

Office of the Durham Police & Crime Commissioner

Report to Police and Crime Panel

4th February 2013

Joint Audit Committee membership

Report of Treasurer



Purpose of Report

1. The purpose of this report is to seek views on the arrangements that have been adopted by the Police and Crime Commissioner and the Chief Constable to create a Joint Audit Committee.

Background

2. As an element of the new governance arrangements necessitated by the Police Reform and Social Responsibility Act 2011, best practice recommends that the PCC and Chief Constable should establish, individually or collectively, an Audit Committee to provide independent advice and assurance to the PCC and the Chief Constable, who became separate Corporations Sole from 22nd November 2011.
3. During an extended period leading up to the PCC elections last year, in line with national guidelines, transition arrangements were put in place to manage the demise of police authorities; ensure a smooth transition into the PCC era; and to recommend arrangements that might assist the PCC to 'hit the ground running' during the very hectic period that was envisaged post election. Here in Durham, these arrangements were managed by a Transition Board, chaired by the Police Authority's Chief Executive, with further representation from the Police Authority's staff; the two constituent local authorities; the Constabulary; as well as the trade unions and staff associations.
4. Similar arrangements were established by all police authorities and to avoid duplication of effort and ensure a degree of consistency, arrangements were put in place by the Chief Executives' and Treasurers' professional bodies to produce models of recommended practice for all of the new key governance requirements of the PCC and Chief Constable.
5. Based upon the model of recommended practice for the establishment of audit committees, a report was presented to, and approved by, the Transition Board on 3rd October 2012. The report noted that the prevailing view at that time was that any person who is on the Police and Crime Panel, or who is a councillor or employee of a council which is represented on the Panel, is not eligible for appointment to the Committee. A copy of the report is attached as an Appendix for information.

6. Subsequent to the approval of the report, applications were sought through advertisements in the press and following the election of the PCC, arrangements were made to interview the eligible candidates.

Current position

7. Prior to the closing date for applications, representations were made by County Council Members, who raised some concerns about the eligibility criteria referred to in paragraph 5 above.
8. Whilst there is nothing in the legislation in this context, the recommended practice reflects the importance of independent advice and guidance to the PCC and the Chief Constable. In this regard it was considered that there was a possible conflict of interest, if Audit Committee Members whose role is to independently advise and guide, were also Members of either of the Councils comprising the Police and Crime Panel, whose role is to scrutinise the work and decisions of the PCC.
9. In view of the concerns referred to above, information about the arrangements adopted in other Force areas has been sought through the Treasurers' professional body, PaCCTS. Six of the eight respondents, including Northumbria, are similarly excluding serving Members of their constituent local authorities
10. The PCC has reflected on the adopted course of action and following consultation, has decided that whilst the arranged interviews will proceed, no decisions will be made prior to consultation with the PCP. In any event, as there are insufficient eligible candidates to fill all of the vacancies, there will need to be an additional recruitment process in due course.

The options

11. There would appear to be a number of options available to the PCC and the views of Members of the PCP are sought in this regard:
 - Proceed in accordance with the recommended practice
 - Re-advertise with a view to appointing all of the Committee without regard to the contentious eligibility criteria.
 - Re-advertise with a view to appointing one Member of the Committee without regard to the contentious eligibility criteria.
 - Re-advertise with a view to appointing two Members of the Committee without regard to the contentious eligibility criteria.
12. **The views of Members of the PCP are sought to assist the Commissioner in reaching his decision on the way forward.**

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Durham Police Authority

PCC Transition Board

3rd October 2012

Establishment of an Audit Committee



Purpose

1. To provide an update on the progress to establish an Audit Committee, to be in place post the election of a PCC, to which the Police and Crime Commissioner (PCC), the Chief Constable and their internal and external auditors would report on audit and governance matters, as required by the Financial Management Code of Practice (FMCP).

Background

2. The FMCP requires the PCC and the Chief Constable to establish an independent Audit Committee. The FMCP states: "It is recommended that this be a combined body which will consider the internal and external audit reports of both the PCC and the Chief Constable. The Committee will advise the PCC and the Chief Constable, according to good governance principles and will want to ensure appropriate risk management arrangements are in place. In setting up the Audit Committee, the PCC and the Chief Constable should have regard to the CIPFA Guidance for Local Authorities on Audit Committees (2005)" That guidance has been incorporated into the Draft Terms of Reference for the Audit Committee attached at Appendix 2 which cover core functions. These terms of reference would incorporate best practice principles and set out the expected activities that an Audit Committee should undertake and would need to be formally adopted and reviewed on an annual basis.
3. The FMCP also states that: "The Committee should comprise between three and five members who are independent of the PCC and the Constabulary"
4. Whilst it is not stated as such in the FMCP, the general current understanding is that any person who is on the Police and Crime Panel or who is a councillor or employee of a council which is represented on the Panel, is not eligible for appointment to the Committee. Should someone become a candidate for Commissioner or a Member of the Panel at a later date he /she would no longer be able to sit on the Committee.
5. It is anticipated that representatives of the PCC, Chief Constable, External Audit and Internal Audit would attend Audit Committee meetings.

Current Position

6. A small number of Authorities have made interim arrangements ahead of the PCC elections. This involved setting up an Audit Committee with Membership

drawn from the current Members of the Police Authority to be convened in Shadow form or join the current Audit Panel to ensure an appropriate hand-over on the 22nd November 2012. The advantages of an interim arrangement are continuity, corporate memory, and the ability to make permanent arrangements, taking into account the PCC's views, after November 2012. There are a number of disadvantages to this option, including possible sensitivity between the membership of the Interim Audit Committee and the PCC and the PCC having to start recruiting a substantive panel soon after his/her appointment rather than have something that is 'ready to go'.

7. In general however, most Police Authorities are planning substantive arrangements. Whilst these can not come into force until after the PCC takes up his/her position, it could be achieved within days of appointment if the administration was completed beforehand leaving the PCC to confirm the final panel and its terms of reference etc. **This is the recommended way forward.** It is proposed that 'Open' adverts leading to substantive appointments be placed by the Authority with the aim of having a short list of suitable people for endorsement/interview by and/or confirmation of their appointment by the PCC and Chief Constable as soon after the election of a PCC as is possible.
8. Three to 5 members are permitted; it is recommended to have 5 to allow for the appointment of a Vice Chairman and to ensure a quorum of three at all times.
9. In advertising for applicants for the permanent Committee it would be important to ensure that the PCC and Chief Constable have access to the advice of senior officers and the External Auditor in making the appointments.
10. As previously mentioned draft terms of reference are attached at Appendix 2, while the proposed role profile for the Chair of the Committee is also attached at Appendix 3. These drafts would be finalised with the incoming PCC in the early days following the election.
11. Whilst there are options to include other responsibilities within the terms of reference for the Audit Committee, it is important to remember that the Audit Committee has a key core role and that in widening its remit this should not be to the detriment of these Core requirements.
12. It is considered that a 5 year term would be appropriate for permanent appointments with a stipulation that there would be a maximum of two terms permitted.
13. At this stage, I am proposing to recommend that remuneration is in line with payments currently made to Members of the Authority's Standards Committee. There would be a guideline expectation of the following levels of time commitment:
 - Committee Chair – 16 days per year
 - Vice Chair – 10 days per year
 - Committee Member – 6 days per year
14. All costs associated with the establishment and running of the Audit Committee will be met from the current Police Authority Budget which will transfer to the PCC from November.

Recommendations

15. The Board is asked to note:
16. That adverts will be placed for independent appointments to the roles of Audit Committee Chair, Vice Chair and 3 Members of the Committee prior to the election of a PCC so that the PCC and Chief Constable can progress with permanent appointments as quickly as possible after the election of a PCC.
17. That the advertised tenure of the appointments will be for 5 years, however this will ultimately be for the PCC and Chief Constable to confirm.
18. That the advertisement of these roles will be based on the Draft Terms of Reference of the Audit Committee attached at Appendix A and the draft role of the Chair as attached at Appendix B.
19. That the proposed remuneration for these posts will be in line with payments currently made to Members of the Authority's Standards Committee)

Keith Thompson
Treasurer

Appendix 1: Risks and Implications

Finance

All costs associated with the establishment and running of the Audit Committee will be met from the current Police Authority Budget which will transfer to the PCC from November

Staffing

None

Equality and Diversity

There are no issues arising from this report to bring to the Board's attention

Accommodation

None

Crime and Disorder

None

Children's Act 2004

None

Stakeholder/Community Engagement

None

Environment

None

Collaboration

None

Value for Money and Productivity

The Audit Committee will have an assurance role to play in terms of organisational VFM

Other risks

An independent Audit Committee has a significant role to play in the governance of the Police Service. Recommendations are in place to determine the Terms of Reference and composition of that Panel and there is a risk that if plans are not in place, to have a functioning Audit Committee in place, as soon as possible after the date that the PCC comes into office that not only could the Police Authority be subject to criticism for allowing this to happen but also that a vital part of the future Governance regime will be missing from November 2012.

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APPENDIX 2 AUDIT PANEL

DRAFT TERMS OF REFERENCE

Composition of the Panel

The Audit Panel comprises 5 members who are independent of the Office of the PCC and Durham Constabulary. The executive of the Office of the PCC and the Command Team of the Police Force are required to attend each meeting of the Panel.

Purpose

The Audit Panel is responsible for enhancing public trust and confidence in the governance of the Office of the PCC and Durham Constabulary. It also assists the PCC in discharging statutory responsibilities in holding the Police Force to account. This is achieved by;

- Advising the OPCC and Chief Constable according to good governance principles
- Providing independent assurance on the adequacy and effectiveness of the OPCC and Durham Constabulary internal control environment and risk management framework.
- Overseeing the effectiveness of the framework in place for ensuring compliance with statutory requirements (and in particular those in respect of health and safety and equalities and diversity.)
- Independently scrutinising financial and non-financial performance to the extent that it affect the OPCC and Durham Constabulary exposure to risks and weakens the internal control environment
- Overseeing the financial reporting process

Objectives

The Audit Panel meets at least four times a year (March, June, September, December) and in effectively discharging its function is responsible for:

Internal Control Environment

- Satisfying itself as to the effectiveness of the internal control framework in operation within the Office of the PCC and Durham Constabulary and advising the PCC and Chief Constable as appropriate.
- Considering the Annual Governance Statement for publication with the annual accounts, together with associated action plans for addressing areas of improvement and advising the PCC as appropriate.

Corporate Risk Management

- Approving the Office of the PCC and Durham Constabulary corporate risk management strategy and framework; ensuring that an appropriate framework is in place for assessing and managing key risks to the Office of the PCC and Durham Constabulary.
- Considering the financial risks to which the Office of the PCC and Durham Constabulary are exposed and approving measures to reduce or eliminate them or to insure against them.
- Providing assurance to the PCC and Chief Constable as appropriate on the effectiveness of the risk management framework in operation.

Regulatory Framework

- Maintain an overview of the governance framework in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- To review any issue referred to it by the Statutory Officers of the PCC and Chief Constable and make recommendations as appropriate.
- To monitor the policies of both the PCC and Chief Constable on 'Raising Concerns at Work', anti-fraud and corruption strategy and complaints process.

Internal Audit

- Advising the PCC and Chief Constable on the appropriate arrangements for internal audit and approving the Internal Audit Strategy.
- Approving the internal audit annual programme.
- Overseeing and giving assurance to the PCC and Chief Constable on the provision of an adequate and effective internal audit service; receiving progress reports on the internal audit work plan and ensuring appropriate action is taken in response to audit findings, particularly in areas of high risk.
- Considering the Head of Internal Audit Annual Report and annual opinion on the internal control environment for the Office of the PCC and Durham Constabulary; ensuring appropriate action is taken to address any areas for improvement.
- Reviewing and monitoring the effectiveness of Office of the PCC and Durham Constabulary on fraud, irregularity and corruption.

External Audit

- Advising the PCC and Chief Constable on the appointment of external auditors.
- Approving on behalf of the PCC and Chief Constable the external audit programme and associated fees
- Reviewing the external auditor's Annual Governance Report and any other reports; reporting on these to the PCC and Chief Constable as appropriate and including progress on the implementation of agreed recommendations.
- Reviewing External Audit's Annual Audit Letter and making recommendations as appropriate to the PCC and Chief Constable.

Financial Reporting

- Reviewing the Annual Statement of Accounts and make recommendations, or bring to the attention of the PCC or CC, any concerns or issues.
- To consider whether appropriate accounting policies have been followed and any changes to them.

Inspection and Review

- Considering HMIC, external review agencies and any internal inspection reports that provide assurance on the internal control environment and/or may highlight governance issues for the Office of the PCC and/or Durham Constabulary.

APPENDIX 3

Audit Panel Chair - Role Profile

Background

An independent Audit Panel for the Office of the Police and Crime Commissioner (OPCC) and the Chief Constable is to be established. It will be a combined body that will advise the Police and Crime Commissioner (PCC) and the Chief Constable according to good governance principles.

The Audit Panel will comprise five members who are independent of the OPCC and Durham Constabulary. It will meet at least four times a year. The executive of the OPCC and the Executive Team of Durham Constabulary should attend each meeting of the Panel.

The Audit Panel Chair must be independent from the OPCC and Durham Constabulary.

Audit Panel Chair Role

The Audit Panel Chair plays a key role in enhancing public trust and confidence in the governance of the OPCC and Durham Constabulary, and assisting the PCC to discharge their statutory responsibilities in holding Durham Constabulary to account.

Key Responsibilities:

1. To maintain an up to date knowledge and awareness of national and local policing and crime issues
2. Advise the PCC and the Chief Constable and/or their nominated representatives of key risk, compliance and governance issues that arise in conducting Audit Panel business.
3. Attend regular meetings with the PCC and the Chief Constable and/or their nominated representatives to gain a good understanding of the internal control and operating environment.
4. Establish formal terms of reference for the Audit Panel in line with best practice and covering its core functions, and review on an annual basis.
5. Ensure the Audit Panel effectively discharges its key responsibilities:
 - Provide independent assurance on the adequacy and effectiveness of the internal control environment (including risk management) in operation within the OPCC and Durham Constabulary, advising the PCC and Chief Constable as appropriate.
 - Oversee the effectiveness of the framework in place for ensuring compliance with statutory requirements.
 - Independently scrutinise financial and non-financial performance to the extent that it affects the OPCC and Durham Constabulary exposure to risks and weakens the internal control environment.
 - Oversee the financial reporting process.

- Advising the PCC and Chief Constable on the appropriate arrangements for external and internal audit and ensuring an appropriate response to audit reports and findings.
6. Effectively chair meetings of the Audit Panel ensuring all aspects of business are adequately covered in line with the agreed Terms of Reference.
 7. Meet separately with the External Auditor and Head of Internal Audit to discuss risk, compliance and governance issues arising as a result of external or internal audit activity.
 8. Provide assurance to the External Auditor on governance issues in his capacity as Audit Panel Chair.
 9. Conduct an annual review of the effectiveness of the Audit Panel.
 10. Promote equality of opportunity and work to eliminate unlawful discrimination.
 11. Comply with all relevant codes of conduct and maintain the highest standards of conduct and ethics.