

West Midlands Police Data, Technology and Operational Ethics Panel (“Ethics Panel”)

Terms of Reference

1. Background

- a. West Midlands Police (WMP) and West Midlands Police and Crime Commissioner (WMPCC) operate in an evolving landscape making use of new policing models, innovative technology, and data insights to inform their operations and strategic decisions (e.g. the appropriate allocation of resources or new crime prevention approaches). There are occasions when the use of such technology, data and new policing approaches gives rise to serious ethical questions which impact the public and policing.
- b. The Ethics Panel (EP) has been established to provide independent expert advice and recommendations around implications to the WMP Chief Constable (CC) and the Police and Crime Commissioner (PCC) regarding the ethical issues arising from this work.

2. Roles and Responsibilities

a. Advising on ethics

- i. The EP will be responsible for providing the CC and PCC with advice – through the appropriate operational leads – around all ethical implications accompanying the use of new policing approaches, technology, and data insights in live projects. This advice should be conceived on the broadest basis possible around these projects.
- ii. The EP is also responsible for recommending or suggesting action deemed necessary and appropriate given its conclusions regarding the ethics issues identified.

b. Advising the WMPCC and WMP

- i. Papers will be brought to the EP by either the WMPCC or WMP in relation to work they are undertaking or proposing to undertake. The EP will provide insight and challenge. These ethical considerations will then be fed into the existing governance and decision making processes by the party that brought the paper to the EP. Ultimately supporting the PCC and CC in making good decisions.

c. Other specialist advice

- i. The EP will be focussed on providing ethical advice. They will not provide any legal, data protection, procurement, financial or other specialist advice.
- ii. WMPCC and WMP will ensure that the relevant specialist advice is sought in advance of papers being brought to the EP so as to support the EP in making the most meaningful recommendations based upon the fullest understanding of the matter at hand. Relevant impact assessments (such as data protection impact assessments or equality impact assessments) should also be shared as part of the papers for the meeting.
- iii. EP members will be under a strict obligation to maintain the confidentiality of matters discussed that are deliberately not disclosed as part of the EP minutes. Members should, however, also be aware that their advice may, subject to any applicable legal

procedures or regulatory action, be disclosable in proceedings involving WMPCC or WMP.

- iv. Subject to any confidentiality obligations, WMPCC and WMP will not hold members liable for the advice they provide in their capacity as members of the EP (and their contracts will include an indemnity). Members will, nevertheless, be expected to use all reasonable endeavours to provide advice to the best of their ability and with reasonable care, skill and diligence.
- v. The EP is to act independently and free of bias (including political bias). Accordingly, the EP should be free to challenge and ask any question to help WMPCC and WMP understand the implications and risks of the any given project or proposal.

3. Agenda setting process

- a) A forward plan of potential matters to consider at EP will be kept by the WMPCC.
- b) A pre-meeting will be held at least one month in advance of each EP where the Chair (and Vice Chair as appropriate), WMPCC and WMP representatives will put forward potential items to add to the forward plan and agree future meeting dates for items accepted to be considered by EP.
- c) In deciding which matters to consider at EP the above parties will prioritise those areas that would most benefit from the input of the EP, leading to positive outcomes for the people of the West Midlands.
- d) Projects which would benefit from further input from the EP will be reconsidered by the EP at appropriate stages as agreed within the agenda setting pre-meets.

4. Membership of the EP

a. Skill sets. WMPCC will seek to attract a EP membership that contains the following skills sets:

- i. Data science
- ii. Human rights
- iii. Policy implementation
- iv. Crime Prevention and Policing
- v. Regional Knowledge
- vi. Ethics in policing
- vii. Sociology
- viii. Criminology
- ix. Moral philosophy

b. WMPCC and WMP members

- i. A senior WMPCC (Chief Executive) and WMP (Assistant Chief Constable responsible for Change) representative and their deputies (Head of Policy and CSupt Head of Corporate Development respectively) will also be members of the EP

c. Terms of membership

- i. The membership will be regularly refreshed to ensure that we have an active and meaningful membership. Members will be given an initial term of 3 years which can be extended indefinitely at the agreement of the PCC.

d. Appointment of members

- i. The PCC will appoint the EP members (except for the WMP representatives which shall be appointed by the CC). With the exception of the OPCC member, the CC's agreement will be required before formally appointing the other members chosen by the PCC.
- ii. Recruitment of members will be undertaken via a fair, open and transparent application process. Where specific gaps in expertise or skillset exist (see 4a) particular individuals may be co-opted onto the panel
- iii. All applicants for membership will need to disclose any conflicts of interest before being appointed. Following their appointment, all members to disclose any conflicts at the time they arise where applicable at the start of every meeting. Upon joining the DDEP, a member must recuse themselves from participating in the discussions where that same member has a conflict.
- iv. The PCC and CC reserve the right to remove members by agreement if, acting reasonably, they deem such a removal to be in the public interest. Any such removal will be justified in writing to the individual, to help ensure there is transparency and integrity in the decision. The PCC and CC may agree any such additional rules or codes of conduct from time to time governing the conduct and removal of DDEP members.

e. Membership vetting

- i. Members will need to be vetted due to the confidential nature of the projects and proposals being considered.

f. Website biographies

- i. Appointed members will have a short biography placed on the EP page on the PCC's website so that the public can access information on the EP's membership.

g. Appointing a chair

- i. The Chair of the EP shall be appointed by the PCC. The Chair may not be a WMP or OPCC representative, preserving the independence of the EP. A deputy chair will also be appointed by agreement (majority vote) at the EP. The Chair shall be able to invite other relevant experts to meetings to advise members, provided any invitees agree to maintain the confidentiality of matters discussed.

h. Benefits of membership

- i. Membership of the EP will generally not be remunerated, to preserve decision making independence. Reasonable and necessary expenses will be reimbursed by the OPCC. When deciding what is reasonable, the OPCC will give due consideration to the personal circumstances of the applicable member so that expenses do not serve as a social barrier to their membership.
- ii. Whilst the EP is primarily composed of people who will not necessarily be impacted by the actions of WMP (perhaps living outside of the force area), the EP will also seek to have local community group members who's role will be to give the local perspective/knowledge. This may require some remuneration if recruitment remains difficult.

Training opportunities will be made available with the WMP Data Lab and other parts of the force or OPCC to expand WMP/PCC understanding. This will enable members to give the best advice.

5. Meetings and records

a. Timings of meetings

- i. Meetings will typically be held quarterly. When deciding times and dates of meetings, the OPCC will give due consideration to the personal circumstances of members to try to avoid choosing times that act as a social barrier to their membership.
- ii. When meetings are held in person, the OPCC will seek to support members with the reimbursement of reasonable expenses to enable their attendance, where the OPCC deems appropriate.
- iii. EP members may, through the Chair, ask the OPCC if they can hold a meeting outside of the scheduled quarterly meetings if they deem it necessary to provide advice for a particular project in a timely fashion. In such cases, the OPCC will consult with WMP and confirm to EP members whether or not there is to be an additional meeting.
- iv. For urgent advice or advice on project proposals before they are finalised, the EP members may also agree to accept reasonable requests from WMP for an additional meeting, provided that WMP has consulted with the OPCC.

b. Secretariat

- i. The OPCC will appoint a Secretariat to organise the meetings and, working with the WMP, help administer the briefing papers for the EP. Working with WMP, they will ensure there is consistency in the format of briefing papers and the advice provided by the EP (which will be published on the website for transparency).
- ii. Typically, 6 weeks prior to each meeting, the chair, and representatives from WMP and the OPCC, will meet to discuss the forthcoming agenda as well as any issues arising from the previous meeting. WMP will identify potential topics through its departmental governance boards and change process. The OPCC and Chair may also identify potential topics. These will be agreed with the Chair and prioritised before each meeting.
- iii. Once the agenda is jointly agreed, papers for projects and proposals should be forwarded to the OPCC by WMP or other applicable project leads for dissemination amongst EP members no later than 7 working days prior to the forthcoming meeting. Along with project papers, this will include any legal advice, data impact assessments, and any other documents relevant to the consideration of the project as a whole.
- iv. The OPCC Secretariat may, with agreement from the PCC, provide further procedural rules from time to time to ensure the smooth running of the EP and advisory process.

c. Format of meetings

- i. After the Chair has opened the meeting, presenters from WMP and or PCC shall present the applicable project proposals. The Chair may invite WMP/PCC presenters to stay to answer questions from the members of the EP to clarify issues of particular ethical or operational importance. Once all questions have been asked, if any, the Chair will ask the WMP/PCC presenters to excuse themselves from the meeting so as not to inadvertently impact on the impartiality of EP's discussion.

d. Quorum

- i. As there are no formal decisions being made there is no quorum. However, it will be for the Chair to determine whether those present are able to provide sufficient advice on each agenda item.

e. Minutes of the meeting

- i. Minutes shall be kept of all meetings. Records shall be kept of all minutes, briefing papers, and advice provided by the EP.
- ii. All EP records may be provided to members of the PCC's Accountability and Governance Board, as well as the Joint Audit Committee and the PCC's Advisory Panel, to ensure the advice of members is embedded into wider OPCC governance forums which assist in holding the CC to account. The records may also feed into WMP's Change Board processes in order to ensure they are properly considered in the operationalising of WMP projects. In certain circumstances, these governance boards may request that projects are once again reviewed by the EP for expert advice on any particular relating to a specific proposal.
- iii. All briefing papers and records associated with the EP will be made public on the EP website page, except where publication would disclose matters of operational secrecy (including matters relevant to national security) or should be kept confidential in accordance with principles of public law. A decision whether or not to disclose the briefing papers and/or advice shall remain with the CC and the PCC, with the advice of the Chair. Any decision to remove papers from the EP website page should only be made if jointly agreed in good faith by the PCC, CC, and Chair of the EP. In any event, the EP will consider each time it assesses a project, whether or not, based on ethical grounds rather than formal legal grounds, it advises the CC and PCC to publish all or part of the briefing and advice papers.
- iv. Note that these Terms of Reference (as may be amended from time to time) will also be made available on a page dedicated to the EP on the PCC's website.

6. Engaging the EP

a. Advice process

- i. The EP, upon considering papers, presentations and questions answered provide advice which will be established by consensus, though any member has the right to be recorded in the meeting minutes as dissenting with the majority view. This advice will be captured in the minutes as per section e.
- ii. The PCC/CC will feed this advice into existing decision making processes as appropriate, supporting the making of ethical decisions.
- iii. The EP will also agree with the PCC/CC which items should return for further update or advice with the reasons for intended return recorded in the minutes.
- iv. An annual report will also go from the EP to the PCC's Accountability and Governance Board in February each year. This will primarily be developed from the relevant sets of minutes with sign off from the Chair. This will also be used to support the PCC's Annual Report.

7. Review of the Terms of reference



- a. The CC and PCC reserve the right to amend these Terms of Reference by agreement, and the DDEP reserves the right to propose amendments from time to time to be considered by the CC and PCC.
- b. In the ordinary course of business, these Terms of Reference will be reviewed every two years to consider whether amendments should be made to reflect relevant technological, legal and policy changes.