shadow PCPs' have been established, or are being established, by police authorities (which will be abolished) and local authorities in the area working together. The aim of these bodies is to prepare for November 2012, and to ensure a smooth transition between the work of police authorities and the operation of the new structural arrangements.

8.2

A number of the issues identified above, namely resourcing; agreement about role and functions between different local partners; and composition, can only be resolved by discussion and agreement at local level. This discussion could be facilitated by a shadow PCP. Initially, such a body could involve a range of members from all local authorities in the force area, between whom a decision could be made about final composition, powers and so forth.

8.3

It is important to recognise that the shadow PCP, if established, will have no role to carry out substantive scrutiny of any kind until the PCC is elected. Any work undertaken by the shadow PCP should focus exclusively on the development of internal and external systems to enable it to carry out its work once the PCC takes on his or her role.

8.4

Any planning or shadowing arrangements should be member-led. They should involve both executive and non-executive members.

9. Regulations and further guidance

9.1

The Home Secretary has relatively wide powers to make regulations, and issue guidance, further to a number of issues. These include:

- regulations on dealing with complaints
- regulations on 'notifications' to be given by the Home Secretary if authorities fail to comply with the provisions of Schedule 6
- regulations about making nominations and appointments to the PCP
- regulations about modifying the functions of those PCPs to which the Home Secretary has directly nominated members
- 'light touch' non-statutory guidance on a number of issues relating to the operation of PCPs
- other non-statutory guidance on the PCP's links with other local structures.

9.2

At the moment timescales for the production of regulations and further guidance are not known.

Local Government Association
and Centre for Public Scrutiny

October 2011





Local Government Association

Local Government House
Smith Square
London SW1P 3HZ

Telephone 020 7664 3000

Fax 020 7664 3030

Email info@local.gov.uk

www.local.gov.uk

© Local Government Association, November 2011

For a copy in Braille, Welsh, larger print or audio, please contact us on 020 7664 3000. We consider requests on an individual basis.

L11-642