

Police and crime panels

Panel arrangements and the balanced appointment objective



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Note: This guidance is intended for English local authorities outside London. In London the role of a police and crime panel is already being undertaken by the Police and Crime Committee of the Greater London Assembly. In Wales, following a decision by the Assembly Government to refuse to allow the creation of panels as local government committees (which is a devolved matter), the Home Secretary will appoint and work with local authorities in Wales to establish police and crime panels.

Introduction

On 22 November 2012 police authorities (outside London) will be abolished and replaced with elected police and crime commissioners (PCCs). In January 2012 the Home Secretary wrote to every council leader in England asking them to set up a police and crime panel (PCP). Each police force area must have a PCP to scrutinise the PCC, and support them in the effective exercise of their functions. In her letter the Home Secretary set a deadline of July 2012 for councils to have agreed which authority in their force area will host the PCP, what the panel arrangements for the PCP will be, and decide the membership of the panel.

There are many aspects councils will have to consider when agreeing the panel arrangements and membership of the PCP. These include: the need to make arrangements for how the panel is supported and how this support is paid for; how long members of the panel hold office for; what happens when panel members resign; what allowances (if any) are paid to members of the panel; how the role of the panel is promoted; and what support and guidance is provided to the members of the panel.

A common question that arose during the Home Office regional road show events held in February and March 2012 is how the political make-up of police and crime panels should be worked out. The Home Office has now issued a statement setting out how it believes the balanced appointment objective set out in Schedule 6 of the Police Reform and Social Responsibility Act 2011 should be met.

This booklet summarises what the Police Reform and Social Responsibility Act says needs to be considered when agreeing panel arrangements. It also suggests steps needed in order to establish and agree these, outlines what the Home Office has said about meeting the balanced appointment objective, and explores ways councils might satisfy the objective when making appointments to the panel. The final part of this guide outlines the support the LGA is providing and where to get further assistance. It should be noted that further guidance from the LGA on appointing independent co-opted members will complement this advice.

Panel arrangements

This advice should be read alongside Schedule 6 of the Police Reform and Social Responsibility Act 2011 with particular reference to paragraphs 3–11 and 24.

Paragraph 24 of Schedule 6 states:

24 (1)

Panel arrangements are arrangements for the establishment and maintenance of a police and crime panel.

(2)

Panel arrangements must make provision about the co-option of, and holding of office by, the co-opted members of the police and crime panel.

(3)

Panel arrangements must include provision about –

(a) the term of office of appointed members and co-opted members of the panel

(b) resignation, and removal, of appointed members and co-opted members of the panel

(c) conditions for re-appointment of appointed members and co-opted members of the panel.

(4)

Panel arrangements may not make rules of procedure for the police and crime panel (as to which see paragraph 25).

(5)

Panel arrangements may make different provision for different cases.

(6)

The following persons must comply with the panel arrangements relating to a police and crime panel –

(a) each relevant local authority

(b) each member of the police and crime panel.

Suggested content and an example standard layout for presenting the panel arrangements are given in **Annex 1**, but it must be noted that this will need to be adapted and amended as necessary to reflect local circumstances. In establishing panel arrangements, it is suggested that authorities should draw on their expertise of creating and operating other joint committees.

Some elements might be no different from other joint committees. Where possible, standard existing models for managing the membership (for example handling the resignation or removal of members and dealing with casual vacancies) can be used for the panel. However the allocation of seats on the panel, and the associated wording of the panel arrangements, cannot be standardised, and is likely to create some local debate.

The balanced appointment objective

Schedule 6 of the Police Reform and Social Responsibility Act 2011 outlines the responsibilities councils have in establishing and maintaining a police and crime panel.

The Act makes detailed provisions on panel composition under Parts 2 and 4 of Schedule 6, and under Section 31 places a duty on councils (and the Home Secretary) to produce a 'balanced' panel, which means that the councillors on the panel (when taken together with any co-optees as necessary):

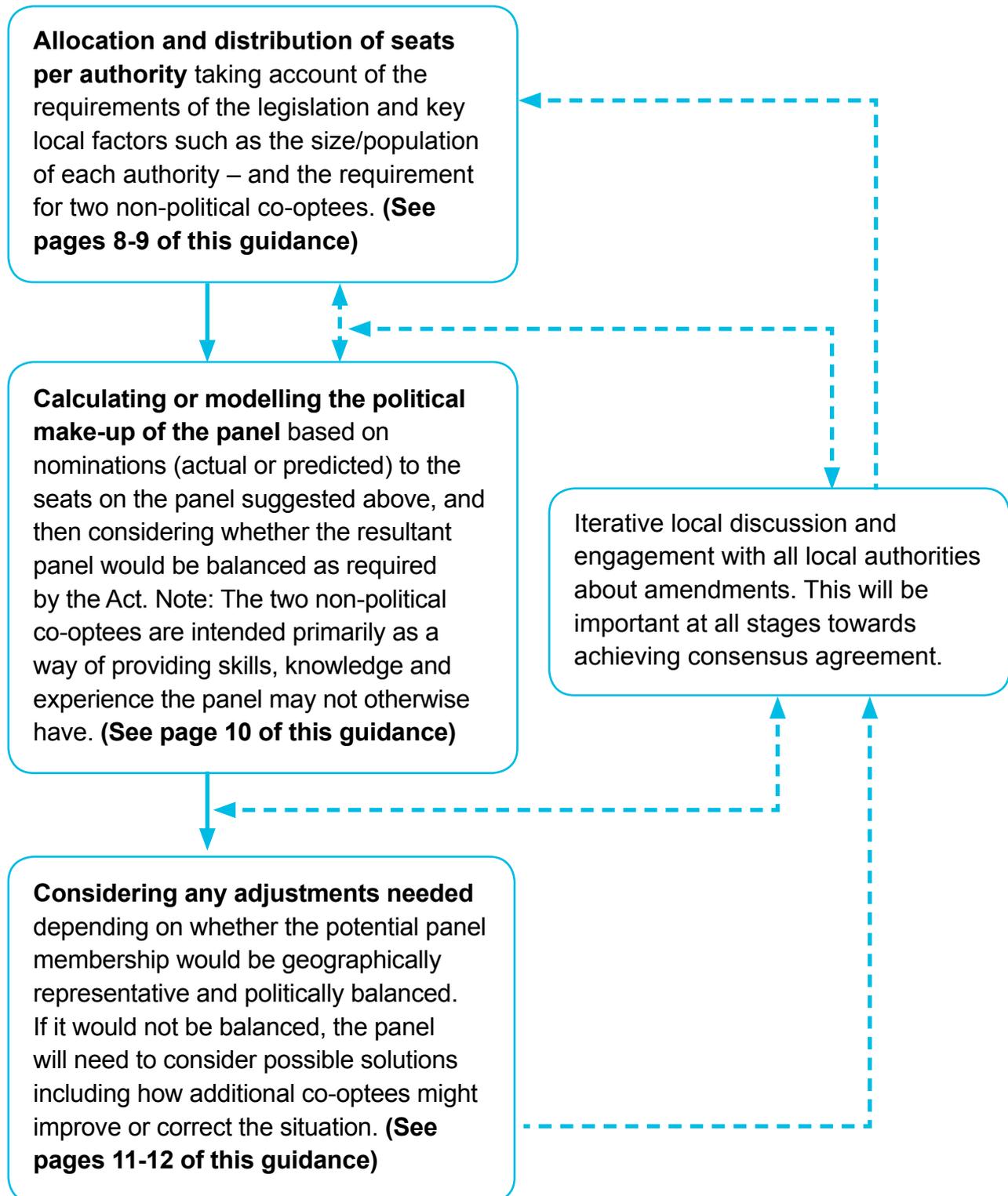
- represent all parts of the relevant police area
- represent the political make-up of the relevant authority or relevant authorities (when taken together), and
- have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

Other considerations will also be relevant in maintaining a balanced panel, for example the effect of elections by thirds or halves, and the length of the term of office of panel members. How the balanced appointment objective can be met is the focus of the rest of this guidance.

Further details on what meeting the balanced appointment objective means has been provided by the legal clarification issued by the Home Office, which is set out in **Annex 2**.

We have broken down the process for working through how a balanced panel can be achieved into three separate, but closely related parts. These have been presented on the following page in the order in which they would normally be considered. However it is recognised that the three stages will also need to be considered collectively, because adjustments to one part may affect the whole model.

Achieving a balanced panel



Allocation and distribution of seats per authority

The allocation of the number of panel members per council is complex and will need some debate locally. The degree of complexity will partly depend on the number and type of councils which exist in the police force area concerned.

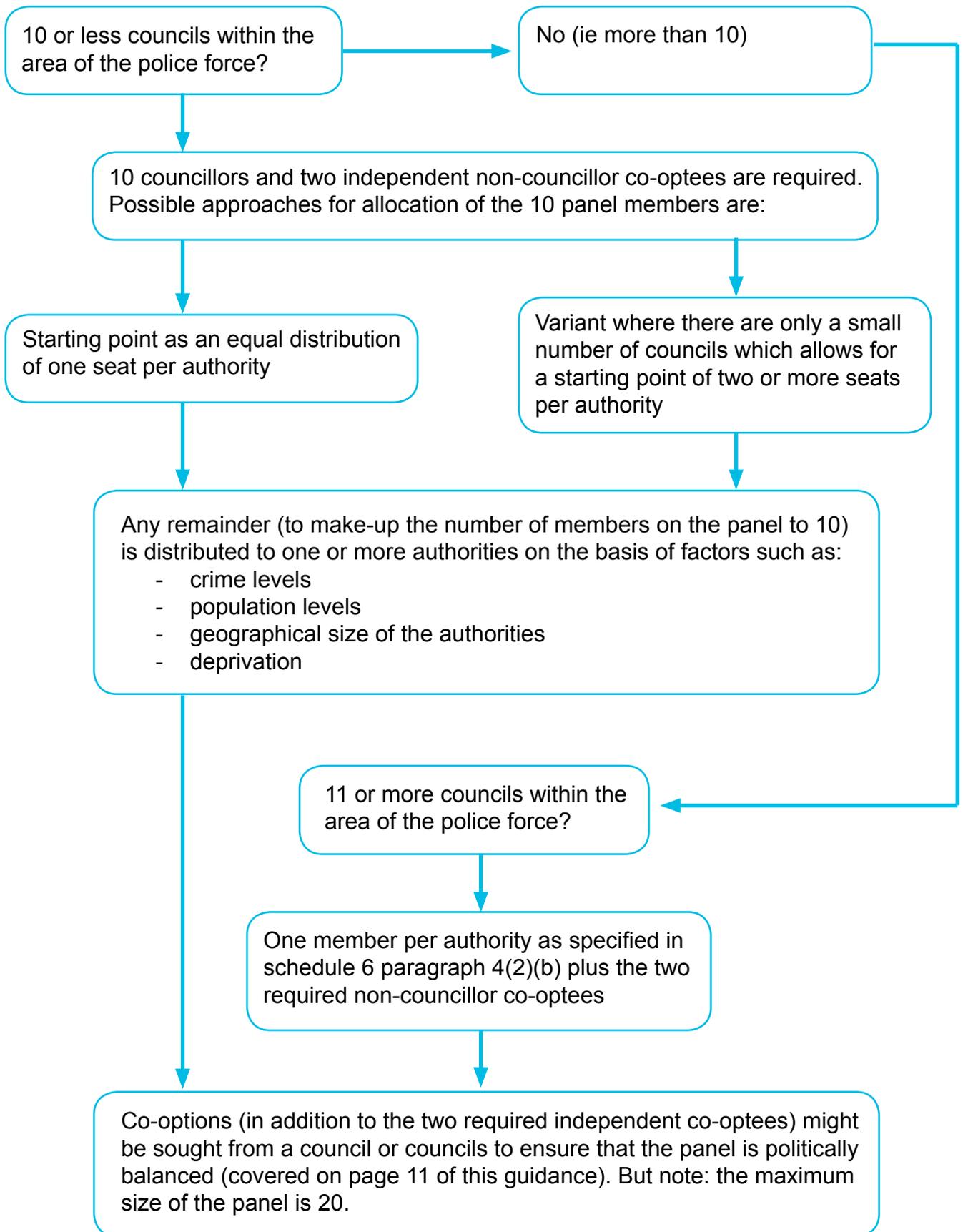
Written guidance is not a substitute for negotiating agreements locally which is the foundation of good future working. This booklet is therefore not prescriptive, and is instead intended to provide a few pointers to help prompt relevant local discussions. The LGA is keen to hear what is decided locally as sharing good practice may be of benefit to other authorities around the country.

The starting point for the initial allocation of seats will be the requirements of the legislation as applied to the number and type of local authorities in the police force area as follows:

- Where a force area consists of 10 or fewer authorities, the minimum number of members of the PCP will be 10 (with each authority having at least one member). This does not include the two required independent co-opted members (or any additional co-optees).
- Where a force area consists of more than 10 authorities, there will be as many members as there are local authorities in the force area, plus the two required independent co-opted members (and any additional co-optees).

The upper limit on the size of the panel is 20. For many areas (but not all) once the two independent co-opted members have been appointed, the panel can consider co-opting additional councillors to meet the balanced appointment objective. In fact there is a positive requirement on the panel under Section 31(4) of Schedule 6 to look at whether co-opting additional members to the panel would help it meet the balanced appointment objective. These additional co-options have to be agreed by the Home Secretary, but indications from the Home Office are that approval is likely to be automatic provided the co-options do not weight the balance on the panel in favour of one particular interest.

The diagram shown on the following page gives a simple overview of the framework within which the number of seats per authority should be allocated, initially at least.



Calculating or modelling the political make-up of the panel

Having initially considered (or even decided) the number of panel members per authority, the next major consideration for councils will be determining whether, as far as is practicable, the panel meets the political balance requirement within the balanced appointment objective.

The starting point for determining political balance on the panel is calculating the numbers of seats held by each political party on each council within a force area. Seats on the PCP are then allocated in proportion to the total number of seats held by each political party across the entire police force area.

Police Authority Regulations 2008

The Home Office legal clarification (see Annex 2) makes reference to the approach taken to police authority membership. Appointments of councillors to police authorities are governed by the current regulations (Police Authority Regulations 2008 [SI 630 2008] as amended by the Police Authority [Community Engagement and Membership] Regulations 2010) which set out how councils are to appoint members so that they reflect party membership.

These regulations state that in appointing councillors to a police authority, the proportion who are members of any given party should be the same as the proportion of the members of the relevant councils taken

as a whole who are members of that party.

Although these regulations will no longer apply once police authorities are abolished, they provide a ready formula for calculating the political balance of a panel.

Political balance – the practicalities

Having worked out what a politically balanced panel for the force area should look like, there are a range of factors that councils will have to take into account in their initial consideration about whether the panel is likely to be politically balanced, including:

- the presence of a directly elected Mayor within the force area, as the elected Mayor must be on the panel unless he or she is the PCC; and
- political control of the councils in the area.

Most authorities when asked to put forward a nominee to become a member of the panel would be likely to put forward a councillor from the same political party as the party in overall control of the council. For this reason it is envisaged that host authorities will ask for nominees from councils as part of a ‘first round’ of nominations without making stipulations about which political parties they should be drawn from. It is unlikely given the diverse political make-up of authorities that this ‘first round’ of nominations will produce a politically balanced panel.

Considering any adjustments needed

There are then two main ways in which adjustment can be made towards achieving a politically balanced panel:

- A council or councils are invited to nominate an opposition councillor as their representative to serve on the panel; or
- The ability to co-opt additional councillors on to the panel is used to achieve political balance, with one or more councils having both administration and opposition members on the panel.

It might be possible for a council or councils to nominate both an administration and opposition member on to the panel within the structure provided by the existing arrangements. Where a council is allocated additional seats on the panel to make the numbers up to the minimum 10 required, these additional places could be used to help create the required balance. The idea would be that a council allocated additional seats on the panel would only look to fill these 'extra seats' after all other authorities have nominated, thus enabling it to nominate councillors as necessary to create the balance required.

However asking a council or councils to nominate an opposition member to the panel where they have only one seat is likely to lead to tensions and may in practice be difficult to agree. In this sort of situation the panel will need to consider other options such as amending the allocation of panel members per council or looking at how additional co-optees might resolve the situation. Provided these

additional co-optees help achieve a politically balanced panel it is likely that the Home Secretary's approval of these additional co-options will be automatic.

In this situation, the extra co-opted seats could be allocated to particular councils who had strong support for an opposition party that needed better representation on the panel. In doing this the councils setting up the panel will also have to keep the geographical balance of the panel in mind. In this way it has been suggested that it would be possible to achieve political balance on the panel without creating undue tension amongst nominating councils.

Co-optees appointed in this way to the panel might provide more flexible options to adjust the panel membership as and when the results of future elections mean that a review is needed and the political make-up of the panel needs changing.

In some cases it may be difficult to achieve political balance, especially where it is not possible to co-opt additional councillors on to the panel. Councils may not be persuaded to nominate opposition members to achieve complete political balance and as the Home Office legal clarification points out, in recognition of this the Police Reform and Social Responsibility Act states that the balanced appointment objective must be secured "as far as is practicable". As the Home Office has also pointed out, whatever membership is eventually agreed on, the rationale for doing that needs to be robust enough to withstand legal challenge.

Political balance and effective scrutiny

In some areas it is worth noting that if a force area is made up of relatively homogenous and strong support for a particular political party, it will be quite likely that the elected PCC will represent the same party as many (or even all) of the individual panel members.

Where situations like this arise in which a correctly politically balanced panel is dominated by members of the same political persuasion as the police and crime commissioner, some have questioned whether effective political scrutiny can take place. The LGA and the Centre for Public Scrutiny (CfPS) suggest that this situation would not necessarily mean that as a consequence scrutiny by the panel would be inadequate.

We would highlight that the predominance of one political group on a council does not, as a matter of course, prevent effective scrutiny of the executive though cabinet members as nearly all the scrutineers are from the same political group. Where this occurs it clearly will have an effect on how the scrutiny body operates, however there is no reason to believe, or any evidence to suggest, that the scrutiny undertaken in these situations is ineffective as a result. Thought may, however, need to be given to how other local voices and perspectives can be brought to bear on the work of the PCP.

Geographical imbalance

In an area in which there are both unitaries and counties/districts, there could be a perceived imbalance in the geographical representation on the panel due to the requirement that each authority in the force area must be represented by at least one member.

This is because in two-tier areas both the county and its districts will each have a member on the panel, while a neighbouring unitary, however large in terms of size or population, would only have one member on the panel. Again the use of additional councillor co-options could be used to address this issue, and it would seem that such an arrangement would receive the automatic endorsement of the Home Office given that it would correct an imbalance in the make-up of the panel.

Where to obtain further information and support

The information in this booklet is for guidance only and councils will be developing local solutions relevant to their own areas.

We realise that in some areas there will be no easy solution or agreement and there will be a variety of factors including political tensions that may affect the progress of setting up panels. The LGA has worked previously with councils to broker agreements through officer and political routes, so please contact us on the number below if you think we may be able to help.

We would be interested to hear about your experiences and keen to share those experiences among other local authorities through our online knowledge sharing website Knowledge Hub. You can subscribe via the following link <https://knowledgehub.local.gov.uk/group/policeandcrimepanelsupportgroup/activity>

If you have any queries about this guide or about setting up a PCP please contact the LGA PCP hotline on 020 7664 3241.

Also available in our series of guides for councils:

- Police and crime commissioners: a guide for councils
- Police and crime panels: guidance on role and composition
- Police and crime commissioners: A guide for community safety partnerships
- Guidance on panel terms of reference and rules of procedure.

Over the next few months we will be working with the sector to produce further guides for councils on:

- Appointing independent co-opted members
- The scrutiny of PCC work plans, the precept etc
- Conducting confirmation hearings
- The relationship between PCPs and overview and scrutiny committees.

Annex 1

Example panel arrangements

Text taken with permission from models developed by Gloucestershire County Council, with some additional text from Buckinghamshire County Council. Other examples are available from the LGA.

1 Operating arrangements

[Note: to be adapted as required depending on what is decided locally]

- 1.1 XXXXXX Council shall act as the host authority in establishing the police and crime panel and provide the necessary officer support.
- 1.2 The panel shall be made up of X councillors, two independent members, and X co-opted members.
- 1.3 The elected membership shall be made up of a minimum of X [district] [unitary] councillors and a minimum of X [county] councillors. [Reference might be made here to identifying deputies]

2 Membership

[Note: to be adapted as required depending on what is decided locally]

- 2.1 All [county] [unitary] [district] councillors are eligible to be members of the Police and Crime Panel.

- 2.2 Included in the panel's membership will be XXX councillor from each [district] [unitary] council.
- 2.3 The panel membership shall, as far as possible, be politically balanced.
- 2.4 All members of the police and crime panel may vote in proceedings of the panel.

3 Casual vacancies

- 3.1 A vacancy on a police and crime panel arises when a [county] councillor, a [district] councillor or an independent member resigns from the membership of the panel.
- 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 4.

4 Independent members

- 4.1 The police and crime panel shall co-opt two independent members onto the panel for a term of XXX years, starting in XXX 2012.
- 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.

- 4.3 Information packs should be prepared and sent to those requesting application forms.
- 4.4 The applications will be considered against an agreed eligibility criteria and then the chairman and vice-chairman of the panel will be invited to meet to consider applications and interview candidates.
- 4.5 Following the interviews, the chairman and vice-chairman will make recommendations to the panel about membership.

5 Additional co-opted Members

- 5.1 Additional co-optees may be appointed by the Panel (further detail might also be included on the balanced appointment objective applied locally though the use of co-optees and how co-optee nominations are made in the event of resignations/removal from post etc - based on local procedures etc).

6 Appointment of elected members

- 6.1 Members will be appointed at the Annual General Meeting of each council. It is recognised that each Authority may choose to appoint from within the membership of the majority group. However authorities should also have regard to the requirement in the Act that appointments shall be made with a view to ensuring that the 'balanced appointment objective' is met so far as is reasonably practicable.
- 6.2 Further detail might also be included on the balanced appointment objective applied locally and how nominations are made based on local procedures etc).

7 Term of Office

- 7.1 A member shall be appointed annually to the Panel to hold office for the following municipal year, and all such appointments shall be notified to the Secretariat no later than 31 May in each year, subject to the following proviso that he or she shall cease to be a member of the Panel if he or she ceases to be a member of the Authority (and does not on the same day again become a member of the Authority).

- 7.2 Each Authority will give consideration to the ‘balanced objective requirement’ in its annual appointment process. Where possible, an Authority will give consideration to continuity of membership to enable the Panel’s expertise and skills to be developed for the effective scrutiny of the PCC (reference should also be made to terms of office for co-optees).

8 Resignation and removal of elected members on the Panel

- 8.1 An Authority may decide in accordance with its procedures to remove its Member from the Panel at any time and upon doing so shall give written notice to the Secretariat of the change in its Member.
- 8.2 A Member may resign from the Panel at any time by giving notice to the appointing Council who will inform the Secretariat.
- 8.3 In the event that any Member resigns from the Panel, or is removed from the Panel by his or her Authority, the Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel, in accordance with the agreed arrangements.
- 8.4 Where a Panel Member fails to attend meetings of the Panel over a six month period then the Secretariat shall recommend to the relevant Authority that due consideration is given to removing the member from the appointment to the Panel and the appointment of a replacement member from that Authority.

9 Allowances and Expenses

- 9.1 Each Authority has the discretion to pay its representatives on the Panel Special Responsibility Allowances, and to reimburse reasonable expenses incurred. No allowance or expenses payments will be made by the Panel itself to elected members. Any allowances or expenses which may be made to elected members arising out of Panel Membership shall be determined and borne by the appointing Authorities for each Panel Member individually.
- 9.2 The Host Authority, on behalf of the Panel will reimburse reasonable expenses to co-optees provided that this is agreed as part of the annual budget approved by the Panel.

10 Validity of Proceedings

- 10.1 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.
- 10.2 All Panel members (including co-opted members) must observe the Members Code of Conduct and any related Protocols as agreed by the Panel (further regulations may follow on this issue).

Annex 2

Home Office advice on the balanced appointment objective (made available March 2012)

Legal Clarification

The Police and Social Responsibility Act specifies that Police and Crime Panels must be balanced in terms of geography, politics and the skills, knowledge and experience of panel members. Clarification on the specific legal position, and what this means for local partners in making their decisions on panel membership is set out below.

Ministers have been clear that the best panel arrangements will be those which are locally determined. In many cases achieving balance will be challenging, especially where perceived inequalities cannot be redressed through additional co-option of elected members. In recognition of this, the Act specifically states that the balanced appointment objective must be secured “as far as is practicable”. However, local authorities will need a robust rationale for their final membership and be able to justify their decision to the public and their peers.

Geographical balance – “represent all parts of the relevant police area”

Councillor membership of the panel should reflect the geography and population size of the force area. In the first instance, the legislation seeks to achieve this by having every local authority in the area represented on the panel.

Political balance – “represent the political make-up of the relevant local authorities (when taken together)”

Councillor membership of the panel, when taken together, should reflect the political balance of the force area. Local authorities could look to achieve this, in the first instance, by considering the proportion of councillors from each political party across the force area. This approach is the closest to the spirit of the legislation and reflects the approach taken to police authority membership.

Skills, knowledge and experience

All appointments to the panel, of both councillors and independents, should be made in the context of ensuring that the panel has the necessary skills, knowledge and experience to discharge its functions.



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We consider requests on an individual basis.