

TELFORD & WREKIN COUNCIL

ANNUAL COUNCIL – 24th MAY 2012

WEST MERCIA POLICE & CRIME PANEL

REPORT OF THE ASSISTANT DIRECTOR: LAW, DEMOCRACY AND PUBLIC PROTECTION

1. PURPOSE

- 1.1 To approve the establishment, proposed membership and arrangements of a West Mercia Police & Crime Panel (PCP) as a joint committee of the 10 principal local authorities in the West Mercia Police Force area, to be administered by Worcestershire County Council as the lead authority.

2. RECOMMENDATIONS

- 2.1 That Council approves the establishment of a West Mercia Police and Crime Panel (PCP) as a joint committee of the 10 principal local authorities in the West Mercia Police Force area, to be administered by Worcestershire County Council as the lead authority.**
- 2.2 That Council approves the proposed membership of the West Mercia Police and Crime Panel, shown at paragraph 5.4 of the report, the Panel arrangements and any consequential actions required under the Act.**
- 2.3 That on behalf of Telford & Wrekin Council the Managing Director be authorised to agree the final details of the proposals in consultation with the Leader.**
- 2.4 That the Council appoints 2 representatives from Telford & Wrekin Council to the West Mercia Police and Crime Panel.**

3. SUMMARY

- 3.1 The Police Reform and Social Responsibility Bill which received Royal Assent on 15th November 2011 sets out provisions for Police and Crime Commissioners to be directly elected in force areas across England and Wales. A Police and Crime Panel, comprised of local councillors and independent members, will also be established in every force area, including West Mercia, to scrutinise the performance of the Commissioner, providing both support and challenge. The intention is that the Panels will operate in shadow form from summer 2012 in advance of the election of the Commissioners in November 2012.
- 3.2 This report sets out for Members consideration the work carried out to date amongst the West Mercia principal local authorities in relation to the establishment and maintenance of the West Mercia Police and Crime Panel.

Agreement from all the 10 local authorities to the Panel arrangements is required to establish the Police and Crime Panel in shadow form in time for the Home Office deadline of 1st July 2012.

4. PREVIOUS MINUTES

5. INFORMATION

- 5.1 The Police Reform and Social Responsibility Act 2011 introduced significant changes in police governance and accountability. These changes include the election of a Police and Crime Commissioner (PCC) from November 2012 and the placing of a statutory duty on local authorities (including District Councils) in each police force area to establish and maintain a Police and Crime Panel (PCP) as a formally constituted joint committee of the local authorities in that area.
- 5.2 The PCP will be set up to support, challenge and monitor the effectiveness of the PCC. It will have powers to scrutinise decisions of the PCC and make recommendations in respect of the PCC's functions. The Panel will also have powers to veto the police precept and review certain senior appointments. The Panel's draft proposed terms of reference are attached as an annex to the draft Panel Arrangements which are set out in the Appendix to the report.
- 5.3 The PCP will be a joint committee composed of at least 1 Councillor from each local authority area in West Mercia and two co-opted lay independent members. Composition of the PCP will need to take account of political and geographical proportionality (the 'balanced appointment objective') as well as have the necessary skills and experience required to fulfil the role.
- 5.4 The minimum number of members for a PCP is 10 councillors (1 from each authority) and 2 co-opted lay independent members, and up to a maximum of 20 members through co-option to achieve the balanced appointment objective. In order therefore to ensure that objective, it has been proposed that in addition to the 1 member from each of the 10 authorities in the West Mercia force area, 5 further councillors will be co-opted to the PCP from the three non-Worcestershire authorities in the area (1 Telford and Wrekin, 3 Shropshire and 1 Herefordshire). The proposed representation for Telford & Wrekin is therefore 2 members. Each local authority is being requested to agree this proposed composition and, as additional co-options are being sought, further approval will be required from the Home Secretary. These proposals are still under discussion with the other authorities.

Membership of the Panel will consist of elected members appointed as follows:

Worcestershire County Council (1 substantive member)
Shropshire Council (4 members) {1 substantive and 3 co-opted members}
Telford and Wrekin Council (2 members) {1 substantive and 1 co-opted member}
Herefordshire Council (2 members) {1 substantive and 1 co-opted member}
Bromsgrove District Council (1 substantive member)
Malvern Hills District Council (1 substantive member)

Redditch Borough Council (1 substantive member)
Worcester City Council (1 substantive member)
Wychavon District Council (1 substantive member)
Wyre Forest District Council (1 substantive member).

- 5.5 Worcestershire County Council has agreed that it will take responsibility for the establishment, setting up and operation of the PCP on behalf of the West Mercia local authorities. Whilst further regulations and guidance are still awaited from the Home Office, officers from Worcestershire County Council (as lead authority) in consultation with officers from the other local authorities, are actively developing procedures and operating protocols for the future PCP. This includes consideration of training and induction requirements for Panel members and establishing a timeline and framework for the nomination of Panel members. The intention is that the PCP will operate in shadow form from summer 2012 in advance of the election of the PCC in November 2012, at which point the Panel will receive its statutory functions.

6. EQUALITY AND DIVERSITY

- 6.1 No implications.

7. ENVIRONMENTAL IMPACT

- 7.1 No implications.

8. LEGAL COMMENT

- 8.1 The statutory basis for Police and Crime Commissioners (“PCC’s”) and statutory duties of the Council regarding PCC’s are as set out in the main report. Under Section 101 Local Government Act 1972 the Council may establish joint arrangements with one or more local authorities and in accordance with Article 11 of the Council’s Constitution, appointments to such joint committees in respect of non-Cabinet functions rests with the Council. There are no further direct legal implications at the present time.

9. FINANCIAL IMPLICATIONS

- 9.1 The Home Office is to provide funding to help PCPs to do the job required of them under the new legislation. If agreed, the proposal for Worcestershire County Council to be the host authority for the West Mercia Police Force area will mean that the funding allocation will be allocated to them direct for support and running costs. See point 4 of the draft Panel arrangements set out in the Appendix.

10. WARD IMPLICATIONS

- 10.1 Borough wide

11. BACKGROUND PAPERS

11.1 Police Reform and Social Responsibility Act 2011

11.2 Police and Crime Panels – Guidance on role and composition (Local Government Association 2011)

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WEST MERCIA POLICE AND CRIME PANEL AGREEMENT

This Agreement is dated the day of 2012.

The Agreement is made between the following:

Worcestershire County Council
Shropshire Council
Telford and Wrekin Council
Herefordshire Council
Bromsgrove District Council
Malvern Hills District Council
Redditch Borough Council
Worcester City Council
Wychavon District Council
Wyre Forest District Council

In the Agreement the above Authorities are referred to together as 'the Authorities'.

1.0 Background

- 1.1 The Police Reform and Social Responsibility Act 2011 ('the Act') introduces new structural arrangements for national policing, strategic police decision-making, neighbourhood policing and police accountability.
- 1.2 The Act provides for the election of a Police and Crime Commissioner ('PCC') for a police force area, responsible for securing an efficient and effective police force for their area, producing a police and crime plan, recruiting the Chief Constable for an area, and holding him/her to account, publishing certain information including an annual report, setting the force budget and police precept and requiring the Chief Constable to prepare reports on police matters. The PCC must co-operate with local community safety partners and criminal justice bodies.
- 1.3 The Act requires the local authorities in each police force area to establish and maintain a Police and Crime Panel ('the Panel') for its police force area. It is the responsibility of the Authorities for the police force area to make arrangements for the Panel ('Panel Arrangements').
- 1.4 West Mercia is a multi-authority police force area ('the police force area'). The Authorities, as the relevant local authorities within the area, must agree to the making and modification of the Panel Arrangements.
- 1.5 Each Authority and each member of the Panel must comply with the Panel Arrangements.
- 1.6 The functions of the Panel must be exercised with a view to supporting the effective exercise of the functions of the PCC for that police force area.
- 1.7 The Panel must have regard to the Policing Protocol issued by the Home Secretary, which sets out the ways in which the Home Secretary, the PCC, the Chief Constable and the Panel should exercise, or refrain from exercising, functions so as to encourage, maintain or

improve working relationships (including co-operative working), and limit or prevent the overlapping or conflicting exercise of functions.

- 1.8 The Panel has responsibility for scrutinising the PCC and promoting openness in the transaction of police business in the police force area.
- 1.9 The Panel is a statutory joint committee of the Authorities.
- 1.10 The Authorities agree the Panel Arrangements as set out in the Appendix.
- 1.11 These arrangements may be varied from time to time by the Authorities acting together.

INSERT SIGNATURE/EXECUTION CLAUSE

PANEL ARRANGEMENTS

2.0 Functions of the Police and Crime Panel

- 2.1 The functions of the Panel are set out in the Terms of Reference attached as an Annexe.
- 2.2 The Panel may not exercise any functions other than those conferred by the Act.
- 2.3 The Panel may appoint Committees or Sub Committees as it considers appropriate but the functions of the Panel set out at paragraphs 2.4-2.9 below may not be discharged by a Committee or Sub-Committee of the Panel.
- 2.4 The Panel is a statutory consultee on the development of the Police and Crime Commissioner's (PCC's) Police and Crime Plan and must:
- a) review the draft Police and Crime Plan (or a variation to it), and
 - b) report or make recommendations on the draft Plan which the PCC must take into account.
- 2.5 The Panel must comment upon the Annual Report of the PCC, and for that purpose must:
- a) arrange for a public meeting of the Panel to be held as soon as practicable after the Panel is sent an Annual Report under Section 12 of the Act
 - b) ask the PCC at that meeting such questions about the Annual Report as the members of the Panel think appropriate
 - c) review the Annual Report, and
 - d) make a report or recommendations on the Annual Report to the PCC.
- 2.6 The Panel:
- a) must undertake a review of a precept proposed by the PCC in accordance with the requirements set out in Schedule 5 of the Act
 - b) must report to the PCC on the proposed precept (which may include reasons), and
 - c) may exercise its right of veto in respect of the precept in accordance with the Act and Regulations made under it .
- 2.7 Within three weeks of receipt of notification of the proposed appointment by the PCC of a Chief Constable, the Panel:
- a) must undertake a review of the proposed appointment in accordance with the requirements set out in Schedule 8 of the Act
 - b) must hold a public confirmation meeting
 - c) must make a report to and make recommendations to the PCC in relation to the appointment of a Chief Constable by the PCC.
 - d) may exercise its right of veto in respect of the appointment in accordance with the Act and Regulations made under it.

- 2.8 The right of veto in paragraphs 2.6 and 2.7 requires that at least two-thirds of the persons who are members of the Panel at the time when the decision is made vote in favour of that veto.
- 2.9 Within three weeks of receipt of the notification of the proposed appointment by the PCC of a Chief Executive, Chief Finance Officer and/or the Deputy PCC, the Panel:
- a) must undertake a review of the appointment by the PCC in accordance with the requirements set out in Schedule 1 of the Act
 - b) must hold a public confirmation meeting
 - c) must make a report to and make recommendations to the PCC in relation to the appointment of the PCC's Chief Executive, Chief Finance Officer and the Deputy PCC.
- 2.10 The following functions may be delegated to a Committee or Sub-Committee of the Panel:
- 2.11 The Panel shall receive notification from the PCC of any suspension of the Chief Constable, or any proposal to call upon a Chief Constable to retire or resign. In the case of the latter the Panel must hold a private scrutiny hearing and must make a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation in accordance with the procedures set out in Schedule 8 of the Act. The Panel's recommendation must be given within six weeks of receipt of such notification and published.
- 2.12 The Panel must review or scrutinise the decisions or actions of the PCC in the discharge of his/her functions and make reports or recommendations to the PCC with respect to the discharge of the PCC's functions. The Panel may carry out investigations into the decisions of the PCC, and into matters of particular interest or public concern.
- 2.13 The Panel must publish any reports or recommendations made by it to the PCC in a manner which the Panel determines and must also send copies to the Authorities.
- 2.14 The Panel may require the PCC or a member of his/her staff to attend the Panel to answer questions the Panel considers necessary for it to undertake its functions, provided that such questions shall not:
- a) relate to advice provided to the PCC by his/her staff
 - b) in the view of the PCC
 - i) be against the interests of national safety
 - ii) jeopardise the safety of any person
 - iii) prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice, or
 - c) be prohibited by any other enactment.
- 2.15 If the Panel requires the PCC to attend the Panel, the Panel may (at reasonable notice) request the Chief Constable to attend before the Panel on the same occasion to answer any question which appears to the Panel to be necessary in order for it to carry out its functions.
- 2.16 The Panel may require the PCC to respond in writing with a reasonable period set by the Panel to a report or recommendation from the Panel to the PCC.

- 2.17 The Panel may suspend the PCC if he/she is charged with an offence carrying a maximum term of imprisonment exceeding two years.
- 2.18 The Panel will have any other powers and duties set out in the Act or other legislation or Regulations made under the Act.

3.0 Membership

General

- 3.1 The Panel is a joint committee of the Authorities. Subject to paragraph 3.8 the Panel will consist of a total of 15 elected members nominated by the Authorities as set out below (10 substantive and 5 co-opted) plus 2 lay independent co-opted members.
- 3.2 Membership of the Panel will consist of elected members appointed as follows:
- Worcestershire County Council (1 substantive member)
Shropshire Council (4 members) {1 substantive and 3 co-opted members}
Telford and Wrekin Council (2 members) {1 substantive and 1 co-opted member}
Herefordshire Council (2 members) {1 substantive and 1 co-opted member}
Bromsgrove District Council (1 substantive member)
Malvern Hills District Council (1 substantive member)
Redditch Borough Council (1 substantive member)
Worcester City Council (1 substantive member)
Wychavon District Council (1 substantive member)
Wyre Forest District Council (1 substantive member).
- 3.3 Appointments of elected substantive members and nominations to the Panel of co-opted members shall be made by each of the Authorities in accordance with their own procedures but which must ensure that the 'balanced appointment objective' is met so far as is reasonably practicable. Substantive members will be directly appointed by each of the Authorities and co-opted members will be nominated by Authorities (as outlined in paragraph 3.2) for co-option by the Panel.
- 3.4 The Lead Authority shall take steps to co-ordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved. The balanced appointment objective requires that the local authority members of the Panel (which includes members appointed by the Authorities and co-opted members who are elected members of any of the Authorities) when taken together should:
- a) represent all parts of the police force area
 - b) represent the political make-up of the Authorities (when taken together), and
 - c) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- 3.5 The Panel must, in co-opting elected members, secure that as far as reasonably practicable, the balanced appointment objective is met.
- 3.6 The Panel shall also include 2 lay independent members co-opted by the Panel.

- 3.7 In appointing lay independent co-opted members (who are not elected members of any of the Authorities) the Panel must secure, so far as is reasonably practicable, that the appointed and co-opted members of the Panel, when taken together, have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- 3.8 The Panel will keep under review the number of co-opted members and whether a variation in their numbers would assist in meeting the balanced appointment objective. The Panel may also resolve to co-opt further or fewer members with the agreement of the Secretary of State provided that the number of co-opted members included in the membership of the Panel shall not exceed 20.

Appointed Substantive Members

- 3.9 The Authorities shall each nominate the appropriate number of elected members to be a member of the Panel (see 3.2 above). If a nominated member agrees to the appointment the Authority may appoint the member as a member of the Panel.
- 3.10 In the event that an Authority does not appoint a member or members in accordance with these requirements, the Secretary of State must appoint a member to the Panel from the defaulting authority in accordance with the provisions in the Act.
- 3.11 Each authority may remove or change their appointed member from time to time but with a view to ensuring continuity of membership as far as possible it is anticipated that an appointed member would be a member of the Panel for a term of four years unless s/he ceases to be an elected member, or is removed by their Authority, at which point Panel memberships ceases.
- 3.12 An Authority may decide in accordance with their procedures to remove their appointed member from the Panel at any point and on doing so shall give written notice to the Head of Legal and Democratic Services, Worcestershire County Council.
- 3.13 An appointed member may resign from the Panel by giving written notice to the Head of Legal and Democratic Services, Worcestershire County Council on behalf of the Panel.
- 3.14 In the event that any appointed member resigns from the Panel, or is removed from the Panel by an Authority, the relevant Authority shall immediately take steps to nominate and appoint an alternative member to the Panel and provide written notification to the Head of Legal and Democratic Services, Worcestershire County Council.
- 3.15 Members appointed to the Panel may be re-appointed to the Panel for a further term of four years provided that the balanced appointment objective is met by that re-appointment.

Co-opted Members

- 3.16 The Panel will co-opt 5 elected members and 2 lay independent members.
- 3.17 The following may not be co-opted members of the Panel:

- a) the PCC for the Police Area
- b) a member of staff of the Police and Crime Commissioner for the area
- c) a member of the civilian staff of the Police Force for the area
- d) a Member of Parliament
- e) a Member of the National Assembly for Wales
- f) a Member of the Scottish Parliament
- g) a Member of the European Parliament.

- 3.18 An Authority may decide in accordance with their procedures to rescind their nomination of a co-opted member at which point the co-option by the Panel will be deemed to have been terminated.
- 3.19 At least 2 lay independent co-opted members must be appointed and these may not be members of any principal authorities.
- 3.20 A lay independent co-opted member shall be an appointed member of the Panel for four years but may resign or be removed by the Panel as set out in 3.25 below.
- 3.21 The Panel shall put in place arrangements to ensure that appointments of lay independent co-opted members are undertaken following public advertisement in accordance with the following principles:
- a) The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel
 - b) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre determined criteria, and
 - c) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
- 3.22 A lay independent co-opted member must not be an elected member or officer of a principal local authority (or has been so in the preceding five years).
- 3.23 A co-opted member of the Panel may resign from the Panel by giving written notice to the Head of Legal and Democratic Services, Worcestershire County Council.
- 3.24 The Panel must from time to time decide whether the Panel should exercise its power to change the number of co-opted members of the Panel to enable the balanced appointment objective to be met, so far as is reasonably practicable.
- 3.25 The Panel may decide to terminate the appointment of a co-opted member of the Panel if the majority of the Panel at the time when the decision is made vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the co-opted member. The Panel will consider termination in any appropriate circumstances but in particular:
- a) if the co-opted member has been absent from the panel for more than six months without the consent of the Panel

- b) if the co-opted member has been convicted of a criminal offence but not automatically disqualified
- c) if the co-opted member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a co-opted member of the Panel; or
- d) (for elected member co-optees only) if the co-opted member's membership of the Panel no longer achieves the meeting of the balanced appointment objective.

3.26 In the event that a lay independent co-opted member resigns from the Panel or is removed from the Panel following a decision of the Panel, the Panel shall ensure that at least two lay independent co-opted members remain appointed to the Panel.

3.27 Lay independent co-opted members appointed to the Panel may be re-appointed for a further term of four years subject to the requirements under paragraph 3.21.

4.0 Budget and Costs of the Panel

4.1 The annual costs of the Panel, reduced by the figure of any grant from the Home Office or any other source, shall be borne between the upper-tier Authorities on the basis of population, and further also on the basis of the Worcestershire County Council and the respective District Council for a Worcestershire District Area sharing equally the cost pro-rata to the population of that Area.

4.2 The population shall be determined by reference to the population data (mid-year estimates) issued by the Office of National Statistics for the year in which this agreement is made, and reviewed in accordance with that data every four years.

4.3 Other than in the first year of operation, a draft budget for the operation of the Panel shall be drawn up by the Lead Authority in February each year, and shall be approved by the Authorities in advance of 1 April. The Panel must then operate within the approved budget.

5.0 Lead Authority

5.1 Worcestershire County Council shall be the lead authority for the Panel and shall provide such administrative support through its Head of Legal and Democratic Services and other professional support through the Adult and Community Services Directorate as will be necessary to enable the Panel to undertake its functions which will be funded by Home Office grant.

6.0 Rules of Procedure

6.1 The Panel shall determine its Rules of Procedure which shall include arrangements in relation to the:

- a) the appointment, resignation and removal of the Panel Chairman
- b) the formation of sub-committees
- c) the making of decisions
- d) the arrangements for convening meetings
- e) the circulation of information.

7.0 Allowances

- 7.1 All members of the Panel may reclaim travel and other appropriate out of pocket expenses incurred in the undertaking of approved duties relating to their role on the Panel in accordance with the rates adopted from time to time by Worcestershire County Council, up to a maximum cumulative value of £920 per annum. No allowances are payable for being a member of the Panel or chairing it.
- 7.2 Claims will be administered by Worcestershire County Council and will be paid subject to receipt within three months of the date of the duty.

8.0 Promotion of the Panel

- 8.1 The Panel arrangements shall be promoted by:
- a) The establishment and maintenance of a dedicated webpage including information about the role and work of the Panel, Panel membership, all non-confidential Panel and sub-committee meeting papers, press releases and other publications, and
 - b) The issuing of regular press releases about the Panel and its work, and
 - c) The Authorities will each include information about the Panel on their websites, which will also include a link to the Panel webpages.
- 8.2 Support and guidance shall be provided to members and officers of the Authorities in relation to the functions of the Panel by the provision of briefings as appropriate.

9.0 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 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Police Reform and Social Responsibility Act 2011, and any Regulations made in accordance with that Act. In the event of any conflict between the Act or Regulations and these arrangements, the requirements of the legislation will prevail.

**WEST MERCIA POLICE AND CRIME PANEL
TERMS OF REFERENCE**

- 1) To support the effective exercise of the functions of the Police and Crime Commissioner (PCC) and exercise its functions with a view to such support.
- 2) To review and make a report or recommendations to the PCC on the draft police and crime plan, or draft variation, given to the Panel by the PCC.
- 3) To review and make a report or recommendation to the PCC on the annual report.
- 4) To review and hold a public confirmation hearing in respect of, a 'proposed senior appointment' as defined in the Police Reform and Social Responsibility Act 2011 and report to the PCC with a recommendation as to whether or not the candidate should be appointed.
- 5) To review and hold a public confirmation hearing in respect of, the proposed appointment of the Chief Constable and report to the PCC with a recommendation as to whether or not the candidate should be appointed or exercise the Panel's right to veto the appointment.
- 6) To hold a scrutiny meeting in private in respect of a proposal by the PCC to call upon the Chief Constable to retire or resign and make a recommendation to the PCC in respect of the proposal.
- 7) To review and make a report (which may include recommendations) on the PCC's proposed precept or exercise the Panel's right to veto the proposed precept.
- 8) To review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the PCC's functions.
- 9) To make reports or recommendations to the PCC with respect to the discharge of the PCC's functions.
- 10) To fulfil any further function in relation to complaints about conduct matters, in accordance with any responsibilities accorded to the Panel by or under the Police Reform and Social Responsibility Act 2011.
- 11) To appoint an Acting PCC if necessary.
- 12) To consider suspending the PCC if it appears to the Panel that the PCC has been charged in the United Kingdom, Channel Islands or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.
- 13) To fulfil any other function of the Police and Crime Panel as provided by the Police Reform and Social Responsibility Act 2011 or associated primary or secondary legislation.