

Report of	Meeting	Date
Chief Executive	Annual Council	15 May 2012

POLICE AND CRIME PANEL – COUNCILLOR APPOINTMENTS

PURPOSE OF REPORT

1. To advise members of the requirements concerning appointments by Councils of Councillors to the Lancashire Police and Crime Panel and agree to the establishment of such a panel.
2. To seek the appointment of a Councillor to sit on the Lancashire Police and Crime Panel.

RECOMMENDATION(S)

3. To agree to the establishment of a Police and Crime Panel for Lancashire as a Joint Committee of the 15 local authorities for the Lancashire Police force area.
4. To agree the Panel Arrangements proposed in Appendix B to the Lancashire County Council Report titled “Lancashire Police and Crime Panel Establishment: Panel Arrangements, Terms of Reference and Rules of Procedure” (Document 2).
5. That Councillors appoint one of their number to Chorley Council’s position on the Police and Crime Panel for Lancashire.

EXECUTIVE SUMMARY OF REPORT

6. The Police Reform and Social Responsibility Act 2011(the Act) introduces the position of the elected Police and Crime Commissioner (PCC).
7. The elections for this role are due to take place in November this year.
8. The Act also provides for the creation of a Police and Crime Panel for the police area, in this case Lancashire (the PCP). The role of the PCP is to scrutinise the PCC, in addition it has significant powers of veto over matters such as the fixing of the precept to be levied by the PCC, the appointment of the PCC’s candidate for Chief Constable and a power to appoint an interim PCC where the elected holder is disqualified.
9. The Act requires the Council to agree to the establishment of the PCP and to agree Panel Arrangements. Lancashire County Council have prepared a report “Lancashire Police and Crime Panel Establishment: Panel Arrangements, Terms of Reference and Rules of Procedure” which appends proposed arrangements.
10. The PCP will consist of one member from each authority within the police area, plus two co-opted lay members. The PCP may with the approval of the Secretary of State co-opt additional elected members in order to ensure a balanced PCP. Balanced in this context is defined as balanced geographically, politically and skills and experience. The obligation on PCP’s is only, as far as is reasonably practicable, to produce a balanced panel.
11. The Act and indeed the guidance is not prescriptive as to who Authorities should appoint to the PCP (except that in Authorities which have an elected mayor who should appoint the mayor). It is for the PCP to make their own decision as to how the balance of the Panel is to be achieved. Attached to this report is a paper prepared by Lancashire County Council “Police and Crime Panel – Councillor Appointments” which sets out how they perceive balance to be obtained.
12. There are two approaches to achieving a political balance, the first is that each local authority within the police area appoint a member from the administration; the second is that political

proportionality is calculated by reference to all the members within the police area. The second is the approach advocated in the paper produced by LCC.

13. On both approaches Chorley Council are as suggested to appoint a member of the PCP from the administration. This appointment may, but does not have to be, the Leader of the Council.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

14. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities	X	Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

BACKGROUND

15. The Police Reform and Social Responsibility Act 2011 changed how the police would be held to account. It introduces the role of the Police and Crime Commissioner. This will be an elected official, one for each police area, who will hold the police and in particular the Chief Constable to account, appoint a Chief Constable, set local police and crime priorities, distribute community safety funding, decide how Council Tax will be spent on policing issues and set the Council Tax precept.
16. The elections for this role will be held in November this year.
17. The Act also creates the Police and Crime Panel. The PCP is to scrutinise the post of the PCC. In addition they will have, amongst others, the power of veto over the level of the precept the PCC seeks to impose and over the appointment of a Chief Constable. The PCP also have the power to appoint an interim PCC in the event the elected holder is disqualified.

CONSTITUTION OF THE PANEL

18. Local Authorities are required to appoint a Councillor to sit on the Police and Crime Panel for their police area. In Lancashire the PCP will have an initial membership of 17 being 15 elected members (one from each Authority) and 2 co-opted lay members. There is provision for the PCP to co-opt additional members up to a maximum PCP membership of 20. Going forward the appointment will form one of the outside body appointments made by the Council.
19. It will be for the PCP themselves to determine how long the appointment is for. The Guidance suggests that in order for the PCP to maintain balance (see below) the appointment should be annual.

APPOINTMENT TO THE PANEL

20. Neither the legislation nor the Guidance issued are prescriptive as to who Local Authorities may appoint to the PCP. However, any appointment is subject to 2 duties. Firstly, where an authority has an elected mayor, they must be nominated by the authority as their representative. This of course does not apply to CBC.

21. The second duty is that the Authorities within the police area are obliged as far as reasonably practicable to produce a balanced Panel. The PCP should reflect the geographical make up of the area. This will be addressed by each Local Authority having membership. The Panel should also be politically balanced. This is defined in 2 ways, either of the balance of the relevant authority should be reflected; or that the balance of the membership of all the authorities when taken together should be reflected.
22. The first option is the easiest to adopt as the Local Authorities will simply appoint a Councillor from their administration. However, the effect of this is that some parties who have a significant number of Councillors across the police area will not be represented on the Panel. This will mean that the second balance model will not be reflected.
23. The Home Secretary has indicated that Councillors appointed as members of the PCP will be entitled to an annual allowance of £920.00. Whether to pay an allowance is however a matter for the PCP.

LANCASHIRE COUNTY COUNCIL

POLICE AND CRIME PANEL – ARRANGEMENTS

24. Lancashire County Council have prepared a report, “Lancashire Police and Crime Panel Establishment: Panel Arrangements, Terms of Reference and Rules of Procedure” (Document 2). Councillors are invited to consider this report. Chorley Council are obliged to agree Panel Arrangements. The arrangements proposed (Appendix B titled Lancashire Police and Crime Panel – Panel Arrangements) are sufficient to discharge the Council’s obligation and comply with the legislation. The Terms of Reference document (Appendix A to Document 2) is for information. Similarly, the Lancashire Police and Crime Panel Procedure Rules (Appendix C to Document 2) should also be treated as information and cannot be adopted by Local Authorities, the rules of procedure for the PCP being a matter for them.

SUGGESTED APPROACH TO COUNCILLOR APPOINTMENTS

25. Lancashire County Council, after meetings with Council Leaders, have prepared a paper which is attached titled Police and Crime Panel – Councillor Appointments (Document 1). This paper approaches political balance on the basis of the second model. It considers PCP’s with 15, 16, 17 and 18 elected members (please note to have the additional co-opted members will require Secretary of State approval) and the proportionality calculations reflect the recent election results. The suggested approach is broadly in line with each authority appointing from their own administration, however it seeks to impose on certain Council’s which party they can nominate from. This is in an effort to ensure that 2 political groups, the Lib Dems and Independents are represented on the PCP.
26. The approach suggested by LCC is that Chorley will appoint a Labour Councillor to the PCP.

COMMENTS ON THE LCC SUGGESTED APPROACH

27. There are issues with the approach that LCC have taken particularly in relation to the representation of Independents. It is hard to reconcile that Independents should be taken together as a “group”. By definition they have their own priorities and agendas which are not shared across the other Independents. It is hard to see how a Ratepayers Independent from Fylde Council can represent the interests of a Free Independent from Lancaster. Even were it to be felt appropriate for the Independents to be considered it is not clear as to why some Independents have been grouped together for the proportionality calculation and some have been excluded.
28. If the Independent and minority party Councillors are disregarded then the political split would be 7:7:1 Conservative : Labour : Liberal Democrat on a 15 member PCP.
29. Having said the above, it should be noted that this issue, the composition and appointment to the PCP is a matter for the PCP itself to determine. If it is felt that the appointment of members from the administration of the relevant authorities only does not provide balance

then the PCP can seek to co-opt and obtain the consent of the Secretary of State to do so. It is also worth noting that co-option in itself skews the geographical representation on the panel. It is unavoidable that one district will have 2 representatives (County having a membership too). By co-opting elected members this could mean that one geographical location will have 3 representatives (2 district and potentially 1 county).

OTHER ISSUES

30. There is nothing in the legislation or guidance that limits who a Local Authority should nominate to be their representative on the Panel. The Guidance raises the question as to whether the representative should be an executive member or not. This is potentially an issue due to the scrutiny role the PCP is to play which may conflict with the role of the executive in “jointly-owning” the delivery of the police and crime plan. Again to reiterate, the appointment is at the discretion of the local authority and the appointment of an executive member is not prohibited.
31. It is important to note that there will be a significant time and work commitment to this role. The appointee will be required to not only work with the PCP in the discharge of its work programme but also involve working closely with the community safety partnership.

CONCLUSION

32. There is no perfect solution to the constitution of and appointment to the PCP. If the model of appointment of administration members is followed, this is likely to exclude minority parties and groups who nonetheless have a significant presence across the police area. If the proportionality across the whole of the police area is followed, some council’s are going to be told which party / group to nominate from and therefore have their choice limited.
33. Using either model however, Chorley are free to appoint from their administration as this reflects the political balance of this authority and fits in providing a political balance across the police area.
34. There of course remains an issue as to the correct membership of the PCP itself, but as it will be constituted in July and its duties will commence shortly before the appointment of the PCC in November this is a question properly left to the PCP to decide.
35. Chorley BC are required by the legislation to agree to the establishment of the PCP and to agree Panel Arrangements. The Panel Arrangements document proposed by LCC is sufficient to discharge the Council’s obligation whilst not overstepping into matters that are properly left to the PCP. When the PCP is established it may amend the Arrangements.

IMPLICATIONS OF REPORT

36. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

37. Finance for the establishment and maintenance of the PCP will be provided by the constituent Local Authorities although it is envisaged that some finance will be received from Central Government. Additional funding can be provided by local authorities to enhance the Panel, but this is not an obligation and should be considered only at the request of the PCP.

COMMENTS OF THE MONITORING OFFICER

38. The Council are required to appoint a member to the PCP prior to July of this year. Subject to the limitations detailed within the report there are no restrictions on who the Council may appoint provided the duty concerning balance is met. The paper from LCC should be considered for information. It is my understanding that it has not been agreed by all authorities in the police area. There is no obligation on this authority to follow the LCC recommendations. The model that LCC use is acceptable although how they seek to implement it is open to question for the reasons given at paragraph 26 above.
39. The key consideration is whether the councils so far as reasonably practicable have produced a balanced PCP.
40. It should be noted that as each geographical district within the police area has a district or unitary representative. It is arguable that LCC should in fact be the authority who should nominate to provide the political balance. In these circumstances, and using the proposed split at paragraph 27 above, the party with the largest number of seats at each unitary and district would appoint a member from that party with LCC appointing a Liberal Democrat to meet political balance.

Gary Hall
Chief Executive

Background Papers			
Document	Date	File	Place of Inspection
Police Reform and Social Responsibility Act 2012			http://www.legislation.gov.uk/ukpga/2011/13/contents/enacted
Police and Crime Panels: Guidance on role and Composition	November 2011		http://www.local.gov.uk/web/10161/publications/-/journal_content/56/10161/3078604/PUBLICATION-TEMPLATE
Report Author	Ext	Date	Doc ID
Chris Moister	5160	10 May 2012	