

## **Devon and Cornwall Police and Crime Panel**

**Monday 22 October 2012**

### **PRESENT:**

Councillor Croad, in the Chair  
Councillor Kennedy, Vice Chair  
Councillors Atkinson, Barker, Boyd, Brown, Diviani, Firbank, Folkes, Hare-Scott, Oliver, Saltern, Sanders, Sutton, Williams and Wood.

Independent members: Yvonne Atkinson and Mike Firbank

Apologies for absence: Councillors Hicks, Penberthy, Robertson and Rowe.

Also in attendance: Peter Aley (Assistant Director for Safer Communities), Sarah Hopkins (Community Safety Partnership Manager and Judith Shore (Democratic and Member Support Manager)

The meeting started at 10.00 am and finished at 11.45 am.

*Note: At a future meeting, the Panel will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.*

### 11. **APPOINTMENT OF CHAIR**

AGREED that Councillor Croad (Devon County Council) is elected Chair of the Devon and Cornwall Police and Crime Panel.

### 12. **APPOINTMENT OF VICE CHAIR**

AGREED that Councillor Kennedy (Cornwall Council) is elected Vice Chair of the Devon and Cornwall Police and Crime Panel.

### 13. **MINUTES**

AGREED that the minutes of the meeting of the Shadow Panel held on 25 July 2012 are approved.

### 14. **APPOINTMENT OF INDEPENDENT MEMBERS**

Mrs Hopkins reminded members about the process, agreed at the previous Shadow Panel meeting, for recruiting independent members to the Panel. The Selection Panel for independent members met, interviewed applicants and recommended that the following two candidates were appointed:

Yvonne Atkinson (Devon, including Plymouth and Torbay)  
Mike Firbank (Cornwall and the Isles of Scilly).

AGREED that Yvonne Atkinson and Mike Firbank are appointed as independent members of the Panel for a period of four years commencing 22 October 2012.

15. **HOME OFFICE RESPONSE TO PANEL COMPOSITION**

Councillor Croad advised that, following the meeting of the Shadow Panel held on 25 July, the panel arrangements and composition were submitted to the Home Office. On 14 September 2012, the Home Office agreed the composition, including the co-options.

AGREED that the letter from the Home Office is noted.

16. **PANEL ARRANGEMENTS AND RULES OF PROCEDURE**

The Chair reminded members that the Draft Panel Arrangements and Rules of Procedure presented at the meeting of the Shadow Panel in July was agreed subject to amendments (which had since been incorporated).

Mrs Hopkins suggested further amendments, in order to take account of additional guidance and regulations, as follows:

- Section 5.6 (Selection Panel for independent members) – amended to allow flexibility around the composition of the Selection Panel (a minimum of three members required)
- Section 7 (Substitution) – amended to allow councillors to send a substitute to the Panel meeting
- Section 15 (Voting) – amended to allow voting to be recorded
- Sections 22 (Scrutinising the precept) and 25 (Senior appointments) had been significantly amended in line with recent regulations
- Section 31 (Public attendance and participation) amended to be more concise
- Annex 1 (Guiding principles) amended following a provision in the Localism Act which came into force on 1 July
- Annex 2 (Rules of debate) had been added
- Annex 3 (Code of conduct) had been removed and partly included in Annex 1

Members agreed with the above and proposed that they were accepted.

Members discussed the Draft Panel Arrangements and Rules of Procedure and proposed amendments to Section 13 (Expenses for panel members) as follows:

- expenses for local authority members to be reimbursed upon production of receipts (as per the arrangement for independent panel members.)
- expenses for all panel members to be reimbursed by the Host Authority (who receive an amount from the Home Office for such expenses).

Mrs Shore would contact all members about the process for claiming expenses.

The following points and questions were raised:

- whether there was a mechanism to trigger a referendum if the proposed precept would result in an increase over a certain percentage? Mrs Hopkins undertook to investigate.
- would the existing police authority staff transfer to the Police and Crime Commissioner's (PCC) staff under TUPE legislation? Mrs Hopkins would clarify the matter.
- the police authority was recruiting a communications officer and it was queried whether that was appropriate given the forthcoming PCC elections.

**AGREED that:**

- 1. the revised Panel Arrangements and Rules of Procedure, as set out in the Appendix to the report, are approved subject to the amendments proposed at the meeting (as outlined above).**
- 2. the Panel Arrangements and Rules of Procedure will be further reviewed in light of further advice and Home Office regulations when required.**

17. **PRECEPT REGULATION AND REPORT TIMELINE**

Mrs Hopkins highlighted the requirements of the new regulations about precept setting and the associated tight timescales and budget setting implications this posed for the Panel and for local authorities. The date for the PCC to notify the Panel about the proposed precept had been amended from 22 December to 1 February each year which resulted in an exceptionally short timescale for the Panel to respond by 8 February. If the Panel vetoed the precept, the PCC had to respond, having considered the Panel's views, by 15 February. The Panel had to respond by 22 February and the PCC was then required to issue the precept by 1 March.

This meant that, if the PCC did not propose a precept prior to the deadline of 1 February, the Panel would not be able to comply with the legal requirements for agenda and report publication contained within the Local Government Act 1972, although it wasn't clear whether that legislation applied to the Panel. Also, the extremely tight timetable could create difficulties for local authorities in the Council Tax setting process.

Members expressed considerable concern about the above and proposed that a letter was sent to the Home Office, and copied to other Panels, outlining the potential difficulties of complying both with the LGA 1972 (if applicable) and the precept regulations and why the shortened timetable was a disadvantage for the democratic oversight of the proposed precept. A longer timetable was considered necessary to allow the Panel to properly scrutinise the PCC's proposals.

Mrs Hopkins agreed to collate any feedback received from other Panels.

Members considered that the relationship between the Panel and the PCC was critical and that the Chair should establish a good working relationship with the PCC

in order to consider timetables and processes which would achieve the best outcome in terms of the democratic scrutiny of the PCC and the precept.

**AGREED that the Panel:**

1. notes the requirements of the Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012
2. will hold a meeting on 8 February 2013 in order to consider the PCC's proposed precept
3. will hold a meeting on 22 February 2013 (if required in order to consider the PCC's revised precept)
4. notes that it is unclear whether the provisions of the LGA 1972 apply to the Panel and the potential difficulty for complying with that Act given the deadlines contained within the precept regulations
5. mandates the Panel Chair to seek talks with the PCC with a view to maximising cooperation over the precept-setting timetable.
6. will send a strongly worded letter of concern to the Home Secretary containing the views expressed at the meeting
7. will copy the letter to all other Police and Crime Panels across the country.

18. **DRAFT 'MEMORANDUM OF UNDERSTANDING' BETWEEN THE OFFICE OF THE POLICE AND CRIME COMMISSIONER AND THE POLICE AND CRIME PANEL**

Mr Aley advised that the document had been drafted by police authority staff who were seeking the Panel's views on the proposals contained within it. He drew members' attention to a number of the provisions that he considered they may wish to take a view on including:

- Section 7 (Veto) – the Panel will not inform any other party ... of its intention to exercise the veto until the PCC had been informed
- Section 9 (Panel meetings) – it is expected that meetings of the Panel will be held at a variety of locations across Devon and Cornwall
- Section 15 (Engagement with third parties) – all communications from the Panel will be copied to the office of the PCC

Members commented that:

- Section 7 (Veto) – the Panel could not inform the PCC about its intention to exercise the veto until it had met, in public, and made a decision
- Section 9 (Panel meetings) – the Panel would decide where it wished to meet
- Section 15 (Engagement with third parties) – this was an unreasonable request
- Section 16 (Engagement with the press and the media) – the Panel would not be inhibited from agreeing the format of media briefings about its meetings
- Discussions should be held with the PCC around scrutiny mechanisms and how the Panel could interact with the PCC in order to fulfil its role

- If, after such discussions, it was felt a memorandum of understanding was still required, this should be jointly drafted between the PCC and the Panel; the Panel favoured a more general document based on principles rather than prescription

The Chair advised members that he had previously spoken to the Chief Executive of the police authority and advised her that he thought the memorandum was unacceptable in its current form.

**AGREED that:**

1. **The draft memorandum of understanding is rejected**
2. **the Chair and officers from the Host Authority enter into discussions with the PCC about working together**

19. **WORK PROGRAMME AND FUTURE MEETING DATES**

Ms Shore explained that the work programme had been amended to take account of the recent regulations and that meeting dates had been revised following consultation with Members to identify the best day of the week for Panel meetings (trying to accommodate, as far as reasonably practical, the needs and travel arrangements of members from all 13 local authorities). Fridays, whilst not ideal for some, appeared to be the most suitable. Monday meetings were not possible as any councillor representing the Isles of Scilly was not able to reach the mainland at an appropriate time.

Some members considered Friday to be the most suitable day and others thought that a mix of days, excluding Mondays, was preferable.

A proposal to meet on the 2<sup>nd</sup> or 3<sup>rd</sup> Friday in each month was made, put to the vote and lost.

A proposal to meet on all weekdays, excluding Mondays (members to be consulted about dates), noting that meeting dates on Friday 8 and Friday 22 February had already been agreed was made, put to the vote and **AGREED**.

Members confirmed that continuing to meet in Plymouth was preferable as it was a central location and agreed that meetings could be held elsewhere, if appropriate.