

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

EXPLANATORY NOTES

OVERVIEW

Part 1- Police Reform

Accountability of Elected Local Policing Bodies.

Section 28: Police and crime panels outside London

129. **Section 28** provides for each police area except the Metropolitan Police District to have a police and crime panel to scrutinise the police and crime commissioner's exercise of his functions.
130. **Subsection (2)** requires the police and crime panel to exercise its functions with a view to supporting the effective exercise of the functions of the police and crime commissioner.
131. **Subsection (3)** sets out the police and crime panel's duties in relation to the police and crime plan submitted to them by the police and crime commissioner in accordance with section 5(6)(c).
132. **Subsection (4)** sets out the police and crime panel's duties in relation to the annual report submitted to them by the police and crime commissioner in accordance with section 12(2).
133. **Subsection (5)** confers the functions set out in Schedules 1, 5 and 8 in relation to a police and crime commissioner's proposed appointment of a deputy police and crime commissioner, chief executive or chief finance officer, proposed precept and proposed appointment of a chief constable, respectively.
134. **Subsection (6)** places a general duty on the police and crime panel to scrutinise the police and crime commissioner's exercise of his functions in respect of any matter not covered by the preceding subsections.
135. **Subsections (7) and (8)** provide for a police and crime panel to publish its reports and recommendations and (in England) to send copies to the local authorities in the police area.
136. **Subsection (10)** introduces Schedule 6.

Schedule 6: Police and crime panels

137. **Schedule 6** makes provision for the establishment and procedures of police and crime panels.
138. **Part 1** provides for the type of police and crime panel that a police area is to have. Under paragraph 1, a police area in England has a panel established and maintained in accordance with Part 2, unless the Secretary of State has made an order providing that it

is to have a panel established and maintained in accordance with Part 3. Such an order can only be made if all of the local authorities in the police area have failed to nominate or appoint members for the panel in accordance with Part 2. Under paragraph 2, a police area in Wales always has a panel established and maintained in accordance with Part 3.

139. [Part 2](#) requires the local authority or authorities in a police area in England to establish and maintain the police and crime panel, which is to be a committee of the authority or authorities.
140. [Paragraphs 4 to 9](#) provide for the membership of a Part 2 police and crime panel. They achieve the result that a police and crime panel will consist of at least ten members appointed from the local authority or local authorities in the police areas, and at least two co-opted members appointed by the panel itself. If there are fewer than ten local authorities in the police area, each of them is required to appoint one or more of its councillors to be a member of the panel, to make a total of ten councillor members. If there are ten or more local authorities in the police area, each of them is required to appoint one councillor member. The panel is then required to co-opt two members who may not be councillors. However, the panel may, with the approval of the Secretary of State, co-opt additional members who may be (but need not be) councillors. The panel's membership may not exceed 20 members in all. "Councillor" for these purposes means a member of a local authority or the elected mayor, if there is one. Paragraph 10 provides for the Secretary of State to nominate and appoint councillors to a police and crime panel where one or more of the local authorities in the police area has failed to do so.
141. [Part 3](#) of the Schedule requires the Secretary of State to establish and maintain a police and crime panel for the police areas in Wales and for any police area in England in respect of which an order under paragraph 1 is in force. These panels are free-standing bodies and not committees of the local authority or authorities in the police area.
142. [Paragraph 13](#) provides for the membership of a Part 3 police and crime panel. It achieves the same result as paragraphs 4 to 9
143. [Paragraphs 14 to 16](#) provides for the selection of the councillor members of a Part 3 police and crime panel in Wales. In the first instance, the Secretary of State will invite the local authority or authorities in a police area to nominate councillors for appointment to the panel, and again in doing so the Secretary of State must secure (so far as is reasonably practicable) that each local authority in the police area is represented on the panel by at least one of its councillors, but no more than one if there are ten or more authorities in the police area. The Secretary of State must appoint any councillor who is nominated by a local authority and who accepts the nomination. But if a local authority fails to nominate the required number of councillors, or a councillor declines the nomination, the Secretary of State must either invite a further nomination or nominate and appoint a councillor. This process will continue until the required number of councillor members have been appointed.
144. [Paragraphs 17 and 18](#) provide for the selection of councillor members for a Part 3 panel in England. They provide for these members to be nominated and appointed by the Secretary of State – there is no provision for the Secretary of State to invite nominations from the local authorities. This is because a Part 3 panel will only be established in England if the local authorities have failed to co-operate in the establishment of a Part 2 panel, and it is assumed that they would not co-operate in the nomination of councillors for appointment by the Secretary of State.
145. [Paragraphs 19 and 20](#) provide for the Secretary of State to maintain a Part 3 panel by providing financial and other resources, since it will not be a committee of the local authority or authorities in the police area. This includes meeting any liability incurred by a panel member.
146. [Paragraphs 23, 28 and 29](#) provide for panel arrangements to be made, governing the establishment and maintenance of police and crime panels, including the payment of

allowances and the provision of support. In the case of a Part 2 panel, these are made by the local authority or authorities in the police area, by agreement; in the case of a Part 3 panel, they are made by the Secretary of State.

147. [Paragraphs 25 to 27](#) concern the procedures of police and crime panels. A police and crime panel must make its own rules of procedure, and those rules must make provision for there to be a chair of the panel. Regardless of the procedures determined by the police and crime panel, there are certain functions which may only be exercised by the panel as whole, and not by a sub-committee of the panel. These are the functions of scrutinising the police and crime plan, the annual report, the precept and the appointment of a chief constable, deputy police and crime commissioner, chief executive, or chief finance officer. All members of a panel may vote in its proceedings.
148. [Paragraph 31](#) places a duty on local authorities, the Secretary of State and police and crime panels, in nominating, appointing or co-opting councillor members of a panel, to secure (so far as is reasonably practicable) that the councillor members, taken together, represent all parts of the police area, represent the political make-up of the local authority or authorities, and have the skills, knowledge and experience necessary for the panel to discharge its functions effectively. [Paragraph 32](#) places the same duty in respect of skills, knowledge and experience on the panel itself when seeking to co-opt members who are not councillors. [Paragraph 33](#) requires a local authority with an elected mayor to nominate the mayor as a councillor member of the police and crime panel, and imposes the same requirement on the Secretary of State when making a nomination in relation to a local authority that has an elected mayor.
149. [Paragraph 36](#) allows the Secretary of State to make regulations amending local authority legislation that applies to police and crime panels or applying any such legislation that would not otherwise apply. [Paragraphs 37 to 39](#) allow the Secretary of State to make procedural regulations about notifications, nominations and appointments. [Paragraph 40](#) allows the Secretary of State to make regulations modifying, suspending, transferring or removing functions in relation to the establishment of panels in a case where the Secretary of State nominates members of a panel.

Section 29: Power to require attendance and information

150. [Section 29](#) makes provision for a police and crime panel to require the police and crime commissioner or members of his staff to attend before the panel to answer questions, and for a police and crime commissioner to respond in writing to the panel's reports or recommendations. Members of the commissioner's staff are not obliged to answer questions or provide evidence in respect of any advice provided to the commissioner.

Section 30: Suspension of police and crime commissioner

151. [Section 30](#) makes provision allowing a police and crime panel to suspend a police and crime commissioner from office if he is charged with a criminal offence carrying a maximum sentence in excess of two years' imprisonment.

Section 31: Conduct

152. [Section 31](#) allows the Secretary of State to make regulations about the making and handling of complaints against a police and crime commissioner, a deputy police and crime commissioner, the holder of the Mayor's Office for Policing and Crime, the Deputy Mayor for Policing and Crime. This section also allows the Secretary of State to make regulations about the recording of conduct matters (matters from which it appears that police and crime commissioners or specially appointed members of their staff may have committed criminal offences, but which are not the subject of a complaint), and the investigation of these complaints and matters.
153. [Subsection \(2\)](#) introduces Schedule 7.

Schedule 7: Regulations about complaints and conduct matters

154. **Schedule 7** makes provision for matters that must, may and may not be contained in regulations made by the Secretary of State under section 31.
155. **Paragraph 2** requires the regulations to provide for complaints of criminal behaviour and conduct matters (which by definition give rise to a suspicion of criminal behaviour) to be investigated by the Independent Police Complaints Commission.
156. **Paragraph 3** requires the regulations to provide for complaints not investigated by the Independent Police Complaints Commission, and not covered by paragraph 4, to be the subject of informal resolution by the police and crime panel.
157. **Paragraph 4** concerns complaints against the holder of the Mayor's Office for Policing and Crime, or the Deputy Mayor for Policing and Crime if he is a member of the London Assembly, which are not investigated by the Independent Police Complaints Commission. The regulations must secure that such complaints are dealt with in accordance with Part 3 of the Local Government Act 2000. The standards regime in Part 3 of the 2000 Act applies in any event to allegations of misconduct against these persons in their capacity as Mayor or Assembly Member.
158. **Paragraph 6** prevents the regulations from making provision for a person to be removed from office, except in accordance with Part 3 of the 2000 Act.
159. **Paragraph 7** allows regulations to apply provisions of Part 2 of the Police Reform Act 2002 (which deals with the handling of complaints and conduct matters concerning persons serving with the police), and any other enactment, with or without modification.

Section 32: London Assembly police and crime panel

160. **Section 32** requires the London Assembly to convene a police and crime panel to exercise the Assembly's functions in relation to scrutiny of the Mayor's Office for Policing and Crime. The London Assembly may decide the composition of its police and crime panel, and the panel may contain persons who are not members of the Assembly. The panel may decide the composition of its sub-committees, and they may contain non-Assembly members. The panel must exercise its functions with a view to supporting the effective exercise of the functions of the Mayor's Office for Policing and Crime.

Section 33: Functions to be discharged by police and crime panel

161. **Section 33** requires the London Assembly to carry out the scrutiny functions conferred on a police and crime panel in a police area outside London. These are the functions which are to be carried out by the Assembly's police and crime panel on its behalf.