

Guidance on Conducting Confirmation Hearings

1. It is important that the process relating to these Hearings is scrupulously fair. It is an unusual situation for the candidates involved to be 'interviewed' for a job in a public forum. The process outlined below has been designed to ensure rigour and fairness in all circumstances.
2. It is anticipated that the Police and Crime Commissioner's Office will provide notice when a relevant appointment is being sought. It will be for the Commissioner to provide the paperwork that will be considered as part of any Confirmation Hearing (job description, advertisement, criteria the applicants were assessed against, number of applicants interviewed and by whom, *curriculum vitae* of preferred candidate).
3. Prior to the public Confirmation Hearing, a private meeting will be arranged at which the Panel will be able to discuss the process and agree on the questions to be asked of the candidate with Legal and/or Human Resources advisers available if required.
4. The questions need to relate to two general principles:
 - i. Professional competence
 - ii. Personal independence (although this will be less relevant if considering a candidate for Deputy Police and Crime Commissioner).
5. It is not recommended that the Hearing is used to explore hypothetical instances, i.e. asking the candidate what they would do in a particular situation but should address issues of competence, integrity and independence, suitability and expertise, priorities and vision, availability, (nothing personal)
6. During the public Hearing, the Panel will be seeking to establish if, in its opinion, there are sufficient reasons to not follow the Commissioner's proposal for appointment.
7. The public Confirmation Hearing will then be followed by a private meeting, in which the Panel can reflect on its report and recommendations.
8. Regardless of the outcome of the Confirmation Hearing, there will normally be a five day delay prior to publication of the report and recommendations. During this period, if necessary, (i.e. if the Panel intends to not recommend appointment or even, in the case of an appointment to Chief Constable, use its veto), the Panel will have further opportunities for discussion with Legal and Human Resources advisers and the PCC.

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Draft Protocol between the Police and Crime Panel and the Police and Crime Commissioner for Leicester, Leicestershire and Rutland

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;
- (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.

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**

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**Police and Crime
Commissioner**

Date

Role of the Police and Crime Commissioner

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

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:

1. representing all those who live and work in the communities in Leicester, Leicestershire and Rutland and identifying their policing needs.
2. Setting priorities that meet those needs by agreeing a force level strategy plan for Leicestershire Police (the police and crime plan).
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 Leicestershire 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 Police and Crime Panel.

Role of the Police and Crime Panel

The Leicester, Leicestershire and Rutland 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:

1. Review and make a report or recommendation on the draft Police and Crime Plan.
2. Hold public meetings to consider the annual report from the Commissioner.
3. 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.
4. Publish all reports and recommendations the Panel makes and send copies to the constituent local authorities.
5. 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.

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.

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

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.

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 Review of 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 of Performance of the Commissioner

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 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.

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

By July, the PCC shall provide the Panel with a copy of his 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.

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.

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.]

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.

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 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.

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

Senior Appointments (other than the Chief Constable)

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 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.

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 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

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.]

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).

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.

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.

Complaints

To be developed further following receipt of regulations and guidance

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. **PCC will establish a corporate 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 Monitoring Officer of the Host Authority to the Panel shall undertake the initial investigation into the complaint and, having regard to any representations from the PCC, shall make a recommendation to the Panel.

The Panel, having considered the report of the advice of the Monitoring Officer, 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.

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.

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

The Secretariat of the Panel 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.

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.

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 a response. The response of the PCC shall also be published on the website.

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**Draft Protocol between the Police and Crime Panel and the Leicestershire
County Council Scrutiny Commission**

This protocol concerns the relationship between the Police and Crime Panel and the County Council's Scrutiny Commission. Its purpose is to ensure that:-

- (i) Mechanisms are put in place for exchanging information and work programmes so that issues of mutual concern/interest are recognised at an early stage and are dealt with in a spirit of co-operation and in a way that ensures the complementary responsibilities of the PCP and the Scrutiny Commission are managed;
- (ii) There is a shared understanding of the process of referrals and arrangements for dealing with such referrals.
- (iii) Information is shared on work programmes.

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**Chairman of the
Police and Crime Panel**

.....
**Chairman of the
Scrutiny Commission**

Date

Role of the Police and Crime Panel

Elected Police and Crime Commissioners (PCCs) and Police and Crime Panels (PCPs) were introduced by the 2011 Police Reform and Social Responsibility Act. Under the Act, the PCC is responsible for holding the Chief Constable to account, securing an efficient and effective local police force and carrying out functions in relation to community safety and crime prevention.

The Leicester City, Leicestershire and Rutland Police and Crime Panel will be responsible for publicly scrutinising the actions and decisions of the PCC and in doing so will, inter alia:

6. Review and make a report or recommendation on the draft police and crime plan.
7. Hold public meetings to consider the annual report from the Police and Crime Commissioner.
8. Review and scrutinise decisions, or other action taken, by the Police and Crime Commissioner in connection with the discharge of his functions.
9. Publish all reports and recommendations the Panel makes and send copies to the constituent local authorities.

Role of the Scrutiny Commission (as the designated Crime and Disorder Committee)

Section 19 of the Police and Justice Act 2006 requires every local authority to have a crime and disorder committee with the power to review or scrutinise decisions taken in connection with the discharge by the Responsible Authorities* of their Crime and Disorder Functions. The Crime and Disorder (Overview and Scrutiny) Regulations 2009 complement the provisions under Section 19.

The County Council has designated the Scrutiny Commission as the Crime and Disorder Committee.

The Scrutiny Commission has determined that it will meet at least once a year to consider Crime and Disorder related issues. It will do so primarily by reviewing and scrutinising the Annual Report of the Community Safety Partnership. The role of the Commission is to act as a 'critical friend' by constructive challenge at a strategic level. The Commission has also agreed that it will consider crime and disorder matters at other meetings should the need arise.

*** Responsible Authorities on Community Safety Partnerships include:-**

Local Authorities (County Councils and District Councils)

The Police Force

The Fire and Rescue Service

The Primary Care Trust (or successor bodies)

Note – the Police Authority was previously identified as a Responsible Authority. The Police and Crime Commissioner has NOT been designated as a responsible authority for these purposes. However the Police and Social Responsibility Act places a mutual responsibility on PCCs and responsible authorities on the CSP to co-operate to reduce crime, disorder and re-offending.

Working Principles

Given the common aims of both the Scrutiny Commission and the PCP to scrutinise the delivery and effectiveness of measures aimed at reducing crime and disorder and enhance public safety, 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;
- (v) share work programmes, information or data they have obtained to avoid the unnecessary duplication of effort.

Whilst recognising the common aims and the need for closer working, it is important to remember that the Scrutiny Commission 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.

What Will This Mean In Practice

The Police and Crime Panel is a creature of statute only recently established. Clearly it will need time to establish itself and its 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.

PCP → Scrutiny

The Police and Crime Panel shall, in discharging its responsibility for commenting on the Police and Crime Plan or any variation thereto, seek the views of the Scrutiny Commission. The Scrutiny Commission may, if it so wishes, submit written comments to the Police and Crime Panel.

The Police and Crime Panel shall, in discharging its responsibility for commenting on the Police and Crime Commissioner's proposed precept, seek the views of the Scrutiny Commission. The Scrutiny Commission may, if it so wishes, submit written comments to the Police and Crime Panel.

The Police and Crime Panel shall, in discharging its responsibility for commenting on the Police and Crime Commissioner's Annual Report, seek the views of the Scrutiny Commission. The Scrutiny Commission may, if it so wishes, submit written comments or questions it considers merit raising with the PCC to the Police and Crime Panel.

Scrutiny → PCP

The Scrutiny Commission may, in discharging its responsibility for reviewing and scrutinising the Annual Report of the Community Safety Partnership, draw to the attention of the PCP any issues which would merit a discussion with the PCC.

PCP ↔ Scrutiny

Where either the Police and Crime Panel or the Scrutiny Commission considers that a particular issue (related to crime and disorder) would merit in depth investigation either by the Commission/Panel or by a task and finish group this should be discussed by the Chairmen and Secretariat of both bodies to determine the scope of such a review and agree to which body would take lead responsibility. The aim is to avoid duplication of effort and resources.

Scrutiny ↔ County Council PCP Representative

The County Council's representative on the Police and Crime Panel shall, if requested, attend meetings of the Scrutiny Commission to:

- provide an update on the work of the Police and Crime Panel and the key issues it has addressed and is proposing to address and to take back any concerns raised by the Committee;
- listen to and, if appropriate, participate in the deliberations of the Commission when it is discharging its Crime and Disorder Function.

Note – the Protocol between the PCC and the PCP specifies time limits within which the PCP is required to comment on the Precept, Annual Report and Police and Crime Plan. It will therefore be important for the Secretariat of the PCP and Scrutiny to liaise to ensure that meetings of Scrutiny are arranged so as to enable Scrutiny to meet to comment on the documents within the