

**Warwickshire Police and Crime Panel**

**5 December 2012**

**Terms of Reference and Rules of Procedure**

**Recommendations**

- (1) That the Panel notes the Terms of Reference and Panel Arrangements in Appendix 1
- (2) That the Panel adopts the Rules of Procedure in Appendix 2.

**1.0 Key Issues**

- 1.1 The terms of reference and panel arrangements are set out in the Appendix 1 and have been agreed by the Constituent Authorities
- 1.2 The appointment of 2 independent members is dealt with elsewhere on the agenda
- 1.3 The rules of procedure have been discussed by the Constituent Authorities but are for the Panel to agree. They are based on the statutory provisions and government guidance.

**2.0 Proposal**

- 2.1 The Police Reform and Social Responsibility Act 2011 established the arrangements for Police and Crime Commissioners and for Police and Crime Panels. The latter of which are joint committees of the principal authorities in a police area, which in Warwickshire means the county council and the five district borough councils.
- 2.2 The Panel arrangements which include the terms of reference and membership of the Panels and have been agreed by the Constituent Authorities. In Warwickshire the legislation requires a panel of 10 elected members and 2 independent members (non-councillors). Further co-options can only take place with the approval of the Secretary of State.
- 2.3 Under the agreed Panel arrangements the support for the Panel and its meetings will be provided by the County Council from the monies made available by government. All Constituent Authorities have agreed to live within the budget provided by government. The Chief Executive and Monitoring Officer for the County Council will respectively act as the Proper Officer and Monitoring Officer for the Panel.

- 2.4 The government has recently announced that a grant of up to £26,650 for administration costs for the financial year 2012-13. A further sum of up to £460 per member to cover member expenses for 2012-13 is available for travel and subsistence claims. The government has not made available any money for member allowances. A claim form showing expenditure has to be submitted to government to recoup any monies.
- 2.5 Included with your papers today is an expenses form for any claims related to today's meeting. These should be completed and returned to the Democratic Services Manager at Warwickshire County Council.
- 2.6 The Rules of Procedure are for Panels to agree subject to any requirements imposed by legislation or statutory guidance. The Rules of Procedure are based on the legislative provisions and guidance received to date.

### **3.0 Timescales associated with the decision/Next steps**

Future business of the Panel is dealt with elsewhere on the Agenda.

#### **Background Papers**

**None**

| <b>Host Authority</b> | <b>Name</b>   | <b>Contact Information</b>       |
|-----------------------|---------------|----------------------------------|
| Report Author         | Jane Pollard  | janepollard@warwickshire.gov.uk  |
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### Warwickshire Police and Crime Panel Arrangements

#### 1. Terms of Reference

The Panel is established as a joint committee of the Constituent Councils under section 28 Police Reform and Social Responsibility Act 2011

##### **Purpose**

To support the effective exercise of the functions of the Police and Crime Commissioner for Warwickshire (the Commissioner)

##### **Powers**

- (a) To review the draft police and crime plan including any draft variation and make report or recommendation on the draft plan to the Commissioner.
- (b) To review the proposals by the Commissioner for the precept (budget) and to report and make recommendations to the Commissioner. The Panel may veto the proposed precept on a 2/3rds majority of the membership of the Panel.
- (c) To review and or scrutinise decisions made or other action by the Commissioner in discharge of his/her functions and make reports or recommendations to the Commissioner.
- (d) To suspend the Commissioner if it appears he/she has been charged with an offence in the UK, Channel Islands or Isle of Man which carries a maximum term of imprisonment exceeding 2 years.
- (e) To appoint an Acting Commissioner from the Commissioners staff in the following circumstances
  - a. No person holds office for Warwickshire or
  - b. the Commissioner is incapacitated or
  - c. the Commissioner is suspended
- (f) To review and hold confirmation hearings in relation to proposals by the Commissioner to appoint a chief executive, chief finance officer or deputy police and crime commissioner.
- (g) To review and hold a confirmation hearing in relation to a proposal by the Commissioner to appoint a Chief Constable. The Panel may veto the proposed appointment on a 2/3rds majority of the membership of the Panel.
- (h) To review and hold a scrutiny hearing in relation to a proposal by the Commissioner to remove a chief constable.
- (i) To publish any reports or recommendations made to the Commissioner as it sees fit and to send a copy to each constituent local authority

- (j) To require the Commissioner or any of his/her staff to attend on reasonable notice to answer questions necessary to the functions of the Panel and/or respond in writing to any report or recommendations made. Where the Commissioner is required to attend the Chief Constable (on reasonable notice) can be required to attend at the same time to answer questions.

## **2. Membership**

### **Ten elected members**

A councillor from each of the following constituent authorities

- North Warwickshire Borough Council
- Nuneaton and Bedworth Borough Council
- Rugby Borough Council
- Stratford District Council
- Warwick District Council
- Warwickshire County Council

The Warwickshire County Council shall appoint four additional county councillors as members and in making those appointments **shall ensure** that the fair representation principle and balanced appointment objective are met.

In selecting county councillors for these additional appointments the County Council will seek to ensure that each district/borough administrative area has a county councillor from that area.

The County Council shall review its appointments of the four additional county councillors annually to ensure the fair representation principle and balanced appointment objective continue to be met. The review will take place following the outcome of any ordinary elections in any of the constituent authorities (normally May/June).

The Constituent authorities may from time to time change their nomination or appointments to the Panel and may arrange for a substitute to attend any meeting of the Panel. Substitutes should normally be drawn from the same political party as the member they are replacing.

### **Two co-opted members appointed by the Panel**

The Panel shall appoint two co-opted members who are not elected members of any of the constituent authorities. In making those appointments the Panel shall have regard to the balanced appointment objective.

### **Additional Co-opted Members appointed by the Panel**

The Panel may not appoint any additional co-opted members without the consent of the Secretary of State. The Panel may by resolution seek the approval of the Secretary of State to appoint up to 8 additional co-opted members and in doing so shall set out how its proposals for further appointments would enhance the balanced appointment objective.

**In making nominations or appointments to the Panel the constituent authorities must have regard to the following principles**

**Fair representation principle** -each local authority in the police area has at least one councillor representative

**Balanced appointment objective** – councillor members and councillor co-opted members when taken together should

- Represent all parts of the police area,
- Represent the political make-up of the relevant authorities when taken together
- Have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively

### **3. Appointments -Duration**

Appointments to the Panel continue until:

- (i) In relation to elected members the person appointed is replaced or removed by their nominating/appointing body; resigns or ceases to be an elected member
- (ii) In relation to co-opted members their term of appointment comes to an end, the person appointed resigns, is replaced or removed by the Panel
- (iii) The term of appointment of a co-opted member may not be more than 4 years but a co-opted member may be re-appointed for further periods not exceeding 4 years at a time.
- (iv) The Panel may at its discretion remove a co-opted member from the Panel by resolution notwithstanding their term of appointment.

### **4. Administering Authority**

The Warwickshire County Council shall be the administering authority for the Panel and any financial resources attributable to the Panel including the administration of any member allowances scheme. Any services provided will be funded within the envelope of money provided by Government for the support of the Panel.

The Chief Executive and Monitoring Officer of the Warwickshire County Council respectively will be the Proper Officer and Monitoring Officer for Panel.

The committee administration services will be provided by Warwickshire County Council Democratic Services. The publication of agenda, papers and minutes will be in accordance with normal statutory access to information

requirements. Papers for meetings will be published and circulated electronically to members.

The normal level of committee administration support within a municipal year would include support for between 4 -5 ordinary meetings of the joint committee (including any associated Chairs briefing), any additional meetings to meet statutory requirements relating to confirmation or scrutiny hearings plus the facilitation of up to 2 seminar events for the Panel.

Additional support over and above this level would depend on the availability of resources.

**5. Member Expenses**

Members and Co-opted Members may claim travel and subsistence expenses.

**6. Agreement and Modifications**

Each constituent authority and each member of the Panel shall comply with these arrangements.

Changes to these arrangements may be made by agreement between the constituent authorities subject to any statutory requirements

## Warwickshire Police and Crime Panel Rules of Procedure

### 1. Appointments -Duration

Appointments to the Panel continue until:

- (v) In relation to elected members the person appointed is replaced or removed by their nominating/appointing body; resigns or ceases to be an elected member
- (vi) In relation to co-opted members their term of appointment comes to an end, the person appointed resigns, is replaced or removed by the Panel
- (vii) The term of appointment of a co-opted member may not be more than 4 years but a co-opted member may be re-appointed at the discretion of the Panel for further periods not exceeding 4 years at a time.
- (viii) The Panel may at its discretion remove a co-opted member from the Panel by resolution notwithstanding his/her term of appointment.

### 2. Meeting frequency

The Panel will meet at least two times a year and on such other occasions as it sees fit. The time and place of such meetings shall normally be agreed by the Panel or the Chair. Where there is a statutory requirement for the Panel to meet the Proper Officer or the Monitoring Officer may convene the meeting. The Panel must meet to consider the following

- (a) **Senior Appointments to Commissioners staff** – within 3 weeks of being notified of the proposed appointment of a chief executive, chief finance officer or deputy police and crime commissioner the Panel must hold a public confirmation hearing.
- (b) **Appointment of Chief Constables** - within 3 weeks of being notified of the proposal to appoint by the Commissioner the Panel must hold a public confirmation hearing. [for process see Annex to these rules]
- (c) **Removal of Chief Constables** - within 6 weeks of the notification by the Commissioner the Panel must give a view on whether the Commissioner should call for retirement or resignation during which they must hold a 'scrutiny hearing' at which the Commissioner and Chief Constable can make representations.
- (d) **Review of the proposed precept** – as soon as practicable following receipt of the proposals by the Proper Officer and within the time frame set by any regulations [for process see Annex to these Rules]

- (e) **Review of the draft police and crime plan-** as soon as practicable following receipt of the report by the Proper Officer
- (f) **Review of the annual report of the Commissioner** –as soon as practicable following receipt of the report by the Proper Officer

### **3. Establishment of Sub-Committees**

The Panel may establish sub-committees to carry out its functions or advise it subject to the following

- (a) The Panel may not delegate those functions set out in paragraph 2 above to any committee or sub-committee
- (b) A sub-committee may not co-opt any members.

### **4. Notice of and Summons to Meetings**

At least five clear days notice to the public of the time and place of any meeting by posting details at Shire Hall Warwick which is the designated office. Notice of meetings will also be published on the Warwickshire web <http://www.warwickshire.gov.uk/>

At least 5 clear days before a meeting, a summons signed by the Proper Officer must be sent by email to every member and co-opted member of the Panel or left at their usual place of residence or such other alternative address as notified to Proper Officer in writing. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

Lack of proper service of a summons upon any member or co-opted member will not invalidate the meeting.

### **4. Public Access to Agenda and Reports**

Copies of the agenda and accompanying reports will be made available for inspection by the public at the designated office and on the Warwickshire Web <http://www.warwickshire.gov.uk/> at least 5 clear days before the meeting

Where a report is not included with the agenda the Monitoring Officer shall make each such report available to the public for inspection as soon as the report is completed and sent to the Panel members.

Confirmation hearings must be held in public session

Scrutiny hearings must be held in private session

Nothing in this rule requires the disclosure of any report containing confidential or exempt information.

**5. Quorum:**

The quorum at meetings shall be one *quarter* of the membership of the Panel. Any legal requirements which from time to time specify a particular quorum will be observed.

If the Chair declares there is no quorum, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair or, if none, at the next meeting of that body.

**6. Minutes**

Minutes will be taken of every meeting to which these Rules apply.

Minutes will contain all motions and amendments moved at the relevant meeting.

Every set of minutes must be taken to the next suitable meeting where the Chair will move that they be approved as an accurate record. Once approved the minutes shall be signed by the Chair

**7. Record of Attendance**

Each member present during the whole or any part of any meeting must sign his/her name in the relevant attendance book.

**8. Speeches and Debates**

Subject to any legal requirements it is intended that meetings have the greatest amount of flexibility to conduct business in the way that they consider most effective. The conduct of business, including speeches and debates at such meetings, will be at the discretion of the Chair acting reasonably. The Chair has discretion to limit debate but not to less than one hour. Any motion to curtail debate shall not be moved less than one hour into any debate.

**9. Motions and Amendments**

Any motion or amendment shall be proposed and seconded. When seconding a motion or amendment, a member or co-opted member may reserve their speech until later in the debate. The Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Panel's business.

A member or co-opted member proposing a motion or amendment, which has been seconded, has the right to reply at the end of the debate before the motion or amendment is put to the vote.

Amendments must be relevant to the motion and ***must not negate*** the motion. The ruling of the Chair on the admissibility of an amendment is not open to challenge.

**Amendments will either be:**

- to leave out words; and/or
- to insert or add words; and/or
- to refer the matter to another body or person.

Amendments shall be voted on in the order in which they have been seconded.

If an amendment is carried the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

**Rights of Reply - Order**

Rights of reply shall be exercised in the following order:

- (a) the mover of an amendment;
- (b) where there is more than one amendment the rights of reply shall exercised in the order the amendments were moved;
- (c) the mover of the original (substantive) motion.

A member or co-opted member exercising a right of reply shall confine his/herself strictly to answering previous observations and shall not introduce any new matter.

**Point of Order**

A member or co-opted member may raise a point of order at any time. A point of order may only relate to an alleged breach of these Rules or the law. The member or co-opted member must cite the rule or law and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final.

**Personal Explanation**

A member or co-opted member may at any time make a personal explanation, on a matter relating to some material part of his/her earlier speech, which appears to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

**10. Voting:**

All members and co-opted members may vote. Voting shall be by show of hands

All issues will be decided by a majority of those present unless the law or these Rules specifically require otherwise.

A resolution to veto a precept proposed by the Commissioner or the appointment of a Chief Constable requires a 2/3rds majority of the membership of the Panel.

In the event of equality of votes the Chair, if otherwise eligible to vote, will have a casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

If there are more than two people nominated for any position to be filled and there is no clear majority in favour of one person, the person with the least votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**11. Validity of Proceedings**

The validity of the proceedings of a police and crime panel is not affected by a vacancy in the membership of the panel or a defect in appointment.

**12. Election of Chair:**

A Chair and Vice-Chair shall be elected at the first meeting of the Panel and thereafter annually in June each year. Every Chair and any Vice-Chair shall remain in office until he/she resigns, is suspended or ceases to be an elected member or until a successor is appointed. The Panel may elect a Chair or Vice-Chair whenever a vacancy in office arises.

**Powers and Duties**

It shall be the duty of any Chair to conduct the meeting efficiently and effectively and at all times to act reasonably. The Chair shall have full power to conduct the meeting in the way that he/she considers most expedient and to decide upon any points of procedure subject only to statutory requirements (if any) and these Rules. The decision of the Chair shall be final, however, where two or more members raise a point about procedure or the conduct of the meeting the Chair must seek and take account of the advice of the monitoring officer (or his/her nominee) before giving any decision.

**Power to Adjourn**

If at any meeting there is a general disturbance making orderly conduct of business not reasonably possible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

**Removal of a Member of the Public**

Any member of the public who interrupts proceedings or acts improperly shall firstly be warned by the Chair that, if their conduct continues, the Chair will request that they leave or order them to be removed from the meeting.

**Clearance of Part of the Meeting Room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

**Member Not to be Heard Further**

If at any meeting a member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the member not be heard further. If seconded, the motion will be voted on without discussion.

**Member to Leave the Meeting**

If at any meeting the member continues to behave improperly after such a motion is carried, the Chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**Absent Chair**

If at any meeting the relevant Chair or Vice-Chair is not present to preside, another member chosen by those present shall preside for that meeting. Any person presiding at the meeting has the same powers and duties as the Chair.

**13. Probity and Ethics**

Members will abide by any ethical rules or guidance set out in any of the following:

- (i) as stipulated by law (whether common law, statute, subsidiary legislation, statutory code or guidance);
- (ii) as set out in their nominating/appointing authority's Code of Conduct for Members
- (iii) Co-opted Members shall comply with the Warwickshire County Council Code of Conduct for Members
- (iv) any other rules or guidance issued by the Monitoring Officer

**14. Access to Information and Confidentiality**

Any confidential or exempt information and documentation shall be kept confidential by all members.

Any disputes relating to the rights of access of any person under these Rules or any statutory provision or common law rights shall be referred to the Monitoring Officer

**15. Public Question Time**

The Panel may include provision for a Public Question Time on an agenda of a meeting.

The Chair has the power to manage the public question and answer session and has the discretion to reject any question which:

- (i) has already been answered; or
- (ii) is not relevant to the business of the Panel or
- (iii) he/she considers unsuitable.

Where a number of members of a particular organisation wish to ask questions on related matters the Chair may limit the number of questioners as he/she considers appropriate.

Unless otherwise agreed by the Chair, the public question and answer session shall be limited to thirty minutes.

### **Questions**

Questions should be notified in writing and received by Democratic Services at least 5 working days before the meeting.

- The questioner may ask a maximum of two questions.
- Each questioner shall have a maximum of three minutes to speak
- Each question must give the name and address of the questioner and the name and date of the meeting to which it is to be put.

Democratic Services will record each question received in a book open to public inspection and will immediately send or give a copy of the question to the Chair and any other person to whom the question is likely to be put.

Exceptionally the Chair, in consultation with the Monitoring Officer, may accept questions notified in writing at least fifteen minutes before the start of the meeting.

### **Procedure at the meeting**

The Chair will take the questions in the order he/she considers most appropriate.

- The questioner will be invited to ask the question.
- The Chair or the relevant person present will reply.
- The questioner may ask one supplementary question.

Any supplementary question must arise directly out of the original question or the reply and must not be interpreted as allowing a debate of either the question or the reply.

Questions and answers given at the meeting will be recorded in the minutes of the meeting.

**Absence of Questioner**

In the absence of the questioner the Chair has discretion over how to deal with the question and may put the question him/herself to the meeting.

**Form of Answers**

Answers may take the form of either a direct oral answer or reference to a publication. Where an oral answer cannot immediately be given, a written answer may be given to the questioner as soon as practicable following the meeting.

Any question which cannot be dealt with during public question time, either because of lack of time or absence of the appropriate person, will be dealt with by a written answer.

All written answers given following the meeting will be circulated to all members of the body and, unless the contents would involve disclosure of exempt or confidential information, shall normally be made public.

**Referral of a Question to the Commissioner**

The Chair has discretion to decide whether discussion will take place on any question, but any member of the Panel may move that the subject matter be referred to the Commissioner. Once seconded, such a motion will be voted on without discussion.

**16. Access by the Public to Meetings**

Members of the public may attend all meetings subject only to the exceptions in these Rules.

**Confidential Information - Requirement to Exclude Public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

**Meaning of Confidential Information**

Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by or under any enactment or by Court Order.

**Exempt Information - Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

**17. Exclusion of Access of the Public to Reports**

If the Monitoring Officer thinks fit, he/she may exclude access by the public to reports which in his or her opinion relate to items during which, the meeting is

likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

#### **18. Access to Minutes etc after the Meeting**

The Monitoring Officer will make available copies of the following for public inspection for six years after the date of the meeting or the date of the decision:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes or record when the meeting was not open to the public which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes or record of the decision open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting or session; and
- (d) reports relating to items when the meeting or session was open to the public.

#### **19. Background Papers**

The person originating the report, or in the case of a joint report the first named person shall ensure that every report includes a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

except published works or those which would disclose exempt or confidential information.

#### **20. Public Inspection of background papers**

The Monitoring Officer will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

#### **21. Supply of Copies**

The Monitoring Officer will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items on the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to members in connection with an item;

to any person on payment of a charge for postage and any other costs.

**Precepts and Vetoes**

| <b>Task</b>  | <b>Deadline</b> |
|--|-----------------|
| 1. Commissioner to notify Panel of proposed precept  | 1 February      |
| 2. Panel to review the proposed precept, make recommendations, may veto if appropriate (include view whether precept too high or too low)  | 8 February      |
| 3A If no veto Commissioner gives response to Panel report and publishes response   |                 |
| The Commissioner may then issue the original precept or a different precept which accords with recommendations from the Panel.   |                 |
| 3B. If vetoed the Commissioner must notify Panel of the revised precept<br><br>If the Panel view was that the original precept was too high the revised precept must be lower and vice versa.        | 15 February     |
| 4. Panel to report to Commissioner on revised precept and whether accepted or rejected   | 22 February     |
| 5. Commissioner gives response to Panel and publishes response   | 1 March         |
| Thereafter the Commissioner may issue the revised precept or a different precept. Note: If the Panel view was that the original precept was too high the final precept must be lower and vice versa. |                 |

### **Appointment of Chief Constables and Vetoes**

| <b>Steps</b>   | <b>Deadline</b>                |
|--|--------------------------------|
| <b>1.</b> Commissioner notifies panel of proposed appointment of chief constable   | Day 1                          |
| <b>2.</b> Panel to hold confirmation hearing and report its views to the Commissioner  | Within 3 weeks of notification |
| <b>3 A.</b> If no veto –Commissioner advises Panel of his/her decision   | No particular timeframe        |
| Once <b>3A</b> completed Commissioner can then proceed to appoint the Candidate  |                                |
| <b>3.B</b> If Panel veto the proposed appointment the Commissioner notifies the Panel of a reserve candidate   | No particular timeframe        |
| <b>4.</b> Panel reviews the proposed appointment of the reserve candidate and reports to the Commissioner on whether or not that person should be appointed.   | Within 3 weeks of notification |
| <b>5.</b> Commissioner considers the report and then notifies Panel whether he accepts or rejects the recommendation   | No particular timeframe        |
| <b>6.</b> Commissioner may then proceed to<br>(a) appoint the reserve candidate <b>or</b><br>(b) propose another person for appointment in which case he/she then becomes the reserve candidate (back to Step 4) | No particular timeframe        |