

Essex Police, Fire and Crime Panel	EPCP/18/17
Date: 19 October 2017	

Report of the Essex Police and Crime Panel Workshop of 14 September 2017

Report by the Secretary to the Panel

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Purpose of report

To consider the actions required for the role of the Panel in scrutinising the role of the Essex Police, Fire and Crime Commissioner following the on 1 October 2017.

Specifically, the Panel should consider its response to the following options:

- to review its membership and composition in the short and long-term
- to consider the knowledge, experience and developmental needs of the Panel.
- to consider if there would be any advantage in having a “buddy” system provided by members of the former EFA.
- to review its terms of reference and procedure rules to make sure they are fit for purpose.
- depending on the timescales available, to consider having a “shadow” role for the Panel in relation to Fire Service-related matters.
- To hold an additional meeting of the Panel in September to focus on the Commissioner’s new role and Fire Service-related matters.

Background and Recommendations

The Panel held a Workshop on Thursday, 14 September 2017 to consider its response to the options above and following discussion proposed the following for ratification at this meeting:

Recommendation 1: A small working group be formed to consider the revised constitution of the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority. This work was undertaken

Recommendation 2: Public questions at meetings should only relate, specifically, to an item on the Essex Police, Fire and Crime Panel agenda for that meeting

Recommendation 3: Future meeting should be of three hours duration (to be kept under review) and meetings to take place at both County Hall and Kelvedon Park

Recommendation 4: Precept meetings should remain a separate meeting with no other business

Recommendation 5: The membership of the Panel should not be increased to take into account fire issues. The existing Panel has scrutiny expertise to hold the Commissioner to account. Independent individuals could be co-opted onto the panel at any time to add their expertise on specific issues and the Panel should utilise finances from the Home Office grant were this deemed necessary

Recommendation 6: Each Panel Member should receive an allowance of £1,000 per annum commencing at the start of the next civic year to be paid from the Home Office Grant

Recommendation 7: The Home Office grant should be utilised to provide more informed papers from the Secretariat

Actions:

The Panel is requested to ratify the amended Terms of Reference (below) and the recommendations from the Workshop

Terms of Reference of the Essex Police, Fire and Crime Panel

1. Introduction

- 1.1.1. The Police Reform and Social Responsibility Act 2011 brought in the responsibility for local authorities to create a Police and Crime Panel. This panel would be made up of local elected councillors and independent members with the responsibility to scrutinise and support the work of the Police and Crime Commissioner (PCC).
- 1.1.2. The Policing and Crime Act 2017 introduced new powers for a PCC to make a local business case to the Secretary of State to take on the governance of fire and rescue services for their area. The Secretary of state approved the business case for a change in governance for Essex.
- 1.1.3. The Police, Fire and Crime Commissioner for Essex (Fire and Rescue Authority) Order 2017 created a new fire and rescue authority, under section 4A of the Fire and Rescue Services Act 2004, for the areas covered by Southend-on-Sea Borough Council, Thurrock Council and Essex County Council. The new order came into effect from the 1st October 2017.
- 1.1.4. Within that order it sets out that the person who is the Police and Crime Commissioner for Essex is also the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority ("the Commissioner"). They will be known as the Police, Fire and Crime Commissioner for Essex ("the PFCC").
- 1.1.5. The Policing and Crime Act 2017 also amended section 28 (Powers of Police and Crime Panels) of the Police Reform and Social Responsibility Act 2011 to include the responsibilities of the new fire and rescue authority
- 1.1.6. In summary, the functions of the Police and Crime Panel which must be exercised with a view to support the effective exercise of the functions of the PCC now include the Commissioner's functions in respect of the governance of the Fire and Rescue Service. Following the introduction of the additional responsibility the panel is now known as the Essex Police, Fire and Crime Panel ("the Panel").

2. Functions of the Panel

2.1. Key Functions

- 2.1.1. The functions of the Panel are:
 - a) Scrutiny of the Police and Crime Plan and the Fire and Rescue Plan.
 - b) Scrutiny of the Annual Report and the Fire and Rescue Statement.
 - c) Scrutiny of the appointment of a Deputy PFCC, the PCC's Chief Executive and the PCC's Treasurer.
 - d) Scrutiny of the appointment of the Commissioner's Chief Financial Officer.
 - e) Scrutiny of the appointment and dismissal of the Chief Constable and the Chief Fire Officer.
 - f) To review the precept which the PFCC is proposing to issue for both Police and Fire and Rescue, for each financial year with the power to veto the precept.
 - g) To deal with certain complaints against the PFCC or Deputy PFCC.

2.1.2. The Panel must also review or scrutinise decisions made, or other actions taken by the PFCC in connection with the discharge of their functions in relation to Policing and Fire and Rescue.

2.1.3. Further details of what the functions of the Panel mean is included below:

2.2. Scrutiny of Police and Crime Plan and the Fire and Rescue Plan

2.2.1. The Panel is a statutory consultee on the development or variation of the Police and Crime Plan and Fire and Rescue Plan. The Panel will receive a copy of the draft Plan, or a draft of any variation to it, from the Commissioner.

2.2.2. The Panel must:

- h) Hold a public meeting to review the draft Police and Crime Plan or Fire and Rescue Plan (or a variation to it), and
- a) Report or make recommendations on the draft Plans which the PFCC must take into account when finalising the documents.

2.3. Scrutiny of the Annual Report and Fire and Rescue Statement

2.3.1. The PFCC must produce an Annual Report and Fire and Rescue Statement about the exercise of their functions in the financial year and progress in delivering on the priorities set out in the Police and Crime Plan, and the Fire and Rescue Plan.

2.3.2. The Annual Report and Fire and Rescue Statement must be sent to the Panel for their consideration.

2.3.3. The Panel must comment upon the Annual Report and Fire and Rescue Statement, and for that purpose must:

- b) Arrange for a public meeting of the Panel to be held as soon as practicable after the Panel receives the Annual Report or Fire and Rescue Statement;
- c) Require the PFCC to attend the meeting to present the reports to the Panel, and answer such questions about the Annual Report and the Fire and Rescue Statement as the Panel think appropriate;
- d) Make a report or recommendations on the Annual Report and Fire and Rescue Statement to the PFCC.

2.4. Senior Appointments

2.4.1. The Panel has powers to review the PFCC's proposed appointments of Chief Constable, Chief Fire Officer, Chief Executive of the Office of the PFCC, Chief Finance Officer of the PCC and Commissioner and the Deputy PFCC.

2.4.2. There is a process which is required to be followed for the appointment of Senior Appointments which includes a public confirmatory hearing for these posts.

2.4.3. The Panel will be notified of the need for a confirmatory hearing in respect of proposed senior appointments made by the PFCC. This will be held at the next available meeting of the Panel unless the appointment timescale requires an earlier hearing, in which case an extraordinary meeting will be arranged.

2.4.4. With regard to the appointment of the Chief Constable and Chief Fire Officer, the Panel is required to hold a meeting within the period of three weeks from the day on which the Panel receives notification from the Police and Crime Commissioner which will include:

- a) The name of the candidate.
- b) The criteria used to assess the suitability of the candidate for the appointment.
- c) Why the candidate satisfies those criteria.
- d) The terms and conditions on which the candidate is to be appointed.

- 2.4.5. Confirmatory hearings will be held in public, where the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the Panel is required to review the proposed appointment and make a report to the PFCC on the appointment.
- 2.4.6. For a confirmatory hearing for the proposed appointment of the Chief Constable and Chief Fire Officer, in addition to the requirement to review and report, the Panel has the requirement to make a recommendation on the appointment and the power to veto the appointment.
- 2.4.7. Having considered the appointment, the Panel will be asked either:
- a) To support the appointment without qualification or comment.
 - b) To support the appointment with associated recommendations.
 - c) To veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 2.4.8. If the Panel vetoes the appointment of the candidate, the report to the PFCC must include a statement that the Panel has vetoed the appointment with reasons.

2.5. Suspension and Removal of the Chief Constable or Chief Fire Officer

- 2.5.1. If the PFCC suspends the Chief Constable or Chief Fire Officer from duty they must notify the Panel of the suspension.
- 2.5.2. A Commissioner must not call upon a Chief Constable to retire or the Chief Fire Officer to resign until the end of the scrutiny process which will occur:
- a) At the end of six weeks from the Panel having received notification if the Panel has not by then given the PFCC a recommendation as to whether or not they should call for the retirement or resignation; or
 - b) The PFCC notifies the Panel of a decision as to whether they accept the Panel's recommendations in relation to resignation or retirement.
- 2.5.3. The PFCC must notify the Panel in writing of their proposal to call upon the Chief Constable or Chief Fire Officer to retire or resign together with a copy of the reasons given to the Chief Constable/Chief Fire Officer and any representation from the Chief Constable/Chief Fire Officer in relation to that proposal.
- 2.5.4. Within six weeks from the date of receiving the further notification, the Panel must make a recommendation in writing to PFCC as to whether or not they should call for the retirement or resignation. Before making any recommendation, the Panel may consult the chief inspector of constabulary/fire and rescue, and must hold a scrutiny meeting.
- 2.5.5. The scrutiny hearing which must be held by the Panel is a Panel meeting in private to which the PFCC and Chief Constable/Chief Fire Officer are entitled to attend to make representations in relation to the proposal to call upon them to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.
- 2.5.6. The Panel must publish the recommendation it makes by sending copies to each of the councils, and by any other means the Panel considers appropriate.
- 2.5.7. The Commissioner must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.

2.6. Appointment of an Acting Police, Fire and Crime Commissioner

- 2.6.1. The Panel must appoint a person to act as PFCC if:
- a) No person holds the office of PFCC.

- b) The PFCC is incapacitated.
- c) The Police, Fire and Crime Commissioner is suspended.

2.6.2. The Panel may appoint a person as acting commissioner only if the person is a member of the PFCC's staff at the time of the appointment.

2.6.3. In appointing a person as acting commissioner in a case where the PFCC is incapacitated, the Panel must have regard to any representations made by the PFCC in relation to the appointment.

2.6.4. The appointment of an acting PFCC ceases to have effect upon the occurrence of the earliest of these events:

- a) The election of a person as PFCC.
- b) The termination by the Panel, or by the acting PFCC, of the appointment of the acting PFCC.
- c) In a case where the acting PFCC is appointed because the PFCC is incapacitated, the PFCC ceasing to be incapacitated, or
- d) In a case where the acting PFCC is appointed because the PFCC is suspended, the PFCC ceases to be suspended.

2.7. Proposed Precept

2.7.1. The PFCC will notify the Panel of the precept which they are proposing to issue for the financial year for Policing and Fire and Rescue Services. The Panel must review the proposed precept and make a report including recommendations for both.

2.7.2. Having considered the precept, the Panel will either:

- a) Support the precepts without qualification or comment;
- b) Support the precepts and make recommendations, or
- c) Veto the proposed precepts (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).

1.2. If the Panel vetoes the proposed precept, the report to the PFCC must include a statement that the Panel has vetoed the proposed precept with reasons. The Panel will require a response to the report and any recommendations.

2.8. Complaints

2.8.1. Non-criminal complaints in relation to the PFCC or other office holders can be considered by the Panel through a hearing. The Panel can examine this through a sub-committee following the procedure rules at 10 above.

2.8.2. A Panel may suspend the PFCC if it appears to the Panel that:

- a) The PFCC has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
- b) The offence is one which carries a maximum term of imprisonment exceeding two years.

2.8.3. The suspension of the PFCC ceases to have effect upon the occurrence of the earliest of these events:

- a) The charge being dropped.
- b) The PFCC being acquitted of the offence.

- c) The PFCC being convicted of the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act by virtue of the conviction.
- d) The termination of the suspension by the Panel.

2.8.4. In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:

- a) An offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
- b) An offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

3. Operating Arrangements

3.1. Administration of the Panel

- 3.1.1. In line with Home Office guidance, Essex County Council shall act as the lead authority in establishing the Police, Fire and Crime Panel and provide the necessary officer support.
- 3.1.2. The lead authority will provide such administrative and other support as will be necessary to enable the Panel to undertake its functions. Home Office funding is provided to support the administration of the Panel. If no funds are provided by the Home Office, or if those funds are insufficient to cover the costs of running the Panel, the Lead Authority will defray and recover from the other members the costs of administrative support. The budget for the Panel will be agreed annually and the Panel will operate within the allocated budget.
- 3.1.3. In the event of the Panel being wound up, the Lead Authority will defray and recover from the other member authorities any associated costs exceeding the funding provided by the Home Office.
- 3.1.4. Any dedicated staff employed to support the Panel will be employed by the Lead Authority, and their terms and conditions will be that of the Lead Authority.

3.2. Membership

- 3.2.1. The Panel shall comprise a minimum of 15 councillors (one from each of the twelve Essex districts, one from the County Council and one from each of the two Unitaries) and two independent members.
- 3.2.2. Additional members may be co-opted onto the Panel, as long as the two independent members are also included, the size of the Panel does not exceed 20 and the Secretary of State approves the membership arrangements.
- 3.2.3. Any Councillor on the 15 appointing Councils is eligible for membership of the Panel.
- 3.2.4. All members of the Panel may vote in proceedings of the Panel.
- 3.2.5. The appointment of elected members to the Panel shall be made by each of the appointing councils in accordance with their own procedures provided that the balanced appointment objective is met. The balanced appointment objective requires that the local authority members of the Panel should:
 - a) Represent all parts of the police force and fire and rescue service area;
 - b) Represent the political make-up of the councils taken together; and
 - c) Have the skills, knowledge and experience necessary to enable the Panel to discharge its functions effectively.

- 3.2.6. The councils shall each appoint an elected Member to be a Member of the Panel. Additional nominations will be invited to positions for co-opted members in line with the composition agreed by the Panel to reflect better the Political balance across the Police Force and Fire and Rescue Service area and subject to approval by the Secretary of State.
- 3.2.7. Named substitutes may also be appointed by the 15 appointing Councils and notified to the Secretary to the Panel.
- 3.2.8. In the event that a council does not appoint a Member in accordance with these requirements, the Secretary of State must appoint a member to the Panel from the defaulting council in accordance with the provisions in the Act.

3.3. District Council Vacancies

- 3.3.1. A vacancy on the Panel arises when a member resigns from the Panel.
- 3.3.2. Each council will fill vacancies for elected members in accordance with the arrangements in their Constitution. Vacancies for independent members will be filled in accordance with the selection process outlined in section 3.4 below.

3.4. Independent Members

- 3.4.1. The Police, Fire and Crime Panel shall co-opt two independent members onto the panel for a term of four years, starting in 2012.
- 3.4.2. The selection process for co-opting independent members should include a reasonable period of advertising for the positions. A closing date for the receipt of applications should be given of at least two weeks from the date the advert is first placed.
- 3.4.3. Information packs should be prepared and sent to those requesting application forms.
- 3.4.4. The applications will be considered against an agreed eligibility criteria and then an Appointments Sub-Committee will be established to consider applications and interview candidates.
- 3.4.5. Following the interviews, the Appointments Sub-Committee will make recommendations to the Panel about membership.
- 3.4.6. The Panel may decide to change either Independent Member at any point and on doing so shall give notice to the Secretary to the Panel.
- 3.4.7. Where the appointed Independent Member is an expert, the nominating body may change its nominee at any point and on doing so shall give notice to the Secretary to the Panel.

3.5. Term of Office

- 3.5.1. A council may decide in accordance with its procedures to remove their appointed member from the Panel at any point and on doing so shall give notice in writing to the Secretary to the Panel.
- 3.5.2. An appointed member may resign from the Panel by giving notice in writing to the Secretary to the Panel and to their council.
- 3.5.3. In the event that any appointed member resigns from the Panel, or is removed by a council, the council shall immediately take steps to nominate and appoint an alternative member. Each Council should give notice in writing to the Secretary to the Panel that their member has been changed.
- 3.5.4. Members appointed to the Panel may be re-appointed for a further term provided that the balanced appointment objective is met by their reappointment. The term of office shall be for one year, with each council selecting its representative at its annual general meeting each year. There is no maximum number of terms that a member may serve.
- 3.5.5. The term of office of a member co-opted to the Panel to reflect better the Political balance across the Police Force and Fire and Rescue Service area shall be for one year. The member may be co-opted for a further term provided that the balanced appointment objective is still met by their co-option.

3.6. Allowances

- 3.6.1. Each council has the discretion to pay allowances to its representatives on the Panel. Any allowances payable to elected Members shall be determined and borne by the appointing councils.
- 3.6.2. The Lead Authority, on behalf of the Panel, may pay an allowance to the Independent Members and co-optees if this is agreed as part of the annual budget approved by the Panel.
- 3.6.3. The independent and co-opted members may claim allowances from the lead authority in accordance with the provisions contained within the lead authority's Members Allowances Scheme relating to "Co-opted Members of Committees Allowances" current at the time the duty was undertaken to which the claim relates.

3.7. Promotion of the Panel

- 3.7.1. The Panel shall be promoted and supported by the Lead Authority through:
 - a) The issuing of regular press releases in consultation with the Chairman about the Panel and its work.
 - b) The inclusion of dedicated web pages on the work of the Panel, with the publication of Agendas and minutes. All reports and recommendations made, with responses from the PFCC will be published.

3.8. Validity of proceedings

- 3.8.1. The validity of the proceedings of the Panel is not affected by a vacancy in the membership or a defect in the appointment of a member.

3.9. Amendments to Terms of Reference, Panel Arrangements and Procedure Rules

- 3.9.1. Any proposed amendments to the Terms of Reference, Panel Arrangements or the Procedure Rules of the Panel should be submitted to the Panel for its approval and may be submitted as and when required. In addition, the Panel will review and re-confirm its Terms of Reference and Procedure Rules annually.

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4. Procedure Rules

4.1. Chairman and Vice-Chairman

- 4.1.1. The Chairman will be elected during the Panel's first meeting, and then every year, and will be drawn from amongst the councillors sitting on the Panel.
- 4.1.2. The Vice-Chairman will be appointed during the Panel's first meeting, and then every year, and will be drawn from amongst the councillors sitting on the Panel.
- 4.1.3. In the event of the resignation of the Chairman or removal of the Chairman, a new Chairman will be appointed at the next meeting and will be drawn from amongst the councillors sitting on the Panel.

4.2. Meetings

- 4.2.1. There shall be a minimum of four ordinary meetings held in each municipal year to carry out the functions of the Panel. These meetings shall be open to the public except where such attendance is excluded by virtue of Part I of Schedule 12A of the Local Government Act 1972. In addition, extraordinary meetings may be called from time to time, as required.
- 4.2.2. An extraordinary meeting may be called by the Chairman, by a group of five members of the Panel or by the Monitoring Officer of the PFCC.
- 4.2.3. In exceptional circumstances the Chairman may cancel or rearrange a meeting.

4.3. Quorum

- 4.3.1. A meeting of the Panel cannot take place unless one third of the whole number of its members is present. Under normal circumstances this would be five of the 15 council appointed members.

4.4. Voting

- 4.4.1. All members of the Panel may vote in proceedings of the Panel subject to the rules on declarations of interest.
- 4.4.2. One-third of the voting members present may require that the way all members cast their vote or abstained shall be recorded in the Minutes; such a request must be made before the vote is taken.

4.5. Work Programme

- 4.5.1. The Panel will be responsible for setting its own work programme taking into account the priorities defined by the PFCC in terms of policing and crime, and fire and rescue. In setting the work programme the Panel will also take into account the wishes of its members.
- 4.5.2. The work programme must include the functions set out in the Panel's terms of reference.

4.6. Agenda items

- 4.6.1. Any member of the Panel shall be entitled to give notice to the Secretary to the Panel that he or she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.

4.7. Reports from Police, Fire and Crime Panels

- 4.7.1. Where the Panel makes a report to the PFCC, it may publish the report or recommendations.
- 4.7.2. The Panel must by notice in writing require the PFCC, as appropriate, within one month of the date on which they receive the report or recommendations:
- a) To consider the report or recommendations.
 - b) To respond to the Panel indicating what (if any) action the PFCC proposes to take.
 - c) Where the Panel has published the report or recommendations, publish the response.

- 4.7.3. Where the Panel has provided a copy of the report or recommendations to a member, provide a copy of the response to the member.
- 4.7.4. The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).
- 4.7.5. If the Panel cannot unanimously agree on one single final report to the PFCC then one separate report may be prepared and submitted for consideration along with the majority report.

4.8. Police, Fire and Crime Commissioner and Officers Giving Account

- 4.8.1. The Panel may scrutinise and review decisions made or actions taken in connection with the PFCC's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the PFCC, and members of the PFCC's staff, to attend before the Panel (at reasonable notice) to answer any questions which appear to the Panel to be necessary in order to carry out its functions.
- 4.8.2. Where the PFCC, or a member of the PFCC's staff, is required to attend the Panel under this provision the Chairman will inform them in writing giving, where practical, 15 days' notice of the meeting. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required for production for the Panel. Where it is necessary to produce a report, sufficient time will be given to allow preparation of that report.
- 4.8.3. Where, in exceptional circumstances, the PFCC is unable to attend on the required date, then an alternative date for attendance may be arranged following consultation with the Chairman of the Panel.
- 4.8.4. If the Panel require the PFCC to attend before the Panel, the Panel may (at reasonable notice) request the Chief Constable of the Chief Fire Officer to attend before the Panel on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.

4.9. Attendance by Others

- 4.9.1. The Panel may invite people other than those referred to above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, councillors who are not members of the Panel and officers in other parts of the public sector and may invite such people to attend.

4.10. Sub-Committees and Task Groups

- 4.10.1. The Panel may from time to time establish time-limited task groups to undertake specific task-based work.
- 4.10.2. The "special functions" of the Panel may not be discharged by a sub-committee of the Panel or a task group.
- 4.10.3. In this paragraph "special functions" means the following functions conferred on the Panel by the Police Reform and Social Responsibility Act 2011:
 - a) Scrutiny of Police and Crime Plan and Fire and Rescue Plan.
 - b) Scrutiny of annual report, and Fire and Rescue Statement.
 - c) Review of senior appointments.
 - d) Issuing precepts).
 - e) Scrutiny of appointment of the Chief Constable or Chief Fire Officer.

- 4.10.4. The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.
- 4.10.5. Where it is not possible to reach a consensus, attempts will be made to reflect minority views within the report but there is no provision for minority reports.
- 4.10.6. Sub-Committee and Task Group reports shall be reviewed by the Panel which will decide whether to ratify the findings and / or recommendations.
- 4.10.7. Section 4.8 (Police, Fire and Crime Commissioner and Officers giving account) and 4.9 (Attendance by Others) shall apply to Sub-Committees and Task Groups in the same way as they apply to the Panel.

4.11. Carrying out “Special Functions”

- 4.11.1. Reports and recommendations made in relation to the functions outlined in the terms of reference will be carried out in accordance with the procedure outlined at 4.7.

Appendix A – Local Resolution of Complaints against the Police, Fire and Crime Commissioner or the Deputy Police, Fire and Crime Commissioner

1. Introduction

- 1.1. The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 set out the functions of the Police, Fire and Crime Panel and the Independent Police Complaints Commissioner in relation to the handling of complaints and other matters concerning the conduct of the Police, Fire and Crime Commissioner (“the Commissioner”) or the Deputy Police, Fire and Crime Commissioner (“Deputy”).
- 1.2. This Regulation set the process to be followed in dealing with these complaints and matters.
- 1.3. In accordance with Schedule 7 to the Police Reform and Social Responsibility Act 2011, the Regulations provide for any complaint alleging criminal conduct and all conduct matters (which indicate that criminal conduct, may have occurred) to be referred to the Independent Police Complaints Commission (“the Commission”).
- 1.4. The Regulation provides for any other complaint to be resolved informally by the Police, Fire and Crime Panel.
- 1.5. This Schedule sets out the Informal Resolution procedure (as set out in Article 28 of the Regulation) which the Police, Fire and Crime Panel must follow.
- 1.6. A full copy of the order can be found by selecting the following [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012](#).

2. Serious complaints

- 2.1. The definition of a serious complaint is one where an allegation is made of conduct which constitutes a criminal offence. These complaints must be referred to the IPCC. Unusually, there is no process of appeal.

3. Procedure

- 3.1. The initial assessment of complaints is delegated to officers of the host council. Whilst there are reasons why it would make sense to delegate the initial assessment to the Commissioner’s Chief Executive / Monitoring Officer there remains the question of the public perception of the independence of the process.
- 3.2. The Panel acts as a central point for the collation and recording of all complaints (including any referred to the IPCC) and as a “gateway” to the procedures for dealing with non-criminal and criminal complaints about the Commissioner or his Deputy. Complaints will be acknowledged within one week of receipt with an explanation of how the complaint will be handled.
- 3.3. In the first instance a decision needs to be taken as to whether the complaint is one for the Panel to deal with.
- 3.4. The Panel will not deal with a complaint if it concerns conduct matters or has a criminal element which justifies referral to the IPCC. If referred to the IPCC the complainant and other parties will be advised accordingly within three weeks of the receipt of the complaint.

The IPCC will decide whether or not to investigate or to refer the matter back to the Panel to handle.

- 3.5. The Panel will not deal with a complaint if it relates to the delivery of operational matters which should be referred to the Chief Constable or Chief Fire Officer.
- 3.6. The Panel will decline to deal with a complaint on the basis that it represents a disagreement about a particular policy / decision of the Commissioner.
- 3.7. The Panel will take no action in relation to a complaint:
 - a) where it relates to an employment issue
 - b) it is more than 12 months' old
 - c) it is already the subject of a complaint
 - d) It is anonymous, vexatious, oppressive or an abuse of the procedures or repetitious.
- 3.8. The complainant will then be notified of a decision to take no action and the grounds for that decision, normally within three weeks of the receipt of the complaint.
- 3.9. The decision to refer a complaint to the IPCC or decline to deal with it on the grounds set out above will be delegated to the County Council's Head of Democratic Services.

4. Dealing with a complaint that falls within the Panel's remit

- 4.1. If the complaint against the PFCC or the Deputy PFCC clearly relates to non-criminal matters (e.g. allegations of rudeness, inappropriate reference to people, places, issues, or spent convictions) and is not covered by the circumstances set out above it will be dealt with by the Panel by informal resolution.
- 4.2. The decision not to proceed with the complaint, based on the evidence provided or having first requested a report from the OPFCC will be taken by the County Council's Head of Democratic Services. The grounds for declining to take further action would be that:
 - a) the complaint is considered to be trivial
 - b) the problem no longer exists
 - c) there would be no benefit in taking it further
 - d) the complainant has received a satisfactory response
 - e) An apology will suffice.
- 4.3. If the Head of Democratic Services considers that the complaint is justified and requires further consideration she will refer it to the County Council's Monitoring Officer who is delegated to confirm the decision or on reflection decide not to proceed. This decision will normally be notified within six weeks of the receipt of the complaint.
- 4.4. If the complainant is unhappy with an initial assessment not to proceed they can appeal to the Monitoring Officer who will decide whether or not to refer the matter to a sub-committee of the panel for consideration.
- 4.5. Where a complaint is considered by the County Council's Monitoring Officer to justify further consideration the Secretary to the Panel will arrange a meeting of a sub-committee comprising the Chairman, Vice-Chairman and one other member to decide on a local resolution. A complaint cannot be formally investigated, although requiring the relevant

office holder to provide information or documents or summoning him to appear before the Panel does not count as investigation. Other steps designed to gather information about or corroborate the complaint such as taking statements from witnesses or seeking documents from other parties are prohibited.

4.6. Informal resolution might involve:

- a) providing information
- b) an apology
- c) Concluding the matter through correspondence explaining the circumstances.

4.7. The complainant will be kept informed of the timescales involved.

4.8. The Sub-Committee's decisions will be reported to the Panel.

4.9. It is also considered that it is sensible to have a separate process in place for dealing with vexatious / repetitious complaints.

Appendix B - Guidance Note on the Management of Unreasonable Complainant Behaviour

1. Introduction

- 1.1. The Essex Police, Fire and Crime Panel is committed to providing a high quality response to members of the public making complaints against the PFCC for Essex or his Deputy. Usually, consideration of a complaint is a straightforward process; but in a small number of cases complainants may begin to pursue a particular complaint in a manner that hinders the review of the complaint or unfairly takes officers supporting the Panel from their other duties. Similarly, complainants who have their complaints resolved may continue to pursue their complaint or request outcomes that it is not possible to deliver.
- 1.2. The aim of this guidance is to let complainants know what is considered to be unreasonable behaviour, the options available to the Panel and the possible consequences for the individual.
- 1.3. The Police Reform and Social Responsibility Act 2011 and subsequent regulations set out the powers of the Panel in resolving or closing complaints made against the Commissioner or his Deputy. The legislation is clear that consideration of a complaint by the Panel should not amount to an investigation. As such, the Panel is limited in the steps it can take to review a complaint, and the recommendations it can make as a result. There may be times when a complainant may not be satisfied by the outcome. Should a complainant not be satisfied with the response to a complaint it is open for them to refer the case to the Local Government Ombudsman.
- 1.4. This guidance will only be invoked after careful consideration and in exceptional circumstances. Individuals may have justified complaints but may pursue them in an inappropriate way or may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. If so, a decision may be taken to restrict the contact that person has with the Panel or its officers.
- 1.5. If the Panel decides to invoke the guidance, the complainant will be notified as to why his or her behaviour is considered to fall into that category and what action is being taken.

2. What is meant by “unreasonable complainant behaviour”?

- 2.1. The Panel has adopted the definition used by the Local Government Ombudsman. Unreasonable complainant behaviour occurs where:
 - a) There is repeated and obsessive pursuit of a complaint which appears to have no substance or which has been investigated and determined.
 - b) The contact may be amicable but still place very heavy demands on officer or Member time, or may be very emotionally charged and distressing for all involved.
 - c) There is an escalation of behaviour which is unacceptable, for example abusive, offensive or threatening.

- 2.2. Examples include the way or the frequency with which complainants raise their complaint or how complainants respond when they are informed of the outcome of their complaint. The following list provides guidance on a range of situations considered to be examples of unreasonable behaviour.
- 2.3. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category. Unreasonable behaviour may include:
- a) Having insufficient or no grounds for their complaint.
 - b) Making the complaint only to annoy.
 - c) Refusing to specify the grounds of a complaint despite a request to do so.
 - d) Refusing to co-operate with the complaints process whilst still wishing the complaint to be resolved.
 - e) Refusing to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure.
 - f) Refusing to accept that issues are not within the power of the Panel to review, change or influence, for example a complaint about something that is the responsibility of another organisation.
 - g) Insisting that the complaint be dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint).
 - h) Making what appear to be groundless complaints about those handling the complaint and seeking to have them disciplined, dismissed or replaced.
 - i) Making an unreasonable number of contacts by any means.
 - j) Making persistent and unreasonable demands or expectations of staff and / or the complaints process after the unreasonableness has been explained to the complainant, for example insisting on immediate responses to numerous, frequent and / or complex letters, faxes, telephone calls or emails.
 - k) Harassing or verbally abusing or otherwise seeking to intimidate members or officers dealing with their complaint by the use of foul or inappropriate language or by the use of offensive and racist language.
 - l) Raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the process.
 - m) Introducing trivial or irrelevant new information whilst the complaint is being reviewed outside of the period given for additional comments and expecting this to be taken into account and commented on.
 - n) Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
 - o) Denying statements made at an earlier stage in the complaint process.
 - p) Electronically recording conversations without the prior knowledge and consent of the other person involved.

- q) Refusing to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and / or denying that an adequate response has been given.
- r) Making the same complaint repeatedly, perhaps with minor differences, after the complaint procedure has been concluded, and insisting that the minor differences make it a “new” complaint which should be put through the full complaints procedure from the beginning.
- s) Complaining about or challenging an issue based on a historic and irreversible decision or incident.
- t) A combination of some or all of the above.

3. Considerations to be addressed before taking action to restrict access

3.1. Before deciding whether the guidance should be applied, the Panel will consider and satisfy itself that:

- a) The complaint is being or has been reviewed properly, and any decision reached has been appropriate based on the information presented at the time.
- b) Communications with the complainant have been adequate and within the Panel’s policies.
- c) Any decision reached has been reviewed and is found to be appropriate.
- d) The complainant has not provided any significant new information that justifies a further review.
- e) There is no other more specific path for the complainant to follow when they are complaining about a decision taken.

3.2. Some individuals that may be considered to be unreasonable complainants may be behaving this way because of a specific circumstance or difficulty. Where this is indicated the Panel will take this into account in determining the reasonableness of the complaint made.

3.3. Any restrictive actions that may be taken will be based on the circumstances and behaviour of the individual and their complaint.

4. Possible Actions

4.1. Examples of actions to be taken to restrict access and contact are as follows:

- a) Restricting telephone calls to specified days / times / duration.
- b) Limiting the complainant to one medium of contact.
- c) Requiring the complainant to communicate only with one named member of staff.
- d) Restricting the amount of time the Panel and its officers will spend reviewing the complaint.
- e) Letting the complainant know that the Panel will not reply to or acknowledge any further contact from them on the specific complaint.

- f) Refusing to register and process further complaints about the same matter.
- g) Severely reducing responses or not responding to a particular complaint.

5. Action to be taken when imposing restrictions

- 5.1. The Panel will document clearly why the complainant's behaviour is causing concern and outline how the behaviour needs to change. The complainant will receive in writing an explanation of the actions that may be taken if their behaviour does not change together with a copy of the guidance. All letters will include:
 - a) The reasons for the decision.
 - b) The specific action being taken.
 - c) The date the decision will be reviewed.
 - d) The circumstances that might prompt a review of the decision in advance of that date e.g. relevant new information.
 - e) The right of the complainant to make a referral to the Local Government Ombudsman.
- 5.2. A log of the decision made and the records of all contacts with the complainant will be kept. This information will be treated as confidential and only shared with those who may be affected by the decision in order for them to carry out their role at work.
- 5.3. Key information to be recorded includes, when a decision is taken:
 - a) Not to apply the guidance when a member of staff asks for this to be done; or
 - b) To make an exception to the guidance once it has been applied; or
 - c) Not to respond to further correspondence unless there is evidence of any significant new information.
- 5.4. Any further contact from the complainant, for example on a new issue, will be treated on its merits.
- 5.5. All officers and members who have experienced unreasonable complainant behaviour relating to the specific complaint will be informed of the decision to impose contact restrictions.

6. Reviewing the decision to restrict access

- 6.1. When imposing a restriction on access a specified review date will be set. Once that date has been reached restriction should be lifted and relationships returned to normal unless there are good grounds to extend the restriction to a new review date. The complainant will be informed accordingly.

7. Harassment and bullying

- 7.1. Unreasonable complainant behaviour may amount to bullying or harassment. All members and officers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses or intimidates individuals

is unacceptable and will not be tolerated. All reasonable steps will be taken to prevent such behaviour.

8. Delegation of authority to invoke this guidance

- 8.1. Decisions to take action in accordance with this guidance will be taken by a Sub-Committee of the Panel comprising the Chairman, Vice-Chairman and one other member.

Appendix C – Ethics and Integrity of Essex Policing Sub-Committee

1. Terms of Reference

- 1.1. To scrutinise the Commissioner’s performance in relation to ethics and integrity and, where appropriate, provide support, in order to ensure that the highest standards of ethics and integrity of policing are maintained in Essex, both currently and in the future.

2. Procedure Rules

- 2.1. After each meeting the Sub-Committee will report back to the next available ordinary meeting of the Essex Police and Crime Panel.
- 2.2. The Sub-Committee has no decision-making powers but may make recommendations to the Commissioner and to the Panel and will monitor progress against such recommendations.
- 2.3. The Sub Committee will at all times have regard to the College of Policing Code of Ethics, the Nolan Principles and any other statutory or non-statutory code or guidance relevant to the ethics and integrity of policing. They will also consider the PCC’s own Ethics and Integrity Framework.
- 2.4. The Committee will meet at least twice a year and its meetings will be governed by schedule 12A of the Local Government Act 1972.
- 2.5. The Sub-Committee has no role in reviewing operational issues or individual cases but may have regard to relevant themes emerging from operational issues and how they have been dealt with.
- 2.6. The Sub-Committee has no involvement in complaints made against individual police officers or members of police staff but may have regard to themes emerging from such complaints and how they have been dealt with.

3. Definitions

- 3.1. For the purposes of the work of the Sub-Committee, the following definitions shall apply:
 - a) Integrity: The conviction that Essex Police should comply, not only with the letter but also with the spirit of the law and with Police Regulations, and that Essex Police Officers and staff behave in a way that commands public trust and confidence. This includes the moral courage to do what is right regardless of personal interest or influence.
 - b) Ethics:
 - (i) The setting out of the behaviours, values and beliefs which underpin policing in Essex and which the public believe to be morally right for those upholding the law; and

- (ii) Police officers and members of police staff consistently demonstrating those behaviours, values and beliefs.

4. Membership

- 4.1. Three members of the Panel appointed at the Annual meeting.
- 4.2. The Commissioner and Officers giving account and the attendance by others.
- 4.3. The Sub-Committee may request the Commissioner to invite specific staff or officers or may invite individuals to attend meetings who it considers can contribute to any particular matter which it is to discuss.

5. Work programme

- 5.1. To enable forward planning and preparation for meetings, the sub-committee shall agree and keep under review a work programme of proposed areas and themes of focus. This will not prevent additional themes being added or changes made when agreed necessary by the Sub-Committee.

