

# THE ESSEX POLICE, FIRE AND CRIME PANEL

## FUNCTIONS OF THE PANEL

### PART 1 – INTRODUCTION

- 1.1 The Police Reform and Social Responsibility Act 2011 ('the 2011 Act'), requires local authorities to create a Police and Crime Panel). The Panel is responsible for scrutinising and supporting the work of the Police and Crime Commissioner.
- 1.2 The Policing and Crime Act 2017 ('the 2017 Act') introduced new powers for a Police and Crime Commissioner to make a local business case following which the Secretary of State may make an order to make the Commissioner the fire authority for their area.
- 1.3 Under the Police, Fire and Crime Commissioner for Essex (Fire and Rescue Authority) Order 2017 (the Order), which came into effect on 1 October 2017, the Police Crime and Fire Commissioner for Essex was created as the fire and rescue authority for the administrative counties of Essex, Thurrock and Southend under section 4A of the Fire and Rescue Services Act 2004.
- 1.4 The Order provides that the individual elected as the Police and Crime Commissioner for Essex to be the Fire and Rescue Authority, and that they are to be known as the Police, Fire and Crime Commissioner (PFCC).
- 1.5 The 2017 Act amends section 28 (*Powers of Police and Crime Panels*) and Schedule 6 (*Police and Crime Panels*) of the 2011 Act to include the responsibilities of the Police Fire and Crime Commissioner when acting as the fire and rescue authority.
- 1.6 Following the Order, the Commissioner is now known as the Police, Fire and Crime Commissioner and the panel is now known as the Police, Fire and Crime Panel (the Panel).

### PART 2 - FUNCTIONS OF THE PANEL

#### 2. Key Functions

- 2.1 The functions of the Panel are to:
  - a) review the draft Police and Crime Plan and the Fire and Rescue Plan and any proposed changes to them
  - b) review the Annual Report and the Fire and Rescue Statement.
  - c) review of the proposed senior appointments of;
    - i) the Deputy PFCC,
    - ii) the PFCC's Chief Executive,
    - iii) the PFCC's Chief Finance Officers;

- iv) the Chief Constable; and
- v) the Chief Fire Officer.

- d) suspend the PFCC in specific circumstances,
- e) appoint an acting PFCC in specific circumstances,
- f) review the precept which the PFCC is proposing to issue for both the Police and the 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.

2.2 The Panel must also review or scrutinise decisions made, or other actions taken by the PFCC in connection with the discharge of the PFCC's functions, and must make reports or recommendation to the PFCC in respect to the discharge of their functions.

### **3. Review of the Police and Crime Plan and the Fire and Rescue Plan**

3.1 The Panel is a statutory consultee on the development or variation of the Police and Crime Plan and Fire and Rescue Plan ('the Plans'). The Panel will receive a copy of the draft Plans, or any draft variations, from the PFCC.

3.2 The Panel must:

- (a) Hold a meeting in public to review the draft Plans (or variations), and
- (b) Report or make recommendations on the draft Plans which the PFCC must take into account when approving the final documents.

3.3 The PFCC is required to provide a response to any such report or recommendations issued by the Panel.

### **4. Review of the Annual Report and Fire and Rescue Statement**

4.1 The PFCC must produce an Annual Report and Fire and Rescue Statement for each financial year (the Reports).

- The Annual report must be about the exercise of the PFCC's functions in that financial year and set out progress in delivering on the priorities set out in the Plan.
- The Fire and Rescue Statement must contains a statement of the way in which the Commissioner, acting as Fire and Rescue Authority has had regard, in the period covered by the document, to the Fire and Rescue National Framework and to any fire and rescue plan prepared by the authority for that period.

The Panel must review the Reports.

4.2 The Panel must:

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

4.3 The PFCC is required to respond to any report or recommendations issued by the Panel.

## **5. Senior Appointments**

5.1 The Panel must be notified by the PFCC of each proposed appointment of the Chief Constable, Chief Fire Officer, Chief Executive of the Office of the PFCC, Chief Finance Officer (of the OPFCC or the Fire and Rescue Authority) and the Deputy PFCC.

5.2 The PFCC must also notify the Panel of the following information:

- a) The name of the person the PFCC is proposing to appoint (the Candidate)
- b) The criteria used to assess the suitability of the Candidate for the appointment,
- c) Why the Candidate satisfies those criteria, and
- d) The terms and conditions on which the Candidate is proposed to be appointed.

5.3 Within 3 weeks, beginning with the day on which the Panel received the notification from the PFCC of the proposed senior appointment, the Panel must:

- a) Review the proposed senior appointment;
- b) Make a report to the PFCC,
- c) The report must include a recommendation as to whether or not the Candidate should be appointed.

5.4 Before making a report under paragraph 5.3 (b), the Panel must hold a confirmation hearing. This is a meeting of the Panel, held in public at which the Candidate is requested to appear for the purpose of answering questions relating to the appointment.

5.5 The confirmation hearing will be held at the next available meeting of the Panel unless the appointment timescale requires an earlier hearing, in which case the Chairman will arrange an extraordinary meeting at the request of the Chairman.

5.6 The Candidate may appear before the Panel either in person, or by any means which enables the Candidate to participate in the confirmation hearing through means which enable the person to hear, and be heard in, those proceedings as they happen.

- 5.7 The PFCC must notify the Panel of the decision whether or not the PFCC accepts or rejects any recommendation made by the Panel.
- 5.8 When the Panel is considering the proposed appointment of the Chief Constable or the Chief Fire Officer, the Panel may, having reviewed the proposal and having held the confirmation hearing, veto the appointment of the Candidate to this position.
- 5.9 The ability to veto the proposed appointment of the Chief Constable is only exercisable by the Panel during the 3 week period beginning on the day the Panel received notification from the PFCC.

## **6. Suspension and Removal of the Chief Constable or Chief Fire Officer**

- 6.1 If the PFCC suspends the Chief Constable or Chief Fire Officer from duty they must notify the Panel of the suspension.
- 6.2 If the PFCC proposes to call upon the Chief Constable or the Chief Fire Officer to retire or resign they must give the Panel;
- a) written notification that the PFCC of that fact;
  - b) a copy of the reasons given to the Officer concerned; and
  - c) a copy of any representations made by the Officer against those reasons.
- 6.3 The PFCC cannot call upon the Officer to retire or resign until the Panel has considered the documents and given the PFCC any recommendations as to whether or not the PFCC should call for retirement or resignation.
- 6.4 Before making any recommendation to the PFCC, the Panel;
- a) may consult with the Chief Inspector of Constabulary; and
  - b) must hold a scrutiny hearing, within 6 weeks beginning on the day on which notification was given by the PFCC.
- 6.5 The scrutiny hearing is a meeting of the Panel held in private at which the PFCC and the Officer concerned are both entitled to attend for the purpose of making representations relating to the proposal.
- 6.6 The Panel must publish the recommendation it makes by sending copies to each of the local authorities who appoint members to the Panel, and by any other means the Panel considers appropriate.
- 6.7 The PFCC must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.

## **7. Power to Suspend the PFCC**

- 7.1 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.

7.2 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.

7.3 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.

## **8. Appointment of an Acting Police, Fire and Crime Commissioner**

8.1 The Panel must appoint a person to act as PFCC if:

- a) no person holds the office of PFCC,
- b) the PFCC is incapacitated; or
- c) the PFCC is suspended.

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

8.3 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.

8.4 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.

8.5 The rules about the election as PFCC are beyond the scope of this document but generally a by election is required if the PFCC ceases to hold office.

## **9. Proposed Precept**

9.1 The PFCC will notify the Panel of the precepts which the PFCC proposes to issue for the financial year for (i) Policing and (ii) Fire and Rescue Services.

9.2 The Panel must review the proposed precepts and make a report to the PFCC which will include recommendations as to the precept that should be issued for the financial year.

9.3 Having considered the precept, the Panel must decide to 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).

9.4 If the Panel vetoes the proposed precepts, the report to the PFCC must include a statement that the Panel has vetoed the proposed precepts and give the reasons for that decision.

9.5 The PFCC must, having regard to the report issued by the Panel, provide a response to the report and any recommendations. Such a response shall be published by the Panel. The PFCC must then reconsider and issue a final precept.

## **10. Complaints about the PFCC or Deputy PFCC**

10.1 The Panel can consider any complaint about the PFCC or Deputy PFCC relating to the conduct of the PFCC, other than one which is to be considered by the Independent Office of Police Conduct. Consideration of such a complaint is to be in accordance with a policy adopted by the Panel from time to time and may be delegated to the Monitoring Officer of the Lead Authority or by the Panels Complaints Sub-Committee.

# CONSTITUTION OF THE ESSEX POLICE, FIRE AND CRIME PANEL

## PART 1 – Composition of the Panel

### 1. Administration of the Panel

- 1.1 Essex County Council shall act as the Lead Authority in establishing the Police, Fire and Crime Panel and provide the necessary officer support. The Lead Authority will designate one of its officers to act as the Secretary to the Panel.
- 1.2 The Lead Authority will provide such administrative and other support as is 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 with each authority bearing an equal share of the costs. The budget for the Panel will be agreed annually and the Panel will operate within the allocated budget.
- 1.3 In the event of the Panel being abolished, the Lead Authority will defray and recover from the other member authorities any associated costs exceeding the funding provided by the Home Office, with each authority bearing an equal share of the cost.
- 1.4 The Secretary and any dedicated staff employed to support the Panel will be employed by the Lead Authority, and their terms and conditions of employment will be those of the Lead Authority.

### 2. Membership

- 2.1 The Panel shall comprise of:
  - 15 councillors, one appointed by each of the fifteen councils in the Essex Police area ('the Councils');
  - two independent members appointed by the Panel; and
  - up to three additional members.
- 2.2 Any Councillor from the 15 appointing Councils is eligible for membership of the Panel. The appointment of elected members to the Panel shall be made by each of the appointing Councils in accordance with their own procedures, having regard to:
  - (1) The balanced appointment objective. The balanced appointment objective is 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.
  - (2) The fire and rescue expertise objective. This is the objective that that members of the panel (when taken together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.
- 2.3 Each Council may appoint one or more substitute member who can attend a meeting of the Panel in the absence of the principal member. Any substitution will apply to a particular meeting and takes effect if either the appointing authority or the substituted member gives notice in writing or by email to the Secretary before the start of the meeting concerned.
- 2.4 A Member of the Panel appointed by a Council remains a member of the Panel unless and until:
- (a) They cease to be a member of the Council which appointed them;
  - (b) They resign as a member of the Panel by giving notice to the Secretary; or
  - (c) The Council which appointed them removes them as a member of the panel or appoints another member in their place.
- 2.5 Two independent members may be co-opted onto the Panel by the Panel from time to time in accordance with section 4 of this document.
- 2.6 Up to three additional nominations will be invited to positions for co-opted members to seek to achieve the balanced appointment objective. The Panel will determine how this should be achieved subject to approval by the Secretary of State.
- 2.7 In co-opting members, the Panel:
- (a) must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.
  - (b) must consider whether they could co-opt in a way which would enable the fire and rescue expertise objective to be met or to contribute to that objective being met and, if they consider that they could exercise that function to that end, must do so.

The "fire and rescue expertise objective" referred to in this paragraph is the objective that members of the panel (when taken together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.

### **3 Vacancies in Council appointed Members**



- 3.1 A vacancy on the Panel arises when a member ceases to be a member of the panel for any reason.
- 3.2 If a Council does not have an appointed member on the Panel then it shall fill its vacancy as quickly as possible.
- 3.3 If a Council does not appoint a Member in accordance with these requirements, the Secretary will give notice to the Secretary of State must appoint a member to the Panel from the defaulting council in accordance with the provisions of the 2011 Act.
- 3.4 A substitute appointed under paragraph 2.3 may attend meetings in default of a Council appointing a substantive member.

#### **4 Independent Members**

- 4.1 The Panel shall appoint two independent members onto the Panel. Each appointment shall be for a term of four years or such other period as the panel may determine.
- 4.2 The selection process for co-opting independent members should include:
  - a) a reasonable period of advertising for the positions.
  - b) the closing date for the receipt of applications should be at least two weeks from the date the advert is first placed.
  - c) Information packs should be prepared and sent to those requesting application forms.
- 4.3 The applications will be considered against eligibility criteria agreed by the Panel. An Appointments Sub-Committee will be established by the Panel to consider applications and conduct the interviews of potential candidates.
- 4.4 The following individuals shall not be appointed as an Independent Member of the Panel:
  - a) A member of staff of the PFCC
  - b) A member of the civilian staff of the Essex police force
  - c) A Member of Parliament
  - d) A member of staff of the Essex Fire and Rescue Authority, or
  - e) A Councillor of one of the Councils
- 4.5 Following interviews of potential candidates, the Appointments Sub-Committee will make recommendations to the Panel about each Candidate's suitability for appointment as an Independent Member.
- 4.6 The Panel may decide to remove either Independent Member at any point and on doing so shall give notice to the Secretary to the Panel.
- 4.7 The term of office of an additional 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 or such other period as the Panel may determine. The member may be co-opted for a further term provided that the balanced appointment objective is still met by their co-option.

## **5 Allowances**

- 5.1 The Panel may from time to time decide to pay allowances to members of the Panel. Any allowance shall be in accordance with a scheme approved by the Panel.
- 5.2 No Member of the Panel may claim an allowance from two bodies with respect to their role as a member of the Panel.

## **6 Promotion of the Panel**

- 6.1 The Panel shall be promoted and supported by the Lead Authority through:
  - a) The issuing of regular press releases, after consulting 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.

## **7 Validity of proceedings**

- 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.

## **8 Amendments to Terms of Reference, Panel Arrangements and Procedure Rules**

- 8.1 Any proposed amendments to the Panel Arrangements should be submitted to the Councils for approval. In addition, the Panel will review this document annually and if any changes are necessary these will be submitted to the Councils for approval.