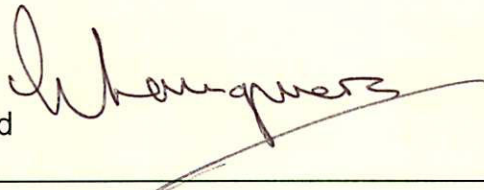


RECORD OF DECISION

TITLE: REIMBURSEMENT OF LEGAL EXPENSES:	Ref. PCC/D/2013/11
1. EXECUTIVE SUMMARY 1.1 This report is to consider a request from solicitors for payment of an officer's legal expenses incurred in defending a private prosecution against the officer. 1.2 The Police Act 1996 provides for payment out of the police fund in appropriate cases, of costs incurred by a member of a police force in proceedings taken against them for alleged unlawful conduct. 1.3 There is Home Office guidance about the circumstances in which it will be appropriate for an officer's costs to be met out of the police fund. 1.4 In support of the request for a decision on this matter there is an accompanying report in two parts.	
2. RECOMMENDATION To approve the payment out of the police fund of legal fees in the sum of £18,371.88 as requested.	
APPROVAL OF West Mercia Commissioner I hereby approve the above recommendation. <div style="display: flex; justify-content: space-between;"><div>Signed </div><div>Date 13-03-2013.</div></div>	

SUPPORTING REPORT

1. INTRODUCTION

At Telford Magistrates' Court in December 2012 a West Mercia Police officer faced a private prosecution for assault upon a member of the public who was arrested for criminal damage in Hereford on 7 March 2012. The person concerned ("The Defendant") resisted arrest and displayed violence towards the two officers who were attempting to arrest him. It was therefore necessary for the police to use force on the defendant to effect his arrest. The officer who was prosecuted went to the assistance of his colleagues and forcibly restrained the Defendant. The Defendant commenced a private prosecution for assault and subsequently pleaded guilty himself to two counts of resisting/obstructing constables in the execution of their duty. The officer defended the charge against him and was found not guilty of assault at Telford Magistrates' Court in December 2012.

2. ISSUES FOR CONSIDERATION

- 2.1 Home Office Guidance to the former police authorities which is now equally applicable to the Police and Crime Commissioners, emphasises that it is important that police officers should be able to carry out their duties in the confidence that their [Police and Crime Commissioner] will support them by providing financial assistance in legal proceedings taken against them and progressed by them, if they act in good faith and exercise their judgement reasonably. In March 1999 a Divisional Court judgement confirmed that the then Police Authorities did have the power to meet the defence costs of police officers in private prosecutions and any other type of legal proceedings.
- 2.2 It is for individual Police and Crime Commissioners to decide in the particular circumstances of the case whether, and to what extent, to make financial assistance available to officers in criminal proceedings. Each case must be decided on its own merits but subject to that Home Office Guidance is that there should be a strong presumption in favour of payment where officers have acted in good faith and have exercised their judgement reasonably.
- 2.3 The private prosecutor in this case was convicted by his own admission on two counts of resisting arrest/obstructing constables in the execution of their duty in relation to the attempts of other officers to effect his arrest for criminal damage in March 2012. He was convicted in Herefordshire Juvenile Court on 3 July 2012. The summons for the private prosecution was issued on 11 June 2012. The admissions and conviction show that the private prosecutor was demonstrating an unacceptable level of violence towards the police officers present, which included the officer the subject of the prosecution. It was therefore necessary for police officers to use force in order to restrain him. Police officers are entitled to

use such force as is necessary to effect an arrest. It is only the use of excessive force that amounts to assault.

- 2.4 The officer defended his actions at his trial and was found not guilty by the court. In these circumstances the Police and Crime Commissioner for West Mercia Police is entitled to find that in using such force as he found it necessary to do, the officer was acting in good faith and exercising his judgement reasonably. The Home Office criteria for payment of his legal expenses has therefore been met and there is no reason why the presumption in favour of payment of his legal costs should not be adhered to.

3. FINANCIAL COMMENTS

Facing a serious criminal charge of assault the officer clearly needed independent legal representation. This was arranged on his behalf by the Police Federation who instructed Russell Jones & Walker Solicitors to prepare the case and that firm engaged an expert witness and instructed a barrister to represent the officer in court. The costs incurred are therefore considered to be reasonable. At the conclusion of the case the defence barrister secured from the court a Defence Costs Order to enable the officer to claim his costs from Central Funds. However, the bill will be audited and not all the costs actually incurred are recoverable from Central Funds. It could be at least another 3 months before the cost re-imbursement is settled and in the meantime Counsel and the Expert witness require payment. The full amount in question is £18,371.88p Russell Jones & Walker seek reimbursement of the entire costs now and have agreed to reimburse the Police and Crime Commissioner the sum recovered from Central Funds in due course.

4. LEGAL CONSIDERATIONS

- 4.1 Section 88(4) of The Police Act 1996 provides that a local policing body may, in such cases and in such extent as appear to it to be appropriate, pay out of the police fund any costs incurred and not recovered by a member of a police force maintained by the local policing body in proceedings for any unlawful conduct of that person. Although this provision only covers officers involved in proceedings in claims in TORT caselaw has now established that Section 6(1) of The Police Act 1996 and Section 111 of the Local Government Act 1972 together provide a power which would enable the Police and Crime Commissioner to financial both criminal and judicial review proceedings and any other type of legal proceedings.
- 4.2 The basis of this decision is that Section 6 of the 1996 Act requires every Police and Crime Commissioner to secure the maintenance of an effective police force for their area. Section 111 of the 1972 Act provides for a local authority (which includes a Police and Crime Commissioner), to have power to do anything (whether or not involving expenditure) which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions.

- 4.3 It is therefore lawful for the Police and Crime Commissioner for West Mercia Police, having regard to the Home Office guidance in Circular 43/2001, to resolve to meet the application for costs that has been made in this case.

5. ACCOMPANYING DOCUMENTATION

- 5.1 Home Office Circular 43/2001 is attached as Appendix A.
- 5.2 The request from the Police Federation of England and Wales on behalf of their member for financial assistance dated 20 November 2012 is attached as Appendix 1 to Part 2 of this report.
- 5.3 The account submitted by the solicitors instructed in the case is attached to Part 2 of this report as Appendix 2.

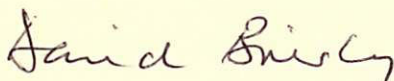
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OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature  Date 13. March 2013

CERTIFICATION

TITLE:	APPOINTMENT OF DEPUTY POLICE AND CRIME COMMISSIONER:
	Ref. PCC/D/2012/03

EXECUTIVE SUMMARY

The confirmation process for the appointment of a Deputy PCC required by Schedule 1 paras. 9-12 has been complied with.

The West Mercia Commissioner appeared before the Police and Crime Panel on 5 December 2012 and received the Panel's recommendation on 11 December 2012.

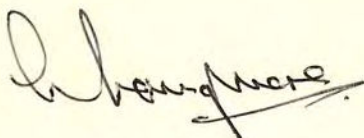
While the Panel supported the appointment of a Deputy Police and Crime Commissioner in principle, they did not support the appointment of the chosen candidate. The Panel also raised criticisms of the terms and conditions of appointment and the lack of a competitive selection process. The Panel's views are contained in a letter from the Chairman of the Panel (copy attached marked PCP/1)

Having considered the Panel's recommendation and comments the West Mercia Commissioner responded to the Panel on 12 December setting out his reasons to continue with the appointment of Mr Barrie Sheldon as the Deputy Police and Crime Commissioner for West Mercia. That response is attached marked 'COM/1.

CERTIFICATION

West Mercia Commissioner

I hereby certify the process of confirmation required by Schedule 1 Police Reform and Social Responsibility Act 2011 is complete and I have rejected the Panel's recommendation. I have appointed Mr Barrie Sheldon as my Deputy Police and Crime Commissioner for West Mercia on the proposed terms.



Signed

Bill Longmore

Date 12 December 2012

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website.

OFFICER APPROVAL

Chief Executive Officer



Signature

David Brierley

Date 12 December 2012

West Mercia Police and Crime Panel

Mr Bill Longmore
West Mercia Police and Crime Commissioner
PO Box 487
Shrewsbury
SY2 6WB

11 December 2012

Dear Mr Longmore

CONFIRMATION HEARING: PROPOSED APPOINTMENT OF MR BARRIE SHELDON TO THE OFFICE OF DEPUTY POLICE AND CRIME COMMISSIONER

In accordance with Schedule 1 to the Police Reform and Social Responsibility Act 2011, I write to inform you of the West Mercia Police and Crime Panel's recommendation with regard to your proposed appointment of Mr Barrie Sheldon to the office of Deputy Police and Crime Commissioner (Deputy PCC).

The Panel held a public Confirmation Hearing on 5 December 2012 and had the opportunity to ask questions of you and of Mr Sheldon in relation to the proposed appointment to the office of Deputy PCC. The Panel was grateful that you made yourself available for questions and that you indicated through your Chief Executive that you were willing to take the Panel's views into account when considering the proposed appointment.

The Panel reviewed the proposed senior appointment and agreed that a post of Deputy PCC would be appropriate to assist you in your role. It was recognised that it was within your discretion as to whether or not you appointed a Deputy PCC, but there was disappointment that you had not made it known during the election campaign that your intention was to appoint a Deputy PCC and that your appointee would be Mr Sheldon.

The Panel agreed to recommend that you do not appoint Mr Barrie Sheldon to the office of Deputy PCC.

The reasons for this recommendation are as follows:

- (a) Whilst recognising that that Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the post of Deputy PCC, the Panel did not have confidence in the appointment process undertaken. The Panel expressed disappointment and dissatisfaction at the lack of transparency and openness in the selection process undertaken, and that you had not gone through a

Cllr Paul
Middlebrough
Chairman, West
Mercia Police & Crime
Panel

c/o Legal and
Democratic Services
Worcestershire
County Council
County Hall
Spetchley Road
Worcester
WR5 2NP

Tel 01905 728753 • Fax (01905) 763600 • Minicom (01905) 766399 • DX 29941 Worcester 2
sclark@worcestershire.gov.uk • www.worcestershire.gov.uk

competitive process to select a Deputy PCC and not taken account of the 'Nolan' principle of 'selflessness'.

- (b) The criteria you applied to assess the suitability of the candidate were limited and lacked detail. Limited justification was put forward as to why the candidate satisfied those criteria. Of the criteria specified, the Panel considered that the proposed appointee did not complement your skills and experience as PCC, particularly given that you both have similar backgrounds as former police officers. The Panel was concerned that the proposed appointee did not demonstrate an appropriate knowledge of public finance and business acumen which would be advantageous for the Deputy PCC post.
- (c) There was a lack of detail and clarity around the actual role to be undertaken by the Deputy PCC in both the report to the Panel and in evidence. The Panel felt that as a consequence the basis for the Deputy PCC's terms and conditions, including his £50,000 salary, was unclear.

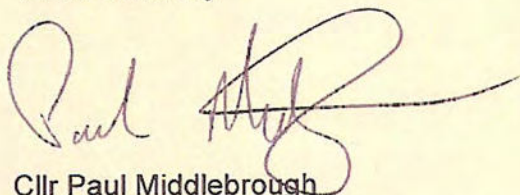
The Panel recognised that it was your decision whether to accept or reject its recommendation as to Mr Sheldon's appointment. However, it additionally recommended that should you confirm the appointment of Mr Sheldon as Deputy PCC that the appointment should be for an initial twelve month period and reviewed at the end of that period.

The Panel also suggested that:

- you clarify by way of a job description, the specific roles, responsibilities and relationship between your post and that of the Deputy PCC
- you provide clarification on the basis on which the terms and conditions were agreed
- appropriate development and training be provided in respect of budget management and community safety issues.

I look forward to receiving your decision.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Paul Middlebrough', with a long horizontal flourish extending to the right.

Cllr Paul Middlebrough
Chairman
West Mercia Police & Crime Panel

COM/1



Cllr Paul Middlebrough
Chairman, West Mercia Police and Crime Panel
c/o Legal and Democratic Services
Worcestershire County Council
County Hall
Spetchley Road
Worcester WR5 2NP

Bill Longmore
Police and Crime Commissioner
West Mercia

12 December 2012

Dear Mr Middlebrough

**CONFIRMATION HEARING: PROPOSED APPOINTMENT OF MR BARRIE SHELDON
TO THE OFFICE OF DEPUTY POLICE AND CRIME COMMISSIONER**

Thank you for your letter of 11 December 2012 setting out the views and recommendation of the West Mercia Police and Crime Panel.

I note that the Panel support the appointment of a Deputy Police and Crime Commissioner.

I am also grateful that the Panel recognise that by virtue of the 2011 Act the normal competition procedures attaching to senior appointments were specifically disapplied and that while they would have preferred that I had adopted a competitive process they also recognise that the process which I followed was a perfectly lawful and proper one.

The process also has transparency. The confirmation process itself is perhaps one of the most transparent procedures attaching to any public office appointment.

I note that the Panel do not recommend the Appointment of Mr Barrie Sheldon.

I have carefully noted the content of your letter and would wish to respond as follows:-

I strongly reject the criticism repeated in your letter that I have breached any of the Nolan Principles. I fear that I did not make sufficiently clear to the Panel that Mr Sheldon is neither a family member nor a long-standing friend of mine. I have made no secret that I knew Mr Sheldon as a colleague, indeed as a junior police officer in my old Force, but I had no contact with him whatever after my leaving the Police service over 25 years ago until I sought his assistance with my election campaign.

My close association with Mr Sheldon only arose following my decision to stand as a Police and Crime Commissioner candidate I became aware that Mr Sheldon was undertaking a lecturing role with Teesside University in Policing Matters. I thought Mr Sheldon might provide me with useful guidance and assistance in my campaign and when I approached him he agreed to do so.

During the election period I formed the view that Mr Sheldon would be a huge help to me in my Police and Crime Commissioner duties should I be elected. Following election I confirmed my view that I needed a Deputy and that Mr Sheldon, sharing my values and that having a range of valuable skills and insights he would be an ideal Deputy to assist me.

As to Mr Sheldon's personal qualities, I note the Panel felt that Mr Sheldon does not fulfil one of the five criteria specified in my letter of 28 November; specifically that Mr Sheldon did not complement my own skills. In my opinion Mr Sheldon does indeed complement my own skill set. After 1986 for some 12 years I operated a commercial business and more recently I have worked extensively in the community. My policing background therefore goes back some 25 years. By contrast Mr Sheldon's policing knowledge is entirely up to date. Moreover, I also consider that he meets all criteria I have specified and, importantly he has my full confidence both in his shared values, his integrity and his communication skills. To characterise us both as former Police Officers fails to recognise my own considerable non-policing experience and the up-to-date policing knowledge of Mr Sheldon.

As to the criticism that Mr Sheldon does not provide sufficient financial acumen, I must point out that the former Police Authority provided a structure of posts which included both a Chief Finance Officer and a supporting Finance Officer. I am adopting and strengthening those structures to ensure strong professional financial advice is available to me. I also have access to the force Finance Director and her team and the audit staff provided by Worcestershire County Council.

As already mentioned, I myself have operated a successful business in the private sector for a period of some 12 years with a considerable turnover (over £1m per annum prior to sale), while my work in the community has been widely recognised (including a BBC award in 2011). Neither I nor Mr Sheldon can claim to have previously exercised governance and oversight over such a significant public sector budget; to have done so almost inevitably would have required a political background. I believe my election demonstrated, in part, the wish of the public not to have politics involved in police governance.

Another criticism not formally reflected in your letter, was that Mr Sheldon based in Telford and myself based in Shropshire would find it difficult to fully engage with other geographic areas such as Worcestershire or Herefordshire. As I emphasised to the Panel, as Police and Crime Commissioner I will represent the interests of all West Mercia areas and my Deputy Police and Crime Commissioner will do the same. However I am persuaded that the issue of improved geographic representation ought to be addressed and I intend therefore to explore how that might be remedied.

The Panel is critical of the clarity around the role of the Deputy and the salary I have decided to apply. I note the Panel support the need for a Deputy post in West Mercia. Given that the role of the Police and Crime Commissioner covers much of the ground formerly discharged by a 17 member Police Authority it is hardly surprising that Police and Crime Commissioners across the country are making Deputy appointments and further strengthening their teams to ensure that they can properly discharge their responsibilities. All the more so given the wider role discharged by Police and Crime Commissioners compared to former Police Authorities.

As to defining the Deputy role more precisely, at this time I propose to draw on my Deputy to support me across the entire breadth of my responsibilities but I am certain, as we develop the Police and Crime Plan and its implementation, that specific areas of responsibility will become more clearly defined. However, the current wide brief is intentional on my part.

The terms and conditions of appointment broadly follow standard terms applicable to police staff. They were finalised following consultation with the Force HR Department.

As to the salary point, I can only confirm that given the full time nature of the position and its level of responsibility I consider the salary both reasonable and appropriate. In making this appointment and any others I may decide are needed in the future I shall always keep in mind my intention to ensure the comparable costs of my Office do not exceed those which attached to the former Police Authority.

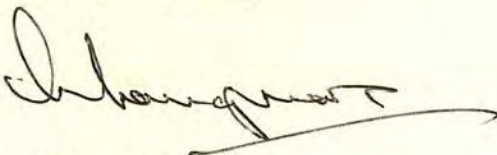
The Panel invites me to consider making the appointment of my Deputy a fixed term contract for one year. I have considered that but do not accept it. The position is in any event co-terminus with my own period of office but I have introduced an additional condition that my Deputy would be appointed subject to immediate termination by notice should I wish to end the appointment at any time. I consider that is a more flexible and satisfactory arrangement.

In conclusion, I have carefully considered the recommendations of the Panel and their comments but I have decided to proceed with the appointment of Mr Sheldon as my Deputy with immediate effect. I hope my remarks set out why I feel it is both justified and proper for me to proceed with this appointment.

I do hope this letter will go some way to assure the Panel that my decision is based on a sound approach and that in Mr Sheldon I do have a selfless individual of considerable skill and background who will work tirelessly to deliver strong policing services and engagement with partners and the public at a time of increasing financial restraint.

I do hope that together Mr Sheldon and I can work co-operatively with the Panel to deliver the very best policing and community safety outcomes possible given all the challenges we face.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'W Longmore', with a long horizontal flourish extending to the right.

W Longmore



RECORD OF DECISION

**TITLE: COMBINATION AGREEMENT NORTH WORCESTERSHIRE
COMMUNITY SAFETY PARTNERSHIP AREA**

Ref: PCC/D/2013/12

1. EXECUTIVE SUMMARY

- 1.1 An application has been received to make a formal combination agreement in relation to the Bromsgrove, Redditch and Wyre Forest community safety partnership areas so as to combine those areas to create a single community safety partnership area.
- 1.2 A combination agreement is an agreement for the functions conferred by or under section 6 or by section 7 of the Crime and Disorder Act 1998 to be carried out in relation to the combined areas as if it constituted only one local government area.
- 1.3 This decision report is accompanied by a Part 1 report. There is no Part 2 report.

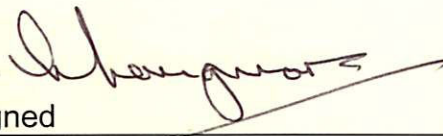
2. RECOMMENDATION

The Commissioner is recommended to make a combination agreement in the form set out in Appendix A to create a single North Worcestershire community safety partnership area. The North Worcestershire community safety partnership area to be formed through the merger of the three existing statutory community safety partnership areas of Bromsgrove, Redditch and Wyre Forest.

APPROVAL OF

West Mercia Commissioner

I hereby approve the above proposal.

Signed 

Date 14th March 2013.

PART 1 Report

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND ADVICE

SUPPORTING REPORT

1. INTRODUCTION

- 1.1 The community safety responsible authorities in North Worcestershire wish to form a single merged North Worcestershire community safety partnership area through the merger of the three statutory community safety partnerships of Bromsgrove, Redditch and Wyre Forest.

2. ISSUES FOR CONSIDERATION

- 2.1 The Commissioner may make a combination agreement if every responsible authority in relation to the combined area is a party to the agreement.
- 2.2 The Commissioner may make a combination agreement for those areas only if he considers that it would be in the interests of one or more of the following to do so:
- (a) reducing crime and disorder
 - (b) reducing reoffending
 - (c) combating the misuse of drugs, alcohol and other substances

3. FINANCIAL COMMENTS

- 3.1 The proposals have no direct financial implications. Merging the three community safety partnerships in North Worcestershire allows for a reduction in the number of strategic meetings to be held and for greater support staff collaboration.

4. LEGAL CONSIDERATIONS

- a) Under the Crime and Disorder Act 1998 (section 5), as amended by the Police Reform Social Responsibility Act 2011 (Schedule 11), the Commissioner, in relation to two or more local government areas, may make a combination agreement with the responsible authorities (as defined by the Crime and Disorder Act 1998) in relation to those areas (the combined area).

The Commissioner may make a combination agreement only if every responsible authority in relation to the combined area is a party to the agreement.

The Commissioner may enter into a combination agreement for that area only if he considers that it would be in the interests of one or more of the following to do so:

- (a) reducing crime and disorder;

- (b) reducing re-offending;
- (c) combating the misuse of drugs, alcohol and other substances

- 4.1 In accordance with the Crime and Disorder Act 1988 (section 5A) a combination agreement must be in writing and may be varied by a further combination agreement. The form of the agreement is set out at Appendix 'A' to this report.
- 4.2 A combination agreement may be terminated by agreement in writing between all the parties to it (all responsible authorities within the combined area and the Police and Crime Commissioner).
- 4.3 A combination agreement may require the councils for the local government areas in question to appoint a joint committee of those councils (the joint crime and disorder committee) and to arrange for crime and disorder scrutiny functions in relation to any (or all) of those councils to be exercisable by that committee. "Crime and disorder scrutiny functions", in relation to a council, means functions that are, or, but for a combination agreement, would be, exercisable by the crime and disorder committee of the council under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

PUBLIC ACCESS TO INFORMATION

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OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature

David Briley

Date *14. March 2013*



This Combination Agreement is made thisday of 2013 between the West Mercia Police and Crime Commissioner and each of the responsible authorities listed in Schedule 1 hereto.

Whereas each of the responsible authorities as defined by s.5 Crime and Disorder Act 1998 have signified their agreement to the making of a combination agreement in respect of their functions under s.6 or 7 of the said Act to be carried out in relation to the combined areas as if it comprised only one local government area and

Whereas the said responsible authorities comprise all the persons who are responsible authorities in relation to each local government area that falls within the combined area and

Whereas the combined area comprises the areas for which the following local authorities are responsible namely Bromsgrove District Council, Redditch Borough Council and Wyre Forest District Council and

Whereas the relevant local policing body for the said combined area is the West Mercia Police and Crime Commissioner and

Whereas the West Mercia Police and Crime Commissioner is satisfied that this agreement is in the interests of the matters referred to in s.5A (2) of the Crime and Disorder Act 1998.

The West Mercia Police and Crime Commissioner Hereby makes this Combination Agreement to establish a combined area for the purposes of the functions under the Crime and Disorder Act 1998 to be known as the North Worcestershire Community Safety Partnership Area with the agreement of the responsible authorities. The West Mercia Police and Crime Commissioner and the said responsible authorities have hereto set their authorised signatures the day and year first before written.

Signature of West Mercia Police and Crime Commissioner

Name
Date
Witness

Signature on behalf of Bromsgrove District Council

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Redditch Borough Council

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Wyre Forest District Council

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Worcestershire County Council

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of West Mercia Probation Trust

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Chief Constable of West Mercia Police

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Hereford and Worcester Fire and Rescue Authority

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Bromsgrove and Redditch Clinical Commissioner Group

Name and Position:

Date:

Witness Name and Position:

Signature on behalf of Wyre Forest Clinical Commissioner Group

Name and Position:

Date:

Witness Name and Position:

Schedule 1 of the Combination Agreement datedday of2013

Bromsgrove District Council

Redditch Borough Council

Wyre Forest District Council

Worcestershire County Council

West Mercia Probation Trust

Chief Constable of West Mercia Police

Hereford and Worcester Fire and Rescue Authority

Bromsgrove and Redditch Clinical Commissioner Group

Wyre Forest Clinical Commissioner Group

**POLICE AND CRIME COMMISSIONER FOR
WEST MERCIA**



RECORD OF DECISION

**TITLE: MEMBERSHIP OF THE ASSOCIATION OF POLICE AND CRIME
COMMISSIONERS**

Ref: PCC/D/2013/13

1. EXECUTIVE SUMMARY

1.1 A national Association of Police and Crime Commissioners (the APCC) has been formed supported by a small secretariat based at 10 Dean Farrar Street, London, SW1H 0DX.

1.2 Membership of the Association is open to the West Mercia Police and Crime Commissioner.

1.3 Membership involves payment of an annual membership fee.

2. RECOMMENDATION

To become a member of the APCC.

APPROVAL OF

West Mercia Commissioner

I hereby approve the above proposal.

Signed

Date

13 - 03 - 2013

PART 1 Report

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND ADVICE

SUPPORTING REPORT

1. INTRODUCTION

- 1.1 A national Association of Police and Crime Commissioners (the APCC) has been formed supported by a small secretariat based at 10 Dean Farrar Street, London, SW1H 0DX.
- 1.2 Membership of the Association is open to the West Mercia Police and Crime Commissioner.
- 1.3 Membership will afford national representational advantages and operate as a source of information, advice and exchange of experience and initiatives.
- 1.4 Membership involves payment of an annual membership fee.

2. FINANCIAL COMMENTS

- 2.1 Membership involves an annual membership fee which has been set at £19,750 for 2013/14. The Association meets periodically and attendance may incur further travel and subsistence expenses.

3. LEGAL CONSIDERATIONS

- 3.1 The Commissioner has power to incur this expenditure.

PUBLIC ACCESS TO INFORMATION

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OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature

David Briley

Date

13. March 2013



RECORD OF DECISION

TITLE: COMMUNITY AMBASSADORS SCHEME Ref: PCC/D/2013/14

1. EXECUTIVE SUMMARY

- 1.1 To establish a scheme of Community Ambassadors to improve engagement opportunities throughout the force area and to undertake specific advisor roles as required by the Commissioner.
- 1.2 It is proposed that Area Community Ambassadors be appointed to each of the Territorial Policing Units, namely North and South Worcestershire, Herefordshire, Telford and Wrekin and Shropshire. As well as serving to improve engagement with communities and organisations, including statutory agencies, in each area the Advisor will be selected to assist or advise in relation to specific portfolios.
- 1.3 In addition to the five Area Ambassadors it is proposed that a Community Co-ordinator post be established with wider engagement and portfolio responsibilities to co-ordinate the Area Ambassadors and provide a range of engagement services in development and support of the engagement strategy and to advise on such portfolios as the Police and Crime Commissioner may determine.
- 1.4 In addition the Police and Crime Commissioner has indicated an intention to establish a network of community contacts and voluntary organisation links. This is still under development but it is anticipated that the Community Co-ordinator will also advise upon and coordinate this initiative.

2. RECOMMENDATION

- 2.1 To approve the proposals to establish a Community Ambassadors Scheme.

APPROVAL OF

West Mercia Commissioner

I hereby approve the above proposals.

Signed

Date 24TH April 2013

PART 1 Report

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND ADVICE

SUPPORTING REPORT

1. INTRODUCTION

- 1.1 To establish a scheme of Community Ambassadors to improve engagement opportunities throughout the force area and to undertake specific advisor roles as required by the Commissioner.
- 1.2 The West Mercia area covers an extensive geographic area comprising three unitary council areas and one two tier authority area. The population of over 1 million people are served by a number of public agencies.
- 1.3 The Police and Crime Panel have expressed concerns as to the ability of the Commissioner, even when assisted by a Deputy Commissioner, to establish strong community engagement throughout the whole of West Mercia.
- 1.4 The Commissioner in response to this observation undertook to review how engagement might be improved.
- 1.5 The Commissioner and his Deputy have travelled extensively throughout the entire force area and while this has enabled them to make contact with a wide variety of communities and organisations it is recognised that in order to sustain and develop links and community engagement a comprehensive engagement strategy should be developed. This objective has been included in the West Mercia Police and Crime Plan.
- 1.6 It is proposed that Area Community Ambassadors be appointed to each of the Territorial Policing Units, namely North and South Worcestershire, Herefordshire, Telford and Wrekin and Shropshire. As well as serving to improve engagement with communities and organisations, including statutory agencies, in each area the Ambassador will be selected to assist or advise in relation to specific portfolios.
- 1.7 Selection will be by way of public advertisement and interview. A small allowance will attach to the appointments and authorised travel expenses will be reimbursed. Appointments will be made on a fix term contract basis only and be subject to normal terms and conditions of employment.
- 1.8 In addition to the five Area Ambassadors it is proposed that a Community Ambassador Co-ordinator post be established with wider engagement and portfolio responsibilities to co-ordinate the Area Ambassadors and provide a range of engagement services in development and support of the engagement strategy and to advise on such portfolios as the Police and Crime Commissioner may determine.

1.9 In addition the Police and Crime Commissioner has indicated an intention to establish a network of community contacts and voluntary organisation links. This is still under development but it is anticipated that the Community Co-ordinator will also advise upon and coordinate this initiative.

1.10 The coordinator post would be filled following public advertisement and interview.

2. FINANCIAL COMMENTS

2.1 The allowance levels to be paid in respect of these posts will be fixed in consultation with the Chief Executive Officer and Chief Finance Officer but the overall costs can be accommodated within existing budgets.

3. LEGAL CONSIDERATIONS

3.1 The commissioner has power to make these appointments. (Schedule 1 paras 13 and 14)

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature *David Briley*

Date *24. April 2013*

**POLICE AND CRIME COMMISSIONER FOR
WEST MERCIA**



RECORD OF DECISION

**TITLE: THE ESTABLISHMENT OF STRATEGIC ALLIANCE INDEPENDENT
AUDIT COMMITTEE: Ref. PCC/D/2013/15**

1. EXECUTIVE SUMMARY

- 1.1 The Police and Crime Commissioner is invited to establish a Strategic Alliance Independent Audit Committee jointly with the Warwickshire Police and Crime Commissioner .
- 1.2 The establishment of an Audit Committee is a requirement of the Home Office Financial Management Code of Practice.
- 1.3 This decision request is accompanied by a supporting Part 1 report. There is no Part 2 report.

2. PROPOSAL

- 2.1 To approve the establishment of a 'Strategic Alliance' Independent Audit Committee.

**APPROVAL OF
West Mercia Police and Crime Commissioner**

I hereby approve the above proposal.

Signed

Date

22nd March 2013

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND FIGURES

SUPPORTING REPORT

HEADING TO BE INSERTED

- 1.1 The Home Office Financial Management Code of Practice (the Code) provides clarity around the financial governance arrangements within the Police Service in England and Wales. The code is issued under the Police Reform and Social Responsibility Act 2011 and Commissioners and Chief Constables must have regard to the code when carrying out their functions. The Code states that the Commissioner and Chief Constable should establish an independent Audit Committee.
- 1.2 For Warwickshire and West Mercia it is recommended that this be a combined body across both areas, which will consider the internal and external audit reports of both the Commissioners and the Chief Constables. This committee will advise the Commissioners and Chief Constables according to good governance principles and advise them to adopt appropriate risk management arrangements in accordance with proper practices. In setting up the Audit Committee, the Commissioners and the Chief Constables should have regard to the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance on Audit Committees. This is summarised at **Appendix A**.
- 1.3 The guidance recommends that an audit committee should have a statement of purpose, with formal terms of reference covering its core functions. In order to be effective, an audit committee needs a chair and membership that has knowledge, experience and interest in the field. The committee will also benefit from members with financial awareness, independence of thinking and a balanced approach to significant issues. Members must recognise and understand the value of the audit function and risk management.
- 1.4 The Committee, which will have an advisory role in relation to the governance and risk management arrangements put in place by the Commissioner and Chief Constable, will normally conduct its business in public, but may on occasion hold informal private sessions to deal with specific topics such as review of the draft statement of accounts prior to its publication. This will also be at the discretion of the Committee as advised by the Commissioner and CC on a risk basis taking into account operational sensitivity and public reassurance.
- 1.5 The Committee purpose, terms of reference and frequency of meetings will be based on CIPFA guidance, with detailed proposals included for consideration at the appendix B to this report.
- 1.6 The Code states that the committee should comprise between three and five members who are independent of the PCC and the Force. For the Alliance audit committee a slight increase in this number is justified. There is no

definition of independence in the Code, and the means of recruitment of members and remuneration is left as a matter for local discretion.

- 1.7 CIPFA guidance suggests that meetings be held quarterly but with flexibility to convene additional meetings if necessary. The Code is clear that the Commissioners and the Forces should be represented at the audit committee.
- 1.8 Committee members will be paid an allowance approved by the Chief Finance Officer of both Commissioners. Expenses will be reimbursed at the same rates as Police staff.
- 1.9 Attendance at the Committee, dependent upon the agenda, will normally include representatives of the Commissioner, the Chief Constable, internal audit and external audit.
- 1.10 As set out in the proposed statement of purpose and terms of reference at **Appendix B**, the Committee will act in an advisory capacity to the Commissioners and Chief Constables. In order to ensure adequate scrutiny and resilience, a membership of six is proposed with a quorum of three, the chairing and membership to be determined by the Committee itself at its first meeting.
- 1.11 The committee will meet four times a year, with the possibility of extra meetings being called if required. The Chief Financial Officer, the Head of Internal Audit and the External Auditor will have a right of access to the Committee and in particular to the chair of the Committee in line with best practice guidance.

FINANCIAL COMMENTS

- 4.1 The establishment of an Audit Committee is a vital element of the Government arrangements to ensure Best Value and proper management of accounts.
- 4.2 The Audit Committee will receive and consider external Audit reports and will determine the extent of internal Audit activity.
- 4.3 The operation of the Audit Committee and the allowances and the expenses to be incurred can be met within existing budget provisions.

LEGAL CONSIDERATIONS

- 5.1 The Police and Crime Commissioner has power to enter into arrangements by virtue of the Police Reform and Social Responsibility Act 2011 and relevant subsidiary legislation.

PUBLIC ACCESS TO INFORMATION

- 6.1 Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website.

OFFICER APPROVAL

Chief Executive Officer

Signature *Sarah Briley* Date *22 March 2013*

CIPFA Guidance in relation to Audit Committees

1. Statement of Purpose

The purpose of an audit committee is to provide independent assurance on the adequacy of the risk management framework and the associated control environment, independent scrutiny of the organisation's financial and non-financial performance to the extent that it affects exposure to risk and weakens the control environment, and to oversee the financial reporting process.

2. Core Functions

Audit Committees will:-

- Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- Seek assurances that action is being taken on risk related issues identified by auditors and inspectors
- Be satisfied that the authority's assurance statements, including the Annual Governance Statement and Audit Opinion, properly reflect the risk environment and any actions required to improve it
- Approve (but not direct) Internal Audit's strategy, plan and monitor performance
- Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
- Receive the annual report of the Head of Internal Audit, including his opinion on internal control and his level of assurance on governance arrangements.
- Consider the reports of external audit and inspection agencies
- Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- Review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by External Audit.

3. Features

Good audit committees will be characterised by:

- A strong chair - displaying a depth of skills and interest
- Unbiased attitudes – treating auditors, the executive and management equally.

- The ability to challenge the executive (PCC/Chief Constable) when required
- A membership that is balanced, objective, independent of mind and knowledgeable

4. Structure and Administration

The audit committee should:-

- Be independent of the executive and scrutiny functions.
- Have clear reporting lines and rights of access to other boards with related interests, e.g. Risk Management Groups.
- Meet regularly, about 4 times each year, and have a clear policy on those items to be considered in private, and those to be considered in public.
- Include, as regular attendees, the Chief Finance Officers or Deputies, the Head of Internal Audit, the External Auditor and the Monitoring Officer.
- Be properly trained to fulfil their role.

STRATEGIC ALLIANCE INDEPENDENT AUDIT COMMITTEE

PROPOSED STATEMENT OF PURPOSE AND TERMS OF REFERENCE

STATEMENT OF PURPOSE
To provide independent assurance on the adequacy of the corporate governance and risk management arrangements in place and the associated control environment, advising according to good governance principles and proper practices.
Corporate Governance and Regulatory Framework
To support the Commissioners, Chief Constables and statutory officers in ensuring that effective governance are in place and functioning efficiently and effectively, and making any recommendations for improvement.
To review any issue referred to it by the statutory officers of the PCC and Chief Constable and make recommendations as appropriate
To monitor the effective development and operation of risk management and make recommendations as appropriate
To make recommendations for any improvements to the arrangements and policies in place in relation to "Raising concerns at work", anti fraud and corruption strategies and complaints processes, in light of its experience.
To review its own effectiveness on an annual basis
Internal and External Audit
To consider the internal audit strategy and annual plan, and make recommendations as appropriate.
To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over corporate governance arrangements, and make recommendations as appropriate
To consider summaries of internal audit reports, and make recommendations as appropriate.
To consider reports dealing with the management and performance of the providers of internal audit services, and make recommendations as appropriate.
To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale and make recommendations as appropriate.
To consider the external auditor's annual plan, annual audit letter and relevant specific reports as agreed with the external auditor, and make recommendations as appropriate.
To monitor the implementation of audit recommendations and report any areas of concern to the PCC and Chief Constable
To review the performance of external auditors.
Accounts/Finance
To scrutinise the draft statements of accounts and annual governance statements prior to publication, considering whether appropriate accounting policies have been followed and making any recommendations as appropriate.

**POLICE AND CRIME COMMISSIONER FOR
WEST MERCIA**



RECORD OF DECISION

TITLE: TREASURY MANAGEMENT STRATEGY 2013/14 Ref: PCC/D/2013/16

1. EXECUTIVE SUMMARY

1.1 To agree a Treasury Management Strategy for 2013/14

1.2 In accordance with the requirements of the Local Government Act 2003, the Commissioner is required to agree a Treasury Management Strategy each year, which accords with the provisions of the CIPFA Treasury Management Code of Practice. The Strategy governs all borrowing and lending by the PCC over the course of the coming financial year, 2013/14.

2. RECOMMENDATIONS

2.1 It is recommended that:

- a) the Treasury Management Strategy and Investment Strategy for 2013/14 be approved by the Police and Crime Commissioner;
- b) the Prudential Indicators agreed as part of the budget setting (see Appendix A of the attached report) are noted;
- c) the Commissioner requires the Treasurer to ensure that net borrowing does not exceed the Prudential level as specified in Appendix A, taking into account current commitments, existing plans, and the proposals agreed in the budget report;
- d) the Commissioner delegates authority to the Treasurer to undertake all the activities listed in Appendix E of the report;
- e) the Treasurer implements the Minimum Revenue Provision Policy as specified in Appendix F.

APPROVAL OF

West Mercia Commissioner

I hereby approve the above recommendations.

Signed

Date

[Signature]
2nd April 2013

PART 1 – NON-CONFIDENTIAL OR EXEMPT FACTS AND ADVICE

SUPPORTING PART 1 REPORT

1. INTRODUCTION

- 1.1 By virtue of the Local Government Act 2003, the Commissioner is required to publish a Treasury Management Strategy, which accords with the requirements of the CIPFA Treasury Management Code of Practice, governing all borrowing and lending activity for his office each year.
- 1.2 The strategy is detailed in the attached report from the Treasurer.
- 1.3 In relation to lending activity, the strategy's principal objective is to ensure that the Commissioner's resources are secure by adopting a low risk approach to investment. Investment returns are secondary to ensuring security of capital and sufficient liquidity for day to day activity. As a consequence, lending is restricted to counterparties with very high credit ratings.
- 1.4 The strategy this year does broaden lending beyond last year's strategy, which restricted lending only to HM Treasury's Debt Management Office. To maintain this very restrictive strategy into 2013/14 would be inappropriate, as there are commercial lending opportunities which offer sufficient capital security.
- 1.5 With regard to borrowing, all previous borrowing has been from the Public Works Loan Board (PWLb), a Government agency. Given the expected rates on offer from the PWLB, this is also likely to be the case for future borrowing in the foreseeable future. The extent of borrowing is governed by the size of the capital programme and the prudential indicators agreed as part of the budget report. For the sake of completeness, the prudential indicators are also included in the attached report.

2. FINANCIAL COMMENTS

The report is a financial report by its nature, and there are no financial comments beyond the report itself.

3. LEGAL CONSIDERATIONS

The production and publication of a Treasury Management Strategy is a requirement of the CIPFA Treasury Management Code of Practice, compliance with which is a requirement of the Local Government Act 2003.

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Deputy Chief Executive

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature *D. Clarke*

Date *26/3/2013*



RECORD OF DECISION

TITLE: REGIONAL COLLABORATION: SURVEILLANCE

Ref. PCC/D/2013/17

EXECUTIVE SUMMARY

The Police Act 1996 provides for police forces and policing bodies to enter collaboration agreements which can include provision about the discharge of functions of the police force, support of the policing body for another policing body or support by a policing body for the police force which another policing body is responsible for maintaining.

There is an operational need for the four Forces of the West Midlands Region to work together in the operation of covert surveillance in the pursuit of criminals across force boundaries. In order to maximise the benefits of such an arrangement there is a need for the four policing bodies and their respective police forces to enter into a collaboration agreement to provide for the legal framework in respect of authorisations for the carrying out of covert surveillance and interference with property or wireless telegraphy under the Regulation of Investigatory Powers Act 2000 and associated legislation.

In order to comply with the Police Act 1996 both the Chief Constable and the policing body for each Force must be parties to the collaboration agreement.

The approval of the Police and Crime Commissioner for West Mercia Police Force to the arrangements contained in Collaboration Agreement is therefore sought pursuant to which the Commissioner will be a party to the Agreement.

This decision request is accompanied by a supporting Part 1 report, and the proposed Collaboration Agreement. There is no Part 2 report.

RECOMMENDATION

1. To enter into a Collaboration Agreement in the form attached as Appendix 1.

APPROVAL OF

West Mercia Commissioner

I hereby approve the above recommendation.

Signed

A handwritten signature in dark ink, appearing to be 'D. Langford', written over a horizontal line.

Date

15⁴ / 2013

SUPPORTING REPORT

1. INTRODUCTION

The Staffordshire, Warwickshire, West Mercia and West Midlands Police Forces have agreed to work in collaboration to improve the efficiency of the service across the area of all four police forces in respect of authorisations applied for and granted under the Regulation of Investigatory Powers Act 2000 (RIPA 2000) and the Police Act 1997. This is in addition to the collaboration which has, since December 2012 been in place between Warwickshire and West Mercia to deliver a common service in this area across the combined area of both those Forces. The legislation makes provision for such collaborative working providing that it is in the interests of the efficiency or effectiveness of one or more of the police forces.

2. ISSUES FOR CONSIDERATION

- 2.1 The authorisation of covert surveillance techniques is very tightly controlled by statute. A Chief Constable may authorise interference with property and wireless telegraphy under the Police Act 1997 and intrusive surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA 2000). Officers of the rank of superintendent or above may grant authorisation for the obtaining and disclosing of communications data, directed surveillance, (which is covert but not intrusive) and the use of covert human intelligence sources under RIPA 2000. The Authorising Officer is independent of the investigation for which the covert authority is required and exercises judgement to grant such authorisations on the basis of what they deem to be legal, necessary and proportionate.
- 2.2 In order for a Chief Constable or Superintendent from one force to grant an authorisation on the application of a member of another force their respective forces must be party to a collaboration agreement which specifically provides for authorisations to be applied for, and granted, in this way.
- 2.3 A collaboration agreement pursuant to section 22A, section 23 and section 23A of the Police Act 1996 is therefore required specifically to permit the Staffordshire, Warwickshire West Mercia and West Midlands Police Forces to operate across force boundaries in relation to the authorisation of covert activity.
- 2.4 The agreement provides that direction and control, and therefore legal liability arising out of authorisations will rest with the Chief Constable, who granted the authorisation, or whose officer granted the authorisation, whichever force has applied for the authorisation and wherever the activity linked to it is to take place. West Mercia Police insurers have approved this arrangement.

2.5 In accordance with the legislation the agreement provides for governance and review of the arrangements to ensure that they meet the objective of operating in the interests of efficiency and effectiveness and in order that the respective policing bodies can hold to account the Chief Constables for the discharge of functions by anyone acting under their direction and control.

3. FINANCIAL COMMENTS

3.1 There are no direct financial considerations, but the increased flexibility and the reduction in duplication of work between the forces is expected to increase efficiency.

4. LEGAL CONSIDERATIONS

The West Mercia Commissioner has power to make this decision to enter into a collaboration agreement. This is a force collaboration agreement for the discharge of functions by members of each of the forces, and for members of each of the forces to discharge functions in each other's force areas. (Section 23). Section 22A of the Police Act 1996 requires the parties to a force collaboration agreement to include each Chief Constable and each policing body. The Agreement has been drawn up to comply with the provisions of the Police Act 1996 in respect of a collaboration agreement and the provisions of the Police Act 1997 and RIPA 2000 in respect of the provision it makes for the granting of authorisations.

5. FOUR FORCE COLLABORATION AGREEMENT

This is attached as Appendix 1.

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature *Sandra Briley*

Date *11. April 2013*

RECORD OF DECISION

TITLE: FOI AND PUBLICATION SCHEME

Ref. PCC/D/2013/18

EXECUTIVE SUMMARY

Under the Scheme of Governance adopted by the West Mercia Commissioner (ref: PCC/D/2012/01) the Commissioner undertook to adopt and publish a number of policy documents. The following further policy documents are requested to be adopted, namely: -

FOI and Publications Scheme
Records Management Scheme

This decision request is accompanied by a supporting Part 1 report. There is no Part 2 report.

RECOMMENDATION

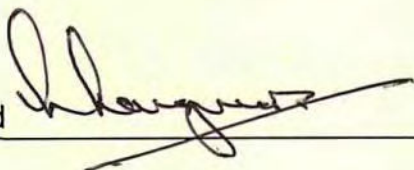
1. To adopt the policy statements appended to the supporting Part 1 report

APPROVAL OF

West Mercia Commissioner

I hereby approve the above recommendation.

Signed



Date 2nd August 2013.

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND ADVICE

SUPPORTING REPORT

The accompanying policy statements are proposed for adoption. The policy statements are as follows:-

FOI and Publications Scheme
Record Management Scheme

These statements are to be read in conjunction with the Scheme of Governance.

The policy statements are subject to statutory provisions and any legal direction or precedent and should any conflict arise between them and the provisions of statute or any other lawful requirement then the statutory or mandatory provisions shall prevail.

Compliance with the policy statements is intended to improve the proper governance of the exercise of the West Mercia Commissioner's responsibilities

FINANCIAL COMMENTS

There are no direct financial implications.

LEGAL CONSIDERATIONS

The policy statements are understood to be compliant with legal requirements but will in any event be subject thereto.

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature

Sarah Briley

Date

1. August 2013



FOI AND PUBLICATION SCHEME

PUBLICATION SCHEME

Introduction

The Freedom of Information (Fol) Act 2000 gives a general right of access to all types of recorded information held by the Police and Crime Commissioner, sets out exemptions from that right and places a number of obligations on the PCC. Any person who makes a request to the PCC for information will be informed whether the information is held, and, subject to exemptions, supplied with that information. The effective date of this Scheme is 22 November 2012.

Your rights and our responsibilities

Section 19 of the Fol Act, requires the Police and Crime Commissioner (together with all other public authorities), to adopt an approved Publication Scheme, setting out the information routinely made publicly available. The model scheme, on which this publication scheme is based, has been approved by the Information Commissioner and is reviewed from time to time. In adopting (or reviewing) this Publication Scheme, the PCC is required to have regard to the public interest by:

- allowing public access to information held; and
- publishing the reasons for the decisions the PCC makes.

This publication scheme lets the public know what information is readily available from the PCC without your needing to ask us for it. Readily available means that the information is available on our website; can be requested by letter, email or telephone call; can be purchased; or can be found in a local library.

Your rights and the PCC's responsibilities

The Fol legislation gives you a right of access to recorded information held by the Police and Crime Commissioner, subject to certain exemptions. If you ask for information, the PCC will be required to:

- let you know in writing whether the information you have requested is held; and
- if it is, provide the information to you within 20 working days, unless it is subject to an exemption.

The PCC also has a duty to provide advice or assistance to you or anyone seeking information (for example in order to explain what is readily available or to clarify what is wanted).

Responsibility for the Publication Scheme

The PCC's Chief Executive has overall responsibility for the PCC's Publication Scheme. The person responsible for the day to day maintenance and management of the Publication Scheme is:-

Senior Policy Manager
OPCC - West Mercia
PO Box 487
SHREWSBURY
SY2 6WB
Telephone: 01743 264690
Fax: 01743 264699
E-mail: opcc@westmercia.pnn.police.uk

Charging for Publications

Free of charge on website - there is no charge made by us, although the user will, of course, have to meet any charges made by their Internet service provider and/or telephone company as well as any personal costs for printing, photocopying etc. For those without access to the Internet, we will provide a single printout of an individual publication, as shown on the website, free of charge from the above contact address.

Chargeable on website - requests for multiple copies of publications or multiple printouts from our website or for copies of archived material no longer available on the website will attract a charge. The cost will be restricted to 10% of the reasonable marginal costs of complying with the request, together with photocopying costs (currently 5p per sheet) and postage. We will let you know the cost when we receive your request. The charge will be payable in advance.

Where the information is available via the website but a value-added service is requested using that information, a charge will be made.

Comments about the Publication Scheme

If you have any comments on our Publication Scheme or feel that the Scheme could be improved, you should write, in the first instance to the Deputy Senior Policy Manager whose details are set out above.

Complaints about the Publication Scheme

If you think the PCC has failed to supply information in accordance with the Scheme, then you should write, in the first instance, to the:

Chief Executive
OPCC - West Mercia
PO Box 487

SHREWSBURY
SY2 6WB
Telephone: 01743 264690
Fax: 01743 264699
E-mail: opcc@westmercia.pnn.police.uk

The PCC will aim to deal with your complaint within 20 working days. If you are dissatisfied with the response you can ask for the matter to be internally reviewed. Internal reviews will be completed promptly and a response given to you within 20 working days of receipt of your further request.

If, after the internal review, you remain dissatisfied, then you can complain to the Information Commissioner, whose address appears at the end of this explanatory note.

Availability of this scheme in other formats

Requests for this should be directed in the first instance to the Senior Policy Manager at the address listed above.

Copyright

Different bodies might own the copyright of material contained in our Scheme:

Police and Crime Commissioner Copyright Material

For material where the PCC owns the copyright, it can be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to the material being reproduced accurately and not being used in a misleading context. Where material is being republished or copied to others, the source of the material must be identified and the PCC's copyright acknowledged.

The Police and Crime Commissioner's logo is also copyrighted and may not be reproduced other than as it appears on copied material.

Other Copyrighted Material

Some material included in the PCC's Scheme may be the copyright of a third party. The PCC's rights to hold and use such material do not extend to others. You must obtain authorisation from the copyright holder(s) concerned if you wish to copy or reproduce such material.

Requests for Personal Information

Under the Data Protection Act 1998, you already have a statutory right to have access to personal data the PCC holds about you on computer or in a structured manual file (i.e. on paper). You also have the right to expect the PCC, as the data controller, to ensure that data is:

- processed fairly and lawfully
- obtained for specific and lawful purposes
- adequate, relevant and not excessively
- accurate and where necessary kept up to date
- not kept for longer than is necessary
- processed in accordance with the rights of the data subject
- kept secure
- not transferred abroad unless to countries with adequate data protection laws.

For the purposes of the 1998 Act, "personal data" is information that relates to a living identifiable person. The person or organisation who controls the purpose and manner in which data is processed is the "data controller". More information on the Data Protection Act can be found on the website of the Information Commissioner www.ico.gov.uk or from the address given below.

Information where the Police and Crime Commissioner is the Data Controller
Where the PCC is the data controller, you are entitled to be told whether the PCC holds data about you, and if it does:

- to be given a description of the data in question
- to be told for what purposes the data is processed
- to be told the recipients, or classes of recipients, to whom the data is or may be disclosed

You are also entitled to a copy of the information with any unintelligible terms, acronyms or codes explained. You will also be given any information available to us on the source of the data. The data will be in its latest form.

If you wish to apply for access to your personal data, known as "a subject access request", you should write to the Chief Executive at the above address. A fee of £10 must accompany your request together with proof of your identity (a current passport or photo driving licence). The PCC will also require the details needed to locate the information you seek. A request for access to personal data will be dealt with promptly and in any event within 40 days of receipt of the request and payment of the fee.

If you consider that a request by you for access to your personal data has not been dealt with properly, you may:

- write to the Chief Executive at the above address seeking resolution of your complaint; or
- write to the Information Commissioner, who is appointed to consider such complaints at:

Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

An online complaints procedure is also available on the Information Commissioner's website.

The Information Commissioner is empowered to assess whether there has been a failure to comply with the 1998 Act. The Commissioner can issue enforcement proceedings if satisfied that there has been a contravention of the data protection principles. The Commissioner can also recommend that you apply to court alleging a failure to comply with the subject access provisions of the 1998 Act. The court may make an order requiring compliance with those provisions and may also award compensation for any damages you have suffered as well as any associated distress.

Information where the Police and Crime Commissioner is not the "Data Controller"

In many cases, it is the police and not the PCC who hold personal information. The Police National Computer includes information on prosecutions, convictions and cautions. Chief Officers of Police are the "data controllers" for this information and not West Mercia Police and Crime Commissioner.

You have the right to be told by a Chief Officer whether any information is held about you on the Police National Computer and a right to a copy of that information. The Chief Officer will give that information if he is satisfied as to your identity and on payment of a fee of £10. The Chief Officer may deny access to this information where the information is held for the prevention or detection of crime or for the apprehension or prosecution of offenders and where release of the information would be likely to be prejudicial to any of these purposes.

Police forces provide a form to simplify the exercise of your subject access rights to PNC information. In the case of West Mercia Police you should contact:

The Chief Constable
West Mercia Police
Information Compliance Unit
P O Box 55
Hindlip
Worcester, WR3 8SP
Telephone: 01905 331565 / 331545

Email: information@westmercia.pnn.police.uk.

Requests under the Environmental Information Regulations

If you wish to make a request for information under the Environmental Information Regulations (EIR), you should write to:

Chief Executive

OPCC - West Mercia

PO Box 487

SHREWSBURY

SY2 6WB

Telephone: 01743 264690

Fax: 01743 264699

E-mail: opcc@westmercia.pnn.police.uk



RECORDS MANAGEMENT PROTOCOL

RECORDS MANAGEMENT PROTOCOL

Data and Record Retention Policy

The Office of the Police and Crime Commissioner (OPCC) recognises the importance of effective file keeping records and data management to enable it to discharge its functions. This requires, amongst other things, a data and record retention policy.

To comply with the principles of the Data Protection Act, records containing personal data must be:

- stored appropriately having regard to the sensitivity and confidentiality of the material recorded
- retrievable and easily traced
- retained for only as long as necessary
- disposed of appropriately to ensure that copyrights are not breached and to prevent them falling into the hands of unauthorised personnel

Set out below is a summary of the general rule on document retention. However, there are a number of exceptions to this general rule and these are outlined in the remainder of this document.

Document Type	Retention Period
Accounting Records (such as timesheets, invoices, bank paying in books, travel and subsistence returns etc)	6 years plus current financial year
Contracts under seal	Indefinitely
Deeds/Title documents	Indefinitely
Personnel and pay records	Indefinitely
Final accounts reports	Indefinitely
All other records	2 years plus current financial year

Application of the Data and Record Retention Policy

This policy applies equally to photographic, microform and electronic/digital media that are used to store records as well as more traditional paper or card records. The period of retention only commences when the record is closed.

Storage of Data and Records Statement

All data and records should be stored as securely as possible in order to avoid potential misuse or loss. All data and records will be stored in the most convenient and appropriate location having regard to the period of retention required and the frequency with which access will be made to the record.

Data and records which are active should be stored in the most appropriate place for their purpose.

Data and records which are no longer active, due to their age or subject, should be stored in the most appropriate place for their purpose.

The degree of security required for file storage will reflect the sensitivity and confidential nature of any material recorded.

Any data file or record which contains personal data of any form can be considered as confidential in nature.

Retention Statement

Data and records should not be kept for longer than is necessary. This principle finds statutory form in the Data Protection Act 1998, which requires that personal data processed for any purpose "shall not be kept for longer than is necessary for that purpose".

No data file or record should be retained for more than five years after it is closed unless a good reason for longer retention can be demonstrated. It is to be emphasised that the period of five years is a maximum period. It may well be appropriate having regard to the nature of the record to opt for a shorter period. Reasons for longer retention will include the following:

- Statute requires retention for a longer period

- The record contains information relevant to legal action which has been started or is in contemplation
- Whenever there is a possibility of litigation, the records and information that are likely to be affected should not be amended or disposed of until the threat of litigation has been removed
- The record should be archived for historical or research purposes, e.g. the record relates to an important policy development or relates to an event of local or national purpose
- The records are maintained for the purpose of retrospective comparison
- The records relate to individuals or providers of services who are judged unsatisfactory. The individuals may include employees who have been the subject of serious disciplinary action

Destruction and Disposal Statement

All information of a confidential or sensitive nature on paper, card, microfiche, or electronic/digital media must be securely destroyed when it is no longer required. This ensures compliance with the Data Protection Act 1998 and the duty of confidentiality we owe to our employees, clients and customers.

Destruction and Disposal Procedures

All information, in any format, destroyed from any location must have due regard to confidentiality of our employees, clients and customers.

- When records or data files are identified for disposal in the Policy are destroyed, a register of such records needs to be kept.
- The procedure for the destruction of Confidential or Sensitive Waste on paper, card or microfiche is as follows:
 - All office quality white or coloured paper should be mechanically shredded if the content is in any way sensitive.
 - If you dispose of waste by using the shredder, ensure that it is used safely in accordance with its operating instructions, and that waste is shredded in such a way that it cannot be put back together again, and made comprehensible
 - All other paper can be disposed of in the boxes or bins provided in offices for environmentally-friendly disposal of white non-confidential and non-sensitive paper waste.

The procedure for the destruction of Confidential or Sensitive Waste on electronic media such as tape, disk, cassette/cartridge, hard drives, CD-Rom, DVD and ZIP drive is as follows:

- Media that are being destroyed because they are showing signs of damage or are obsolete should be physically destroyed by being cut into pieces or other ways prior to disposal
- Where disks, tapes, DVD or CD ROM are being used to supply data to third parties they should, at the very least, be reformatted before the files are saved on to it. The process of saving files to the disk may overwrite areas of the disk previously used, but this is no guarantee of preventing retrieval of previously stored files. The most effective way to ensure that media are cleaned of all previous data is to use a utility package to perform a "secure wipe"
- Destruction of back-up copies of such data also needs to be dealt with

Criteria for the Selection of Records for Permanent Preservation

After the retention period prescribed by statute or dictated by administrative, legal, or financial needs has expired, some records may be kept permanently for historical purposes. This may be because they preserve evidence of the origin, development, or functions of their creating department or because they contain information which has been gathered by the creating department and which is worth preserving.

The Data Protection Act provides an exemption for information about living identifiable individuals that is held for research, statistical or historical purposes to be held indefinitely, provided specific requirements are met:

- the purpose of the processing must be exclusively for these purposes,
- the information is not processed to support measures or make decisions relating to particular individuals, and
- the processing does not cause substantial damage or distress to the individual.

Processing of information is defined in the Act as organisation, alteration, retrieval, consultation or use of the data, disclosure, dissemination, blocking, erasure or destruction.

The following general principles should be borne in mind when considering the ultimate fate of records.

General Principles:

Is the record significant in terms of the history or development of the OPCC (e.g. minutes, accounts) or of important policy changes or initiatives (e.g. minutes of policy forming groups, policy papers, correspondence)?

Is the record a high-level record of the function or activities within the OPCC?

Does the record shed significant light on national, regional, or local events?

Does the record relate to a transaction which set, or is likely to set, a precedent?

Does the record contain data which would be useful for retrospective comparisons?

Does the record contain systematically recorded data which is not easily available elsewhere?

Does the record contain information gathered from outside the OPCC which is likely to be of use to future historians, and which is not readily available elsewhere?

Is the record likely to be useful as legal evidence in the future?

Does the record contain information which is likely to be of use to future researchers, and which is not covered by the preceding categories?

**POLICE AND CRIME COMMISSIONER FOR
WEST MERCIA**



RECORD OF DECISION

TITLE: CPOSA PROFESSIONAL INDEMNITY INSURANCE Ref: PCC/D/2013/19

EXECUTIVE SUMMARY

This paper is to bring to the attention of the PCC an issue regarding Professional Indemnity Insurance for Chief Officers and to confirm the decision from the PCC that premiums will be paid by the PCC.

PROPOSAL

It is proposed that the PCC supports the previous position of paying the Professional Indemnity Insurance for West Mercia Chief Officers.

APPROVAL OF

West Mercia Police and Crime Commissioner

I hereby approve the above proposal.

Signed

Date:

12th June 2013

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND FIGURES

SUPPORTING REPORT

Professional indemnity Insurance for Chief Officers is provided via a group insurance policy through the Chief Police Officers Staff Association (CPOSA). Prior to the election of Police and Crime Commissioners, Police Authorities throughout England, Wales and Northern Ireland have met the costs of subscribing CPOSA members' professional indemnity insurance. This provision is set out in the majority of Chief Officers' Terms of Appointment including those of West Mercia Chief Officers.

It is important to highlight that Professional Indemnity Insurance is entirely separate from CPOSA membership which is the responsibility of each chief officer.

In the run up to PCC elections, the former APA and APACE met with CPOSA to discuss the appropriateness of these insurance premiums continuing to be met by Police Authorities. A small number of Police Authorities had, in the light of recent misconduct cases involving Chief Officers, expressed concern about, in particular, the provision in our insurance policy for legal representation in cases of misconduct and alleged discrimination.

The position of West Mercia Police Authority was that the provision of insurance cover to indemnify Chief Officers for personal legal representation in cases connected with the execution of their duty and subject of misconduct allegations is essential to enable Chief Officers to effectively carry out their duties.

FINANCIAL COMMENTS

The 2012/13 annual premium was £2197 per member, the premium for 2013/14 is £2014. Although some PCC's had indicated that they will not meet the costs of Professional Indemnity Insurance and that there could be a rise in premiums as a result, this has not transpired. The funding for the premiums has been included in the 2013/14 budget.

LEGAL CONSIDERATIONS

The provision of insurance was a condition of appointment but could be reviewed in respect of all future appointments.

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature *Sandra Briley* Date

RECORD OF DECISION

**TITLE: FORFEITURE OF POLICE OFFICER AND POLICE STAFF
PENSIONS**

Ref: PCC/D/2013/20

EXECUTIVE SUMMARY

The Police Pension Regulations 1987 (regulation K5) as amended by the Police Pensions (Amendment) Regulations 2011, allow a Police and Crime Commissioner (PCC), as the 'pension supervising authority' to determine forfeiture of a Police Officer's pension in certain circumstances.

The procedure deals with any circumstance where forfeiture of the pension of a Police Officer under these Regulations is considered. The procedure for considering and implementing forfeiture of pension rights for Police Staff will follow the same process as that for Police Officers.

PROPOSAL

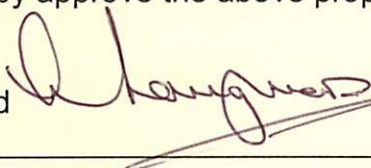
To adopt the procedure appended to the supporting Part 1 report.

APPROVAL OF

West Mercia Police and Crime Commissioner

I hereby approve the above proposal.

Signed



Date: 18th Dec 2013.

PART 1 – NON-CONFIDENTIAL/EXEMPT FACTS AND FIGURES

SUPPORTING REPORT

1. The attached report in Part 1: "PROCEDURE FOR THE FORFEITURE OF POLICE OFFICER & POLICE STAFF PENSIONS" will apply to all West Mercia Police Officers and Police Staff.
2. The Police Pension Regulations 1987 (regulation K5) as amended by the Police Pensions (Amendment) Regulations 2011, allow a Police and Crime Commissioner (PCC), as the 'pension supervising authority' to determine forfeiture of a Police Officer's pension under certain circumstances.
3. This procedure deals with any circumstance where forfeiture of the pension of a Police Officer under these Regulations is considered. For the avoidance of doubt, any interpretation of this policy is to be read in accordance with the Police Pensions Regulations and Home Office Circular 18/2009.

FINANCIAL COMMENTS

There are no financial implications in implementing this policy. There will be minimal impact on Pension costs/funds and any decisions taken under this policy will not be determined by financial considerations.

LEGAL CONSIDERATIONS

The policy statements are understood to be compliant with legal requirements but will in any event be subject thereto.

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. (A Part 2 form is not required in this case).

OFFICER APPROVAL

Chief Executive Officer

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the West Mercia Commissioner.

Signature *David Bailey* Date *18. December 2013*

SUPPORTING PART 1 REPORT

OFFICE OF THE POLICE & CRIME COMMISSIONER FOR WEST MERCIA

PROCEDURE FOR THE FORFEITURE OF POLICE OFFICER & POLICE STAFF PENSIONS

Introduction

2. This policy and procedure will apply to all West Mercia Police Officers and Police Staff.

The Police Pension Regulations 1987 (regulation K5) as amended by the Police Pensions (Amendment) Regulations 2011, allow a Police and Crime Commissioner (PCC), as the 'pension supervising authority' to determine forfeiture of a Police Officer's pension in the following circumstances:

- a) Cases where a specified offence has been committed, namely:
 - (i) An offence of **treason**,
 - (ii) One or more offences under the **Official Secrets Acts** 1911 to 1939 for which the grantee (of the pension) has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years, and
- b) Cases where an offence has been committed in connection with the person's service as a member of the police force, which is certified by the Secretary of State to be **particularly serious** (Home Office Circular 18/2009 Forfeiture of Police Pensions refers).

The Police Pension Regulations 2006 (section 55) also details circumstances where the PCC may apply for forfeiture of a Police Officer's pension from:

- i. A regular police officer or former regular police officer;
- ii. A survivor of such a police officer; and
- iii. A pension credit member.

The circumstances that will trigger forfeiture under the 2006 Regulations are those described in a) (i) & (ii) and 6 a) & b) of this document.

The Police (Injury Benefit) Regulations 2006 (regulation 40) permit forfeiture of the injury on duty enhancement to an ill health pension in the circumstances set out in paragraph 1 (a) (i) and (ii) and paragraph 6 a) and b) below..

3. This procedure deals with any circumstance where forfeiture of the pension of a Police Officer under these Regulations is considered. For the avoidance of doubt, any interpretation of this policy is to be read in accordance with the Police Pensions Regulations and Home Office Circular 18/2009.
4. The procedure for considering and implementing forfeiture of pension rights for Police Staff will follow the same process as that for Police Officers.

5. The legislation from which the Commissioner will act for Police Staff is under section 72 The Local Government Pension Scheme (Administration) Regulations 2008. This procedure will be adopted if it is not possible to recover, retain or transfer sums under Regulations 74 or 76 of the Local Government Pension Scheme (Administration) Regulations 2008.
6. In this legislation, application for a forfeiture certificate from the Secretary of State may be prompted after conviction of a 'relevant' offence.
7. A relevant offence is one which
 - a) was **gravely injurious to the State**, or
 - b) is liable to lead to **serious loss of confidence in the public service**.

Role of the Police & Crime Commissioner (PCC)

8. The PCC has two distinct roles in these cases:
 - i In cases involving an offence committed in connection with the person's service, to consider whether to apply to the Secretary of State for a Certificate of Pension Forfeiture;
 - ii To decide on the extent of forfeiture to be applied in each case.

Process

9. Where a Police Officer, member of Police Staff, former officer or former member of staff is charged with an offence, the Chief Constable (or his/her representative) should discuss the possibility of making an application for forfeiture with the Chief Executive of the Office of the Police & Crime Commissioner (OPCC) and, if appropriate, seek legal advice. As part of this process, both the Police Officer/Staff Member (or former officer or staff member as may be applicable) and their staff association should be made aware that consideration is being given to forfeiture.
10. If the Chief Executive feels that there is a case for an application to be made, a report should then be prepared so that the PCC can take a preliminary decision on whether to apply for forfeiture following trial. In cases where an application is not considered appropriate, the Chief Executive should be advised.
11. A senior police officer (not below the rank of Superintendent) should be available during the court case to advise the court on whether the Chief Constable, having consulted the Chief Executive of the OPCC, proposes to recommend to the PCC that an application should be made, or that no application of forfeiture would be made.
12. If Police Officer/Staff Member (or former officer or staff member as may be applicable) is convicted in court, having been charged with an offence which may fall within the definitions set out at paragraphs 1 or 6 above, the Chief Constable (or their nominated representative), should advise the Chief Executive of the OPCC within 14 days of the conviction. The PCC should await the outcome of an appeal, should the Police Officer/Staff Member (or former officer or staff member as may be applicable) be granted leave to appeal. This provision does not apply where leave to appeal is initially refused and the Police Officer/Staff Member (or former officer or staff member as may be applicable) seeks leave to appeal to a higher court. Any application under Regulation 72 of the Local Government Pension Scheme (Administration) Regulations 2008 must

however be made within 3 months of the date of conviction.

13. In each case to which this policy applies, a report should then be prepared by the Chief Constable (or their representative), for the PCC. This report will contain a summary of the circumstances as to why it is felt that the PCC may wish to consider whether forfeiture of the Police Officer/Staff Member's (or former officer or staff member as may be applicable) pension is appropriate.
14. The report will contain sufficient information to allow the PCC to make an application to the Home Secretary for issue of a Certificate of Pension Forfeiture. It should also include any written representation by the Police Officer/Staff Member (or former officer or staff member as may be applicable) who will be given 21 days to submit it (the PCC does have the option to require the individual to attend in person to make oral representations based on the representations in writing).

Police & Crime Commissioner Considerations: Application for a Certificate of Forfeiture

15. Upon receipt of the Chief Constable's report, the Chief Executive of the OPCC will arrange for the PCC to consider the case for a pension forfeiture application within 28 days.
16. The PCC will consider the question of whether the application for a Certificate of Forfeiture should be made to the Home Secretary. Specific consideration should be given to the 'Guiding Principles' at **Appendix A**, the Police Pensions Regulations and Home Office Circular 18/2009 which provides guidance as to the factors that the PCC should consider and that the Home Secretary will take into account when deciding on an application for a Certificate of Forfeiture.
17. If the PCC decides to apply for a Certificate of Forfeiture, he/she will then need to provide details of his/her reasons to the Home Office. Such an application must include the information set out in Annex C of the Home Office Circular (18/2009).
18. Once the decision has been taken by the PCC to apply for a Certificate from the Home Secretary, the Police Officer/Staff Member (or former officer or staff member as may be applicable) involved should also be informed of the application within 7 days.
19. The administration arrangements for the application will be dealt with from within the OPCC Secretariat.

Consideration by Home Secretary

20. Once the application has been received, it is for the Home Secretary to consider whether the Police Officer/Staff Member (or former officer or staff member as may be applicable) offence is either gravely injurious to the interests of the State or liable to lead to serious loss of confidence in the public service.
21. The PCC and the Police Officer/Staff Member (or former officer or staff member as may be applicable) will be notified of the Home Secretary's decision and the reasons for it. A copy of the certificate, if issued, will also be forwarded.

PCC Consideration: Decision on the Level of forfeiture

22. In circumstances where the Home Secretary determines that it is appropriate to issue a certificate of forfeiture, then upon receipt, it is for the PCC to consider the extent of forfeiture (i.e. in whole or in part) and whether that forfeiture is to be applied temporarily or permanently.
23. Upon receiving the Certificate, the Chief Executive will arrange for the PCC to consider the level of the forfeiture within 28 days.
24. To inform the PCC's consideration of each case, he/she may call for any further evidence he/she regards as necessary. Whilst any reports, comments and representations from either the Police Service or the Police Officer/Staff Member (or former officer or staff member as may be applicable) may be considered, these are not binding on the PCC and he/she should determine the case based on his/her view of the evidence. Guidance in relation to the decision that needs to be taken is contained within Home Office Circular (18/2009).
25. In making his/her decision as to the level of forfeiture, the factors which might influence the PCC in determining the extent of forfeiture are:

the gravity of the individual's offence;
mitigating circumstances;
disability in the family;
illness at the time of the offence; and
assistance or information given to the police during the investigation or following conviction.

26. The PCC must consider the whole range of forfeiture options and specifically consider the Home Office Circular 18/2009. The courts have ruled that a Police Officer's pension may be forfeited by no more than 65%, the remainder reflecting an officer's own contributions which cannot be forfeited. **Likewise, a Police Officer/Staff Member (or former officer or staff member as may be applicable) will retain their level of contributions in any forfeiture.**

Conviction of Specified Offence

27. If the Police Officer/Staff Member (or former officer or staff member as may be applicable) is convicted of one of the offences specified at point 1 a) (i) or (ii) above, a slightly different procedure should be applied. In particular, there is no need to apply to the Secretary of State for a Certificate of Forfeiture. The PCC therefore considers straight away the question of the extent of forfeiture.
28. In such cases, the PCC may call for the Chief Constable (or his/her representative) to prepare a report providing a summary of the circumstances as to why it is felt that the PCC may wish to consider whether forfeiture of the Police Officer/Staff Member's (or former officer or staff member as may be applicable) pension under Reg. K5 is appropriate. Again, this report should contain sufficient information to allow the PCC to determine matters in accordance with the Police Pensions Regulations 1987 and Home Office Circular 18/2009.

Disclosure of Information

29. In considering each case, the PCC must, at each stage, give the Police

Officer/Staff Member (or former officer or staff member as may be applicable) concerned the ability to submit representations, which should then be considered in any determination. A copy of any reports submitted by the Chief Constable and full copies of any other relevant papers should be provided to the individual in advance of the date on which the PCC is due to make his/her decision. The individual will also be invited to give written representations within a specified timescale, normally 21 days.

30. Representations should include all matters that the individual would wish to put before the Home Secretary if an application was submitted. The Chief Constable should also be able to provide a further written response based on the information supplied by the individual within a specified time period.
31. Prior to the PCC making his/her decision, a full set of the documentation to be considered should be sent to the Chief Constable and the individual.
32. Any concerns that full disclosure of papers to the individual (or his/her friend or representative) may cause, for example, data protection or confidentiality issues, should be considered on a case-by-case basis and legal advice sought where necessary. If sections of documents need to be redacted for reasons of data protection or confidentiality then the PCC should also only see the altered documents. In exceptional circumstances the PCC may see paperwork that would not be made available to the individual but this should take place only when justified by an overriding public interest.

Attendance by a Police Officer/Staff Member (or former officer or staff member as may be applicable)

33. The PCC will afford the Police Officer/Staff Member (or former officer or staff member as may be applicable) a meeting to hear oral representations. The individual may be accompanied by a friend or representative if he/she wishes. For the avoidance of doubt, this may be a legal representative. The individual and/or his/her friend or representative will be given the opportunity to make oral representations to the PCC based upon the representation in writing. The Chief Constable (or his/her representative) will be able to respond to those representations. The PCC will then make his/her decision in private with advice from the Chief Executive and his/her legal advisor, as appropriate.
34. If the Police Officer/Staff Member (or former officer or staff member as may be applicable) (or their friend or representative) is unable to attend any meeting (or where practical considerations prevent attendance), the following safeguards should apply:

The only people present at the meeting should be the PCC and his/her relevant staff such as the Chief Executive and legal advisor (i.e. force representatives should not attend when the member of staff is not present on fairness grounds);

If at any time during the meeting the PCC decides that he/she needs a point of detail clarified he/she should adjourn proceedings and seek the Police Officer/Staff Member (or former officer or staff member as may be applicable) views in writing;

If the Police Officer/Staff Member (or former officer or staff member as may be applicable) makes a specific request for the meeting to be held in public

then this should be accommodated where possible although the views of the Chief Constable (or his/her representative) may be sought as to whether there are any operational/confidentiality concerns which would need to be taken into account in granting this request. This would, in effect, mean that the individual and his friend or representative could be present if circumstances allowed though it would not confer an entitlement to speak beyond normal policy in these cases.

The PCC should retain the ability on a case by case basis to vary this procedure at his/her discretion and provide a right to allow the individual to be present (if possible) if they feel this would assist them in making a fair decision in a particular case.

Implementing the Decision

35. The decisions of the PCC should be conveyed to the Police Officer/Staff Member (or former officer or staff member as may be applicable) in writing within 7 days following the meeting.
36. The decision will be formally recorded by the PCC. The Chief Executive should inform the Home Office of the final outcome of the case, whether the pension has been forfeited and the extent of the forfeiture.
37. The individual has a right of appeal to the Crown Court against the decision of the PCC to forfeit his/her pension. The appeal can relate to both the decision to forfeit the pensions and the extent of forfeiture.

Appendix A

Guiding Principles for the Police & Crime Commissioner when Considering Forfeiture of Pension Issues

1. The Offence

What was it?
How serious was it?
Did it involve corruption in public office?
Did it involve dishonesty leading to a loss or misappropriation of public money?
Did the individual directly benefit from the loss or misappropriation of public money, and if so to what extent?
Was any of the money recovered through the use of powers in the Proceeds of Crime Act?
Was the offence a deliberate act, or committed through neglect or accident? How many offences did the person commit?
What was the sentence?
What was the judgement e.g. what observations were made when the sentence was passed?

2. The Individual

What did the individual do?
What was the rank / position of the individual?
Was the offence linked to the post the individual held whilst in the employ of the organisation?
Did the individual of staff admit their part in the offence, and/or cooperate with the investigation?
Did the individual resign prior to conviction?
What did the judgement say about the individual in the summing up?

3. The Community Impact

How much publicity did the case generate?
What was the tone of the publicity, i.e. did it contribute to the undermining of confidence in the police service?
What was the internal impact of the offence? Did it lead to a loss of confidence in management?

Taking all the above into account, should the PCC recommend the forfeiture of part or all of the individual's pension?