

Subject:	Sussex Police and Crime Panel		
Date of Meeting:	12 July 2012		
Report of:	Strategic Director Communities		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report seeks decisions on two issues: - the ratification and adoption of the proposed panel arrangements for the Sussex Police and Crime Panel (PCP) and the nomination of councillors and substitutes to serve on the Panel. The need to do this now arises from recent Regulations which require responses to the Home Office on or before 16 July 2012.

2. RECOMMENDATIONS:

- 2.1 That Councillor Ben Duncan (1) be nominated as the Brighton & Hove councillor to serve on the Sussex Police and Crime Panel (PCP) from the formal constitution of the Panel and (2) be appointed to the Panel if he accepts nomination. And that Councillor Matt Follett be nominated as named substitute for the PCP. These nominations are subject to review at Annual Council.
- 2.2 That Councillor Warren Morgan (1) be nominated as the Brighton & Hove co-opted member to serve on the Sussex PCP, as stipulated in paragraph 14a of the PCP constitution (Annex 3), and (2) be appointed to the PCP subject to ratification at the first meeting of the PCP. And that the Labour and Cooperative Group be invited to nominate a named substitute for Cllr Morgan. These nominations are subject to review at Annual Council.
- 2.3 That Policy and Resources Committee ratify the proposed PCP constitution and panel arrangements as set out in Annex 3 of this report.
- 2.4 That in addition to the Policy and Resources Committee, the Chief Executive be given full delegated power to exercise the Council's functions in relation to the establishment and maintenance of the Sussex PCP.
- 2.5 That members note ongoing concerns regarding PCP equality and operational issues set out in paragraphs 4.8 to 4.10 of the report and mandate nominated members to address these during future PCP meetings.

3. RELEVANT BACKGROUND INFORMATION

- 3.1 In November 2012 a Police and Crime Commissioner (PCC) will be elected for the Sussex Police Area by the electors of Brighton & Hove, East Sussex and West Sussex. The Commissioner will replace the current Police Authority which will be abolished.
- 3.2 The PCC's responsibilities will include police policy, the budget and the appointment/dismissal of Chief Constables. The Chief Constable will remain responsible for day to day policing. Further details of the PCC, including the allocation of funding and resources, is currently not available and should be confirmed over the coming months. A summary of the Police and Crime Commissioner's responsibilities is set out at **Annex 1**.
- 3.3 To ensure that there is scrutiny of the PCC, a joint committee, the Sussex Police & Crime Panel (PCP), will be constituted under the Police Reform and Social Responsibility Act 2011.
- 3.4 The PCP will have a statutory duty to exercise its functions with a view to supporting the effective exercise of the functions of the PCC.
- 3.5 A summary of the PCP's functions is set out at **Annex 2**. Although these are principally scrutiny functions, there are several functions which can be exercised to limit the powers of the PCC in certain circumstances, for example the powers by a two thirds majority to veto the proposed precept or a proposed Chief Constable appointment.
- 3.6 For Sussex, the council, the county councils and all the district and borough councils are each entitled to nominate and appoint one councillor to serve on the Sussex PCP. Therefore the Panel is due to start with 15 councillor members.
- 3.7 The Panel, when it is constituted, is required to co-opt 2 further members, who cannot be councillors. This will take the PCP membership up to a minimum of 17 members.
- 3.8 The statutory maximum number of members on the PCP is 20. Therefore the PCP may, but only with the agreement of the Secretary of State, resolve to co-opt up to 3 more members and these may be councillors. Also, recent Regulations provide that any person who is a councillor of any of the authorities represented on the panel cannot be co-opted unless all members of the PCP agree with the co-option.
- 3.9 In relation to all appointments and co-options, the local authority appointing - or the PCP when it co-opts - must secure that, as far as is reasonably practical, the "balanced appointment objective" is met. This objective is that the local authority members of a police and crime panel (when taken together) will —
 - (a) represent all parts of the relevant police area;
 - (b) represent the political make-up of — (i) the relevant local authority, or (ii) the relevant local authorities (when taken together);
 - (c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

4. PANEL ARRANGEMENTS FOR SUSSEX POLICE & CRIME PANEL

- 4.1 The 15 Sussex local authorities in the Sussex Police Area are required to establish and maintain the joint committee to be known as a Police and Crime Panel for the area and to make “panel arrangements” for the PCP.
- 4.2 The “panel arrangements” are the constitutional documents of the PCP, containing provisions on co-option, terms of office of appointed and co-opted members, vacancies etc, but do not extend to the rules of procedure of the PCP, which must be adopted by the PCP itself once it is fully constituted.
- 4.3 It is specifically stated in the legislation that, in the case of a multi-authority police area such as Sussex, all relevant authorities must agree to the making or modification of panel arrangements. Once agreed, each local authority and each member of the PCP must comply with the PCP arrangements. However, there is one amendment to this which is due to be implemented in Regulations drafted but apparently not yet made – if any of the Sussex authorities fail to nominate & appoint their councillor member, the defaulting authority will no longer be required to agree the PCP arrangements.
- 4.4 One authority must be selected by the others to notify the Secretary of State of the making of the panel arrangements. The authorities have agreed that this be West Sussex County Council and the County Council has been convening a Shadow Police and Crime Panel to help with the establishment of the full Sussex Panel. Councillor Duncan has been attending the Shadow PCP on behalf of the Council.
- 4.5 The proposed panel arrangements for Sussex as currently drafted are set out at **Annex 3**. Member’s attention is drawn to paragraph 14a of the draft constitution, as set out in the annex, and reproduced below for ease of reference, which provides for Brighton and Hove to nominate an additional member to address geographical imbalance.

14a Subject to the agreement of the Home Secretary, Brighton and Hove City Council – as a unitary authority – shall be granted one additional co-opted local authority seat on the Panel to address geographical imbalance. The nomination of a member for this seat by Brighton and Hove City Council shall, so far as possible, support the Panel in meeting the balanced appointment objective. This member will have a one-year period of office.

- 4.6 As set out in paragraph 3.9 above the PCP, and its constituent authorities, must seek a politically proportionate PCP (when the make-up of the relevant local authorities is taken together). In seeking to meet this statutory requirement the PCP has invited Brighton and Hove City Council to nominate for co-option a member from the Labour and Cooperative Group.
- 4.7 **Annex 4** to this report sets out the political template through which calculations relating to co-option to the PCP have been based. It also provides comparative population and crime statistics.

- 4.8 The PCP constitution (Annex 3) also provides for East and West Sussex County Council's to provide co-opted members should the overall make-up of the PCP fail to meet political balance objectives.
- 4.9 Recent Regulations require that West Sussex County Council (as the lead authority) must notify the Secretary of State on or before 16 July 2012 of the making of the panel arrangements.
- 4.10 It is not absolutely clear what happens if the panel arrangements are not agreed by all 15 authorities on or before 16 July 2012. The reserve powers in the legislation are obscure and appear to relate more to the failure to nominate or appoint to a panel than to a failure to agree the panel arrangements.
- 4.11 Brighton and Hove City Council officers have undertaken an Equality Impact Assessment on the PCP, its membership and ways of working. This has highlighted a number of concerns, that have been raised at Shadow PCP meetings, but which to a large extent remain unresolved. Many of these issues can be addressed through the development of a PCP work-programme and pro-actively engaging with the panel in its work. The EIA is attached as **Annex 5**.
- 4.12 Funding for the running of the PCP is provided by the Home Office to the host authority (West Sussex County Council) at £53,300 to support the panel and £920 per panel member in expenses.
- 4.13 It is suggested that BHCC representatives are explicitly mandated to seek a robust scrutiny arrangement of the PCC, fully utilising all available resource (ensuring value for money) and in so doing allowing the PCP to provide a valuable critical-friend role supporting the PCC.

5. NOMINATION OF COUNCILLOR TO SERVE ON SUSSEX POLICE & CRIME PANEL

- 5.1 As indicated above, the Council has power to nominate one of its councillors to be a member of the Sussex Police and Crime Panel. If that councillor accepts nomination, the Council may appoint the councillor to the Panel.
- 5.2 The Council's power to nominate and appoint is qualified. If the Secretary of State considers that any authority has failed to nominate or appoint a councillor, there are reserve powers for a notice to be issued suspending the authority's powers and enabling the Secretary of State to carry out these steps.
- 5.3 Recent Regulations provide that, if an authority has failed to nominate a councillor before "the relevant date" it must notify the Secretary of State of this failure. The relevant date for the first nomination is 16 July 2012. Assuming the nominated councillor accepts the nomination, the Regulations further provide that the authority then has 13 days to make the appointment – if it fails to do so, on the 14th day it must notify the Secretary of State of this. Presumably this machinery is designed to enable the Secretary of state to exercise the default powers to make councillor appointments.
- 5.4 So, if the Council has not made its nomination before 16 July, or has subsequently delayed appointing by more than 13 days after the nomination is

accepted, it will need to let the Secretary of State know. Accordingly, it is proposed to deal with the nomination and appointment in this report.

5.5 Councillor Duncan is put forward on the following basis. In meeting, as far as is reasonably practical, the balanced appointment objective set out earlier in this report, he would -

- (a) Represent this part of the police area, being a Brighton & Hove councillor.
- (b) Represent the political make-up of this particular Council being a member of the largest political group.
- (c) Have the skills, knowledge and experience necessary for the PCP to discharge its functions effectively by virtue of his being the Chair of the Community Safety Forum.

5.6 The draft Panel arrangements also require the council to provide a named substitute. Councillor Follett, a lecturer in Criminology at the University of Brighton, is put forward for this position.

5.7 In addition to its statutory place Brighton and Hove is also being invited to nominate an additional councillor to help the PCP achieve geographical and political balance across Sussex as a whole. This is of significant benefit to the city and the result of extensive negotiations across all Sussex local authorities. Whilst subject to review at Annual Council this co-opted place is subject to annual review by the PCP to ensure the panel achieves political balance. These arrangements are set out in 14a of the attached constitution (Annex 3).

5.8 Councillor Morgan is put forward for co-option on the following basis. In meeting, as far as is reasonably practical, the balanced appointment objective set out earlier in this report, he would -

- (a) Represent this part of the police area, being a Brighton and Hove councillor.
- (b) Support the PCP in meeting its political balance objectives
- (c) Have the skills, knowledge and experience necessary for the PCP to discharge its functions effectively by virtue of his being the Chair of the Overview and Scrutiny Committee (designated the council's crime and disorder scrutiny committee).

5.9 The draft Panel arrangements also require the council to provide a named substitute for the co-opted member. It is recommended that the Labour and Cooperative Group be invited to nominate a substitute for Cllr Morgan.

6. COMMUNITY ENGAGEMENT AND CONSULTATION

6.1 Regular briefings have been provided to the membership of the Community Safety Forum which includes co-opted members of community and neighbourhood organisations.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The Sussex Police and Crime Panel is expected to receive government annual support of £53, 300 and further finance of £920 a year for each Panel member by way of allowance. The funding will be received and administered by West Sussex County Council as the lead authority. Local authorities are free to provide additional funding to the PCP; no such proposal has been made at this stage.
- 7.2 Support for the nominated member will be met through existing resources.
- 7.3 It is intended that the Police and Crime Commissioner will be responsible making community safety grants. It is proposed that funding currently provided for elements of community safety within the council will be transferred to the Police and Crime Commissioner with effect from April 2013. Specific information on the new Home Office Community Safety Fund that PCCs will receive in 2013/14 is awaited. Changes in the allocation of community safety funding and its distribution of this funding is likely to impact upon the council and its responsibilities. The scrutiny of the PCC by the PCP will be of particular interest to the council in this respect.

Finance Officer Consulted: Anne Silley

Date: 27/06/12

Legal Implications:

- 7.4 The main provisions for setting up Police and Crime Panels are contained in Section 28 and Schedule 6 of the Police Reform and Social Responsibility Act 2011. The recently made Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 and the draft Police Crime Panels (Modification of Functions) Regulations 2012 are also relevant. Both are summarised where relevant in the main body of this report.

Lawyer Consulted:

John Heys

Date: 13/06/12

Equalities Implications:

- 7.5 The Council's Equalities Team has carried out an Equality Impact Assessment of the proposed arrangements for the Shadow Panel which include the membership of the PCP, its roles, 'task and finish' groups, and public meetings. There a number of clear recommendations which are being taken to the meetings of the Shadow Panel, but which have yet to receive their attention. The EIA is attached in annex 5.

Sustainability Implications:

- 7.6 There are no sustainability issues to draw to members' attention in connection with this report.

Crime & Disorder Implications:

- 7.7 The Crime & Disorder Act 1998 set out clear statutory responsibilities for the local authority and for a number of 'Responsible Authorities'. Those duties remain and include the responsibility to reduce crime and disorder, improve community safety, facilitate community safety partnerships, to undertake a strategic assessment of crime and disorder and on the basis of that assessment, to publish three yearly strategies and delivery plans to tackle prioritised crime and safety areas.
- 7.8 The Police & Crime Panel has a major role to play as a "critical friend" of the Police and Crime Commissioner. The Panel will supply scrutiny and support to that post holder, with the aim of helping to improve performance in dealing with crime and disorder throughout Sussex. In doing so, the Panel will also need to take account of the work carried out by the local authority and its community safety partnership.

Risk and Opportunity Management Implications:

- 7.9 The Council is not the lead authority and so there are not considered to be any significant risks to the Council in connection with setting up the Police and Crime Panel, but the recent Regulations set a timetable which is tighter than expected.

Public Health Implications:

- 7.10 While there are no direct public health issues to draw to members' attention in connection with this report, the work of the Police and Crime Panel may in due course, need to take account of the matters of concern of the Health and Wellbeing Board.

Corporate / Citywide Implications:

- 7.11 There may be significant implications for the city with the election of a Police and Crime Commissioner. Prior to the election of a PCC it is hard to predict exactly what these will be.

SUPPORTING DOCUMENTATION

Appendices:

1. **ANNEX 1** - SUMMARY OF STATUTORY FUNCTIONS OF PCC
2. **ANNEX 2** – SUMMARY OF STATUTORY FUNCTIONS OF THE PCP
3. **ANNEX 3** - CURRENT DRAFT OF THE PANEL ARRANGEMENTS FOR THE SUSSEX POLICE AND CRIME PANEL
4. **ANNEX 4** - POLITICAL BALANCE INFORMATION
5. **ANNEX 5** – EQUALITY IMPACT ASSESSMENT AS UNDERTAKEN BY BHCC.

Documents in Members' Rooms

1. None

Background Documents

1. None

ANNEX 1

SUMMARY OF STATUTORY FUNCTIONS OF POLICE AND CRIME COMMISSIONER

PCCs will aim to cut crime and deliver an effective and efficient police service within the force area. They will do this by:

- holding the chief constable to account for the delivery of the force
- setting and updating a police and crime plan
- setting the force budget and precept
- regularly engaging with the public and communities
- appointing, and where necessary dismissing, the chief constable

Police & Crime Commissioner Powers

- PCCs will appoint (and will be able to dismiss) chief constables, although the chief constable will appoint all other officers within the force
- The PCC will, shortly after their election, set out a five-year police and crime plan (the plan), although it may be refreshed each year and may be fully reopened at the PCC's discretion
- PCCs will be required to determine local policing priorities, publish the plan, set a local precept and set the annual force budget (including contingency reserves) in consultation with chief constables. The plan will need to take account of national policing challenges, set out in a new 'Strategic Policing Requirement'
- PCCs will receive the policing grant from the Home Office, various grants from Department for Communities and Local Government and the local precept (as well as other funding streams yet to be determined)
- The PCC will commission policing services from the chief constable (or other providers - in consultation with the chief constable). These services shall be set out in the plan where their objectives and funding will be publicly disclosed
- The plan must be published and remain a public document including any updates or amendments made during the five-year period
- At the end of the financial year the PCC will publish an annual report which will set out progress made by the PCC against the objectives set out in the plan
- Alongside the annual report the PCC will publish annual financial accounts, including showing how resources were consumed in respect of priorities and how value for money was secured
- PCCs will also have a general duty to regularly consult and involve the public and have regard to the local authority priorities
- PCCs will be able to require a report from chief constables at any time about the execution of their functions
- The local precept will be subject to the same referendum requirements as local government (triggered on rises which exceed thresholds set by government)

ANNEX 2

SUMMARY OF STATUTORY FUNCTIONS OF POLICE AND CRIME PANEL

“PCC” is the Police and Crime Commissioner

1. The general duty to exercise its functions with a view to supporting the effective exercise of the functions of the PCC.
2. *The duty to review the PCC’s draft Police & Crime Plan and to report / make recommendations to the PCC.
3. *The duty to review the PCC's Annual Report at a public meeting, which the PCC must attend, and to report / make recommendations to the PCC.
4. *The duty to review, hold confirmation hearings and report / make recommendations to the PCC on proposed appointment of PCC’s Chief Executive, Chief Finance Officer and Deputy PCC.
5. *The duty to review and report / make recommendations on the PCC’s proposed precept, which includes a power of veto by a two-thirds majority of the total Panel membership.
6. * The duty to review, hold confirmation hearings and report / make recommendations to the PCC on proposed appointment by the PCC of a Chief Constable, which includes a power of veto by a two-thirds majority of the total Panel membership.
7. The duty to scrutinise and make recommendations to the PCC on any proposal by PCC to call for the retirement or resignation of the Chief Constable, including a power to ask Her Majesty’s Inspector’s of Constabulary for a professional view.
8. The power to suspend the PCC if charged with an offence carrying a maximum prison term exceeding 2 years.
9. The duty to appoint one of the PCC’s staff as acting PCC where the PCC vacates the post, is incapacitated, or has been suspended.
10. Duty to operate an informal complaints resolution procedure for complaints about a PCC, except serious complaints matters which must be passed to the Independent Police Complaints Commission
11. General duty to review or scrutinise other decisions / actions of the PCC and make reports/ recommendations to the PCC.
12. Power to require relevant reports and information in the PCC's possession (except those which are operationally sensitive) to enable the Panel to fulfil its statutory obligations.
13. Power to require the PCC (if necessary accompanied by the Chief Constable) & PCC’s staff to attend the Panel to answer questions or to respond in writing to Panel’s reports / recommendations.
14. Power to delegate any of its functions (except designated “special functions” marked * above) to committees or sub-committees.
15. A duty to publish any reports or recommendations made to the PCC and send copies to each local authority whose area falls wholly or partly within the police area.

ANNEX 3 - CURRENT DRAFT OF THE PANEL ARRANGEMENTS FOR THE SUSSEX POLICE AND CRIME PANEL

Sussex Police and Crime Panel – Constitutional Documents

The Panel is a joint Committee under section 101 and 102 of the Local Government Act 1972. Each of the 15 borough, county, district, and unitary authorities across West Sussex shall appoint one member as its representative on the Panel and may nominate a single named substitute member. The term of office will be determined by a member's own local authority and membership of the Panel ceases if that member ceases to be a member of the appointing local authority. Two independent persons will also be co-opted to the Panel, with no provision for substitution. Their term of office shall be one year, renewable up to five years by the Panel. After this time the positions will be re-advertised. There is no maximum term of office for any member or co-opted member of the Panel.

The 15 local authorities making up the Sussex Police and Crime Panel and adopting these constitutional arrangements are:

Adur District Council
Arun District Council
Brighton and Hove City Council
Chichester District Council
Crawley Borough Council
Eastbourne Borough Council
East Sussex County Council
Hastings Borough Council
Horsham District Council
Lewes District Council
Mid Sussex District Council
Rother District Council
Wealden District Council
West Sussex County Council
Worthing Borough Council

In the event that an authority fails to appoint a member by the required deadline, appointment of a member of that authority shall fall to the Secretary of State for the Home Department.

Terms of Reference

The Panel will hold the elected Police and Crime Commissioner to account and will seek to work in a constructive manner with the post holder with a view to supporting the effective exercise of his/her functions within Sussex.

1. To review and make reports or recommendations on the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner which the Commissioner must take into account, and to publish the reports or recommendations.
2. To review, put questions to the Police and Crime Commissioner at a public meeting, and make reports or recommendations (as necessary) on the Commissioner's annual report, and to publish the reports or recommendations.

3. To hold a public confirmation hearing and review, make reports and recommendations (as necessary) in respect of proposed senior appointments (Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner) made by the Police and Crime Commissioner and to publish the reports or recommendations.
4. To hold a public confirmation meeting to review and make reports on the proposed appointment of the Chief Constable including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports.
5. Upon receiving written notification from the Commissioner of his/her intention to call upon the Chief Constable to retire or resign to make recommendations to the Commissioner as to whether or not such resignation or retirement should be called for.
6. To consult the Chief Inspector of Constabulary (where necessary) and hold a private meeting which the Chief Constable and Commissioner may attend to make representations about the requirement to resign or retire and to publish the recommendations made to the Commissioner.
7. To review and make reports and recommendations (as necessary) on the proposed precept including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports or recommendations.
8. To review or scrutinise decisions or proposals made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the Commissioner's functions, which may be in the form of reports or recommendations to the Commissioner which must be published.
9. To fulfil functions in relation to complaints about the Commissioner on conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
10. To appoint an Acting Police and Crime Commissioner if necessary, where the Commissioner is incapacitated, resigns or is disqualified or suspended.
11. To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom, the Channel Islands or Isle of Man with an offence that carries a maximum term of imprisonment exceeding two years.
12. To delegate, to the extent that it wishes to do so and so far as permitted by law, areas of work to a sub-committee or working group.
13. To require the Commissioner and his or her staff to attend meetings to give evidence in accordance with statute when deemed necessary for the Panel to discharge its functions.
14. Following a requirement made by the Panel for the Commissioner to attend a meeting, it may request the attendance of the Chief Constable at that meeting to

answer questions which the Panel feels are necessary for the discharge of its functions.

15. To require the Commissioner to respond in writing within a specific timescale to any report or recommendation made by the Panel to the Commissioner.
16. To undertake any other such functions as are conferred upon the Panel by the Police Reform and Social Responsibility Act 2011 and any subsequent regulations made under the Act.

Panel Arrangements

Resources

1. All Home Office funding for the Panel will be received and administered by the host authority. The host authority for the first full year will be West Sussex County Council.
2. The total costs of running the Panel shall be contained within the Home Office funding although any local authority may provide additional funding or other resources to support the work of the Panel.
3. An annual budget report shall be submitted to the Panel by the host authority.
4. Constitutional and other specialist support will be provided by the host authority, together with creation and maintenance of a website, issuing press releases (with the agreement of the Chairman), and administration of the payroll for member allowances. Additional services can be commissioned as needed, subject to funding being available. All constituent local authorities will be encouraged to provide a link from their websites to the Panel website.
5. The host authority will be responsible for the payment of travelling expenses of members, either the price of a second class public transport ticket (receipts must be provided) or a car mileage rate at the level paid by the host authority to its own members for travel expenses. Additional expenses and allowances may be payable by a member's own authority. The Proper Officer of the host authority may, with the agreement of the Panel Chairman, authorise any Panel member to attend relevant conferences or training courses and for this to be paid for at the subsistence rates available from the host authority, within available funding.
6. The host authority will provide an attendance list at each meeting or informal meeting of the Panel or any sub-committees or working groups. All members should sign the register when attending and this will be used to evidence travel expense claims.
7. The host authority will organise at least one training session on an annual/two yearly basis, to coincide with appointments to the Panel and will provide advice and guidance to any new member appointed.
8. Meetings may be held in any part of Sussex, but will usually be held at 10.30 a.m. at County Hall, Lewes. Meetings will be webcast when funding allows.

9. The host authority will be responsible for ensuring that agendas, summons and papers are sent out that comply with the requirements of the Local Government Act 1972. The notice of meeting and summons will be signed by the Proper Officer of the host authority.
10. The presumption is that all formal items will be considered in public except for those that meet the Part II confidentiality criteria of Schedule 101A of the Local Government Act 1972. Part I reports, agendas and minutes will be published on the dedicated webpage provided by the host authority, to which other authorities are invited to provide a link.
11. The press and public may be excluded from any part of a meeting when the Panel passes a resolution to that effect, when it considers that exempt information may be given or discussed and that it considers the public interest in keeping the information out of the public domain greater than the public interest in disclosing it. A Part I summary of any such discussions shall be included in the minutes.
12. Members are under an obligation not to disclose any confidential or exempt information that they obtain as a member of the Panel when it has been made clear to them that the information is not in the public domain.
13. Reports to the Panel must make reference to statutory or legal provisions to which the Panel must have regard.

Additional Local Authority Members

- 14a. Subject to the agreement of the Home Secretary, Brighton and Hove City Council – as a unitary authority – shall be granted one additional co-opted local authority seat on the Panel to address geographical imbalance. The nomination of a member for this seat by Brighton and Hove City Council shall, so far as possible, support the Panel in meeting the balanced appointment objective. This member will have a one-year period of office.
- 14b. Subject to the agreement of the Home Secretary, an additional local authority member may be appointed from each of the county councils on the agreement of the Panel, to address any perceived imbalance in political proportionality. This will be considered at the annual meeting. Such members will have a one-year period of office.
15. Constituent authorities will strive to maintain political proportionality of the Panel as far as is practicable and will review the proportionality of all members of the 15 authorities on an annual basis, taking account of local authority elections across Sussex.
16. An additional appointed local authority member can be removed from office through a majority vote of the Panel present, provided the member has been given no less than four weeks' notice of the proposal and has the opportunity to make representations to the Panel.
17. If an additional appointed member ceases to be a member of the Panel, the Panel will seek a replacement member from the same local authority for the remainder of the term.

Independent Co-opted members

18. Two independent co-opted persons will be co-opted for a one year term, which can be renewed by the Panel annually for up to five years before the position must be re-advertised. They will have full voting rights. They may not be members of the constituent authorities of the Panel. They will be appointed through public advert and interviews conducted by members of the Panel within arrangements agreed by the Panel.
19. An independent co-opted member can be removed from office through a majority vote of the Panel present, provided the member has been given no less than four weeks' notice of a proposal to remove and provided the member has an opportunity to make representations about the proposal.
20. If an independent co-opted member ceases to be a member through removal, resignation or some other means, the Panel will seek a replacement member through the process as described in paragraph 18 above. The new appointment will be for the remainder of the term.

Standards

21. Members, including independent co-opted members, will be bound by the code of conduct of the host authority.

Urgent Action

22. If, in the view of the host authority's Proper Officer, a decision within the Panel's remit is sufficiently urgent that it cannot wait for the next meeting of the Panel and it is not in the public interest that the matter should be delayed, then the host authority's Proper Officer may decide the matter in consultation with Chairman of the Panel. The action taken will be reported to the next meeting of the Panel. This paragraph does not empower the Proper Officer to take any decision on a matter which is reserved by law to the Panel.
23. A register shall be maintained by the host authority of every decision taken under paragraph 22 above.

Rules of Procedure

Chairmanship

1. A Chairman and a Vice-Chairman will be elected annually, at the annual meeting in June. Nominations will be made at the meeting and voting will take place by a show of hands. A secret ballot can be requested by three members.
2. A Chairman can be removed from office through a majority vote of no confidence called by any member of the Panel.
3. Any vacancy occurring in the Chairmanship or Vice-Chairmanship through removal or resignation can be filled at any meeting of the Panel and will be effective until the next annual meeting of the Panel.

4. In the absence of both Chairman and Vice-Chairman, a Chairman for a single meeting will be appointed by a simple majority of votes.

Decision-making

5. All decisions will be made by a simple majority of votes of members present unless otherwise specified by statute, the Panel Arrangements or these Rules of Procedure. The Chairman of the meeting will have a second or casting vote in the event of a tied vote. All other Panel members will have one vote. Voting will be by a show of hands.
6. Any member can ask for the way in which they voted to be recorded in the minutes.
7. A recorded vote shall be undertaken if requested by any member.
8. Any member can make a proposition or propose an amendment to a proposed resolution if backed by a seconder. Votes will be taken unless consensus is reached.
9. A meeting or debate can be adjourned at the request of the Chairman, including an adjournment of the meeting if the required quorum is not present.
10. The validity of a decision will not be affected by any vacancy in the Panel membership, provided that the quorum has been met.
11. The Panel will not usually review any decision it has taken during the six months following such decision

Committee Procedures

12. The quorum for the meetings of the Panel is 10 members.
13. At the Annual Meeting, the first item of business will be appointment of Chairman. The second item of business will be appointment of Vice-Chairman. Items will then follow the pattern for ordinary meetings set out below.
14. At ordinary meetings of the Panel, the first item of business will usually be declaration of interests.
15. The second item of business at ordinary meetings of the Panel will be the approval of minutes, to be signed by the Chairman. No discussion will take place about the minutes other than on their accuracy.
16. An item for urgent matters will appear on each agenda. Urgent matters will be taken at the discretion of the Chairman when it appears that a matter is so urgent that it cannot wait until the next meeting of the Panel.
17. The Panel will hold an annual public meeting to scrutinise the Commissioner's annual report. Business will follow that of an ordinary meeting, but with a public question time immediately following the approval of the minutes. The maximum time for the question time shall be 45 minutes unless the Panel agrees to an extension.

18. Written questions from the public can be submitted two weeks in advance of the published date of the annual public meeting or any ordinary meeting of the Panel, for which the Commissioner or Panel Chairman will be invited to provide a written response by noon on the day before the meeting. The response will be circulated to Panel members and the questioner.
19. A special meeting of the Panel can be convened at the request of the Chairman or on the request of one third of the members of the Panel, providing that proper notice can then be given. One use of this provision may be a confirmation hearing for a proposed appointment by the Commissioner.
20. Panel business will be indicated on the agenda, but the order of business can be varied at the Chairman's discretion.
21. The host authority will work with the Chairman in advance of meetings to identify items for the agenda and in setting the order of the business, including issues of confidentiality.
22. Any member may give notice of an item to be included on the agenda provided it is relevant to the business of the Panel, is agreed by the Chairman and is no less than eight working days in advance of the meeting.

Conduct of Meetings

23. On each item, the Chairman will invite members to speak in turn.
24. Any member speaking will be silent at the request of the Chairman.
25. Following a warning from the Chairman to a member about disruptive behaviour, the Chairman may ask the Panel to agree that the member no longer be heard if the behaviour continues.
26. The Chairman may order the removal of disruptive members of the public from a meeting, or clear the public gallery to enable Panel business to continue.
27. All mobile phones and other communication devices must not disrupt Panel meetings.
28. No visual or sound recording may be taken without the permission of the Chairman in advance of the meeting.

Sub-Committees and working groups

29. The Panel is empowered to establish sub-committees to fulfil any of its functions except those that by law may not be delegated. Sub-committees may not co-opt members.
30. The Panel is empowered to establish time-limited informal working groups that can undertake proactive work on the initiative of the Panel or at the request of the Commissioner, with the agreement of the Panel. The working groups will be flexible and informal, but must report back to a formal, public meeting of the Panel. A working group may co-opt additional members, who will be able to claim travel expenses within available resources.

31. Any sub-committee or working group established will have the discretion to appoint its own chairman.

Relationship with Commissioner

32. The Panel will hold the elected Police and Crime Commissioner to account and will seek to work in a constructive manner with the post-holder.
33. The Commissioner will have a standing invitation to attend all meetings of the Panel which may be withdrawn on any occasion at the discretion of the Chairman. The Commissioner's staff may also be invited by the Chairman to attend appropriate meetings of the Panel, at the discretion of the Commissioner. The Panel may, however, require the Commissioner to attend for specific items.
34. The Commissioner may invite the Panel to undertake scrutiny of any issue within his or her remit, but it will be for the Panel to decide whether it will accept any such request.
35. The Panel may require certain reports from the Commissioner in accordance with statute, but may also request other reports from the Commissioner that it considers necessary in order to effectively undertake its business. The Commissioner usually will be given at least three weeks' notice, but a report may be requested at shorter notice in cases of urgency.
36. In the event of the Panel receiving a complaint about the conduct of the Commissioner, the issue will be examined by the Proper Officer of the host authority to establish that the complaint falls within the remit of the Panel. The Panel will establish a sub-committee to consider complaints and to determine whether and through what mechanism any particular complaint should be investigated. Any complaint referred for investigation shall be considered by the same or a differently constituted sub-committee of the Panel using the hearing procedures of the host authority's standards regime.

Other relationships

37. The Panel will seek to avoid duplication of the work of Crime and Disorder Scrutiny Committees in its constituent authorities. The role of the Panel is to scrutinise the Commissioner and not the Responsible Authorities as defined by the Crime and Disorder Act 1998, including Sussex Police and local authorities.

Annex 4

Political Make-Up of Sussex Local Authorities – June 2012

Authority	Control	Con	LD	Lab	Green	Ind*	Ind Dem	SBRA	AOI	Vacancy	Total	Population (000's in mid 2009)	Crime Data 2011/12
Adur	Con	25	1	1	0	0	0	2	0	0	29	61	10,271
Arun	Con	48	4	3	0	1	0	0	0	0	56	150	9,496
Brighton & Hove	NOC Green	18	0	13	23	0	0	0	0	0	54	256	23,667
Chichester	Con	36	8	0	0	3	0	0	0	1	48	113	5,865
Crawley	Con	21	0	16	0	0	0	0	0	0	37	105	7,990
East Sussex	Con	29	13	4	0	2	1	0	0	0	49	512	27,302
Eastbourne	LD	12	15	0	0	0	0	0	0	0	27	96	6,891
Hastings	Lab	9	0	23	0	0	0	0	0	0	32	87	7,480
Horsham	Con	34	8	0	0	2	0	0	0	0	44	130	5,007
Lewes	Con	21	18	0	0	2	0	0	0	0	41	96	4,539
Mid Sussex	Con	45	8	1	0	0	0	0	0	0	54	132	5,284
Rother	Con	27	5	2	0	1	0	0	3	0	38	89	3,832
Wealden	Con	46	3	0	0	1	4	0	0	1	55	143	4,560
West Sussex	Con	49	18	2	0	2	0	0	0	0	71	793	43,913
Worthing	Con	23	11	0	0	3	0	0	0	0	37	102	0
Total												Overall	
		443	112	65	23	17	5	2	3	2		672	96,558

Proportionality		65.92%	16.67%	9.67%	3.42%	0.16%	0.74%	0.30%	0.45%
Seats	15	9.89	2.50	1.45	0.51	0.02	0.11	0.04	0.07
Seats	16	10.55	2.67	1.55	0.55	0.03	0.12	0.05	0.07
Seats	17	11.21	2.83	1.64	0.58	0.03	0.13	0.05	0.08
Seats	18	11.87	3.00	1.74	0.62	0.03	0.13	0.05	0.08

Shadow Panel Make-up **12** **1** **1** **1** **0** **0** **0** **0**

Notes:

SBRA Shoreham Beach Residents Association

AOI Association of Independents

Ind* Proportionality calculated for an individual independent member, not as a group of 17

ANNEX 5

EQUALITY IMPACT ASSESSMENT

Police and Crime Panels and the Equality Act 2010

1. Summary

The Police and Crime Commissioner (PCC) is defined as a 'public body' under the Equality Act 2010 and is therefore bound to give 'due regard'¹ to its duties.

The role of the Police and Crime Panel (PCP) to scrutinise the PCC in his/her exercise of statutory functions therefore includes scrutiny of the how the PCC demonstrates compliance with equality duties (outlined in more detail below and in Appendix A).

The Panel should also consider and support the aims of the Duty in its representation and processes, including: co-option of additional members; the use of 'task and finish' groups; the review of the Commissioning Plan; its annual report; and accessibility of meetings.

Based on best practice of Cheshire Police Authority and using guidance from other areas we have developed a number of recommendations (below) for the new Police and Crime Panel which will cover East Sussex, West Sussex and the city of Brighton and Hove. These cover the membership of the PCP, its roles, 'task and finish' groups, and public meetings.

It is recommended that support for these activities be provided by the host organisation.

2. Summary of the Equality Act 2010

In the Equality Act 2010, the public sector equality duty consists of a general equality duty supported by specific duties. Those subject to the equality duty must, in the exercise of their functions, evidence 'due regard' to the need to:

- **Eliminate unlawful discrimination**, harassment and victimisation and other conduct prohibited by the Act.
- **Advance equality of opportunity** between people who share a 'protected characteristic'² and those who do not.
- **Foster good relations** between people who share a protected characteristic and those who do not.

The Act explains that having due regard for advancing equality involves:

- **Removing or minimising disadvantages** suffered by people due to their protected characteristics.
- Taking steps to **meet the needs of people from protected groups** where these are different from the needs of other people.
- Encouraging people from protected groups to **participate in public life** or in other activities where their participation is disproportionately low.

¹ See Appendix A for a full definition of evidencing 'due regard'.

² See Appendix A for the 'protected characteristics' define in the Equality Act 2010

The Act states that meeting different needs involves taking steps to take account of people's different needs. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the duty may involve taking positive action to meet the needs of some people (specifically including disabled people).

For more information on the Equality Act and fulfilling its duties and evidencing compliance, see Appendices A and B.

3. Membership of Police and Crime Panel

Equality Implications and recommendations

- i. Equality Monitoring: as part of the process of setting up the Panel, the host organisation should request all members complete an equality monitoring form (based on the protected characteristics covered by the Equality Act) and use the findings in the process of identifying co-optees, to ensure adequate representation of all groups covered by law. This information can also be used to identify any 'reasonable adjustments' which may need to be made for members of the Panel in attending meetings, accessing information or participating in meetings.
- ii. The process of co-option should be open and transparent and focused on engaging with people not already represented on the Panel and/or bringing different perspectives and/or expertise. Specific attention should be given to any gaps identified in the equality monitoring process, with targeted advertising being considered and/or advertising through neighbourhood and community networks. An independent recruitment process, including short-listing and interviewing, would support the appointment of co-optees who will complement the perspectives of standing members. This should be undertaken by officers from East and West Sussex County Councils and Brighton and Hove City Council, to ensure independence of existing members
- iii. Consideration should be given to one of the additional co-optee places being taken by a Community and Voluntary Sector (CVS) umbrella group and/or that links, via the host organisation, are made with the CVS across the counties and city of B&H to enable membership of 'task and finish' groups. This would enable diverse voices to be heard, including those of people who may not engage in democratic processes.
- iv. Where 'task and finish' groups are set up to consider specific topics, engagement should be planned to ensure that a representative range of views are heard to inform the discussions and to support identification of disproportionate equality impacts³. This assessment and planning should be done as part of the planning of the groups. (For more recommendations on the 'task and finish' groups see section 5 below.)

³ See Appendices A and C for lists of the 'protected characteristics' defined in law and other groups who may experience disproportionate impact.

4. Role of Police and Crime Panel

Equality Implications and recommendations

- i. The Panel members should ensure that they feel sufficiently competent to take the Equality Act 2010 into consideration in all that they do. Depending upon experience this may necessitate tailored development opportunities.
- ii. The PCP has a key role in ensuring that the Police and Crime Commissioner meets his/her legal duties under the Equality Act 2010 and should ask for relevant evidence of this, assessing it in the light of the information identified in point (iii) below.
- iii. The host should provide the Panel with a wide range of community and population profile information to identify variations in incidence and impact and support assessment of equality impact in order to review the Commissioning Plan. This should include census data, local data sources (including the local community safety partnerships), and the local Police neighbourhood profiles.
- iv. The PCC annual report: the role of the Panel is to comment on this report and to arrange a public meeting where the PCC will present the report and answer questions. We recommend that the methods of public engagement with this meeting and the report are considered to ensure that there are multiple ways for different communities and areas to contribute. This will include the ways in which the report and meeting are advertised, the venue chosen, who is able to ask questions and how, and how public accountability is maximised.
- v. It is recommended nationally that the Police and Crime Commissioner monitors equality and diversity impacts in relation to service delivery. This should include user satisfaction, complaints, stop and search arrest proportionality, hate crimes and workforce representation monitoring. The role of the Panel should be as a 'critical friend' assessing any trends in this data and supporting the planning, implementation and monitoring of solutions.
- vi. Public meetings and public accountability: the PCP is able to invite residents, stakeholders, other councillors and officers to attend and address meetings, to discuss matters of concern and to answer questions. It is recommended that all Panel meetings are public meetings and that these opportunities are used to identify and fill gaps in data and/or knowledge of diverse community groups and to identify solutions to issues for 'hidden', excluded or very small communities.
- vii. The Panel should seek the views of a representative sample of the population in order to inform their decisions with respect to characteristics such as age, geography, sex, sexual orientation, ethnicity and disability. The views of a representative sample of victims of crime should also be considered. This might be through the 'task and finish' groups (see below) or through scheduled meetings of the full Panel.
- viii. The information, consultation and data outlined above should be used by the Panel to inform the reports and recommendations that go to the Police and Crime Commissioner and related paperwork should be sufficient to evidence the legal requirement of demonstrating due regard.

5. Local Task and Finish Groups

Equality Implications and recommendations

- i. There is an opportunity to use these groups to review and strengthen the mechanism by which people from diverse groups are heard by the Panel and their views given due regard in the Panel's consideration, assessment and monitoring of priorities and appropriate interventions. Involving individuals and representatives from diverse groups as members of the groups and considering data on the protected characteristics will enable a robust and accurate assessment of need and effective solutions.
- ii. These groups also have the opportunity to identify and draw on best practice from the region and nationally, including where the needs of specific groups who are disproportionately affected by different forms of crime have been successfully identified and met.

6. Public meetings

Equality Implications and recommendations

- i. Meetings which are open to the public should, of course, be advertised widely and appropriately in ways which will best reach the diverse communities across the region. Particular emphasis should be given to engaging those groups at risk of the 'democratic deficit' (groups who are less likely to participate in civic engagement, voting, etc) in order to encourage people with protected characteristics to participate in public life.
- ii. Similar consideration should also be given to the physical access needs of people who may wish to attend and (depending on the agreed protocols) address the Panel. Best practice should be followed to enable accessibility and reasonable adjustments made, as needed, when planning the venue, timing, format and structure of meetings.

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Appendix A

Equality Act 2010 and the General Duties

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and inequality. The majority of the Act came into force on 1 October 2010.

The **public sector Equality Duty** came into force on 5 April 2011. The Duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, in delivering services, and in relation to their own employees.

The new Equality Duty supports good decision-making – it encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

The new Equality Duty replaces the three previous public sector equality duties – for race, disability and gender. The new Equality Duty covers the following nine **protected characteristics**:

- **age** – people of all ages
- **disability** – a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities
- **gender reassignment** - a transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. A person does not need to be under medical supervision to be protected
- **pregnancy and maternity** - protection is during pregnancy and any statutory maternity leave to which the woman is entitled
- **race** – this includes ethnic or national origins, colour or nationality, including refugees and migrants, and Gypsies and Travellers
- **religion or belief** – people of any religion or belief, and includes lack of belief
- **sex** – men/boys and women/girls
- **sexual orientation** – the law covers people who are bisexual, gay, heterosexual, and lesbian

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

The Equality Duty has three aims. It requires public bodies to have **due regard** to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;

- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

Having **due regard** means consciously thinking about the three aims of the Equality Duty as part of the process of decision-making⁴. This means that consideration of equality issues must influence the decisions reached by public bodies – such as in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to **advance equality of opportunity** involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics; and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic – such as providing computer training to older people to help them access information and services.

Taking account of disabled people’s disabilities

The Equality Duty also explicitly recognises that disabled people’s needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people’s impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

Demonstrating compliance with the Equality Duty

Keeping a simple record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty – in practice, this means giving greater consideration to the Equality Duty where a function or policy has the potential to have a substantial effect on discrimination or equality of opportunity for the public or the public body’s employees, and less consideration where the potential effect on equality is slight.

⁴ For more information see Appendix B

The Duty requires public bodies to think about people's different needs and how these can be met.

Appendix B

Public Sector Equality Duties - principles

Public sector bodies need to be able to evidence⁵ that they have given due regard to the impact and potential impact on all people with 'protected characteristics'⁶ in shaping policy, in delivering services, and in relation to their own employees.

The following principles, drawn from case law, explain what is essential in order for the Equality Duty to be fulfilled. Public bodies should ensure:

- **Knowledge** – those who exercise the public body's functions need to be aware of the requirements of the Equality Duty. Compliance with the Equality Duty involves a conscious approach and state of mind.
- **Timeliness** – the Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- **Real consideration** – consideration of the three aims of the Equality Duty must form an integral part of the decision-making process. The Equality Duty is not a matter of box-ticking; it must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- **Sufficient information** – the decision maker must consider what information he or she has and what further information may be needed in order to give proper consideration to the Equality Duty.
- **No delegation** – public bodies are responsible for ensuring that any third parties which exercise functions on their behalf are capable of complying with the Equality Duty, are required to comply with it, and that they do so in practice. It is a duty that cannot be delegated.
- **Review** – public bodies must have regard to the aims of the Equality Duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed. The Equality Duty is a continuing duty.

⁵ To councillors, senior managers, staff, service-users, the public and community and voluntary sector groups

⁶ See Appendix B for a list of the Equality Act 2010 'Protected characteristics'

Appendix C

Other groups (in addition to those identified in the Equality Act 2010) who might experience disproportionate impacts or have specific needs to consider in the decision-making process

These will vary depending on the specific issue being discussed. However some groups who may need to be considered include:

- Carers
- Crime victims
- Ex-offenders
- Ex-service personnel
- Homeless people
- Looked After Children
- People experiencing domestic and/or sexual violence
- People experiencing socio-economic disadvantage
- Refugees and migrants
- Substance misusers

