

AGENDA



For a meeting of the
COUNCIL
to be held on
THURSDAY, 3 MAY 2012
at
2.00 PM
in the
COUNCIL CHAMBER, COUNCIL OFFICES, ST. PETER'S HILL, GRANTHAM
Beverly Agass, Chief Executive

Members of the Council are invited to attend the above meeting to consider the items of business listed below.

1. **LINCOLNSHIRE POLICE AND CRIME PANEL**

Report of the Engagement and Corporate Services Portfolio Holder.

(Enclosure)

REPORT TO COUNCIL

REPORT OF: Head of Legal and Democratic Services

REPORT NO: LDS066

DATE: 3 May 2012

TITLE:	Lincolnshire Police and Crime Panel	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter Portfolio Holder, Engagement & Corporate Services	
CONTACT OFFICER:	Lucy Youles 01476 40 61 05 l.youles@southkesteven.gov.uk	
INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below:	Full impact assessment Required:
Equality and Diversity	Not applicable	No
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Police Reform and Social Accountability Act 2011	

1. RECOMMENDATIONS

- 1.1 The Council note the development of the Lincolnshire Police and Crime Panel.
- 1.2 That the Council approves the proposed arrangements (set out in Appendix A) for the Lincolnshire Police and Crime Panel to be established in accordance with Schedule 6 of the Police Reform and Social Responsibility Act 2011 (the Act) as a joint committee of Boston Borough Council, City of Lincoln Council, East Lindsey District Council, Lincolnshire County Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council.
- 1.3 That the Council appoints one member to the Lincolnshire Police and Crime Panel with authority to take all decisions necessary to participate in undertaking the functions of the panel.

1.4 That the Council approves that East Lindsey District Council be designated as the lead authority for the Lincolnshire Police and Crime Panel.

2. PURPOSE OF THE REPORT

2.1 Part 1, chapter 4 of the Act requires that local authorities in each police force area to establish and maintain a Police and Crime Panel in accordance with Schedule 6 of the Act. The purpose of the report is to set out the requirements of the Act and the proposed lead authority for the establishment of the Panel, approve the arrangements for the proposed Panel and appoint a member to that Panel.

3. DETAILS OF REPORT

The Police Reform and Social Responsibility Act

3.1 The Act has introduced significant changes in police governance and accountability. One key element is the introduction of an elected Police and Crime Commissioner for each police force area. The Commissioner will be held to account by a Police and Crime Panel. It is the responsibility of the authorities for the police force area to make arrangements for the Panel.

3.2 The Panel is a scrutiny body with responsibility for scrutinising the Police and Crime Commissioner and promoting openness in the transaction of police business in the police force area.

3.3 The Panel's duties and powers which must be exercised in accordance with the Act and associated regulations can be summarised as follows:

- a. the power of veto, by two-thirds majority, over the commissioner's proposed budget and precept;
- b. the power of veto, by two-thirds majority, over the commissioner's proposed candidate for chief constable;
- c. the power to ask Her Majesty's Inspectorate of Constabulary (HMIC) for a professional view when the commissioner intends to dismiss a chief constable;
- d. the power to review the commissioner's draft police and crime plan and make recommendations to the commissioner who must take account of them;
- e. the power to review the commissioner's annual report and make reports and recommendations at a public meeting, which the commissioner must attend;
- f. the power to require any papers in the commissioner's possession (except those which are operationally sensitive);
- g. the power to require the commissioner to attend the panel to answer questions;
- h. the power to appoint an acting commissioner (from within the commissioner's staff) when the elected commissioner is incapacitated or suspended (until she/he is no longer incapacitated or suspended), or

- resigns or is disqualified (until a new commissioner is elected); and
- i. responsibility for all complaints about the commissioner; although serious issues must be passed to the Independent Police Complaints Commission (IPCC).

Membership

- 3.4 Membership of the Panel should consist of ten councillors from the eight local authorities and two independent members co-opted by the Panel. Panels are required to be politically and geographically balanced and have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively. There is no stipulation whether Panel members should be Executive or non-Executive Councillors.

Lead authority

- 3.5 Legislation requires one authority in each police force area to be designated as the lead authority. The lead authority will provide support to enable the Panel to undertake its functions. East Lindsey District Council has agreed to take on the role of lead authority.

4. OTHER OPTIONS CONSIDERED

- 4.1 The Police Reform and Social Responsibility Act stipulates the requirement and composition of the Police and Crime Panel. The Home Secretary has reserve powers to establish a Panel and appoint members to the Panel, if any local authority fails to do so.

5. RESOURCE IMPLICATIONS

- 5.1 The Home Office is providing grant funding to meet costs however this has only been agreed for the first two years of the Panel.
- 5.2 The proposed arrangements include a charge to the authority of 10% of the Panel's running costs. During the first two years of the Panel, in which grant funding is available, the Council would be liable for 10% of the expenditure exceeding the grant.
- 5.3 The budget, which would be prepared by the lead authority in consultation with all member authorities, would be agreed annually by all member authorities.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

- 6.1 The Council is required to set up a panel jointly with other authorities within the police administrative area. This report sets out the proposals for the Lincolnshire area. If no appointment is made and arrangements not approved, there is a risk that this authority will have no decision making authority in respect of police matters. The proposals in this report will mitigate that risk.

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

7.1 Not applicable.

8. CRIME AND DISORDER IMPLICATIONS

8.1 Not applicable.

9. COMMENTS OF FINANCIAL SERVICES

9.1 There could be financial implications arising should the expenditure exceed the grant contribution. The Authority will be asked to contribute 10% of this figure. The grant is only available for the 2 year period so there will be a requirement to contribute towards future costs should no further grant funding be forthcoming. All financial implications will be met from revenue budgets.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 Although the Police Crime Commissioner will not be elected until November 2012, it is proposed that shadow panels are established now. East Lindsey District Council, as the proposed lead authority for the administration of the Panel has requested that this matter be considered at each authority's annual meeting. The Council has a legal duty under the Act to establish the Panel referred to in the report.

11. APPENDICES:

Appendix A - Draft Arrangements for the Lincolnshire Police and Crime Panel

Lincolnshire Police and Crime Panel

Panel Arrangements

This Agreement is dated the day of 2012.

The Agreement is made between the following:

Boston Borough Council of
City of Lincoln Council of
East Lindsey District Council of
Lincolnshire County Council of
North Kesteven District Council of
South Holland District Council of
South Kesteven District Council of
West Lindsey District Council of

In the Agreement the above Authorities are referred to together as 'the Authorities'.

1.0 Background

- 1.1 The Police Reform and Social Responsibility Act 2011 ('the Act') introduces new structural arrangements for national policing, strategic police decision making, neighbourhood policing and police accountability.
- 1.2 The Act provides for the election of a Police and Crime Commissioner ('PCC') for a police force area, responsible for securing an efficient and effective police force for their area, producing a police and crime plan, recruiting the Chief Constable for an area, and holding him/her to account, publishing certain information including an annual report, setting the force budget and police precept and requiring the Chief Constable to prepare reports on police matters. The PCC must co-operate with local community safety partners and criminal justice bodies.
- 1.3 The Act requires the local authorities in each police force area to establish and maintain a Police and Crime Panel ('the Panel') for its police force area. It is the responsibility of the Authorities for the police force area to make arrangements for the Panel ('Panel Arrangements').
- 1.4 Lincolnshire is a multi authority police force area ('the police force area'). The Authorities, as the relevant local authorities within the area must agree to the making and modification of the Panel Arrangements.
- 1.5 Each Authority and each Member of the Panel must comply with the Panel Arrangements.
- 1.6 The functions of the Panel must be exercised with a view to supporting the effective exercise of the functions of the PCC for that police force area.

1. 7 The Panel must have regard to the Policing Protocol issued by the Home Secretary, which sets out the ways in which the Home Secretary, the PCC, the Chief Constable and the Panel should exercise, or refrain from exercising, functions so as to encourage, maintain or improve working relationships (including co-operative working); and limit or prevent the overlapping or conflicting exercise of functions.
1. 8 The Panel is a scrutiny body with responsibility for scrutinising the PCC and promoting openness in the transaction of police business in the police force area.
1. 9 The Panel is a joint committee of the Authorities.
1. 10 The Authorities agree the Panel Arrangements.

2. 0 Functions of the Police and Crime Panel

2. 1 The Panel has the powers and duties set out in the Act and may not exercise any functions other than those conferred by the Act which include those set out in this section 2.0.
2. 2 The functions of the Panel set out at paragraphs 2.3 - 2.8 below may not be discharged by a Committee or Sub-Committee of the Panel.
2. 3 The Panel is a statutory consultee on the development of the PCC's Police and Crime Plan and must:
 - a) review the draft Police and Crime Plan (and a variation to it); and,
 - b) report or make recommendations on the draft Plan which the PCC must take into account.
2. 4 The Panel must comment upon the Annual Report of the PCC, and for that purpose must:
 - a) arrange for a public meeting of the Panel to be held as soon as practicable after the Panel is sent an Annual Report under Section 12 of the Act;
 - b) ask the PCC at that meeting such questions about the Annual Report as the Members of the Panel think appropriate;
 - c) review the Annual Report; and,
 - d) make a report or recommendations on the Annual Report to the PCC.
2. 5 The Panel must undertake a review and make a report in respect of a precept proposed by the PCC in accordance with the requirements set out in Schedule 5 of the Act, and will have a right of veto in respect of the precept in accordance with the Act and Regulations made thereunder.
2. 6 The Panel must review, hold a conformation hearing, make a report to and make recommendations to the PCC in relation to the appointment of a Chief Constable by the PCC in accordance with the requirements set out in

Schedule 8 of the Act and will have a right of veto in respect of the appointment in accordance with the Act and Regulations made thereunder.

2. 7 The right of veto in paragraphs 2.5 and 2.6 will require that at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision.
2. 8 The Panel must review, hold a conformation hearing, make a report to and make recommendations to the PCC in relation to the appointment of the PCC's Chief Executive, Chief Finance Officer and the Deputy Police and Crime Commissioner in accordance with the requirements set out in Schedule 1 of the Act.
2. 9 The following functions must also be undertaken by the Panel but may be delegated to a Sub-Committee of the Panel:
2. 10 The Panel shall receive notification from the PCC of any suspension of the Chief Constable, or any proposal to call upon a Chief Constable to retire or resign, and in the case of retirement or resignation must make a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation in accordance with the procedures set out in Schedule 8 of the Act.
2. 11 The Panel must review or scrutinise the decisions or actions of the PCC in the discharge of his/her functions and make reports or recommendations to the PCC with respect to the discharge of the PCC's functions. The Panel may carry out investigations into the decisions of the PCC, and into matters of particular interest or public concern.
2. 12 The Panel must publish any reports or recommendations made by it to the PCC in a manner which the Panel will determine and must also send copies to the Authorities.
2. 13 The Panel may require the PCC or a member of his/her staff to attend the Panel to answer questions necessary for the Panel to undertake its functions, provided that such questions shall not:
 - a) relate to advice provided to the PCC by his/her staff;
 - b) in the view of the PCC:
 - i) be against the interests of national safety;
 - ii) jeopardise the safety of any person; or,
 - iii) prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or,
 - c) be prohibited by any other enactment.
2. 14 If the Panel requires the PCC to attend the Panel, the Panel may (at reasonable notice) request the Chief Constable to attend before the Panel on

the same occasion to answer any question which appears to the Panel to be necessary in order for it to carry out its functions.

2. 15 The Panel may require the PCC to respond in writing to a report or recommendation from the Panel to the PCC.
2. 16 The Panel may suspend the PCC if he/she is charged with an offence carrying a maximum term of imprisonment exceeding two years.

3. 0 Membership

General

3. 1 Nomination and appointments of elected members to the Panel shall be made by each of the Authorities in accordance with [Regulations] [their own procedures] and with a view to ensuring that the balanced appointment objective is met so far as is reasonably practicable. The Lead Authority shall take steps to coordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved. The balanced appointment objective requires that the local authority Members of the Panel (which includes Members appointed by the Authorities and co-opted Members who are elected Members of any of the Authorities) should:
 - a) represent all parts of the police force area;
 - b) represent the political make-up of the Authorities; and,
 - c) have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
3. 2 In appointing co-opted Members who are not elected members of any of the Authorities the Panel must secure, so far as is reasonably practicable that the appointed and co-opted Members of the Panel, together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
3. 3 The Panel shall consist of ten Members appointed by the Authorities as follows:
3. 4 One Member appointed by each of:
 - a) Boston Borough Council
 - b) City of Lincoln Council
 - c) East Lindsey District Council
 - d) North Kesteven District Council
 - e) South Holland District Council
 - f) South Kesteven District Council and
 - g) West Lindsey District Council
3. 5 Three Members shall be appointed by Lincolnshire County Council.

3. 6 The Panel shall also include two Members co-opted in accordance with these Panel Arrangements.
3. 7 The Panel itself may then also resolve to co-opt further Members with the agreement of the Secretary of State provided that the total number of co-opted Members included in the Membership of the Panel shall not exceed 10.
3. 8 Panel Members will not be able to appoint substitute Members in the event that they are unable to attend a meeting.

Appointed Members

3. 9 The Authorities shall each nominate an elected member to be a Member of the Panel, and in the case of Lincolnshire County Council, three Members shall be nominated. If a nominated elected member agrees to the appointment the Authority may appoint the elected member as a Member of the Panel. That person shall be an Appointed Member.
3. 10 In the event that an Authority does not appoint a Member or Members of the Panel in accordance with these requirements, the Secretary of State must appoint a Member to the panel from the defaulting authority in accordance with the provisions in the Act.
3. 11 With a view to ensuring continuity of membership as far as possible, an Appointed Member shall be a Member of the Panel for four years unless s/he ceases to be an elected member, or is removed by their Authority.
3. 12 An Authority may decide in accordance with their procedures to remove their Appointed Member from the Panel at any point and on doing so shall give notice to the lead authority
3. 13 An Appointed Member may resign from the Panel by giving written notice to the Lead Authority on behalf of the Panel at Tedder Hall, Manby Park, Manby, Lincolnshire, LN11 8UP and to their Authority.
3. 14 In the event that any Appointed Member resigns from the Panel, or is removed from the Panel by an Authority, the Authority shall immediately take steps to nominate and appoint an alternative elected member as an Appointed Member to the Panel.
3. 15 Appointed Members may be re-appointed to the Panel for a further term of four years subject to compliance with the balanced appointment objective.

Co-opted Members

3. 16 The following may not be co-opted Members of the Panel:
 - a) the PCC for the Police Area.
 - b) a member of staff of the PCC for the area.
 - c) a member of the civilian staff of the Police Force for the area.

- d) a Member of Parliament.
 - e) a Member of the National Assembly for Wales.
 - f) a Member of the Scottish Parliament.
 - g) a Member of the European Parliament.
3. 17 An elected member of any of the Authorities may not be a co-opted Member of the Panel where the number of co-opted Members is two or less.
3. 18 If the Panel has three or more co-opted Members an elected member of any of the Authorities may be a co-opted Member of the Panel provided that at least two of the other co-opted Members are not elected members of any of the Authorities.
3. 19 A co-opted Member shall be a Member of the Panel for four years.
3. 20 Co-opted Members of the Panel shall appointed following public advertisement in accordance with the following principles:
- a) The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
 - b) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre determined criteria; and,
 - c) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
- 3.21 In relation to the two co-opted Members required to be appointed in accordance with these Panel Arrangements under paragraph 3.6 the appointment shall be decided by a Panel of the ten Appointed Members.
- 3.22 In relation to the appointment of additional co-opted Members with the approval of the Secretary of State the appointment shall be made by the Panel in accordance with its Rules and Procedures
3. 23 A co-opted Member of the Panel may resign from the Panel by giving written notice to the Lead Authority on behalf of the Panel at Tedder Hall, Manby Park, Manby, Lincolnshire, LN11 8UP.
3. 24 The Panel must from time to time decide whether the Panel should exercise its power to change the number of co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.
3. 25 The Panel may decide to terminate the appointment of a co-opted Member of the Panel if at least two-thirds of the persons who are Appointed Members of the Panel at the time when the decision is made vote in favour of making that

decision at any time for the reasons set out below and on doing so shall give written notice to the co-opted Member:

- a) if the co-opted Member has been absent from the Panel for more than [2] meetings in the calendar year without the consent of the Panel;
- b) if the co-opted Member has been convicted of a criminal offence but not automatically disqualified;
- c) if the co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a Member of the Panel.
- d) if the co-opted Member's membership of the Panel no longer achieves the meeting of the balanced appointment objective.

3.26 In the event that a co-opted Member resigns from the Panel or is removed from the Panel following a decision of the Panel, the Panel shall ensure that at least two independent co-opted Members remain appointed to the Panel, and in the absence of two such Members shall make arrangements to ensure that two co-opted Members are appointed in accordance with paragraph 3.21.

3.27 Co-opted Members appointed to the Panel may be re-appointed for a further term of four years subject to compliance with the balanced appointment objective.

4.0 Budget and Costs of the Panel

4.1 The annual costs of the Panel, reduced by the figure of any grant from the Home Office or any other source, shall be borne on the following basis

- a) 30% by Lincolnshire County Council
- b) 70% equally between the remaining Councils

4.2 A draft budget for the operation of the Panel shall be drawn up by the Lead Authority in February each year, and shall be approved by the Authorities. All costs will be contained within the budget.

5.0 Lead Authority

5.1 East Lindsey District Council shall be lead authority for the Panel and shall provide such administrative and other support as will be necessary to enable the Panel to undertake its functions.

6.0 Access to Information

6.1 Reports to and meetings of the Panel shall be subject to inspection and attendance by members of the public as if they were Committees of any of the Authorities for the purposes of the Local Government Act 1972 and other legislation relating to meetings and information of local authorities

7.0 Rules of Procedure

7.1 The Panel shall determine its Rules of Procedure which shall include arrangements in relation to the:

- a) the appointment and removal of the Chairman;
- b) the formation of sub-committees;
- c) the making of decisions;
- d) the arrangements for convening meetings; and,
- e) the circulation of information.

8.0 Validity of Proceedings

8.1 The validity of the proceedings of the Panel shall not be affected by a vacancy in the Membership of the Panel or a defect in appointment.

8.2 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Police Reform and Social Responsibility Act 2011, and any Regulations made in accordance with that Act, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

INSERT SIGNATURE/EXECUTION CLAUSE