

Appendix 1: Protocol between the Police and Crime Panel and the Police and Crime Commissioner for Surrey

This protocol concerns the relationship between the Police and Crime Panel (PCP) and the Police and Crime Commissioner (PCC).

Given the common aims of both the Commissioner and the Panel to ensure effectiveness of measures aimed at reducing crime and disorder and enhancing public safety, it is vital that they:

- (i) work in a climate of mutual respect and courtesy in all communications;
- (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) do not disclose any information that is given to them in confidence without proper authority;
- (vi) provide challenge in an open and transparent way.

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.

~~The Police and Crime Commissioner and the Police and Crime Panel are creatures of statute only recently established. Clearly they will need time to establish themselves and their modus operandi. The proposals now outlined below will need to be revisited in 12 months' time to assess how these are working and to consider whether the scope now identified is appropriate.~~

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**Chairman of the
Police and Crime Panel**

.....
**Police and Crime
Commissioner**

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1. Role of the Police and Crime Commissioner

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1) Directly elected Police and Crime Commissioners (PCCs) and Police and Crime Panels (PCPs) were introduced by the Police Reform and Social Responsibility Act 2011. The role of the PCC is to be the voice of the people and to hold the Chief Constable to account.

2) The PCC is responsible for setting priorities for the police force within their area, 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~~ among other things:

1. ~~representing~~Representing all those who live and work in the communities in Surrey and identifying their policing needs.
2. Setting priorities that meet those needs by agreeing a force level strategy plan for Surrey Police (the ~~police~~Police and ~~crime~~Crime planPlan).
3. Holding the Chief Constable to account for achieving these priorities as efficiently and effectively as possible, ensuring that value for money is achieved.
4. Agreeing the Surrey Police budget and setting the precept.
5. Hiring the Chief Constable and, if necessary, calling upon the Chief Constable to retire or resign.
6. Having regard to reports and recommendations made by the Surrey Police and Crime Panel.

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2. Role of the Police and Crime Panel

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3) The Surrey Police and Crime Panel ~~will be~~ responsible for supporting and challenging the PCC in the exercise of his or her functions, including by publicly scrutinising the actions and decisions of the PCC and in doing so will, ~~inter alia~~ among other things:

- a) Review and make a report or recommendation on the draft Police and Crime Plan.
- b) Hold public meetings to consider the annual report from the Commissioner.
- c) Review and scrutinise decisions, or other action taken, by the Commissioner in connection with the discharge of his functions, including confirmation hearings for senior staff.
- d) Publish all reports and recommendations the Panel makes and send copies to the constituent local authorities.
- e) Receive and record complaints made against the Commissioner and Deputy Police and Crime Commissioner, if appointed, and investigate and promote informal resolution for complaints not of a criminal nature. Complaints of a criminal nature will be referred to the Independent Police Complaints Commission.

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f) ~~6.~~ When the need arises, in consultation with the PCC, undertake work outside of committee to explore and investigate specific areas of concern, with the intention of informing the Police and Crime Commissioner's future work.

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Comment [D2]: To recognise the importance of pro-active scrutiny that can be achieved via Task Groups and non-Committee based work.

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3. Working Arrangements

4) 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.

5) 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);

6) 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.

7) 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.

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4. Police and Crime Plan

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8) 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 and other relevant bodies in the formulation of the key priorities to be reflected in the Plan.]

Process

9) The PCC shall ensure that the Panel is provided with a copy of the Police and Crime Plan or variation thereto at the earliest opportunity.

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.

10) 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.

11) 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 working 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 Review of Plan

12) 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:13]~~ 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.}]

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Monitoring of Performance of the Commissioner

14) As the Police and Crime Plan will be the key document by which the performance of the PCC is to be measured there will be an expectation that the Panel will be provided with regular reports on the performance of the PCC 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.

5. Annual Report

15) 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

16) By July, the PCC shall provide the Panel with a copy of his/her annual report.

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

The PCC shall be required to attend the Panel meeting to present the report and answer questions.

17) 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 working days following the meeting.

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

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6. 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 any proposed precept.]

19) The PCC shall notify the Panel of the precept he/she is proposing to levy for the coming financial year, at the latest by 1 February of the relevant financial year. *[Note the latest this must be received by the PCP is 1 February of the relevant financial year.]*

In the interests of cooperative working, informal meetings will be held between the PCP (including its Finance Sub-Group), the PCC and officers, in the months leading up to the precept notification.

20) 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.

21) 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.

22) The Panel, having considered the proposed precept, together with any supporting documentation, 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 members of the Panel at the time)

~~and~~ Thereafter the Panel will make a report to the PCC (to include, if the veto is exercised, a statement to that effect).

23) 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 working 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.

24) 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

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be too high, will be lower and, if the Panel considered the proposed precept to be too low, will be higher).

25) 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).

26) 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.

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7. Senior Officer Appointments

27) 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

Senior Appointments (other than the Chief Constable)

28) 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) A copy of the candidate's CV or equivalent documentation;
- (e) The terms and conditions of the proposed appointment.

29) The Panel shall then hold a public confirmation hearing within 3 weeks of the notification.

Candidates shall be required to attend the confirmation hearing and may be questioned by the Panel in relation to their appointment.

30) 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.

Other Appointments

31) The Panel recognises that in order to run an effective office the PCC will need to employ a range of support staff and that, with the exception of Senior Appointments, there is no legislative requirement for consultation with the PCP. However, in the interest of transparency, the PCC is encouraged to inform the PCP Support Officer of their intention to create new posts.

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8. Chief Constable – Appointment and Removal

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Appointment of Chief Constable

32) 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*).

33) 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.

34) 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 appointment (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

35) 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.

36) 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.

37) 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.

38) 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.]

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9. Suspension of the Police & Crime Commissioner and Appointment of an Acting Police & Crime Commissioner

39) The Panel is responsible for dealing with complaints against the PCC (see ~~later~~ section **10** of this Protocol).

Suspension of the PCC

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

41) 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.

42) 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.

43) 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.

Appointment of an Acting PCC

44) The Panel must meet to appoint an Acting PCC if:

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

45) 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.

46) 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.

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

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10. Complaints

47) The Panel has agreed that all complaints will initially be dealt with by the Chief Executive of the PCC's Office. With the exception of when the complaint is already being dealt with through criminal proceedings, the Chief Executive will be responsible for receiving, logging and forwarding complaints to the most appropriate body.

48) Where a complaint relates to criminal conduct, the Chief Executive will refer the matter to the IPCC. Where it relates to non-criminal conduct (or the matter has been referred back by the IPCC), the complaint will be referred to the Panel for informal resolution.

49) The Panel can only consider complaints in relation to the PCC and the DPCC. For non-criminal complaints that fall outside of this remit, the Chief Executive will forward the matter on to the most appropriate body.

50) When it receives a complaint, the Panel will arrange for a meeting of its Complaints Sub-committee, normally within four weeks. The Panel will write to both the complainant and the person complained about, setting out timescales and providing details of the informal resolution procedure. The Panel will also invite both sides to submit comments in support of their case.

51) At its meeting, the Complaints Sub-committee will consider the information submitted and determine the most suitable course of action to assist with the informal resolution of the complaint.

This may include:

- Writing a letter of explanation to the complainant;
- Requesting that the PCC or one of his or her staff write a letter of explanation to the complainant;
- Suggesting a change in policy;
- Requesting that the person complained about issue an apology.

52) With the exception of inviting comments from both the complainant and the person complained about, and inviting the latter to attend its meeting to answer questions, neither the Panel nor the Complaints Sub-committee is authorised to conduct an investigation.

53) Once a decision has been made, the Complaints Sub-Committee will notify those involved usually within 5 working days of the meeting. The Panel will be provided with an update on all complaints dealt with by the Complaints Sub-committee on a quarterly basis.

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11. Holding the Police and Crime Commissioner to Account

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54) 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. The OPCC will publish details of all formal decisions taken by the PCC on its website. Where the PCC is not the formal decision maker but is actively involved in discussions with the Force concerning a significant operational decision, the OPCC will ensure the PCP remains briefed.

55) The presumption shall be that the PCC will be required to attend all meetings of the Panel (the expectation is that there will be four-six Panel meetings per year) unless advised to the contrary.

56) The Panel's Support Officer shall notify the PCC of the Panel's work programme and 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.

57) 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.

58) 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 as necessary to enable it to carry out its functions.

59) In discharging its functions the Panel may invite persons other than those referred to above, to assist it in its deliberations.

60) 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).

61) 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.

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