

Police and Crime Panels – Application of Local Authority Enactments

This guidance note explains which local authority enactments apply to police and crime panels (PCPs); and should be read alongside [The Police and Crime Panels \(Application of Local Authority Enactments\) Regulations 2012](#)

This note is not intended to provide exhaustive guidance but rather explain the topics covered by the relevant pieces of legislation and highlight key points as they apply to PCPs.

Background

Schedule 6 to the Police Reform and Social Responsibility Act 2011 makes provision for two types of PCP – Part 2 Panels, for police areas in England established by local authorities, and Part 3 Panels, for police areas in Wales (and police areas in England where local authorities fail to nominate or appoint members for the Panel).

Paragraph 36 of Schedule 6 confers a power to apply to police and crime panels or their members any enactment which relates to local authorities, committees or joint committees of local authorities or their members. There is also a power to amend or otherwise modify any such enactment that already applies.

Part 2 PCPs (England)

The general policy intention is that Part 2 Panels should be treated, in legislative terms, in the same way as any other local authority committee or joint committee.

Where legislation is simply expressed as applying to committees or joint committees of local authorities, without more, it will apply automatically to Part 2 Panels¹. Some legislation however, is expressed as applying to committees or joint committees formed under section 102(1), or in pursuance of arrangements under section 101, of the Local Government Act 1972. As Part 2 PCPs are not formed under these provisions, this legislation will not automatically apply, these Regulations apply it.

The Regulations also apply three specific provisions to co-opted members of a Part 2 PCP; although these provisions expressly apply to co-opted members of local authorities, that term is defined in such a way that it does not capture co-opted members of PCPs. Applying these provisions puts co-opted member on an equal footing with appointed members.

Part 3 PCPs (currently Wales only)

These Regulations apply such local government legislation as is necessary to allow the PCP to carry out its scrutiny function in an effective, transparent and accountable fashion, and allow them to operate in a similar manner to their English counterparts.

The table below sets out which provisions have been applied to the different types of PCP.

¹ See section 85(2) of the Local Government Act 1972 (vacation of office by failure to attend meetings) for an example of this kind of provision

Provisions applied by the Regulations

Section	Provision	Topic	Part 2	Part 3 England	Part 3 Wales	Page
1	Local Government Act 1972, Part VA	Access to meetings and documents	✓	✓	✓	5
2	Local Government Act 1972, Schedule 12A	Access to information: Exempt information	✓	✓	✓	5
3	Local Government Act 1972, section 101(2)	Delegation of functions	✓	✓	✓	6
4	Local Government Act 1972, section 99	Meetings and proceedings		✓	✓	6
	Local Government Act 1972, schedule 12 paragraphs 40-44	Meetings and proceedings		✓	✓	6
5	Local Government Act 1972, section 103	Expenses of joint committees		✓	✓	6
6	Local Government Act 1972, section 104	Disqualification for membership		✓	✓	7
7	Local Government Act 1972, sections 224, 225 and 228-234	Documents and notices		✓	✓	7
8	Local Government Act 1974, part III and schedule 5	Maladministration		✓		8

9	Local Government (Miscellaneous Provisions) Act 1976, section 39	Protection of members and officers of local authorities from personal liability.	✓	✓	✓	<u>8</u>
10	Local Government (Miscellaneous Provisions) Act 1976, section 41	Evidence of resolutions and minutes of proceedings		✓	✓	<u>8</u>
11	Local Government Act 1986, Part II	Publicity		✓	✓	<u>9</u>
	Local Authorities (Publicity Account) (Exemption) Order 1987	Accounts of expenditure on publicity: Exemptions		✓	✓	<u>9</u>
12	Local Government Act 2000, section 101	Indemnification of members and officers	✓	✓	✓	<u>9</u>
	Local Authorities (Indemnities for Members and Officers) Order 2004	Circumstances in which a relevant authority may provide indemnity/ insurance	✓	✓		<u>9</u>
	Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006	Circumstances in which a relevant authority may provide indemnity/insurance			✓	<u>9</u>
13	Local Government Act 2000, Part III	Standards (Part 3 Wales only)			✓	<u>10</u>
	Conduct of Members (Principles) (Wales) Order 2001	Principles governing conduct			✓	<u>10</u>
	The Standards Committees (Grant of Dispensation) (Wales) Regulations 2001	Circumstances in which standards committees may grant dispensations			✓	<u>10</u>

13	Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001	Investigations into breaches of code of conduct			✓	10
	Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001	Provides for APW to adjudicate in breaches of code of conduct			✓	10
	The Public Services Ombudsman for Wales (Standards Investigations) Order 2006	Applies provisions to standards investigations			✓	10
	The Local Authorities (Model Code of Conduct) (Wales) Order 2008	Model code of conduct			✓	10
14	Freedom of Information Act 2000	Applies Freedom of Information Act to PCPs	✓	✓	✓	10
15	Equalities Act 2010, Part11	Applies the single public sector equality duty to PCPs	✓	✓	✓	10
16	Localism Act 2011, section 25	Prior indications of view of a matter not to amount to predetermination	✓	✓		11
17	Localism Act 2011, part 1, chapter 7	Standards (Part 3 England only)	✓	✓		11
	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012	Pecuniary interests that must be registered	✓	✓		11
18	Public Services Ombudsman (Wales) Act 2005, Part 2, Schedule 2	Maladministration (Wales only)			✓	11

1. Local Government Act 1972, Part VA

Part VA concerns public access to meetings and documents of local authorities, and their committees and sub-committees.

Meetings

The general intention is that the meetings of councils and their committees be open to the public, except in the circumstances set out in Part VA. Applying this section means that meetings of a PCP should be held in public, except in the aforementioned situations.

Papers

Agenda and connected reports should be made available to the public five clear days before the meeting. However, where a meeting is convened at shorter notice or an item is added to an agenda after its publication, the relevant paper(s) must be published as soon as they're available.

Nothing in this section requires papers to be made available to the public until copies are available to members of the PCP. Papers relating to sections of a meeting which will not be open to the public may be excluded from publication.

Any document which contains material relating to the business of a PCP shall be available to any member of a council in the force area, except where it relates to exempt information.

Additional information

The PCP must have a register, stating the name and address of every member of the PCP.

The PCP must maintain a list, specifying the powers of the PCP which are exercisable, from time to time, by an officer. The list must include the title of the officer able to exercise such a power.

2. Local Government Act 1972, Schedule 12A

Schedule 12A provides sets out information that may only be shared in a closed meeting.

3. Local Government Act 1972, Section 101(2)

The application of section 101(2) allows PCPs to arrange for the discharge of any of its functions by a sub-committee or an officer of the host authority.

This includes enabling PCPs to delegate the initial handling of complaints to the monitoring officer of the host authority. A PCP may also delegate such handling to the PCC's monitoring officer under [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012](#)

It should be noted that this will not include the 'special functions' of a PCP (as set out in PRSR Schedule 6, paragraph 27), namely:

- Scrutiny of the police and crime plan
- Scrutiny of the annual report
- Scrutiny of senior appointments
- Scrutiny of the PCC's proposed precept
- Scrutiny of the PCC's proposed chief constable appointment

It is important to remember that while the PCP has the power to delegate functions to the host authority, there is no obligation on the host authority to accept that delegation; the intention is to provide PCPs with a range of options.

4. Local Government Act 1972, Section 99 and Schedule 12, paragraphs 40-44

Section 99 of the Act applies to provisions of Schedule 12 to meetings of local authorities and their committees; these Regulations apply these provisions to PCPs.

Schedule 12 concerns the meetings and proceedings of local authorities, paragraphs 40-44:

- require the PCP to record the names of the members present at a meeting;
- sets out how minutes should be recorded and signed
- allow a PCP to make standing orders; and
- provide that a vacancy shall not invalidate proceedings.

5. Local Government Act 1972, section 103

Section 103 requires the local authorities in the police force area to agree how the expenses incurred by the PCP shall be apportioned. In the case of disagreement an arbitrator may be appointed by the local authorities to determine how the costs should be defrayed; where the local authorities cannot agree on an arbitrator one may be appointed by the Home Secretary.

6. Local Government Act 1972, section 104

This section of the Local Government Act 1972 means that where a person is disqualified from being elected or being a member of a local authority (under section V of the 1972 Act) they will also be disqualified from being a member of a PCP.

7. Local Government Act 1972, sections 224, 225 and 228-234

These provisions relate to documents that must be held by the council.

Section 224 requires PCPs to make proper arrangement with respect to any document belonging to, or in the custody of, the PCP. Section 225 requires the PCP to receive, handle and retain any official documents in accordance with the applicable legislation.

Section 228 requires the minutes of PCP meetings to be open to inspection by any resident of the police force area.

Section 229 allows copies of the documents to be kept in photographic form.

Section 230 provides that, if requested by the Home Secretary or either House of Parliament, the PCP must provide reports, returns, or information with respect to its functions.

Section 231 has the effect that a notice, order or other document can be served on a PCP by leaving it at, or posting it to, the offices of the local authorities making up the PCP.

Applying section 232 means that where a public notice is required to be given by a PCP it can be done by posting the notice in a conspicuous place or places in the police force area, or in any other way as appears appropriate to giving publicity to the notice.

Section 233 sets out the ways in which notices, orders, or other documents may be served by the PCP.

Section 234 provides that where a notice, order or other document is required, it may be signed on behalf of the PCP by the proper officer². Any document that bears the signature will be deemed to have been given, made or issued by the PCP.

² Proper officer means a member of the staff of any of the local authorities in the police area who has been appointed for the particular purpose by the PCP. This could, for instance, be the Chief Executive of the 'host' authority.

8. Local Government Act 1974, part III and schedule 5

These sections have been applied to Part 3 PCPs in England only, they apply automatically to Part 2 PCPs.

Part III of the 1974 Act concerns local government administration and sets out the way in which complaints against a PCP should be handled. Schedule 5 sets out the matters that are not subject to investigation.

Essentially these provisions allow for the Local Government Ombudsman to investigate complaints against PCPs. These provisions apply automatically to Part 2 PCPs in England but have been applied to Part 3 PCPs in England to ensure consistency.

Part 2 Public Services Ombudsman (Wales) Act 2005 has been applied to Part 3 PCPs in Wales to afford equivalent powers to the Public Service Ombudsman for Wales to investigate complaints against Welsh PCPs – see page 11.

9. Local Government (Miscellaneous Provisions) Act 1976, section 39

These Regulations apply this section of the 1976 Act, to all PCPs in England and Wales, in order protect independent members of PCPs from personal liability. Independent members shall be treated as if they were a member of the host authority.

10. Local Government (Miscellaneous Provisions) Act 1976, section 41

This provision allows certified copies of resolutions, minutes etc. to be used as evidence in proceedings.

This section of the 1976 Act applies automatically to Part 2 PCPs and is being applied to Part 3 PCPs in England and Wales.

11. Local Government Act 1986, Part II

Part II of the 1986 Act concerns local authority publicity, in applying it these Regulations prohibit PCPs from publishing political material and allows the Secretary of State to issue a code of practice about publicity.

These provisions apply automatically to Part 2 PCPs, they are being applied to Part 3 PCPs in both England and Wales. The effect is that all PCPs should apply the Code of Recommended Practice on Local Authority Publicity issued by the Department for Communities and Local Government

<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity> .

Related secondary legislation that has been applied:

- **Local Authorities (Publicity Account) (Exemption) Order 1987** – sets out exceptions to the prohibition set out in Part II of the 1986 Act.

12. Local Government Act 2000, section 101

These Regulations apply this section of the Local Government Act 2000 to co-opted members of a PCP. The provision allows the Home Secretary, by way of an Order, to confer a power on authorities to provide indemnities to members or officers.

Related secondary legislation that has been applied:

- **Local Authorities (Indemnities for Members and Officers) Order 2004** – provides the circumstances in which a relevant authority may provide an indemnity to any member or officers or secure the provision of insurance.
- **Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006** – provides the circumstances in which a relevant authority in Wales may provide an indemnity to any member or officers or secure the provision of insurance.

13. Local Government Act 2000, Part III

This Part of the 2000 Act has been applied to Part 3 PCPs in Wales only. The effect is that local authority members of PCPs remain subject to the code of conduct of their home local authority while serving on the PCP. Co-opted independent members of a PCP are subject to the code of conduct of the host authority. Any allegation of breach of a code of conduct in relation to service on a PCP may be investigated by the Public Services Ombudsman for Wales (PSOW) and referred to the Adjudication Panel for Wales as with any other local government standards allegation.

Related secondary legislation that has been applied:

- **Conduct of Members (Principles) (Wales) Order 2001** – sets out the principles which govern the conduct of members and co-opted members
- **The Standards Committees (Grant of Dispensation) (Wales) Regulations 2001** - prescribe the circumstances in which standards committees of relevant authorities may grant dispensations for members in relation to registering financial or other interests.
- **Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001** – provide for the monitoring officer of the host authority to investigate matter referred to them before reporting and making recommendations to the standards committee or the PSOW.
- **Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001** – make provision regarding adjudications by case tribunals and interim case tribunals.
- **The Public Services Ombudsman for Wales (Standards Investigations) Order 2006** – provides for the application (in some cases with modifications) of section 60 to 63 of the Local Government Act 2000, and section 32 of the Public Services Ombudsman (Wales) Act 2005 to standards investigations.
- **The Local Authorities (Model Code of Conduct) (Wales) Order 2008** – sets out the model code of conduct for members and co-opted members.

14. Freedom of Information Act 2000

The Freedom of Information Act is being applied to all PCPs in England and Wales. This means that members of the public are entitled to request any recorded information held by the PCP.

15. Equalities Act 2010, Part 11

Part 11 of the Equalities Act 2010 is also being applied to all PCPs in England and Wales, in doing so the single public sector equality duty is applied to all PCPs. This requires the PCP to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

16. Localism Act 2011, section 25

Section 25 of the Localism Act is applied to PCPs in England, whether established by local authorities or the Home Secretary.

Section 25 means that where there is an issue about the validity of a decision, e.g. alleged bias or predetermination, a decision-maker will not be taken to have had a closed mind just because they had previously done something which directly or indirectly indicated the view that they took/would take/might take in relation to a relevant matter.

17. Localism Act 2011, part 1, chapter 7

This part of the Localism Act has been applied to all PCPs in England. This part sets out the expectation for high standards of conduct; the requirement to have a code of conduct; the arrangements to investigate and make decisions on allegations against members; the requirement to have a register of interests. This has been applied in a way that means co-opted members of PCPs come under the code of conduct of the 'host' authority.

Related secondary legislation that has been applied:

- **The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012** – sets out the pecuniary interests that must be registered under Part 1 Chapter 7 Localism Act 2011

18. Public Services Ombudsman (Wales) Act 2005, Part 2 and Schedule 2

Applying these sections enable the PSOW to investigate complaints against individual members of the PCP and complaints of maladministration made against the PCP.

This reflects the powers of the Local Government Ombudsman in England – see page 8.