

# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

**ORIGINATOR:** Chief Executive **DECISION NO.** 3/2012

**REASON FOR SUBMISSION:** For Decision

**SUBMITTED TO:** Police and Crime Commissioner

**SUBJECT:** Police and Crime Commissioner's Governance Scheme:  
(i) Decision-making and Accountability Framework;  
(ii) Scheme of Delegation;  
(iii) Financial Regulations; and  
(iv) Contract Standing Orders

**SUMMARY:**

1. The Police and Crime Commissioner (PCC) requires a corporate governance framework. Key to this framework, to be called the Governance Scheme, are four essential elements. They are:

- a Decision-making and Accountability Framework;
- a Scheme of Delegation;
- Financial Regulations; and
- Contract Standing Orders.

2. This paper proposes all such documents, for adoption.

**RECOMMENDATION:**

It is recommended that:

1. The PCC adopts the Decision-making and Accountability Framework as attached at Appendix A.
2. The PCC adopts the Scheme of Delegation as attached at Appendix C.
3. The PCC adopts the Financial Regulations as attached at Appendix I.
4. The PCC adopts Contract Standing Orders as attached at Appendix J

**OUTCOME/APPROVAL BY:** PCC

Signature *A.W. Bell* Date 27/4/12

## DETAIL OF THE SUBMISSION

### 1. KEY ISSUES FOR CONSIDERATION:

#### 1.1 Introduction

1.1.1 On 22 November 2012 the Police and Crime Commissioner for Norfolk (PCC) formally takes up office under the Police Reform and Social Responsibility Act 2011. The PCC will have a duty to hold the Chief Constable to account for the exercise of their functions and for the functions of those staff under their direction and control.

1.1.2 The PCC will require a framework for corporate governance which includes mechanisms for the making of decisions to discharge the PCCs functions and to hold the Chief Constable to account.

1.1.3 This paper sets out the proposed initial arrangements for these four key elements of such a corporate governance framework which will help ensure appropriate transparency, accountability and good governance in respect of decision-making and actions to discharge the key statutory functions of the PCC.

1.1.4 The corporate governance framework, to be known as the "Governance Scheme" comprises four key elements:

- a Decision-making and Accountability Framework;
- a Scheme of Delegation;
- Financial Regulations; and
- Contract Standing Orders.

#### 1.2 Decision-making and Accountability Framework

1.2.1 The Decision-making and Accountability Framework attached as Appendix A has been developed to enable the PCC to make robust, well-informed and transparent decisions and to hold the Chief Constable to account. It has been developed having full regard to the matters and issues identified by the Chief Executive in the paper entitled "Governance Arrangements: Decision-making and Accountability, Summary of Relevant Statutory Provisions and Background Material" and attached as Appendix B.

1.2.2 The Framework also provides a skeleton for meetings between the PCC and the Chief Constable for the purposes of the PCC holding the Chief Constable to account. The Framework will in due course require decisions to be made upon the practical arrangements over meeting dates, frequency, attendances, and the business to be transacted.

#### 1.3 Scheme of Delegation

1.3.1 A Scheme of Delegation attached as Appendix C has been developed to identify those powers of the PCC which may be exercised by officers on their behalf. In developing the Scheme regard has been paid to the document "Interim Scheme of Governance – Statement of Principles" produced nationally by the Association of Police Authority Chief Executives (APACE) attached at Appendix D. This document describes in detail the considerations that need to be taken into account in developing a Scheme of Delegation and in particular explains how the new statutory

regime and the period falling between Transfer Stage 1 and Transfer Stage 2 may be navigated.

1.3.2 The Scheme of Delegation requires to be read and operated together with the Decision-making and Accountability Framework, as well as the Financial Regulations and Contract Standing Orders.

1.3.3 To facilitate understanding of the Scheme of Delegation and in particular those delegations to the Chief Executive the following documents referred to within the Scheme are attached as Appendices E, F, G and H respectively:

- APACE Statement on the role of the Chief Executive and Monitoring Officer of the Police and Crime Commissioner;
- Home Office “Have You Got What it Takes?” – Delivering through your Chief Executive and Monitoring Officer.
- Home Office Financial Management Code of Practice for the Police Service in England and Wales.
- CIPFA Statement on the role of the Chief Finance Officer (CFO) of the Police & Crime Commissioner and CFO of the Chief Constable

1.4 Financial Regulations

1.4.1 To conduct its business effectively, Police and Crime Commissioner (PCC) and the Chief Constable (CC) need to ensure that sound financial management policies are in place and that they are strictly adhered to. Part of this process is to adopt and implement Financial Regulations. The Regulations attached at Appendix I have been drawn up in such a way as to ensure that the financial matters of the PCC and CC are conducted properly and in compliance with all necessary requirements.

1.5 Contract Standing Orders

1.5.1 To conduct business effectively, the Police and Crime Commissioner (PCC) and the Chief Constable (CC) need to ensure that there are sound financial management policies in place and that they are strictly adhered to. Part of this process is to adopt and implement Contract Standing Orders. The Orders attached at Appendix J have been drawn up in such a way as to ensure that financial matters are conducted properly and in compliance with all necessary requirements.

## **2. FINANCIAL IMPLICATIONS**

2.1 There are no direct financial implications arising from this paper.

## **3. OTHER IMPLICATIONS AND RISKS:**

3.1 Legal

3.1.1 The legal issues connected with the development of these proposals and which are articulated in the relevant Appendices referred to above have been at the core of developing the proposals. Both statutory officers, namely the Chief Executive (and Monitoring Officer) and the PCC’s Chief Finance Officer have been fully involved in developing the proposed arrangements.

### 3.2 Equality and Diversity

- 3.2.1 An Equality Analysis has been undertaken in the development of the proposals and there are no factors of direct material significance in terms of the governance arrangements per se that would prevent adoption of the recommendations. The operation of the Decision-making and Accountability arrangements however, regarding appropriate accessibility to material and meetings, will need to ensure that service users are not prevented from engaging with the governance arrangements. These issues will be addressed by (amongst other things) ensuring that reasonable requests for decisions appearing on the PCC website in alternative formats can be accommodated and that there is full accessibility for service users at meeting venues. The Decision-making and Accountability Framework itself requires that those making decisions/preparing material for decision address their minds to equality issues.

### 3.3 Risk

- 3.3.1 It is critical for the PCC to have a Scheme of Governance and the proposals contribute to the delivery of the Scheme. It is expected that the Scheme of Governance will progress through numerous iterations as the new policing landscape develops. No risks are envisaged at this stage requiring recording upon the PCC's Risk Register.

### 3.4 Collaboration

- 3.4.1 In view of the close collaboration with the Suffolk policing area the proposals have been shared and developed in consultation with Suffolk with a view to running mutually complementary governance arrangements.

**PUBLIC ACCESS TO INFORMATION:** *Information contained within this submission is subject to the Freedom of Information Act 2000 and wherever possible will be made available on the OPCC website. Submissions should be labelled as 'Not Protectively Marked' unless any of the material is 'restricted' or 'confidential'. Where information contained within the submission is 'restricted' or 'confidential' it should be highlighted, along with the reason why.*

<b>ORIGINATOR CHECKLIST (MUST BE COMPLETED)</b>	<b>PLEASE STATE 'YES' OR 'NO'</b>
Has legal advice been sought on this submission?	No – Originator is the Solicitor and Monitoring Officer.
Has the PCC's Chief Finance Officer been consulted?	Yes
Have equality, diversity and human rights implications been considered including equality analysis, as appropriate?	Yes – see content of the report. An Equality Analysis has been undertaken.
Have human resource implications been considered?	Yes
Is the recommendation consistent with the objectives in the Police and Crime Plan?	Not applicable
Has consultation been undertaken with people or agencies likely to be affected by the recommendation?	Yes – discussion of the proposed Governance Scheme documentation has been undertaken with Norfolk/Suffolk Police in view of the close collaboration between Norfolk and Suffolk.
Has communications advice been sought on areas of likely media interest and how they might be managed?	Yes
In relation to the above, have all relevant issues been highlighted in the 'other implications and risks' section of the submission?	Yes

**APPROVAL TO SUBMIT TO THE DECISION-MAKER** (this approval is required only for submissions to PCC and DPCC).

**Chief Executive**

I am satisfied that relevant advice has been taken into account in the preparation of the report and that this is an appropriate request to be submitted to the PCC.

**Signature:**



**Date**

27/11/2012



# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

## **Governance Scheme**

### **Decision-making and Accountability Framework**

**Chief Executive**

**November 2012**

## **DECISION-MAKING AND ACCOUNTABILITY FRAMEWORK**

1. The Police Reform and Social Responsibility Act 2011 sets out the functions and responsibilities of the Police and Crime Commissioner (PCC). This decision-making and accountability framework details the arrangements to enable the PCC to make robust, well-informed and transparent decisions and hold the chief constable to account. The framework includes arrangements for providing information to assist the Police and Crime Panel in its role to scrutinise the decisions and actions of the PCC. The framework applies to decision-making by the PCC and those exercising delegated authority on behalf of the PCC.

### **Meetings Structure**

2. The PCC is able to make decisions at any time. Decisions made by the PCC and those exercising delegated authority on behalf of the PCC must comply with the formalities set out below. In order to transact business transparently and effectively, the following distinct types of meeting will take place.

- (i) PCC and Chief Constable (not in public)

**Purpose:** Regular briefings and discussions. Decisions can be made in this forum.

**Frequency:** To be decided by the PCC.

**Records and publication:** Meetings will not be minuted unless there is an issue of significant public interest. Any decisions will be recorded and published.

- (ii) Meetings (held in public)

**Purpose:** To hold the Chief Constable to account and to enable issues to be discussed, and decisions made, in public.

**Frequency:** To be decided by the PCC.

**Records and Publication:** Minutes, agendas and reports for public meetings will be published along with any decisions taken.

- (iii) Public Engagement

**Purpose:** To enable engagement with the public around the county.

**Frequency:** To be decided by the PCC.

**Method:** To be decided by the PCC although could include surgeries, webcasts and public events.

**Location:** To be decided but should enable engagement across the county and ideally with the public in each Local Policing Command area.

3. Attendance of advisers at the above meetings would be at the discretion of the PCC, in consultation with the Chief Constable, having regard to the matters to be discussed. The PCC would be able to invite other individuals e.g. from partner organisations.

### Decision-Making Process

4. A good decision making process is fundamental to effective governance arrangements and is likely to produce more consistent, reliable and objectively sustainable decisions, which should result in taking the right decision, for the right reason, at the right time.

### Template

5. The attached template (Annex 1) will be used for the submission of information to support decision-making and accountability. This will enable decisions (including urgent decisions) to be properly recorded and published.
6. Decisions made under delegated authority from the PCC (see Scheme of Delegation) will be subject to the submission and recording process.
7. Submissions to the PCC and Deputy PCC (if appointed) will be made via the Chief Executive in order to verify that appropriate information and advice has been included and that the request is being made to the appropriate person. Those officers exercising delegated authority on behalf of the PCC should satisfy themselves that all relevant factors have been considered and that relevant advice has been taken into account in the preparation of the report upon which action is required.

### Confidentiality

8. In order to ensure that material is properly protected and managed, the Government Protective Marking Scheme must be used to mark submissions containing information classified as 'restricted' or 'confidential' (Annex 2). Items that are not 'restricted' or 'confidential' must be marked 'Not Protectively Marked' which will mean they are suitable for publication.
9. Where there is a need to share information which is marked as restricted or confidential, the Chief Executive, in discussion with others as appropriate, will decide on what basis that information is made available. These arrangements would include how such information is made available to the Police and Crime Panel to undertake its role in scrutinising the PCC.

### Decisions

10. All decisions will be recorded via the template, signed as appropriate by the PCC, DPCC and those exercising delegated authority. Decisions of significant public interest will be published on the OPCC website as soon as practicable after the decision is made. Each decision will be given a unique reference number and details recorded in an electronic register. Decisions taken under delegated authority will be reported to the PCC.
11. This process of transparent recording of decisions will enable the Police and Crime Panel to access information. For information not available via the OPCC website, the Chief Executive will make arrangements for information (including confidential information where appropriate) to be provided to the Police and Crime Panel to enable it to discharge its statutory functions.

### **Recording and publication of decisions and specified information**

12. Secondary legislation outlines the information that must be recorded and published. This includes decisions, agendas, meeting dates, times and places of meetings,



reports and minutes. This information will be published on the OPCC website [www.norfolk-pcc.gov.uk](http://www.norfolk-pcc.gov.uk)

#### Meeting dates, times and places

13. A programme of meetings will be maintained and published which will include the dates, times and venues of meetings (to be held in public) and engagement events.
14. Wherever possible the PCC will provide the opportunity for the public to ask questions at meetings held in public. The PCC will decide the arrangements for dealing with public questions.

#### Agendas and papers

15. Agendas and papers for meetings that are held in public will be available through the OPCC website at least 5 working days prior to the meeting.

#### Minutes

16. Minutes of meetings held in public (or meetings not held in public where matters of significant public interest are discussed) will be published as soon as practicable after the meeting has taken place.



# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

**ORIGINATOR:**

**DECISION NO.**

**REASON FOR SUBMISSION:** e.g. FOR DECISION / FOR MONITORING / FOR INFORMATION (Please specify)

**SUBMITTED TO:** e.g. PCC / DPCC / OTHER (Please specify)

**SUBJECT:**

**SUMMARY:** *A brief summary of what the submission covers*

**RECOMMENDATION:** *A recommendation is necessary if a decision is required.*

**OUTCOME/APPROVAL BY:** PCC / DPCC / OTHER (Please specify)

*e.g. The above request has my approval*

**Signature**

**Date**

## DETAIL OF THE SUBMISSION

**1. KEY ISSUES FOR CONSIDERATION:** *Set out the background/context for what is being recommended, the available options and the rationale. Supplementary or more detailed information can be appended but these should not contain any new or surprising information. Where the purpose of the submission is to provide monitoring information to hold the Chief Constable to account, the key performance exceptions should be highlighted and action being taken outlined.*

**2. FINANCIAL IMPLICATIONS:** *Clear assessment of costs, including opportunity costs, and how they will be met. If no costs associated with recommendation please make this clear.*

**3. OTHER IMPLICATIONS AND RISKS:** *See checklist below. The relevant issues identified from the checklist should be explained as appropriate)*

**PUBLIC ACCESS TO INFORMATION:** *Information contained within this submission is subject to the Freedom of Information Act 2000 and wherever possible will be made available on the OPCC website. Submissions should be labelled as 'Not Protectively Marked' unless any of the material is 'restricted' or 'confidential'. Where information contained within the submission is 'restricted' or 'confidential' it should be highlighted, along with the reason why.*

ORIGINATOR CHECKLIST (MUST BE COMPLETED)	PLEASE STATE 'YES' OR 'NO'
Has legal advice been sought on this submission?	
Has the PCC's Chief Finance Officer been consulted?	
Have equality, diversity and human rights implications been considered including equality analysis, as appropriate?	
Have human resource implications been considered?	
Is the recommendation consistent with the objectives in the Police and Crime Plan?	
Has consultation been undertaken with people or agencies likely to be affected by the recommendation?	
Has communications advice been sought on areas of likely media interest and how they might be managed?	
In relation to the above, have all relevant issues been highlighted in the 'other implications and risks' section of the submission?	

**APPROVAL TO SUBMIT TO THE DECISION-MAKER** (this approval is required only for submissions to PCC and DPCC).

**Chief Executive/Chief Finance Officer/Deputy Chief Executive (delete as appropriate)**

I am satisfied that relevant advice has been taken into account in the preparation of the report and that this is an appropriate request to be submitted to the (add decision-makers title i.e. PCC/DPCC).

**Signature:**

**Date**

## **GOVERNMENT PROTECTIVE MARKING SCHEME DEFINITIONS**

### **Criteria for assessing CONFIDENTIAL assets:**

- materially damage diplomatic relations (i.e. cause formal protest or other sanction);
- prejudice individual security or liberty;
- cause damage to the operational effectiveness or security of United Kingdom or allied forces or the
- effectiveness of valuable security or intelligence operations;
- work substantially against national finances or economic and commercial interests;
- substantially to undermine the financial viability of major organisations;
- impede the investigation or facilitate the commission of serious crime;
- impede seriously the development or operation of major government policies;
- shut down or otherwise substantially disrupt significant national operations.

### **Criteria for assessing RESTRICTED assets:**

- affect diplomatic relations adversely;
- cause substantial distress to individuals;
- make it more difficult to maintain the operational effectiveness or security of United Kingdom or allied
- forces;
- cause financial loss or loss of earning potential or to facilitate improper gain or advantage for
- individuals or companies;
- prejudice the investigation or facilitate the commission of crime;
- breach proper undertakings to maintain the confidence of information provided by third parties;
- impede the effective development or operation of government policies;
- to breach statutory restrictions on disclosure of information;
- disadvantage government in commercial or policy negotiations with others
- undermine the proper management of the public sector and its operations.

### **Criteria for assessing PROTECT (Sub-national security marking) assets:**

- cause distress to individuals;
- breach proper undertakings to maintain the confidence of information provided by third parties;
- breach statutory restrictions on the disclosure of information
- cause financial loss or loss of earning potential, or to facilitate improper gain;
- unfair advantage for individuals or companies;
- prejudice the investigation or facilitate the commission of crime;
- disadvantage government in commercial or policy negotiations with others.



# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

## **Governance Arrangements - Decision-making and Accountability**

### **Summary of Relevant Statutory Provisions and Background Material**

**Chief Executive**

**November 2012**

## **1 INTRODUCTION**

- 1.1 Under the Police Reform and Social Responsibility Act 2011 (the 2011 Act), Suffolk Police Authority has been abolished and replaced by a Police and Crime Commissioner (PCC) from 22 November 2012.
- 1.2 The 2011 Act sets out the functions and responsibilities of the PCC and the chief constable, which are summarised in section 2 below. Key responsibilities are that the PCC must maintain their police force and ensure that it is efficient and effective. Also, the PCC must hold the chief constable to account for the exercise of the functions of the chief constable and any person under the chief constable's direction and control.
- 1.3 The purpose of this paper is to identify the statutory provisions and other background material to that will inform a decision-making and accountability framework to enable the Office of the Police and Crime Commissioner (OPCC) to make robust, well-informed and transparent decisions and hold the Chief Constable to account.
- 1.4 It is important to have arrangements in place as soon as possible after the PCC commences in the role to enable key decisions to be taken. However, it is recognised that the development of these arrangements will be an iterative process that will need to be progressed as necessary in the light of experience and changing circumstances.

## **2 CONTEXT AND STATUTORY REQUIREMENTS**

- 2.1 The PCC and Chief Constable are each designated as 'corporation sole'. Corporation sole is a legal entity consisting of a single incorporated office, occupied by a single person. Each is enabled to employ staff and hold funds. The functions of the PCC are set out in the 2011 Act. The Chief Constable holds office under the Crown and has functions conferred by the Act and other enactments.
- 2.2 In decision-making terms, corporation sole can only do the things that the legislation expressly states. In addition the OPCC will need to comply with relevant social and organisational regulation for example employment, procurement and human rights legislation.
- 2.3 The PCC's status as corporation sole is not usual for a governance body in the public sector. Most public sector organisations have a governance body made up of a 'Board' or 'Council' of members. Hence their governance arrangements are built upon a committee structure through which business is conducted and decisions made.
- 2.4 In local authorities those governance arrangements are constituted in accordance with the requirements in the Local Government Acts. As corporation sole, the governance arrangements for the OPCC will require a different approach to that of a committee structure.
- 2.5 The 2011 Act includes the Office of the PCC as:

*'a body which can be subject to investigation by the Local Government Ombudsmen for any allegations or apparent maladministration in connection with the exercise of its administrative functions'.<sup>1</sup>*

- 2.6 The Home Office has announced that the PCC will be required to declare a Declaration of Acceptance that commits them to serve all the people of Norfolk in the Office of Police & Crime Commissioner.
- 2.7 There are key responsibilities outlined in the 2011 Act. In addition, under the provisions of the Act, the Secretary of State has issued secondary legislation that impacts upon the governance arrangements of the OPCC. The Policing Protocol Order 2011 (issued in accordance with Section 79 of the 2011 Act) and The Elected Local Policing Bodies (Specified Information) Order 2011 as amended by The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012). (issued in accordance with Section 11 of the 2011 Act) are particularly relevant and are included in Appendix 1. This legislation and other material is now examined to identify those matters relevant to developing effective decision-making and accountability arrangements for the PCC.

### **Police and Crime Commissioner**

- 2.8 The 2011 Act states that:

*The police and crime commissioner for a police area must:*

- (a) secure the maintenance of the police force for that area, and*
- (b) secure that the police force is efficient and effective.<sup>2</sup>*

*The police and crime commissioner for a police area must hold the relevant chief constable to account for the exercise of—*

- (a) the functions of the chief constable, and*
- (b) the functions of persons under the direction and control of the chief constable.<sup>3</sup>*

- 2.9 The police and crime commissioner must, in particular, **hold the chief constable to account for:**
- (a) the duty to have regard to the police and crime plan;
  - (b) the duty to have regard to the Strategic Policing Requirement;
  - (c) the duty to have regard to codes of practice issued by Secretary of State;
  - (d) the effectiveness and efficiency of the chief constable's arrangements for co-operating with other persons in the exercise of the chief constable's functions;

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<sup>1</sup> APACE: Decision Making in the Office of PCCs – Draft Interim Guidance and Practice Advice.

<sup>2</sup> Police Reform and Social Responsibility Act, Section 1(6).

<sup>3</sup> Police Reform and Social Responsibility Act, Section 1(7).



- (e) the effectiveness and efficiency of the chief constable's arrangements for engagement with local people;
- (f) the extent to which the chief constable has complied with value for money;
- (g) duties relating to equality and diversity that are imposed on the chief constable by any enactment;
- (h) duties in relation to safeguarding children and the promotion of child welfare.

2.10 The PCC will accordingly be empowered and will be required to make decisions relating to these functions. The 2011 Act includes various requirements 'to have regard to' certain documents and policies. In this context 'to have regard to' means the PCC (or Chief Constable) must interpret, understand and apply the document/policy, and where necessary rationally justify any departure from it.

2.11 The requirements above are summarised from Section 1 (8) of the 2011 Act. However in addition to the requirements above, there are a number of other statutory requirements which need to be met by the PCC. These include continual scrutiny of the budget delegated to the Chief Constable through the ACO(R) for the delivery of the Police and Crime Plan and all policing needs. While not directly linked to the role of holding to account, there are other key areas of responsibility such as publishing a police and crime plan and setting the precept and the budget. For completeness these have also been included in the statutory requirements outlined in Appendix 1.

### **Chief Constable**

2.12 The Chief Constable has responsibilities for a number of areas as defined in the Policing Protocol Order 2011 (see Appendix A) and is accountable to the PCC in undertaking those responsibilities. The following are significant to decision-making and accountability.

- a) consulting with the PCC on senior appointments;
- b) supporting the PCC in the delivery of the strategy and objectives in the Police and Crime Plan;
- c) assisting the PCC in planning the force's budget;
- d) providing the PCC with access to information, officers and staff;
- e) having regard to the Strategic Policing Requirement;
- f) briefing on any matter on which the PCC may need to provide public assurance;
- g) being the operational voice of policing in the force area;
- h) entering into collaboration agreements with other Chief Constables, other policing bodies and partners with the agreement of the PCC;

- i) managing complaints about the force and ensuring the PCC is able to discharge their statutory obligations in relation to complaints;
  - j) day to day responsibility for financial management of the force within the agreed budget allocation and levels of authorisation issued by the PCC.
- 2.13 The Home Office has published guidance to candidates 'Have you got what it takes: working with and holding your Chief Constable to Account'. This document outlines many of the responsibilities above and also distinguishes matters which fall within the operational independence of the Chief Constable.

### **Police and Crime Panel**

- 2.14 The Police and Crime Panel (PCP) is established by the 2011 Act. The role is outlined in sections 28-31 of the Act and supplemented by schedule 6. One of the key roles of the panel is:

*'to review or scrutinise decisions made, or other action taken, by the relevant Police and Crime Commissioner in connection with the discharge of the Commissioner's functions'.<sup>4</sup>*

- 2.15 The PCP will comprise a number of councillors representing the Norfolk local authorities and co-opted members. Certain more specific functions of the PCP are specified in paragraph 27 of Schedule 6 such as scrutiny of the police and crime plan and annual report. For completeness the references in the Act in relation to the PCP are also included in Appendix 1. In order to set out the interrelationships between the PCP and the PCC, a Protocol has been agreed to assist the handling of business and enable the PCP to carry out its scrutiny function effectively.

### **The Policing Protocol Order 2011**

- 2.16 The Policing Protocol sets out the ways in which the PCC and Chief Constable (and their respective staff) and the Police and Crime Panel should exercise their functions in relation to each other. The Protocol purpose says:

*'An effective, constructive working relationship is more likely to be achieved where communication and clarity of understanding are at their highest. Mutual understanding of, and respect for, each party's statutory functions will serve to enhance policing for local communities'.<sup>5</sup>*

- 2.17 The Protocol also requires that:

*'All parties will abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life (known as the "Nolan Principles")'. The principles are set out at paragraph 3.1 below'.<sup>6</sup>*

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<sup>4</sup> Police Reform and Social Responsibility Act, Section 28(6).

<sup>5</sup> Paragraph 1 of the Schedule to The Policing Protocol Order 2011.

<sup>6</sup> Paragraph 10 of the Schedule to The Policing Protocol Order 2011.

## **The Elected Local Policing Bodies (Specified Information) Order 2011**

2.18 The Order made by the Secretary of State in exercise of powers conferred by the section 11(2) of the 2011 Act, as amended by The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012, specifies the information that must be published by the PCC. This is a critical reference source in the development of decision-making arrangements. In summary, this includes information on:

- the office holder(s), senior staff and the staffing structure of the OPPC;
- interests (including pecuniary interests) of the PCC;
- the income and expenditure of the PCC;
- the property rights and liabilities of the PCC;
- the decisions of the PCC;
- the policies of the PCC.

2.19 In relation to decisions of the PCC, the following information must be published:

- (a) the date, time and place of each public meeting to be held by the elected local policing body;*
- (b) a copy of the agenda for each public meeting held by the elected local policing body, and any report or other document that is the subject matter of an item on the agenda;*
- (c) a copy of the minutes of each public meeting held by the elected local policing body, and of each meeting which is not a public meeting but at which matters of significant public interest arising from the exercise of the body's functions are discussed;*
- (d) a record of each decision of significant public interest arising from the exercise of the elected local policing body's functions, whether made by the body at or as a result of a meeting or otherwise'.<sup>7</sup>*

2.20 In relation to income and expenditure, the PCC must publish, amongst other things:

*(f) information as to each crime and disorder reduction grant made by the elected local policing body, including the conditions (if any) attached to the grant, the recipient of the grant, the purpose of the grant and the reasons why the body considered that the grant would secure, or contribute to securing, crime and disorder reduction in the body's area'.<sup>8</sup>*

*(g) information as to each item of expenditure of –*

- (i) the elected policing body, or*
- (j) the chief officer of the police force maintained by the body,*

*exceeding £500 (other than a crime and disorder reduction grant made by the elected local policing body), including the recipient of the funds, the purpose of the expenditure and the reasons why the body or the*

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<sup>7</sup> Paragraph 5(a) to (d) of the Schedule (Part 1 – Information) of The Elected Local Policing Bodies (Specified Information) Order 2011.

<sup>8</sup> Paragraph 3(f) of the Schedule (Part 1 – Information) of The Elected Local Policing Bodies (Specified Information) Order 2011.

*chief officer (as the case may be) considered that good value would be obtained'*

### **Chief Executive and Monitoring Officer**

- 2.21 The PCC must appoint a Chief Executive to fulfil the statutory functions of the Head of Paid Service.<sup>9</sup> The Chief Executive is designated to fulfil the functions of Monitoring Officer for the purposes of section 5(1) of the Local Government and Housing Act 1989 (the 1989 Act) with responsibility for ensuring the legality of the actions of the PCC and the PCC's staff.<sup>10</sup> National guidance<sup>11</sup> lists the key functional, management and leadership responsibilities of the Chief Executive, and describes the role of the Monitoring Officer as follows:

*'The role of the Monitoring Officer is to report to the PCC if it appears that any proposal, decision or omission within their organisation constitutes, has given rise to, or is likely to, or would give rise to a breach of the law or code of practice. The Monitoring Officer must send a copy of that report to the Police and Crime Panel.'*

### **Role of Chief Finance Officer**

- 2.25 The PCC must appoint a Chief Finance Officer who is responsible for the proper administration of the PCCs financial affairs. The Chief Finance Officer

*'has similar legal duties and responsibilities in connection with any unlawful, or potentially unlawful spending by the PCC or those acting on the PCC's behalf.'*<sup>12</sup>

- 2.26 Under the draft CIPFA Statement on the Role of the Chief Finance Officer of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable, the Chief Finance Officers of the PCC and CC along with the PCC and CC are required to comply with the 5 principles detailed in this best practice guidance. These principles include a requirement for the Chief Finance Officer to be actively involved in and be able to bring influence to bear on all material business decisions.
- 2.27 The Home Office guidance includes advice that in undertaking these functions the Chief Executive and the Chief Finance Officer should work with the Chief Constable to ensure that appropriate arrangements, which comply with good governance standards, are in place.

### **Delegations**

- 2.28 In addition to the statutory requirements and other guidance outlined in this section, the PCC will need to determine which decisions will be delegated to

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<sup>9</sup> Paragraph 201 of Schedule 16 to the 2011 Act, which amends Section 4 of the 1989 Act.

<sup>10</sup> Paragraph 202 of Schedule 16 to the 2011 Act, which amends Section 4 of the 1989 Act.

<sup>11</sup> Have You Got What It Takes? – Delivering through your Chief Executive and Monitoring Officer (Home Office 2012).

<sup>12</sup> Have You Got What It Takes? Delivering Through Your Chief Executive and Monitoring Officer (Home Office 2012).

other people e.g. the Deputy Police and Crime Commissioner (DPCC), Chief Executive, Chief Finance Officer.

- 2.29 With certain exceptions, the PCC may under section 18 of the 2011 Act, delegate functions to the DPCC or to any person who is not the DPCC i.e. including the Chief Executive and Chief Finance Officer.
- 2.30 A scheme of delegation will be a key document in the Governance Scheme and will impact upon the decision-making and accountability framework.

### **The Financial Management Code of Practice for the Police Service**

2.31 The PCC must have regard to the Financial Management Code of Practice (the Code) for the Police Service issued by the Secretary of State under section 17 of the 2011 Act and section 39A of the Police Act 1996. The Code provides clarity upon the financial governance arrangements within the police service and reflects the fact that the police service has a key statutory duty to secure value for money in the use of public funds.

2.32 The Code states that:

*'The PCC and the Chief Constable should ensure that the principles of good governance are embedded in the way in which the PCC and the force operate'.<sup>13</sup>*

2.33 The Code recommends that the PCC, in consultation with the Chief Constable, should draw up and adopt a scheme of consent, standing orders relating to contracts and detailed financial regulations:

*Scheme of Consent* – the Code states that:

*'The purpose of the scheme is to set out the extent of, and any conditions attaching to, the PCC's consent to the Chief Constable's exercise of powers to enter into contracts and acquire or dispose of property'.<sup>14</sup>*

It could include also:

*'.....any terms on which the respective functions of the PCC and Chief Constable will be exercised in order to achieve the objectives set out in the PCC's Police and Crime Plan'.<sup>15</sup>*

*Standing Orders relating to Contracts* – the Code recommends that these:

*'should cover procedures for procurement, tenders and contracts ....and ...should include tender thresholds and authorisation levels'.<sup>16</sup>*

*Financial Regulations* – the Code recommends that the regulations should:

*- 'ensure that the financial dealings of the PCC and Chief Constable are conducted properly and in a way which incorporates best practice (as set*

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<sup>13</sup> Section 11 of the Code.

<sup>14</sup> Section 8 of the Code.

<sup>15</sup> Section 5 of the Code.

<sup>16</sup> Section 9.3.2 of the Code.

*out in guidance published by relevant bodies) and which focuses on bringing operational and financial management together with accurate, complete and timely financial information'.<sup>17</sup>*

*- 'include sufficient safeguards for both Chief Finance Officers, who are responsible for ensuring that the financial affairs of the PCC and the force are properly administered, to discharge their statutory obligations'.<sup>18</sup>*

- include details of the circumstances in which the approval of the PCC is required to significant change of policy or the movement of significant sums in the budget by the Chief Constable.<sup>19</sup>

- cover the extent to which the Chief Constable may vire money, including for emergency operational requirements, along with arrangements on how this should be controlled and monitored.<sup>20</sup>

2.34 The standing orders and the financial regulations will govern the relationship between the PCC and the Chief Constable in financial matters and will complement the scheme of consent. Elements of the financial governance arrangements will have a direct bearing on the decision-making processes adopted by the PCC.

### **3 GOOD GOVERNANCE**

3.1 Over the last 20 years there have been a number of frameworks developed to support good governance in public services:

- The report of the Committee on the Financial Aspects of Corporate Governance (Cadbury Report 1992) identified 3 fundamental principles for corporate governance – openness, integrity and accountability;
- The Committee on Standards in Public Life examined concerns about the conduct of holders of public office and published its first report in May 1995, defining 7 general principles, known as the Nolan principles – Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership;
- In 2001, the Commission for Local Administration for England<sup>21</sup> published guidance to assist with good decision-making by learning from the findings of maladministration investigations. The guidance contains 42 principles, 15 of which are applicable to decision-making in the Office of the PCC;
- In 2004, the Independent Commission on Good Governance in Public Services published a set of common principles that all public sector organisations should adopt. They built upon the Nolan Principles by setting six core principles that should underpin the governance arrangements of all public bodies (these are set out in detail at 3.2);
- In 2007, the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) published

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<sup>17</sup> Section 6 of the Code.

<sup>18</sup> Section 6 of the Code.

<sup>19</sup> Section 9.1 of the Code.

<sup>20</sup> Section 9.4 of the Code.

<sup>21</sup> Commission for Local Administration, Good Administrative Practice, 2001.

'Delivering Good Governance in Local Authorities – Interim Guidance for Police Authorities and Forces in England and Wales'.

3.2 The Good Governance Standard for Public Services identifies six core principles:

***'1. Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users***

- *Being clear about the organisation's purpose and its intended outcomes for citizens and service users*
- *Making sure that users receive a high quality service*
- *Making sure that taxpayers receive value for money*

***2. Good governance means performing effectively in clearly defined functions and roles***

- *Being clear about the functions of the governing body*
- *Being clear about the responsibilities of non-executives and the executive, and making sure that those responsibilities are carried out*
- *Being clear about relationships between governors and the public*

***3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour***

- *Putting organisational values into practice*
- *Individual governors behaving in ways that uphold and exemplify effective governance*

***4. Good governance means taking informed, transparent decisions and managing risk***

- *Being rigorous and transparent about how decisions are taken*
- *Having and using good quality information, advice and support*
- *Making sure that an effective risk management system is in operation*

***5. Good governance means developing the capacity and capability of the governing body to be effective***

- *Making sure that appointed and elected governors have the skills, knowledge and experience they need to perform well*
- *Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group*
- *Striking a balance, in the membership of the governing body, between continuity and renewal*

***6. Good governance means engaging stakeholders and making accountability real***

- *Understanding formal and informal accountability relationships*
- *Taking an active and planned approach to dialogue with and accountability to the public*
- *Taking an active and planned approach to responsibility to staff*
- *Engaging effectively with institutional stakeholders'*

3.3 The information provided above needs to be considered in how the PCC operates and conducts their business. The Financial Management Code of Practice for the Police Service issued by the Secretary of State, states that:

*'The PCC and the Chief Constable should ensure that the principles of good governance are embedded in the way in which the PCC and force operate'.<sup>22</sup>*

- 3.4 A good decision making process is fundamental to effective governance arrangements including appropriate levels of accountability. Furthermore a good decision-making process is likely to produce more consistent, reliable and objectively sustainable decisions, which should result in taking the right decisions, for the right reason, at the right time.
- 3.5 It is good practice to consult where an individual or organisation could be adversely affected by a decision and give consideration to those views. Whilst transparency is important, there might be situations where the urgency of a decision affects the level of engagement that could reasonably be expected. However, any alleged defect in the decision-making process could potentially leave the PCC open to challenge by way of judicial review.

#### **4 SUMMARY OF KEY FACTORS**

- 4.1 The information above identifies the statutory provisions and other matters that will impact upon the governance arrangements for the OPCC. The key issues are summarised below:

##### **Decision-Making**

- 4.2 The prerequisites of an effective decision-making framework for the OPCC would include:
- Meeting the relevant statutory requirements, including The Policing Protocol, Strategic Policing Requirement, Finance Management Code of Practice;
  - Having regard to the roles and responsibilities of the PCC, Chief Constable and OPCC senior staff;
  - Embedding the good governance principles;
  - Publication of information specified in The Elected Local Policing Bodies (Specified Information) Order 2011 as amended by The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012

##### **Accountability/Holding to account**

- 4.3 The role of the PCC in holding the CC to account is set out in the legislation and covers largely the same functions currently required of the Police Authority.
- 4.4 It will not be possible to use a committee structure as a framework for reports and information to be considered and challenged. Appropriate levels of monitoring will need to be reflected in the accountability framework, which will also need to ensure it embeds good governance standards and enables information to be made available to the public.

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<sup>22</sup> The Financial Management Code of Practice for the Police Service, Home Office 2012.



- 4.5 The PCC will decide upon the accountability framework, however as a minimum it will need to reflect:
- the requirements of the legislation (specifically what needs to be held to account),
  - the respective roles and responsibilities of key players and extent that responsibility can be delegated,
  - reporting requirements (including the levels of detail required to hold to account),
  - suitable recording keeping mechanisms and
  - adherence to the agreed decision-making processes.
- 4.6 The information required to enable the PCC to hold the Chief Constable to account could be shared via a variety of mechanisms (e.g. private meetings, public meetings, e-mail) and in a variety of formats (e.g. written reports, oral updates, briefings etc).
- 4.7 For each function where the PCC has a requirement to hold to account, it is important to consider which mix of the above is the most appropriate to the function or subject matter.

Relevant extracts from the:

- 1) Police Reform and Social Responsibility Act 2011;
- 2) The Policing Protocol Order 2011 and
- 3) The Elected Local Policing Bodies (Specified Information) Order 2011 (as amended by The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012

**1) Police Reform and Social Responsibility Act 2011**

**Section 1: (6) – (8)**

*The police and crime commissioner for a police area must:*

- (a) secure the maintenance of the police force for that area, and*
- (b) secure that the police force is efficient and effective.*

*The police and crime commissioner for a police area must hold the relevant chief constable to account for the exercise of—*

- (a) the functions of the chief constable, and*
- (b) the functions of persons under the direction and control of the chief constable.*

*The police and crime commissioner must, in particular, hold the chief constable to account for*

- (a) the exercise of the duty under section 8(2) (duty to have regard to police and crime plan);*
- (b) the exercise of the duty under section 37A(2) of the Police Act 1996 (duty to have regard to strategic policing requirement);*
- (c) the exercise of the duty under section 39A(7) of the Police Act 1996 (duty to have regard to codes of practice issued by Secretary of State);*
- (d) the effectiveness and efficiency of the chief constable's arrangements for co-operating with other persons in the exercise of the chief constable's functions (whether under section 22A of the Police Act 1996 or otherwise);*
- (e) the effectiveness and efficiency of the chief constable's arrangements under section 34 (engagement with local people);*
- (f) the extent to which the chief constable has complied with section 35 (value for money);*
- (g) the exercise of duties relating to equality and diversity that are imposed on the chief constable by any enactment;*
- (h) the exercise of duties in relation to the safeguarding of children and the promotion of child welfare that are imposed on the chief constable by sections 10 and 11 of the Children Act 2004.*

**Section 5: Police and Crime Commissioners to issue police and crime plans.**

*(1) The police and crime commissioner for a police area must issue a police and crime plan within the financial year in which each ordinary election is held.*

*(5) In issuing or varying a police and crime plan, a police and crime commissioner must have regard to the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996.*

*(6) Before issuing or varying a police and crime plan, a police and crime commissioner must—*

- (a) prepare a draft of the plan or variation,*
- (b) consult the relevant chief constable in preparing the draft plan or variation,*
- (c) send the draft plan or variation to the relevant police and crime panel,*
- (d) have regard to any report or recommendations made by the panel in relation to the draft plan or variation (see section 28(3)),*
- (e) give the panel a response to any such report or recommendations, and*
- (f) publish any such response.*

**Section 7: Police and Crime Plans**

*(1) A police and crime plan is a plan which sets out, in relation to the planning period, the following matters—*

- (a) the elected local policing body's police and crime objectives;*
- (b) the policing of the police area which the chief officer of police is to provide;*
- (c) the financial and other resources which the elected local policing body is to provide to the chief officer of police for the chief officer to exercise the functions of chief officer;*
- (d) the means by which the chief officer of police will report to the elected local policing body on the chief officer's provision of policing;*
- (e) the means by which the chief officer of police's performance in providing policing will be measured;*
- (f) the crime and disorder reduction grants which the elected local policing body is to make, and the conditions (if any) to which such grants are to be made.*

*(2) The elected local policing body's police and crime objectives are the body's objectives for—*

- (a) the policing of the body's area,*
- (b) crime and disorder reduction in that area, and*
- (c) the discharge by the relevant police force of its national or international functions.*

**Section 9: Crime and Disorder Reduction Grants**

*(1) The elected local policing body for a police area may make a crime and disorder reduction grant to any person.*

*(2) A crime and disorder reduction grant is a grant which, in the opinion of the elected local policing body, will secure, or contribute to securing, crime and disorder reduction in the body's area.*

*(3) The elected local policing body may make a crime and disorder reduction grant subject to any conditions (including conditions as to repayment) which the body thinks appropriate.*

### **Section 10: Co-operative working**

*(1) The elected local policing body for a police area must, in exercising its functions, have regard to the relevant priorities of each responsible authority.*

*(2) The elected local policing body for a police area, in exercising its functions, and a responsible authority, in exercising its functions conferred by or under section 6 of the Crime and Disorder Act 1998 in relation to that police area, must act in co-operation with each other.*

*(3) The elected local policing body for a police area, and the criminal justice bodies which exercise functions as criminal justice bodies in that police area, must make arrangements (so far as it is appropriate to do so) for the exercise of functions so as to provide an efficient and effective criminal justice system for the police area.*

### **Section 11: Information for public etc**

*(1) An elected local policing body—*

*(a) must publish specified information; and*

*(b) if the time or manner of the publication of that information is specified, must publish it at that time or in that manner.*

*(2) For that purpose, “specified” means specified by the Secretary of State by order.*

*(3) An elected local policing body must publish the information which the body considers to be necessary to enable the persons who live in the body’s area to assess—*

*(a) the performance of the body in exercising the body’s functions, and*

*(b) the performance of the relevant chief officer of police in exercising the chief officer’s functions.*

*(4) The information necessary to enable those persons to assess those matters by reference to a particular time, or a particular period, must be published by the elected local policing body as soon as practicable after that time or the end of that period.*

*(5) An elected local policing body may provide (whether by publication or other means) information about—*

*(a) the exercise of the body’s functions, and*

*(b) the exercise of the functions of the relevant chief officer of police.*

### **Section 12: Annual reports**

*(1) Each elected local policing body must produce a report (an “annual report”) on—*

*(a) the exercise of the body’s functions in each financial year, and*

*(b) the progress which has been made in the financial year in meeting the police and crime objectives in the body’s police and crime plan.*

*(2) As soon as practicable after producing an annual report, the elected local policing body must send the report to the relevant police and crime panel.*

### **Section 13: Information for police and crime panels**

*(1) An elected local policing body must provide the relevant police and crime panel with any information which the panel may reasonably require in order to carry out its functions.*

#### **Section 14: Arrangements for obtaining the views of the community on policing**

(1) Section 96 of the Police Act 1996 (arrangements for obtaining the views of the community on policing) is amended in accordance with this section.

(2) In subsection (1), after paragraph (b) insert “; and for obtaining the views of victims of crime in that area about matters concerning the policing of the area.”.

(3) After subsection (1) insert—

“(1A) Those arrangements must include, in the case of—

(a) a police area listed in Schedule 1, or

(b) the metropolitan police district,

arrangements for obtaining, before a police and crime plan is issued under section 5 or 6 of the Police Reform and Social Responsibility Act 2011, the views of the people in that police area, and the views of the victims of crime in that area, on that plan.

(1B) Those arrangements must include, in the case of a police area listed in Schedule 1, arrangements for obtaining, before the first precept for a financial year is issued by the police and crime commissioner under section 40 of the Local Government Finance Act 1992, the views of—

(a) the people in that police area, and

(b) the relevant ratepayers’ representatives,

on the proposals of the police and crime commissioner for expenditure (including capital expenditure) in that financial year.

#### **Section 18: Delegation of functions by police and crime commissioners**

(1) The police and crime commissioner for a police area may—

(a) appoint a person as the deputy police and crime commissioner for that police area, and

(b) arrange for the deputy police and crime commissioner to exercise any function of the police and crime commissioner.

(2) A police and crime commissioner may arrange for any person (who is not the deputy police and crime commissioner) to exercise any function of the commissioner.

(3) But a police and crime commissioner may not—

(a) appoint a person listed in subsection (6) as the deputy police and crime commissioner;

(b) arrange for the deputy police and crime commissioner to exercise a function listed in subsection (7)(a), (e) or (f);

(c) arrange, under subsection (2), for a person listed in subsection (6) to exercise any function; or

(d) arrange, under subsection (2), for any person to exercise a function listed in subsection (7).

(4) A deputy police and crime commissioner may arrange for any other person to exercise any function of the police and crime commissioner which is, in accordance with subsection (1)(b), exercisable by the deputy police and crime commissioner.

(5) But the deputy police and crime commissioner may not arrange for a person to exercise a function if—

(a) the person is listed in subsection (6), or

(b) the function is listed in subsection (7).

(6) *The persons referred to in subsections (3)(a) and (c) and (5) are—*  
(a) *a constable (whether or not in England and Wales);*  
(b) *a police and crime commissioner;*  
(c) *the Mayor's Office for Policing and Crime;*  
(d) *the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;*  
(e) *the Mayor of London;*  
(f) *the Common Council of the City of London;*  
(g) *any other person or body which maintains a police force;*  
(h) *a member of the staff of a person falling within any of paragraphs (a) to (g).*

(7) *The functions referred to in subsection (3) are—*  
(a) *issuing a police and crime plan (see section 5);*  
(b) *determining police and crime objectives (see section 7);*  
(c) *attendance at a meeting of a police and crime panel in compliance with a requirement by the panel to do so (see section 29);*  
(d) *preparing an annual report to a policing and crime panel (see section 12);*  
(e) *appointing the chief constable, suspending the chief constable, or calling upon the chief constable to retire or resign (see section 38);*  
(f) *calculating a budget requirement (see section 43 of the Local Government Finance Act 1992).*

(8) *If a function of a police and crime commissioner is exercisable by any other person in accordance with this section, any property or rights vested in the commissioner may be dealt with by the other person in exercising the function, as if vested in that person.*

(9) *Subsection (2) applies whether or not there is a deputy police and crime commissioner.*

(10) *The deputy police and crime commissioner is a member of the police and crime commissioner's staff.*

(11) *For further provision about the appointment of a deputy police and crime commissioner, see paragraphs 8 to 12 of Schedule 1.*

## **2) The Policing Protocol Order 2011**

The information below is a direct extract from the Policing Protocol Order 2011 issued by the Home Office in November 2011 and issued in accordance with the requirements in Section 79 of the Police Reform and Social Responsibility Act 2011.

### ***The Chief Constable***

23. *The Chief Constable is responsible to the public and accountable to the PCC for—*

(a) *leading the force in a way that is consistent with the attestation made by all constables on appointment and ensuring that it acts with impartiality;*

(b) *appointing the force's officers and staff (after consultation with the PCC, in the case of officers above the rank of Chief Superintendent and police staff equivalents);*

- (c) supporting the PCC in the delivery of the strategy and objectives set out in the Plan;*
- (d) assisting the PCC in planning the force's budget;*
- (e) providing the PCC with access to information, officers and staff as required;*
- (f) having regard to the Strategic Policing Requirement when exercising and planning their policing functions in respect of their force's national and international policing responsibilities;*
- (g) notifying and briefing the PCC of any matter or investigation on which the PCC may need to provide public assurance either alone or in company with the Chief Constable (all PCCs will be designated as Crown Servants under the Official Secrets Act 1989(a), making them subject to the same duties in relation to sensitive material as Government Ministers);*
- (h) being the operational voice of policing in the force area and regularly explaining to the public the operational actions of officers and staff under their command;*
- (i) entering into collaboration agreements with other Chief Constables, other policing bodies and partners that improve the efficiency or effectiveness of policing, and with the agreement of their respective Policing Bodies;*
- (j) remaining politically independent of their PCC;*
- (k) managing all complaints against the force, its officers and staff, except in relation to the Chief Constable, and ensuring that the PCC is kept informed in such a way as to enable the PCC to discharge their statutory obligations in relation to complaints in a regular, meaningful and timely fashion. Serious complaints and conduct matters must be passed to the Independent Police Complaints Commission in line with legislation;*
- (l) exercising the power of direction and control in such a way as is reasonable to enable their PCC to have access to all necessary information and staff within the force;*
- (m) having day to day responsibility for financial management of the force within the framework of the agreed budget allocation and levels of authorisation issued by the PCC.*

### **The (Police and Crime) Panel**

**24.** *The Panel provides checks and balances in relation to the performance of the PCC. The Panel does not scrutinise the Chief Constable – it scrutinises the PCC's exercise of their statutory functions. While the Panel is there to challenge the PCC, it must also exercise its functions with a view to supporting the effective exercise of the PCC's functions. This includes—*

- (a) the power of veto (outside the Metropolitan Police District), by a two-thirds majority of the total Panel membership, over the level of the PCC's proposed precept;*
- (b) the power of veto (outside the Metropolitan Police District), by a two-thirds majority of the total Panel membership, over the PCC's proposed candidate for Chief Constable;*

(c) the power to ask Her Majesty's Inspector's of Constabulary ("HMIC") for a professional view when the PCC intends to dismiss a Chief Constable;

(d) the power to review the draft Plan and make recommendations to the PCC who must have regard to them;

(e) the power to review the PCC's Annual Report and make reports and recommendations at a public meeting, which the PCC must attend;

(f) the power to require relevant reports and information in the PCC's possession (except those which are operationally sensitive) to enable them to fulfil their statutory obligations;

(g) the power to require the PCC to attend the Panel to answer questions;

(h) the power (outside the Metropolitan Police District) to appoint an acting Police and Crime Commissioner where the incumbent PCC is incapacitated, resigns or is disqualified; and (i) responsibility for complaints about a PCC, although serious complaints and conduct matters must be passed to the IPCC in line with legislation.

**26.** The Chief Constable retains responsibility for operational matters. If the Panel seek to scrutinise the PCC on an operational matter, the Chief Constable may be invited to attend alongside the PCC to offer factual accounts and clarity (if needed) of the Chief Constable's actions and decisions. The accountability of the Chief Constable remains firmly to the PCC and not to the Panel.

**3) The Elected Local Policing Bodies (Specified Information) Order 2011 (amended by The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2012.**

**1.** In relation to the relevant office holders of the elected local policing body—

(a) the name of each relevant office holder;

(b) the address for correspondence of each relevant office holder;

(c) the salary of each relevant office holder;

(d) the allowances paid to each relevant office holder in respect of expenses incurred by the office holder in the exercise of the body's functions;

(e) a register of interests of relevant office holders, including every paid employment or office or other pecuniary interest of each relevant office holder.

(f) the number of complaints or conduct matters that have been brought to the attention of a relevant office holder by the police and crime panel (either because they have been referred to the Independent Police Complaints Commission, or because they are being subjected to informal resolution by the panel).

**2.** In relation to the staff (and, in relation to gifts and hospitality, also the relevant office holders) of the elected local policing body—

(a) the number of members of the staff;

(b) the proportion of the staff who—

(i) are women,

(ii) are, to the knowledge of the elected local policing body, members of an ethnic minority,

(iii) have, to the knowledge of the elected local policing body, a disability (within the meaning of section 6 of the Equality Act 2010(a));

(c) an organisational chart showing the structure of the staff;



*(a) 2010 c. 15.*

*(d) the job title, responsibilities and salary of each senior employee and (unless the senior*

*employee refuses to consent to the publication of his name) the name of the senior employee;*

*(e) a register of each offer of a gift or hospitality made to a relevant office holder or member*

*of staff, indicating whether the offer was accepted or refused.*

**2A.***In relation to –*

*(a) the duty of the chief officer of the police force maintained by the elected local policing body to provide assistance to the body under section 2(5) or for (5) of the 2011 Act; and*

*(b) the power of a local authority to provide administrative, professional or technical services to the elected local policing body under section 1(1) of the Local Authorities (Goods and Services) Act 1970,*

*information as to any arrangements for use by the elected policing body of the staff of the chief officer or of a local authority under those provisions.*

**3.***In relation to the income and expenditure of the elected local policing body—*

*(a) the total budget of the elected local policing body;*

*(b) where the elected local policing body is a police and crime commissioner, the precept*

*issued by the commissioner;*

*(c) information as to each anticipated source of revenue of the elected local policing body*

*(other than, in the case of a police and crime commissioner, the precept);*

*(d) information as to the proposed expenditure of the elected local policing body;*

*(e) a copy of the annual investment strategy of the elected local policing body;*

*(f) information as to each crime and disorder reduction grant made by the elected local*

*policing body, including the conditions (if any) attached to the grant, the recipient of the*

*grant, the purpose of the grant and the reasons why the body considered that the grant*

*would secure, or contribute to securing, crime and disorder reduction in the body's area;*

*(g) information as to each item of expenditure of –*

*(i) the elected local policing body, or*

*(ii) the chief officer of the police force maintained by the body*

*exceeding £500 (other than a crime and disorder reduction grant made by the elected local policing body), including the recipient of the funds, the purpose of the expenditure and the reasons why the body or the chief officer (as the case may be) considered that good value for money would be obtained.*

**4.***In relation to the property, rights and liabilities of the elected local policing body—*

*(a) the identity of any premises or land owned by, or occupied for the purposes of, the*

*elected local policing body;*

*(b) a copy of each contract with a value exceeding £10,000 to which -*

*(i) the elected local policing body, or*

*(ii) the chief officer of the police force maintained by the body, is or is to be a party;*

(c) a copy of each invitation to tender issued by-

- (i) the elected local policing body, or
- (ii) the chief officer of the police force maintained by the body,

in relation to a contract which the body or chief officer (as the case may be) expects will have a value exceeding £10,000;

(d) a list of every contract with a value not exceeding £10,000 to which -

- (i) the elected local policing body, or
- (ii) the chief officer of the police force maintained by the body,

is or is to be a party, including the value of the contract, the identity of every other party to the contract and the purpose of the contract.

**5.** In relation to the decisions of the elected local policing body—

(a) the date, time and place of each public meeting to be held by the elected local policing body;

(b) a copy of the agenda for each public meeting held by the elected local policing body, and any report or other document that is the subject matter of an item on the agenda;

(c) a copy of the minutes of each public meeting held by the elected local policing body, and of each meeting which is not a public meeting but at which matters of significant public interest arising from the exercise of the body's functions are discussed.

(d) a record of each decision of significant public interest arising from the exercise of the elected local policing body's functions, whether made by the body at or as a result of a meeting or otherwise.

**6.** In relation to the policies of the elected local policing body—

(a) a statement of the policy of the elected local policing body in relation to the conduct of

relevant office holders, including procedures for the handling of qualifying complaints and conduct matters (within the meaning of section 31 of the 2011 Act);

(b) a statement of the policy of the elected local policing body in relation to the making of decisions of significant public interest arising from the exercise of the body's functions;

(c) a statement of the policy of the elected local policing body in relation to records management, including procedures for the security and sharing of information and the retention and destruction of documents;

(d) a statement of the policy of the elected local policing body in relation to the handling of qualifying disclosures (within the meaning of section 43B of the Employment Rights Act 1996(a)).

**7.** In relation to the prevention of crime and disorder, a copy of any report required by the

elected local policing body from the responsible authorities for a local government area under section 7(1) of the Crime and Disorder Act 1998(b).

**8.** In relation to the independent custody visitor arrangements made under section 51 of the Police Reform Act 2002, information as to the operation of the arrangements.



# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

**Governance Scheme**

**Scheme of Delegation**

**Chief Executive**

**November 2012**

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## **1. Introduction**

The scheme of delegation details the key roles of the Police and Crime Commissioner (the Commissioner), and those functions and authority which they delegate to the Chief Executive, Commissioner's Chief Finance Officer, and if appointed, a Deputy Police and Crime Commissioner, as well as any other officers as appropriate. The functions which fall to be discharged by the Chief Constable in their own right are also set out.

This scheme of delegation should be read with other documents in the Governance Scheme such as the Contract Standing Orders, Financial Regulations and the Decision-Making and Accountability Framework, as well as relevant legislation including the Police Reform and Social Responsibility Act 2011, subordinate legislation thereto, the Policing Protocol, the Financial Management Code of Practice and the Strategic Policing Requirement.

Contract Standing Orders and Financial Regulations also specify powers given to the Chief Executive, the Chief Finance Officer, and any other officer (the professional officers), either individually or jointly. This Scheme of Delegation aims to clarify those powers which, for the benefit of good business practice, are delegated to the professional officers. It provides a framework which, along with the other sections of the Governance Scheme, makes sure business is carried out in an efficient and timely way.

The delegations to the professional officers should be exercised in line with the Commissioner's policy intent, the provisions of the Governance Scheme and all applicable and relevant procedures, plans, strategies and budgets.

This Scheme of Delegation does not identify all the statutory duties and powers of the Commissioner and which are found within specific primary and secondary legislation.

## **2. Role of the Police and Crime Commissioner**

2.1 The key roles of the Commissioner are to:

- secure the maintenance of an efficient and effective police force for the area;
- set the budget, determine the level of precept and allocate funds and assets to the Chief Constable;
- appoint, suspend and, if necessary dismiss the Chief Constable;
- hold the Chief Constable to account for the exercise of the functions of the Chief Constable and those exercising functions under his/her direction and control;
- issue a Police and Crime Plan which sets out, amongst other things, the police and crime objectives;
- make crime and disorder reduction grants;
- produce an annual report.

2.2 The Commissioner is a contracting body who will initially own all the assets and liabilities, with the responsibility for the financial administration of his/her office and the force, including all borrowing limits.

2.3 The Commissioner will receive all funding, including the government grant and precept, and other sources of income, related to policing and crime reduction. The allocation of this funding is for the Commissioner to determine in consultation with the Chief Constable, and where appropriate in accordance with any grant terms.

2.4 The Police and Crime Panel has a statutory role to scrutinise the decisions and actions taken by the Commissioner in discharging their functions.

2.5 The Commissioner may appoint a deputy to assist in the exercise of their functions subject to certain statutory exceptions.

2.6 The Commissioner will be responsible for handling complaints and conduct matters in relation to the Chief Constable and monitoring complaints against officers and staff.

### **3. General Principles of Delegation**

3.1 The Commissioner reserves the right to require that a specific matter is referred to them for decision and not dealt with under powers of delegation.

3.2 The Scheme does not attempt to list all matters which form part of everyday management responsibilities.

3.3 Delegation to officers under this Scheme does not prevent an officer from referring the matter to the Commissioner for a decision if the officer considers this appropriate (for example, because of the sensitive nature of an issue or in respect of any matter which may have a significant financial implication).

3.4 When an officer is considering a matter that is within another professional officer's area of competence, they should consider whether it would be appropriate to consult the other professional officer before authorising any action.

3.5 All decisions made by the Deputy Commissioner and officers that are sufficiently material and are made under powers granted to them by the Commissioner must be recorded and available for inspection as required by the Decision-Making and Accountability Framework.

3.6 The Commissioner requires to be involved in any policing and crime matter which may have a significant impact on the people of Norfolk.

3.7 In this Scheme, references made to the professional officers, or to the Chief Executive, the Commissioner's Chief Finance Officer, the Chief Finance Officer of the Chief Constable, include officers authorised by them to act on their behalf and provided that such further delegation is documented in writing.

3.8 The professional officers are responsible for making sure that members of staff they supervise know about the provisions and obligations of this Scheme of Delegation.

3.9 The person appointed as the Chief Executive (who will also be the Monitoring Officer) and the Commissioner's Chief Finance Officer have powers and duties deriving from their statutory roles. The delegations set out within this Scheme are without prejudice to their ability to discharge the statutory roles.

3.10 The Scheme of Delegation provides the Deputy Commissioner and officers with the authority to discharge the duties of the Commissioner. In undertaking these duties they must comply with all relevant requirements as appropriate including:

- the Police Reform and Social Responsibility Act 2011 and delegated legislation thereto;
- Contract Standing Orders;
- Financial Regulations;
- the Decision-making and Accountability Framework;

- the Home Office Financial Management Code of Practice;
- the CIPFA Statement on the role of the Chief Finance Officer of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable;
- the Commissioner's and Suffolk Constabulary's employment policies and procedures;
- the Data Protection Act 1998 and the Freedom of Information Act 2000;
- Health and Safety at Work legislation and associated instruments;
- Equality Act 2010.

3.11 The Commissioner may delegate the performance of their functions under Section 18 of the 2011 Act, with the exception of those listed below and as provided at paragraph 4.2 below:

- issuing the Police and Crime Plan;
- determining the policing and crime objectives for the Police and Crime Plan;
- calculation of the budget requirement for the purpose of issuing a precept;
- appointing, suspending and calling upon the Chief Constable to resign;
- attendance at the Police and Crime Panel for specified duties;
- preparing the Annual Report.

3.12 The Commissioner may not delegate the performance of a function to:

- a constable;
- another police and crime commissioner;
- the Mayor's office for Policing and Crime;
- the Deputy Mayor for Policing and Crime;
- the Mayor of London;
- the Common Council of the City of London;
- any body which maintains a police force;
- a member of staff of the above.

3.13 The Commissioner must not restrict the operational independence of the Chief Constable and the force over which they have direction and control.

3.14 To enable the Commissioner to exercise the functions of their office effectively they require reasonable access to information, and officers and staff within their force area. This access must not be unreasonably withheld or obstructed by the Chief Constable nor should the Chief Constable's direction and control of the force be restricted.

#### **4. Functions delegated to the Deputy Police and Crime Commissioner (if appointed)**

4.1 The Commissioner may appoint a deputy to exercise their functions except for those which cannot be delegated (listed at paragraph 4.2).

4.2 The Commissioner cannot give consent to the Deputy Commissioner to carry out the following functions:

- issuing the police and crime plan;
- appointing, suspending or calling upon the Chief Constable to resign;
- calculating the budget requirement for the purpose of issuing a precept.

4.3 The Deputy Commissioner is authorised to exercise or perform any or all of the functions of the Commissioner, with the exception of those listed at paragraph 4.2,

during any period when the Commissioner is unable through leave or illness to exercise the functions or at any other time with the consent of the Commissioner.

## **5. Functions delegated to the Chief Executive of the Office of the Police and Crime Commissioner**

5.1 The Chief Executive is the Head of the Police and Crime Commissioner's staff and is also the Monitoring Officer for the Commissioner. The Chief Executive will be the primary advisor on strategic issues that arise from the Police and Crime Commissioner's legal duties. The Chief Executive will discharge their statutory roles as Chief Executive and Monitoring Officer in accordance with the statutory requirements, APACE (Association of Police Authority Chief Executives) Statement on the Role of the Chief Executive and Monitoring Officer of the Police and Crime Commissioner, and Home Office Guidance<sup>1</sup>. The delegations, listed below, are those granted to the Chief Executive:

- 5.1.1 To take such action as is necessary to discharge the roles of Chief Executive and Monitoring Officer.
- 5.1.2 To take such day-to-day action as is required for the efficient and effective administration and management of the Office of the Commissioner and except as provided hereto the discharge of the Commissioner's functions and to give effect to the decisions and direction of the Commissioner.
- 5.1.3 To execute all contracts, agreements and other legal instruments either in writing or by affixing the common seal of the Commissioner, on behalf of the Commissioner in accordance with any decisions made by or on behalf of the Commissioner.
- 5.1.4 To manage the Commissioner's Office budget in accordance with Financial Regulations.
- 5.1.5 To fix fees for copies of documents and extracts of documents requested under the Freedom of Information Act 2000, or the Data Protection Act 1998 or otherwise.
- 5.1.6 To manage the staff of the Office of the Commissioner including the appointment and dismissal of members of the Commissioner's staff who are not under the direction and control of the Chief Constable.
- 5.1.7 To make recommendations to the Commissioner with regard to staff terms and conditions of service in respect of the Commissioner's staff who are not under the direction and control of the Chief Constable, in consultation with the Commissioner's Chief Finance Officer.
- 5.1.8 To administer the Independent Custody Visitors Scheme and any other volunteer schemes including the appointment, suspension and removal of Custody Visitors and other volunteers.
- 5.1.9 To obtain legal or other expert advice.
- 5.1.10 To commence, defend, withdraw or settle any claim or legal proceedings on the Commissioner's behalf, in consultation with the Chief Finance Officer.

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<sup>1</sup> See "Have You Got What It Takes. Delivering through your Chief Executive and Monitoring Officer", Home Office, 2012.



## **6. Functions delegated to the Chief Finance Officer of the Office of the Police and Crime Commissioner**

- 6.1 The Chief Finance Officer is the financial adviser to the Commissioner and has statutory responsibility to manage their financial affairs as described in the Financial Management Code of Practice. The Chief Finance Officer must ensure that the financial affairs of the Commissioner, including the management of the delegated budget are properly administered having regard to their propriety, legality and appropriate standards. The Chief Finance Officer will discharge their statutory role in accordance with statutory requirements, their job description, CIPFA Guidance and other appropriate practice.
- 6.2 To approve the arrangements for the treasury management function, including its day to day management, the investment and borrowing of money, the production of the treasury management strategy, and supporting policies and procedures.
- 6.3 To approve the arrangements for securing and preparing the Commissioner's accounts, and to seek assurances that there are appropriate arrangements in place for the preparation of the Force's accounts.
- 6.4 To seek assurances that there are appropriate arrangements in place within the force for its financial management.
- 6.5 To secure appropriate banking arrangements for the Commissioner.
- 6.6 The financial management of grants awarded by the Commissioner.
- 6.7 To authorise payments, where they are:
- required by law;
  - ordered by the court;
  - due under any agreement entered into by the Commissioner.
- 6.8 To act as 'Money Laundering Reporting Officer' under the Proceeds of Crime Act 2002 and Money Laundering Regulations 2003.
- 6.9 To sign cheques on behalf of the Commissioner.
- 6.10 To arrange for an effective and efficient internal audit service.
- 6.11 The Police and Crime Commissioner will authorise a named person to undertake the functions of the Chief Finance Officer in his/her extended absence.

## **7. Functions designated to the Chief Constable**

### **Explanatory Note:**

Under Section 18 of the 2011 Act the Commissioner is prohibited from delegating the performance of a function to a constable. This means that, unlike the predecessor Police Authority, the Commissioner cannot arrange for their functions to be discharged by the Chief Constable. During the Stage 1\* period of transfer, all police staff (including those under the direction and control of the Chief Constable) will remain employed by the Commissioner. This will enable the Commissioner to make delegations to such staff in the same way as they would make delegations to their Chief Executive or Chief Finance Officer.

Accordingly, on an interim basis until the Stage 2\* period of transfer is reached a number of functions are delegated to the Chief Finance Officer of the Chief Constable and the Director of Human Resources (and which but for the prohibition above, would have been delegated to the Chief Constable). At transfer Stage 2 the Scheme of Delegation will give consent to the Chief Constable to undertake a number of matters without the need for prior approval – for example in relation to the procurement of goods or services. It will give consent for the Chief Constable to exercise powers on their own behalf as a Corporation Sole rather than their having delegated authority to exercise the Commissioner's powers.

\* Stage 1 and Stage 2 transfers are respectively the initial and subsequent transfers referred to at Schedule 15 to the 2011 Act.

- 7.1 The Chief Constable is responsible for maintaining the Queen's Peace and has direction and control over the Force's officers and staff. The Chief Constable is accountable to the law for the exercise of police powers, and to the Commissioner for the delivery of efficient and effective policing, and management of resources and expenditure by the Force. At all times the Chief Constable, their constables and staff, remain operationally independent in the service of the communities that they serve. The Chief Constable is required to discharge their functions according to the 2011 Act and the Policing Protocol as well as in accordance with all other relevant legislation and the common law. In addition to the statutory responsibilities and obligations imposed upon the Chief Constable, the Chief Constable will undertake all those matters necessary for the management and operational control of the Force.
- 7.2 To lead the Force in a way that is consistent with the attestation made by all constables on appointment and ensuring that it acts impartially.
- 7.3 To appoint the Force's officers and staff (after consultation with the Commissioner, in the case of officers above the rank of Chief Superintendent and police staff equivalents).
- 7.4 To support the Commissioner in the delivery of the strategy and police and crime objectives set out in the Police and Crime Plan.
- 7.5 To provide the Commissioner with access to information, officers and staff as required.
- 7.6 To have regard to the Strategic Policing Requirement when exercising and planning their policing functions in respect of their Force's national and international policing responsibilities.
- 7.7 To notify and brief the Commissioner upon any matter or investigation which they may need to provide public assurance either alone or with the Commissioner (all Police and Crime Commissioners will be designated as Crown Servants under the Official Secrets Act 1989 making them subject to the same provisions in relation to sensitive material as Government Ministers).
- 7.8 To be the operational voice of policing in the Force area, and to regularly explain to the public the operational actions of officers and staff under their command.

- 7.9 To enter into collaboration agreements with other Chief Constables, other policing bodies and partners that improve the efficiency or effectiveness of policing, subject to the agreement of the Commissioner.
- 7.10 To remain politically independent of their Commissioner.
- 7.11 To manage all complaints against the Force, its officers and staff, except in relation to the Chief Constable, and to ensure that the Commissioner is kept informed to enable them to discharge their statutory obligations in relation to complaints in a regular meaningful and timely fashion. Serious complaints and conduct matters must be passed to the Independent Police Complaints Commission.
- 7.12 To exercise the power of direction and control in such a way as is reasonable to enable the Commissioner to have access to all necessary information and staff within the force.
- 7.13 To have responsibility for financial management of the Force within the framework of the agreed budget allocation.

## **8. Functions delegated to the Chief Finance Officer of the Chief Constable.**

- 8.1 The Chief Finance Officer of the Chief Constable is the financial adviser to the Chief Constable and has a responsibility to manage their financial affairs as described in the Financial Management Code of Practice. The Chief Finance Officer of the Chief Constable must ensure that the financial affairs of the Force are properly administered having regard to their propriety, legality and appropriate standards. This officer must discharge their role in accordance with statutory requirements, their job description, CIPFA Guidance and other appropriate practice.
- 8.2 To undertake the day to day management of the budget delegated to the Force in accordance with Financial Regulations.
- 8.3 To approve business cases for revenue and capital expenditure in accordance with Financial Regulations.
- 8.4 To undertake the day to day management of the following functions relating to:
- Financial and management accounting;
  - Treasury management;
  - Payroll and pensions;
  - Insurance.
- 8.5 To undertake the day to day management of the procurement function in accordance with the requirements and limitations set out in the Contract Standing Orders.
- 8.6 To undertake the day to day management of the property function relating to both real and personal property. The disposal and acquisition of interests in land is reserved to the Commissioner.
- 8.7 To keep a register of all property and capitalised assets owned by the Commissioner.

- 8.8 To provide financial assistance to police officers (and, if considered appropriate, police community support officers, members of the special constabulary and police staff) in legal proceedings taken by or against them, as long as they act in good faith and exercise reasonable judgement in performing their police duties. This action must be taken in line with Home Office advice and after consulting the Chief Constable, Chief Executive and the Commissioner's Chief Financial Officer.
- 8.9 To approve the financial settlement of all claims, requests for compensation and debt write-offs for the Commissioner in accordance with Finance Regulations.
- 8.10 To commence, defend, withdraw or settle any claims or legal proceedings on behalf of the Police and Crime Commissioner in consultation with the Chief Executive and Chief Finance Officer.
- 8.11 To exercise the Commissioner's discretions under the Local Government Pension Scheme (and in the case of discretions in relation to staff employed in the Office of the Commissioner in consultation with the Chief Executive).
- 8.12 To settle appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Scheme (Internal Dispute Resolution Procedures) Regulations 1996.

**9. Functions delegated to the Director of Human Resources.**

- 9.1 To undertake the day to day management of the human resources function in respect of police officers and police staff under the direction and control of the Chief Constable where the performance of such function is, at law, the responsibility of the Commissioner.

## INTERIM SCHEME OF GOVERNANCE – STATEMENT OF PRINCIPLES

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### Introduction

The aim of this document is to assist police and crime commissioners (PCC's) and Chief Constables (CCs) in relation to the preparation of corporate governance documentation. Any governance documentation will need to be tailored to meet local needs. The intention of this document is, therefore, to set out some overarching principles against which any Schemes of Governance (hereinafter referred to as a 'Scheme') can be framed. It also contains clarification of the relevant legislation, in particular the provisions in the Police Reform and Social Responsibility Act 2011 (referred to as the PRSRA for the remainder of this document).

Any Scheme must be regularly reviewed, updated (as necessary) and widely disseminated across the relevant organisation(s).

The transfer of assets, staff and liabilities from police authorities to PCC's will occur at midnight on 21<sup>st</sup> November 2012 by way of statutory transfer. The Scheme should, therefore, capture such issues as are required to ensure the robust, effective and transparent exercise of functions after **Stage 1** has taken effect.

Soon after assuming office, the Home Secretary intends to direct each PCC to consult with their chief constable and submit to her a transfer scheme that sets out which staff will be transferred to the employment of the chief constable and which will remain in the employ of the PCC. This is referred to as stage 2 of the staff transfer process. The Home Secretary's direction will be made in accordance with the power taken in Part 3 of Schedule 15 of the Police Reform and Social Responsibility Act 2011. Ministers have indicated that Stage 2 transfers must be implemented no later than 1<sup>st</sup> April 2014, and have agreed that making the second transfer at the end of a financial year would avoid unnecessary cost and complication.

Each PCC will want to fulfil their statutory functions to secure an efficient and effective force, and each chief constable will want to ensure they are able to exercise direction and control over the force. Therefore the transfer scheme will need to strike the right balance locally for both parties, and without doubt there will be variation in approach dependent on a wide range of circumstances. PCCs will consider which staff would be better transferred to employment by the chief constable taking account of all of these matters.

### Statement of the principles of good governance

Any governance framework developed should be based on the six established principles<sup>1</sup> that underpin effective and ethical corporate governance in public service<sup>2</sup> which are set out in the 2007 CIPFA/SOLACE framework "Delivering Good Governance in Local Government". This framework sets out best practice for developing and maintaining a local code of governance and for discharging accountability for the proper conduct of public business. The six core principles are:

- focus on the purpose of the authority and on outcomes for the community, including citizens and services users, and creating and implementing a vision for the local area,
- elected representatives and officers working together to achieve a common purpose with clearly defined functions and roles

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<sup>1</sup>The Policing Protocol also requires all parties (including the PCC and their staff) to adhere to the seven Nolan principles of good governance.

<sup>2</sup>The six core principles are taken from The Good Governance Standard for Public Services [2004] developed by the Independent Commission on Good Governance in Public Services with support from the Office for Public Management and CIPFA (as adapted for local government purposes).

- promotion of the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
- taking informed and transparent decisions which are subject to effective scrutiny and management of risk
- developing the capacity and capability of members to be effective and ensuring that officers, including the statutory officers, also have the capability and capacity to be effective,
- engaging with local people and other stakeholders to ensure robust local public accountability.

The Scheme will be a key document in the governance framework and it should ensure that decisions are taken at the most appropriate level, by setting out which functions and by what delegations the PCC has given officers the authority to act.

### **Corporation Sole**

The PCC and the CC will each be a 'corporation sole' pursuant to the PRSRA. Each will be a separate legal entity with their own legal personality. There is a fundamental difference in law between the legal persona of the PCC and/or the CC as a corporation sole and the physical persona.

The term 'corporation sole' is often used in respect of public office (created by statute) that has a separate and continuing legal existence, and only one member (the sole officeholder). Any contract made with a corporation-sole continues from one officeholder to his/her successor or, if made during a vacancy in office, to the appointee.

The concept of a corporation sole allows a corporation to pass vertically in time from one office holder to the next successor-in-office, giving the position legal continuity with each subsequent office holder having identical powers to those of their predecessor.

As separate corporate entities created by statute, a PCC or CC will have those powers:

- expressly stated in legislation,
- necessarily and properly required for carrying into effect the purposes of their incorporation as set out in legislation, and/or
- that may be fairly regarded as incidental to, or consequential on, those things which legislation authorises.

*Anything that legislation does not expressly or impliedly authorise is to be taken to be prohibited.*

The PRSRA confers wide general powers on PCCs and CCs:

- A PCC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of his functions. This includes entering into contracts and other agreements (whether legally binding or not), acquiring and disposing of property (including land), and borrowing money<sup>3</sup>.
- A CC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of his/her functions. This includes entering into contracts and other agreements (whether legally binding or not), and acquiring and disposing of property (apart from land). The CC may only enter into contracts or agreements or acquire or dispose of property with the consent of the PCC, but this restriction does not apply to contracts or agreements in relation to the employment of police staff.

The CC may not borrow money (paragraph 7 of Schedule 2 PRSR Act).

### **Legislative context**

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<sup>3</sup> Paragraph 14 of Schedule 1 PRSRA – these powers are subject to any restrictions imposed by other legislation, for example in relation to borrowing.

The core statutory functions of a PCC are to secure the maintenance of the police force, secure that the force is efficient and effective, and hold the CC to account for the exercise of his/her functions and the functions of persons under his/her direction and control.

The CC has the core function of directing and controlling the officers of the force and its civilian staff. The CC's function of direction and control is predicated on the existence of a purpose in pursuit of which the force will be directed and controlled. This purpose is the preservation of the Queen's peace and the enforcement of the law.<sup>4</sup>

Any Scheme must be made by the relevant PCC and the CC in accordance with their respective powers pursuant to the Police Act 1996 (as amended by the PRSRA) and any subordinate legislation thereto. Due regard must also be given to, and any Scheme must be read in conjunction with, all other legal requirements on the PCC and/or CC, and specifically the provisions of: -

- a) the Policing Protocol,
- b) Financial Management Code of Practice ('FMCOP'), and
- c) the Strategic Policing Requirement (SPR) .

It is advisable that any Scheme does not attempt to identify all the statutory functions of the PCC, the CC and the other officers referred to therein, as these are already set out in specific legislation and regulations – the Scheme should, however, indicate that due account must be taken of such provisions<sup>5</sup>.

#### **Discharge of functions by officers/senior staff**

A Scheme will set out the standing delegations to senior officers of both the PCC and the CC, which will enable such personnel to discharge the functions of the PCC or the CC.

There are legislative requirements upon the PCC and the CC to appoint certain officers: -

- The PCC must appoint a chief executive who has the duties of a head of paid service under section 4 of the Local Government and Housing Act 1989 and monitoring officer under section 5 of that Act.<sup>6</sup>
- The PCC and the CC must each appoint a suitably qualified chief finance officer who is responsible for the proper administration of the PCC or CC's financial affairs, in accordance with sections 112 to 116 of the Local Government Finance Act 1988 (paragraph 6(1) and (4) of Schedule 1.<sup>7</sup>

The PCC and the CC may appoint such other staff as each thinks appropriate to enable him/her to exercise his/her functions (or, in the case of the CC, to otherwise assist the police force)<sup>8</sup>.

#### **'Delegation' and 'Consent'**

**Consent**, refers to the provision of approval or agreement, particularly and especially after due and thoughtful consideration. Transactions entered into following 'consent' by the PCC to the CC, will be in the CC's own name as a separate legal entity, as opposed to the name of the PCC (as would be the case if the CC was given delegated authority).

In the context of the PRSRA, the term 'consent' is important as the PCC will initially own and fund all assets regardless of whether they are used by the PCC, by the force or by both bodies. However, with

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<sup>4</sup> *R v Metropolitan Police Commissioner, ex p Blackburn* [1968] CA).

<sup>5</sup> Similarly, in relation to the element of the Scheme which sets out the Standing Orders relating to contracts, this may cross-refer to the corresponding the EU procurement rules.

<sup>6</sup> Paragraph 6(1) of Schedule 1 and paragraphs 201 and 202 of Schedule 16 PRSRA

<sup>7</sup> Paragraph 4(1) and (3) of Schedule 2 and paragraphs 186 to 190 of Schedule 16 PRSRA.

<sup>8</sup> Paragraph 6(3) of Schedule 1 and paragraph 4(2) of Schedule 2 PRSRA

'consent' from the PCC (and the terms of this consent must be clearly defined in the Scheme) the CCs can acquire property (other than land or buildings). Similarly, the PCC has overall responsibility for property and contracts but with **consent** from the PCC, the responsibility for carrying out the daily administration of property and contracts can be carried out by the CC or staff of the CC. In addition, with consent from the PCC, CCs can enter into contracts as a corporation sole<sup>9</sup>.

**Delegation** is the assignment of authority and responsibility to another person to carry out specific activities. However the person who delegated the work remains accountable for the outcome of the delegated work. Delegation therefore empowers another person to make decisions.

**Section 18 of the PRSRA** permits a PCC to delegate his/her functions. The PCC is however prohibited from delegating his/her function(s) to:

- a) A constable (whether or not in England and Wales)
- b) Another PCC
- c) The Mayor's Office for Policing and Crime
- d) The Deputy Mayor for Policing and Crime
- e) The Mayor of London
- f) The Common Council of the City of London
- g) Any other person or body which maintains a police force
- h) A member of staff of any person/body referred to in (a) to (g) above.

The PCC is also prevented from arranging for another person to exercise any of the following functions:

- a) issuing a police and crime plan
- b) Determining police and crime objectives
- c) Attending meetings of a police and crime panel in compliance with a requirements by the panel to do so (pursuant to section 29 of the PRSRA)
- d) Preparing an annual report to a policing and crime panel
- e) Appointing and suspending the CC or calling upon the CC to retire or resign
- f) Calculating a budget requirement (pursuant to section 43 of the Local Government Finance Act 1992).

Part 6 of the Local Government Act 1972, which allows a police authority to arrange for its functions to be discharged by the CC, a member of the police force or an employee of the police authority who is under the direction and control of the CC, does not apply to a PCC.<sup>10</sup>

At Stage 1 all police staff (including those under the direction and control of the CC) will remain employed by the PCC (as the police authority's statutory successor). This will enable a PCC to make delegations to such staff in the same way as he/she would delegate functions to his/her Chief Executive and Chief Finance Officer (see above)<sup>11</sup> and the Scheme should record such specific delegations.

At Stage 1, it is recommended that the PCC adopts a 'scheme of delegation' as part of the Scheme which is similar to that adopted by their predecessor body. Such a Scheme would be prepared on the basis that at Stage 1, the PCC will own all assets and liabilities and will be the legal contracting body in relation to all contracts, agreements, licences etc being entered into in the name of the PCC. The PCC is required to arrange for the Chief Finance Officer of the force, and other staff employed solely to assist the force, to come under the direction and control of the CC. If the recommended approach is adopted, the Chief Finance Officer of the force can be delegated the authority to act on behalf of the PCC. The advantages of such approach include:

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<sup>9</sup> It is anticipated that this will take place in Stage 2

<sup>10</sup> Paragraph 105 and 106 of Schedule 16 PRSRA.

<sup>11</sup> There is no restriction (pursuant to section 18) on a PCC delegating to staff within his/her own employment.



- Administrative expediency and reduced disruption to the operation of business by providing a framework which is already familiar,
- Reduced risk of officers inadvertently operating outside their remit following the introduction of a new model of accountability,
- An opportunity for a PCC to take stock of their governance arrangements and ensure that they have an understanding of the business prior to modifying any governance arrangements further.

This is an interim position and should be contrasted with the Scheme that will be required at Stage 2 (as this will need to set out matters in respect of which general consent is given without the need to seek prior approval – for example in relation to the procurement of goods or services of particular types, or up to particular values). Such Scheme will be distinguishable from the schemes of delegation currently utilised by police authorities, as it will give *consent* for the CC to exercise the CC's powers on his/her own behalf (as a Corporation Sole), rather than giving him/her *delegated authority* to exercise the police authority's powers on their behalf. After Stage 2 it will no longer be possible for the PCC to delegate the exercise of their functions to police staff under the direction and control of the CC, to the extent that these staff will then be employed by the CC.

### **General Principles**

- As stated above, a Scheme must be made in accordance with the respective powers of the PCC and CC pursuant to the Police Act 1996 (as amended by the PRSRA) and any subordinate legislation thereto. Any powers delegated or otherwise allocated pursuant to the Scheme must also be exercised in accordance with the provisions of any policies, procedures, precedents, plans, strategies and budgets of the relevant PCC and the CC (including without limitation the provisions of the Police and Crime Plan).
- The PCC and/or the CC may also include a requirement that specific matters must be referred to him/her for decision and not dealt with pursuant to the provisions of this Scheme.
- The allocation of powers to officers pursuant to any Scheme should also not prevent an officer from referring a matter to the PCC and/or to the CC for decision if the officer wishes or considers it appropriate. It is anticipated that the PCC and the CC will expect their respective officers to draw to his/her attention sensitive issues or any matter which may have a significant financial implication.
- Any Scheme should also be without prejudice to the ability of the PCC to arrange for his/her deputy police and crime commissioner (if appointed) to exercise any function of the PCC in accordance with section 18(1)(b)<sup>12</sup>.
- Any Scheme should also be without prejudice to the ability of a deputy CC to exercise and perform all or any of the functions of the CC pursuant to section 41 of the PRSRA.
- Any Scheme must clarify that officers, who may give advice to the PCC, cannot formally act on behalf of the PCC unless it is on the explicit and demonstrable basis that they are acting on behalf of the PCC (namely that there is a specified delegation of authority). A Scheme should also provide that any officers will be responsible for ensuring that the provisions and obligations of the Scheme are properly drawn to the attention of members of staff under his/her direction and control. A Scheme may also clarify that (save for such matters as are specifically reserved) any person, with appropriate authority, may delegate a matter further<sup>13</sup>.

<sup>12</sup> As restricted by the provisions of section 18(7)] of the PRSRA

<sup>13</sup> In addition to the specific delegations in the Scheme authorising specified officers to undertake certain functions, there is case law (DPP v Haw [2007]) that where the responsibilities of an office created by statute are such that delegation is inevitable, there

- It is also advisable that any Scheme provides that any officers will, when considering a professional or technical matter that is within the sphere of competence of another officer, consult with the appropriate professional officer before authorising the action.

### **Issues to be addressed in a Scheme**

The Scheme should identify those powers which may be exercised by the PCC but which, for the benefit of good practice, may be exercised by their officers. It should also set out any constraints on those powers, including requirements to report back or advise the PCC, and should address circumstances which will require consultation between the officers of the PCC and the CC<sup>14</sup>.

The FMCOP clarifies that a 'Scheme of Consent' should provide an opportunity to set out in more detail, should it be deemed necessary, any terms on which the respective functions of the PCC and the CC will be exercised in order to achieve the objectives set out in the PCC's Police and Crime Plan.

Key elements of an integrated Scheme of Governance (during Stage 1) will be comprised of: -

1. Scheme of delegation
2. Financial regulations
3. Standing Orders relating to contracts

The advantages of an integrated Scheme of Governance are that the constituent elements will meet the requirements of the PRSRA and the FMCOP, and also that it would:

- (a) Enable PCC's to set out a high level statement regarding good governance based on CIPFA / SOLACE Principles, whilst emphasising the importance of PCCs and CCs working together.
- (b) Contain a detailed statement of relevant roles and responsibilities.
- (c) Include 'delegations' from the PCC to the Deputy PCC, Chief Executive Officer and Chief Finance Officer (and to other force civilian Chief Officers during the Stage 1 Period)
- (d) Provide clarification regarding PCC 'consents' to issues being dealt with by the CC.
- (e) Provide an integrated scheme to ensure clarity between statements of roles, delegation, and consents, which would in turn avoid overlaps and inconsistencies between different documents.
- (f) Provide a good basis in readiness for Stage 2 in the transition process.

The Scheme should<sup>15</sup>, as a minimum, set out how: -

- the PCC expects the funds provided to the CC for policing to be applied;
- the PCC will hold the CC to account for the day to day management of those funds;
- the CC will carry out their duty to assist in the exercise of the PCC's functions;
- the CC will exercise their power to do anything calculated to facilitate the exercise of their own functions;
- the PCC will exercise their power to delegate the exercise of their functions to their own staff, and
- any conditions which may be attached by PCC to the use of the financial and other resources provided to the CC (*albeit that this may be more relevant by Stage 2*).

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is an implied power to delegate. In such circumstances there is a presumption that, where statutory powers and duties are conferred, there is a power to delegate the same unless the statute conferring them expressly or by implication provides to the contrary

<sup>14</sup> The PRSRA (and the FMCOP), contemplate that a 'Scheme of Consent' is established to set out the extent of, and any conditions attaching to, the PCC's consent to the CC's exercise of the powers to enter into contracts and acquire or dispose of property. The Scheme should also specify the extent of (and conditions attaching to) any delegations made to other officers/staff.

<sup>15</sup> As set out in the Financial Management Code of Practice

The financial limits in any Scheme will be a matter for local determination by the PCC, which will ensure that cognisance is given to the variation between the budgets of large forces and those that are smaller. It is suggested that in determining appropriate financial limits:

- a) the PCC should be advised by the CFO (PCC) and that any limits are set following consultation with the CC and the CFO (CC),
- b) The financial limits inherited from the Police Authority could be used as a starting point for discussion,
- c) It may be prudent for the two CFO's (PCC and CC) to jointly prepare a range of financial threshold options for the PCC to consider (and to highlight the perceived advantages/disadvantages of each option).

Standing Orders relating to Contracts – this should refer to the EU procurement rules (without re-stating the contents of the same). As a minimum, it should emphasise that for complex procurements or those exceeding the relevant threshold, legal and procurement advice should be sought. Advice should always be sought before relying on any exemptions to EU Procurement rules. Legal advice should also be sought if procurement plans involve the transfer of police staff<sup>16</sup>.

### Review of the Scheme:

The Scheme should be reviewed annually at the start of each financial year - with a 'light touch' review at the beginning of the 2013/14 financial year as:

- a) the PCC will only have been in office for just over 4 months and
- b) such review will take place early during the Stage 1 period, at which time it is envisaged that the PCC will employ all staff, will be the legal contracting body and will own all assets and liabilities.

By Stage 2, it is envisaged that:

- a) the CC will enter into contracts and other agreements as a corporation sole (with the consent of the PCC),
- b) The CC will acquire and dispose of property (except land) with the consent of the PCC, and
- c) The CC will employ police staff (negotiations for the transfer of the same having taken place between 22 November 2012 and 31 March 2014) as set out in the transfer scheme submitted to the Home Secretary for approval.

By Stage 2, the prohibition set out in Section 18 of the PRSRA on delegating to staff employed by the CC will come into sharper focus, and a revised Scheme will need to be prepared in respect of matters during Stage 2 and beyond. The review/changes made to the scheme at the beginning of the 2014/15 financial year will therefore be fundamental.

### Decision making

There are high expectations (and statutory requirements) in relation to the availability and access to information held by public bodies. The work of the PCC (and the provisions of any Scheme) will need to take account of such expectations and it is anticipated that PCC's will want to demonstrate the highest levels of transparency.

The statutory framework of the Elected Local Policing Bodies (Specified Information) Order 2011, the Freedom of Information Act 2000 and the Data Protection Act 1998 set minimum standards for publication.

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<sup>16</sup> Specifically due regard should be given to the Cabinet Code of Practice on Workforce Matters in Public Sector Contracts and the requirements of TUPE

It is recommended that a process is established (as part of the Scheme) to ensure that any action taken under delegated authority or 'consent' is properly recorded and undertaken in accordance with corporate procedure. Such process should ensure that relevant legal, financial and other considerations and consultations (as may be required by the terms of the delegation) have been properly recorded and considered *prior* to a decision being taken.

Any Scheme should clarify that all decisions made by officers pursuant to the provisions of such Scheme should be properly documented and available for inspection at any time by the PCC and/or the CC, as appropriate. It is important that both the PCC and the CC can evidence that decisions taken are informed and 'reasonable'<sup>17</sup>.

It is advisable to ensure consistency in such decision making/recording and publication. One proposal is that:

- information should be presented in a consistent format e.g. a succinct two or three pages which provides the background information (as well as a summary of the relevant legal, financial and other considerations and consultations), options and recommendations
- a record of each decision taken be maintained and each allocated a unique reference number and
- such details entered into an electronic register.

As well as using the above process to record decisions by a PCC, the Scheme should clarify that action taken under delegated authority should be reported in the same format (for information) to the PCC (who granted the delegation).

#### **Proposed Contents of the Scheme:**

It is proposed that any Scheme entered into in relation to Stage 1 should contain the following:

1. Outline of legislative context/definitions
2. Key roles of the PCC
3. Functions designated to the Deputy Police and Crime Commissioner (if any)
4. Functions designated to the Chief Executive
5. Functions designated to the Chief Finance Officer (PCC)
5. Matters delegated to other senior officers (e.g. during Stage 1 it is contemplated that this will include the CFO (CC) and other civilian directors of the force (e.g. Directors of Legal and/or HR)
6. Financial Regulations
7. Standing Orders relating to Contracts

17<sup>th</sup> August 2012.

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<sup>17</sup> The standard applied should be that used in assessing an application for the judicial review of a public authority's decision (i.e. a reasoning or decision is 'Wednesbury unreasonable' if it is so unreasonable that no reasonable person acting reasonably could have made it (*Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948)*)

**Useful Guidance:**

CIPFA/OPM 'The Good Governance Standard for Public Services' [2004]

CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' [2007]

Association of Chief Police Officers 'The National Decision Making Model'

APACE - Interim Guidance and Practice Advice "Good Governance in the Office of Police and Crime Commissioners" [Version 2.0]

APACE – Interim Guidance and Practice Advice "Decision Making in the Office of Police and Crime Commissioners" [Version 4.0]

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## APACE Statement on the Role of the Chief Executive and Monitoring Officer of the Police and Crime Commissioner

v0.5

### Introduction

The Association of Policing and Crime Chief Executives (APACE) is the professional body which represents chief executives and other senior staff within offices of police and crime commissioners and police authorities. The Association's objectives are to:

- liaise and work closely with other national bodies and associations concerned with policing;
- provide a forum for professional debate;
- represent and promote the interests of members to key stakeholders; and
- provide professional support and development for its members.

APACE has taken a leading role nationally, working closely with the Home Office, the Association of Police Authorities (APA)/Association of Police and Crime Commissioners (APCC), the Police Authority Treasurers' Society (PATs) and the Association of Chief Police Officers (ACPO) and others, in supporting the implementation of elected police and crime commissioners in England and Wales.

This statement has been compiled by APACE as part of a wide programme of transition work to support police and crime commissioners and their staff in delivering their statutory requirements. It is intended, primarily, to assist incoming police and crime commissioners and their staff to understand the different roles and responsibilities of the chief executive and monitoring officer and their relationships with some of the other key office holders with whom they can expect to work. The statement may also be of interest to parties who will be working closely with the PCC and the chief executive.

### Foreword

The Police Reform and Social Responsibility Act 2011 (PRsRA) established new arrangements for policing governance in England and Wales, effective from 22 November 2012. Police and crime commissioners are responsible for the totality of policing in their area, including securing the maintenance of an efficient and effective police force, setting local policing and crime priorities, holding the chief constable to account, appointing (and dismissing) the chief constable, setting the police force budget and precept, and disbursing community safety funding. They also have responsibilities to co-operate with partners to provide an efficient and effective

criminal justice system; to co-operate with community safety partners and have regard to their priorities; to obtain views from the community and victims of crime on policing; and to exercise duties in relation to safeguarding children and the promotion of child welfare.

The chief executive occupies a critical position in the office of the police and crime commissioner. As principal adviser and monitoring officer, they will have responsibility for ensuring the effective implementation of the commissioner's police and crime plan and effective use of resources, the fulfilment of the full range of statutory duties and responsibilities, and the setting and maintenance of high standards of conduct in accordance with the Nolan principles.

Police and crime commissioners will need to ensure that the roles and responsibilities of chief executive and monitoring officer are fully reflected in local working arrangements and that adequate resourcing is provided to fulfil these responsibilities.

This statement includes factual information about these two formal roles and their respective responsibilities, including a template job description for the role of chief executive and monitoring officer which can be adapted for local use (Appendix A). The Skills for Justice website (<http://www.skillsforjustice-opcc.com>) provides a nationally agreed framework of personal qualities for staff for the office of the police and crime commissioner, operating at executive, principal, senior officer and support levels.

In supporting the PCC to fulfil their responsibilities, the chief executive will have a key influential role and it will be necessary for them to demonstrate strong leadership and build and maintain effective key working relationships with a range of senior people internally and with local, regional and national partners. Information and some reflections are therefore included on the role of leader and some of the relevant key working relationships. We thank Kathryn Rossiter, Managing Director at SOLACE, for her support and provision of information on leadership.

The PRSRA provides for the transfer of police authority chief executives (together with treasurers and all other police authority staff) to the offices of police and crime commissioner on 22 November 2012. This will provide continuity in the handover of governance arrangements from police authorities to police and crime commissioners.

This statement is part of a good governance framework which APACE has developed to support police and crime commissioners and their staff in the provision of robust governance arrangements. The good governance framework includes guidance, templates and good practice examples, whilst allowing for local determination and implementation to suit local circumstances and needs.

# **The role of the chief executive**

## **Introduction**

Every police and crime commissioner (PCC) must have a chief executive in post who will support and advise the PCC in delivering all his/her statutory duties and responsibilities. The chief executive will work with the PCC to enable delivery of the PCC's vision, strategy and identified priorities and facilitate appropriate scrutiny of the police force's activities. The chief executive will also ensure the effective strategic and operational leadership of the Office of the PCC (OPCC).

The chief executive also holds the role of the Monitoring Officer<sup>1</sup>, with a remit to draw to the PCC's attention any actual or possible contravention of law, maladministration or injustice. Additionally, this post will fulfil the statutory function of the Head of Paid Service<sup>2</sup>. The post of chief executive is politically restricted and the post holder must be appointed on merit.

The PCC and chief constable must each appoint a chief finance officer.

## **Key duties and responsibilities of the chief executive**

The chief executive's main role is to support and advise the PCC in delivering his/her manifesto, as expressed through the police and crime plan, and in undertaking the statutory duties and responsibilities, including:

- strategy and resource planning
- partnership working, commissioning and service delivery
- engagement and information management (including obtaining the views of the public, media relations, research, strategic needs assessments) and
- scrutiny, evaluation and performance.

The chief executive will also have responsibility for the management and day to day running of the OPCC.

## **Strategy and resource planning**

Decisions on force area resourcing and the strategic objectives for policing and reducing crime lie with the PCC. The chief executive will support the PCC in developing a clear and effective long-term vision and strategy. It will be their task to lead the development of the OPCC in the areas of strategic planning and finance (working closely with the two chief finance officers), information management, community and media relations, the management of strategic risk, the human resource and learning and development strategies, and ensuring that the PCC is compliant with current employment legislation. This will involve working with partners

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<sup>1</sup> section 5 of the Local Government and Housing Act 1989, as amended by the PRSRA11

<sup>2</sup> section 4(1A) of the Local Government and Housing Act 1989, as amended by p202 sch16 PRSRA11



locally, regionally and nationally and having regard to a range of considerations including the political and economic landscape, the needs of service users and of service providers, and regulatory requirements.

### **Partnership working, commissioning and service delivery**

There will be an important role for the PCC in working with the chief constable and local partners to shape policy and strategic direction for policing and crime in their area, with a clear emphasis on achieving crime reduction outcomes.

The chief executive will be the strategic lead in respect of partnership for the PCC. They should represent and promote the interests of the PCC by developing and maintaining effective strategic partnerships with relevant public, private and voluntary sector organisations in the local community, and at regional and national meetings. They will be called upon to represent the PCC at high level meetings, for example with the Home Office, Her Majesty's Inspector of Constabulary and other relevant bodies at regional and national levels.

A key plank of the PRSRA is collaborative and joint working between partners across policing, community safety, criminal justice and victim support to deliver efficient and effective services that meet communities' and service users' needs. The chief executive will be accountable for the performance of the OPCC in all aspects of commissioning.

### **Engagement and information management**

To fulfil their functions, a PCC will have to obtain the views of the public and partners and share information on the performance of both the PCC and the police. The chief executive will need to develop and implement effective two-way community engagement and effective consultation with all sections of the community; use this feedback to help influence and shape policing and crime reduction; and support the PCC in raising their profile as a means to enhance the accountability of the police service and themselves to the public and communicating their values, priorities, strategies, achievements and views.

There will be a need to develop a proactive and healthy working relationship with the local media, and to build and support effective relationship management between the PCC and their communities. The OPCC will need to identify ways to work with the media to promote the PCC's activities and to share good news stories on policing and crime reduction, where appropriate. The PCC will also need to consider to the relationship and working arrangements with their Force in dealing with the media and key statements for delivery to the community, including handling the media relating to high profile policing operations.

The chief executive will need to ensure that effective strategic needs assessments are undertaken which demonstrate an understanding of the communities served in the police force area to inform the development of the police and crime plan and

enable effective budget alignment and prioritisation. To support that, the chief executive will need to deliver, review and improve performance against the PCC's information strategy in the areas of communication, consultation and engagement.

### **Scrutiny, evaluation and performance**

As with all public bodies, the PCC will want to demonstrate effectiveness, efficiency and value for money. The chief executive will support the PCC in this by contributing to the efficient and effective delivery of the police and crime plan, together with any associated delivery plans.

The chief executive will oversee the financial planning; and budgetary, resourcing and asset management aspects of the OPCC. They should have direct access to and will need to work closely and constructively with both the PCC and force chief finance officers, who will have lead responsibility in these areas of business.

The chief executive will support the PCC in scrutinising force performance and support continuous improvement in the force and in the OPCC. They will have to distil and disseminate relevant information and advice to the PCC, enabling them, where appropriate, to challenge the force's strategic and financial performance. As part of this the OPCC will need to work with external inspection bodies, including Her Majesty's Inspector of Constabulary.

Furthermore, there is a requirement to ensure the effective and efficient operation of both the internal and external audit functions. Although this will be primarily the responsibility of the PCC's chief finance officer, the chief executive as monitoring officer and head of paid service has a role to play in fulfilling this requirement. The PCC and chief constable must establish an independent audit committee overseeing both organisations with both chief finance officers and the external auditor reporting directly to it.

There is also a requirement to oversee and ensure the effective and efficient management of complaints. Effective liaison will be needed between the OPCC and the chief constable, the police and crime panel and the Independent Police Complaints Commission, as appropriate, in relation to complaints arising against the PCC and the chief constable<sup>3</sup>.

### **The chief executive and the chief police officer team**

The PCC's professional adviser on policing is the chief constable and it will be important for these two individuals to have a close and effective working relationship.

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<sup>3</sup> Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (in respect of how complaints against PCC should be handled), and section 18 PRSRA11 and Part 2 and Schedule 3 of the PRA (in respect of complaints against chief officers).

The chief executive will be expected to work closely with the PCC and chief constable (collectively and one to one), and to support the PCC in influencing and shaping the leadership and strategic direction for the Force.

The chief executive can also expect to work with other senior police officers/staff. There should be a particular focus on strategic matters, significant current issues and future direction. It will be important for all these parties to develop mutual trust and respect and to work together constructively to deliver positive outcomes for their communities.

## **Police and Crime Panel**

Whilst the PCC has oversight of the police force, it is the role of the local police and crime panel (the panel) to maintain a check and balance on the performance of the PCC. The panel scrutinises the PCC's exercise of their statutory functions. The panel is there to challenge the PCC, but it must carry out its functions with a view to supporting the effective exercise of the PCC's functions<sup>4</sup>. The panel does not scrutinise the chief constable.

The panel can require attendance of the PCC at its meetings, and the PCC may be accompanied by the chief executive and chief finance officer. The chief executive may be required to attend by the panel, and conversely cannot be excluded from its meetings. The chief constable may be invited, but cannot be required, to attend panel meetings.

There will be a need for the chief executive and their staff to develop and maintain a good working relationship with the panel and the lead local authority, ensuring that all appropriate information is provided on a timely basis by both organisations to enable the PCC and the panel to carry out their respective functions efficiently and effectively.

## **Running an efficient and effective OPCC**

In relation to the OPCC, the key functional and management responsibilities of the chief executive include:

- leading the delivery and continued development of the OPCC's activities and operations;
- demonstrating and promoting a commitment across the OPCC to high standards of conduct and adherence to the Nolan principles;
- providing clear and visible leadership to the staff of the OPCC, including overall responsibility for their ongoing development and training;
- supporting the PCC in relation to their own personal development to enable them to fulfil their role effectively;

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<sup>4</sup> section 28(2)PRsRA11

- ensuring that the OPCC promotes the commitment to equality and diversity in all that it does and performs its duties and responsibilities for equalities and diversity according to relevant legislation;
- in conjunction with the PCC's chief financial officer, ensuring propriety in the conduct of the PCC's business including putting in place appropriate governance and delegations, and making proper arrangements for recording of decisions made, including tendering procedures and the letting of contracts, and scrutiny undertaken;
- addressing and dealing effectively with complex issues and problems, difficult situations and areas of conflict;
- demonstrating strong commitment to innovation and performance improvement;
- implementing best practice in change management and leadership;
- balancing conflicting pressures and needs, including shorter longer term trade-offs;
- leading collective ownership of strategy, risks and delivery.

# **The chief executive as the monitoring officer**

## **Introduction**

Parliament has designated the PCC's chief executive to fulfil the functions of monitoring officer. The monitoring officer can delegate his / her duties to a deputy monitoring officer.

Statute imposes a duty on the PCC to provide a monitoring officer with such staff, accommodation and other resources as are, in the opinion of the office holder, sufficient to allow those duties to be performed<sup>5</sup>.

## **Key duties and responsibilities of the monitoring officer**

The function of the monitoring officer is to report to the PCC, if it appears to him/her that any proposal, decision or omission by the elected policing body or by any person holding any office or employment under the PCC, constitutes, has given rise to or is likely to or would give rise to:

- a contravention of any enactment or rule of law or of any code of practice; or
- any such maladministration or injustice<sup>6</sup>

with respect to that proposal, decision or omission. The monitoring officer must send a copy of that report to the police and crime panel.

The role of monitoring officer, within the governance framework of policing, is therefore restricted to ensuring that the PCC, or anyone acting on the PCC's behalf, acts lawfully and in such a way as not to constitute maladministration.

Therefore, the two roles of chief executive and monitoring officer have different responsibilities. On occasion, tensions will arise between what the PCC wants to do and how this can be achieved within the legislative framework. Whilst the chief executive will always look to find ways to achieve the desired (or acceptable alternative) outcomes, the monitoring officer will always ensure that the final solution adopted is lawful and proportionate. It is permissible for the day to day functioning of the monitoring officer role to be delegated to a senior individual other than the chief executive.

## **Governance in relation to non operational functions**

The PRSRA gives PCCs responsibility for the totality of policing within their force area. Public accountability for the delivery and performance of the police service lies

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<sup>5</sup> Section 5(1) Local Government and Housing Act 1989 as amended by PRSRA11

<sup>6</sup> Section 5(2) Local Government and Housing Act 1989 as amended by PRSRA11

in the hands of the PCC on behalf of their electorate. The PCC draws on their mandate to set and shape the strategic objectives of their force area, in consultation with the chief constable. The chief constable is accountable to the law for the exercise of police powers and to the PCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force.

The chief executive will have duties in connection with any relevant decision or omission of the PCC in connection with the exercise of the PCC's statutory functions. However, it is likely that the majority of policing decisions will be taken by the chief constable, or persons employed by him/her or under his direction and control, as envisaged by the statutory Policing Protocol<sup>7</sup> which governs the working relationship between the PCC, the chief constable, the Home Secretary and the police and crime panel.

Given that ultimate accountability for the efficiency and effectiveness of the police force rests with the PCC - but also given the operational independence of the office of chief constable - the scope of the monitoring officer function extends to the non-operational decision making framework of both the PCC and the chief constable.

Accordingly, it would make practical sense for the chief executive and the chief constable to agree arrangements whereby effective legal compliance control can be exercised throughout the service through the governance structures, arrangements and instruments approved by the PCC but backed up by operating protocols and procedures with the chief constable's legal/corporate staff.

In particular, they need to ensure that

- decisions taken by the PCC/chief constable are taken with legal advice;
- the chief executive has the right to attend (or be represented by a member of the OPCC's staff) at any meeting and to advise on, or otherwise before a decision is taken, to make representations on a decision which binds the PCC;
- the chief executive and the chief finance officers have direct access to the independent audit committee of the PCC and the chief constable;
- the chief constable's legal adviser has full access to the chief executive with a recognised duty to report any potential impropriety;
- the scheme of governance, financial regulations, contract regulations, anti-fraud/corruption strategies and other key regulatory instruments of both the PCC and the chief constable clearly outline roles for the chief constable's legal staff and the monitoring officer so that effective legal oversight of decisions is maintained;
- the monitoring officer has the right of access to any documents upon which the PCC/chief constable relied in taking non-operational decisions;
- in carrying out any investigation the monitoring officer has unqualified access to any non-operational information held by the chief constable which might assist in the discharge of his/her functions; any employee of the chief constable, and with the consent of the chief constable, any police officer;

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<sup>7</sup> The Policing Protocol Order 2011

- effective relationships are built between the chief finance officers, the chief executive and the chief constable and that there is effective exchange of information between them and regular opportunities to meet and discuss matters of interest/concern.

### **Chief executive personal attributes (Skills for Justice)**

The Skills for Justice website includes a professional framework for policing governance. The framework aims to assist with organisational development and the identification of skills, knowledge and experience required to fulfil the functions required by an OPCC. It has been developed by those working within policing governance in association with Skills for Justice in preparation for the election of the first police and crime commissioners.

The framework draws on National Occupational Standards (NOS) from a range of skill sectors including those from the criminal justice sector. National occupational standards describe competent performance in terms of outcomes of an individual's work and the knowledge and skills they need to perform effectively. They allow a clear assessment of competence against nationally agreed standards of performance, across a range of workplace circumstances. In this way, defining what has to be achieved, rather than what has to be done, they provide the necessary flexibility to meet the needs of individuals. NOS are reviewed by Skills for Justice and updated when required.

[Personal qualities](#) have been identified for each officer level and these sit alongside the NOS within this framework. The personal qualities have been adapted from those that were developed for the Policing Professional Framework. Whilst NOS describe *what* an individual needs to achieve in his or her role, the personal qualities outline *how* a person should conduct themselves in their role. The framework has been designed to be a flexible tool and is not intended to provide a prescriptive solution.

## **The PCC's chief finance officer**

The PCC must also have in post a chief finance officer,<sup>8</sup> who has similar and complementary statutory duties and responsibilities to those of the monitoring officer in connection with any unlawful, or potentially unlawful, expenditure of the PCC or those acting on the PCC's behalf. As the statutory roles of monitoring officer and chief finance officer cannot be combined then it follows that the roles of the PCC's chief executive and chief finance officer cannot be combined.<sup>9</sup>

Unlike the chief finance officer function – where there is a statutory responsibility for the person exercising that function to be appropriately qualified – there is no such restriction on the chief executive function. Interestingly, the law requires the chief constable to designate a chief finance officer, who has the same responsibilities to that office, but there is no such obligation on the chief constable to have a monitoring officer.

The PCC's chief finance officer has a direct reporting relationship to the PCC and will be a key member of the OPCC leadership team. They will need to develop and maintain strong and constructive working relationships with the chief constable's chief finance officer, underpinned by sharing of information through a locally agreed information sharing protocol, which is to be agreed by the two chief finance officers in consultation with the chief executive.

Statutory guidance issued by the Secretary of State under the Local Government Act 2000<sup>10</sup> advises that local authorities need to ensure that the monitoring officer and the PCC's chief finance officer have access as necessary to meetings and papers, and that members must consult with him/her regularly. These arrangements do not apply to the PCC but the guidance represents best practice and the principles of access and consultation should be applied.

## **Statutory roles of chief finance officers/chief executive and monitoring officer**

By Section 114 of the Local Government Finance Act 1988, in the case of the PCC or chief constable, requires their chief finance officer, in consultation with the monitoring officer to present a report if there is, or is likely to be unlawful expenditure or an unbalanced budget. This report would be made to the PCC / CC and the external auditor. Members of the audit committee and the PCC / CC internal auditor should also be informed. Both the PCC and the chief constable chief finance officers have this responsibility in relation to their corporation soles. If either of the chief finance officers intends to exercise their statutory powers under S114, they should inform the other, and the chief executive / monitoring officer, as soon as possible.

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<sup>8</sup> section 5 of the Local Government and Housing Act 1989 as amended by the PRSRA11

<sup>9</sup> Further information about the role of the chief finance officer is available via the CIPFA website from October 2012 at this link <http://www.cipfa.org/Policy-and-Guidance/Publications>

<sup>10</sup> New Council Constitutions, Local Government Act 2000 – guidance to English local authorities, Chapter 8 – officers' roles under executive arrangements, DETR, October 2000



The chief finance officer is required to make the report and send a copy to the PCC, the chief constable and the external auditor. The course of conduct which led to the report must not be pursued until the report has been considered. The PCC and the chief constable must consider the report within 21 days and decide whether they agree or disagree with the views in the report and what action it is proposed to take. Further information relating to the chief finance officer's report is contained in the CIPFA publication.

### **The PCC, Deputy PCC and special advisers**

In addition to the two statutory officer appointments, the PCC may appoint a deputy PCC<sup>11</sup> who may (but will not necessarily) be their principal political adviser. The PCC may delegate functions to the DPCC although the PRSRA places some restrictions on this<sup>12</sup>. The DPCC will be an employee of the OPCC appointed at the discretion of the PCC, not necessarily on merit. This is the only post in the OPCC which is not politically restricted. Their term of appointment must end not later than the day when the PCC's current term of office ends. The PCC will need to consider and determine the role and day to day responsibilities, reporting arrangements and remuneration for the DPCC.

The PCC may also appoint or have access to other party political advisers who may or not be paid.

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<sup>11</sup> section 18(1) PRSRA'11

<sup>12</sup> section 18 (6) and (7) PRSRA

# **The chief executive as leader**

## **Introduction**

The chief executive will have a pivotal role, supporting the PCC to deliver their vision and strategy, to provide leadership and direction for other chief officers and the OPCC, and to build healthy and influential working relationships with the chief police officer team, key partners and stakeholders. This will require a combination of strong political and managerial leadership. (A copy of a short list of books and articles on leadership and two recent academic articles on political astuteness is attached at appendix B – provided by the NPIA.)

## **Managerial leadership**

The chief executive brings together the necessary skills, knowledge and expertise to provide the managerial leadership for the OPCC. While the chief executive is required to perform traditional policy, administrative and managerial functions involving high levels of analytical skills, their role also requires the ability to achieve the trust and confidence of those they lead and with whom they work. These qualities include the capacity to think creatively and to empathise with others, and having an awareness of self and one's impact on others. Their role is also to co-ordinate, instruct, support, cajole and guide to bring the best out in others.

## **Political leadership**

Many of the challenges of being a chief executive in the public sector arise from working in a complex and political environment. In organisations where there are elected representatives, this involves providing leadership at the interface between management and politics.

Given the close working relationship between the chief executive and the PCC, it is essential that the chief executive is aware of, and is sensitive to, the political context in which the PCC is operating. PCCs may be members of recognised political parties, coming from a local or central government background. Equally, they may have no party political connections. Central to understanding political leadership is understanding the process by which elected representatives achieve the position they hold; how they build and their authority and legitimacy through the election process and how they develop and maintain that relationship with the electorate and the wider community.

While it is not the chief executive's job to intervene in the political relationships that the PCC has with his/her deputy and special advisers, where they exist, the PCC will rightly expect the chief executive to understand the context in which the PCC and their political advisers operate and to advise the PCC accordingly. It will be essential for all these individuals to have a good understanding of their respective roles and responsibilities and for there to be good communication between them.

## **The role of broker**

The political environment contains legitimately competing interests, opposing points of view and multiple accountabilities. The task of the elected PCC and chief executive is to control these different elements and to find the appropriate changing balance over time.

Key to providing community leadership in the political environment is the ability to deal with the strategic and tactical and to understand performance both in terms of step changes and quick wins. In considering the provision of services to the community, the PCC will bring their vision and strategic objectives for policing and crime, together with their convictions, values and beliefs. These need to be informed and supported by rational, well informed analysis. Community leadership needs that balance and it is the chief executive who needs to provide the overview and bring balance and coherence.

The chief executive needs to be able to understand what constitutes public value to a range of stakeholders, from a number of valid perspectives, including those of elected members, officers, partners and the public. Often their respective views will be in conflict, and the chief executive's role is to broker a way through that is acceptable to all parties, or at least to provide explanation to those whose views and expectations cannot be met. Through all of this, the chief executive's primary responsibility is to their PCC, working within the legislative and regulatory framework to achieve the PCC's desired outcomes.

## **A special relationship**

The role of the chief executive and PCC are closely linked but are not wholly discreet – they are overlapping and complementary, which brings its own set of tensions. It will be important for the PCC and chief executive to construct trust at a point where there will be tension and potential conflict between the different worlds of political logic and managerial logic. It is crucial that there is mutual understanding of each others' roles and perspectives, and this relies on good communications and a healthy, ongoing dialogue.

A PCC must be able to impart to their chief executive their understanding of the context and imperatives to which they are working. The chief executive needs, in a similar way, without eroding the loyalty owed to colleagues, to be able to discuss with the PCC their managerial capacity or incapacity to deliver on a particular agenda. This is not just about interpersonal skills but about mutual grasp of each other's worlds.

A wise chief executive commits to their PCC unconditionally, and understands this as including roles of confidant, mentor, partisan, speech writer and public relations consultant, behaving in ways that are consistent with agreed values and objectives. However, whilst the elected representative may be 'right all the time', this cannot be

taken for granted, and on those rare occasions when they are not, part of the chief executive's role is to be brave and speak up.

The report by SOLACE "Leadership United: Managing in a Political Environment", published December 2005, whilst set within the local authority context, includes some useful information and advice on the role of the chief executive working in a political environment, which has relevance and read across to the PCC context.<sup>13</sup>

When the relationship between the PCC and their chief executive works well, they will form a strong team which is focused on and able to deliver positive outcomes for communities in policing and crime.

## **Leadership responsibilities**

The OPCC's leadership team will need to grapple with maximising service efficiencies and value for money, service rationing and difficult trade-offs between different groups of service users, as well as present and future benefits. The overarching long-term objective is to align financial planning and the available financial resources to the PCC's vision and strategic objectives.

On a day to day basis, the chief executive's key leadership responsibilities will include:

- providing effective leadership of the OPCC, maintaining focus on its purpose, vision and values through creative thinking, rigorous analysis and challenge;
- being a role model, providing energetic, determined, positive, robust and resilient leadership;
- sharing values, ideas and ethics and exemplifying high standards of conduct;
- being able to motivate others and inspire their confidence and respect;
- adopting a flexible leadership style - being able to consult, listen, include, contribute, plan, direct, delegate, organise, implement, collaborate, review challenge and support, as appropriate;
- building robust relationships, both internally and externally;
- working effectively with others with emotional intelligence, political awareness and sensitivity.

Alongside all the outward facing commitments, someone also needs to have responsibility for, and care about, the whole office/team. This is the role of the chief executive. They must promote and encourage continuous improvement and development in the OPCC.

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<sup>13</sup> available in the special report section of the SOLACE website: <http://solace.org.uk/library.asp>

## **References**

**CIPFA** Statement on the Role of the Chief Finance Officer Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable – due to be published in October 2012 (see footnote 8, page 11)

## **SOLACE**

Statement on the Role of Chief Executive, published 7 October 2011

Leadership United: Managing in a Political Environment, December 2005 (available in the special report section of the SOLACE website: <http://solace.org.uk/library.asp>)

## JOB DESCRIPTION

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**Job Title:** Chief Executive and Monitoring Officer

**Responsible to:** Police and Crime Commissioner

**Direct reports:** XXXXX

### Job Summary

- To work with the Police and Crime Commissioner to enable delivery against vision, strategy and identified priorities
- To ensure effective operational and strategic leadership of the Office of the Police & Crime Commissioner through ongoing management and engagement.
- To facilitate the accurate and appropriate scrutiny of the Police Force's activities

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### Key Working Relationships

- The Police & Crime Commissioner and Deputy Commissioner
- Chief Finance Officers
- All staff employed by the Police & Crime Commissioner
- The Police Force, in particular the Chief Constable and senior officers
- The Police and Crime Panel
- The communities of xxx
- The wider policing network of the XXX region
- Relevant government institutions, associations and public sector strategic partners

### Key Functional, Management and Leadership Responsibilities.

- To ensure provision of appropriate advice to the PCC.
- To lead the continued development and delivery of the OPCC activities and operations.
- To provide clear and visible leadership to the staff of the OPCC including overall responsibility for their ongoing development and training, and work directly to the PCC in relation to personal objectives and development.
- To ensure that the OPCC performs its duties and responsibilities for equalities and diversity according to relevant legislation, and to promote the commitment to equality and diversity in all that the OPCC does.
- In conjunction with the Chief Financial Officer, to ensure propriety in the conduct of the PCC's business including making proper arrangements for tendering procedures and the letting of contracts.
- To carry out the duties of Chief Executive appointed under Police Reform & Social Responsibility Act 2011 so as to enable and assist the OPCC to fulfil all its functions effectively and efficiently.
- To carry out the statutory duties and responsibilities of the Head of the Paid Service and the Monitoring Officer.

### **Strategy and Resource Planning**

- To think strategically and guide the OPCC in developing a clear and effective long-term vision and strategy, together with appropriate policies.
- In conjunction with the chief finance officer(s) to lead the strategic development of the OPCC in the areas of strategic accounting, information management, the management of strategic risk, the human resource and learning and development strategies, ensuring that the OPCC is compliant with current employment legislation.
- To be the strategic lead in respect of partnership working.
- In conjunction with the chief finance officer(s), to oversee the financial planning, budgetary, resourcing and asset management aspects of the OPCC.
- To drive implementation of the OPCC corporate strategies, and of its day-to-day business, ensuring that effective governance arrangements are in place to enable the OPCC to monitor, review and improve its own performance.
- Support the OPCC in scrutinising Force performance, and supporting continuous improvement in the OPCC and in the Force.
- To prepare the OPCC for inspection by relevant audit bodies.
- In appropriate consultation with the elected PCC develop the short, medium and long term planning process for the future of the OPCC.

### **Commissioning & Service Delivery**

- To ensure the effective and efficient engagement with both internal and external partners and stakeholders in relation to commissioning and service delivery at local, regional and national level.
- To be accountable for the performance of the OPCC in all aspects of commissioning.
- To ensure effective engagement with the Chief Constable and all relevant Force personnel in planning and managing the OPCC business.
- To ensure that the OPCC contributes to the national consideration of issues concerning policing and reducing crime. To represent the OPCC at high level meetings with the Home Office, Her Majesty's Inspector of Constabulary, Association of Police and Crime Commissioners, Local Government Association and other outside bodies at regional and national level.

### **Engagement and Information**

- To deliver, review and improve performance against the Information strategy in the areas of communication, consultation and engagement.
- To ensure that effective strategic needs assessments are undertaken which demonstrate the understanding of the communities served, enabling effective budget alignment and prioritisation.
- To distil and disseminate relevant information and advice to the OPCC enabling it to challenge where appropriate the Force's strategic and financial performance.
- To support the OPCC in raising its profile and communicating its values, strategies, achievements and views.
- To represent and promote the interests of the OPCC by developing and maintaining effective strategic partnerships with relevant public and private sector/voluntary organisations in the local community and at national and regional associations.
- To develop and implement effective two-way community engagement with all sections of the community.

### **Scrutiny & Performance**

- Contribute to the efficient and effective delivery of the Police & Crime Plan, together with any associated delivery plans.
- Develop and maintain a constructive working relationship with the Police & Crime Panel for the area.
- Ensure the effective and efficient operation of both the internal and external audit functions and any other aspects of internal control or external inspection.
- To oversee and ensure the effective and efficient management of complaints.



## Leading Organisational Development

### Supporting Chief Executives and Chief Finance Officers to lead successful change

#### Reading List

- |  |  |
|--|--|
| Ronald Heifetz (2007)                  | Adaptive Leadership  |
| John Kotter (1996)                     | Leading change   |
| Ludwig & Longnecker (1993)             | <i>The Bathsheba Syndrome: The Ethical Failure of Successful Leaders.</i> Journal of Business Ethics, Vol 12 pp265-273                       |
| Van Velsor & Ascalon (2008)            | Role and impact of leadership development in supporting ethical action in organisations. Journal of Management, Vol 17 No 22008, p 187 – 195 |
| Benson & Hogan (2008)                  | How the dark side of leadership destroys trust degrades organisation effectiveness. Organisations and People, August 2008, Vol 15, No 3.     |
| Adrian Furnham (2010)                  | The Elephant in the Boardroom; The causes of leadership derailment.  |
| Heifetz, A, Linsky, M & Grashow (2009) | Practise of adaptive leadership: Tools and tactics for changing your organisation and the world: A field book for practitioners              |
| Bennington & Moore (2010)              | Public Value: Theory and Practice Covey<br>Principle Centred Leadership  |
| Kouzes and Posner (2007)               | The Leadership Challenge   |
| Goleman and Boyatzis (2008)            | Emotional Intelligence; 'Social Intelligence and the biology of leadership'  |



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# Have you got what it takes?

Delivering through your chief executive and monitoring officer

# Have you got what it takes?

## Delivering through your chief executive and monitoring officer

### Important facts

Every police and crime commissioner (PCC) must have a chief executive, who will also act as the monitoring officer.

The chief executive will work with the PCC to deliver the PCC's vision, strategy and identified priorities.

They will make sure the office of the PCC is led effectively through ongoing management and public involvement.

They will help make sure that the police force's activities are checked accurately and appropriately.

The chief executive's role is to support and advise the PCC in delivering their manifesto, through the Police and Crime Plan and legal duties and responsibilities. This includes:

- **planning how resources will be used;**
- **commissioning (contracting) services and overseeing how they are delivered;**
- **providing information, gathering the views of the public and carrying out research and strategic needs assessments;**
- **checking on and evaluating performance; and**
- **making sure the PCC's office is efficient and effective**

They must fulfil the legal functions of monitoring officer.

The role of monitoring officer is to tell the PCC about any actual or possible law breaking, or any other action that could be seen as causing an injustice.

### Background

The Police Reform and Social Responsibility Act 2011 transfers the chief executive role from the existing police authority to the office of PCC. It is one of the two roles that a PCC must appoint. The other role that a PCC must appoint is that of the chief finance officer (CFO). Please see the separate briefing on [balancing the books](#) for more information on this role. Both roles are politically restricted (see below) and must be appointed on merit.

Politically restricted post holders are not allowed to be involved in certain political activities, all set out in law. These activities include standing as or canvassing on behalf of a candidate for an election, and speaking or publishing material which supports a political party.

The role of chief executive and the role of chief finance officer cannot be combined.

### Duties of the chief executive as monitoring officer

The role of the monitoring officer is to report to the PCC if it appears that any proposal, decision or failure within their organisation constitutes, has given rise to, or is likely to break the law or a code of practice.

The monitoring officer must send a copy of that report to the [police and crime panel](#) (PCP).

The chief executive and monitoring officer role exists in addition to the scrutiny provided by the PCP. It offers protection for the PCC by making sure they comply with the law and improving the transparency of their actions and decisions.

The PCC has a legal duty to give the monitoring officer the staff, accommodation and other resources which are needed so they can carry out their duties.

The PCC's chief finance officer has similar legal duties and responsibilities in connection with any unlawful, or potentially unlawful, spending by the PCC or those acting on the PCC's behalf.

# Role of the chief executive

The main responsibilities of the chief executive include:

- **making sure they give the PCC appropriate advice;**
  - **leading the continued development and delivery of the PCC's activities and operations;**
  - **providing clear and visible leadership to the PCC's staff;**
  - **helping to deliver the Police and Crime Plan effectively and efficiently, together with any associated delivery plans;**
  - **delivering, reviewing and improving performance against the PCC's information strategy;**
  - **making sure that strategic needs assessments allow the PCC to prioritise their budget effectively;**
  - **helping the PCC to challenge the force's strategic and financial planning as appropriate;**
  - **developing and maintaining a constructive working relationship with the police and crime panel;**
  - **making sure audits are carried out efficiently and effectively, and that any other aspects of control**
- (from within the police or the PCC's office) or inspection (from outside the police) are carried out in the same way;**
- **overseeing the way complaints are managed so this is efficient and effective;**
  - **involving those with an interest (from within and outside the organisation) in efficient commissioning of services at local, regional and national level;**
  - **overseeing how the finances, budgets, resources and assets are managed for the PCC;**
  - **making sure that the PCC carries out their duties and responsibilities in terms of equal opportunities and diversity according to relevant laws as well as promoting the commitment to equality and diversity in all that the PCC does; and**
  - **alongside the chief finance officer, making sure that the PCC's business is carried out appropriately, fairly and honestly, including making proper arrangements for tendering procedures and letting contracts.**

# Doing the right thing

The chief executive and chief constable should agree how they can make sure that they, their officers and staff keep to all laws and regulations by using effective structures, arrangements and instruments approved by the PCC.

In particular, they need to make sure that:

- **decisions taken by the PCC or chief constable are taken after receiving legal advice where necessary;**
- **the chief constable's legal advisor has full access to the chief executive;**
- **the main regulatory instruments of both the PCC and the chief constable clearly outline roles for the legal staff and the chief executive so that they can effectively oversee the legal effect of all decisions;**
- **the chief executive has access to any documents which the PCC or chief constable is relying on when making non-operational decisions;**
- **the chief finance officers, the chief executive and the chief constable develop effective relationships and share information effectively;**
- **the chief executive is able to advise on any decision that binds the PCC before it is taken; and**
- **the chief executive has direct access to the PCC's audit committee.**

*Home Office*

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**FINANCIAL  
MANAGEMENT  
CODE OF PRACTICE  
FOR THE POLICE  
SERVICE OF ENGLAND  
AND WALES**

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# **FINANCIAL MANAGEMENT CODE OF PRACTICE**

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# **1 Introduction**

## **1.1 Purpose of the code**

This Financial Management Code of Practice (FMCP) provides clarity around the financial governance arrangements within the police service in England and Wales, and reflects the fact that the police service has a key statutory duty to secure value for money in the use of public funds. It provides high level guidance to help ensure effective and constructive relationships in all financial matters. The FMCP sets the tone while promoting flexibility and avoiding overt prescription so that the detail of arrangements can be worked out locally.

## **1.2 Statutory basis of the code.**

This FMCP comes into effect on 16 January 2012.

This FMCP is issued under section 17 of the Police Reform and Social Responsibility Act 2011 and section 39A of the Police Act 1996, which permit the Secretary of State to issue codes of practice to all Police and Crime Commissioners (“PCCs”) and the Mayor’s Office for Policing and Crime (“MOPC”) and Chief Constables. As set out in section 17(4) of the 2011 Act and section 39A(7) of the 1996 Act, PCCs, the MOPC and Chief Constables must have regard to this code in carrying out their functions.

# **2 Background**

## **2.1 Scope and status of the code**

This FMCP applies to the discharge of functions by all PCCs in England and Wales and, unless specifically stated, a reference in the FMCP to a PCC includes the MOPC. This FMCP applies to every Chief Constable of a police force maintained by a PCC and, unless specifically stated, a reference in the FMCP to a Chief Constable includes the Commissioner of Police of the Metropolis.

The FMCP does not apply to the Commissioner of the City of London Police or the Common Council, who continue to form the Police Authority for the City of London. However, they are encouraged to abide by the working principles of this document.

This document will be reviewed and updated at regular intervals to ensure that it reflects any significant change to the relevant legislative framework.

## **2.2 Hierarchy of requirements**

The FMCP is one element of a comprehensive framework for financial governance within the police service which includes primary legislation, secondary legislation (including the Policing Protocol) and guidance.



### **2.2.1 Primary legislation**

The functions of PCCs and Chief Constables in England and Wales are set out in the Police Reform and Social Responsibility Act 2011, and in the Acts amended by that Act. The relevant Acts amended by the Police Reform and Social Responsibility Act include the Local Government Finance Act 1988 and the Police Act 1996.

### **2.2.2 Policing Protocol**

The Policing Protocol issued by the Home Secretary by means of the Policing Protocol Order 2011 sets out to all PCCs, Chief Constables and Police and Crime Panels (including the London Assembly Police and Crime Panel) how their functions will be exercised in relation to each other. It sets out the high level financial responsibilities of the PCC and the Chief Constable, making clear that the former is ultimately accountable to the public for the management of the Police Fund while the latter has day to day responsibility for managing their allocated budgets after these have been approved by the PCC. This FMCP builds on the Policing Protocol and sets out the working financial relationship between the PCC and the Chief Constable and their respective Chief Finance Officers, having regard also to the role performed by the PCC's Chief Executive.

### **2.2.3 Other requirements and guidance**

A considerable amount of existing secondary legislation and guidance on financial matters will continue to apply to the police service in England and Wales. This includes:

- the Accounts and Audit (England) Regulations 2011 issued by the Department for Communities and Local Government which sets the financial reporting framework for local government bodies, including police bodies;
- Accounts and Audit (Wales) Regulations 2005 issued by the Welsh Government;
- the Code of Practice on Local Authority Accounting issued by CIPFA /LASAAC, which constitutes proper practices for local government bodies, including police bodies;
- Code of Practice for Internal Audit in Local Government in the United Kingdom issued by CIPFA;
- Delivering Good Governance in Local Government issued by CIPFA/SOLACE;
- Statement on the Role of the Chief Finance Officer issued by CIPFA
- Standing Guide to Commissioning Local Authority Work and Services issued by CIPFA;
- Prudential Code for Capital Finance in Local Authorities issued by CIPFA; and
- Treasury Management in the Public Services Code of Practice and Cross Sectoral Guidance Notes issued by CIPFA.

This FMCP supplements but does not replace the requirements arising from these documents. In addition, organisations including CIPFA are likely to publish additional and updated accounting guidance. This will also apply to the police service in England and Wales.

### **3 Context**

As set out in the Policing Protocol, each PCC and their respective Chief Constable is established in law as a corporation sole under the Police Reform and Social Responsibility Act 2011. As such, both are enabled by law to employ staff and hold funds in their official capacity. Chief Constables are charged with the impartial direction and control of all constables and staff within the police force that they lead. Staff of the PCC are accountable to the directly elected holder of that office.

The relationship between the PCC and Chief Constable is defined by the PCC's democratic mandate to hold the Chief Constable to account, and by the law itself: primary legislation and common law already provide clarity on the principles that underpin police operational independence and the Office of Constable.

#### **3.1 The Police and Crime Commissioner**

The PCC within each force area has a statutory duty and electoral mandate to ensure an efficient and effective police service and to hold the police to account on behalf of the public. The PCC is the recipient of funding relating to policing and crime reduction, including government grant and precept and other sources of income. Details of the local arrangements relating to income, such as that collected under section 25 of the Police Act 1996, should be set out in local schemes of consent. How this money is allocated is a matter for the PCC in consultation with the Chief Constable, or in accordance with any grant terms. The statutory officers of the Chief Constable and the PCC will provide professional advice and recommendations.

Under paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011, every PCC outside London is required to appoint a person to be responsible for the proper administration of the commissioner's financial affairs, referred to as the Chief Finance Officer. An identical duty is placed on the MOPC by section 127 of the Greater London Authority Act 1999. Schedules 1 and 3 to the Act also require PCCs to appoint a Chief Executive who also acts as the PCC's monitoring officer.

#### **3.2 The Chief Constable**

The Chief Constable is responsible for maintaining the Queen's Peace, and has direction and control over the force's officers and staff. The Chief Constable holds office under the Crown, but is appointed by the PCC outside London (the Commissioner and Deputy Commissioner of Police of the

Metropolis are appointed by the Queen on the recommendation of the Home Secretary).

The Chief Constable is accountable to the law for the exercise of police powers, and to the PCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force. At all times the Chief Constable, their constables and staff, remain operationally independent in the service of the public.

Under paragraph 4 of Schedule 2 and paragraph 1 of Schedule 4 to the Police Reform and Social Responsibility Act 2011, the Chief Constable is required to appoint a person to be responsible for the proper administration of the Chief Constable's financial affairs, referred to as the police force's Chief Finance Officer.

## **4 Roles and responsibilities**

The Chief Finance Officer of the PCC and of the Chief Constable each has a personal fiduciary duty by virtue of their appointment as the person responsible for proper financial administration under the Police Reform and Social Responsibility Act 2011. This includes requirements and formal powers to safeguard lawfulness and propriety in expenditure (section 114 of the Local Government Finance Act 1988, as amended by paragraph 188 of Schedule 16 to the Police Reform and Social Responsibility Act 2011).

The Chief Executive is designated as the Monitoring Officer for the purposes of section 5(1) of the Local Government and Housing Act 1989 with responsibility for ensuring the legality of the actions of the PCC and the PCC's staff (see paragraph 202 of Schedule 16 to the 2011 Act, which amends section 5 of the 1989 Act).

An effective, cooperative and constructive working relationship between the two Chief Finance Officers is fundamental and is more likely to be achieved where communication and clarity of understanding are at their highest. Mutual understanding of and respect for each party's statutory functions will serve to enhance policing for local communities. It is expected that the principles of goodwill, professionalism, openness and trust will underpin the relationship and that all parties will do their utmost to make the relationship work. It is also acknowledged that good relationships between the Chief Finance Officers and the Chief Executive are fundamentally important and need to be underpinned by the same principles.

The statutory duties of both Chief Finance Officers are largely identical and this Code is the mechanism for guiding how they should operate effectively and without conflict, to reflect the legal and financial implications of having two corporations sole.

Both Chief Finance Officers have a fiduciary duty to the local taxpayer as both have a responsibility for securing the efficient use of public funds (which will in both cases include revenue derived from the police precept). This implies

public reporting responsibilities in certain circumstances for both Chief Finance Officers. However, given that the PCC has a statutory responsibility for the Police Fund (as set out in section 21 of the Police Reform and Social Responsibility Act 2011) the Chief Finance Officer of the PCC will have responsibility for all statutory reports relating to the adequacy of the overall resource envelope available to meet police force expenditure.

There is a reciprocal fiduciary duty on both Chief Finance Officers to support the other in the execution of their duties in relation to policing matters. It is therefore recommended that if either of the Chief Finance Officers intends to exercise their statutory powers under section 114 of the 1988 Act, they should inform the other (as well as the Chief Executive) as soon as possible.

#### **4.1 Chief Finance Officer of the Police and Crime Commissioner**

The statutory responsibilities of the Chief Finance Officer of the PCC are set out in paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011, section 127 of the Greater London Authority Act 1999 (in the case of the Mayor's Office for Policing and Crime) and section 114 of the Local Government Finance Act 1988. The qualifications for the Chief Finance Officer are set out in section 113 of the Local Government Finance Act 1988. The Accounts and Audit (England) Regulations 2011 impose further responsibilities in England. The Accounts and Audit (Wales) Regulations 2005 apply in Wales. Taken together, and considered in the context of the Police Reform and Social Responsibility Act 2011 and its associated Policing Protocol, these mean that the Chief Finance Officer of the PCC is responsible for:

- ensuring that the financial affairs of the PCC are properly administered and that financial regulations are observed and kept up to date;
- ensuring regularity, propriety and Value for Money (VfM) in the use of public funds;
- ensuring that the funding required to finance agreed programmes is available from Central Government and Welsh Government funding, precept, other contributions and recharges;
- reporting to the PCC, the Police and Crime Panel and to the external auditor any unlawful, or potentially unlawful, expenditure by the PCC or officers of the PCC;
- reporting to the PCC, the Police and Crime Panel and to the external auditor when it appears that expenditure is likely to exceed the resources available to meet that expenditure;
- advising the PCC on the robustness of the budget and adequacy of financial reserves;
- ensuring production of the statements of accounts of the PCC;
- ensuring receipt and scrutiny of the statements of accounts of the Chief Constable and ensuring production of the group accounts;
- liaising with the external auditor (see section 11.1.2 of this document);

- advising the PCC on the application of value for money principles by the police force to support the PCC in holding the Chief Constable to account for efficient and effective financial management; and
- advising, in consultation with the Chief Executive, on the safeguarding of assets, including risk management and insurance.

The Chief Finance Officer of the PCC has certain statutory duties which cannot be delegated, namely, reporting any potentially unlawful decisions by the PCC on expenditure and preparing each year, in accordance with proper practices in relation to accounts, a statement of the PCC's accounts, including group accounts.

The Chief Finance Officer of the PCC is the PCC's professional adviser on financial matters. To enable them to fulfil these duties and to ensure the PCC is provided with adequate financial advice the Chief Finance Officer of the PCC:

- must be a key member of the PCC's Leadership Team, working closely with the Chief Executive, helping the team to develop and implement strategy and to resource and deliver the PCC's strategic objectives sustainably and in the public interest;
- must be actively involved in, and able to bring influence to bear on, all strategic business decisions, of the PCC, to ensure that the financial aspects of immediate and longer term implications, opportunities and risks are fully considered, and alignment with the PCC's financial strategy;
- must lead the promotion and delivery by the PCC of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively; and
- must ensure that the finance function is resourced to be fit for purpose.

## **4.2 Police Force Chief Finance Officer**

The statutory responsibilities of the Police Force Chief Finance Officer are largely identical to those of the Chief Finance Officer of the PCC. They are set out in paragraph 4 of Schedule 2 and paragraph 1 of Schedule 4 to the Police Reform and Social Responsibility Act 2011 and section 114 of the Local Government Finance Act 1988. The qualifications for the Chief Finance Officer are set out in section 113 of the Local Government Finance Act 1988, The Accounts and Audit (England) Regulations 2011 impose further responsibilities. The Accounts and Audit (Wales) Regulations 2005 apply in Wales. Taken together, and considered in the context of the Police Reform and Social Responsibility Act 2011 and its associated Policing Protocol, these mean that the Police Force Chief Finance Officer is responsible for:

- ensuring that the financial affairs of the force are properly administered and that financial regulations drawn up by the PCC (developed in close consultation with the Chief Constable, the two Chief Finance Officers and the Chief Executive), are observed and kept up to date;

- reporting to the Chief Constable, the PCC and the external auditor, any unlawful, or potentially unlawful, expenditure by the Chief Constable or officers of the Chief Constable;
- reporting to the Chief Constable, the PCC and the external auditor when it appears that expenditure of the Chief Constable is likely to exceed the resources available to meet that expenditure;
- advising the Chief Constable on value for money in relation to all aspects of the force's expenditure;
- advising the Chief Constable and the PCC on the soundness of the budget in relation to the force;
- liaising with the external auditor (see section 11.1.2 of this document);
- producing the statement of accounts for the Chief Constable; and
- providing information to Chief Finance Officer of the PCC as required to enable production of group accounts.

The Police Force Chief Finance Officer has certain statutory duties which cannot be delegated, namely, reporting any potentially unlawful decisions by the force on expenditure and preparing each year, in accordance with proper practices in relation to accounts, a statement of the Chief Constable's accounts. The Police Force Chief Finance Officer will need to observe the locally agreed timetable for the compilation of the group accounts by the PCC.

The Police Force Chief Finance Officer is the Chief Constable's professional adviser on financial matters. To enable them to fulfil these duties the Police Force Chief Finance Officer:

- must be a key member of the Chief Constable's Command Team, helping it to develop and implement strategy and to resource and deliver the PCC's strategic objectives sustainably and in the public interest;
- must be actively involved in, and able to bring influence to bear on, all strategic business decisions of the Chief Constable to ensure immediate and longer term implications, opportunities and risks are fully considered;
- must lead the promotion and delivery by the Chief Constable of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively; and
- must ensure that the finance function is resourced to be fit for purpose.

### **4.3 Information sharing**

As set out in section 36 of the Police Reform and Social Responsibility Act 2011, a Chief Constable must give the relevant PCC such information on policing matters that the body may require. As a result the Chief Finance Officer of the PCC must have full access to all relevant financial information. The details of this should be set in a locally agreed Information Sharing protocol (ISP) to be agreed by the two Chief Finance Officers in consultation with the Chief Executive.

Wherever possible, any duplication of work and data collection by the finance functions of the two corporations should be minimised. Where possible it is recommended that the two corporations should share a financial system.

Additional costs and effort resulting from time consuming and complex bureaucratic financial reporting between the two bodies should be avoided and the principle of good governance and added value activities should be retained.

## **5 Schemes of Consent**

A scheme of consent should be prepared by the PCC, advised by the Chief Finance Officer of the PCC in consultation with the Chief Executive, the Chief Constable and the Police Force Chief Finance Officer, at the start of each financial year. This Scheme should be reviewed and amended in consultation with, and on the advice of, these same people as appropriate. The purpose of this Scheme is to set out the extent of, and any conditions attaching to, the PCC's consent to the Chief Constable's exercise of the powers to enter into contracts and acquire or dispose of property.

However, the Scheme also provides an opportunity to set out in more detail, should it be deemed necessary, any terms on which the respective functions of the PCC and the Chief Constable will be exercised in order to achieve the objectives set out in the PCC's Police and Crime Plan. The Scheme should therefore, as a minimum, set out how:

- the PCC expects the funds provided to the Chief Constable for policing to be applied;
- the PCC will hold the Chief Constable to account for the day to day management of those funds;
- the Chief Constable will carry out their duty to assist in the exercise of the PCC's functions;
- the Chief Constable will exercise their power to do anything calculated to facilitate the exercise of their own functions; and
- the PCC will exercise their power to delegate the exercise of their functions to their own staff.

## **6 Financial regulations and standing orders on contracts**

Each PCC should draw up and adopt a single set of standing orders relating to contracts as well as detailed financial regulations. These will complement the schemes of consent. The standing orders and financial regulations together will govern the relationship between the PCC and the Chief Constable in financial matters and should be developed in close consultation with the Chief Constable, the two Chief Finance Officers and the Chief Executive.

It is recommended that the financial regulations should:

- ensure that the financial dealings of the PCC and of the Chief Constable are conducted properly and in a way which incorporates recognised best practice (as set out in guidance published by relevant bodies) and which

focuses on bringing operational and financial management together with accurate, complete and timely financial information; and

- include sufficient safeguards for both Chief Finance Officers who are responsible for ensuring that the financial affairs of the force and of the PCC are properly administered to discharge properly their statutory obligations.

## **7 Accounting**

### **7.1 Arrangements for producing accounts**

The responsibilities for producing accounts are set out in sections 4.1 and 4.2 of this document. The Chief Finance Officer of the PCC will set out the arrangements for the production of the group accounts. The Police Force Chief Finance Officer is responsible for producing the Chief Constable's accounts in accordance with the timetable and requirements of the group accounts as agreed locally and in accordance with the financial reporting framework.

### **7.2 Reserves and provisions**

The PCC should establish a policy on reserves (including how they might be used by the Chief Constable) and provisions in consultation with the Chief Constable. This should have due regard to the need to ensure the ongoing funding of policing activities and the requirement to meet exceptional or extraordinary policing operations.

General reserves should be held by the PCC and managed to balance funding and spending priorities and to manage risks. This should be established as part of the medium-term financial planning process (see section 8.1 of this document).

Locally agreed financial regulations and schemes of consent should:

- contain full details of how the reserves and provisions policy will operate locally;
- ensure that the annual budget (see section 8.2 of this document) includes a realistic amount of operational contingency that is available to the Chief Constable for operational priorities without the need for additional approval; and
- make provision for budgets to be carried forward from one financial year to the next.



## **8 Strategic and financial planning**

### **8.1 Medium term financial strategy**

The PCC and the Chief Constable share a responsibility to provide effective financial and budget planning for the short, medium and longer term. The financial regulations should include the requirement for the PCC, in consultation with the Chief Constable, to identify and agree a medium term financial strategy which includes funding and spending plans for both revenue and capital. The strategy should take into account multiple years, the inter-dependencies of revenue budgets and capital investments, the role of reserves and the consideration of risks. It should have regard to affordability and also to CIPFA's Prudential Code for Capital Finance in Local Authorities. The strategy should be aligned with the Police and Crime Plan.

### **8.2 Budget preparation**

The PCC should consult with the Chief Constable in planning the overall annual budget which will include a separate force budget. This will take into consideration funding from government and from other sources, and balance the expenditure needs of the policing service against the level of local taxation. This should meet the statutory requirements to achieve a balanced budget (Local Government Act 2003) and be completed in accordance with the statutory timeframe.

The impact of the annual budget on the priorities and funding of future years as set out in the Police and Crime Plan and the medium term financial strategy (see section 8.1 of this document) should be clearly identified.

As set out in section 96 of the Police Act 1996, as amended by section 14 of the Police Reform and Social Responsibility Act 2011, the PCC must obtain the views of the local community on the proposed expenditure (including capital expenditure) in the financial year ahead of the financial year to which the proposed expenditure relates.

### **8.3 Precept**

Part 1 of the Local Government Finance Act 1992 and Part 3 of the Greater London Authority Act 1999 continue to set out the process for issuing precepts. Section 26 of the Police Reform and Social Responsibility Act 2011 establishes the PCC as a precepting authority for the purposes of the 1992 Act. The role of the Police and Crime Panel in this process, in a police area outside London, is set out in Schedule 5 to the Police Reform and Social Responsibility Act 2011. This is supplemented by regulations.

## **9 Financial management**

### **9.1 Day to day financial management**

To help ensure the effective delivery of policing services and to enable the Chief Constable to have impartial direction and control of all constables and staff within their force, the Chief Constable should have day to day responsibility for financial management of the force within the framework of the agreed budget allocation and levels of authorisation issue by the PCC.

The Chief Constable must ensure that the financial management of their allocated budget remains consistent with the objectives and conditions set by the PCC. The Chief Constable will discharge this through the Police Force Chief Finance Officer who will lead for the force on financial management.

When the Chief Constable intends to make significant change of policy or seeks to move significant sums of their budget then the approval of the PCC should be sought. Full details should be set out in locally agreed financial regulations.

## **9.2 Asset management**

The PCC will initially own and fund all assets regardless of whether they are used by the PCC, by the force or by both bodies. However, with consent from the PCC, Chief Constables can acquire property (other than land or buildings) and this should be set out in the scheme of consent.

The Chief Constable is responsible for the direction and control of the force and should therefore have day-to-day management of all assets used by the force. The accounting for assets should comply with accounting standards as set out in the financial reporting framework in section 2.2 of this document.

As set out in sections 8.2 and 8.1 of this document, the PCC should consult the Chief Constable in planning the budget and developing a medium term financial strategy. Both these processes should involve a full assessment of the assets required to meet operational requirements, including in terms of human resources, infrastructure, land, property and equipment.

## **9.3 Property, contracts and procurement**

The PCC has overall responsibility for property and contracts but with consent from the PCC, the responsibility for carrying out the daily administration of property and contracts can be carried out by the Chief Constable or staff of the Chief Constable. In addition, with consent from the PCC, Chief Constables can enter into contracts. Any such arrangements should be set out in the scheme of consent.

### **9.3.1 Property**

The financial impact of plans for the significant rationalisation or expansion of the estate, and provision for maintenance, should be included in the medium term financial strategy. The budget and policing plan issued by the PCC

should contain the revenue, capital and funding impacts along with the operational impact of estate changes.

The financial regulations and standing orders relating to contracts should contain provisions for the purchase and disposal of property, including estate, land and other assets.

### **9.3.2 Contracts and procurement**

The standing orders relating to contracts should cover procedures for procurement, tenders and contracts.

The single set of standing orders relating to contracts should include tender thresholds and authorisation levels. These should comply with statutory requirements including EU procurement rules and comply with the statutory regulations for the provision of certain equipment and services for police purposes. Ensuring value for money should be a key consideration.

Further advice on contracting and procurement is set out in CIPFA's Joint Committee Standing Guide to the Commissioning of Local Authority Work and Services).

Regulations about the provision of equipment or services for police purposes may specify framework agreements or other contractual arrangements that must be used (the first such Regulations were The Police Act 1996 (Equipment) Regulations 2011). Where mini-tender exercises are conducted within such frameworks, the basis for acceptance should normally be that the tender provides the best overall value for money.

## **9.4 Virements**

The financial regulations of the PCC should cover the extent to which the Chief Constable may vire money, including for emergency operational requirements, along with arrangements for how this should be controlled and monitored.

The Chief Constable should only be required to refer back to the PCC when virement would incur substantive changes in the policy of the PCC or where a virement might create a future year or continuing commitment. The thresholds for referrals should be agreed and set out in the financial regulations. Revenue expenditure can only be funded from revenue funding.

# **10 Treasury management**

## **10.1 Banking**

The financial regulations should cover banking arrangements and the Chief Finance Officer of the PCC should be responsible for these. For reasons of VfM and to minimise duplication, it is recommended that the PCC and Chief

Constables have shared banking arrangements for their main banking requirements.

The Police Force Chief Finance Officer should ensure that the procedures for any covert accounts required for operational policing purposes are maintained in accordance with clear procedures set by them and approved by the Chief Finance Officer of the PCC. These should be subject to normal internal and external audit requirements.

## **10.2 Loans and investment**

The PCC is directly responsible for loans, investments and for borrowing money as he/she holds the Police Fund. The Chief Constable is not able to borrow money. It is recommended that any surplus funds be pooled and invested.

Within the policy agreed locally, the Chief Finance Officer of the PCC should decide what investments are to be made and approve any borrowing<sup>1</sup>. Through the locally agreed financial regulations and scheme of consent, the daily management of loans and investment work could be undertaken by the Police Force Chief Finance Officer.

All loans and investments should be arranged in line with best practice as embodied in the CIPFA Code of Practice on Treasury Management. All borrowing undertaken should comply with CIPFA's Prudential Code for Capital Finance in Local Authorities.

## **11 Corporate governance**

The PCC and the Chief Constable should ensure that the principles of good governance are embedded in the way in which the PCC and the force operate. This should be set out in an annual governance statement published with the Statement of Accounts.

Best practice corporate governance includes the consideration of Internal Audit and External Audit reports along with reports by Her Majesty's Inspectorate of Constabulary (HMIC) and other external inspectorates as important tools to establish and refresh governance arrangements and ensure that these are effective. There is a statutory duty to consider and respond to HMIC reports (Police Act 1996 Section 55 (5)) as well as the duty to maintain an internal audit function and respond to reports of the external auditor.

### **11.1 Audit**

#### **11.1.1 Internal audit**

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<sup>1</sup> Operating under sections 43-7 and 66 of the Local Government and Housing Act 1989 and associations regulations.

The PCC and the Chief Constable are required to maintain effective internal audit of their affairs by the Accounts and Audit (England) Regulations 2011 and the Accounts and Audit (Wales) Regulations 2005. In fulfilling this requirement the PCC and Chief Constable should have regard to the Code of Practice for Internal Audit in Local Government in the United Kingdom issued by CIPFA. In addition, the Statement on the Role of the Head of Internal Audit in Public Service Organisations issued by CIPFA sets out best practice and should be used to assess arrangements to drive up audit quality and governance arrangements.

In addition to enabling the PCC and the Chief Constable to fulfil their requirements in relation to the relevant Accounts and Audit Regulations, internal Audit is needed:

- to satisfy the PCC and the Chief Constable that effective internal control systems are in place; and
- to satisfy the external auditor that financial systems and internal controls are effective and that the Police Fund is managed so as to secure value for money.

PCCs and Chief Constables should look to minimise duplication and bureaucracy and to maximise VfM when designing their internal audit arrangements. PCCs and Chief Constables are therefore recommended to have a shared internal audit service which would cover both bodies. The details of audit arrangements should be agreed locally.

The Head of Internal Audit should draw up the audit plan in consultation with the PCC and the force for consideration by the Audit Committee (see section 11.1.3 of this document). How internal audit reports are to be received, distributed and followed up should be set out in this plan. External auditors should be granted full access to all internal audit reports.

### **11.1.2 External audit**

The Audit Commission is responsible for the appointment of external auditors in England to bodies subject to audit under the Audit Commission Act 1998. The Code of Audit Practice prescribes the way in which auditors appointed by the Audit Commission carry out their functions under the Audit Commission Act 1998.

In auditing accounts required to be audited in accordance with the Audit Commission Act 1998, the appointed auditor is required to satisfy themselves that:

- the accounts are prepared in accordance with the relevant regulations;
- they comply with the requirements of all other statutory provisions applicable to the accounts;

- proper practices have been observed in the compilation of the accounts; and
- the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness.

The 'relevant regulations' for police bodies are the Accounts and Audit Regulations 2011, issued by the Secretary of State for Communities and Local Government. The CIPFA/LASAAC IFRS-based Code of Practice on Local Authority Accounting constitutes 'proper practices'

The Auditor General for Wales (the Auditor General) is responsible for the appointment of external auditors to bodies subject to audit under the Public Audit (Wales) Act 2004 (the 2004 Act). Auditors plan and undertake their audit in accordance with the requirements of the 2004 Act and the Code of Audit Practice issues by the Auditor General.

Section 17 of the 2004 Act requires that the auditor appointed under the 2004 Act must satisfy themselves that:

- the annual accounting statements have been prepared in accordance with the Accounts and Audit (Wales) Regulations;
- they comply with all relevant regulations;
- proper practices have been observed when the accounts were compiled; and
- the body has made proper arrangements to secure effectiveness, efficiency and economy in use of resources.

The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 define the CIPFA/LASAAC IFRS-based Code of Practice on Local Authority Accounting as proper practices for the preparation of accounts for police bodies in Wales.

The PCC should use the reports of external auditors to aid it in its monitoring role. The CFO of the PCC should send the Home Office copies of these reports each year.

### **11.1.3 Audit committees**

The PCC and the Chief Constable should establish an independent Audit Committee. 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. This committee will advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements in accordance with proper practices. In setting up

the Audit Committee, the PCC and the Chief Constable should have regard to the CIPFA Guidance on Audit Committees.<sup>2</sup>

**Membership:** the Audit Committee should comprise between three and five members who are independent of the PCC and the force.

**Terms of Reference:** the Audit Committee should establish formal terms of reference, covering its core functions, which should be formally adopted and reviewed on an annual basis. Best practice principles should be considered in determining the activities of the Audit Committee.<sup>3</sup>

**PCC and Chief Constable representation:** the executive of the PCC and the Force Command Team should be represented at meetings of the Audit Committee.

## 12 Value for Money

The Chief Constable has a specific statutory duty under section 35 of the Police Reform and Social Responsibility Act 2011 to secure that they and the persons under their direction and control secure good value for money in exercising their functions. The PCC is required by section 1(8) and 3(8) of the 2011 Act to hold the Chief Constable to account, in particular, for their compliance with this duty. Achieving value for money bears on nearly all aspects of deployment of public resources: procurement, asset management, disposals, administrative systems and financing arrangements. It means finding solutions which achieve the best mix of quality and effectiveness for least outlay. This may not always mean choosing the immediately cheapest option since, for instance, it may be more cost effective to buy a more reliable service or a better quality asset with lower maintenance costs and a longer operating life. Additional notes on the scope of value for money are included at Annex B of this document.

As set out in section 4 of this document, the Chief Finance Officer of the PCC and the Police Force Chief Finance Officer are required to advise the PCC and Chief Constable respectively on value for money in relation to all aspects of PCC and Chief Constable/force expenditure.

## 13 Transparency

PCCs are required to publish the information that they consider necessary to enable the local public to assess their performance and that of the Chief Constable. In addition they are required to publish particularly information specified by the Home Secretary in the Elected Local Policing Bodies (Specific Information) Order 2011 and in regulations issued under section 11 of the Police Reform and Social Responsibility Act 2011.

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<sup>2</sup> Audit Committees: Practical Guidance for Local Authorities, CIPFA, 2005

<sup>3</sup> The HM Treasury Audit Committee handbook includes principles of good practice [http://www.hm-treasury.gov.uk/audit\\_committee\\_handbook.htm](http://www.hm-treasury.gov.uk/audit_committee_handbook.htm)

## **14 Collaboration**

Under sections 22A to 22C of the Police Act 1996 as inserted by section 89 of the Police Reform and Social Responsibility Act 2011, Chief Constables and PCCs have the legal power and duty to enter into collaboration agreements to improve the efficiency or effectiveness of one or more police force or PCCs. Any collaboration which relates to the functions of a police force must first be agreed with the Chief Constable of the force concerned. PCCs shall hold their Chief Constable to account for any collaboration in which the force is involved and must consider doing so in co-operation with the other PCCs concerned. Existing collaboration agreements made under the old section 23A of the 1996 Act will be transferred automatically from police authorities to PCCs under the terms of paragraphs 5 and 21 of Schedule 15 to the 2011 Act.

## **15 Partnerships**

As set out in section 10 of the Police Reform and Social Responsibility Act 2011, the PCC, in exercising its functions, must have regard to the relevant priorities of each responsible authority. Subject to the constraints that may be placed on individual funding streams, PCCs are free to pool funding as they and their local partners see fit. PCCs can enter into any local contract for services, individually or collectively with other local partners, including non-police bodies.

When the PCC acts as a commissioner of services, it will need to agree the shared priorities and outcomes expected to be delivered through the contract or grant agreement with each provider. The PCC is able to make un-ringfenced crime and disorder grants in support of local priorities. The inclusion of detailed grant conditions directing local authorities how to spend funding need not be the default option. The power to make crime and disorder grants with conditions is contained in section 9 of the Police Reform and Social Responsibility Act 2011. The power to contract for services is set out in paragraph 14 of Schedule 1 and paragraph 7 of Schedule 3 to the Police Reform and Social Responsibility Act 2011.



## **Annex A: Additional detail on income, expenditure and pensions**

### **Income [DN: Consider removing]**

#### **(a) Gifts, loans, sponsorships and trust funds**

A PCC may decide to accept gifts of money, gifts or loans of other property if they will enable the police either to enhance or extend the service which they would normally be expected to provide. The terms on which gifts or loans are accepted may allow commercial sponsorship of some police force activities. Gifts, loans and sponsorship are particularly suitable for multi-agency work such as crime prevention, community relations work, and victim support schemes.

Gifts, loans and sponsorship can be accepted from any source which has genuine and well intentioned reasons for wishing to support specific projects. In return, the provider may expect some publicity or other acknowledgement. It is acceptable to allow the provider to display the organisation's name or logo on publicity material, provided this does not dominate or detract from the purpose of the supported project. The financial regulations should include further details on the conditions in which gifts, loans and sponsorship are acceptable and the ways in which these would be administered

The financial regulations should include detailed arrangements governing authorisation, setup, management and governance of any trust funds administered by the PCC or the Chief Constable as well as any charities or social enterprises linked to either the PCC or Chief Constable.

#### **(b) Bribery Act 2010**

The Bribery Act 2010 came into Force from 1 July 2011. Under the Act there are a range of issues and offences for organisations to consider including a duty for organisations to put procedures in place to prevent persons associated with them from participating in bribing. PCCs and Chief Constables are responsible for ensuring that adequate procedures exist to comply with the requirements of the Act.

#### **(c) Income generation**

The PCC and Chief Constable should adopt the ACPO national charging policies and national guidance when applying charges under section 25 of the Police Act 1996.

It should keep in mind that the purpose of charging for special services is to ensure that, wherever appropriate, those using the services pay for them.

PCCs should ensure that there are arrangements in place to ensure that expected charges are clearly identified in their budgets and that costs are

accurately attributed and charged. When considering budget levels PCCs should ensure that ongoing resource requirements are not dependant on uncertain or volatile income sources and should have due regard to sustainable and future year service delivery.

When specifying resource requirements the Chief Constable will identify the expected income from charging.

The Chief Constable should adopt ACPO charging policies in respect of mutual aid.

## **Expenditure (linked to section 10 of this document) [DN: Consider removing]**

### **(a) Imprest accounts**

The Chief Constable may arrange for separate imprest accounts or local automated equivalents. The financial regulations should give Chief Constables the power to do so subject to reasonable conditions and controls on the items which might be paid from these accounts.

### **(b) Voluntary unofficial funds**

The Chief Finance Officer of the PCC should be confident that the Chief Constable knows of the existence of all voluntary unofficial funds and that they are properly audited.<sup>4</sup>

### **(c) Ex-gratia payments**

Financial regulations should set out the circumstances in which the PCC and Chief Constable may award ex-gratia payments in relation to personal injury, damage and loss of property. The regulations should also cover the use of compromise agreements.

### **(d) Insurance and risk management**

The general arrangements for insurance and risk management should be agreed by the PCC in consultation with the Chief Constable and the two Chief Finance Officers.

## **Pensions [DN: Consider removing]**

### **(a) Police officer pensions**

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<sup>4</sup> Voluntary unofficial funds for benevolent and other purposes which do not form part of the police fund and which are controlled by an officer of the police force are a matter for the chief officer and not for the PCC. However, for the public image of the force, it is important that such funds are properly administered.

Police officer pensions are governed by the Police Pensions Act 1976 (as amended) and its related regulations. Of particular relevance to financial management are the Police Pension Fund Regulations 2007. The Chief Constable is responsible for ensuring the administration of the pension schemes and the appropriate maintenance and provision of the relevant accounts. The role of the PCC in the pension schemes will be limited to specific decisions and discretions concerning the pension and retirement of the Chief Constable, and discretion on the application of pension forfeiture for all police officers. The Home Office is responsible for the maintenance of the regulations.

The Chief Constable is responsible for ensuring that accurate and up to date information is provided to the Home Office on the force's pensions account and future forecasts for police pensions income and expenditure. This information is sought on a regular basis, following an annual cycle. Information should be provided in line with obligations set out in the relevant regulations, in the form and at the time which is specified in relevant requests from the Home Office.

### **(b) Police staff pensions**

Outside London the pensions arrangements of police staff of the PCC and of the Chief Constable are provided through the Local Government Pension Scheme (LGPS) which is governed by the LGPS (Benefits, Membership and Contributions) Regulations 2007 and the LGPS (Administration) Regulations 2008 under section 7 of the Superannuation Act 1972. The Department for Communities and Local Government is responsible for the maintenance of these regulations. The LGPS is administered at a local level in England and Wales by 89 administering authorities, all of which are responsible for individual funds. Each administering authority must prepare a pension fund annual report including information on the management and financial performance of each of the pension funds maintained by the authority and the fund account and net asset statement.

The Chief Constable is responsible for ensuring the administration of the LGPS pension scheme and the appropriate maintenance and provision of the relevant accounts. The role of the PCC in the LGPS pension schemes will be limited to specific decisions and discretions concerning the pension and retirement of the PCC staff and discretion on the application of pension forfeiture

The pensions arrangements of civilian staff of the Mayor's Office for Policing and Crime and of the Commissioner of Police of the Metropolis are provided through the Principle Civil Service Pension Scheme (PCSPS) which is governed by sections 1 - 6 of the Superannuation Act 1972, and the PCSPS Rules (which are made and amended under section 1 of the 1972 Act).

## Annex B: Value for Money

*Managing Public Money*<sup>5</sup> defines value for money as: the process under which an organisation's procurement, projects and processes are systematically evaluated and assessed to provide confidence about suitability, effectiveness, prudence, quality, value and avoidance of error and other waste, judged for the public sector as a whole.

This places a responsibility on the PCC and the Force to put in place proper arrangements to secure value for money in its use of resources and to ensure proper stewardship and governance, and regularly to review the adequacy and effectiveness of them. Such corporate performance management and financial management arrangements form a key part of the system of internal control. The PCC and the Force should be able to satisfy the following principles which are set out in HMT's Managing Public Money guidance:

- i. The process for allocating resources against desired outcomes is transparent and based on clear, quantified evidence;
- ii. Risks to performance, improving processes and productivity are assessed. This is used to target improvement activity or develop contingency plans;
- iii. Services and support functions are tested against appropriate benchmarks to identify and tackle excessive costs or weak performance;
- iv. Public demand for services is understood and quantified, and informs deployment of staff;
- v. Staff are used efficiently. Programmes to minimise waste and increase employee engagement are in place to support this (most likely through Continuous Improvement);
- vi. End-to-end operational processes are focused on delivering for the customer, with data used to demonstrate this. Processes are streamlined, unbureaucratic and efficient;
- vii. Goods and services are procured and supply contracts are then managed in a way that maximises value, including through taking advantage of central or collaborative procurement where appropriate;
- viii. Data is fit for its intended purpose and are used and published routinely, providing clear line of sight between consumption of resources, production of outputs and realisation of outcomes.

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<sup>5</sup> [http://www.hm-treasury.gov.uk/d/mpm\\_whole.pdf](http://www.hm-treasury.gov.uk/d/mpm_whole.pdf)

## **Annex C: Glossary**

### *Chief Constable:*

This term is used to describe both Chief Constables appointed under section 2 of the Police Reform and Social Responsibility Act 2011 and the Commissioner of the Metropolis appointed under section 4 of that Act. Section 101 of the 1996 Act includes the Commissioner of Police for the City of London in the definition of a Chief Constable; however, this Code is not intended to apply to the City of London police force.

### *Chief Executive:*

This term is used to describe the officer appointed as the head of the PCC's staff with responsibility for its general administration. This appointment is made under Schedule 1 (or Schedule 3) to the Police Reform and Social Responsibility Act 2011. For the purposes of section 5(1) of the Local Government and Housing Act 1989 (as amended by Reform and Social Responsibility Act 2011) the Chief Executive is designated as the body's monitoring officer with responsibility for ensuring the legality of the actions of the policing body and its officers.

### *Financial regulations:*

This term is used to describe the regulations drawn up by the PCC, and developed in close consultation with the Chief Constable, the two Chief Finance Officers and the Chief Executive, to govern the respective responsibilities of the PCC and force on financial matters and the relationship between them in such matters.

### *Force:*

This term refers to all those working for the Chief Constable. It covers both police officers and civilian staff. This use goes beyond the legal definition of a force (which applies only to those with the status of a constable) but is employed in this document for the sake of brevity and simplicity.

### *Local Policing Body:*

This refers to PCCs (including the MOPC) and the Common Council of the City of London.

### *Mayor's Office for Policing and Crime (MOPC):*

This term refers to the office held by the Mayor of London giving the Mayor responsibility for the totality of policing within the Metropolitan Police District.

### *Police and Crime Commissioner (PCC):*

This term refers to the directly elected individual within each force area in England and Wales with the exception of the City of London and the metropolitan police district with responsibility for the totality of policing within their force area.

*Police and Crime Commissioner (PCC):*

All PCCs in England and Wales and, unless specifically stated, a reference in the FMCP to a PCC includes the MOPC

*Police and Crime Panel:*

This term refers to the body established in each police area (other than the metropolitan police district) to support the effective exercise of the function of the Police and Crime Commissioner. In London, the London Assembly must arrange for the functions of a Police and Crime Panel to be discharged on its behalf by a particular committee of the Assembly.

*Police Fund:*

This term describes the single fund held by the PCC which is used to fund both the PCC itself and the force.

*Policing Protocol:*

The Policing Protocol is a document issued by the Home Secretary by means of the Policing Protocol Order 2011 which sets out to all PCCs, Chief Constables, Police and Crime Panels and the London Assembly Police and Crime Panel how their functions will be exercised in relation to each other.

*Standing orders relating to contracts:*

These standing orders, drawn up by the PCC and developed in close consultation with the Chief Constable, the two Chief Finance Officers and the Chief Executive, govern the handling of contracts and the relative responsibilities of the PCC and the force. These standing orders should be distinguished from the standing orders relating to the procedures of the PCC.

CIPFA Statement on

A white diagonal line that starts to the left of the main title and extends downwards and to the right, ending near the top of the word 'chief' in the title.

# the role of the chief finance officer

of the Police and Crime  
Commissioner and the Chief Finance  
Officer of the Chief Constable

July 2012

# \ foreword

CIPFA is one of the leading professional accountancy bodies in the UK and the only one which specialises in the public services. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. Uniquely among the professional accountancy bodies in the UK, CIPFA has responsibility for setting accounting standards for a significant part of the economy, namely local government. CIPFA's members work (often at the most senior level) in public service bodies, in the national audit agencies and major accountancy firms. They are respected throughout for their high technical and ethical standards, and professional integrity. CIPFA also provides a range of high quality advisory, information, and training and consultancy services to public service organisations. As such, CIPFA is the leading independent commentator on managing and accounting for public money.

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Following the general election in May 2010, the Coalition Government announced that “we will introduce measures to make the police more accountable through oversight by a directly elected individual, who will be subject to strict checks and balances by locally elected representatives”.

The Police Reform and Social Responsibility (PRSR) Act 2011 established new policing arrangements with a Police and Crime Commissioner (PCC) and the Chief Constable (CC) being separate corporations sole. The PCC is responsible for the totality of policing of their police area<sup>1</sup>. In specific terms this will mean securing the maintenance of an effective and efficient police force, holding the CC to account, appointing and dismissing the CC, setting the PCC's and Force's budget and precept, commissioning and making community safety grants. The CC is responsible for delivering policing having regard to the requirements of the PCC as set out in his/her Police and Crime Plan and other statutory needs including the Strategic Policing Requirement.

The Policing Protocol Order 2011 sets out high level financial responsibilities of the PCC and CC. The PCC is accountable to the public for the management of the Police Fund which is held by the PCC. The CC is responsible for managing budgets provided to him/her by the PCC. The PRSR Act requires a Chief Executive and a Chief Finance Officer (CFO) to be appointed by the Police and Crime Commissioner and a Chief Finance Officer to also be appointed by the Chief Constable.

A Financial Management Code of Practice (FMCP) was published by the Home Office in January 2012 under section 17 of the Police Reform and Social Responsibility Act 2011 and section 39a of the Police Act 1996. This explains financial governance arrangements and the relationship and responsibilities of the CFO posts. Within the FMCP is a recommendation that the PCC and the CC establish an independent Audit Committee.

Under paragraph 28 of Part 1 and schedule 6 of the PRSR Act 2011, Police and Crime Panels have to be appointed. The local authorities across the force area need to work together to establish and maintain the Panel. The Role of the Panel is to support and challenge the PCC. It has responsibility to review a draft Police and Crime Plan, the PCC's Annual Report and it can also make reports and recommendations. The Panel has specific responsibility for reviewing the proposed level of

the precept (which needs to include the revenue and capital budgets) and the PCC's appointment of the CC.

The PRSR Act 2011 and the FMCP introduced fundamental changes to accountability and governance arrangements with an elected PCC having responsibility for the totality of policing in their area. A key feature of the new requirements for accountability and governance is an emphasis on what must be in place rather than how it is to be achieved. The delivery of the CFO role needs to recognise and work within this approach. These arrangements are unique to Policing, and their success will depend on building effective working relationships. The elected Commissioner will be a very powerful individual, but at the same time the Chief Constable is established as a Corporation Sole in his/her own right, with significant legal, accounting and audit consequences. This represents a particular challenge for the two CFOs. Without a clear understanding of the respective roles, and a commitment to an open and mutually supportive relationship, tensions could develop with implications for the delivery of the CFOs' statutory responsibilities.

The delivery and implementation of the principles in this Statement need to reflect these changes. Fundamentally, the PCC is accountable both to the electorate and to the Police and Crime Panel. The CFO to the PCC provides information

<sup>1</sup> Policing Protocol Order 2011 (SI 2011/2744) Para 11



# statement on the role of the chief finance officer

## of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable

This Statement on the Role of the Chief Financial Officer (CFO) appointed by the PCC and the CFO appointed by the CC gives detailed advice on how to apply CIPFA's overarching Public Services Statement. Unless otherwise indicated the term CFO in this Statement applies to both CFOs.

The CFO is bound by professional standards and specific legislative responsibilities. The role and responsibilities of the CFO were developed by case law in England and Wales. In *Attorney General v De Winton* 1906, it was established that the CFO is not merely a servant of the authority, but holds a fiduciary responsibility to local taxpayers. Section 151 of the Local Government Act 1972<sup>3</sup> requires local authorities including now PCCs and CCs to make arrangements for the proper administration of their financial affairs and appoint a CFO to have responsibility for those arrangements.

The PRSR Act 2011 under paragraph 6 of Schedule 1 requires every PCC outside London to appoint a CFO. An identical duty is placed on the Mayor's Office for Policing and Crime (MOPC) and the Commissioner of the Metropolis by Section 127 of the Greater London Act 1999. Under paragraph 4 of Schedule 2 and paragraph 1 of Schedule 4 to the Police Reform and Social Responsibility Act 2011 the Chief Constable is also required to appoint a CFO. The Police and Social Responsibility Act 2011 requires both CFOs to comply with relevant provisions within the Local Government Acts.

A Home Office "Financial Management Code of Practice for the Police Service of England and Wales" (FMCP) received statutory endorsement in January 2012. This outlines CFO responsibilities and emphasises the importance of effective, co-operative and constructive relationships between the CFOs of the PCC and the CC.

This Statement sets out how the requirements of legislation and professional standards should be fulfilled by the CFO in carrying out his/her role. The Statement is not intended to be

exhaustive and does not negate the personal responsibility of finance professionals to ensure that they comply with all professional standards and legislative requirements. This Statement codifies the key responsibilities of the CFO in order to assist those carrying out that role and ensure that they meet the key personal duties of the role. The Statement refers to CIPFA's Statement of Professional Practice with which all CIPFA members are required to comply. For members of other accountancy bodies this represents best practice within the public sector. All professional accountants should also have regard to their own body's Code of Ethics as well as that produced by International Federation of Accountants (IFAC).

Mentioned within this Statement and the FMCP are a number of key documents including Financial Regulations, an Information Sharing Protocol and other documents providing the overall governance framework. These should be continually reviewed to ensure a consistent approach to accountability and governance.

Contained within the appendices for completeness is a description of the legislative framework. References to the post of Chief Constable in this Statement include the Commissioner of Police of the Metropolis and the Commissioner of the City of London Police.

This Statement reflects the requirements of the PRSR Act 2011 and other relevant legislation. It will be kept under review. Changes to the statement will be published if these are required following any additional legislation and/or further advice is available on the roles of the PCC and CC.

to the PCC to enable him/her to respond to PCP requests for information and reports. The PCC CFO is not an advisor to the Panel.

The PRSR Act 2011 and the FMCP is applicable to England and Wales. In Scotland policing is being brought together under a single body within the Scottish Government.

This Statement on the Role of the CFO applies to England and Wales only. It builds heavily on CIPFA's Statement on the Role of The CFO in Public Services<sup>2</sup> and applies the principles and Roles set out in that document to CFOs appointed by the Police and Crime Commissioner (PCC) and the Chief Constable (CC).

The CFO occupies a critical position in any organisation, holding the financial reins of the business and ensuring that resources are used wisely to secure positive results. While the global financial crisis and economic downturn have made these tasks even more challenging, they have also underlined the fundamental importance of the role. Achieving value for money and securing stewardship are key components of the CFO's role in public service organisations, a duty enshrined in legislation for the CFOs appointed by PCC's and CC's.

The purpose of this Statement is to support CFOs in the fulfilment of their duties and to ensure that the PCC and CC have access to effective financial advice at the highest level. There is a 'comply or explain' requirement in the Annual Governance Statement in relation to the requirements of this CIPFA Statement.

In this Statement, the term 'Force' is used to refer to the Chief Constable (unless separate reference to this post is appropriate) and includes all Force officers and police staff under the direction and control of the Chief Constable.

The CFO to the PCC and the CFO to the CC need to work closely together. This working relationship is of fundamental importance. Both CFOs need to ensure that their responsibilities can be fully delivered and assurances and information exchanged to fulfil the statutory and professional responsibilities of the CFO. The CC must give the PCC such information on policing matters that the PCC requires and the PCC CFO must have full access to all relevant financial information. The details on how this is achieved should be set out in a locally agreed Information Sharing Protocol (ISP) to be agreed by both CFOs. Continual close working arrangements and sharing of information between both CFOs is essential.

The CFO to the PCC and the CFO to the Chief Constable need to ensure that the statutory responsibilities and role and responsibilities outlined in this Statement are fully reflected in local working arrangements and that adequate resourcing is provided and delivered to fulfil those responsibilities.

<sup>2</sup> [http://www.cipfa.org.uk/panels/finance\\_director/download/Role\\_CFO.pdf](http://www.cipfa.org.uk/panels/finance_director/download/Role_CFO.pdf)

<sup>3</sup> for the Greater London Authority and its four functional bodies (Transport for London, the London Development Agency, the Metropolitan Police Authority and London Fire and Emergency Planning Authority.) the chief finance officer is not a s151 officer but a s127 officer (GLA Act 1999). For the City of London, the Chamberlain's relationship with the Police Authority is the same that applies to other Chief Finance Officers.

# statement approach and structure

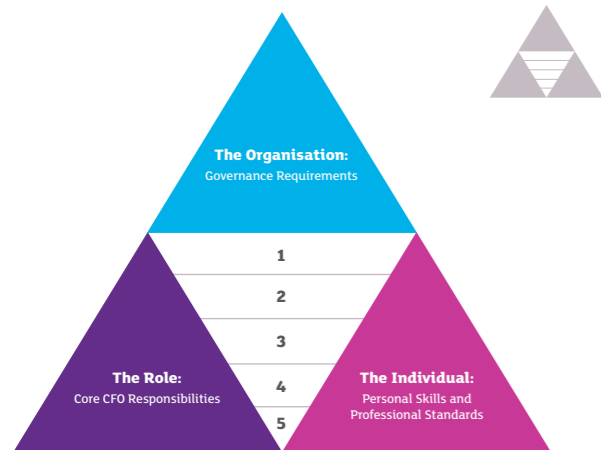
The Statement sets out the five principles that define the core activities and behaviours that belong to the Role of the CFO and the organisational arrangements needed to support them. Successful implementation of each of the principles requires the right ingredients in terms of:

- The Organisation;
- The Role; and
- The Individual.

For each principle the Statement sets out the governance arrangements required within an organisation to ensure that CFOs are able to operate effectively and perform their core duties. The Statement also sets out the core responsibilities of the PCC CFO and CC CFO. Many of the day-to-day responsibilities may in practice be delegated or even outsourced, but the CFO should maintain oversight and control.

Summaries of personal skills and professional standards detail the leadership skills and technical expertise, organisations can expect from their CFO. These include the key requirements of CIPFA and the other professional accountancy bodies' codes of ethics and professional standards to which the CFO as a qualified professional is bound. The personal skills described have been aligned with the most appropriate principle, but in many cases can support other principles as well.

The leadership team is mentioned in this Statement. In a police context, this refers to teams within the offices of the PCC and the CC with responsibility for strategic direction and control. Operational matters (as mentioned in the Policing Protocol) are the responsibility of the Chief Constable.



The provision of overall resourcing together with financial standards and financial statutory responsibilities comes within the scope of this Statement. The CFO must be able to influence and be informed of all key business decisions affecting financial resources, subject to the operational responsibilities of the Chief Constable. Each CFO (depending on whether they are the CFO to the PCC or the CC) must have direct access to the PCC or the CC and their leadership teams.

The Policing Model outlined in this statement is complicated by the separate corporations sole for the PCC and the CC. Consequently, the importance of being clear in which capacity an individual is acting is fundamental.

## The Chief Financial Officer to the PCC and the CC:

- 1 is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver strategic objectives sustainably and in the public interest;
- 2 must be actively involved in, and able to bring influence to bear on, all material business decisions (subject to the operational responsibilities of the Chief Constable) to ensure immediate and longer term implications, opportunities and risks are fully considered, and aligned with the financial strategy; and
- 3 must lead the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

## To deliver these responsibilities the Chief Financial Officer to the PCC and the CC:

- 4 must, in close working liaison with the PCC, PCC Chief Executive and the Chief Constable, ensure that the finance function is resourced to be fit for purpose; and
- 5 must be a professionally qualified accountant and be suitably experienced and ensure professional knowledge is kept current through continuing professional development.

# principle 1

The Chief Finance Officer of the PCC and CC is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the PCC's strategic objectives sustainably and in the public interest.

## Key member of the Leadership Team

The Leadership Team in public services organisations takes many forms. Leadership teams in a policing context include those of the PCC and the CC. Increasingly, it also now includes for many, leadership teams for collaborated services. These can cover all aspects of policing including frontline services.

Decisions on overall resourcing for policing, together with the setting of strategic objectives for policing, subject to Home Office and regulatory requirements, are the responsibility of the PCC.

In recognition of the centrality of financial issues to organisational success, it is UK government policy that all government departments should have a professional CFO reporting directly to the permanent secretary with a seat on the departmental board, with a status equivalent to other Board members. HM Treasury recommends 'It is good practice for all other public sector organisations to do the same and to operate the same standards'.<sup>4</sup> CIPFA fully supports the Treasury's recommendation.

The PCC and CC are both required to have a suitably qualified CFO with defined responsibilities and powers.<sup>5</sup> The governance requirements in the Statement are that the CFO should be professionally qualified, report directly to the PCC or the CC (depending on the specific CFO concerned) and be a member of the Leadership Team. This Statement requires that if different organisational arrangements are adopted reasons should be explained publicly in the Annual Governance Statement.

## Developing and implementing organisational strategy

**All public organisations face competition for limited public funds and have to balance expenditure needs against the burden of local taxation. Many will have allocated cash limits, while others have tax raising powers. All will be concerned to examine opportunities, with suitable assessment of legal powers and risk, for building income streams, whether through attracting external grants, charging for services, or commercial activity.** Strategic planning needs to be based on an understanding of the external political landscape, service and regulatory requirements, demand and cost drivers, and the need to manage and fund longer term commitments on a sustainable basis. Finance translates ambitions and goals into a common language, so the CFO must share in the strategy development and implementation responsibilities of the Leadership Team. The CFO must be in a position to provide unfettered advice in order to inform decision making. The CFO must also have access to all other members of the Leadership Team and ensure that they have the financial capabilities necessary to perform their own Roles effectively.

The CFO must encourage continuous improvement and development. As well as having a fundamental concern for probity and control, the CFO must be proactive in ensuring that change and risk issues are appropriately managed, focussed on outcomes, and provide advice on resourcing plans for change and development. As a key member of the Leadership Team, the CFO must also behave in ways that are consistent with agreed values and objectives.

<sup>4</sup> HM Treasury 'Managing Public Money' Annex 4.1. 2007

<sup>5</sup> The officer appointed as the CFO must, by virtue of section 113 of the Local Government Finance Act 1988 in England and Wales, (applied in the case of the MPA, via s129 of the GLA Act 1999), be a member of a specified accountancy body<sup>13</sup>.



## Helping resource and deliver objectives

The CFO might hold different responsibilities beyond finance. Whilst these can develop the individual as a corporate manager, the CFO's core financial responsibilities must not be compromised through creating too wide a portfolio. Dilution and/or overload in the Role of the CFO can result in poor financial outcomes. Setting out the core CFO responsibilities in this Statement is intended to allow CFOs to assess their job description to ensure that their core finance responsibilities can be properly performed.

PCCs and CCs engage with partners through a range of collaborative or commissioned relationships in order to realise their goals. Partnership working and the focus on community outcomes mean that the CFO needs to understand the financial risks and potential liabilities that may impact and have appropriate involvement in partnerships' business decisions. The CFO must therefore work, in close working liaison, to develop strong and constructive working relationships with key decision makers in partner organisations.

PCCs as the holders of the Police Fund and CCs as managers of resources provided to them by PCCs have a responsibility to operate within available resources and to remain financially sound over the short, medium and longer term. Schemes of consent/delegation should detail funds provided to the CC and conditions under which they are provided including purpose, reporting and monitoring arrangements and the flexibility to apply funds to different areas. The CC has a responsibility to operate within these available funds and conditions and will need to determine internal delegation arrangements to ensure effective local management. The CC also needs to implement reporting arrangements to the PCC and should ensure prior approval of the PCC before incurring a liability that the PCC might reasonably regard as novel, contentious or repercussive.

Delegation arrangements need to be consistent with the separate corporations sole ensuring that funds are only delegated to staff employed by the PCC. The CFO cannot delegate his/her ultimate responsibility for financial governance and management.

The PCC will need to establish what financial monitoring information is required by the Police and Crime Panel. This could include information on the annual PCC/group accounts and the PCC accounts. The PCC CFO is not an advisor to the Police and Crime Panel, the PCC CFO should supply the PCC with information to enable the PCC to report to the PCP and respond to questions from the PCP. The Panel is responsible for securing their own independent financial advice. The PCC CFO and CC CFO should consider submitting the Annual PCC/Group and CC accounts to the Audit Committee for review prior to the approval of the accounts by the PCC and CC.

Maximising public value involves an appreciation of community needs, expectations and preferences, and the planning process must allow for involvement and influence. The internal process to determine priorities needs to grapple with maximising service efficiencies and value for money, service rationing and difficult trade-offs between different groups of service users, as well as between present and future benefits. The overarching long term need is to match financial resources to PCC purposes and policies, within constraints of affordability. Taken with the responsibility to the community and taxpayers for financial stewardship, this means that the CFO must contribute actively to cross organisational issues and to corporate decision making to achieve an agreed balance between the available resources and PCC objectives.

Public finance is complex and highly regulated, and the CFO must contribute expert technical advice and interpretation. CFOs must act in the public interest, even if necessary against a perceived organisational interest. This professional obligation is given statutory backing, and a fiduciary duty is established in case law. In *Attorney General v De Winton* 1906, it was established that the CFO is not merely a servant of the authority, but holds a fiduciary responsibility to the local taxpayers.

Section 151 of the Local Government Act 1972 requires that every local authority "makes arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs". This applies to PCCs and CCs.

The CFOs' duties in England and Wales were significantly extended by section 114 of the 1988 Act which requires a report to all the Local Authority members to be made by that officer, if there is or is likely to be unlawful expenditure or an unbalanced budget. Such reporting under s.114 of the 1988 Local Government Act, or for the MPA, s130 of the GLA Act 1999 should be made to the PCC, CC and the External Auditor. Both PCCs and CCs are required to establish an independent Audit Committee and any such report should also be made to members of this Committee, and the Police and Crime Panel together with the Internal Auditors.

Before either CFO decides to exercise their S114 powers they should consult with the other CFO, the PCC Chief Executive, and the CC and seek independent legal advice. As holders of the 'red card', the CFO must always exercise professional responsibility in order to intervene in spending plans to ensure the balance of resources is maintained so that the PCC and the CC remain in sound financial health. For this, the CFO must have direct access to the PCC or CC (dependent on which CFO is concerned), the PCC Chief Executive, other leadership team members, the Audit Committee and also internal and external audit.

## Governance requirements

## Principle 1

- Ensure that a clear Statement is set out on the respective roles and responsibilities of the Leadership Team and its members individually.
- Ensure that the CFO reports directly to the PCC or the CC (depending on which CFO is concerned), is a member of the Leadership Team with a status at least equivalent to other members.
- If different organisational arrangements are adopted, explain the reasons publicly, together with how these deliver the same impact.
- Determine a scheme of consent/delegation (PCC CFO in consultation with the CC CFO), and ensure that it is monitored and updated.
- Ensure that PCC and CC governance arrangements allow the CFO:
  - to bring influence to bear on all material business decisions (accepting the operational responsibilities of the Chief Constable); and
  - provide direct access to the PCC and CC (as above), other leadership team members, the Audit Committee and internal and external audit.
- Ensure the scope of the CFO's other management responsibilities do not compromise financial responsibilities.
- Ensure that consideration has been given to nominated deputy provision if either CFO is unable to discharge his/her responsibilities.
- Ensure the financial skills required by members of the Leadership Team enable their roles to be carried out effectively.





## Core CFO responsibilities

### Principle 1

- Contributing to the effective leadership of the PCC and CC, maintaining focus on its purpose and vision through rigorous analysis and challenge.
- Contributing to effective corporate management, including strategy implementation, cross organisational issues, integrated business and resource planning, risk management and performance management.
- Supporting effective governance through development of:
  - corporate governance arrangements, risk management and reporting frameworks; and
  - corporate decision making arrangements.
- Contributing to change programmes including identifying service efficiencies and value for money opportunities.
- Leading development of medium term financial strategies and the annual budgeting process to ensure financial balance and a monitoring process to ensure its delivery.
- Ensuring that there are sound medium and long term financial plans for both revenue and capital to support the development of PCC and CC plans and strategies and that these are subject to regular review to confirm the continuing relevance of assumptions used.
- Ensuring that advice is provided on the levels of reserves and balances in line with good practice guidance<sup>6</sup>. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring compliance with relevant CIPFA Codes including the Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring that budget calculations are robust and reserves adequate, as required by s25 of the Local Government Act 2003, and in line with CIPFA guidance. (PCC CFO responsibility in consultation with the CC CFO)

<sup>6</sup> CIPFA LAAP Bulletin on Local Authority Reserves



## Personal skills and professional standards

### Principle 1

- Role model, energetic, determined, positive, robust and resilient leadership, able to inspire confidence and respect, and exemplify high standards of conduct.
- Adopt a flexible leadership style, able to move through visioning to implementation and collaboration/consultation to challenge as appropriate.
- Build robust relationships both internally and externally.
- Work effectively with other Leadership Team members with political awareness and sensitivity.
- Support collective ownership of strategy, risks and delivery.
- Address and deal effectively with difficult situations.
- Implement best practice in change management and leadership.
- Balance conflicting pressures and needs, including short and longer term trade-offs.
- Demonstrate strong commitment to innovation and performance improvement.
- Maintain an appropriate balance between the deeper financial aspects of the CFO Role and the need to develop and retain a broader focus on the environment and stakeholder expectations and needs.
- Comply with the IFAC Code of Ethics for Professional Accountants, as implemented by local regulations and accountancy bodies, as well as other ethical standards that are applicable to them by reason of their professional status. The fundamental principles set out in the Code are integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. Impartiality is a further fundamental requirement of those operating in the public services.



# \ principle 2

The CFO must be actively involved in, and able to bring influence to bear on, all material business decisions (subject to the operational responsibilities of the Chief Constable) to ensure immediate and longer term implications, opportunities and risks are fully considered, and align with the overall financial strategy.

## Responsibility for financial strategy

No organisation can achieve its goals effectively without proper structures for allocating and optimising the use of resources. The centrality of finance means the CFO must play the lead role in advising and supporting the leadership team in turning policy aspirations into reality by aligning financial planning with the vision and strategic objectives for the organisation.

Within the overall corporate governance and management structure, the CFO has direct responsibility for leading development and implementation of the financial strategy necessary to deliver PCC strategic objectives sustainably. The CFO must work closely with the Leadership Team to establish a medium to long term strategy that ensures the financial sustainability of the organisation.

The CFO must also assist in the development and management of resource allocation models to optimise service outputs and community benefits within funding constraints and any tax raising limits. In implementing these models, the CFO must ensure that the financial and risk implications of policy initiatives are analysed and appropriately addressed. Models must encompass capital investment programmes and annual operations, as well as financial targets and benchmarks. They must also take into account future commitments, identification of possible service efficiencies and value for money opportunities, resources available and the desirable levels of reserves, to ensure that the PCC's finances remain sustainable.

The PCC CFO and the CC CFO need to establish working arrangements to ensure that both are aware of material business decisions being considered and both can contribute depending on the decision involved. This requires close co-operation and working arrangements to be established between both CFO's to facilitate information and knowledge

sharing. The FMCP requires a locally agreed Information Sharing Protocol (ISP) to be agreed.

The statutory guidance<sup>7</sup> issued by the Secretary of State under the Local Government Act 2000 (England and Wales) advises that local authorities, need to ensure that the CFO and the Monitoring Officer<sup>8</sup> have access as necessary to meetings and papers and that members must consult with him/her regularly<sup>9</sup>. Whilst PCCs and CCs do not operate under these arrangements, this guidance represents best practice and the principles of access and consultation should be followed.

## Influencing decision making

PCCs and CCs must be rigorous in their decision making, be explicit about the reasons for their decisions and record the supporting information and expected impact. This requires the CFO to be actively involved in, and able to bring influence to bear on all material business decisions (subject to the operational responsibilities of the Chief Constable) whenever and wherever they are taken.

The CFO must be able to advise the Leadership Team directly in order to discharge responsibilities in relation to the PCC's and CC's financial health and long term viability. The CFO must therefore be a persuasive and confident communicator with the status and credibility to challenge others, and influence material business decisions. The CFO's advice and reports to the Leadership Team must be clear, concise, relevant and timely, highlighting issues that the team needs to be aware of, and options for action.

The CFO must also work to develop strong and constructive working relationships by creating mutual respect and effective communication. Providing information and advice as a public servant might call on an understanding of ethics, the wider public interest, and diplomacy.

The Local Government Act 2003 emphasises the importance of sound and effective financial management. In relation to capital financing there is a statutory requirement for the PCC to set and arrange their affairs to remain within prudential limits for borrowing and capital investment. Advice on fulfilling this responsibility is set out in CIPFA's Prudential Code<sup>10</sup>. This, and the detailed governance arrangements is a responsibility of the PCC CFO in consultation with the CC CFO. The PCC CFO might consider briefing the Audit Committee on Treasury Management Strategy and monitoring during the year.

The PCC CFO has a statutory responsibility to report at the time the budget is considered and the precept set, on the robustness of the budget estimates and the adequacy of financial reserves. This duty to report will need to be fulfilled by publishing in public a budget report with this information. This should be reported to the Police and Crime Panel as part of the consideration of the budget and precept.

The Secretary of State in England or the National Assembly for Wales have reserve powers to specify in regulations a statutory minimum level of reserves that will be used if Authorities fail to remedy deficiencies or run down reserves against the advice of the CFO. This applies to PCCs.

The CFO also has a key role to play in fulfilling the requirements of the statutory duty<sup>11</sup> to keep the PCC and CC finances under review during the year and take action if there is evidence that financial pressures will result in a budget overspend or if there is a shortfall in income.

## Financial information for decision makers

At all levels those taking decisions must be presented with relevant, objective and reliable financial analysis and advice, clearly setting out the financial implications and risks.

The CFO has an important role in ensuring necessary financial information and advice is provided to the Leadership Team and decision makers at all levels. Meaningful financial analysis and robust and impartial interpretation is a key component in performance management, asset management, investment appraisal, risk management and control.

Although not a specific responsibility of CFOs alone, they should be alert to the 'Wednesbury' rules<sup>12</sup> which emphasise the importance of ensuring that when developing policy all relevant matters are properly considered. The judgement in the case stated that an authority's action in exercise of a statutory discretion would be regarded unreasonable, in excess of the powers given by Parliament and therefore invalid if:

- in making its decision it took into account matters which it ought not to take into account,
- or
- it did not take into account matters which it should have taken into account, or
- even if the two previous conditions were satisfied the conclusion was so unreasonable that no reasonable authority properly directing itself could ever come to it.
- In order to demonstrate that these principles have been observed it is important that policy decisions and the associated advice are as a matter of routine well and clearly documented.

<sup>7</sup> New Council Constitutions, Local Government Act 2000 – guidance to English local authorities, chapter 8 – officers' roles under executive arrangements, DETR, October 2000

<sup>8</sup> The Monitoring Officer for the PCC is his/her Chief Executive

<sup>9</sup> In Wales the statutory guidance does not include this reference but implies that this should be the case.

<sup>10</sup> The Prudential Code for Capital Finance in Local Authorities (Fully Revised Second Edition 2009)

<sup>11</sup> Section 28, Local Government Act 2003

<sup>12</sup> Associated Provincial Picture Houses v Wednesbury Corporation (1948).



## Governance requirements

## Principle 2

- Ensure that a medium term business and financial planning process is established to deliver PCC strategic objectives, including:
  - a medium term financial strategy to ensure sustainable finances;
  - a robust annual budget process that ensures financial balance; and
  - a monitoring process that enables this to be delivered.
- Ensure that these are subject to regular review to confirm the continuing relevance of assumptions used.
- Ensure that professional advice on matters that have financial implications is available and recorded well in advance of decision making and used appropriately.
- Ensuring that budget calculations are robust and reserves adequate, in line with CIPFA's guidance and s25 of the Local Government Act 2003.(PCC CFO responsibility in consultation with the CC CFO)
- Ensure that those making decisions are provided with information that is fit for the purpose, relevant, timely and gives clear explanations of financial issues and their implications.
- Ensure that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the PCC meets its policy and service objectives and provides effective stewardship of public money and value for money in its use.
- Ensure that the PCC and CC maintain a prudential financial framework; keep commitments in balance with available resources; monitor income and expenditure levels to ensure that this balance is maintained and take corrective action when necessary.
- Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. (PCC CFO responsibility in consultation with the CC CFO)
- Ensure that appropriate management accounting systems, functions and controls are in place so that finances are kept under review on a regular basis. These systems, functions and controls should apply consistently to all activities including partnerships arrangements, outsourcing or where the authority is acting in an enabling role.
- Ensure the provision of clear, well presented, timely, complete and accurate information and reports to budget managers and senior officers on the budgetary and financial performance.



## Core CFO responsibilities

## Principle 2

### Responsibility for financial strategy

- Ensuring that a financial framework is agreed and delivery is planned against the defined strategic and operational criteria.
- Maintaining a long term financial strategy to underpin PCC and CC financial viability within the agreed performance framework.
- Ensure financial management policies underpin sustainable long-term financial health and reviewing performance against them.
- Ensuring that commercial and collaborated opportunities are appraised and advising on financial targets and successful delivery.
- Ensuring that an effective resource allocation model is developed and maintained to deliver business priorities.
- Taking a leading role on asset and balance sheet management.
- Ensuring that the planning and budgeting processes are fully co-ordinated.

### Influencing decision making

- Ensuring that opportunities and risks are fully considered and decisions are aligned with the overall financial strategy.
- Providing professional advice and objective financial analysis enabling decision makers to take timely and informed business decisions.
- Ensuring that efficient arrangements are in place and sufficient resources available to provide accurate, complete and timely advice to support strategy development.
- Ensuring that clear, timely, accurate information is provided as requested by the Police and Crime Panel.
- Ensuring that all necessary information is provided to the PCC when the Police and Crime Panel considers the budget and proposed precept. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring that capital projects are chosen after evaluating a fully costed business case complied with input from all relevant professional disciplines and can be funded in the financial strategy.
- Checking, at an early stage, that innovative financial approaches comply with regulatory requirements.

### Financial information for decision makers

- Monitoring and reporting on financial performance that is linked to related performance information and strategic objectives that identifies any necessary corrective decisions.
- Ensuring that timely management accounts are prepared.
- Ensuring the reporting envelope reflects partnerships and other arrangements to give an overall picture.



- Take all reasonable steps to ensure that:
  - budgets are planned as an integral part of strategic and operational management and are aligned with a structure of managerial responsibilities.
  - budgets are constructed on the basis of reliable data of past performance and rigorous assessments of future resources and commitments, and that policies and priorities are evaluated in an open, consistent and thorough manner.
  - responsibilities for budget management and control are unambiguously allocated, that commitments are properly authorised, and that budgets are related to clear objectives and outputs.
  - accounting and financial information systems make available, at the relevant time to all users the appropriate information for their responsibilities and for the objectives of the PCC and CC.
- Ensure that other appropriate management, business and strategic planning techniques are implemented.
- Link financial strategy and overall strategy (PCC CFO in consultation with the CC CFO).
- Demonstrate a willingness to take and stick to difficult decisions – even under pressure.
- Take ownership of the assessment of relevant financial risks.
- Network effectively to ensure awareness of all material business decisions to which CFO input may be necessary.
- Role model persuasive and concise communication with a wide range of audiences internally and externally.
- Provide clear, authoritative and impartial professional advice and objective financial analysis and interpretation of complex situations.
- Apply relevant statutory, regulatory and professional standards both personal and organisational.
- Demonstrate a strong desire to think innovatively and to add value.
- Challenge effectively, and give and receive constructive feedback.
- Operate with sensitivity in a political environment.



# \ principle 3

The CFO must lead and encourage the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently, and effectively.

## Promotion and delivery of good financial management

Good financial management is fundamental to establishing confidence in public services and sets good relationships with the taxpayer and other funders. The Leadership Team collectively needs to set the tone that financial management is core to achieving strategic aims, and to demonstrate that public money is used well. Nevertheless it is the CFO who must take the lead in establishing a strong framework for implementing and maintaining good financial management. The CFO should have a key role in assessing the existing organisational style of financial management and the improvements needed to ensure it aligns with the strategic direction.

The PCC and the PCC CFO are responsible for drawing up financial regulations for application to the PCC and CC. These should be prepared in consultation with the CC CFO and should be kept under review by both CFOs to ensure they are revised to reflect any change to organisational or administrative arrangements. They should be reviewed by the Audit Committee prior to approval by the PCC.

Financial management is the business of the PCC and CC. When the Leadership Team, managers and the finance function all fulfil their financial management responsibilities successfully, they collectively create the financially literate and adept organisation. The CFO must actively promote financial literacy, so that the Leadership Team and managers can discharge their financial management responsibilities, alongside their wider responsibilities in relation to risk and performance management.

## Best Value and Value for money

The CFO has a key role to play in balancing control and compliance with value creation and performance. Better value for money and the identification of service efficiencies releases resources that can be recycled into higher priorities, without increasing taxation.

With the foundations in place, good financial management will focus on stretching limited resources to maximise value for the public service. Value for money (economy, efficiency and effectiveness) should be the concern of all managers, but the CFO will need to take a lead in coordinating and facilitating a culture of efficiency and value for money. This will involve approaches and techniques such as:

- Assisting the PCC and CC in the measurement of value for money, and the identification of service efficiencies, making sure that information is available to review value for money and performance;
- Advising on appropriate strategies for managing assets and stretching utilisation, and the productive use of other resources;
- Providing leadership and guidance in using and developing efficiency tools and techniques, including benchmarking, IT, shared services, process analysis and cost management, collaborating with others where this is more efficient, effective or economical; and
- Ensuring the rigorous financial appraisal and oversight of change programmes, income generation proposals and investment projects.

## Safeguarding public money

The CFO must lead the implementation and maintenance of a framework of financial controls and procedures for managing financial risks, and must determine accounting processes and oversee financial management procedures that enable the PCC and CC to budget and manage within its overall resources. At the most fundamental level this means ensuring that there are robust systems of risk management and internal control, that financial control is exercised consistently, and that the PCC and CC implement appropriate measures to protect assets from fraud and loss.

The CFO also has a specific role with regard to stewardship. This includes ensuring that the governance structures





codify financial control, internal control, risk management and assurance, as well as defining a framework of financial accountabilities and reporting. In addition to the CFO's responsibilities to the PCC and CC, a wider role also exists in relation to the general public. The PCC and CC are regarded as trustees of local citizens' money, and both CFOs have a prime obligation and duty to them to manage the PCC and CC resources prudently on their behalf as established in the 1906 de Winton case.

In effect this means that the CFO has a personal responsibility for the stewardship and safeguarding of public money and for demonstrating that high standards of probity exist. Strong financial management, accurate financial reporting and effective financial controls are therefore central to the CFO's Role. This role was strengthened by the Local Government Finance Act 1988 (in England and Wales), which requires the CFO to report inappropriate financial management as well as wrongdoing.

Section 114 of the 1988 Act (for the MPA, this is s130 of the GLA Act 1999) requires a report to be made by the CFO, in consultation with the PCC Chief Executive if there is or is likely to be unlawful expenditure or an unbalanced budget. Further guidance recommending courses of action to be followed when a report under s114 may be required is attached at appendix A to this Statement.

Consistency of standards and transparency in financial activities are essential. In this context, CIPFA's view is that the statutory Role of the CFO does not stop at the boundaries of the PCC and CC. It extends into its partnerships, collaborated and devolved arrangements, joint ventures and companies in which the PCC and CC have an interest. The CC CFO should oversee the non-operational dimensions (i.e. where police powers are not involved) of the Force's participation in such activities.

### Assurance and scrutiny

Accountability for public expenditure is a core requirement for PCCs and CCs. The PCC has accountability to the electorate and to the Police and Crime Panel for the delivery of the Police and Crime Plan. The CC has accountability to the PCC for the delivery of policing. Both the PCC and CC have accountability to service inspectorates, External Auditors; the community and taxpayers.

Managing information flows is a key component of the CFO's Role as an ambassador for the PCC and CC on financial matters and in building relationships with other PCCs and CCs

and other stakeholders. The CFO must provide information and advice to those who officially scrutinise and review the PCC and CC; funders, regulators, and External audit, and any group which exercises scrutiny.

Internal audit is an important independent internal scrutiny activity. The CFO must support the internal audit arrangements, whether provided internally or externally to the PCC and CC, and ensure that the Audit Committee receives the necessary advice and information.

Public service providers face a variety of regulatory requirements and standards for external reporting of financial and non-financial information. The Role of the CFO in external reporting is to meet relevant reporting requirements and to apply professional good practice, conscious of the needs of users. External financial reporting must be of good quality, supported by analysis and documentation and should receive an unqualified audit opinion. This will be facilitated if the CFO maintains a constructive professional relationship with external auditors and inspectors.

The Accounts and Audit Regulations 2003 (England and Wales) and the Accounts and Audit (Wales) Regulations 2005, impose responsibilities on the finance director relating to accounting records and supporting information, control systems and the Statement of Accounts.

A key feature of the Regulations in England and Wales is the requirement for internal audit. Regulation 6 requires that a 'relevant body shall maintain an adequate and effective system of Internal audit of its accounting records and its system of internal control'.

The provisions of the Audit Commission Act 1998 in relation to external audit apply to both the PCC and the CC as separate corporations sole. The requirements of Regulation 6 of the Accounts and Audit (England) Regulations 2011 apply in relation to internal audit arrangements. The FMCP recommends that the PCC and CC agree that there should be joint internal audit arrangements including a joint Audit Committee. It would be good practice for the agreed arrangements to be set out in a jointly agreed protocol or memorandum of understanding. The Audit Commission is responsible for the appointment of external auditors to PCC's and CC's in England as bodies subject to audit listed in scheduled 2 of the Audit Commission Act 1998. In Wales, the Wales Audit Office is responsible for the appointment of external auditors to PCC's and CC's, in accordance with Section 12 of the Public Audit (Wales) Act 2004.

## Governance requirements

## Principle 3

- Make the CFO responsible for ensuring that appropriate advice is given on all financial matters, for keeping financial records and accounts, and for maintaining an effective system of financial control.
- Ensure that systems and processes for financial administration, financial control and protection of resources and assets are designed in conformity with appropriate ethical standards and monitor their continuing effectiveness in practice.
- Ensure that there is in place effective and appropriate internal financial controls covering codified guidance, budgetary systems, supervision, management review and monitoring, physical safeguards, segregation of duties, accounting procedures, information systems and authorisation and approval processes. Ensuring that these controls are an integral part of the underlying framework of corporate governance and that they are reflected in its local code.
- Address the arrangements for financial and internal control and for managing non-operational risk in Annual Governance Reports.
- Ensure that annual accounts are published on a timely basis to communicate activities and achievements, its financial position and performance.
- Ensure an effective internal audit function is resourced and maintained.
- Develop and maintain an effective Audit Committee.
- Ensure, together with the leadership team, that the PCC and CC make best use of resources and that taxpayers and/or service users receive value for money.
- Ensure that appropriate financial competencies are embedded in key person specifications and appraisals.
- Ensure the financial skills required by managers are assessed and developed to enable their roles to be carried out effectively.
- Ensure that roles and responsibilities for monitoring financial performance/budget management are clear, that they have adequate access to financial skills, and are provided with appropriate financial training on an ongoing basis to help them discharge their responsibilities.





## Core CFO responsibilities

## Principle 3

### Promotion of financial management

- Assessing financial management style and advising as to changes which may be needed to ensure it aligns with the PCC's strategic direction.
- Actively promoting financial literacy.
- Assisting the development of a protocol which clearly sets out the roles and responsibilities for financial management, including delegated authority/powers.

### Value for money

- Challenging and supporting decision makers, especially on affordability and value for money, by ensuring policy and operational proposals with financial implications are notified to and as appropriate, for non-operational aspects, signed off by the finance function.
- Ensuring that appropriate asset management and procurement strategies are developed and maintained.
- Taking a leading role on the identification of value for money opportunities.

### Safeguarding public money

- Applying strong internal controls in all areas of financial management, risk management and asset control.
- Signing the published Statement on Internal Financial Control in line with the Statement of Recommended Practice on Local Authority Accounting in the United Kingdom.
- Establishing budgets, financial targets and performance indicators to help assess delivery.
- Ensuring that effective systems of internal control are implemented, these may include financial regulations, contract regulations, standing financial instructions, operating manuals, and compliance with codes of practice to secure probity.
- Ensuring that the PCC and CC have put in place effective arrangements for internal audit of the control environment and systems of internal control as required by professional standards and in line with CIPFA's Code of Practice.
- Ensuring that delegated financial authorities are respected.
- Promoting arrangements to identify and manage business risks (except for operational responsibilities of the Chief Constable), including safeguarding assets, risk mitigation and insurance.
- Ensure that capital projects are managed with post completion reviews.
- Securing the application of appropriate discipline in financial management, including managing cash and banking, treasury management, debt and cash flow, with appropriate segregation of duties.
- Ensuring the effective management of cash flows, borrowings and investments of funds including those on behalf of others; ensuring the effective management of associated risks; pursuing optimum performance or return consistent with those risks. (PCC CFO responsibility in consultation with the CC CFO).
- Ensuring that appropriate measures exist to prevent and detect fraud and corruption.
- Ensuring that proportionate business continuity arrangements are established for financial processes and information.
- Ensuring that any partnership arrangements are underpinned by clear and well documented internal controls.



## Core CFO responsibilities

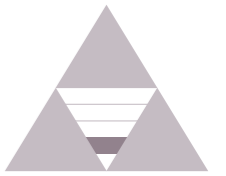
## Principle 3

### Assurance and scrutiny

- Ensuring that financial performance of the PCC and CC and its partnerships is reported to the PCC and CC and other parties as required.
- Ensuring that financial and performance information presented to members of the public, the community and the media covering resources, financial strategy, service plans, targets and performance, is accurate, clear, relevant, robust and objective. Apart from operational matters which are the responsibility of the Chief Constable.
- Supporting and advising the Audit Committee.
- Ensuring that clear, timely, accurate advice is provided on what considerations can legitimately influence decisions on the allocation of resources, and what cannot.
- Ensuring that published budgets, annual accounts and consolidation data for government-level consolidated accounts are prepared.
- Ensuring that the financial Statements are prepared on a timely basis, meet the requirements of the law, financial reporting standards and professional standards as reflected in the Code of Practice on Local Authority Accounting in the United Kingdom developed by the CIPFA/LASAAC Joint Committee.
- Certifying the annual Statement of Accounts (PCC CFO and CC CFO for their separate accounts) and the group accounts (PCC CFO)
- Ensuring that arrangements are in place so that other accounts and grant claims (including those where the PCC is the accountable body for community led projects) meet the requirements of the law and of other partner organisations and meet the relevant terms and conditions of schemes
- Liaising with the internal and external auditor.



- CFOs should take all reasonable steps to ensure that:
  - effective systems and procedures operate to monitor progress against budgets and their objectives at regular intervals, and that appropriate reporting mechanisms are in place.
  - that payments, including taxation, are made on time, accurately and in accordance with legal requirements.
  - cash is handled with special care to avoid loss, particularly loss through theft and secure arrangements are in place to deal with the handling of electronic or other cash-less transactions.
  - the accounting and financial information systems provide an accessible, complete, comprehensive, consistent and accurate record of financial transactions.
  - all financial reports are relevant, reliable and consistent, are compatible with the accounting and financial information systems available, at the relevant time to all users, the appropriate information for their responsibilities and for the objectives of the PCC and CC.
  - within the specific legislative framework, systems exist to secure the efficient and effective management of taxes, in particular to ensure that tax liabilities and obligations are properly reported and accounted for.
  - treasury management is carried out in accordance with CIPFA’s treasury management code and that effective treasury management arrangements are in place. (PCC CFO in consultation with the CC CFO)
- Generate ‘buy-in’ to, and support delivery of, good financial management.
- Assist in the promotion, and development of sustainable partnerships, and engage effectively in collaboration.
- Deploy effective facilitation and meeting skills.
- Build and demonstrate commitment to continuous improvement and innovative, but risk-aware, solutions.
- Place stewardship and probity as the bedrock for management of PCC and CC finances.



# \ principle 4

The CFO must lead and direct, (as explained in this principle), a finance function that is resourced to be fit for purpose.

### Meeting the finance needs of the business

The location(s) and functions of the finance function are a matter for discussion and agreement between the PCC and CC subject to the legal requirements of the separate corporates sole. The PCC CFO and the CC CFO have a responsibility to ensure that it is adequately resourced to be fit for purpose and each have a responsibility for leading and directing depending on where the functions are located.

A strong customer focus, both externally and internally, must be a key feature of the way the finance function does business. It must support the broader development agenda, by appraising investment options and change programmes and contributing creative financial solutions within an effective risk management framework.

The finance function must also have a firm grasp of the financial position and performance. The CFO must ensure that there is sufficient depth of financial expertise, supported by effective systems, to discharge this responsibility and challenge those responsible for activities to account for their financial performance. The resources available must be proportionate to the complexity of the financial environment.

Section 114(7) of the Local Government Finance Act 1988 requires authorities in England and Wales to provide their CFO with ‘such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section (i.e. s114) to be performed’. This test has to be measured against the totality of the resource available to support the CFO’s Role, wherever they are located.

### Appropriately developed finance skills

The CFO must promote and encourage financial literacy, including championing training and development of relevant skills at all levels. However, the CFO has a particular responsibility for learning and development amongst finance staff in order to ensure that both current and likely future finance skill needs are addressed. The CFO needs to ensure that the competencies needed by the finance function are identified, including specialist skills, and that it can access the skills and experience needed to exercise stewardship of public finances, develop financial performance and contribute effectively to new organisational directions and innovation.

The CFO must ensure that responsibility for accountants and finance specialists Organisation-wide is properly discharged in order to ensure compliance with regulatory and professional standards. To exercise leadership on financial matters it is important that Roles and responsibilities are suitably outlined and documented.



## Governance requirements

### Principle 4

- Ensure that the finance function has the resources, expertise and systems necessary to perform its role effectively.
- Ensure that the role and responsibilities of the CFO, are suitably outlined and documented.



## Core CFO responsibilities

### Principle 4

- Ensuring that the finance function makes a full contribution to and meets the needs of the business.
- Ensuring that the resources, expertise and systems for the finance function are sufficient to meet business needs and negotiating these within the overall financial framework.
- Ensuring that robust processes for recruitment of finance staff are implemented and/or outsourcing of functions.
- Reviewing the performance of the finance function and ensuring that the services provided are in line with the expectations and needs of its stakeholders.
- Seeking continuous improvement in the finance function.
- Ensuring that finance staff, managers and the Leadership Team are equipped with the financial competencies and expertise needed to manage the business both currently and in the future.
- Ensuring that responsibility for all finance staff is properly discharged.
- Acting as the final arbiter on application of professional standards.



## Personal skills and professional standards

### Principle 4

- Ensure a vision is created and communicated for the finance function.
- Role model a customer focussed culture.
- Promote an open culture, built on effective coaching and a “no blame” approach.
- Promote effective communication between the finance department, PCC and with external stakeholders.
- Apply strong project planning and process management skills.
- Set and monitor meaningful performance objectives for the finance team.
- Role model, as required, for effective staff performance management.
- Coach and support staff, as required, in both technical and personal development.
- Promote high standards of ethical behaviour, probity, integrity and honesty.
- Ensure, when necessary, that outside expertise is called upon for specialist advice not available within the finance function.
- Promote discussion on current financial and professional issues and their implications.



# \ principle 5

The CFO must be professionally qualified and suitably experienced.

## Demonstrating professional and interpersonal skills

The CFO must be able to demonstrate their own professional standing to exercise financial leadership. As a member of a professional body, the CFO's skills, knowledge and expertise will have been tested by examination and must be continuously developed in a structured and monitored context. The CFO must adhere to the professional values of accuracy, honesty, integrity, objectivity, impartiality, transparency and reliability and promote these throughout the finance function.<sup>13</sup>

The CFO must communicate complex financial information in a clear and credible way. They should be able to operate effectively in different modes including directing, influencing, evaluating and informing. The CFO must also have the confidence to give impartial and objective advice even if it may be unwelcome, and be sufficiently forceful to intervene with authority if financial or ethical principles need to be asserted or defended.

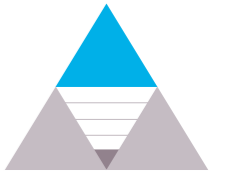
The officer appointed as the CFO must, by virtue of section 113 of the Local Government Finance Act 1988 in England and Wales, be a member of a specified accountancy body<sup>14</sup>. This requirement is applied to the MOPC via s129 of the GLA Act 1999.

## Applying business and professional experience

The CFO must have an understanding and commitment to the wider business, looking beyond narrow financial objectives, to inspire respect, confidence and trust amongst colleagues, inspectors and stakeholders. In practice this means being creative and constructive in strategic Roles and effective in management responsibilities, with a sound grasp of approaches such as performance management and project leadership.

The CFO must understand how and when to apply the tools and techniques of financial analysis in support of business decisions in order to evaluate proposals and to offer well founded and expert advice. Such techniques include strategic analysis, review of sector best practice, benchmarking, option appraisal, performance measurement, and risk assessment. However data is not always clear cut and the CFO must also be able to apply judgement to imperfect information.

The CFO must have a good understanding of public sector finance and its regulatory environment and comply with standards formulated through rigorous due process in support of the public interest to support the Leadership Team effectively. The CFO must also have a good understanding of the principles of financial management, and personally set a tone for the PCC and CC that finance matters and is a key part of everyone's job.



## Governance requirements

## Principle 5

- Appoint as an employee, or engage under a contract for services, a professionally qualified CFO whose core responsibilities include those set out under the other principles in this Statement and ensure that these are properly understood.
- Ensure that the CFO has the skills, knowledge, experience and resources to perform effectively in both the financial and non-financial areas of their role.



## Personal skills and professional standards

## Principle 5

- Be a member of an accountancy body recognised by the International Federation of Accountants (IFAC), qualified through examination, and subject to oversight by a professional body that upholds professional standards and exercises disciplinary powers.
- Adhere to international standards set by IFAC on:
  - Ethics
  - Continuing Professional Development.
- Demonstrate IT literacy.
- Have relevant prior experience of financial management in the public services or private sector.
- Understand public service finance and its regulatory environment.
- Apply the principles of corporate finance, economics, risk management and accounting.
- Understand personal and professional strengths.
- Undertake appropriate development or obtain relevant experience in order to meet the requirements of the non-financial areas of the role.

<sup>13</sup> IFAC: Code of Ethics, 2005

<sup>14</sup> Defined to mean a qualified member of one of the six bodies comprising the Consultative Committee of Accountancy Bodies (CCAB) in the UK and Ireland, that is

- Chartered Institute of Public Finance and Accountancy
- The Institute of Chartered Accountants in England and Wales
- The Institute of Chartered Accountants of Scotland
- The Institute of Chartered Accountants in Ireland
- Chartered Institute of Management Accountants
- The Association of Chartered Certified Accountants.

# legislative requirements

### SECTION 151 OF THE LOCAL GOVERNMENT ACT 1972 – ENGLAND AND WALES

This section requires that every local authority in England and Wales (this now includes PCC's and CCs) should

“make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.

The words “proper administration” are not statutorily defined nor have they received judicial consideration. Section 58 of the Local Government Act 1958 had somewhat narrower wording requiring authorities to make “safe and efficient” arrangements for the receipt and payment of money.

- “proper administration” requires a somewhat wider consideration of all aspects of PCC and CC financial management and should include:
- compliance with the statutory requirements for accounting and Internal audit
- ensuring the PCC's and CC's responsibility for securing proper administration of its financial affairs (*Lloyd v McMahon (1982) AC 625*)
- proper exercise of a wide range of delegated powers both formal and informal (*Provident Mutual Life Assurance Association v Derby City Council (1981) 1 WCR 173*)
- responsibility for managing the financial affairs of the PCC and CC in all its dealings
- recognition of the fiduciary responsibility owed to local taxpayers (*Attorney General v De Winton (1906) 2 CH 106*).

This view is strengthened by Section 113 of the Local Government Finance Act 1988 which requires the responsible officer under Section 151 of the 1972 Act to be a member of a specified accountancy body.

### SECTION 114 OF THE LOCAL GOVERNMENT FINANCE ACT 1988 – ENGLAND AND WALES

The responsible officer under Section 151 of the 1972 Act had his or her duties significantly extended by Section 114 of the 1988 Act which requires a report in the case of local government to all the Authority's members to be made by that officer, in consultation with the Monitoring Officer, if there is, or is likely to be unlawful expenditure or an unbalanced budget.

For PCCs and CCs a s114 report would be made to the PCC/CC and the External Auditor. Members of the Audit Committee should also be informed along with the PCC/CC Internal Auditor. The PCC CFO and the CC CFO both have this responsibility in relation to their corporations sole. If either of the CFOs intend to exercise their statutory powers under s114 they should inform the other (as well as the CE) as soon as possible.

#### Introduction

Section 114 (1) of the Local Government Finance Act 1988 places a duty on the Chief Finance Officer (CFO) as defined in that subsection to report certain matters to the authority (this now includes PCCs and CCs). Serious consequences could follow making such a report and this note recommends sound procedures and consultation with the PCC, PCC Chief Executive and CC prior to making the report.

The duty of the CFO to report is triggered if s(he) believes that a decision involves (or would involve) unlawful expenditure, a course of action is unlawful and is likely to cause a loss or deficiency.

In those circumstances the CFO is required to make a report and send a copy to the PCC, the CC and the External Auditor. The course of conduct which led to the report must not be pursued until the report has been considered. The PCC and the CC must consider the report within 21 days and decide whether they agree or disagree with the views in the report and what action it is proposed to take.

Likewise the CFO must report where it is believed that PCC's expenditure including that of the CC is likely to exceed available resources. The PCC and CC is prevented from entering into any agreements incurring expenditure until the report has been considered. This report should also be submitted to the External Auditor.

When the CFO issues a report, the CFO should also keep members of the Audit Committee informed along with the Police and Crime Panel and Internal Auditor.

All action in respect of such a report must be suspended until the PCC and the CC has considered the report. The PCC/CC must provide a report to the CFO and the External Auditor, explaining what action, if any, is to be taken and the reasons.

This guidance is intended to assist in the provision of sound legal (and financial) advice but in the last analysis the duty to report is placed on the CFO and nothing in this note derogates from that responsibility.

The legislation raises issues that could place the CFO in conflict with his or her employers. The consequences of submitting a report are unlikely to be in the long term interests of the PCC/CC, and its officers. The need to issue a s114 report would indicate that there are underlying problems with the overall performance of the PCC/CC. Every action should be taken to avoid conflict by providing timely advice and where possible offering alternative lawful solutions on financial matters. However, at the end of the day section 114 imposes a statutory duty on the CFO.

#### Preliminary matters

The origin of information giving rise to consideration of the need for a report could be the CFO's staff, the PCC/CC or someone from within the PCC's office, the Force, an officer, a member of the public or an Auditor, or inspector. The attention of the PCC/CC and all staff should be drawn to the duty of the CFO and to his or her responsibility for signalling possible subjects for investigation which may lead to a formal report. The topic should also be included in training programmes.

Making a report under sections 114 (2) and 114A(2) requires the CFO to make a decision that an act or omission is or could be unlawful; this decision should only be taken after full consultation with the PCC, PCC Chief Executive and the CC whereas a report under section 114 (3) requires a financial judgement on (essentially) the budget which the CFO could take alone though the CFO is nonetheless required by law to consult because other corporate and legal issues may well flow from the report and because there may be overlaps with the duty to report about unlawfulness under the Local Government and Housing Act 1989 section 5.

Circumstances of a developing situation (for example, shortage of budget resources or a prospective unlawful act) should be distinguished from the imminent or actual situation. Timing of a report will need careful thought and decision.

There may well be occasions when the CFO will be asked for a view on matters which are under consideration but which if developed might lead to a report. A mere preliminary enquiry or request should not lead to a formal report under the Act. If the situation develops the need to report must be reviewed.

It is not considered that the provisions of sections 114 (2) and 114A (2) relate to cases of discovered fraud (which could be the subject of criminal prosecution) – these should normally be dealt with under financial regulations.

A decision will be needed whether to report or not on items which could be regarded as outside sections 114 (2) and 114 A (2) such as trivial expenditure or loss of income although there may on occasions be circumstances in which such a report may be justified.

In the case of action under section 114 (3) the need for a report arises where a PCC/CC's total resources fall short of likely expenditure. It does not apply where, say, the CC's budget is overspent but can be funded from the reserves/ budget held by the PCC.



## Recommended Procedures

Having regard to the circumstances and the preliminary matters mentioned above the procedure for a report under section 114 (2) or 114 A (2) – an unlawful act or omission – is suggested as follows

- consult with the PCC, PCC Chief Executive and CC on the issue of unlawfulness
- if there is disagreement or doubt, the CFO should ask for Opinion of Counsel to be obtained
- if there is still disagreement after Counsel's Opinion, the PCC CE may provide assistance on procedures but CEs should not normally substitute their own advice, even where legally or financially qualified.

Under section 114 (3) where the matter is an unbalanced budget – real or potential – the CFO is in a better position to come to a decision unaided. However it is recommended

- an informal indication is given by the CFO at a very early stage and an attempt made to get immediate remedial action
- the likelihood of a report under section 114 (3) should be made known to the PCC/CC at the earliest practicable opportunity
- the CFO should consider informal consultation with the Internal and External Auditor
- at this point the CFO has to decide the course of action. If it is decided to proceed, go to next stage.

Where the CFO decides there is a case for a report

- if the action or expenditure is potential or prospective the CFO should draft a report stating the facts and reasons and discuss with the PCC, PCC CE and CC how to obviate the need for the report by remedial action. If successful the matter will rest

- where action as above is not successful, or where the act or expenditure has already happened, the CFO should draft a report as above in consultation with the PCC, PCC CE and CC. The report should clearly state that it is made under the relevant sub-section of section 114 or section 114 (A) of the Local Government Finance Act 1988 and the consequences. The CFO then 'makes' the report by signing it personally
- the statutory duty to make a report and send a copy to the PCC/CC and the External Auditor rests on the CFO. The Act does not say when a report is to be sent but implies it should be sent as soon as reasonably practicable
- where a decision is about to or has been made involving unlawful expenditure, a loss or deficiency or an unlawful item of account, the CFO must report to the PCC/CC and the External Auditor
- reports are likely to be made in highly contentious circumstances and as such could be the target for legal challenge. They must therefore be subject to most careful drafting, rehearsing all relevant matters and arguments besides clearly advising as to the options or decisions sought.

Whatever the decision, the CFO must have taken all steps necessary to arrive at and justify that decision. The CFO should ensure that there is a proper record of the considerations leading to the decision.

The PCC/CC must consider within 21 days the CFO's report and until it does so it must take no action on the decision which is the subject of the report. After considering the report, the PCC/CC must prepare a report which specifies what action (if any) has been taken in response, what action it is proposed to take in response and when it proposes to take that action and the reasons for taking the action. A copy of that report must be sent to the External Auditor.

## Other Matters

Once the CFO has sent the report addressed to the PCC/CC and to the External Auditor, his/her reporting duty has been completed. If the PCC/CC acts positively on the report, well and good; if not, any further formal action is to be taken by the External Auditor pursuant to section 6 of the Audit Commission Act 1998 or by the issue of an 'advisory notice' under section 19A or by applying to the Court for a declaration under section 17 of the 1998 Act.

The authority's standing orders and financial regulations should be compatible with the reporting procedures.

In the light of these provisions it is clearly essential that all reports, containing financial matters should be cleared with the CFO. The CFO should also have access to all decision records and minutes.

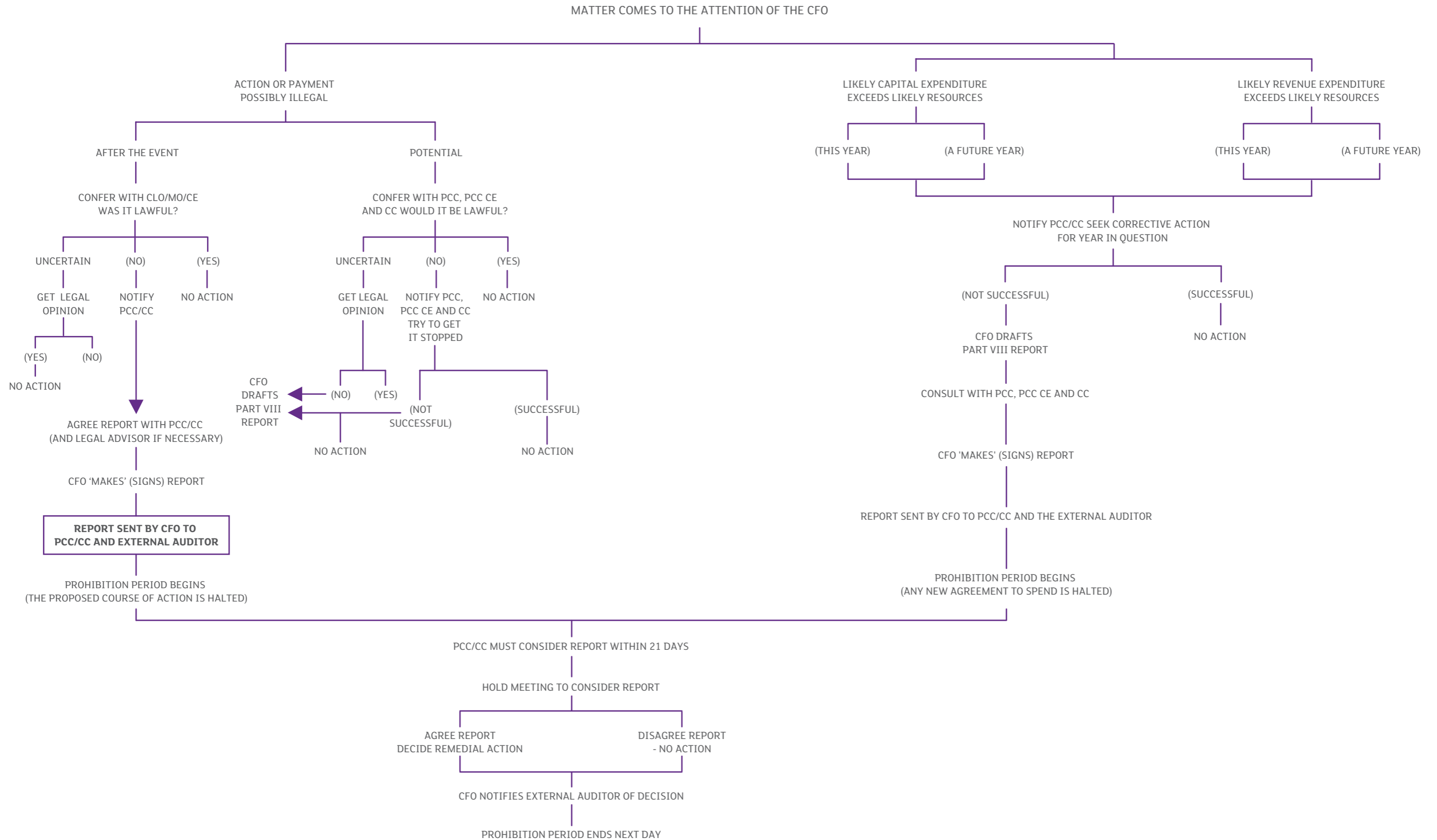
The 1988 Act requires the PCC/CC to provide the CFO with sufficient resources to carry out their duties. These would include the cost of obtaining advice and resources outside the authority if required.

The CFO's duties must be carried out by him or her personally and it is recommended that he or she agrees with the PCC/CC the arrangements to be put in place for someone to act in his/her absence or when (s)he is ill under section 114(6).

The activities of companies set up by PCC/CC's appear to be outside the present legislation for section 114/114A reports.

Where a report has been made under section 114(3), arrangements need to be made to inform all persons, who have delegated authority to enter commitments, that such powers are suspended during the prohibition period.

# Flow chart for Section 114 Local Government Finance Act 1988 (England and Wales) Procedures





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OFFICE OF THE POLICE & CRIME  
COMMISSIONER FOR NORFOLK

# **Office of the Police and Crime Commissioner**

## **Financial Regulations**

**Issued: November 2012**

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# INTRODUCTION

## OVERVIEW

1. Public sector accounting is covered by a range of government legislation and accounting standards that are designed to ensure proper accountability for public funds, including:
  - The Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Accounts and Audit Regulations 2003, 2006 and 2011
2. The Police Reform and Social Responsibility Act 2011 defined arrangements for separate corporations sole for the Police and Crime Commissioner (PCC) and Chief Constable (CC), each of which is required to appoint a Chief Finance Officer (CFO). In addition, the Home Office issued a Financial Management Code of Practice (FMCOP) in January 2012 which deals specifically with the financial management of the corporations sole of the PCC and CC. The professional responsibilities of the PCC and CC CFOs are defined in the FMCOP and in a CIPFA Statement issued in September 2012, "Responsibilities of the CFO to the PCC and the CFO to the CC".
3. To conduct its business effectively, the PCC and CC need to ensure that sound financial management policies are in place and that they are strictly adhered to. Part of this process is to adopt and implement Financial Regulations. The Regulations contained herein have been drawn up in such a way as to ensure that the financial matters of the PCC and CC are conducted properly and in compliance with all necessary requirements.
4. The Regulations are designed to establish overarching financial responsibilities, to confer duties, rights and powers upon the PCC, the CC and those for whom they are responsible and to provide clarity about the financial accountabilities of groups or individuals. They apply to all PCC staff and all CC officers and staff and anyone acting on their behalf.
5. The PCC and CC should be committed to innovation, within the regulatory framework, providing that the necessary risk assessment and approval safeguards are in place.

## STATUS

6. Financial Regulations should not be seen in isolation, but rather as part of the overall regulatory framework that includes codes of governance, codes of conduct, Schemes of Delegation and Contract Standing Orders.
7. All staff have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
8. The PCC is responsible for approving or amending Financial Regulations in close consultation with the CC, the two CFOs, and the Chief Executive.
9. The PCC is responsible for ensuring that all staff, contractors and agents for whom the PCC is responsible are aware of the existence and content of Financial Regulations and that they are complied with. Equally, the CC is responsible for ensuring that all officers, staff, contractors and agents for whom the CC is responsible are aware of the existence and content of Financial Regulations and that they are complied with. An adequate number of copies must be available for reference.

10. Breaches of Financial Regulations of a serious nature may result in disciplinary proceedings. Such cases shall be reported to the PCC CFO and to the CC CFO who shall report to the PCC, Chief Executive and CC who will then determine the action to be taken.

## **DELEGATED LIMITS**

11. The Financial Regulations are divided into a number of sections, each with detailed requirements relating to the section heading. References are made throughout the individual sections to delegated limits of authority. The value limits are contained in Section F in order to avoid reviewing the whole set of Financial Regulations when changes to delegated limits are made. Section F contains the appropriate cross-reference to the regulation in question.

## **DEFINITIONS WITHIN THE REGULATIONS**

12. The 'Office of the Police and Crime Commissioner for Norfolk' (OPCCN) when used as a generic term shall refer to the PCC, PCC Chief Executive, PCC CFO, and staff under his/her direction.
13. The 'Constabulary' shall refer to the CC, CC CFO, police officers, the special constabulary, and police staff under his/her direction.
14. Within these Regulations, most of the references have been made to the responsibilities of the CC since most of the responsibility for day to day financial management is delegated to the CC and is vested with the CC post of ACO(R) acting on behalf of the CC. Where responsibility for day to day financial management has not been delegated to the CC and is vested with the PCC Chief Executive or PCC CFO, the duties, rights and powers as detailed for the CC shall apply equally to the PCC Chief Executive or PCC CFO.
15. The terms CC, CC CFO, PCC, PCC Chief Executive and PCC CFO include any member of staff, contractors or agents to whom particular responsibilities may be delegated. However, the level of such delegated responsibility must be evidenced clearly, made to an appropriate level, and the member of staff given sufficient authority, training and resources to undertake the duty in hand.

# ***SECTION A***

## ***FINANCIAL MANAGEMENT FRAMEWORK***

### **A1 INTRODUCTION**

- 1.1 The Home Office advises on the roles and responsibilities of the PCC, the Constabulary and statutory officers. The PCC CFO and the CC CFO have certain statutory obligations and the PCC Chief Executive a specific monitoring role.
- 1.2 As far as possible financial management should be delegated to the CC CFO acting on behalf of the CC. The CC should actively encourage devolution of financial budgets within the Constabulary, provided that the financial information used to support this devolution is reliable, accurate, timely and complete.

- 1.3 Devolved budget monitoring responsibilities will ensure greater accountability within the Constabulary.
- 1.4 The PCC has responsibility for the Police Fund with the specific responsibilities of the PCC and CC being defined in the Home Office FMCOP. The professional responsibilities of the PCC CFO and CC CFO are defined in the FMCOP and in a CIPFA Statement.

## **A2 THE ROLE OF THE PCC**

2.1 The role and responsibilities of the PCC are to:

- Agree a budget requirement and capital programme and set the precept following advice from the PCC CFO in liaison with the CC CFO and in consultation with the Police and Crime Panel (PCP).
- Approve the CC's proposed allocation of resources in accordance with the Police and Crime Plan and/or other strategies.
- Rigorously scrutinise, challenge and monitor aspects of financial performance and, if required, agree action taken to contain spending within approved plans.
- Identify and agree the long term financial strategy of the PCC and any long term spending commitments.
- Participate in inspections and audits of the Constabulary and the PCC.
- Comply with all relevant codes of conduct and maintain the highest standards of conduct and ethics.
- Approve Financial Regulations and any amendments to them, as drawn up between the PCC Chief Executive, the CC, the PCC CFO and the CC CFO.
- Ensure that the internal control environment meets proper requirements and recommendations from internal and external audit are actioned.
- Be responsible for the ownership of property and contracts
- Delegate financial management to the CC and CC ACO(R) so that the CC ACO(R) should have as much day to day responsibility for financial management of the Force as possible within the framework of the agreed budget and rules of virement.

## **A3 THE ROLE OF THE CC**

3.1 The role and responsibilities of the CC in relation to financial management are to:

- Ensure overall financial management of the Constabulary and report financial management issues and implications to the PCC.
- Comply with financial policies and procedures for use by the Constabulary including the Scheme of Delegation, ensuring that officers and staff comply with them and with these Financial Regulations.

- Draw up financial policies and financial instructions in consultation with the CC CFO (in liaison with the PCC CFO), who must be satisfied that they provide for effective managerial control and review.
- Exercise delegated financial responsibilities and assume, with his/her staff, as much day-to-day responsibility for financial management of the Constabulary as possible within the framework of the agreed budget and rules of virement.
- Ensure the provision of professional advice to the PCC.
- Ensure proper financial management of resources allocated to him/her through the budget or arising from income generated by activities within the operational area, including control of officers, staff, security, custody and the management and safeguarding of assets. Ensure all resources are used efficiently and effectively.
- Administer property and contracts, subject to agreement of the PCC.
- Advise the PCC on financial propriety for areas under his/her control.

## **A4 THE ROLE OF STATUTORY OFFICERS**

### **PCC CFO and CC CFO**

4.1 The PCC CFO and CC CFO have responsibility for financial administration and stewardship. The role has the statutory responsibilities specified by:

- Section 151 of the Local Government Act 1972 which requires arrangements to be made for the proper administration of the PCC's and CC's financial affairs.
- Section 114 of the Local Government Finance Act 1988 which requires the Statutory Finance Officer to report to the PCC and the CC if the PCC or the CC or one of their staff:
  - has made, or is about to make, a decision which involves incurring unlawful expenditure,
  - has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency,
  - is about to make an unlawful entry in the PCC or CC's accounts.

4.2 The role and responsibilities of the PCC CFO, which are undertaken in consultation with the PCC Chief Executive, are to:

- Ensure that the financial affairs of the PCC are properly administered and that financial regulations are observed and kept up to date and accounting standards applied consistently.
- Ensure regularity, propriety and Value for Money (VfM) in the use of public funds.
- Ensure that the funding required to finance agreed programmes is available from Central Government funding, precept, other contributions and recharges.
- Report to the PCC, the PCP and to the external auditor any unlawful, or potentially unlawful, expenditure by the PCC or staff of the PCC.

- Report to the PCC, the PCP and to the external auditor when it appears that expenditure is likely to exceed the resources available to meet that expenditure.
- Advise the PCC on a budget requirement and capital programme and the robustness of the budget and adequacy of financial reserves.
- Ensure production of the statements of accounts of the PCC.
- Ensure receipt and scrutiny of the statements of accounts of the Chief Constable and ensuring production of the group accounts.
- Liaise with the external auditor
- Advise the PCC on the application of Value for Money principles by the Constabulary to support the PCC in holding the Chief Constable to account for efficient and effective financial management.
- Advise, in consultation with the PCC Chief Executive, on the safeguarding of assets, including risk management and insurance.
- Ensure that accurate, complete and timely financial management information is provided to the PCC.
- Arrange for the determination, issue and transfer of the precept.
- Assist the PCC to monitor the revenue and capital budgets.
- Secure, in liaison with the CC CFO, the provision of an effective internal audit service. Assist in the provision of safe and efficient financial arrangements ensuring there is a system of effective internal control.
- Secure and monitor treasury management including loans and investments and ensure compliance with the Prudential Code and Treasury Management Code, including regular reports to the PCC.
- Be responsible for all banking arrangements and authorise the creation and closure of any account
- Undertake the role of Money Laundering Officer.

The PCC CFO, in consultation with the PCC Chief Executive and the CC CFO, shall be given powers to institute any proceedings or take any action necessary to safeguard the finances of the OPCCN .

#### 4.3 The role and responsibilities of the CC CFO are to:

- Ensure that the financial affairs of the Constabulary are properly administered and that financial regulations drawn up by the PCC (developed in close consultation with the CC, the two CFOs, and the Chief Executive) are observed and kept up to date.
- Report to the CC, the PCC and the external auditor, any unlawful, or potentially unlawful, expenditure by the CC or officers or staff of the CC.

- Report to the CC and the PCC when it appears that expenditure of the CC is likely to exceed the resources available to meet that expenditure.
- Advise the CC on Value for Money in relation to all aspects of the Constabulary's expenditure.
- Advise the CC and the PCC on the soundness of the budget in relation to the Constabulary.
- Liaise with the external auditor.
- Ensure the statement of accounts is prepared for the CC.
- Ensure information is provided to the PCC CFO as required to enable production of group accounts.
- Be responsible to the CC for all financial activities undertaken within the Constabulary or contracted out under the supervision of the Constabulary.
- Direct the preparation of financial policies and strategies that optimise resources along with corporate management of the Constabulary both at an operational and strategic level. Ensure efficient and effective use of resources.
- Ensure adequate awareness and comprehension of financial policies / strategies and their continued development within the Constabulary.
- Draft a medium term financial strategy and an annual budget in consultation with the PCC CFO. Submit these draft proposals to the CC and PCC for approval.
- Liaise with PCC, CC and PCC CFO to co-ordinate the preparation of reports.
- Manage the delegated budget, devolution to Budget Managers and in year virement for and on behalf of the CC. Monitor expenditure and provide regular reports to the CC and PCC.
- Ensure the management of revenue and capital resources to maximise effective use of funding and achieve value for money.
- Ensure the completion of all statutory returns including Home Office directives.

### **PCC Chief Executive**

4.4 The role and responsibilities of the PCC Chief Executive in relation to financial management are to;

- Enable the PCC to fulfil his/her statutory responsibilities.
- Ensure that procedures for recording and reporting PCC decisions are operating effectively.
- Advise the PCC and CC about who has authority to take a particular decision.



- Advise the PCC and CC about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- Ensure the provision of information and reports required by the PCP.
- Ensure the PCC meets his/her obligations in relation to statutory publications including the Police and Crime Plan, Annual Report and Council Tax Leaflet.
- Develop a strong partnership with the PCC and CC ensuring the provision of effective and efficient policing is fulfilled.
- Undertake the role of designated Monitoring Officer to detect and report any illegality or maladministration.

## **A5 FINANCIAL MANAGEMENT STANDARDS**

### Overview & Control

- 5.1 The PCC and CC and all officers and staff have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.
- 5.2 The PCC and CC shall receive updates on the financial performance by way of ongoing budget monitoring and outturn reports, reports by Internal Audit, HMIC and External Audit.

### Requirements

- 5.3 The PCC and CC shall ensure that all officers and staff are aware of, and comply with, proper financial management standards, including these Financial Regulations.
- 5.4 All officers and staff are to be properly managed, developed, trained and have adequate support to carry out their financial duties effectively.
- 5.5 The PCC and CC shall ensure that specific duties and responsibilities in financial matters are made clear to individual officers and members of staff and that these are properly recorded.

## **A6 ACCOUNTING RECORDS AND RETURNS**

### Overview and Control

- 6.1 The PCC CFO in liaison with the CC CFO is responsible for determining the accounting policies of the PCC and CC, in accordance with recognised accounting practices, and for approving strategic accounting systems and procedures. All officers and staff are to operate within the required accounting policies and published timetables.
- 6.2 Financial systems are used to record the financial transactions of the PCC and CC. With possible minor exceptions, these are electronic systems. Maintaining proper accounting records is one of the ways in which the PCC and CC discharge their responsibility for stewardship of public resources.
- 6.3 The following rules should be followed as a general principle:

- officers and staff with the duty of examining or checking the accounts of cash transactions must not themselves be originators or approvers of these transactions;
- the duties of providing information about sums due to or from the PCC and CC and calculating, checking and recording these sums, are to be separated from the duties of collecting or disbursing them.

### Requirements

6.4 The PCC CFO and the CC CFO shall:

- Ensure that there is agreement between themselves before making any fundamental changes to accounting records and procedures or accounting systems.
- ensure that all transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.
- maintain adequate records to provide a management trail leading from the source of income and expenditure through to the accounting statements.
- ensure that reconciliation procedures are carried out on recognised control accounts on an agreed timetable to ensure transactions are correctly recorded.

6.5 Prime documents are to be retained in accordance with legislative requirements and the internal needs of the PCC and CC (Financial Instructions provide details of retention periods). The format of such documents shall satisfy the requirements of internal and external audit. The PCC and CC shall be responsible for providing a detailed schedule of requirements and making this available to all appropriate staff.

## **A7 THE ANNUAL STATEMENT OF ACCOUNTS**

### Overview and Control

7.1 The PCC and CC have a statutory responsibility to prepare accounts to present fairly their operations during the year. The PCC CFO and CC CFO are responsible for the preparation of the accounts in accordance with proper practices as set out in *the Code of Practice on Local Authority Accounting in the United Kingdom: (The CODE)* and with the Accounts and Audit Regulations 2003, 2006 and 2011. The PCC and CC are responsible for approving these annual accounts after scrutiny by the PCC, CC and the Audit Committee.

7.2 The accounts are subject to detailed independent review by the external auditor. This audit provides assurance that the accounts are prepared correctly and that proper accounting practices have been followed.

### Requirements

7.3 The PCC CFO and CC CFO shall:

- ensure that there is a timetable for final accounts preparation, in consultation with the PCC, CC and external auditor.

- select suitable accounting policies within the overall agreed approach and apply them consistently.
- make judgements and estimates that are reasonable and prudent.
- comply with the CODE.
- prepare, sign and date the statement of accounts, stating that it presents truthfully and fairly the financial position at the accounting date and its income and expenditure.
- publish the approved and audited accounts each year, in accordance with the statutory timetable.

7.4 The PCC CFO in liaison with the CC CFO is responsible for the determination of PCC and CC accounting policies.

7.5 The PCC and CC shall consider for approval the annual accounts in accordance with the statutory timetable.

# SECTION B

## FINANCIAL PLANNING AND CONTROL

### **B1 FINANCIAL PLANNING**

#### Overview and Control

- 1.1 The PCC and CC are complex organisations. Systems are needed to enable scarce resources to be allocated in accordance with carefully judged priorities. Proper financial planning is essential if the PCC and CC are to function effectively.
- 1.2 The financial planning process will be directed by the approved policy framework, a business planning process and a need to meet key objectives.
- 1.3 The planning process will be continuous and the planning period will cover at least four years. The process should include a more detailed annual budget, covering the forthcoming financial year. This allows the PCC and CC to plan, monitor and manage the way funds are allocated and spent. This should be used to support the Policing and Crime Plan and the alignment of business and financial planning.
- 1.4 The format of the annual budget determines the level of detail to which financial control and management will be exercised and shapes how the rules around virement operate.

#### **Medium Term Financial Planning**

##### Requirements

- 1.5 The PCC CFO and CC CFO are responsible for ensuring that a medium term financial plan looking at least four years ahead is prepared. The Plan should be submitted to the PCC and CC and be subject to review during the Financial Year. The Plan should cover:
  - policy requirements approved by the PCC as part of the policy framework
  - the risk management policy ensuring that risk appraisals are embedded throughout the forecast
  - unavoidable future commitments, including legislative requirements
  - initiatives already underway
  - spending patterns and pressures revealed through the budget monitoring process
  - efficiency and savings requirements
  - proposed service developments and plans
  - revenue consequences of capital spending proposals
  - taxation or other constraints
  - public and partner consultation
- 1.6 The PCC shall prepare at least a three year forecast of potential resources, including options for transfers to and from general balances and earmarked reserves and use of provisions, based upon an interpretation of government funding assumptions and all other available information. This will include potential implications for local taxation.
- 1.7 A gap may be identified between available resources and required resources. Requirements should be prioritised carefully by the PCC and CC to enable best informed judgements as to future funding levels and planning the use of resources.

- 1.8 The PCC and CC shall integrate financial and budget plans into service planning so that such plans can be supported by financial and non financial performance measures.

## **Annual Revenue Budget Preparation**

### Requirements

- 1.9 The PCC CFO in liaison with the CC CFO shall determine the format and timetable for the annual budget. The format and timetable is to comply with all legal requirements and with other latest external guidance.
- 1.10 The PCC and CC shall prepare detailed budget estimates for the forthcoming financial year in accordance with the agreed timetable. This will identify the base budget, inflation and other commitments, budget changes, risk assessments, efficiencies, savings and service development proposals. Budget preparation should take account of legal requirements, Government guidelines, accounting standards, the Treasury Management Code and the Prudential Code and reflect medium term financial planning requirements.
- 1.11 Budget estimates shall identify all proposed individual major revenue projects. A major revenue project shall be defined as one in excess of the estimated value shown in Section F.
- 1.12 The PCC and CC shall ensure that a business case is prepared for each project and that proposals undergo an option appraisal that demonstrates the costs and benefits of the project to the service.
- 1.13 The results of the appraisal shall provide evidence as to the scheme's viability and inclusion in the proposed revenue budget, including a recommended solution resulting from consideration of the business case and option appraisal.
- 1.14 The PCC CFO shall advise on the adequacy of all reserves and provisions, transfers to or from general balances, earmarked reserves or provisions and ensure that the overall budget is balanced.
- 1.15 The PCC Chief Executive shall ensure that the PCC and the PCP consider formally the budget proposals and that the PCC acts in accordance with legal requirements in respect of budget resolutions and the timely setting of the budget.
- 1.16 Upon approval of the annual budget and capital programme, the PCC CFO shall submit the Budget Requirement return to central government and precept requests to appropriate bodies in accordance with the legal requirement.
- 1.17 The PCC and CC shall seek to identify opportunities to improve economy, efficiency and effectiveness, and value for money during the preparation of the budget and on a continuous basis throughout the year.

## **B2 BUDGETARY CONTROL**

### Overview and Control

- 2.1 Budget management ensures that once the PCC has approved the overall budget, resources allocated are used for their intended purpose, subject to virement rules, and are properly accounted for. Budgetary control is a continuous process, enabling the PCC and CC to review and adjust budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 2.2 Budget Managers shall accept accountability for the budgets under their management and the level of service to be delivered and understand their financial responsibility.
- 2.3 Management of budgets must not be seen in isolation. It should be measured in conjunction with service outcomes and performance measures.
- 2.4 For strategic monitoring and management purposes, the budget shall identify operational policing, other policing costs, PCC costs, financing items and transfers to and from general balances and earmarked reserves.

### **Revenue Budget and Capital Programme Monitoring**

#### Overview and Control

- 2.5 By continuously identifying and explaining variances against budgetary targets changes in trends and resource requirements can be identified at the earliest opportunity.
- 2.6 To ensure that the PCC in total does not overspend, each Budget Manager is required to manage expenditure within their budget allocation. All budget officers responsible for committing expenditure must comply with relevant guidance and Financial Regulations.

#### Requirements

- 2.7 The CC is responsible for providing appropriate financial information to enable budgets to be monitored effectively.
- 2.8 The CC shall ensure that each element of income or expenditure has a nominated budget holder to take responsibility for that part of the budget. Budget responsibility should be aligned as closely as possible to the decision making process that commits expenditure. The CC shall ensure also that a nominated officer is responsible for monitoring income and expenditure against the pensions account.
- 2.9 The PCC is responsible for the PCC budget.
- 2.10 It is the responsibility of budget holders to manage income and expenditure within their area and to monitor performance, taking account of financial information provided by the CC. After the first quarter, detailed budget monitoring is to be undertaken by Budget Managers at least monthly and reported to the PCC and CC, including any variances within their own areas. Budget Managers will also take any action necessary to avoid exceeding their budget allocation and alert the CC to any problems.
- 2.11 The CC shall ensure that budget holders receive sufficient financial support to enable them to undertake the budgetary control responsibilities.

- 2.12 The CC shall ensure as best as possible that total spending for operational policing remains within the allocation of resources and takes, where possible, corrective action where significant variations from the approved budget are forecast. Where total projected expenditure is likely to exceed the allocation of resources, the PCC shall be alerted immediately and proposals for remedy should be put forward as part of the regular reporting process. The same responsibilities apply to the PCC Chief Executive for the PCC budget.
- 2.13 The CC shall submit a budget monitoring report monthly to the PCC containing the most recently available financial information. The monitoring reports shall compare projected income and expenditure with the latest approved budget allocations. No report need be presented until after the first quarter of the financial year. The reports shall be in a format agreed by the PCC CFO and the CC CFO. The format of the reports shall ensure that the PCC is apprised of changes of financial and non financial indicators, actual and projected staffing numbers, progress on ICT developments and other major projects, partnerships and other identified requirements.

## **Virement**

### Overview and Control

- 2.14 A virement is a planned reallocation of resources between approved budgets or heads of expenditure. A budget head is considered to be a line in the approved budget report. The scheme of virement is intended to enable the CC to manage the budget with a degree of flexibility within the overall policy framework determined by the PCC and, therefore, to provide the opportunity to optimise the use of resources to emerging needs.
- 2.15 The overall budget is agreed by the PCC and budget holders are expected to incur expenditure in accordance with the estimates that make up the budget, subject to agreed virement rules, and within the limit of total resources allocated. Virement does not create additional overall budget liability. The CC is expected to exercise discretion in managing budgets responsibly and prudently. Virements are not to be used as a tool to create future commitments. Therefore, it is vital that virement decisions do not lead to additional future spending without the prior approval of the PCC.
- 2.16 Overall, the rules on virement are designed to allow the CC greater flexibility to meet operational requirements and to facilitate the decision making process. The CC shall still be held to account by the PCC for decisions made and the way in which resources are deployed. The virement rules allow greater freedom but require reports on significant changes.
- 2.17 The CC can withdraw the ability for virement in any year should he/she feel it is prudent to do so.

### Requirements

- 2.18 The PCC is responsible for any transfers to and from PCC balances.
- 2.19 Subject to 2.16 above no restriction shall apply on virement between budget headings within operational policing

- 2.20 Each budget monitoring report reported to the PCC shall contain details where revised budgets or forecast income and expenditure varies to a significant degree from the original approved budget.
- 2.21 The CC can delegate authority to officers and staff in accordance with these arrangements.

## **Treatment of Year End Balances**

### Overview and Control

- 2.22 A yearend balance is the amount by which actual income and expenditure including capital costs varies from the final budget, normally identified down to devolved budget holder level. Arrangements may be necessary for the transfer of resources between accounting years, i.e. a carry forward. This may increase or decrease the resources available to budget holders in the following financial year. Regardless of any specific approval within these regulations, all carry forwards will be reported to the PCC as part of the final outturn process.
- 2.23 As part of the monitoring and control process, reporting of potential variations from budget and proposals for reallocation of resources shall be made as early as possible in the financial year. All reasonable endeavours shall be taken to provide a service that matches the approved budget.
- 2.24 There may be occasions when an overall overspend position occurs, particularly where exceptional events occur so close to the end of the financial year that a balanced outturn position is not possible. In this event, the overspend will be funded initially from General Balances.

### Requirements

- 2.25 Devolved budget holders who overspend their budget in any financial year may have their devolved budget reduced for the following financial year up to the amount of overspend, subject to the determination of the CC.
- 2.26 As a default position, any underspends against budgets will be taken to corporate reserves. In exceptional circumstances, budget holders who underspend their budget in any financial year may have their devolved budget increased for the following financial year, subject to the determination of the CC, based on known future service requirements, and the limits indicated in Section F. The PCC and CC may withdraw this provision in any financial year dependent upon the overall financial position.
- 2.27 The overall net level of underspend that can be carried forward in any one year without prior PCC approval shall be subject to the limit indicated in Section F. The PCC and CC may withdraw this provision in any financial year dependent upon the overall financial position.
- 2.28 All carry forwards outside of the parameters stipulated in these Regulations require the prior approval of the PCC.

## **Financial Guarantees**

- 2.29 The CC must inform the PCC CFO of any proposal that may require a financial guarantee prior to its implementation.



## **B3 CAPITAL PROGRAMME**

### Overview and Control

- 3.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the PCC, and CC such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and may create financial commitments for the future in the form of financing costs and revenue running costs.
- 3.2 Capital expenditure and financing should be managed in accordance with the Local Government Act 2003 and the CIPFA Prudential Code for Capital Finance in Local Authorities.
- 3.3 The capital programme should be linked to a capital strategies including the Estates Strategy, the ICT strategy and the Transport Strategy.
- 3.4 A report should be addressed to the PCC annually to formally report the performance against prudential indicators in accordance with the Local Government Act 2003 and the Prudential Code for Capital Finance. Assurance should be provided during the year as part of budget monitoring reports on compliance with the prudential indicators.

### Requirements

- 3.5 Capital expenditure on land and buildings should be in accordance with the requirements of the approved capital strategies.
- 3.6 The CC shall ensure that a business case is prepared for each project and that proposals undergo an option appraisal that demonstrates the costs and benefits of the project to the service.
- 3.7 The results of the appraisal shall provide evidence for the scheme's viability and inclusion in the proposed capital programme, including a recommended solution resulting from consideration of the business case / option appraisal. Routine vehicle, ICT and estate replacement programmes shall be excluded from this requirement, although a report justifying the level of programme will be required.
- 3.8 The PCC CFO in liaison with the CC CFO, shall prepare at least a four year rolling programme of proposed capital expenditure for submission to the PCC and the PCP. This shall cover the forthcoming financial year and the following three years. Each scheme shall identify the total capital cost of the project and any additional revenue commitments. The PCC will determine the Capital Programme.
- 3.9 Schemes proposed after the annual budget meeting for inclusion in the capital programme during the current financial year shall be submitted to the PCC in accordance with the limits shown in Section F.
- 3.10 The PCC CFO, in liaison with the CC CFO, shall identify funding for the capital programme. Amendments to the programme increasing its overall cost must demonstrate how such changes are to be funded.

- 3.11 A gap may be identified between available resources and required resources. Requirements should be prioritised carefully by the CC to enable the PCC to make the best informed judgements as to future funding levels and planning the use of resources.
- 3.12 No capital expenditure shall be incurred unless the scheme is included in the capital programme approved by the PCC or as subsequently modified. In this respect, the vehicle replacement programme, equipment replacement programme and ICT replacement programme shall be regarded each as one scheme.
- 3.13 Detailed estimates for each scheme in the approved capital programme shall be prepared as part of the option appraisal before tenders are sought or commitments made. Schemes need not be referred back to the PCC for further approval unless, when negotiating contract details, amendments to the nature of the scheme are sought or the cost of the scheme exceeds the limits shown in Section F.
- 3.14 Arrangements covering variations in contract conditions and prices are covered within Contract Standing Orders.
- 3.15 Finance and operating leases and any other credit arrangements shall not be entered into without the prior approval of the PCC and sufficient revenue resources must be available to meet the repayments.
- 3.16 The CC shall submit capital monitoring reports to the PCC monthly containing the most recently available financial information. The monitoring reports will show spending to date and compare projected income and expenditure with the approved programme. No report need be presented until after the first quarter of the financial year. The reports shall be in a format agreed by the PCC CFO in liaison with the CC CFO.
- 3.17 It is the responsibility of budget holders to manage capital expenditure estimates, taking account of financial information provided by the CC. Following the first quarter, detailed budget monitoring is to be undertaken by Budget Managers at least monthly and reported to the CC including any variances within their own areas. Budget Managers should also take any action necessary to avoid exceeding their budget allocation and alert the CC to any problems.
- 3.18 The CC shall report to the PCC projections of spending on individual capital projects and reasons for significant changes to the Programme including spending slipping between financial years.
- 3.19 The CC shall report capital expenditure for the year and cumulative expenditure on individual schemes to the PCC as part of the closure of accounts arrangements.
- 3.20 The CC shall take steps to ensure that any external funding that is subject to a specific timescale is, wherever possible, fully utilised within that timescale.

## **B4 MAINTENANCE OF BALANCES AND RESERVES**

### Overview and Control

- 4.1 General fund balances are maintained as a matter of prudence. They enable the PCC to provide for cash flow fluctuations and unexpected costly events and thereby help protect it from overspending the annual budget, should such events occur. Earmarked reserves for specific purposes may also be maintained where it is likely that a liability will arise in the future.

### Requirements

- 4.2 The PCC CFO shall advise the PCC on reasonable levels of general fund balances and earmarked reserves and take account of professional best practice.
- 4.3 When the annual budget and capital programme are submitted to the PCC for approval and for consultation with the PCP, the PCC CFO is required to advise on the adequacy of the PCC's balances and reserves.
- 4.4 The PCC shall approve the creation and transfers to and from general balances and reserves. The purpose, usage and basis of transactions should be clearly identified for each reserve established.

# SECTION C

## MANAGEMENT OF RISK AND RESOURCES

### C1 RISK MANAGEMENT

#### Overview and Control

- 1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all potential significant corporate and operational risks to the PCC and CC. This should include the proactive participation of all those associated with planning and delivering services.
- 1.2 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk cannot be eliminated altogether. However, risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued corporate and financial well being of the organisation. In essence it is, therefore, an integral part of good business practice.
- 1.3 Procedures should be in place to identify, assess, prevent or contain material known risks, with a monitoring process in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be formalised and conducted on a continuing basis.

#### Requirements

- 1.4 The PCC and CC are jointly responsible for ensuring a Risk Management Strategy is prepared. They are responsible for promoting a culture of risk management awareness, reviewing risk management as an ongoing process and reporting on a half yearly basis, a corporate risk register and risk embedment action plan.
- 1.5 The PCC CFO, in liaison with the CC CFO, is responsible for advising the PCC on appropriate arrangements for insurance. Acceptable levels of risk should be determined and insured against where appropriate. Activities leading to levels of risk assessed as unacceptable should not be undertaken.
- 1.6 The PCC is responsible for approving the risk management policy statement and strategy, including determining the strategy for insurance, and for reviewing the effectiveness of risk management.
- 1.7 The CC shall;
  - ensure that insurance cover is provided within the terms of the approved strategy and take account of all new risks as appropriate
  - ensure that claims made by the CC against insurance policies are made promptly
  - negotiate all claims in consultation with other officers where necessary
  - notify the PCC promptly of all new risks that require insurance and of any alterations affecting existing insurance
  - make all appropriate staff aware of their responsibilities for managing relevant risks and provide information on risk management initiatives
  - be responsible for risk management

- ensure that there are regular reviews of risk across the service
- ensure that staff, or anyone covered by the PCC's insurance, are instructed not to admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim
- ensure all appropriate staff are aware of their responsibilities to notify the CC immediately of any loss, liability or damage that may lead to a claim against the PCC, together with the information required
- approve, before any contract for works is made, the insurance cover to be furnished by the contractor in respect of any act or default unless the PCC chooses to provide insurance cover itself.

- 1.8 The CC shall be authorised to settle insurance liability claims up to the value shown in Section F. Beyond this value, claims must be referred to the PCC for approval.
- 1.9 The CC shall be authorised to settle claims subject to decision by Employment Tribunal up to the value shown in Section F. Beyond this value, claims must be referred to the PCC for approval.
- 1.10 The CC shall present an annual written claims report to the PCC summarising activity for the year.
- 1.11 The PCC Chief Executive shall evaluate and authorise any terms of indemnity that the PCC is requested to give by external parties.

## **C2 INTERNAL CONTROLS**

### Overview and Control

- 2.1 Internal control refers to the systems of control devised by management to help ensure PCC objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that assets and interests are safeguarded.
- 2.2 The PCC and CC require internal controls to manage and monitor progress towards strategic objectives. The PCC and CC have statutory obligations and, therefore, require internal controls to identify, meet and monitor compliance with these obligations.
- 2.3 The PCC and CC face a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks. The system of internal controls is established in order to provide measurable achievement of:
- efficient and effective operations
  - reliable financial information and reporting
  - compliance with laws and regulations
  - risk management

### Requirements

- 2.4 The PCC and CC are responsible for implementing effective systems of internal control and the PCC CFO, for advising on such. These arrangements shall ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They shall ensure that public resources are properly safeguarded and used economically, efficiently and effectively.

- 2.5 The CC shall ensure that internal controls exist for managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance information and taking appropriate anticipatory and remedial action where necessary. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
- 2.6 The CC shall ensure that internal controls exist for financial and operational systems and procedures. This includes physical safeguards for assets, segregation of duties, authorisation and approval procedures and robust information systems.
- 2.7 The PCC and CC shall agree and sign an Annual Governance Statement following a review of systems of internal control.

The Accounts and Audit Regulations 2003, 2006 and 2011 require the PCC and CC to review Internal Control arrangements at least annually.

- 2.8 The PCC and CC shall have an Audit Committee which has a responsibility for the continual oversight of corporate governance, internal control and risk management. The terms of reference of the Committee should include the following key requirements:
- to provide proactive and effective leadership on audit and governance issues and champion both audit and the embedding of risk management by all PCC staff and all CC officers and staff.
  - to be assured as to the adequacy of financial and other controls, corporate governance (including an anti-fraud and corruption strategy), financial regulations, contract standing orders and risk management arrangements, and ensure that they are reviewed and revised;
  - to examine and consider a draft Annual Governance Statement, and to make any recommendations to the PCC and CC in this respect.

2.9 The Audit Commission is responsible for appointing external auditors to the PCC and CC. The duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.

2.10 The PCC and CC may, from time to time, be subject to audit, inspection or investigation by external bodies such as HMIC and HM Revenue and Customs, who have statutory rights of access.

### **C3 AUDIT REQUIREMENTS**

#### **Internal Audit**

##### Overview and Control

3.1 The requirement for an internal audit function is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2003 more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”. Both the PCC and CC corporations sole are auditable bodies.

- 3.2 Internal audit is an independent and objective appraisal function established by an organisation for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 3.3 Internal audit is required to comply with the Auditing Practices Board's guidelines "Guidance for Internal Auditors", as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, along with any other statutory obligations and regulations.
- 3.4 The work of the Internal Audit function provides overall assurances to External Audit on internal control systems and external auditors may use the work of internal audit when carrying out their functions.

### Requirements

- 3.5 The PCC CFO, in liaison with the CC CFO, shall ensure the provision of an effective internal audit service.
- 3.6 Internal audit shall have direct access to the PCC, PCC Chief Executive, PCC CFO, CC, CC CFO and all levels of management.
- 3.7 The PCC and CC shall ensure that internal auditors have the authority to;
- access premises at all reasonable times
  - access all assets, records, documents, correspondence, control systems and appropriate personnel
  - receive any information and explanation considered necessary concerning any matter under consideration
  - require any staff to account for cash, stores or any other asset under their control
  - access records belonging to third parties, such as contractors, when required.
- 3.8 Any instances where the CC considers it inappropriate for internal audit to have the access detailed above, such as items considered to be of a sensitive operational nature, are to be confirmed with the PCC Chief Executive and PCC CFO.
- 3.9 The PCC CFO and the CC CFO, taking advice from internal audit and after consulting with the PCC and CC and external auditor, are responsible for ensuring an annual audit plan is prepared. The plan is to take account of the characteristics and relative risks of the activities involved.
- 3.10 The PCC CFO and the CC CFO shall submit the annual internal audit plan to the Audit Committee for approval prior to the start of the forthcoming financial year.
- 3.11 The PCC and CC shall consider and respond promptly to recommendations in audit reports and ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 3.12 The PCC and CC shall ensure that new systems for maintaining financial records or records of assets, or significant changes to existing systems, are discussed with and agreed by the PCC CFO and internal audit prior to implementation.

- 3.13 Internal audit shall provide an annual report to the Audit Committee summarising activities and findings for the year. This shall include an opinion on the effectiveness of the systems of internal control to support the Annual Governance Statement.
- 3.14 Internal audit shall provide an undertaking to respect the confidential nature of the service and to employ suitable staff only.

## **External Audit**

### Overview and Control

- 3.15 The Audit Commission is responsible for appointing external auditors to the PCC and CC. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in April 2005 sets out the auditor's objectives to review and report upon:
- the audited body's financial statements and its statement on internal control
  - whether the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- 3.16 The PCC and CC accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents truthfully and fairly' the financial position and the income and expenditure for the year in question and complies with legal requirements.

### Requirements

- 3.17 The PCC CFO and the CC CFO shall liaise with the external auditor and advise the PCC and CC on their responsibilities in relation to external audit and ensure there is effective liaison between external and internal audit.
- 3.18 The CC shall ensure that the external auditors are given the same levels of access as determined for internal audit above for the purposes of their work.

## **Other Inspection Bodies**

- 3.19 The PCC and CC may, from time to time, be subject to audit, inspection or investigation by external bodies such as HMIC or HM Revenue & Customs.

## **C4 PREVENTING FRAUD AND CORRUPTION**

### Overview and Control

- 4.1 The PCC and CC will not tolerate fraud or corruption in the administration of their responsibilities, whether from inside or outside.
- 4.2 The PCC's and CC's expectation of propriety and accountability is that officers and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.



- 4.3 The PCC and CC also expect that individuals and organisations (e.g. suppliers, contractors, and service providers) with whom they come into contact will act towards the PCC and CC with integrity and without thought or actions involving fraud or corruption.

#### Requirements

- 4.4 All staff shall act with integrity and lead by example.
- 4.5 The PCC and CC jointly are responsible for preparing an effective anti-fraud and anti-corruption policy and maintaining a culture that will not tolerate fraud or corruption and ensuring that internal controls are such that fraud or corruption will be prevented where possible.
- 4.6 Appropriate legislation, including the Public Interest Disclosure Act 1998, shall be adhered to.
- 4.7 The PCC and CC shall prepare a policy for the registering of interests and the receipt of hospitality and gifts covering officers and staff. A register of interests and a register of hospitality and gifts shall be maintained for officers and staff in a manner to be determined by the PCC in consultation with the CC.
- 4.8 The PCC, in consultation with the CC, shall prepare a whistle blowing policy to provide a facility that enables staff, the general public and contractors to make allegations of fraud, misuse and corruption in confidence, and without recrimination, to an independent contact. Procedures shall ensure that allegations are investigated robustly as to their validity, that they are not malicious and that appropriate action is taken to address any concerns identified. The CC shall ensure that all officers and staff are aware of any approved whistle blowing policy.
- 4.9 The PCC and the CC shall notify the PCC CFO and the CC CFO immediately if a preliminary investigation gives rise to any suspected fraud, theft, irregularity, improper use or misappropriation of property or resources. This reporting fulfils the requirements of Section 17 of the Crime and Disorder Act 1998. In such instances, the PCC, the CC, the PCC CFO and the CC CFO shall agree any further investigative process. Pending investigation and reporting, the PCC and CC shall take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 4.10 The PCC and CC may instigate disciplinary procedures where the outcome of an investigation indicates improper behaviour.

#### **C5 MONEY LAUNDERING AND PROCEEDS OF CRIME**

- 5.1 The PCC and CC have adopted an anti-money laundering policy and procedures intended to prevent the use of proceeds from crime. This policy has been developed with regard to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.
- 5.2 The PCC and CC have nominated the PCC CFO to perform the role of Money Laundering Reporting Officer (MLRO) whose principal role is to receive, consider and respond to any reports received of known or suspected money laundering.
- 5.3 The PCC and CC are responsible for ensuring that:

- All officers and staff most likely to be exposed to or suspicious of money laundering situations are made aware of the requirements and obligations placed on the OPCCN and Constabulary and themselves by the legislation.
- Those officers and staff considered most likely to encounter money laundering are given appropriate training. Legal Services can provide relevant in-house training.
- Procedures are established to help forestall and prevent money laundering including making arrangements for reporting concerns about money laundering to the MLRO.
- Periodic and regular assessments are undertaken of the risks of money laundering.

## **C6 ASSETS**

### Overview and Control

6.1 The PCC holds assets in the form of land, property, vehicles, equipment, and other items. It is important that assets are safeguarded and used efficiently in service delivery, that there are arrangements for the security of both assets and information required for service operations and that proper arrangements exist for the disposal of assets. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management. The function of the asset register alongside an asset management plan is to provide the PCC with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained
- valued in accordance with statutory and management requirements.

6.2 Intellectual property is a generic term that includes inventions and writing. If these are created by officers and staff during the course of employment, then, as a general rule, they belong to the PCC, not the officer or member of staff. Various Acts of Parliament cover different types of intellectual property. Certain activities undertaken within the PCC or the CC may give rise to items that could be patented, for example, software development. These items are collectively known as intellectual property. In the event that the PCC decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with an approved intellectual property policy.

### Requirements

#### **Security**

- 6.3 Resources are only to be used for the purposes of the PCC and CC, are to be available for use when required and are to be properly accounted for.
- 6.4 The CC shall ensure that assets and records of assets are properly maintained and securely held and that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.
- 6.5 Attractive and portable items such as computers, cameras and recording devices should be identified with appropriate security markings

- 6.6 The CC shall ensure that all staff are aware of their responsibilities with regard to safeguarding the PCC's assets and information, including the requirements of the Data Protection Act and software copyright legislation.
- 6.7 The CC shall ensure that title deeds to the PCC's property are held securely.
- 6.8 Lessees and other prospective occupiers of PCC land are not allowed to take possession of the land until a lease or agreement in a form approved by the CC is in place.

### **Valuation**

- 6.9 The CC shall maintain an asset register for all fixed assets in accordance with the Accounting Policies shown in the annual Statement of Accounts., in a form approved by the PCC CFO. Assets are to be recorded when they are acquired by the PCC and this record updated as changes occur with respect to location, condition and ownership. Assets are to be valued:
- in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: (The Code)
  - for insurance purposes
- 6.10 Assets may also be valued at market rates for asset management planning purposes where this is different from other valuations.
- 6.11 The PCC and CC shall arrange for the valuation of assets for accounting purposes.

### **Inventories**

- 6.12 The PCC and CC shall maintain inventories that record an adequate description of portable and desirable items such as computers, monitors, printers, facsimile machines, mobile phones and photographic equipment above the value shown in Section F.
- 6.13 There shall be at least an annual check of all items on the inventory in order to verify location, review, and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. The annual check is to be undertaken by the responsible budget holder, who shall ensure that another member of staff is responsible for maintaining the inventory.

### **Stocks and Stores**

- 6.14 The PCC and CC shall make arrangements for the care, custody and control of stocks and stores and maintain detailed stores accounts in a form approved by the CC CFO. Stocks are to be maintained at reasonable levels so as to balance the need for availability and the risk of obsolescence.
- 6.15 A complete stock check is to be undertaken at least once per year either by means of continuous or annual stock take. The stock take shall be undertaken and certified by an authorised member of staff who is independent of the stock keeping function. This procedure will be followed and a complete stock check undertaken whenever stock keeping duties change.

- 6.16 Where significant, values of stocks and stores at 31 March each year are to be certified and included in the annual accounts.
- 6.17 Discrepancies between the actual level of stock and the book value of stock may be written off by the CC up to the level shown in Section F. Amounts for write off by the CC must be referred to the PCC for approval, supported by a written report explaining the reasons for the write off and any investigation undertaken.
- 6.18 Obsolete stock may be written off by the CC up to the level shown in Section F. Amounts for write off above this value must be referred to the PCC for approval, supported by a written report explaining the reasons for the write off and any investigation undertaken.

### **Intellectual Property**

- 6.19 The PCC and CC jointly are responsible for preparing guidance on intellectual property procedures and ensuring that staff are aware of these procedures.
- 6.20 The PCC is responsible for approving an intellectual property policy.

### **Asset Disposal**

- 6.21 Assets shall be disposed of when in the best interests of the PCC and at the most advantageous price. Where this is not the highest offer, the CC shall prepare a report for the PCC outlining the reasons. The CC may dispose of surplus land and buildings, vehicles and items of equipment up to the estimated value shown in Section F. Disposals above this value are to be reported to the PCC for prior approval.
- 6.22 Items above the estimated value shown in Section F generally shall be disposed of by public auction or sealed bids after advertisement, unless it can be shown that an alternative method of disposal would provide better value for the PCC.
- 6.23 All asset disposals shall be recorded in the asset register or inventory as appropriate.
- 6.24 The CC CFO shall inform the PCC CFO of any disposals that may have a significant impact upon the balance sheet.

## **C7 TREASURY MANAGEMENT AND BANKING ARRANGEMENTS**

### Overview and Control

- 7.1 The PCC and CC are large organisations. It is important that PCC and CC money is managed properly, in a way that balances risk with return, but with the prime consideration being given to the security of all monies. All treasury management activities should be undertaken in accordance with the CIPFA Treasury Management Code.

### Requirements

- 7.2 The PCC and CC shall adopt the key recommendations of *CIPFA's Treasury Management in the Public Services: Code of Practice (the Code)*, as described in Section 4 of that Code.
- 7.3 Accordingly, the PCC shall create and maintain, as the cornerstone for effective treasury management,

- a treasury management policy statement, stating the policies and objectives of its treasury management activities
- suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in Section 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the PCC. Such amendments will not result in the PCC deviating materially from the Code's key recommendations.

- 7.4 The PCC shall receive reports on its treasury management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of this year, a mid year review and an annual report after its close, in the form prescribed in its TMPs. During the financial year, reports on action undertaken shall be submitted to the PCC, by the CC, as part of the financial monitoring information.
- 7.5 The PCC is responsible for the implementation of its treasury management policies and practices and delegates responsibility for the execution and administration of treasury management decisions to the PCC CFO, in liaison with the CC CFO, who will act in accordance with the organisation's policy statement and TMPs and, CIPFA's *Statement of Professional Practice on Treasury Management*.
- 7.6 The PCC and CC nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.
- 7.7 The PCC shall adopt the following Treasury Management Policy Statement. The PCC:
- Defines its treasury management activities as "the management of the OPCCN's cash flows, its banking, money market and capital market transactions; the effective management of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."
  - Regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the OPCCN .
  - Acknowledges that effective treasury management will provide support towards the achievement of its business and services objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employ suitable performance measurement techniques, within the context of effective risk management.
- 7.8 All investments shall be in the name of the PCC.
- 7.9 The PCC CFO may delegate aspects of the treasury management function to the CC CFO where this is deemed more appropriate.
- 7.10 The PCC CFO shall have overall responsibility for banking arrangements. The PCC CFO, in liaison with the CC CFO, shall determine a policy for the secure operation of bank accounts. All bank accounts shall be in the name of the PCC unless authorised by the PCC CFO and PCC Chief Executive. The CC has authority to open or close covert accounts to aid operations. The opening and closing of other bank accounts requires the authorisation of the PCC CFO.

- 7.11 The CC shall provide appropriate staff with cash or bank imprests to meet minor expenditure. The CC shall determine reasonable petty cash limits and maintain a record of all transactions and petty cash advances made, and periodically review the arrangements for the safe custody and control of these advances.
- 7.12 The CC shall prepare detailed Financial Instructions for dealing with petty cash, to be agreed with the CC CFO, and these shall be issued to all appropriate staff.
- 7.13 The use of purchase cards shall be allowed for undertaking PCC and CC business. The PCC CFO, in consultation with the CC CFO, shall determine a policy for the secure operation of such purchase cards.
- 7.14 All imprest cheques shall be signed at an appropriate level in accordance with an approved list of signatories and up to the level shown in Section F. All other cheques shall be signed at an appropriate level in accordance with an approved bank mandate.
- 7.15 The CC shall comply with the requirements of the Money Laundering Regulations 2003.

## **C8 STAFFING**

### Overview and Control

- 8.1 Staffing costs form a significant element of the annual revenue budget of the PCC and CC. In order to provide the highest level of service and ensure effective use of resources, it is crucial that the PCC and CC recruit and retain high calibre, knowledgeable officers and staff, qualified to an appropriate level.
- 8.2 The CC is responsible for providing overall management of officers and staff within the Constabulary and ensuring that there is a proper use of the evaluation or other agreed systems for determining the remuneration of a job.

### Requirements

- 8.3 The CC shall ensure that the staffing budget provides an accurate forecast of staffing levels, that it accords with the approved staffing policies of the PCC and shall advise the PCC on the budget provision necessary to cover estimated staffing levels.
- 8.4 The CC shall ensure that officers and staff are appointed and employed in accordance with the agreed personnel policies of the PCC and that service records are properly maintained.

## **C9 CUSTODY OF UNOFFICIAL FUNDS AND PRIVATE PROPERTY**

### **Voluntary Unofficial Funds**

#### Overview and Control

- 9.1 These are deemed to be funds, other than those of the PCC or CC, which are controlled wholly or partly by staff by reason of their employment e.g. Benevolent Fund.
- 9.2 These funds should be kept separate from all PCC and CC transactions and bank accounts and those responsible must ensure that appropriate insurance arrangements are in place.

## Requirements

- 9.3 Staff controlling such funds shall ensure that a suitably experienced independent person audits the fund in accordance with procedures required by the CC, and arrange for the annual audited accounts to be received by the appropriate management body.
- 9.4 The CC shall be informed of the existence, purpose and nature of all voluntary unofficial funds and receive minutes from the management bodies confirming the adoption of the audited accounts.
- 9.5 The CC shall issue Financial Instructions detailing how unofficial funds are to be managed and controlled.

## **Custody of Private Property**

### Overview and Control

- 9.6 The CC is required to exercise a duty of care and safeguard found or seized property pending decisions on its ownership, or private property of an individual e.g. a suspect in custody.

### Requirements

- 9.7 The CC is responsible for the safekeeping of the private property of a person, other than a member of staff, under his/her guardianship or supervision, and shall determine procedures for such. These procedures shall be made available to all appropriate staff.
- 9.8 The CC is responsible for the safekeeping of found or seized property and shall determine procedures for such. These procedures shall be made available to all appropriate staff.
- 9.9 The CC shall be informed without delay in the case of loss or diminution in value of such private property.
- 9.10 The CC shall comply with the requirements of the Proceeds of Crime Act 2002.

# SECTION D

## SYSTEMS AND PROCEDURES

### D1 GENERAL

#### Overview and Control

- 1.1 There are many systems and procedures relating to the control of the PCC's assets, including purchasing, costing and management systems. The PCC is reliant on electronic systems for financial management information. This information must be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 1.2 It is imperative that operating systems and procedures are secure and that basic data exists to enable the PCC and CC's objectives, targets, budgets and plans to be formulated and measured. Performance measures need to be communicated to appropriate personnel on an accurate, complete and timely basis.

#### Requirements

- 1.3 The PCC CFO, in liaison with the CC CFO, is responsible for determining the overall accounting systems and procedures. The CC CFO is responsible for determining supporting financial records and issuing guidance and procedures for staff.
- 1.4 The PCC and CC shall ensure, in respect of systems and processes, that
  - systems are secure, adequate internal controls exist and accounting records are properly maintained and held securely. This is to include an appropriate segregation of duties to minimise the risk of error, fraud or other malpractice
  - appropriate controls exist to ensure that all systems input, processing and output is genuine, complete, accurate, timely and not processed previously
  - a complete audit trail is to be maintained, allowing financial transactions to be traced from the accounting records to the original document and vice versa
  - systems are documented and staff trained in operations.
- 1.5 The CC shall register compliance with the Data Protection Act 1988 ensuring that data processing (manual or electronic) involving personal information is registered.
- 1.6 The CC shall ensure compliance with copyright legislation around software being used.
- 1.7 The CC shall ensure that there is a documented and tested business continuity plan to allow system processing to resume quickly in the event of an interruption. Effective contingency arrangements, including back up procedures, are to be in place in the event of a failure in computer systems.
- 1.8 The CC shall establish a Scheme of Delegation, identifying officers and staff authorised to act upon the CC's behalf in respect of income collection, placing orders, making payments and employing staff. A schedule of officers and staff, their specimen signatures and the delegated limits of their authority shall be maintained.



## **D2 INCOME**

### Overview and Control

- 2.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly.
- 2.2 The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received

### Requirements

- 2.3 The PCC shall determine and review annually a policy for all fees and charges.
- 2.4 The CC shall make arrangements for the collection of all income due including the appropriate and correct charging of VAT.
- 2.5 The CC shall review scales of fees and charges at least annually. All charges should be at full cost recovery except where regulations require otherwise or with the express approval of the PCC.
- 2.6 The CC shall order and supply to appropriate officers and staff all receipt forms, books or tickets and similar items and be satisfied as to the arrangements for their control. Official receipts or other suitable documentation shall be issued for all income received.
- 2.7 Income is to be paid fully and promptly in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a monthly basis by the CC. Income must not be used to cash personal cheques or other payments.
- 2.8 Sponsorship Income shall be entered into a Sponsorship Register in accordance with the approved policy. The total value of gifts and sponsorship in any financial year should not exceed 1% of the PCC net revenue budget. Where the monetary value of a sponsorship proposal is over the limits shown in section F or is perceived to be of a sensitive or controversial nature, this must be approved by the PCC before acceptance.
- 2.9 The CC shall establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid in accordance with the PCC terms and conditions.
- 2.10 Income due shall not be written off until the CC is satisfied that all reasonable steps have been taken for its recovery. Individual amounts may be written off by the CC up to the level shown in Section F. Amounts for write off above this value must be referred to the PCC for approval, supported by a written report explaining the reasons for the write off. A record must be kept of all sums written off up to the approved limit.
- 2.11 The CC shall prepare detailed Financial Instructions for dealing with income, to be agreed with the PCC CFO, and these shall be issued to all appropriate officers and staff.

### **D3 ORDERING OF GOODS AND SERVICES**

#### Overview and Control

- 3.1 Public money should be spent with demonstrable probity and in accordance with PCC and CC policies. PCCs have a statutory duty to achieve best value, in part through economy and efficiency. Procedures should ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Contract Standing Orders.

#### Requirements

- 3.2 The CC is responsible for preparing a procurement policy covering the principles to be followed for the purchase of goods and services. The PCC is responsible for approving the procurement policy.
- 3.3 All officers and staff have a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and contractors if they are engaged in contractual or purchasing decisions.
- 3.4 All orders issued shall be in accordance with the approved procurement policy or Financial Instructions. Official orders must be issued for all work, goods or services to be supplied, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions approved by the PCC CFO and the CC CFO. Orders must be in a form approved by the PCC CFO and the CC CFO.
- 3.5 Authorisation of requisitions / orders shall be in accordance with the limits shown in section F. Only authorised officers and staff can raise requisitions / orders and therefore an authorised signatory list will be maintained.
- 3.6 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of PCC contracts.
- 3.7 Goods and services ordered must be appropriate and needed, there must be adequate budgetary provision and quotations or tenders must be obtained where necessary.
- 3.8 Tenders and quotations shall be obtained in accordance with Contract Standing Orders within the limits shown in Section F.
- 3.9 Commitments incurred by placing orders are to be shown against the appropriate budget allocation and incorporated within budget monitoring reports.
- 3.10 Where possible, a different person should authorise the payment from the person who signed the requisition / order.
- 3.11 The CC shall prepare detailed Financial Instructions for dealing with ordering, to be agreed with the PCC CFO, and these shall be issued to all appropriate officers and staff.

## **D4 PAYMENTS FOR GOODS AND SERVICES**

### Requirements

- 4.1 All payments are to be made in accordance with the approved procurement procedures or Financial Instructions.
- 4.2 Payments are not to be made unless goods and services have been received at the correct price, quantity and quality in accordance with any official order. Goods should not be received by the person who placed the initial requisition, unless this is impracticable.
- 4.3 A segregation will exist between the person ordering and the person approving the order. The receipting of goods confirms the invoice is suitable for payment. In the case of a manual invoice the 2 members of staff need to be involved in the ordering/receipting/authorising process
- 4.4 Authorisation of invoices shall be in accordance with the limits shown in section F.
- 4.5 Procedures should be in place to ensure that all payments are to be made to the correct person, for the correct amount and be recorded properly, regardless of the method of payment. Systems should ensure the invoice has not been processed for payment before and that full advantage has been taken of any discounts offered.
- 4.6 Where VAT is charged, payment is not to be made unless a proper VAT invoice has been received.
- 4.7 All payments should be processed promptly to comply with the Late Payment of Commercial Debt (Interest) Act 1988.
- 4.8 The CC shall prepare detailed Financial Instructions for dealing with payments, to be agreed with the PCC CFO, and these shall be issued to all appropriate officers and staff.

## **D5 PAYMENTS TO OFFICERS, STAFF AND PCC**

### Overview and Control

- 5.1 Staff costs are the largest item of expenditure for most organisations. Therefore, it is important that payments are accurate, timely, made only where they are due and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for.
- 5.2 All overtime claims and other claims for remuneration, travel and expenses should be submitted at least monthly in accordance with Police Regulations and Force Policy. This is to ensure that monitoring of expenditure is more accurate and that authorisation of claims can be certified properly.

### Requirements

- 5.3 Proper authorisation procedures are to be in place for starters, leavers, variations to pay and enhancements to pay. Appointments are to be made in accordance with approved establishments, grades and scale of pay and adequate budget provision should be available. Payroll staff must be notified of all appointments, terminations or variations in the correct format and to the timescales required.

- 5.4 The CC shall make arrangements for the secure and reliable payment of salaries, wages, pensions, compensation and other emoluments to existing and former officers and staff. Adequate and effective systems are to be in place and procedures operated so that
- payments are only authorised to bona fide officers, staff and pensioners
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are applied correctly
  - officer and staff names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 5.5 The CC shall make arrangements for the payment of all travel and expense claims. The PCC Chief Executive shall make arrangements for the payment of all PCC travel and expenses claims. Such claims should be in the prescribed form, duly completed and certified. Certification is taken to mean that journeys were authorised and expenses incurred properly and necessarily and that allowances are payable properly, ensuring that cost effective use of travel arrangements is achieved. Due consideration should be given to tax implications. Payments shall be made to the value of presented receipts up to the prescribed limits, in accordance with Financial Instructions.
- 5.6 All overtime payments are to be made on the basis of authorised timesheets or claims.
- 5.7 Payroll transactions are to be processed only through the payroll system. Payments to individuals engaged on a self-employed consultant or subcontract basis shall only be made in accordance with HM Revenue and Customs requirements. The HM Revenue and Customs applies a tight definition of employment status, and in cases of doubt, advice should be sought.
- 5.8 The CC shall ensure that full records are maintained of benefits in kind and that they are properly accounted for in any returns to the HM Revenue and Customs.
- 5.9 The CC shall comply with all HM Revenue and Customs regulations and record and make arrangements for the accurate and timely payment of income tax and national insurance. The CC shall also comply with regulations regarding the pay over of pension deductions and other statutory or voluntary deductions from pay. Payroll staff should be notified of all employee benefits in kind to enable full and complete reporting within the income tax self assessment system.
- 5.10 The CC shall prepare detailed Financial Instructions for dealing with payments to officers and staff, to be agreed with the PCC CFO, and these shall be issued to all appropriate officers and staff.

## **D6 TAXATION**

### Overview and Control

- 6.1 Like all organisations, the PCC and CC are responsible for ensuring their tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are often severe.
- 6.2 It is important that all relevant officers and staff are kept up to date on tax issues and instructed on required record keeping.

## Requirements

- 6.3 The PCC and CC shall ensure the completion of all HM Revenue and Customs requirements regarding PAYE and that due payments are made in accordance with statutory requirements.
- 6.4 The PCC and CC shall ensure that the correct VAT liability is attached to all income due and that all VAT reclaimed on purchases complies with HM Revenue and Customs regulations. The CC shall ensure the completion of VAT claims for receipts and payments are made in accordance with statutory requirements.
- 6.5 Where construction and maintenance works are undertaken, the contractor shall fulfil the necessary construction industry tax deduction requirements. The CC shall provide details to the HM Revenue and Customs regarding the construction industry tax deduction scheme.
- 6.6 The CC shall maintain up to date guidance for officers and staff on organisational taxation issues (e.g. VAT and CIS).

## **D7 EX GRATIA PAYMENTS**

### Overview and Control

- 7.1 An ex gratia payment is a payment made where no legal obligation exists. An example may be recompense to a police officer for damage to personal property in the execution of duty or to a member of the public for providing assistance to a police officer in the execution of duty.

### Requirements

- 7.2 The CC may make ex gratia payments to members of the public up to the level shown in section F in any individual instance, for damage or loss to property or for personal injury or costs incurred as a result of police action where such a payment is likely to facilitate or is conducive or incidental to the discharge of any of the functions of the PCC. The CC shall maintain details of such payments in a register.
- 7.3 The CC may make ex gratia payments up the level shown in section F in any individual instance, for damage or loss of property or for personal injury to a police officer in the execution of duty or to a member of the public assisting the police. The CC shall maintain details of such payments in a register.

# SECTION E

## EXTERNAL ARRANGEMENTS

### E1 PARTNERSHIPS

#### Overview and Control

- 1.1 Partnerships with other organisations can play a key role in delivering community strategies and in helping to promote and improve the well being of the area. A partner may be defined as:
- an organisation joining to undertake, part fund or participate as a beneficiary in a joint project, or
  - a body whose nature or status give it a right or obligation to support a joint project
- 1.2 The main reasons for entering into a partnership with others are:
- to provide new and better ways of delivering services
  - to comply with statutory requirements
  - the ability to access new resources
  - the desire to find new ways to share risk
  - to forge new relationships
  - mitigate costs when looking to achieve shared goals
- 1.3 Partners undertaking a joint venture have common responsibilities:
- to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - to be willing to take on a role in the broader programme, appropriate to the skills and resources of the contributing organisation
  - to be open about any conflicts that might arise
  - to encourage joint working and promote the sharing of information, resources and skills
  - to keep secure any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
  - to promote the project
- 1.4 The PCC and CC should welcome the opportunity for forming partnerships with other local organisations to address local needs.

#### Requirements

- 1.5 The PCC Chief Executive, in consultation with the CC, is responsible for preparing a policy statement on partnership arrangements. The PCC is responsible for approving the policy.
- 1.6 The PCC shall ensure there is adequate budget provision for partnerships as part of the annual budget setting process.
- 1.7 The PCC and CC are responsible for undertaking the partnership funding arrangements, in accordance with the agreed policy. The PCC and CC shall consider the overall governance arrangements and legal issues when arranging contracts with external bodies.

- 1.8 The PCC and CC shall ensure that the roles and responsibilities of each of the partners involved are agreed and accepted formally before the partnership commences.
- 1.9 The PCC CFO and CC CFO should ensure that the accounting and reporting arrangements relating to partnerships are satisfactory.
- 1.10 The PCC and CC, upon taking appropriate advice, shall ensure that:
- before entering into the agreement, a risk management appraisal has been prepared
  - such agreements do not impact adversely upon the services provided by the PCC and CC
  - project appraisal is in place to assess the viability of the project in terms of resources, staffing and expertise
  - all arrangements are properly documented
  - regular communication is held with other partners throughout the project in order to achieve the most successful outcome
  - audit, security and control requirements are satisfied
  - accounting arrangements are in place and satisfactory, including resourcing, taxation procedures and carry-forward arrangements
- 1.11 The PCC Chief Executive shall maintain a register of all partnership arrangements.
- 1.12 The PCC and CC shall ensure that all officers and staff involved in partnership arrangements are given access to Financial Regulations and Contract Standing Orders. On occasion, the possibility of non compliance with these Regulations may arise from entering into partnership arrangements. In such cases, prior approval of the PCC following the agreement of the PCC CFO, in liaison with the CC CFO should be sought.

## **E2 EXTERNAL FUNDING**

### Overview and Control

- 2.1 External funding is a very important source of income. The main source of such funding is government grants, but consideration should be given to ensuring that the potential for all income sources is maximised. The PCC should agree a fees and charges policy and review this on a regular basis.
- 2.2 Any match funding requirements should be given due consideration prior to entering into agreements and resources identified for future commitments.

### Requirements

- 2.3 The CC shall ensure that any conditions placed on the Constabulary in relation to external funding are in accordance with the approved policies of the PCC. In such cases, the CC shall comply with the key conditions determined by the funding body and any statutory requirements.
- 2.4 The CC shall pursue actively any opportunities for additional funding where this is considered to be in the interests of the PCC.
- 2.5 All bids for external funding and the proper recording of grant income shall be co-ordinated through the CC.

- 2.6 The CC shall ensure that all funding notified by external bodies is received and properly recorded in the accounts, that all claims for funds are made by the due date and that audit requirements are met.

### **E3 WORK FOR THIRD PARTIES**

#### Overview and Control

- 3.1 The CC provides special services to other bodies outside of its normal obligations, for which charges are made e.g. policing inside football grounds. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is not ultra vires.

#### Requirements

- 3.2 The CC shall ensure that proposals for assistance are costed, that contracts are drawn up where appropriate, that charges are made in accordance with the PCC policy that, where possible, payment is received in advance of the delivery of the service and that the PCC is not put at risk from any bad debts.
- 3.3 The CC shall ensure that appropriate insurance arrangements are in place.

### **E4 PRIVATE FINANCE INITIATIVE**

#### Overview and Control

- 4.1 A Private Finance Initiative (PFI) is an alternative method of procuring assets or services for the organisation, whereby a scheme is designed, built, financed and operated by a private contractor in return for an annual payment by the PCC over the life of the contract. Schemes are normally supported by government grant for the capital element of the cost.
- 4.2 Such transactions tend to be complex, of a larger scale and with a fairly lengthy lead in time. The advantage of using PFI is to provide services that might otherwise be unaffordable or unavailable.

#### Requirements

- 4.3 A Private Finance Initiative shall be considered as a potential funding source during the option appraisal process of a project, where a scheme or group of schemes meet the current criteria for consideration of PFI support.
- 4.4 The PCC shall be responsible for approving progress of all PFI projects at key stages, including final sign off. Key stages are to be determined in advance of any potential scheme by the CC.
- 4.5 The CC shall ensure that appropriate specialist legal and financial advice is received at all stages of any potential PFI project, from initial preparation of the business case, through to procurement and operation of the contract and that sufficient fees are identified within the budget to procure such advice.
- 4.6 The CC shall ensure that PFI payments are made correctly under the contract after enforcement of any contract penalties for non-performance.



- 4.7 The CC shall inform the PCC of any matter that may lead to termination under an approved contract. The PCC shall be required to approve termination of a contract by use of the contractor default provisions.
- 4.8 The PCC CFO, in liaison with the CC CFO, is responsible for accounting for PFI arrangements in accordance with the relevant regulations and proper accounting practices.

## **E5 COLLABORATED ACTIVITES**

### Overview and Control

- 5.1 Providing services under collaborated arrangements can achieve efficiencies, savings and improve service reliance requirements.
- 5.2 The PCC and CC shall jointly ensure that each activity covered by collaborated arrangements is subject to the financial regulations of one of the PCC's involved. The particular PCC's financial regulations should be selected having regard to the staffing, activity and location of the collaborated activity.

## SECTION F

### DELEGATED LIMITS

The section references below refer to the main body of text within sections A to E of these Financial Regulations. All financial limits are contained within this section in order to minimise the need for change when values are updated.

#### **B1 Financial Planning**

##### Annual Revenue Budget Preparation

- 1.11 The budget estimates shall identify all proposed individual major revenue projects. A major revenue project shall be defined as one in excess of the estimated value shown below.

*£250,000*

#### **B2 Budgetary Control**

##### Treatment of Year End Balances

- 2.26 As a default position, any underspends against budgets will be taken to corporate reserves. In exceptional circumstances, budget holders who underspend their budget in any financial year may have their devolved budget increased for the following financial year, subject to the determination of the CC, based on known future service requirements, and the limits indicated in Section F. The PCC and CC may withdraw this provision in any financial year dependent upon the overall financial position.

*Up to a maximum of £100,000 before requiring PCC approval.*

- 2.27 The overall net level of underspend that can be carried forward in any one year without prior PCC approval shall be subject to the limit indicated below. The PCC may withdraw this provision in any financial year dependent upon the overall financial position of the PCC.

*£500,000*

#### **B3 Capital Programme**

- 3.9 The PCC shall approve any in-year variations to the Capital Programme on the following basis:

- CC to have delegated authority to approve new or additional expenditure up to £100k on any discrete item, subject to remaining within the overall approved budget.
- New or additional expenditure in excess of £100k to be approved by the PCC

- 3.13 Detailed estimates for each scheme in the approved capital programme shall be prepared as part of the option appraisal before tenders are sought or commitments made. Schemes need not be referred back to the PCC for further approval unless, when negotiating contract details, amendments to the nature of the scheme are sought or the cost of the scheme exceeds the limits shown below.

*Cost of scheme varies from approved estimate by lesser of 10% or £100,000, subject to a minimum variation of £25,000.*

## **C1 Risk Management**

- 1.8 The CC shall be authorised to settle insurance liability claims up to the value shown below. Beyond this value, claims must be referred to the PCC, for approval.

*£50,000*

- 1.9 The CC shall be authorised to settle claims subject to decision by Employment Tribunal up to the value shown below. Beyond this value, claims must be referred to the PCC, for approval.

*£50,000*

## **C6 Assets**

### Inventories

- 6.12 The CC shall maintain inventories that record an adequate description of portable and desirable items such as computers, monitors, printers, facsimile machines, mobile phones and photographic equipment above the value shown below.

*£100*

### Stocks and Stores

- 6.17 Discrepancies between the actual level of stock and the book value of stock may be written off by the CC up to the level shown below. Amounts for write off above this value must be referred to the PCC for approval.

<i>Individual items</i>	<i>£10,000</i>
<i>Cumulative for financial year</i>	<i>£25,000</i>

- 6.18 Obsolete stock may be written off by the CC up to the level shown below. Amounts for write off above this value must be referred to the PCC for approval.

<i>Individual items</i>	<i>£10,000</i>
<i>Cumulative for financial year</i>	<i>£25,000</i>

### Asset Disposal

- 6.21 The CC may dispose of surplus land and buildings, vehicles and items of equipment up to the estimated value shown below. Disposals above this value are to be reported to the PCC for prior approval.

<i>Land &amp; Buildings</i>	<i>£100,000</i>
<i>Equipment</i>	<i>£15,000</i>
<i>Individual vehicles</i>	<i>£25,000</i>

6.22 Items above the estimated value shown below shall be disposed of by public auction or sealed bids after advertisement, unless it can be shown that an alternative method of disposal would provide better value.

<i>Land &amp; Buildings</i>	<i>£50,000</i>
<i>Equipment</i>	<i>£15,000</i>

### **C7 Banking Arrangements**

7.14 All imprest cheques shall be signed at an appropriate level in accordance with an approved list and up to the level shown below

<i>Up to £1,000</i>	<i>One signatory</i>
<i>Over £1,000</i>	<i>Two signatories</i>

### **D2 Income**

2.8 Where the monetary value of a sponsorship proposal is over the limit shown below or is perceived to be of a sensitive and controversial nature, this must be approved:

<i>Up to £10,000</i>	<i>Head of Joint Finance</i>
<i>£10,000 to £50,000</i>	<i>Relevant Chief Officer</i>
<i>Over £50,000</i>	<i>PCC or PCC CFO</i>

2.10 Individual amounts may be written off by the CC up to the level shown below. Amounts for write off above this value must be referred to the PCC for approval.

*£10,000*

### **D3 Ordering of Goods and Services**

3.5 Authorisation of orders shall be in accordance with the limits shown below:

<i>Up to £20,000</i>	<i>Nominated authorised signatory</i>
<i>£20,001 - £50,000</i>	<i>Authorised Budget Manager</i>
<i>Over £50,000</i>	<i>Countersigned by PCC CFO or CC CFO or ACO(R)</i>

3.8 Written quotations shall be obtained in accordance with Contract Standing Orders. Tenders must be sought before expenditure exceeding the amount shown below is incurred.

<i>Quotations - General</i>	<i>All</i>
<i>Quotations - Building Related</i>	<i>£10,000</i>
<i>Tenders</i>	<i>£35,000</i>

### **D4 Payments for Goods and Services**

4.4 Authorisation of invoices shall be in accordance with the limits shown below:

<i>Up to £20,000</i>	<i>Nominated authorised signatory</i>
<i>£20,001 - £50,000</i>	<i>Authorised Budget Manager</i>
<i>Over £50,000</i>	<i>Countersigned by PCC CFO or CC CFO or ACO(R) or</i>

**D7 Ex Gratia Payments**

7.2 The CC may make ex gratia payments to members of the public up to the level shown below in any individual instance, for damage or loss to property or for personal injury or costs incurred as a result of police action where such a payment is likely to facilitate or is conducive or incidental to the discharge of any of the functions of the CC. Amounts greater than those specified must be referred to the PCC for approval.

*£10,000*

7.3 The CC may make ex gratia payments up to the level shown below in any individual instance, for damage or loss of property or for personal injury to personnel in the execution of duty or to a member of the public assisting the police. Amounts greater than those specified must be referred to the PCC for approval.

*£10,000*



OFFICE OF THE POLICE & CRIME  
COMMISSIONER FOR NORFOLK

# **CONTRACT STANDING ORDERS**

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# **CONTRACT STANDING ORDERS**

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## SECTION 1

### SCOPE OF STANDING ORDERS

#### **OVERVIEW**

- 1.1 To conduct business effectively, the Police and Crime Commissioner (PCC) and the Chief Constable (CC) need to ensure that there are sound financial management policies in place and that they are strictly adhered to. Part of this process is to adopt and implement Contract Standing Orders. The Orders contained herein have been drawn up in such a way as to ensure that financial matters are conducted properly and in compliance with all necessary requirements.
- 1.2 These Contract Standing Orders have been developed so that they are supportive and consistent with the PCC's values and aims, and also consistent with policy and practices in relation to local procurement, regional and national issues, diversity and equal opportunities statements, sustainability and environmental issues.

#### **STATUS**

- 1.3 Contract Standing Orders should not be seen in isolation, but rather as part of the overall regulatory framework that includes the role of the PCC and CC, codes of governance, codes of conduct, schemes of delegation and financial regulations.
- 1.4 All officers and staff have a responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, and provides value for money.
- 1.5 The CC is responsible for ensuring that all officers and staff, contractors and agents are aware of the existence and content of Contract Standing Orders and that they are complied with.
- 1.6 Breaches of Contract Standing Orders are of a serious nature and may result in disciplinary proceedings. Such cases shall be reported to the PCC Chief Finance Officer (PCC CFO) and the CC Chief Finance Officer (CC CFO) with the PCC or CC determining the action to be taken in respect of officers or staff under their direction and control.

#### **DEFINITIONS WITHIN THE CONTRACT STANDING ORDERS**

- 1.7 The "Office of the Police and Crime Commissioner for Norfolk" (OPCCN) when used as a generic term shall refer to the PCC, the PCC Chief Executive, the PCC CFO and staff under their direction.
- 1.8 "Norfolk Constabulary" shall refer to the CC, the CC CFO, and police officers, the special constabulary and police staff under their direction.
- 1.9 Within these Regulations, most of the references have been made to the responsibilities of the CC since most of day to day financial management is delegated to the CC and the CC CFO acting on the CC's behalf. However, where the management of resources has not been delegated and is directly under the control of the PCC and the PCC Chief Executive or PCC CFO acting on the PCC's behalf, the duties, rights and powers as detailed for the CC shall apply equally to the PCC.
- 1.10 The terms "PCC", "CC", "PCC Chief Executive", "PCC CFO" and "CC CFO" include any member of staff, contractor or agent to whom particular responsibilities may be delegated.



However, the level of such delegated responsibility must be evidenced clearly, made to an appropriate level and the member of staff given sufficient authority, training and resources to undertake the duty in hand.

- 1.11 RBO means Responsible Budget Officers of Norfolk Constabulary designated by the CC, and Responsible Budget Officers of the OPCCN designated by the PCC or staff authorised to act on their behalf.
- 1.12 "Person" includes a partnership, body corporate or unincorporated association.

## **REGULATIONS AND GUIDANCE**

- 1.13 These regulations are the Contract Standing Orders to be made under Section 135 of the Local Government Act 1972 and all other powers enabling the PCC to place contracts.
- 1.14 All Contracts shall comply with statutory requirements including, but not limited to, Directives of the European Community, UK Legislation, and relevant Government guidance.
- 1.15 The PCC has responsibility for contracts, and all contracts placed must be in the PCC's name.
- 1.16 These Contract Standing Orders cover contracting and procurement activities. This includes new contracts for works, supplies and services, the extension of existing contracts and the renewal of contracts, but excludes contracts/leases for land and contracts for employment. Where a procurement relates to the purchase and/or the sale of land and buildings, prior approval of the PCC must be obtained.
- 1.17 The PCC sets contract values above which competitive tendering will normally take place. In making this decision, the PCC shall take note of statutory requirements.
- 1.18 Provided that arrangements within the Constabulary satisfy the PCC and provided legal responsibilities can be fulfilled, the CC and his/her staff should manage the tendering and contracting process, except where the PCC has decided that it must be advised of particular contracts in advance of agreement because of their size or sensitivity. The management of this process should be conducted in accordance with these Contract Standing Orders as approved by the PCC.
- 1.19 The Contract Standing Orders are supported by a Procurement Policy and Procedures manual that will enable all those staff involved in day to day low value procurement activity to act in full compliance with these Orders. All procurement requirements above the tender thresholds will be undertaken by the Corporate Procurement Unit. The manual will be updated to stay at the forefront of Best Practice within procurement.
- 1.20 Any transactions which do not comply with these Contract Standing Orders must be the subject of prior approval by the PCC who will consult the PCC Chief Executive, the CC and the PCC CFO and the CC CFO.

## SECTION 2

### APPLICATION AND EXCEPTIONS

#### **APPLICATION**

- 2.1 These Contract Standing Orders shall apply to all contracts entered into by, or on behalf of, the PCC with any person or body, with the exception of contracts/leases for land and contracts for employment. They are to be applied in conjunction with the Code of Tendering Practice and Contract Awards Principles outlined within Norfolk Constabulary's Procurement Policy and Procedures.

#### Framework Arrangements

- 2.2 The PCC may take advantage of framework agreements rather than conduct its own tender exercise. A Framework Agreement is where an alternative Force, the Government Procurement Service (GPS) or any other Government Agency, places a contract with one or more suppliers through competitive arrangement that other Forces are able to use.

#### Segregation of Duties

- 2.3 Duties relating to the contracting and procurement process, including the role of any individual, should be segregated between the following phases/transactions:
- Requisition and ordering of goods, works and services
  - Contracts
  - Receipt of goods, works and services
  - Payment Authorisation

No one individual should have the authority to control more than two stages in this process.

#### Agency and Partnership Arrangements

- 2.4 These Contract Standing Orders also apply:
- To contractors letting contracts on behalf of the PCC except where previously agreed
  - When acting on behalf of or in partnership with other authorities or private sector partners except where previously agreed
- 2.5 Any exceptions to the above must be authorised by the Joint Head of Procurement & Supplies (JHPS) prior to agreement of the contract.

#### **EXCEPTIONS FROM CONTRACT STANDING ORDERS**

- 2.6 Exceptions from Contract Standing Orders include contracts:
- For the lending or borrowing of money
  - For the employment of an individual employee

Exceptions from the normal tender process must be approved in advance by the JHPS and include contracts:

- For goods or material to be purchased at an auction.
- Regional/National Consortia e.g. Association of Chief Police Officers, Association of Police Procurement Professionals or associations of which the PCC is a member.
- Where compliance with Contract Standing Orders would have security implications, when the RBO should consult the JHPS. The JHPS must log and record any agreed security implications.
- For the procurement of goods and services where National and Regional Contracts and Framework Agreements managed by another police force or Framework Agreements let by the Home Office or the GPS are in place. (However, this should not prevent the use of mini tenders within the framework agreements where possible).
- For goods or materials which are available only as proprietary and patented articles from one contractor or supplier and for which no reasonably satisfactory alternative is available in the European Community.
- For works of art, museum specimens or historical documents
- For repairs to, or the supply of parts of existing proprietary or patented articles, including machinery or plant

2.7 Other exceptions to these Contract Standing Orders may only be made within the relevant law and by the PCC as follows:

- By the PCC by a direction given generally or in relation to contracts of a specified class
- By the PCC in relation to a specific contract, either in an emergency or for other special reasons
- By virtue of Government directions or other official provisions, provided that it is economically in the best interests of the PCC
- For the execution of work or for the supply of services or goods or materials certified by the CC, CC CFO and the PCC, PCC Chief Executive and PCC CFO as being required so urgently as to preclude the invitation of quotations or tenders. Where the contract exceeds £100,000 in estimated value, such certificate is to be retained on the appropriate file; such action is to be reported to the PCC.

2.8 These Contract Standing Orders do not apply to internal PCC or CC business where one part of the PCC's or CC's staff provides a service to another.

2.9 Where, for any other sound reason, it is not possible to follow Contract Standing Orders then the CC shall recommend, and the PCC may approve, any exception in advance or, if impractical, as soon as possible afterwards.

2.10 Details of all actions taken by and decisions made by the CC in regard to this section of the Contract Standing Orders shall be maintained by the JHPS in such a form as to be readily available for inspection.

## SECTION 3

### PROCUREMENT PROCESS

#### **BUDGET PROVISIONS AND PRE-ESTIMATES**

- 3.1 The procurement process applies to the purchase of all goods and services. Subject to budget availability and the need to follow due process (see below), all aggregate purchases below £35,000 can be undertaken by the relevant RBO. All aggregate purchases of £35,000 or over must be referred in advance to the Joint Procurement Dept to be undertaken by the Joint Procurement Dept.
- 3.2 Before any procurement is undertaken, there must be a substantiated estimate of cost and availability within the budget. For contracts subject to tender, the RBO shall complete and submit to the Joint Procurement Dept a budget authorisation form for inclusion in the Tender / Contracts Plan. The estimated value for the purposes of these Contract Standing Orders shall be the total estimated value of the goods or services to be supplied over the period covered by the contract. If this period cannot be defined then a period of four years should be used. Commitments against contracts that span in excess of one financial year should be certified by the appropriate RBO as being sustainable within the budget.
- 3.3 The sub-division of contracts is not permissible. Where evidence that contracts delivering the same or associated articles have been sub-divided in order to avoid thresholds, significant punitive damages could be awarded against the PCC by the European Commission and the contracts could be made void. Moreover, such action by an RBO will be considered misconduct under the Constabulary's Disciplinary Procedures.

#### **OBTAINING QUOTATIONS – PURCHASES BELOW £35,000 (NOT COVERED BY EXISTING CONTRACTS)**

- 3.4 Quotations must be sought for all purchases with an estimated value of up to £35,000. Further detail on obtaining quotations is provided within the Financial Regulations which can be found on the Finance Department website.
- 3.5 Quotation schedules must be maintained on file as evidence that value for money has been achieved. These must contain a formal record of oral and written offers made and the identity of the persons who provided the quotations.
- 3.6 The RBO is authorised to approve the most economically advantageous offer, provided that where the quotation accepted is not the lowest, the circumstances shall be recorded on file.
- 3.7 Official orders can only be placed where appropriate budgetary provision is available and all necessary authorisations have been obtained.
- 3.8 **All** orders for goods or the provision of services must be properly authorised.
- 3.9 The advice of the JHPS should be sought if any requirements are unclear.

## **TENDER PROCESS AND PROCEDURES – ALL PROCUREMENT OF £35,000 OR OVER**

### Tender Process

- 3.10 All procurement for works, goods and services where the estimated value over the length of the contract is £35,000 or over are subject to the PCC's tender procedure. The tender process will be undertaken by the Joint Procurement Dept. The Joint Procurement Dept will maintain the PCC's Contracts Register.
- 3.11 EU Procurement Directive thresholds affect the procurement of works, supplies and services where the estimated value of the procurement exceeds the notified values, which are normally updated every two years. Additional guidance is available within the Joint Procurement Dept when dealing with EU tenders.
- 3.12 Where the estimated value is £35,000 and over and below the EU threshold, the Joint Procurement Dept must obtain not less than three written tenders.. If it is not possible to obtain at least three tenders then this must be reported to the CC CFO, who will decide how to proceed in liaison with the PCC CFO.
- 3.13 Where the estimated value exceeds the EU threshold, the Joint Procurement Dept will comply with all the relevant EU Procurement Legislation and consequent UK Regulations and place a notice in at least one appropriate trade or professional journal, if this is considered necessary to enhance competition. The procurement strategy will be determined by the Joint Procurement Dept . The decision will be based on which procedure will yield best value to the Constabulary.

### Tendering Procedures

#### Select List

#### Open Tendering

- 3.14 Where known vendors are limited, the process known as the Open Procedure is to be used. This procedure will open up the market and make visible all vendors willing to undertake business with the PCC, including the local supply market. This sourcing should be used at least 30 days (time permitting) before the last date programmed for the issue of invitations to tender. Tender opportunities will be advertised using the corporate electronic tendering system.
- 3.15 All bidders expressing an interest must be sent tender documentation within the timescale set out.
- 3.16 It is possible that many requests for tender documents may be generated and the use of this procedure must be tempered by the knowledge that it may in turn generate many tenders which must all be fairly and equally considered.

#### Restricted Tendering

- 3.17 The restricted procedure requires that expressions of interest are invited from the market through advertising using appropriate media.
- 3.18 On receipt of expressions of interest a pre-qualification questionnaire will be forwarded to the interested parties and these, when completed, will be assessed to determine the most appropriate parties from whom tenders will be invited.

- 3.19 Tenders will be invited from those parties who match or best match the profile of a contractor suited to meet the Constabulary's requirements. The selection process must always be predetermined.

*Negotiated or Competitive Dialogue*

- 3.20 EU legislation permits these procedures within strict guidelines.
- 3.21 These procedures are suitable for exceptionally complex procurements, e.g. PFI.
- 3.22 The use of these procedures must be approved by the JHPS.

### **DETERMINING EVALUATION CRITERIA**

- 3.23 Before any tender is issued, the RBO shall consult with the Joint Procurement Dept in order to agree and record the criteria to be used for the evaluation of the tender. In line with value for money principles, if a chosen evaluation is defined as "most economically advantageous" the Joint Procurement Dept will then decide and record the criteria (in descending order of significance) upon which the Contract will be let.
- 3.24 The evaluation criteria must be either:
- The lowest price (where the PCC is to pay the supplier), or;
  - The highest price (where the supplier is to pay the PCC, i.e. disposal/sale of equipment), or;
  - The most economically advantageous tender as defined in the EU Regulations.
- 3.25 The JHPS shall notify all companies invited to tender which evaluation criteria are being used in the case of the contract in question and a copy of the contract award criteria (weighted) must be retained on the Contract File for audit purposes.

### **INVITATION TO TENDER**

- 3.26 Invitation and receipt of tenders will normally be carried out through use of an e-tendering system. The e-tender system used must not allow tenders to be opened before the closing date and must not allow the original e-version of the tender to be amended post the closing deadline. The system must record and allow audit of all transactions. Utilisation of an e-tendering system will generally negate the need for exhaustive precautions and practices regarding the receipt and custody of tenders including the need for a Tender Received Schedule. All tenders must be received and opened by staff of the Joint Procurement Dept.
- 3.27 Any request by a contractor for an extension of the tender closing date will not normally be agreed. However, in exceptional cases an extension of time can be authorised by the Joint Procurement Dept. In such cases the extension will apply to each of the potential tenderers and the e-tendering system will be adjusted to the revised date.

### **VALIDITY OF TENDERS**

- 3.28 If there is an e-tendering system fault or it has been deemed appropriate for a hard copy submission, a tender shall not be valid unless it has been delivered to the place appointed by the Joint Procurement Dept no later than the appointed day and hour in a plain sealed envelope, parcel or packaging bearing the word "Tender", followed by the subject to which

it relates. The tender shall not be valid if the envelope, parcel or packaging bears any name or mark indicating the sender, regardless of the identity of the person causing the name or mark in question to be visible. (Note that this applies to couriers delivering on behalf of tenderers).

## **RECEIPT AND OPENING OF TENDERS**

- 3.29 It is expected that all tenders will be received through an e-tendering system, except where hard copy submissions have been deemed appropriate. Use of e-tendering systems provides a clear audit trail for tender submissions.
- 3.30 Any tenders received after the closing date will not be accepted unless circumstances cannot be attributed to the tenderer. Acceptance will be determined by the JHPS.
- 3.31 On receipt of any hard copy submissions, envelopes containing tenders shall be date and time stamped by the Joint Procurement Dept and then remain in their custody until opened. Tenders shall be opened in the presence of not less than two officers of the Constabulary who shall both initial each tender as appropriate. Tenders shall not be opened prior to the advertised closing date. Particulars of all tenders opened shall be entered upon the Tender Received Schedule which shall be signed by the officers present at the opening. If price cannot be included because of the complexity of company bids, this will be noted on the schedule.
- 3.32 All tenders received including any invalid tenders, opened or unopened, shall be retained by the Joint Procurement Dept in accordance with the corporate policies for the retention of documents.

## **ERRORS OR DISCREPANCIES IN TENDERS**

- 3.33 Where examination of tenders reveals errors or discrepancies which would affect the tender figures in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing their offer.
- 3.34 Where the tender is for measured work calculated on Bills of Quantity with rates and the arithmetical calculations are erroneous, the tenderer may confirm either the rate (or rates) or the total for that particular item, whichever is the most advantageous to the PCC, or the tenderer may withdraw the offer.
- 3.35 Any exception to this procedure may be authorised only by the CC after consultation with the PCC.

## **ACCEPTANCE OF TENDERS**

- 3.36 The Joint Procurement Dept may, in consultation with the RBO, accept a valid tender in accordance with the evaluation criteria and subject to budget provision being available, as follows:
- The lowest tender, if price was the only award criterion, provided that the tender is not more than 10 per cent above the estimated value.
  - The highest tender, in the case of sales made by the PCC, provided that the tender is not less than 10 per cent below the estimated value

- The most economically advantageous tender, if that is the award criterion, and if one tender clearly meets that criterion more closely than any other as measured by a pre-determined scoring mechanism against set criteria.

Where a tender falls outside of these limits it should be reported to the CC.

- 3.37 The PCC does not bind him/herself to accept the lowest tender or any other tender.
- 3.38 The Joint Procurement Dept must be satisfied that the successful tenderer has the technical, professional, and financial capacity to fully undertake the contract.
- 3.39 The Joint Procurement Dept may not reject an abnormally low tender without first giving the appropriate supplier the opportunity to explain his tendered price.
- 3.40 Acceptance of a tender must be in writing and must allow for a period of 10 days ("Alcatel" judgement) before a formal commitment by the Joint Procurement Dept is made. In some cases acceptance may be in the form of an official purchase order. However, in all cases, this must be preceded by a formal Contract Award document.
- 3.41 In the case of a hard copy tender, the file copy of the record shall be endorsed to indicate the tender has been accepted.
- 3.42 When, and only when, the successful supplier has confirmed acceptance of a contract that has been awarded under the European Directives, the Joint Procurement Dept shall debrief all unsuccessful tenderers. This debrief must be in writing and contain the scoring achieved against each of the weighted elements of the award criteria.

#### Bonds and Guarantees

- 3.43 The JHPS will seek appropriate legal advice on all Contracts over £35,000 where a bond or parent company guarantee may be required.

#### **POST TENDER CLARIFICATIONS (PTC)**

- 3.44 The JHPS or a nominated officer within the Joint Procurement Dept will be involved in all stages of the PTC. Clarifications must take place with all the tenderers on the same and equal basis.
- 3.45 In the case of contracts with an estimated value exceeding the relevant EU Directive Threshold, the JHPS or a nominated officer within the Joint Procurement Dept may, following the closing date for receipt of tenders but before acceptance of any tender, carry out PTC in order to:
- Ensure that the tender is constructed correctly
  - Ensure that the tenderer has fully understood the specification
  - Seek clarification from tenderers of quality and performance indicators
- 3.46 PTC may not be entered into if it would:
- Distort competition
  - Change the tendered specification
  - Change the contract award criteria



- 3.47 During face to face clarifications with a tenderer, there shall always be present at least two officers of the Constabulary.
- 3.48 A note of clarifications will be made by one of the officers present, recording those present at the time and location of the clarifications, detail of the discussion and any agreement reached. The note shall be signed by all officers present and will be kept with a file copy of the record.
- 3.49 At no time shall a tenderer be informed of the detail of any other tender submitted or as to whether or not the tender they submitted was the lowest, subject to that allowed to be disclosed under the Freedom of Information Act and as a requirement in briefing unsuccessful tenderers.
- 3.50 The JHPS will maintain a record of all PTC in which will be recorded the date of the tender, the date of any PTC, the names of tenderers involved in negotiations, the original price, the revised price, the names of the officers involved and details of the contract awarded. This will normally be recorded on the e-tendering system.

## **SECTION 4**

### **CONTRACTS**

#### **FORM OF CONTRACT**

- 4.1 Every contract awarded by tender (over £35,000) shall:
- Be in writing and in the form of a signed "Agreement" by both parties
  - Specify the goods, materials or services to be supplied, the price to be paid and shall contain a statement as to the amount of any discount or other deductions, the period within which the contract is to be performed and such other conditions and terms as may be agreed between the parties.
  - Contain a clause requiring that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by any appropriate British or equivalent EC or International Standards Specification or Code of Practice current at the date of tender.
  - Contain a clause empowering the PCC to cancel the contract and to recover from the contractor the amount of any resulting loss if the contractor or any other person employed by him/her or acting on his/her behalf, whether or not to his/her knowledge, shall have offered or given or agreed to give to any person, any gift or consideration of any kind as an inducement or reward for taking or for not taking any action in relation to any contract. Other grounds which will enable the PCC to cancel a contract are if there is or has been any offence under the Prevention of Corruption Act 1889 to 1916, or any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972 has been or is taken. There will also be standard grounds for termination included in the contract Terms & Conditions.
- 4.2 All contracts involving sub-contractors shall be the responsibility of the main contractor and treated in accordance with the Terms and Conditions of Contract.
- 4.3 Contracts between £35,000 and the EU threshold shall be formulated by the Joint Procurement Dept and shall be signed by the CC CFO on recommendation by the Head of Procurement, following written confirmation from the RBO.

- 4.4 Every contract above the EU threshold shall be signed by the CC or the PCC, or by the CC CFO or the PCC CFO or the PCC Chief Executive respectively on their behalf.
- 4.5 Every contract should make reference to and contain the Terms and Conditions of Contract for the Purchase of Goods or for the Supply of Services issued by the Joint Procurement Dept. In cases where the Supplier's Terms and Conditions are applied they must first be verified by the Joint Procurement Dept before acceptance is made.
- 4.6 Contracts for the purchase/lease of property or land will be signed by the PCC Chief Executive under "seal".
- 4.7 Every contract shall, in appropriate cases, provide for the payment of liquidated damages by the contractor where the contractor fails to complete the Contract, or any part of the Contract, within the times specified.
- 4.8 The Terms and Conditions relating to service contracts should contain reference to Transfer of Undertakings for Protected Employees (TUPE), details of which should be clarified with the HR Department.
- 4.9 Although a Memorandum of Understanding has less onerous terms and conditions than a formal contract which are limited in number, for example Key Holding Services, they still need to be discussed with the JHPS for any adverse risks to the PCC before they are signed.
- 4.10 Once a contract is complete all the relevant contracting activities undertaken during the process of placing a Contract shall be retained for audit purposes, including the evaluation criteria used.

#### **SUPERVISION OF CONTRACTS BY THIRD PARTIES**

- 4.11 It shall be a condition of any contract between the PCC and any person not employed by the PCC who is required to supervise a contract on behalf of the PCC that in relation to that contract, that person shall comply with the requirements of these Contract Standing Orders.
- 4.12 Such person shall:
- At any time during the carrying out of the contract produce on request all records maintained by him/her in relation to the contract
  - On completion of the contract, transmit all records to the PCC.

#### **PAYMENTS, AUTHORISATION AND MONITORING**

- 4.13 The prior approval of the Joint Head of Finance must be obtained before any payment is agreed by either direct debit or banker's standing order. In general all contract payments will be made by BACS.
- 4.14 Payment will be made in accordance with the prices stated on the Purchase Order, contract or variation. Any deviation/increase from these prices must be agreed and approved in writing by the RBO in collaboration with the JHPS before payment is made.
- 4.15 All internal information required by the PCC Chief Executive in order to monitor compliance with these Contract Standing Orders shall be maintained by the CC.

## CONTRACT MANAGEMENT, VARIATIONS & EXTENSIONS

- 4.16 The specific management of the Contract will be the responsibility of the nominated owner from the appropriate department and must be carried out throughout the life of the contract so that the contracted performance levels are maintained and that continuous improvements are encouraged. Any recurring non-performance must be reported immediately to the Head of Procurement for escalation action in an endeavour to re-establish the contracted performance levels or to claim liquidated damages.
- 4.17 The nominated owner for contract management will submit regular reports to the JHPS in accordance with any agreed schedule. The report will detail the contractor's performance including response times, continuous improvements and compliance.

### Extensions

- 4.18 If the PCC requires any further work to be undertaken when a contract is due to end and where an option to extend is included in the contract, an extension to the contract may be negotiated with the existing contractor. In all cases the services of the Joint Procurement Dept must be used as there may be legislative criteria that may restrict such extensions, particularly if the Contract was let under EU legislation which restricts the use of contract extensions. Any additional extensions outside of original contract terms should be supported by a report that must stand up to scrutiny should it be challenged by any supplier who took part in the original tender. This report must be passed to the CC CFO for consideration and decision in liaison with the PCC CFO. **Wherever practicable a contract should not be extended more than once.**

**Note: Any extension that would bring the total value over the EU thresholds must be re-tendered under EU rules unless extreme circumstances arise, as advised by the Joint Procurement Dept.**

### Variations

- 4.19 Agreed contract terms sometimes need to be varied after work has started. This may be because additional work is required by the PCC or the contractor requests changes to the contract terms. If this results in any change to the contract price, or significant changes to the specification, or changes to terms, a formal Contract Variation Form must be agreed and signed by the two parties before work begins.
- 4.20 The RBO must submit his/her justification for this variation to the Joint Procurement Dept prior to authorising the Contract Variation Form and this justification should be retained on file. Variations should only be agreed where budget provision is available. If the variation affects the total value of the contract in such a way that the EU Directives are exceeded the Head of Procurement will submit a report to the PCC explaining the reason for the variation. This may result in having to retender, subject to the estimated change in value of the Contract.

## PECUNIARY INTERESTS OF OFFICERS/MEMBERS

- 4.21 If it comes to the knowledge of any officer or staff of the PCC or CC that a contract in which he/she has any pecuniary interest, whether directly or indirectly (not being a contract to which he/she him/herself is a party) has been or is proposed to be entered into by the PCC, he/she shall as soon as is practicable, inform the CC and the PCC in writing. The PCC Chief Executive shall record the particulars in a book to be kept by him/her for that purpose which shall be open during office hours for inspection.

## **SECTION 5**

### **REPORTING ARRANGEMENTS**

- 5.1 The JHPS will prepare an annual report to the PCC which will incorporate details of all contracts awarded during the year.
- 5.2 The JHPS will supply detailed bi-annual statistics on all contracts placed under the EU Directives procedures to the Home Office and HM Treasury and other statutory information as may from time to time be required.