

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE AND CRIME PANELS (APPLICATION OF LOCAL**  
**AUTHORITY ENACTMENTS) REGULATIONS 2012**

**2012 No. 2734**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The purpose of the instrument is to apply to police and crime panels (“PCPs”) legislation relating to local authorities, their committees and members.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Context**
  - 4.1 Section 1 of the Police Reform and Social Responsibility Act 2011 (“the Act”) provides for the establishment of a police and crime commissioner (“PCC”) for each police area in England and Wales outside London, with the function of securing the maintenance of the police force and holding the chief constable to account. Section 28 of the 2011 Act provides for the formation, in each of these police areas, of a PCP with the function of scrutinising the decisions and actions of the PCC.
  - 4.2 Schedule 6 to the 2011 Act makes further provision about PCPs. It provides for two types of PCP, although the differences are in relation to the manner of establishment and maintenance of the PCP, rather than its functions.
  - 4.3 Each police area in England is to have a PCP which is established and maintained by the local authority or authorities in the police area, and is a committee of that authority or joint committee of those authorities. These are referred to in the instrument as “Part 2 panels”, as the provisions about them are to be found in Part 2 of Schedule 6.
  - 4.4 However, where all of the local authorities in a police area in England fail to carry out their duty to nominate and appoint members for the PCP in accordance with Part 2 of Schedule 6, the Secretary of State may take over the establishment and maintenance of the PCP. A PCP of this kind is referred to in the instrument as a “Part 3 English panel”.

4.5 The PCP for each police area in Wales is to be established and maintained by the Secretary of State from the outset, in accordance with Part 3 of Schedule 6. This is because the National Assembly for Wales declined to consent to the inclusion in the 2011 Act of provision for PCPs in Wales to be local authority committees. The instrument refers to these PCPs as “Part 3 Welsh panels”.

4.6 A significant body of legislation deals with the powers, duties and procedures of local authorities and their members. Much of this legislation will apply to Part 2 panels in any event, as they are local authority committees. However, some of the legislation is drafted so as to apply to committees appointed under section 102 of the Local Government Act 1972, or in accordance with arrangements made under section 101 of that Act. PCPs will not be established under those sections and, accordingly, this legislation will not apply to them. Further legislation is drafted in such a way that, although it will apply to the local authority members of Part 2 panels, it will not apply to persons co-opted by those panels who are not members of local authorities (referred to in the instrument as “co-opted independent members”).

4.7 None of the legislation applicable to local authorities or their members will apply to Part 3 English or Part 3 Welsh panels, as they are not local authority committees. Their members, although nominated for appointment on the basis that they are members of the local authorities in the police area, are not acting as such while serving on the PCP.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The policy intention is to ensure that all PCPs are able to exercise their functions fully as set out in the Act. In the case of Part 2 Panels, the intention is that they should be treated, in legislative terms, in the same way as other local authority committees or joint committees. Accordingly, the instrument applies to Part 2 panels legislation that is applicable to local authority committees formed under sections 101 and 102 of the Local Government Act 1972. The instrument also applies legislation that would otherwise apply to some, but not all, of the members of a Part 2 panel, making modifications where necessary. Some legislation is not applied because it is irrelevant to the particular functions of PCPs, or it duplicates or is inconsistent with the provisions made specifically for PCPs in Schedule 6 to the 2011 Act.

7.2 In the case of Part 3 English and Part 3 Welsh panels, legislation is applied to the extent necessary to ensure that these PCPs can operate effectively and transparently. Thus provision is made for matters such as access to meetings and documents, and the handling of complaints about the conduct of PCP members or about maladministration by the PCP itself. These are all provisions that apply, or are being applied, to Part 2 panels.

- Consolidation

7.3 This instrument does not amend any existing instrument so the question of consolidation does not arise.

## **8. Consultation outcome**

8.1 Consultation has taken place with a range of partners who are working with the Home Office on the PCC transition programme.

## **9. Guidance**

9.1 A short guidance note setting out the effect of these Regulations will be produced for PCPs, but this will not go beyond explaining the instrument in plain English.

## **10. Impact**

10.1 No impact on business, charities or voluntary bodies is expected.

10.2 The impact on the public sector is expected to be minimal. PCPs have been established in all police force areas outside London, this instrument is intended to support PCPs in exercising their statutory functions.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The instrument does not apply to small business.

## **12. Monitoring & review**

12.1 The impact of this instrument will be reviewed 12 months after it has come into force.

## **13. Contact**

Heather Vivian at the Home Office Tel: 020 7035 3197 or email: [heather.vivian@homeoffice.gsi.gov.uk](mailto:heather.vivian@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.