

POLICE AND CRIME PANEL ARRANGEMENTS

Responsible Cabinet Member - Councillor Bill Dixon, Leader

Responsible Director - Ada Burns, Chief Executive

SUMMARY REPORT

Purpose of the Report

1. To advise Members of the need to appoint a Police and Crime Panel (“PCP”).
2. To advise of its purpose and composition.
3. To appoint members to the panel.
4. To approve the panel arrangements.

Summary

5. The Police Reform and Social Responsibility Act 2011, has introduced new arrangements for policing and police accountability. The principal change is the election of Police and Crime Commissioners which will take place on 15th November 2012. The Police and Crime Commissioner will replace the Police Authority in terms of functions. The legislation also requires the creation of Police and Crime Panels (PCP) to carry out statutory functions specified in the legislation. As the force area covers the areas of two councils; County Durham and Darlington, the Police and Crime Panel will be a formal joint committee of the two authorities.
6. The regulations required that the joint panel arrangements were notified by 16th July 2012. Unfortunately this did not enable the respective councils to seek the approval of their own authorities before notification took place. The panel arrangements have been the subject of discussion and negotiation and the details of the agreed arrangements are set out in the report.
7. It is proposed that the first meeting of the PCP will take place in August and will decide then the process for appointment independent members to the panel which the PCP is required to have and also the Chair and Vice-Chair. In order for Darlington members to take part in that first meeting, appointments to the vacancies on the joint PCP will need to be agreed by Council.

Recommendation

8. It is recommended that Council :-

- (a) Approve the Police and Crime Panel arrangements;
- (b) Appoint Members to the Panel;
- (c) Agree that the Panel sit in shadow form in order to carry out the preparatory work referred to in paragraph 30.

Reasons

9. The recommendations are supported by the following reasons :-

- (a) To comply with legislative requirements.
- (b) To ensure that Members of Darlington Borough Council are able to take up their roles on the proposed PCP for the Durham and Darlington police area.

Ada Burns
Chief Executive

Background Papers

No Background papers were used in the preparation of this report.

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S17 Crime and Disorder	This report sets out new legislative arrangements for Police Commissioners and Police and Crime Panels. These arrangements are intended to improve the way in which criminal justice functions are carried out and provide greater directly elected public accountability.
Health and Well Being	This report has limited direct impact on Health and Wellbeing
Carbon Impact	This report is a legislative requirement, there are no specific carbon impacts other than those necessitated by the legislation.
Diversity	There are no specific diversity issues. The Council is under an obligation to provide membership of the panel. The recruitment of the independent members will be via a compliant recruitment process.
Wards Affected	This report affects all wards equally.
Groups Affected	This report affects all groups equally.
Budget and Policy Framework	This does not represent a change to the budget and policy framework of the Council, but does make changes to the Council's constitution by the creation of a joint committee. It therefore requires approval of full Council.
Key Decision	This is not an executive function
Urgent Decision	This is not an executive function
One Darlington: Perfectly Placed	This report enables the Council to comply with legislation.
Efficiency	This report enables the Council to comply with legislation.

MAIN REPORT

Information and Analysis

10. The Police Reform and Social Responsibility Act 2011, has introduced new arrangements for policing and police accountability. The principal change is the election of Police and Crime Commissioners which will take place in November 2012. The Police and Crime Commissioner will replace the Police Authority in terms of functions.

Police and Crime Commissioners

11. The Police and Crime Commissioner (“PCC”) will be directly elected, and will be responsible for:-
 - (a) securing an efficient and effective police force for the area;
 - (b) producing and consulting on a five year Police and Crime Plan. This is to be done in consultation with the Chief Constable. It sets the police and crime objectives for the area. The Chief Constable must then have regard to this plan;
 - (c) holding the Chief Constable to account (which includes the power of appointment and dismissal of the Chief Constable);
 - (d) publishing specific information and data including an annual report;
 - (e) setting the annual force budget and police precept; and
 - (f) requiring the Chief Constable to prepare reports on police matters, on request.
12. Under Section 10 of the Act, the Police and Crime Commissioner, is under a duty to cooperate with local community safety partners, to achieve the objectives of the Police and Crime Plan. The PCC must also work with the criminal justice bodies to make arrangements for the efficient transaction of Criminal Justice Policy in the force area.

The Police and Crime Panel

13. The Police and Crime Panel (“PCP”) exists to scrutinise the Police and Crime Commissioner. It should promote openness in the transaction of police business, and support the PCC in the effective exercise of their functions.
14. The principal functions of a Police and Crime Panel are:-
 - (a) Contributing to the development of the PCP’s Police and Crime Plan. It is a statutory consultee. The PCC must have regard to the PCP’s views on the draft plan;
 - (b) Scrutinising the PCC and receiving evidence from the Chief Constable (by invitation) at various events at certain points in the year, for example:-
 - (i) reviewing the draft Police and Crime Plan;
 - (ii) holding a public meeting after it has been sent an annual report;

- (c) Reviewing the PCC's proposed precept;
 - (d) Receiving evidence in person from Officers of the PCC's secretariat;
 - (e) Reviewing the PCC's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner, and holding in public, confirmation hearings of posts;
 - (f) Making reports and recommendations on matters relating to the PCC on which the PCC is obliged to provide a response;
 - (g) Reviewing or scrutinising decisions made or actions taken by the Police and Crime Commissioner in connection with the discharge of his functions;
 - (h) Making reports or recommendations to the relevant Police and Crime Commissioner.
15. Although the PCP is described in literature produced by the Government, as a scrutiny body, its role is different to the overview and scrutiny functions that exist within the current Constitution. The panel has clear powers and functions including the power to suspend the PCP if he or she is charged with an offence that carries the maximum prison term of more than two years.
16. As the force area covers the areas of two councils; County Durham and Darlington, the Police and Crime Panel will be a formal joint committee of the two authorities. Given that Council has a comprehensive scrutiny structure, with scrutiny committees specifically assigned Terms of Reference to deal with issues of community safety and crime, it is proposed that the Terms of Reference for the panel be limited to its statutory function and not be widened to encompass the scrutiny roles currently existing within the constituent authorities, in order to prevent duplication.
17. Draft panel arrangements produced by the Local Government Association, have a suggested term that all members of the authority are eligible for membership from the panel.
18. Issues for and against executive membership being aired in guidance, and the table below summarises the issues.

Executive	Non-Executive
<p>An executive on the body provides profile and the signal that the elected leadership of the Council is actively interested in policing in the area.</p> <p>It provides the channel for the Council's leadership to exercise statutory influence over the police.</p> <p>Executive members will have the expert knowledge and experience to hold the PCC to account.</p>	<p>A non-executive body provides profile and clout. The statutory powers provide that influence in any event.</p> <p>This can be achieved through the Community Safety Partnership.</p> <p>Pressure on the executive with current work loads.</p> <p>Having a non-executive PCP may arguably make joint working easier with the non-</p>

<p>It is more consistent executive members to be able to sit on the panel given that executive Mayors will automatically have a seat.</p> <p>The authority has provided executive members to the Police Authority, and has developed the experience and ‘know-how’ in police matters to effectively contribute to the PCC.</p>	<p>executive scrutiny.</p>
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19. Given that members of the executive have been eligible to sit on the police authority, and the fact that a Mayor would be entitled to sit on a police and crime panel, the recommendation is that the suggestion contained in the draft Terms of Reference (that executive members be eligible to sit on a PCP) be adopted.
20. It is therefore necessary to appoint panel members in accordance with the legislation relating to political balance and also described in the Act as “the balanced appointment objective”. This means that the Councillors on the panel (when taken together with any co-optees as necessary):-
 - (a) represents all parts of the relevant police area;
 - (b) represents the political make up of the relevant authority, or relevant authorities (when taken together), and
 - (c) have the skills, knowledge and experience necessary for the Police and Crime Panel to discharge its functions effectively.

The Composition of the Panel

21. Where a force area consists of ten or fewer authorities, the number of members of the Police and Crime Panel will be ten, with each authority having at least one member.
22. There is also a requirement to have two independent co-opted members. There is the ability to increase the size of the panel to an upper limit of 20. Guidance published by the Local Government Association suggests that once the two independent co-opted members have been appointed, the panel can consider co-opting additional Councillors to meet the balanced appointment objective. There is a positive requirement on the panel under Section 31(4) of Schedule 6, to look at whether co-opting additional members to the panel would help meet that objective. The additional co-options have to be agreed by the Home Secretary, but indications from the Home Office are that approval is likely to be automatic provided the co-options do not weight the balance on the panel in favour of one particular interest.

Panel Arrangements

23. On 1 July, the constituent authorities should agree their panel arrangements.

24. Each relevant authority and each member of the Police and Crime Panel must comply with these arrangements.
25. The Local Government Association has prepared example panel arrangements which appear at Appendix 1, and these have been agreed in principle by the Officers and Leaders of the two constituent authorities.
26. A table showing the distribution of membership and the seats available to each authority is attached at Appendix 2.

Funding of the Panel

27. The Government has made the sum of £53,300 available towards the funding of the panel. There will be no funding for the allowance of the local authority members.
28. Whilst allowances are currently paid to police authority members, there is little correlation between the work which the PCP will carry out, and the work of the current police authority, as the latter will effectively be transferred to the Police and Crime Commissioner. It is therefore suggested, that no allowances should be paid to the panel members, but that the advice of the Independent Remuneration Panel should be sought, and whether a Chair's allowance should be paid.

Shadow Police and Crime Panel

29. Having approved its panel arrangements, there is still a considerable amount of work to be carried out in preparation for November, when the panel comes into formal operation.
30. Rules of Procedure and Terms of Reference need to be prepared. Those Terms of Reference need to be carefully balanced with the functions of current scrutiny bodies, so there is not unnecessary duplication. The eligibility criteria of the independent members need to be agreed and that recruitment undertaken.
31. It is recommended that the panel now work so that the host authority can work in producing terms of reference and preparing Rules of Procedure and work plans in readiness for its full operation together with recruitment of independent members.

Resource Implications

Finance

32. The sum of £53,300 is available to fund the cost of the panel.

Staffing

33. The host authority will need to provide suitable staffing to advise and support the panel. It is envisaged that this would be a combination of Legal and Democratic Services staff and Scrutiny support which will be provided by Durham Council using the funding identified.

DURHAM POLICE AND CRIME PANEL - PANEL ARRANGEMENTS

1.1 Durham County Council shall act as the host authority in establishing the police and crime panel and provide the necessary officer support.

1.2 The Panel shall be made up of 10 councillors, and two independent members.

1.3 The elected membership shall be made up of councillors of Durham County Council and Darlington Borough Council.

2 Membership

2.1 All councillors on the two authorities are eligible to be members of the Police and Crime Panel, exceptions may apply within each authorities own Constitution.

2.2 The panel's membership will be made up of 7 elected representatives of Durham County Council and 3 elected representatives of Darlington Borough Council.

2.3 The panel membership shall, as far as possible, be politically balanced.

2.4 All members of the police and crime panel may vote in proceedings of the panel.

3 Casual vacancies

3.1 A vacancy on a police and crime panel arises when an elected representative or an independent member resigns from the membership of the panel.

3.2 Each council will fill vacancies for elected members in accordance with the arrangements in their Constitution. Vacancies for independent members will be filled in accordance with the selection process outlined in section 4.

4 Independent members

4.1 The police and crime panel shall co-opt two independent members onto the panel for a term of 2 years commencing October 2012.

4.2 The selection process for co-opting independent members should include a reasonable period of advertising for the positions. A closing date for the receipt of applications should be given of at least two weeks from the date the advert is first placed.

4.3 Information packs should be prepared and sent to those requesting application forms.

4.4 The applications will be considered against agreed eligibility criteria written to achieve the requirement of the balanced appointment objective referred to in paragraph 5 beneath. Any appointment panel agreed by the panel to make the appointment, will comprise at least one member of each of the constituent authorities.

4.5 Following the interviews, the Chairman and Vice-Chairman will make recommendations to the panel about membership.

5 Appointment of elected members

5.1 Members will be appointed at the Annual General Meeting of each Council. It is recognised that each Authority may wish to appoint from within the membership of the majority group, and politically balance within their own authorities, however authorities must have regard to the requirement in the Act that appointments shall be made with a view to ensuring that the 'balanced appointment objective' is met so far as is reasonably practicable. Authorities must appoint to the political seats they agreed in advance of the Panel arrangements being determined. If the overall political make-up of the Authorities changes when taken together, further discussions between the authorities must take place.

6 Term of Office

6.1 A member shall be appointed annually to the Panel to hold office for the following municipal year, and all such appointments shall be notified to the Secretariat of the host authority no later than 31 May in each year, subject to the following proviso that he or she shall cease to be a member of the Panel if he or she ceases to be a member of the Authority (and does not on the same day again become a member of the Authority).

6.2 Each Authority will give consideration to the 'balanced objective requirement' in its annual appointment process, bearing in mind the balance objective of both authorities taken as a whole. Where possible, an Authority will give consideration to continuity of membership to enable the Panel's expertise and skills to be developed for the effective scrutiny of the PCC.

7 Resignation and removal of elected members on the Panel

7.1 An Authority may decide in accordance with its procedures to remove its Member from the Panel at any time and upon doing so shall give written notice to the Secretariat of the host authority, of the change in its Member.

7.2 A Member may resign from the Panel at any time by giving notice to the appointing Council who will inform the Secretariat.

7.3 In the event that any Member resigns from the Panel, or is removed from the Panel by his or her Authority, the Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel, in accordance with the agreed arrangements.

7.4 Where a Panel Member fails to attend meetings of the Panel over a six month period then the Secretariat shall recommend to the relevant Authority that due consideration is given to removing the member from the appointment to the Panel and the appointment of a replacement member from that Authority.

8 Allowances and Expenses

8.1 Each Authority has the discretion to pay its representatives on the Panel Special Responsibility Allowances, and to reimburse reasonable expenses incurred. No allowance or expenses payments will be made by the Panel itself to elected members. Any allowances or expenses which may be made to elected members arising out of Panel Membership shall be determined and borne by the appointing Authorities for each Panel Member individually.

9 Validity of Proceedings

9.1 The validity of the proceedings of the Panel shall not be affected by a vacancy in the Membership of the Panel or a defect in appointment.

9.2 All Panel members must observe the Members Code of Conduct and any related Protocols as agreed by the Panel.

MEMBERSHIP OF THE PANEL

The seats must be politically proportionate to the total number of councillors in the Force area as shown in next diagram (based on 10 seats):-

Authority	Labour	Cons	Lib Dem	Durham Ind	DCC Ind	Local Liberal	Total
Durham	70	10	22	16	5	3	126
Darlington	33	15	5				53
Total	103	25	27	16	5	3	179

	Labour	Cons	Lib Dem	Durham Ind	DCC Ind	Local Liberal
Proportion	103/179	25/179	27/179	16/179	5/179	3/179
%	57.54%	13.97%	15.08%	8.94%	2.79%	1.68%
Actual Seats	6 seats (5.75)	1 seat (1.4)	2 seats (1.51)	1 seat (0.89)	0 seats (0.28)	0 seats (0.17)

Agreement reached on 7 seats to Durham County Council and 3 to Darlington Borough Council.

There are options for the allocation of seats as between the two authorities as follows:

	Labour	Liberal Democrats	Conservative	Independent
Durham	4	2	0	1
Darlington	2	0	1	0

Or

	Labour	Liberal Democrats	Conservative	Independent
Durham	4	1	1	1
Darlington	2	1	0	0

