



Annual Council

14 May 2012

**Subject: Lincolnshire Police and Crime Panel**

Report by:

Chief Executive

Contact Officer:

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Purpose / Summary:

To brief Lincolnshire's Local Authorities on the development of the Lincolnshire Police and Crime Panel.

**RECOMMENDATION(S):**

- 1.1 To recommend that the proposed arrangements (set out in Appendix A) for the Lincolnshire Police and Crime Panel be established in accordance with Schedule 6 of the Police Reform and Social Responsibility Act 2011 ('the 2011 Act') as a joint committee of Boston Borough Council, City of Lincoln Council, East Lindsey District Council, Lincolnshire County Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council.**
- 1.2 To recommend that West Lindsey District Council at its meeting on 14 May 2012 appoints 1 member to the Lincolnshire Police and Crime Panel with authority to take all decisions necessary to participate in undertaking the functions of the panel.**
- 1.4 To recommend that East Lindsey District Council takes on the role of lead authority for the Lincolnshire Police and Crime Panel.**

## IMPLICATIONS

**Legal:** There is a legal requirement for the Panel to be established

**Financial :** None associated with this report

**Staffing :** None associated with this report.

**Equality and Diversity including Human Rights :**

*NB: A full impact assessment **HAS TO BE** attached if the report relates to any new or revised policy or revision to service delivery/introduction of new services.*

**Risk Assessment :** N/A

**Climate Related Risks and Opportunities :** None

**Title and Location of any Background Papers used in the preparation of this report:**

None

**Call in and Urgency:**

**Is the decision one to which Rule 14 of the Scrutiny Procedure Rules apply?**

Yes

No

**Key Decision:**

Yes

No

## Lincolnshire Police and Crime Panel

### 1.0 Purposes of the report

- 1.3 To brief Lincolnshire's Local Authorities on the development of the Lincolnshire Police and Crime Panel.
- 1.4 To recommend that the proposed arrangements (set out in **Appendix A**) for the Lincolnshire Police and Crime Panel be established in accordance with Schedule 6 of the Police Reform and Social Responsibility Act 2011 ('the 2011 Act') as a joint committee of Boston Borough Council, City of Lincoln Council, East Lindsey District Council, Lincolnshire County Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council.
- 1.5 To recommend that West Lindsey District Council at its meeting on 14 May 2012 appoints 1 member to the Lincolnshire Police and Crime Panel with authority to take all decisions necessary to participate in undertaking the functions of the panel.
- 1.5 To recommend that East Lindsey District Council takes on the role of lead authority for the Lincolnshire Police and Crime Panel.

### 2.0 Background

- 2.1 The 2011 Act introduces significant changes in police governance and accountability, in particular replacing Police Authorities with directly elected Police and Crime Commissioners (commissioners).
- 2.2 The public accountability for the delivery and performance of the police service within each force area will be placed into the hands of the commissioner on behalf of their electorate. The commissioner will draw on their mandate to set and shape the strategic objectives of their force area in consultation with the chief constable. The commissioner will be accountable to their electorate; the chief constable will be accountable to the commissioner.
- 2.3 The Act also requires the local authorities in each police force area to establish a Police and Crime Panel (panel), as a joint committee, to scrutinise the commissioner. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business.
- 2.4 According to the Home Office, "Panels are not a replacement for the police authority. They will fulfil an important role in scrutinising the commissioner but we need to be clear that this reform is about reconnecting the police and the people. This will be achieved through a

directly elected police and crime commissioner not through the police and crime panel. The panel will have an important scrutiny role in relation to the commissioner, however it is the commissioner who is taking on the role of the police authority and who the public will hold to account for the performance of their force.”

- 2.5 The panel will have the following duties and powers which must be exercised in accordance with the Act and associated Regulations:
- a. the power of veto, by two-thirds majority, over the commissioner’s proposed budget and precept;
  - b. the power of veto, by two-thirds majority, over the commissioner’s proposed candidate for chief constable;
  - c. the power to ask Her Majesty’s Inspectorate of Constabulary (HMIC) for a professional view when the commissioner intends to dismiss a chief constable;
  - d. the power to review the commissioner’s draft police and crime plan and make recommendations to the commissioner who must take account of them;
  - e. the power to review the commissioner’s annual report and make reports and recommendations at a public meeting, which the commissioner must attend;
  - f. the power to require any papers in the commissioner’s possession (except those which are operationally sensitive);
  - g. the power to require the commissioner to attend the panel to answer questions;
  - h. the power to appoint an acting commissioner (from within the commissioner’s staff) when the elected commissioner is incapacitated or suspended (until she/he is no longer incapacitated or suspended), or resigns or is disqualified (until a new commissioner is elected); and
  - i. responsibility for all complaints about the commissioner; although serious issues must be passed to the Independent Police Complaints Commission (IPCC).
- 2.6 The Home Secretary has reserve powers to establish a panel and to appoint members to the panel, if any local authority fails to do so.

### **3.0 Developing the panel arrangements**

- 3.1 The Lincolnshire Leaders and Chief Executive Group consisting of the eight local authorities in Lincolnshire have been overseeing the development of the arrangements for the Lincolnshire Police and Crime Panel. The proposed panel arrangements (**Appendix A**) were developed with Legal Services Lincolnshire and were recommended for approval by the Leaders and Chief Executives meeting on 12 April 2012.

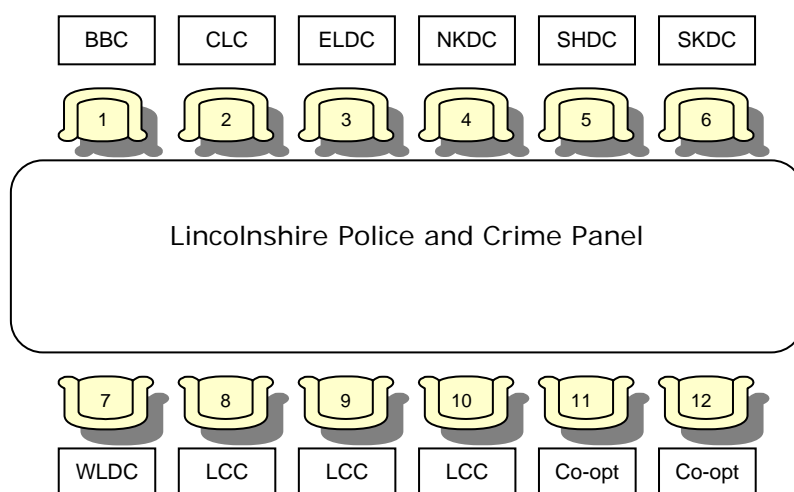
- 3.2 It is proposed that the eight local authorities each agree the formal panel arrangements, establishing it as a joint committee, and appoint their member(s) of the panel at their annual meetings in May 2012. This will allow time for the panel, before the commissioner is elected, to appoint co-opted independent members; agree the panel's rules of procedure; be briefed on relevant issues; and agree the panel's work programme for its first year. Until the commissioner takes office on 22 November 2012, following the election on 15 November 2012, the panel's powers will be limited to those necessary to prepare the panel.
- 3.3 The Act requires the panel to agree its own rules of procedure including the appointment and removal of the Chairman, the formation of sub-committees, the making of decisions and the arrangements for convening meetings.

#### **4.0 Panel membership**

- 4.1 The Act requires that the Lincolnshire Crime and Police Panel consists of ten councillors from the eight local authorities (at least one from each authority) and two independent members (not councillors) co-opted by the panel. A maximum of eight additional co-options (who may or may not be councillors) are possible with the prior approval of the Home Secretary. All panel members will have equal voting rights.
- 4.2 When appointing panel members, a local authority must secure that (as far as is reasonably practicable) the balanced appointment objective is met. This is the objective that local authority members of a panel (when taken together) represent all parts of the police area; represent the political make-up of the local authorities (when taken together); and have the skills, knowledge and experience necessary for the panel to discharge its functions effectively.
- 4.3 When co-opting independent members, the panel must ensure that, as far as is reasonably practicable, the appointed and co-opted members together have the skills, knowledge and experience necessary for the panel to discharge its functions effectively. Advertising for the two independent co-opted members will commence following the appointment of members to the panel and will be led by the lead authority.
- 4.4 As shown in **Diagram 1** it is proposed that Boston Borough Council, City of Lincoln Council, East Lindsey District Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council each appoint one councillor as a member of the panel; and that Lincolnshire County Council appoint three councillors with the objective of providing political balance where reasonably practical. Executive and non Executive members may be appointed onto the panel and it is the decision of the local

authority to decide the type of member appointed to Panel in line with the requirements highlighted in section 4.2.

Diagram 1 – Proposed Membership for the Lincolnshire Police and Crime Panel



4.5 It is proposed that the lead authority will facilitate discussions between the local authorities in order to enable the authorities to fulfil their duty to secure (as far as is reasonably practicable) that the appointed members represent the political make-up of the local authorities within the police area (when taken together).

4.6 It is also proposed that the eight local authorities should aim to fulfil this duty as far as possible without resorting to additional co-options to the panel as increasing the size of the panel beyond the core twelve members would increase costs and reduce its effectiveness.

## 5.0 Support for the Panel

5.1 It is proposed that East Lindsey District Council will be the lead local authority for the panel and, within the overall budget agreed annually by the eight local authorities, will support the panel and its members with administrative and other support to undertake its functions.

5.2 The Home Office will be providing a grant to the lead local authority to meet the costs of the panel, including support for the panel. The grant will start in October 2012 and is expected to be £53,330 per annum plus £920 towards expenses per panel member.

5.3 It is not intended that the costs of the panel will exceed the grant provided by the Home Office.

5.4 The grant is only confirmed for the first 2 years of the panel. The panel arrangements include a clause to ensure the cost burden does not fall solely to East Lindsey District Council should this funding cease or

reduce. The proposal is that any costs incurred be split with Boston Borough Council, City of Lincoln Council, East Lindsey District Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council paying 10% each and Lincolnshire County Council paying 30%

- 5.5 It is proposed that each local authority will reimburse, from within its own resources, expenses incurred by its appointed member(s) to undertake their panel duties and that the local authority will then invoice the lead authority for these costs on an annual basis up to a sum of £920 per member. The lead authority will administer the expenses of the independent co-opted members. Mileage expenses will be paid in line with HMRC mileage payment guidelines. It is not proposed that panel members receive allowances.

## **6.0 Legal implications**

- 6.1 The Act requires the local authorities in each police force area to establish a panel, as a joint committee, to scrutinise the commissioner. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business. The Home Secretary has reserve powers to establish a panel and to appoint members to the panel, if any local authority fails to do so.

## **7.0 Financial implications**

- 7.1 The costs incurred by East Lindsey District Council acting as lead local authority will be managed to ensure that they do not exceed the grant provided for this purpose by the Home Office, which is expected to be £53,330 per annum from October 2012 plus £920 towards expenses per panel member.

## **8.0 Recommendations**

- 8.1 That West Lindsey District Council notes the development of the Lincolnshire Police and Crime Panel.
- 8.2 That West Lindsey District Council approves the proposed arrangements (set out in **Appendix A**) for the Lincolnshire Police and Crime Panel be established in accordance with Schedule 6 of the Police Reform and Social Responsibility Act 2011 ('the 2011 Act') as a joint committee of Boston Borough Council, City of Lincoln Council, East Lindsey District Council, Lincolnshire County Council, North Kesteven District Council, South Holland District Council, South Kesteven District Council and West Lindsey District Council.

- 8.3 That West Lindsey District Council at its meeting on 14 May 2012 appoints 1 member to the Lincolnshire Police and Crime Panel with authority to take all decisions necessary to participate in undertaking the functions of the panel.
- 8.4 That West Lindsey District Council approves that East Lindsey District Council be designated as the lead authority for the Lincolnshire Police and Crime Panel.

John Medler  
Team Leader (Performance, Governance and Commissioning)  
East Lindsey District Council  
23 April 2012

Appendix A: Proposed arrangements for the Lincolnshire Police and Crime Panel



# Lincolnshire Police and Crime Panel

## Panel Arrangements

This Agreement is dated the        day of        2012.

The Agreement is made between the following:

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

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

### **1.0 Background**

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

1. 6 The functions of the Panel must be exercised with a view to supporting the effective exercise of the functions of the PCC for that police force area.
1. 7 The Panel must have regard to the Policing Protocol issued by the Home Secretary, which sets out the ways in which the Home Secretary, the PCC, the Chief Constable and the Panel should exercise, or refrain from exercising, functions so as to encourage, maintain or improve working relationships (including co-operative working); and limit or prevent the overlapping or conflicting exercise of functions.
1. 8 The Panel is a scrutiny body with responsibility for scrutinising the PCC and promoting openness in the transaction of police business in the police force area.
1. 9 The Panel is a joint committee of the Authorities.
1. 10 The Authorities agree the Panel Arrangements.

## **2. 0 Functions of the Police and Crime Panel**

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

2. 5 The Panel must undertake a review and make a report in respect of a precept proposed by the PCC in accordance with the requirements set out in Schedule 5 of the Act, and will have a right of veto in respect of the precept in accordance with the Act and Regulations made thereunder.
2. 6 The Panel must review, hold a conformation hearing, make a report to and make recommendations to the PCC in relation to the appointment of a Chief Constable by the PCC in accordance with the requirements set out in Schedule 8 of the Act and will have a right of veto in respect of the appointment in accordance with the Act and Regulations made thereunder.
2. 7 The right of veto in paragraphs 2.5 and 2.6 will require that at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision.
2. 8 The Panel must review, hold a conformation hearing, make a report to and make recommendations to the PCC in relation to the appointment of the PCC's Chief Executive, Chief Finance Officer and the Deputy Police and Crime Commissioner in accordance with the requirements set out in Schedule 1 of the Act.
2. 9 The following functions must also be undertaken by the Panel but may be delegated to a Sub-Committee of the Panel:
2. 10 The Panel shall receive notification from the PCC of any suspension of the Chief Constable, or any proposal to call upon a Chief Constable to retire or resign, and in the case of retirement or resignation must make a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation in accordance with the procedures set out in Schedule 8 of the Act.
2. 11 The Panel must review or scrutinise the decisions or actions of the PCC in the discharge of his/her functions and make reports or recommendations to the PCC with respect to the discharge of the PCC's functions. The Panel may carry out investigations into the decisions of the PCC, and into matters of particular interest or public concern.
2. 12 The Panel must publish any reports or recommendations made by it to the PCC in a manner which the Panel will determine and must also send copies to the Authorities.
2. 13 The Panel may require the PCC or a member of his/her staff to attend the Panel to answer questions necessary for the Panel to undertake its functions, provided that such questions shall not:
  - a) relate to advice provided to the PCC by his/her staff;

- b) in the view of the PCC:
    - i) be against the interests of national safety;
    - ii) jeopardise the safety of any person; or,
    - iii) prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or,
  - c) be prohibited by any other enactment.
2. 14 If the Panel requires the PCC to attend the Panel, the Panel may (at reasonable notice) request the Chief Constable to attend before the Panel on the same occasion to answer any question which appears to the Panel to be necessary in order for it to carry out its functions.
2. 15 The Panel may require the PCC to respond in writing to a report or recommendation from the Panel to the PCC.
2. 16 The Panel may suspend the PCC if he/she is charged with an offence carrying a maximum term of imprisonment exceeding two years.

### **3. 0 Membership**

#### **General**

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

3. 4 One Member appointed by each of:
  - a) Boston Borough Council
  - b) City of Lincoln Council
  - c) East Lindsey District Council
  - d) North Kesteven District Council
  - e) South Holland District Council
  - f) South Kesteven District Council and
  - g) West Lindsey District Council
3. 5 Three Members shall be appointed by Lincolnshire County Council.
3. 6 The Panel shall also include two Members co-opted in accordance with these Panel Arrangements.
3. 7 The Panel itself may then also resolve to co-opt further Members with the agreement of the Secretary of State provided that the total number of co-opted Members included in the Membership of the Panel shall not exceed 10.
3. 8 Panel Members will not be able to appoint substitute Members in the event that they are unable to attend a meeting.

### **Appointed Members**

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

3. 14 In the event that any Appointed Member resigns from the Panel, or is removed from the Panel by an Authority, the Authority shall immediately take steps to nominate and appoint an alternative elected member as an Appointed Member to the Panel.
3. 15 Appointed Members may be re-appointed to the Panel for a further term of four years subject to compliance with the balanced appointment objective.

### **Co-opted Members**

3. 16 The following may not be co-opted Members of the Panel:
  - a) the PCC for the Police Area.
  - b) a member of staff of the PCC for the area.
  - c) a member of the civilian staff of the Police Force for the area.
  - d) a Member of Parliament.
  - e) a Member of the National Assembly for Wales.
  - f) a Member of the Scottish Parliament.
  - g) a Member of the European Parliament.
3. 17 An elected member of any of the Authorities may not be a co-opted Member of the Panel where the number of co-opted Members is two or less.
3. 18 If the Panel has three or more co-opted Members an elected member of any of the Authorities may be a co-opted Member of the Panel provided that at least two of the other co-opted Members are not elected members of any of the Authorities.
3. 19 A co-opted Member shall be a Member of the Panel for four years.
3. 20 Co-opted Members of the Panel shall appointed following public advertisement in accordance with the following principles:
  - a) The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
  - b) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre determined criteria; and,
  - c) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
- 3.21 In relation to the two co-opted Members required to be appointed in accordance with these Panel Arrangements under paragraph 3.6 the appointment shall be decided by a Panel of the ten Appointed Members.

- 3.22 In relation to the appointment of additional co-opted Members with the approval of the Secretary of State the appointment shall be made by the Panel in accordance with its Rules and Procedures
- 3.23 A co-opted Member of the Panel may resign from the Panel by giving written notice to the Lead Authority on behalf of the Panel at Tedder Hall, Manby Park, Manby, Lincolnshire, LN11 8UP.
- 3.24 The Panel must from time to time decide whether the Panel should exercise its power to change the number of co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.
- 3.25 The Panel may decide to terminate the appointment of a co-opted Member of the Panel if at least two-thirds of the persons who are Appointed Members of the Panel at the time when the decision is made vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the co-opted Member:
- a) if the co-opted Member has been absent from the Panel for more than [ 2 ] meetings in the calendar year without the consent of the Panel;
  - b) if the co-opted Member has been convicted of a criminal offence but not automatically disqualified;
  - c) if the co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a Member of the Panel.
  - d) if the co-opted Member's membership of the Panel no longer achieves the meeting of the balanced appointment objective.
- 3.26 In the event that a co-opted Member resigns from the Panel or is removed from the Panel following a decision of the Panel, the Panel shall ensure that at least two independent co-opted Members remain appointed to the Panel, and in the absence of two such Members shall make arrangements to ensure that two co-opted Members are appointed in accordance with paragraph 3.21.
- 3.27 Co-opted Members appointed to the Panel may be re-appointed for a further term of four years subject to compliance with the balanced appointment objective.

#### **4.0 Budget and Costs of the Panel**

- 4.1 The annual costs of the Panel, reduced by the figure of any grant from the Home Office or any other source, shall be borne on the following basis
- a) 30% by Lincolnshire County Council

- b) 70% equally between the remaining Councils
- 4.2 A draft budget for the operation of the Panel shall be drawn up by the Lead Authority in February each year, and shall be approved by the Authorities. All costs will be contained within the budget.

#### **5.0 Lead Authority**

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

#### **6.0 Access to Information**

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

#### **7.0 Rules of Procedure**

- 7.1 The Panel shall determine its Rules of Procedure which shall include arrangements in relation to the:
  - a) the appointment and removal of the Chairman;
  - b) the formation of sub-committees;
  - c) the making of decisions;
  - d) the arrangements for convening meetings; and,
  - e) the circulation of information.

#### **8.0 Validity of Proceedings**

- 8.1 The validity of the proceedings of the Panel shall not be affected by a vacancy in the Membership of the Panel or a defect in appointment.
- 8.2 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Police Reform and Social Responsibility Act 2011, and any Regulations made in accordance with that Act, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

INSERT SIGNATURE/EXECUTION CLAUSE