

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

**Friday 27 May 2016**

## **PRESENT:**

Councillor Croad, in the Chair.

Councillor Batters, Vice Chair.

Councillors Barker, Boundy, Brown, Philippa Davey, Martin, Mrs Pengelly, Saltern, Sanders, Squires, Sutton, Toms, Watson and Wright.

Independent Representatives: Sarah Wakfer.

Apologies for absence: Councillors Excell, Mathews and Moulson.  
Yvonne Atkinson, Independent Representative.

Also in attendance: Alison Hernandez (Devon and Cornwall Police and Crime Commissioner), Ross Jago (Performance and Research Officer, Plymouth City Council Council), Andrew White (OPCC Chief Executive and Monitoring Officer) and Lynn Young (Democratic Support Officer).

The meeting started at 10.31 am and finished at 12.03 pm.

*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.*

## **Purpose of the extraordinary general meeting**

The Chair thanked members for attending this Extraordinary Meeting of the Police and Crime Panel.

This meeting has been called by four members of the Panel through the process outlined in the Police and Crime Panel Rules of Procedure.

The purpose of the meeting is to discuss the discharge of functions by the Police and Crime Commissioner while a police investigation, to which she is linked, is underway.

In summary for members benefit, the functions of the Police and Crime Commissioner in the Police Reform and Social Responsibility Act (2011) are to –

- secure an efficient and effective police for their area;
- appoint the Chief Constable, hold them to account for running the force, and if necessary dismiss them;
- set the police and crime objectives for their area through a police and crime plan
- set the force budget and determine the local precept

- contribute to the national and international policing capabilities set out by the Home Secretary; and
- bring together community safety and criminal justice partners, to make sure local priorities are joined up.

The Chair reminded members of the Panel at this stage that they will not be discussing the allegations against the Commissioner. They are both beyond the remit of this Panel and any discussion of specific allegations could prejudice ongoing investigations.

The Chair will interrupt and close down debate if he considers that members are creeping beyond the Panel's remit.

He reminded members that this meeting is being webcast. The discussion will be available for up to a year following this meeting.

Following time for public questions the meeting will move to the main agenda item. The members who called the meeting will be given time to explain their concerns to the rest of the Panel and time for the Commissioner to respond before the meeting moves to a question and answer session.

1. **Declarations of interest**

There were no declarations of interest made by members in respect of items under discussion at this meeting.

2. **Public questions**

Four questions had been received from three members of the public. Mr Terry Deans and Mr Chris Elliott attended the meeting to put their questions and Councillor Croad (Chair) responded as follows (a copy of the responses had been sent to the questioners in advance of the meeting) –

<p><b>Question by Mr Terry Deans</b></p> <p>I understand that employees of the CJS (Police officers etc..) are suspended, pending outcomes of any investigation regarding any alleged 'misbehaviour'. Recently, high profile examples of this have occurred in political parties regarding investigations of alleged antisemitic comments. 'Suspension pending investigation' is standard practice throughout professional bodies. The integrity of the PCC is being widely questioned in local, national and social media and this undermines police and public confidence in the PCC's ability to discharge her duties. In respect of these points here, I would like to ask why Alison Hernandez seems to be exempt from this regulation?</p>
<p><b>Response by Councillor Croad (Chair)</b></p> <p>The Panel is unable to make comment on the disciplinary procedures of organisations or political parties external to the Office of the Devon, Cornwall and Isles of Scilly Police and Crime Commissioner as they fall outside of the functions of the panel.</p>

Regarding suspension of a Police and Crime Commissioner, regulations relating to the conduct of the Police and Crime Commissioner are laid down in the Police Reform and Social Responsibility Act 2011 (Chapter 4, Section 30-31 and Schedule 7) and The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.

The panel has the power to suspend the Police and Crime Commissioner if it appears to the panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

Regarding alleged matters of conduct, the Panel has delegated the handling of complaints to the Office of the Police and Crime Commissioner (OPCC).

The OPCC have made a referral to the Independent Police Complaints Commission regarding alleged matters of conduct, this referral has been made in full consultation with the Chair of the Police and Crime Panel, Councillor Roger Croad and is in line with statutory process.

The referral relates to allegations about election expenses and potential breaches of electoral law on expenses in the Torbay constituency during the 2015 general Election campaign, where Alison Hernandez was the election agent for the Conservative candidate. In any instance where there is a potential serious conduct issue regarding a serving Police and Crime Commissioner the matter must be referred to the IPCC.

**Question by Mr Chris Elliott**

Alison Hernandez was sworn in as PCC while implicated in a criminal investigation that could lead to her being debarred from public office. Does the Panel believe that the public should have confidence in Ms Hernandez while her previous conduct is being examined in this way?

**Response by Councillor Croad (Chair)**

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This extraordinary meeting has been called by members to scrutinise and review the decision taken by the Police & Crime Commissioner to proceed with her swearing in, and continuing discharge of Commissioner functions, whilst she is linked to an ongoing police investigation.

**Question 2 by Mr Chris Elliott**

The day before Ms Hernandez took office it was announced that West Mercia Police had agreed to a request by Chief Constable Sawyer to carry out an independent investigation into the improper electoral campaign spending allegations which involve Ms Hernandez. The next day when asked about it on BBC TV Ms Hernandez said “the whole thing is political” and nothing but a “storm in a teacup”. Do the panel agree that these comments are incompatible with her oath?

**Response by Councillor Croad (Chair)**

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**Question by Ruth Wilson**

How can the public have confidence in the Commissioner’s ability to carry out her role with integrity, when she is currently under investigation for election fraud? Any other professional in this situation would be suspended. Why has Ms Hernandez been exempt from this most basic standard of public service? How will the panel ensure that public confidence in this post is not fatally compromised by the unwillingness of the postholder to stand down during the course of the police investigation into election fraud in Torbay?

**Response by Councillor Croad (Chair)**

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### 3. **Discharge of the functions of the Police and Crime Commissioner**

The Chair gave the four members of the Panel who requested this meeting the opportunity to ask their questions –

‘The code of conduct under which we all operate is based on the Nolan Principles of Public Life. It stresses the fact that public perception of our behaviour is all important. Do you therefore think it would have been better for you to have waited until you had been cleared by the investigation before taking up office?’

**(Councillor Watson)**

‘In hindsight would it have been prudent to discuss this issue with the Police and Crime Panel prior to the public referral to enable us to best support you in your role?’

**(Councillor Brown)**

‘Does this mean that any member of the Devon and Cornwall Force and your office, any of them who may be the subject of future investigations, will be allowed the same leniency as you have exhibited here, and not be required to be removed from duty or suspended during their period of investigation, and also what your comments might be in relation to recent comments made by the Police Federation on behalf of the Police?’

**(Councillor Batters)**

‘Your predecessor in the role of Police and Crime Commissioner, Tony Hogg, I think it’s fair to say took up the role at a time when there was very little public appetite for the role – election turnout in the order of 15% I seem to remember - and certainly very little knowledge of it. During the course of his term of office he worked very hard and in his own words he says he believes that he built up the trust and confidence of the public in the Office of the Police and Crime Commissioner and I would add to that he did that largely in a non-political way. He has recently said in an interview that he believes that your recent action have pretty much destroyed in

24 hours all that good work over the previous 4 years. Would you agree with his statement?’

**(Councillor Sutton)**

Alison Hernandez (Police and Crime Commissioner) and Andrew White (OPCC Chief Executive and Monitoring Officer) were available to answer the Panel’s questions and address their concerns.

Members were advised that –

- (a) the Police and Crime Commissioner (PCC) -
  - was aware of, and followed, the Nolan Principles of Public Life;
  - was not aware of any negative feedback from members of the public;
  - had gained a lot of public support since being elected;
  - had met with the previous PCC, Tony Hogg, and had his full support;
- (b) the OPCC Chief Executive and Monitoring Officer had made the referral to the IPCC. It was standard practice to refer any allegations against a PCC to the IPCC and this decision had been taken after consultation with the Chair. *(members were reminded that responsibility for non-criminal complaints had been delegated to the OPCC Chief Executive and Monitoring Officer).* Arrangements had been made for an investigation to be conducted by another police force;
- (c) there was no automatic suspension or the need to stand aside when any conduct matter [of a PCC] was being considered and each case was considered individually.

The other Panel members were given the opportunity to ask further questions, and the responses to these are summarised below –

- (d) the PCC intended to review police station closures and look at local policing – both of these issues would be included in the Police and Crime Plan – a draft of which would be available at the July meeting;
- (e) the PCC appreciated the public concerns surrounding the allegation, and had received a great deal of support from members of the public;
- (f) the PCC worked well with the OPCC staff and had a good working relationship with the Chief Constable. She was in the process of visiting police stations and meeting with staff.

The Chair adjourned the meeting at 11.23 am for the Panel to consider their action.

#### 4. **Re-convened meeting**

The Panel re-convened at 12 noon.

The Chair's proposal that –

- (1) the Panel noted that whilst the Commissioner is subject to allegations she has not been charged with a criminal offence;
- (2) it is the opinion of the Panel that the functions of the Police and Crime Commissioner as laid out in the Police Reform and Social Responsibility Act 2011, are able to be discharged by the elected Devon and Cornwall Police and Crime Commissioner;
- (3) Panel members and the public have concerns that the Police and Crime Commissioner has made public comments which could be deemed political in nature. It is the opinion of the Panel that this is not commensurate with the independent role of a Police and Crime Commissioner and the Commissioner should refrain from making any such statements in the future;
- (4) the Office of the Police and Crime Commissioner, as delegated by the Police and Crime Panel has referred a complaint regarding conduct to the Independent Police Complaints Commission. As such the Panel has fulfilled its statutory obligations;
- (5) the Panel will continue to scrutinise the decisions made by the Police and Crime Commissioner in connection with the discharge of the functions of that role, until such time that the outcomes of ongoing investigations are known.

seconded by Councillor Wright, was agreed unanimously (16 members present out of 20).