



Home Office

# Draft Terms of Reference for Community Scrutiny Panels

August 2023 Version 1.0

# 1. Purpose and Remit

1. **Purpose:** This community scrutiny panel is to review public interactions with the police within ----- force, which are of interest to the local community and where feedback from the panel will help achieve improvements within local policing.

This panel will:

- **Assess records of public interactions with the police**, and provide feedback and observations on how police powers were used, noting any concerns as necessary.
  - **Be informed of and will analyse records according to local crime and policing data trends** (including as appropriate, stop and search powers, use of force incidents etc).
  - **Review data and where appropriate Body Worn Video (BWV) footage, on the application of police powers** including stop and search powers and use of force.
  - **Consider wider issues** where the panel feels it could add value, for example the wider factors and ways in which disproportionality issues can be addressed and where the police and public can work better together.
  - **Help to restore trust and confidence between the police and the community they serve**, including those disproportionately impacted by the use of police powers, through achieving transparency, accountability, engagement and understanding of how police use their powers, and how improvements can be made through process or policy changes.
2. The panel and all members must familiarise themselves and adhere to the **panel's Terms of Reference, including where necessary all legal requirements (e.g., GDPR)**

## 2. Governance

1. This panel has been established in partnership with XXX force, the Police and Crime Commissioner (PCC) and Chief Constable (CC).
2. **Leadership:** The PCC is the senior responsible officer for this community scrutiny panel, and has final authority for all matters including resourcing, and any action following panel feedback.
3. **Force contact:** The police point of contact[s] for XXX force is XXX, who will liaise with the CC and PCC and escalate any issues as appropriate.
4. **Police role:** With the panel's agreement, the police contact or agreed delegated police officer may attend the panel session to provide advice and support as necessary or in whatever capacity agreed between the panel and police. A force training officer may also attend panel sessions to inform the panel on specific aspects of policing and receive feedback in order to undertake any necessary improvements.
5. **PCC role:** With the panel's agreement, the PCC may/should attend the panel session, chair a panel session and assist in the escalation of any issues within the community scrutiny process. The PCC's role, and how they can/will assist in the scrutiny process and action feedback should be agreed between the panel Chair/ members, PCC, and CC/ police force.
6. Depending on the PCC's availability and resources, the PCC should agree with the panel Chair and members and/or force, how often they will attend community scrutiny panel sessions.
7. **Panel findings:** The panel should inform the PCC and police about its findings and how this will be reported back should be agreed by the panel, PCC and CC. Panel feedback may/will be communicated by panel to the police point of contact and vice versa- information from the PCC/force may be communicated to the panel by the police/ PCC point of contact.
8. The police point of contact is responsible for receiving findings escalated by the panel, and for resolving/deciding issues where necessary.
9. **Panel feedback** can be collated by the PCC and published via a report or minutes on the force or PCC website. The PCC and police should respond as appropriate with action, apply learning, and feedback to the panel, the public via the panel's governance processes [PCC/APCC] and stakeholder networks [HMICFRS, CoP, HO/ MoJ].
10. **Post panel actions:** The PCC /and Chief Constable are responsible for any actions following a panel session and its feedback. It is the decision of the [PCC/Chief Constable] whether or not any action will follow from panel feedback, including if any matter requires a referral via the formal complaints process (such as via the IOPC) or other legal means.
11. A panel may consider its own separate Terms of Reference for its purpose, scope, operation and governance in line with these overarching principles.

# 3. Panel Membership

## Panel Membership

1. **Members of the panel should reflect the demographics of the local community.**

2. **The panels should include, where possible:**

- Statutory/established scrutineers (PCCs, IAGs)
- Experts (those with experience of working in the criminal justice system)
- Community representatives with lived experience of police encounters/ interactions and/or disproportionality
- Community leaders/advocates
- Police representatives (police lead/staff representation re. protected characteristics, and trainers)
- Young or other vulnerable people with relevant lived experiences and/or experience of the criminal justice system. Adequate safeguarding measures must be followed by the force, PCC and the panel members when dealing with young / vulnerable participants or those with protected characteristics, such as defined under the Equality Act 2010.

The PCC/force should ensure that the inclusion of members listed above should be made without detriment to the representation of other groups or persons with protected characteristics, such as defined under the Equality Act 2010.

3. The panel should confirm the [nominated] participants or invitees for each session in advance – this should be done via the appointed Chair, or if there is no appointed Chair, by a designated panel member, or via the PCC.

4. To maximise transparency and public confidence, the panel should elect **an independent Chair**. However, where agreed by the panel, PCC and force, the PCC or force representative may chair a panel session.

5. **Continuity of Membership:** A balance should be sought between regular members and occasional/one-off participants. The panel needs to have adequate flexibility to include the participation of people who cannot commit to long term membership, but whom the panel would benefit from including. The panel should also encourage and support adequate continuity of membership to enable sustained learning, development, and improvement.

6. **Police/ panel interaction:** The police contact/s or police expert(s) may be a member of the panel but should withdraw from the session for the case reviews and return to the panel to pick up any feedback and actions.

7. **PCC/ panel interaction:** The PCC, deputy or representative may with the panel's agreement be a member of the panel, chair the panel, or attend the panel meetings in an advisory capacity, and to address panel feedback and actions.

8. **Suitability:** Individuals will not be selected for panel membership unless they agree to conduct themselves in a respectful and inclusive manner throughout the community scrutiny process.

**9. Concerns:** If a concern is raised about the attendance/membership of a person or Chair of a panel, the matter should be escalated through the panel's governance process and the PCC/police contact. The appointed arbiters [panel members, PCC/police contacts or leads] should decide on that person's continued presence on the panel, and/or any alternative steps that should be taken in the circumstances.

## Vetting

- 1. The force (and PCC) may apply vetting protocols as appropriate.** When doing so, the force/ PCC should ensure that vetting protocols do not unfairly discriminate against individuals who would otherwise be able to participate in panel sessions, and where their participation would be valuable to the community scrutiny process, the PCC and force should consider alternative arrangements to assist with their involvement.
- 2. When vetting potential panel members, the force/ PCC should clearly explain what the process involves to all potential panel members, and participants of the community scrutiny process.** This may require an explanation of why vetting is necessary, such as to maintain confidentiality and data handling requirements.
- 3. All panel members must comply with the vetting and security protocols of police forces/PCCs and stakeholder agencies engaged.**
- 4. Forces, PCCs and panels may engage with partner agencies** who work with people with lived experiences of the criminal justice system (e.g., custody, Youth Offending Teams), to encourage/ enable their clients, and/or other people with lived experiences, to participate in their panels.
- 5. Where vetting may prevent individuals from participating, the PCC, force lead[s] and panel should consider alternative arrangements** such as remote access, partial panel attendance, or the redaction of sensitive material, to enable individuals to participate in panel sessions.

# 4. Panel Scope

## Panel Scope

- 1. The scope of this panel will be determined by local data and topics that the panel requests to examine such as:**
  - Scrutiny of stop and search powers, use of force or out of court disposals, and the use of Body Worn Video footage to record those incidents.
  - Further topics can be examined on request of the panel and guidance sought on local data trends and priorities from the PCC/ police force liaison officer in order to focus scrutiny. Requests should be made to the PCC/ police force as far as practicable in a reasonable manner, in good time and in advance of any panel session.
  - Data showing evidence of disproportionality [add where appropriate, racial or other etc] can also be within scope.
- 2. Panel members will be provided information and training on the scope of their scrutiny functions,** including being made aware of official guidance standards to help with their scrutiny decisions.
- 3. Panels may adopt a decision model or matrix to aid panel review** on whether a public interaction with the police and the powers exercised were appropriate, or not appropriate.
- 4. Overlapping issues:** Where an public-police interaction may link to other police powers or tactics that the panel may show an interest in (e.g. stop-search/arrest), the panel should work with the force contact/lead/PCC to decide at the outset whether to be able to bring such powers into the panel's review or whether these may be better placed under a different review body, for example through a stop-search review process, or via a local Independent Advisory Group (IAG).
- 5.** The PCC/force should assist the panel with this decision, and if an agreement cannot be reached the panel should escalate their concerns via the PCC/force lead. This will be a consideration for the panel, in consultation with the PCC and police.
- 6. Scope of panel feedback:** The panel's views and/or findings may identify issues which are wider than the scrutiny of police powers or tactics. Panel feedback may prompt or require the escalation of a safeguarding referral or a redaction of identify within BWV footage, where for example the individual is known to a panel member. The PCC and/or police representative should ensure that any such matters are brought to the attention of the force lead/ [senior] responsible officer/Chief Constable/PCC and actioned as appropriate.
- 7. Limits of Panel Scope:** This panel has no jurisdiction in law to determine if a case is unlawful or unsafe and has no involvement in the formal complaints or legal processes.

# Case Selection

- 1. Panels should only scrutinise cases retrospectively** and where all proceedings (including appeal routes) have been finalised or exhausted.
- 2. Panels have no influence or power to change the outcome of a case.** Panel feedback will not change the original decision unless the police force considers the decision to be unlawful and/or unsafe.
- 3. The force with input and direction from the PCC (and panel where appropriate), should randomly select records for scrutiny,** within an open and transparent process, unless the panel decides it wants to review a particular case in the public interest.
  - A suggested method is for the police to supply a list of a particular power/ police tactic [for example custody records] from which the panel selects the cases it wishes to scrutinise.
  - This could be informed by the panel's interest, or with guidance from the PCC/police force on local crime and policing priorities.
  - Alternatively, the panel could require a number of randomly selected cases plus cases which have resulted in a complaint.
  - Some forces utilise Independent Advisory Groups (IAGs) within the community scrutiny process, who randomly select records, from which the panel then randomly select cases for panel scrutiny sessions.
- 4. The force is responsible for selecting, securing, sanitising (via pixelation or redaction) and presenting case records including BWV footage to the panel.**
- 5. Panels may, however, request the force or PCC for particular type of case for review, according to local crime and policing priorities.** The selection of cases may be determined at the discretion of the panel where justification can be provided for doing so with the agreement of the Police and/or PCC. A panel may wish to look at themes or specific offence types, dependent on issues which are relevant to geographic region with guidance on local priorities from the force or PCC. Relevant data specific to each force may be used to determine this. The force/ PCC should consider such requests and where proportionate to do so, make case records available to the panel for scrutiny.
- 6. If an agreement between the panel and force/ PCC cannot be found about case selection/ presentation,** the matter should be escalated through the governance process for a decision to be made by the PCC or Chief Constable.
- 7. To avoid conflicts of interest,** panel members who are known personally to individuals who have been engaged in criminal investigations or in operational police contact should not review such cases or those which have occurred in localities in which their contacts are known to have frequented.

## Case selection and Body-Worn Video (BWV):

- 1. Body-worn video (BWV) footage of incidents may be shared where possible and appropriate to do so.** Where BWV footage is made available to the panel, the

PCC/force should explain to the panel why it is relevant to the scrutiny /decision making of a police power or police-public interaction.

2. **The method by which BWV footage is selected by the force/ PCC for scrutiny should be transparent.** Where appropriate, forces should consider ways in which to reassure panels that any footage provided is representative and randomly selected.
3. **To eliminate overrepresentation of certain pieces of BWV footage over others, the age of the piece of footage being selected should not exceed the minimum retention period for standard pieces of footage.** This should mean that footage subject to higher retention periods, for example footage connected to an investigation, is not over-represented as this could give a distorted perception of policing to community groups.
4. **Forces may consider it helpful to provide additional explanations for certain pieces of footage,** for example, why the first part of some footage is not accompanied by audio (where pre-record is used) or where footage appears to have started mid-way through an incident.
5. **Forces and PCCs will need to agree and establish the terms of such data sharing with their information governance departments.** All panel members must agree to all data protection protocols and legal requirements when viewing case records including BWV footage. Forces and PCCs should ensure compliance with data protection legislation and whether data can be lawfully processed and shared with others.
6. **Forces must consider adequate safeguarding and data protection measures in line with their own data protection policies, and legislation.** This includes redaction of video footage to remove identifiable personal data (such as faces or names). Where BWV footage is made available to panel members for viewing prior to a panel session, the force/ PCC should ensure that specific clips for the panel are suitable for sharing in line with the necessary data handling and sharing protocols.
7. **To aid transparency, forces should consider providing a brief explanation why redaction or exclusion of certain footage, has been made, for example, due to pending investigations without compromising confidential or sensitive information.** Similarly, a brief explanation of the arrangements and reasons around auto-deleting of footage due to data protection obligations should also be considered where appropriate.
8. **Young or vulnerable people on the panel should be supported by a friend or helper who explain to them why a particular case type has been selected for review.** The police lead/PCC and the panel should ensure adequate safeguarding measures are followed especially where case records may include sensitive subject matter or footage. The potential impact on panel members including distress of reviewing such cases should be carefully considered and managed.
9. **The police, PCC and panel Chair and those responsible for producing records for panel scrutiny, should ensure that records are shared with sufficient time for panel members to scrutinise cases.** Where appropriate, material should be circulated to panel members in advance of the session (including whatever steps are necessary to protect against inappropriate/unlawful disclosure of personal information, recognising that material may remain sensitive even where it has been redacted).



# Ways of Working

1. **The panel should agree how often it will meet and where.** When well established, the panel should meet quarterly.
2. **The panel should aim wherever possible, to meet at a neutral, independent location,** unrelated to policing e.g., a community hall or a local football club.
3. **Whilst in-person meetings are recommended, the provision of alternative arrangements** to include panellists who are unable to attend in person, such as remote access, should be considered by the PCC/force.

## Data Handling

1. **The force is responsible for selecting, securing, sanitising (via pixelation or redaction) and presenting case records including BWV footage to the panel.**
2. **Where all scrutiny records are reviewed all panel members must adhere to disclosure, data protection/ GDPR protocols and force guidance.**
3. **Police forces and PCCs should ensure that all BWV is handled and reviewed in line with the national [Authorised Professional Practice -APP] BWV guidance.** Forces and panels should consider individual data protection implications when showing video footage to persons who connect to panel sessions remotely, to prevent the footage being captured and shared.
4. **All confidentiality requirements, data protection or other legal requirements should be clearly explained and provided to all panel members, including remote attendees in advance.** Signed confidentiality agreements should be obtained in advance of any panel session.
5. **Remote panel attendees can be accompanied by a friend or helper during panel sessions,** (especially where BWV footage is being shown,) or as long as the panel member is involved in the scrutiny session. Any such arrangements should be subject to approval by the PCC/ forces' information governance departments, the panel Chair and other panel members.

## Safeguarding

1. **Adequate safeguarding policies must be in place and applied to ensure the well-being of all participants within the community scrutiny process** especially those with protected characteristics or vulnerabilities, and young people. The police contact/ [force lead/ responsible officer] and PCC/ representative should seek appropriate safety and safeguarding advice to ensure all attendees are able to safely and fully engage with the community scrutiny process and within the panel.

## Participation

2. **Prior to the participation of individuals in a panel session, the force should conduct a risk assessment with regard to specific circumstances of the local panel members.** The risk assessment may relate to an individual's vulnerability or protected characteristics, or their involvement in a criminal activity. The force should

consult with a partner/ agency (e.g., Youth Justice Board, or voluntary or civil society organisation or charity) working with that individual.

3. **The force will assess all matters and make the final decision to agree or decline an individual's attendance-** including any contingency plans that may be applied (for example that the person is accompanied by a carer, friend or helper who can assist them to participate in the community scrutiny process.
4. **The police contact/ [force lead/ responsible officer] should explain any such arrangements /issues to the panel.** Any excluded individual should have a right of appeal through the panel's governance process.

### **Wellbeing and support**

5. **The panel Chair, PCC and/or police lead may consider and decide whether to designate a dedicated safeguarding or wellbeing officer** from within the PCC/ force or panel, for panel members and/or all participants throughout the community scrutiny process. Alternatively, an independent safeguarding/wellbeing officer may be chosen, such as from a partner agency in order to provide unbiased and independent support.
6. **The panel / panel Chair/ and police lead [and/or PCC] should agree and communicate adequate safeguarding and well-being advice to panel members.** The PCC/ force lead and panel Chair are responsible to ensure that panel members and participants (such as helpers or carers) are provided with the requisite support throughout their participation within the community scrutiny process and if appropriate thereafter.
7. **The panel Chair and police lead [ and/or PCC] must ensure that access to health and well-being support is readily and easily available to all participants.** This includes communicating guidance and resources to participants so that they know how and where to get help.
8. **The PCC/ force/ panel Chair should ensure that panel members are willing to participate and are appropriately equipped to deal with potentially distressing cases or BWV footage.** Advance notice and adequate training and support should be provided by the police force/ PCC leads/ liaison officers.
9. **Panel members should be informed that they may withdraw from the process if they feel the need to do so.** Panel members should be encouraged to share their wellbeing concerns to a wellbeing or safeguarding officer.
10. **There should be regular feedback and review on the health and well-being of all participants and any concerns or issues from participants should be supported as the panel and force safeguarding/ wellbeing policies.** This should be the responsibility of both police and PCC facilitators and/or designated police/PCC leads.
11. **The panel may wish to incorporate or refer to the established safeguarding and wellbeing protocols within its Terms of Reference or promulgate separate guidance.**

# Output

- 1. Panels do not have statutory powers or legal functions nor any authority or power to change the outcome of a case.** Panel feedback will not change the original decision of a case. Panel feedback may identify a matter for concern which the PCC and Chief Constable refer for further consideration or action.
- 2. Panels' findings should be recorded on feedback forms and presented to the police in a way that can be clearly understood by the panel and acted upon.** The panel's findings should be relayed to the [police force lead / PCC's office/ Chief Constable] to undertake appropriate steps e.g., feedback to staff (including any disclosure issues for ongoing court cases), training needs, specific case actions, and any improvement initiatives enabling and empowering a culture of continual learning.
- 3. The PCC and Chief Constable should take an active interest in the findings from panels, and, where needed, the PCC should discuss the panel's findings with the Chief Constable to follow up on any action.** To maximise transparency, and where appropriate, the PCC, panel and the force lead should consider how best to publicise the panel's findings, based on the specific interests of each police force area, the local community and demographic area. Panel findings including minutes and reports should be published via the PCC/ force website. The PCC should assist and facilitate panels to do so.
- 4. Following panel scrutiny, forces may be able to account for the prevalence of disproportionality in topics that are subject to review and measure the impact of any action taken as a result of the panel's findings – both in terms of disproportionality rates, and also other benefits such as improved standards.** Forces could consider presenting their findings to the panel.
- 5. Where appropriate, organisational learning may extend to more general observations/ and changes to policies from recommendations from the panel's findings.** These should be escalated to the appropriate body and partner agencies and stakeholders, for lessons learned.
- 6. In case of any disagreement between the police and the panel regarding the panel's findings or interpretation, the matter must be escalated for resolution through the appropriate governance process.** This may include the PCC acting as an interlocuter between the panel and force in the resolution process or appointing an independent third party from a local organisation. The governance process should be clearly communicated to panel members to be aware as part of the overall community scrutiny governance process.
- 7. As panels do not have legal powers, the PCC and force must make clear to panels that any complaints or concerns within the community scrutiny process will not impact or overlap on the formal IOPC regime.** Complaints handling and escalation within the community scrutiny governance process must be kept separate from the formal complaints process via the IOPC.
- 8. The police force lead and/or PCC should report back steps or action taken to the panel, including to panel members who may not be in attendance.** The panel may consider the [police force's] findings and make further recommendations if not satisfied.