

DRAFT - For consultation only September 2012

SUGGESTED DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN THE POLICE AND CRIME COMMISSIONER FOR DEVON AND CORNWALL AND THE DEVON AND CORNWALL POLICE AND CRIME PANEL

1. Introduction

This Memorandum of Understanding has been drawn up to assist in the smooth and efficient business operations between the Office of the PCC and the Police and Crime Panel. Ultimately, this MoU is intended to ensure the interactions between the two bodies are proportionate, open and in the best interests of the public.

This MoU is an informal agreement reached between the Office of the PCC and the Police & Crime Panel to work effectively and efficiently in the interests of the public. It is not legally binding and does not replace legislation, regulations or codes of practice. The MoU is an open commitment by both parties to co-operate and work constructively in a way that enhances policing for local people.

References in this MoU to the Police and Crime Panel may also refer to any sub groups of the Panel as appropriate.

2. Background

The Police Reform and Social Responsibility Act 2011 introduces a new model of governance to policing in England Wales based upon a directly-elected Police and Crime Commissioner (PCC) being accountable to the public for the totality of policing in that area.

The PCC will hold the chief constable to account for policing delivery. The PCC's decisions and actions will be scrutinised by a Police and Crime Panel.

The new governance model will rely on a shared understanding of individual roles, mutual respect of responsibilities and the co-operation of the PCC, Panel and chief constable to ensure the effective discharge of duties.

Whilst this MoU is intended to primarily refer to full Police and Crime Panel meetings, it is understood that it may also be applicable to Task Groups or other such sub groups of the Panel.

3. Key Principles

Principles shared by Office of the PCC and PCP

- To work as effectively and efficiently in the interests of the public, policing and the public purse
- To commit to openness and transparency
- To work in co-operation with each other as far as is reasonably practical in accordance with statutory requirements.
- To communicate regularly and openly, and operate within a culture of "no surprises"
- To observe the 'spirit' and intent of the Act and police reform, namely that primacy rests with the directly-elected and publically accountable PCC.

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4. Respective Roles and Responsibilities – legal framework

Very broadly, the roles of the key parties responsible for police governance are as set out in the list of statutory functions included at *Appendix A*.

5. Areas of common responsibility

The PCC and the Panel have a joint responsibility for working together to enhance policing for local communities, ensuring value for money and seeking to reduce bureaucracy where possible. This shared responsibility is most likely to be achieved where this MoU is observed.

6. Information sharing, officer liaison and co-operation

The Office of the PCC and the PCP will work together to synchronise arrangements for the planning and timetabling of a work programme. The practical arrangements and processes for the Police and Crime Panel to conduct its scrutiny responsibilities will be prepared by the Police and Crime Panel in consultation with the Office of the PCC.

This will include the agreement of process and schedule for the following key functions

- presentation and scrutiny of the PCC's Police and Crime Plan
- presentation and scrutiny of the PCC's proposed precept
- presentation and scrutiny of the PCC's Annual Report
- presentation and scrutiny of the PCC's appointee for deputy PCC
- presentation and scrutiny of the PCC's proposed appointee for chief constable
- presentation and scrutiny of the PCC's appointee for chief executive
- presentation and scrutiny of the PCC's appointee for chief finance officer

7. Veto

In cases where the Panel exercises its right to veto, or is minded to exercise its right to veto, the Office of the PCC will be informed at the earliest opportunity. The Panel will not inform any other party, other than those with a clear and legitimate right to this information in discharging the Panel's statutory duties, of its intention to exercise the veto until the PCC has been informed.

8. Points of contact

The key point of contact within the Office of the PCC will be the Chief Executive. This includes correspondence to the Joint Audit Committee.

The key point of contact within the Police and Crime Panel will be.....

Where possible, in the interests of efficiency and effectiveness and to maintain an audit record, correspondence between the Office of the PCC and the Panel will be electronic by way of PDF documents attached to an email.

9. Panel meetings

Notwithstanding the Panel's statutory role, the PCC is singularly and publically accountable for the maintenance of an efficient and effective police force. The PCC will require to be, and be seen to be, publically and visibly accountable for decisions made and actions taken. To assist this, and to encourage as wide an engagement with the public as possible it is expected that meetings of the Police and Crime Panel will be held at a variety of locations across Devon and Cornwall and the Isles of

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Scilly, at venues readily accessible to the public and preferably that offer webcast facilities.

10. Attendance at Panel meetings

Requests for the PCC, deputy PCC or officers of the Office of the PCC to attend a meeting of the Panel should be directed to the Chief Executive. As much notice as possible for such requests should be given but normally no less than 10 working days. Any officer called to attend the Panel may be accompanied.

It is expected that an attendee requested to attend the Panel will be informed of the topics under discussion in advance of the meeting in order to enhance the effectiveness of the scrutiny process.

The PCC should be advised of any guests invited to attend a Panel meeting for the purposes of providing the Panel with advice and or guidance.

The Office of the PCC will be advised immediately of any changes to the membership of the Panel. The Office of the PCC will also be informed of the name and role of any individual brought in to advise the Panel on matters relating to their scrutiny of the PCC.

11. Correspondence including Police and Crime Panel's requirements to issue reports and/ or recommendations

Correspondence and communications between the Office of the PCC and the Panel will be electronic by way of PDF documents attached to an email. The email should be addressed to the key point of contact in the Office of the PCC/ Panel.

12. Panel meeting minutes

The Office of the PCC will be consulted in the preparation of Minutes of Panel meetings (at which the PCC's staff were in attendance).

13. Definitions

Variation- The PCC is required to send a variation of the Police and Crime Plan to the Panel. For the purposes of common understanding, variation will be defined as a material change to the Plan or budget that will result in a diversion from existing strategy or policy. Any areas of uncertainty will be resolved by the Chief Executive providing advice to the PCC.

Reasonable time – the PCC must provide the Panel with reasonable time to review the draft Police and Crime Plan. This is understood as being ten working days. NB – this is subject to the statutory instrument regulating precept scrutiny processes and its links to the Police and Crime Plan.

Where the Panel requires the PCC to respond in writing to a report or recommendation, *Reasonable time* is understood to mean 10 working days.

Reasonable notice - The Panel is required to provide reasonable notice to require attendance of the PCC or their staff to attend before the Panel. This is understood to mean no less than 10 working days.

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Have regard to – There are a number of instances where the PCC is required to 'have regard' to a report or recommendations of the Police and Crime Panel. The PCC is also required to have regard to the Protocol, Strategic Policing Requirement, Police and Crime Plan and any code of practice issued by the Secretary of State).

For the purposes of this MoU, '*have regard to*' is based upon the so-called Grandson duties, namely, that the report/ recommendation policy or plan to which regard must be paid has been truly brought into account in reaching a decision, that the report / recommendation policy or plan is properly understood and that a clear reason for a departure from the recommendation, policy or plan is given.

14. Engagement with the chief constable

The chief constable is accountable to the PCC only. The chief constable may only attend a Panel meeting when accompanied by the PCC. To maintain appropriate working relationships, any intended communications from the Panel to the chief constable will be referred to the PCC first.

15. Engagement with third parties

In the interests of the principles of this MoU all communications with any third party from the Panel will be copied to the Office of the PCC. This includes communication with the Home Office, IPCC, HMIC, Joint Audit Committee or any other body.

16. Engagement with the press and media

The PCC is publically accountable for the maintenance of an efficient and effective police force. Regular interaction with the press and media will be important to assist the PCC to be held to account by the public and for decisions and actions to be seen to be open and transparent. It is expected that the PCC will wish to communicate with the media regularly as part of their statutory duties to publish information and to be open and transparent..

With this respect, following a Panel meeting it is understood that the PCC will call a press/ media briefing. It will be for the PCC and Panel to agree the format of this press/ media briefing but it is understood that this will be organised in such a way that the PCC's direct and primary accountability to the public is borne in mind.

17. Reconciliation of disputes

From time to time differences of opinion between the exercise or operation of processes between the Office of the PCC and the Panel may arise. Where this is the case, all effort should be made to resolve the dispute amicably. Where this is not possible, a written record of the issue under dispute will be made to the PCC's Chief Executive or key contact for the Panel, as appropriate.

Where the Chief Executive/ key contact for the Panel is unable to resolve the point of dispute, it may be necessary to lodge a complaint using the agreed procedure.

18. Complaints

Where a complaint is to be made against the Office of the PCC or against the Police and Crime Panel from either party it will be dealt with in line with each organisation's complaints procedure.

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FUNCTIONS OF THE POLICE AND CRIME COMMISSIONER	Reference
Secure the maintenance of an efficient and effective police force for that area	s1(6)
Strategic Planning	
Prepare a draft and issue a police and crime plan	s5 (Regs)
Review the police and crime plan, particularly in the light of (i) any report or recommendations made by the police and crime panel; and (ii) any changes in the strategic policing requirement	s5(9)
Holding to account	
Hold the chief constable to account for: <ul style="list-style-type: none"> • the functions of the chief constable, and of persons under the direction and control of the chief constable. • the exercise of the duty to have regard to police and crime plan • the exercise of the duty to have regard to strategic policing requirement • the exercise of the duty to have regard to codes of practice issued by Secretary of State • the effectiveness and efficiency of the chief constable's arrangements for co-operating with other persons • the effectiveness and efficiency of the chief constable's arrangements for engagement with local people • the extent to which the chief constable achieves value for money • the exercise of duties relating to equality and diversity • the exercise of duties in relation to the safeguarding of children and the promotion of child welfare 	s1(7) s1(8)(a) s1(8)(b) s1(8)(c) s1(8)(d) s1(8)(e) s1(8)(f) s1(8)(g) s1(8)(h)
Partnership working	
Make a crime and disorder reduction grant to any person	s9
Have regard to the relevant priorities of each responsible authority	s10(1)
Act in co-operation with responsible authorities	s10(2) (CDA Regs)
Make arrangements with criminal justice agencies for the exercise of functions so as to	s10(3)

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provide an efficient and effective criminal justice system for the area	
Enter into collaboration agreements	s22A PA'96 as inserted by s89; sch12
Keep collaboration agreements under review	s22C PA'96 as inserted by s89; sch12
Provide advice and assistance to a body outside the UK	s26 PA'96 as amended by para 25 sch16
People	
Appoint, manage complaints regarding, suspend and remove the chief constable	s38 and sch8 (Regs)
Appoint a chief executive and chief finance officer (and may appoint other staff, including a Deputy PCC)	sch1 para6 to 8

Information and Engagement	
Publish specified information in the time or manner specified	s11 (Regs)
Produce an annual report	s12
Provide the police and crime panel with any information which the panel may reasonably require	s13
<p>Make arrangements for obtaining</p> <ul style="list-style-type: none"> • the views of people about matters concerning the policing of the area, • their co-operation with the police in preventing crime and anti-social behaviour in that area; • the views of victims of crime in that area about matters concerning the policing of that area. • the views of <ul style="list-style-type: none"> (a) the people in that police area, and (b) the relevant ratepayers' representatives, on the proposals of the police and crime commissioner for expenditure before the first precept for a financial year is issued by the police and crime commissioner 	<p>s96(1) and (2) PA'96 as amended by s14</p> <p style="text-align: right;">(Regs)</p> <p>S96(1B) PA'96 as amended by s14</p>

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Finance	
Enter into agreements for supply of goods and services	s1 Local Authorities (Goods and Services) Act 1970; s15
Keep the police fund	s21 (<i>Pension Regs</i>)
Receive grants for police purposes	s46 PA'96 as amended by s24
Receive grants for capital expenditure	s47 PA'96 as amended by s25
Receive national security grants	s48 PA'96 as amended by s25
Receive grants from local authorities	s92 PA'96 as amended by s25
Accept gifts or loans	s93 PA'96 as amended by s25
Borrow monies	s94 PA'96 as amended by s25
Issue a precept	s39 Local Government Finance Act 1992 as amended by s26 and sch5 (<i>Regs</i>)
Receive emergency financial assistance	s155 Local Government and Housing Act 1989 as amended by s27
Do anything calculated to facilitate the exercise of their functions, including: <ul style="list-style-type: none"> • entering into contracts and other agreements • acquiring and disposing of property (including land) • borrowing money 	sch1 para 14

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FUNCTIONS OF THE POLICE AND CRIME PANEL	Reference
Review and report on every issue of the PCC's police and crime plan	s28(3)(a) <i>(Regs)</i>
Review and report on the PCC's annual report	s28(4)
Review senior appointments (Deputy PCC, chief executive and chief finance officer)	s28(5), sch1 para9 to 11
Review (and if necessary veto) chief constable appointments	s28(5) and sch8
Review and report on PCC's proposals to remove a chief constable	sch8 para15
Review (and if necessary veto) PCC's level of precept	s28(5) and sch5
Review or scrutinise decisions made and actions taken by the PCC	s28(6)
Publish any reports and recommendations made	s28(7) to (9)
Suspend the PCC on their being charged	s30 <i>(Regs)</i>
Appoint an Acting PCC if necessary	s62
Initial handling and informal resolution of complaints against PCC / DPCC	sch7 para3 <i>(Regs)</i>
These functions must be exercised with a view to supporting the effective exercise of the functions of the PCC	s28(2)
A police and crime panel may not exercise any functions other than those conferred by this Act.	sch6 para4(6)
Supporting powers	
Require reasonable information	s13

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Require the relevant PCC and their staff to attend to answer questions	s29(1)
Require a response in writing to a report or recommendation	s29(3)
Request the relevant chief constable to attend on the same occasion as the PCC to answer any question	s29(6)